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2 **Island of Saipan, CNMI**

AFFIDAVIT of JAMIE R. KILLILI

3 Jamie R. Killili, being duly sworn, deposes and says:

4 My name is Jamie Killili. I am 18 years old. I live in San Vicente in Saipan. Before I was injured
5 playing paintball, I was the captain of my high school volleyball team. Since the injury I have tried to
6 play again, but my skill level just isn't all that it used to be. I had hoped to make the all state team this
7 year and possibly get a scholarship to college, but I guess it wasn't meant to be.

8 On April 10, 2003, a bunch of my friends and I decided to go to RAGE. It's an entertainment
9 center about 15 minutes from the school. It was a Thursday, but it was nice outside and we were getting
10 close to spring break so we decided to cut class. Looking back, I guess that was poor decision, but give
11 me break, I was only 17.

12 For a relatively small island, Saipan actually has quite a bit to do. We've got your basic malls,
13 arcades, Movie Theater, roller blading, and racecourses. We've also got RAGE, which is really a whole
14 bunch of entertainment activities put together. This is an indoor / outdoor park where you can always try
15 the newest fad or activity. They have had everything from bungee jumping to a human fly trap where you
16 throw yourself against a Velcro wall while wearing a Velcro suit. The activities change, so that keeps it
17 interesting, I used to go there quite a bit, but last summer my mom told me that I couldn't go anymore and
18 I knew better than to ask mom for a reason. It was easier to just find other things to do.

19 The last week of March, RAGE began running advertisements in our high school newspaper.
20 These ads were promoting a new game RAGE's owner had created called "Sabotage." The ads said, "This
21 is war! It's kill or be killed!" I really love to win and this seemed like my kind of game. The ad also had a
22 coupon for \$5.00 off the price that was normally \$15.00. It was a good deal and it sounded cool, so we
23 decided to give it a shot.

24 When we got to RAGE, we went to the main information desk where you purchase tickets for all
25 the games. When we tried to buy a round of Sabotage, Chris who was working that day asked how old
26 we were. My 18th birthday was like less than a week away, so I said I was 18. I went to RAGE with a
27 bunch of seniors, so I was actually the only minor. Chris asked for our I.D. When I admitted that I was
28 only 17, Chris handed me a form for my parent or guardian to fill out before I could play. It said a bunch
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1 of legal mumbo jumbo I couldn't really understand. Anyway, I took the form and told Chris I would
2 return it later. Then, I went out to my car pulled out a pen and signed mom's name. Problem solved.
3 After about ten minutes I went in and handed Chris the form. Chris looked a little funny at my mom's
4 signature but said something like "Who am I to decide whether that's real or not?"

5 There were a whole bunch of signs on the wall behind the desk, but they were all overlapping and
6 hard to see. Chris told us to read the Sabotage rules and warnings but the counter is at least 6 feet away
7 from the wall and you can't get behind the counter to read the signs. I didn't ask him/her to point the sign
8 out to me. I figured if it was just on a wall with a bunch of other stuff it couldn't be that important.

9 After we paid our money we headed to a changing room. There we were shown how to shoot and
10 reload paint guns. The employee also gave us a small helmet, some kneepads and elbow pads, and a
11 facemask that had goggles and a guard for the mouth and throat.

12 It was an ugly mask but it made me feel like a soldier so I put it on. Then another employee
13 named KELLY came out dressed in combat fatigues. S/he mumbled a bunch of stuff about playing fair
14 and staying safe. I am positive s/he never mentioned anything about the goggles though. As far as I can
15 remember, s/he didn't even say how to put them on properly. KELLY was basically just trying to get
16 everyone fired up. It sure worked for me. S/he stopped for a minute to see if anyone had questions but we
17 were already lining up to head to the indoor playing field. As we walked through the door, KELLY
18 checked to make sure we all had our equipment on.

19 Sabotage is played by dividing the group into two teams. One group hides at 35 various spots
20 around a base area and guard s a flag. The other group slowly attacks from all sides and tries to sneak in
21 and steal it. Its called sabotage because there are a lot of shrub like things and stuff and wooded obstacles
22 to hide behind. You never know when someone is going to creep up behind and ruin your plans.

23 The first game I was on the attacking team. We didn't win, bit it wasn't my fault. I shot four
24 people on the other team before I died. I actually got the flag but then three guys popped and I went down
25 in a blaze of glory and green paint. The paint balls that splattered really only stung for a second. I noticed
26 that two of the balls didn't break however. The ones that didn't break left some serious welts. When I
27 mentioned this to KELLY, s/he said if I couldn't handle a little pain I should head inside and play a video
28 game. This really ticked me off. The next game a new referee took over and KELLY was going to play
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1 for the other team since one of the members got too cold and left the building. This time my team was
2 going to be on the defense and I made my mind that no matter what happened, KELLY wasn't getting
3 anywhere near that flag.

4 As the game started I kept an eye on KELLY. The camouflage s/he was wearing looked cool, but
5 it didn't conceal him/her very well. S/he was all green and the field was basically dirt with brown bushes.
6 My friend J.T. and I took a position to the left of our flag behind a tall wooden bunker with some
7 peepholes. Before long the two teams engaged and paint was flying. Because we were off to the side, we
8 were out of the line of fire. I kept my eyes on KELLY.

9 When s/he got within 10 yards I fired off some shots to try to keep him/her pinned down. I
10 thought one of my shots had to have landed, but s/he wouldn't admit to being killed. This made me even
11 more angry. I ducked down to reload, but then my goggles started fogging up. I tried to wipe them clean
12 but it wouldn't work. I told J.T. to cover me and I pulled off the mask to see what was wrong. I couldn't
13 figure out the problem.

14 I heard KELLY make a war yell as s/he charged the bunker. At this point I threw caution to the
15 wind and stood up to hold my ground. I'm proud to say I forced Kelly to abandon the assault, but I also
16 revealed my position to one of his/her first teammates. This person, who I never saw clearly, had snuck
17 up on the side and was waiting for me to stand. One well placed to the left side of the head and I was out
18 of the game.

19 When I got hit I saw a flash of yellow. At first I thought it was paint in my eye, but I think it was
20 just a flash of light from the pain because there was no paint on my face or helmet. I went black for a
21 second and fell back, but I was never knocked out. KELLY blew his/her whistle to stop the game and
22 them came over to see if I was ok. I know we talked for a minute, but I can't really remember the
23 conversation. Actually the next couple of days after incident are kind of fuzzy too.

24 I know I drove home and went to bed. The next day I tried to go play some volleyball. At first I
25 was ok, but the longer I played the worse my head ached. I felt like I was going to throw up. I was playing
26 almost as bad as I felt so I quit. I didn't go out at all that night. The next morning my folks went out for
27 some breakfast and last minute birthday shopping so they were gone when I woke up. I felt awful by this
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1 point and was even having trouble with my vision. Dr. Castro's office was only a few blocks away so I
2 decided to walk over. S/he was nice to me before and I didn't know what else to do.

3 I never would have played this stupid game had anyone told me it was dangerous. I'm a
4 competitor, sure, but I'm not dumb. I wouldn't risk getting hurt, especially during volleyball season. I did
5 take off the goggles they gave me only because they kept fogging up. No one told me they had to be on at
6 all times.

7 Since the accident, I have suffered from occasional spells of dizziness and headaches. For the first couple
8 of weeks after it happened, I was too sick to work or get to classes. It really made the rest of the year hard
9 for me.

10 Subscribed and sworn to before me this day of, 2003.

11 Notary Public

1 AFFIDAVIT OF DR. CAREY CASTRO

2 CAREY CASTRO, being duly sworn, deposes and says:

3
4 My name is Dr. Carey Castro. I am 42 years old and live in Tapochau Saipan. I received my bachelor's
5 degree in physiology and anatomy from the University of Hawaii and then went to receive my MD from
6 the San Francisco School of Osteopathic Medicine. I graduated Magna Cum Laude in 1988. I completed
7 my residency at the Hawaii Medical Center where I specialized in the physical rehabilitation of patients
8 with brain injuries. Upon completing my residency I worked at several different facilities around the
9 country until I returned to the CNMI to open my own office in 1999.

10
11 My specialty, brain trauma, frequently comes from violent jars to the head or neck resulting from things
12 like car accidents or sports related incidents. In addition to my private patients, I frequently offer seminars
13 to the trainers and coaches of the high school athletic teams around the Pacific Islands in order to
14 encourage safety and educate them as to the common signs of injuries to the nervous system. The coaches
15 from these schools often refer students to my office if they unfortunately sustain an injury on the field or
16 court.

17
18 I first met Jamie on March 26, 2003. Jamie's coach called me from Island High School where Jamie and
19 the other Island Geckos were competing in a volleyball tournament. In the third set of the final match
20 Jamie sustained what the coach referred to as a "spalding tattoo." Apparently, when Jamie was near the
21 net a member of the other team spiked the ball directly into the side of Jamie's head rendering Jamie
22 unconscious for a couple of minutes. Some smelling salts revived Jamie, but the coaches were concerned
23 about a possible concussion so Jamie was brought to my office late that afternoon. I was ready to head
24 home for the day when Coach McDonald called, but decided to stay late so Jamie could get immediate
25 treatment. Although we had never met, I already had a great deal of respect for this athlete because of
26 Jamie's reputation of having such a strong competitive spirit. Jamie's intensity on the court is legendary.
27 In fact the local paper even started calling Jamie "Killer" Killili.

1 When Jamie came to the office I conducted a full examination and make the diagnosis of a minor
2 concussion. This is essentially a bump on the head with localized swelling. A volleyball has some give to
3 it, so the head injury most likely came when Jamie's head struck the floor of the gymnasium. Jamie told
4 me that hitting the floor was the last thing s/he remembered which is consistent with my diagnosis of the
5 cause of the injury. The concussion itself was easy to diagnose since Jamie displayed many of the classic
6 symptoms –slowed and slightly slurred speech, dizziness, and dilated pupils. I did not run a CAT scan
7 because there did not seem to be a need for such a test since the case was so straightforward.

8
9 There is not much that can be done to treat a concession. The best thing to do is rest. It is important to
10 refrain from physical activity because any jostling can impair recovery or cause another concussion. It is
11 still not clear whether or not concussions can led to permanent damage. I believe that they have the
12 potential to affect an individual well into the future, but it has been my experience that concussions
13 almost always heal completely if they are treated and cared for properly

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15 Jamie came in for a follow-up appointment approximately one week after the initial concussion. S/he said
16 s/he had refrained from playing volleyball so far but was anxious to get back to it. I cleared Jamie for Play
17 and assumed that would be the last time I would have to treat him/her. Unfortunately, I was wrong.

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19 On April 12, 2003 Jamie came back into my office. I had just finished with another patient so my
20 receptionist sent Jamie straight back to the exam room where I was. I could hardly believe my eyes when
21 s/he walked in. S/he looked sick and was having some difficulty walking. My first fear was that I had
22 misdiagnosed the volleyball injury and that s/he might have had something more serious. When I asked
23 Jamie what happened, s/he said his/her head had just gotten worse.

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25 This time, I did order a CAT scan that revealed some swelling and irritation of the brain near the left
26 temple. On April 12, Jamie was suffering from a more serious closed head injury resulting from a
27 significant jostling of the internal contents of the skull. I prescribed some medication to help with the

1 dizziness and nausea Jamie was complaining about. I also prescribed bed rest for a minimum of three
2 days and no strenuous physical activity for two weeks.

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4 The evidence of trauma to the brain, which I observed on April 12, was not consistent with the events of
5 the previous volleyball injury Jamie described to me. Therefore, I began to suspect Jamie had been
6 participating in something else that injured his/her head. The medical evidence at that point indicated a
7 strong blow to the temple from a small blunt object. Neither the volleyball or gymnasium floor fills this
8 description.

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10 Because Jamie is a minor, I contacted his/her mother and suggested she come down to the office to fill out
11 the insurance forms for the injury. Mrs. Killili was surprised to learn that Jamie was at my office. She said
12 she noticed that Jamie looked like s/he wasn't feeling well, but thought it was just the flu. When Mrs.
13 Killili arrived I explained what I had found. She said she would get to the bottom of this and marched into
14 the examination room where Jamie was resting.

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16 Mrs. Killili began yelling at Jamie and I could hear what was being said. Mrs. Killili demanded to know
17 why s/he was lying about the injury. When Jamie wouldn't respond, Mrs. Killili accused Jamie of being
18 on drugs. Jamie began crying at this point and told his/her mom that s/he would explain what happened if
19 she promised to stop yelling. At this point, I knocked on the door to the exam room and asked if I could
20 listen to the rest of the conversation. In order to treat Jamie properly, I needed to know more about the
21 cause of the injury. My examination revealed the general nature of Jamie's injury, but I wanted the
22 specific details so I could better assess the damage. I also wanted to be there in case the Killilis began
23 making a scene again.

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25 Jamie explained that s/he and his/her friends had skipped a day of school earlier that week and gone to
26 R.A.G.E. Enterprises, a recreational organization on the north of the island. I am familiar with R.A.G.E.
27 and its owner because I have treated kids who have been injured there in the past. The owner, Chris
28 Schultz, is always thinking up wild stunts to try to attract the high school students.

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His/her newest addition is a field where teams play paintball wars, which is what Jamie went to do. I have never personally played this horrible game or watched anyone play it at R.A.G.E. I have seen it on television on several occasions, however. It is exciting to watch, but it seems like it would promote violence among children.

Before Jamie even got a chance to say exactly how the injury had happened. Mrs. Killili threw a fit. She said she had ordered Jamie never to go to that “den of sin” as she called it.

Eventually, Jamie was able to spit out the story of getting hit in the head with a paintball and almost getting knocked out. His/her description of events is consistent with my analysis of the medical evidence revealed by the CAT scan.

It is my opinion with a reasonable degree of medical certainty that the injury I treated Jamie Killili for on April 12, 2003 was caused by blunt head trauma, probably a sharp blow to his/her temple. This injury caused Jamie a great deal of discomfort and caused Jamie to miss two weeks of school and work. If Jamie had tried to work during this time it would have prolonged recovery time.

When someone is struck in the head with a blunt projectile there are many factors that generally determine the damage caused by the impact. Among thee factors are the distance from which the projectile was fired, the speed at which it was fired, the consistency or density of the projectile and the place upon the head where it lands.

It troubles me that Chris Schultz apparently did not provide any protective headgear for participants. The human temple is very fragile area because the bone of the skull is thinner and there are many blood vessels. If this are was left unprotected, I hate to think of what else might go wrong at that place.

Jamie has been lucky to make a nearly full recovery so far. S/he complains of some diminished motor skills and occasional headaches and dizziness, but s/he is fortunate because for the most part s/he has been

1 able to function in the manner s/he did before the incident. Closed head injuries are especially
2 problematic and difficult to rehabilitate.

3 The fact that the trauma did not knock Jamie unconscious does not mean it was not serious. Most people
4 are rendered unconscious because of a sudden jarring or “whiplash” that immediately alters the person’s
5 equilibrium and induces them to pass out. The paint pellet is small enough object that this jarring
6 probably did not take place. Even so, the pellet was obviously of a consistency necessary to cause damage
7 and it seems like it must have been fired by a high velocity weapon.

8 Subscribed and sworn to before me this –day of 2003.

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10 Notary Public

1 AFFIDAVIT KELLY JONES being duly sworn:

2 My name is Kelly Jones. I am the proud owner of Kelly's BBQ and Paint Ball in Guam. I am 21 years
3 old. I graduated from Islands High School in 2000 and began working at RAGE Enterprises as a cashier.
4 I stayed with the company until last May. The pay was not good, but it was otherwise a decent working
5 environment. Chris Schultz treated me well until the fall of 2002 when I began questioning his/her
6 authority. I am normally very respectful, but Chris was instituting a new paint ball game called Sabotage
7 and making some potentially dangerous errors.
8

9 I've been around paintball my whole life. We used to throw paint at each other growing up before there
10 was such a thing as paintball. When the IPA or International Paintball Association was formed in 1986,
11 my Uncle Joe became a charter member then I became a member in 1989. Uncle Joe accumulated some
12 of the best paintball guns and safety equipment around not like the shoddy stuff used at RAGE. I read
13 many paintball magazines and have even competed in a national tournament.
14

15 Sabotage began being played at RAGE enterprises on Labor Day of 2002. The game was not advertised
16 much because we wanted to perfect the playing arena before we had too many customers. However, from
17 the word of mouth alone, business really picked up. During that last month of the fall season in
18 November, there was a minimum of 50 people a week on that course from locals to tourists. Chris was
19 convinced s/he had stumbled on the idea that would make him/her rich. Some of his/her friends thought
20 so too since they began coming to the center to ask about opportunities of opening their own center.
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22 The first few months of the game went well. Most people in this part of the world hadn't seen paintball
23 but when they tried it they were impressed. In early December, we shut the game down because we could
24 not get the thermostat inside to work properly it was too cold for people to stay in the game room. If we
25 shut the thermostat off, it was just too hot inside. People were also starting to complain about paintballs
26 hurting. Apparently the cold air made them sting, and they didn't always break like they were supposed
27 to. We store the paintballs indoors in our freezer and storage area, and in the paintball cold room they'll
28 begin to harden. They don't freeze solid, but the liquid does thicken and become heavier. When the shell
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1 doesn't break there's no give upon impact. Then it's like getting hit with a marble instead of paint.
2 Personally I think pain is an integral part of the sport, but you've got to be careful.

3
4 At my new paint ball center, we play out doors in the warmth rather than in the cold meat locker at
5 RAGE. Some people might not like being out doors in the heat but I am erring on the side of safety so
6 something doesn't happen like it did at RAGE. I don't know exactly what the temperature was on April
7 10. We didn't have any thermometers inside the complex.

8
9 The air conditioning issue had been somewhat fixed by February. Chris really liked the idea of like an
10 Artic paintball room for something different on the islands. Chris had made changes to the course over the
11 holidays and was anxious to test them out. S/he even wanted to have a grand re-opening for the game. It
12 seemed odd to bill a game as new when it started six months ago, but marketing isn't my strong suit. I
13 told Chris we should hold off on the games until the meat locker warmed up, but s/he said there were
14 customers waiting and we had the bottom line to think about it.

15
16 The main reason Chris and I began to fight was the equipment s/he used. Chris refused to do the proper
17 research necessary to choose good equipment. I don't actually know how much s/he spent on safety gear,
18 but I do know Chris, and s/he probably always went with the cheapest things s/he could find. I know the
19 goggles weren't the best s/he could buy and heard they had started fogging up at various tournaments,
20 I tried out all the equipment RAGE purchased before giving it to customers. I use my own customized
21 equipment when I play in tournaments, but I want to know exactly what my company's customers are
22 getting. It's possible to use your own equipment on the RAGE course, but most people don't want to
23 invest in their own set of gear.

24
25 After I tested out all the equipment, I sent Chris an email outlining my concerns. I noticed that the
26 pressure setting on the guns, the setting that determines the force behind the paint ball tended to fluctuate
27 and slip. S/he never replied. I didn't give Chris any articles that were written about equipment or any
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1 safety reports because I didn't think it would do any good. Chris wouldn't listen to anything if it meant
2 spending any money.

3
4 There were other areas where Chris tried to cut corners, but I didn't realize their potential safety impact
5 until Jamie got hurt. When we started the game back up in the end of February, we continued to use the
6 initial shipment of ammunition that we had purchased in the fall. Since the paint balls had been
7 purchased in bulk, we still had a few cases left; Chris refused to buy more saying that paint is paint.
8 That's true to some degree, but after a few months that paint starts to congeal. Ordinarily this would not
9 be much of a problem, but combining old paint with cold temperatures is asking for trouble.

10
11 When Chris revised the Sabotage course s/he created another potential hazard. In order to run two games
12 at once s/he cut the size of the original playing field almost in half. That results in more shots being fired
13 from shorter distances. To protect the players, s/he should have instituted a rule that people couldn't fire
14 at each other within 10 feet, but s/he did not.

15
16 I didn't mention these issues when the game opened in the Spring because Chris was already mad at me
17 for telling some people on the high school soccer team that it would be best for them to avoid playing
18 RAGE's human dart board game until their season was over. Besides, except for a few sprained ankles
19 and the like, there were no injuries from Sabotage during the fall season. I never tried to talk anyone out
20 of playing Sabotage because I think paintball is a great sport, even when played with rented equipment.
21 Sure, Jamie was in the middle of volleyball season on April 10, 2003, but I wanted a chance to challenge
22 him/her. Because of his/her success in athletics, s/he had kind of a bad attitude. I couldn't wait to get
23 him/her on my turf. I may have even egged him/her on a bit. I really don't remember.

24
25 Chris did make an effort to warn kids about some of the potential dangers of the game. S/he put up some
26 signs and told all employees to require that everyone wear their safety equipment. I know that Jamie was
27 wearing goggles when s/he left the staging area on April 10. I did tell the kids that goggles were required
28 at all times. It is part of my normal list of instruction. There wasn't anything unusual about the specific

1 game Jamie was injured in. Jamie's team lost their earlier game that morning and s/he seemed determined
2 to win this time around. That would be easier said than done however. One person on the other team said
3 his hands were going numb so he decided to go outside and then play video games. Ordinarily, I
4 probably would have given her a hard time about being a wimp. But her quitting gave me a chance to play
5 so I was all for it.

6
7 Once the game got underway I was going to make break for the flag, but Jamie had me pinned down
8 pretty good. The kid wasn't much of shot, but I stayed low so I wouldn't risk getting hit. After a few
9 minutes Jamie's seemed to be out of ammo and my buddy, Bo-boy was coming in from the right plank. I
10 dashed towards the flag to sucker Jamie into exposing his/her position. S/he fell for it and stood up. My
11 buddy Bo-boy never misses an open shot and this was no exception.

12
13 I ducked as Jamie stood up so I didn't realize that s/he wasn't wearing the goggles. That was a stupid
14 thing for Jamie to do. As soon as I saw s/he didn't have them, I yelled for a cease-fire and everyone
15 stopped shooting. Unfortunately, Jamie already went down hard.

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17 I went over to see how Jamie was doing. S/he was lying on the ground holding his/her hand but was still
18 conscious. The other referee and I made sure s/he didn't have a neck or back injury and then helped
19 Jamie sit up. I asked if s/he needed help and Jamie began to complain about me not admitting to being
20 killed. Since s/he didn't come close to hitting me, I thought s/he might be delirious. Then, Jamie stood up,
21 walked away and didn't appear to show any effects from the blow.

22
23 Jamie went inside the complex and sat down for awhile. Since s/he was walking under his/her own power
24 and declined medical treatment, I thought s/he would be fine. I had also told Jamie that s/he could stop at
25 the counter and talk to Chris if Jamie needed any other help. I finished another game of Sabotage and
26 went inside to check on Jamie. This was 30-45 minutes after Jamie went inside. When I got there Jamie
27 was gone. One of Jamie's friends said s/he had already gone home. I have not seen Jamie since that time.

1 Jamie shouldn't have taken off the goggles on the field, but if they weren't working, I don't blame
2 him/her. Paint balls not a game for the weak. Still, whenever you remove a piece of safety equipment on
3 the battlefield, especially your goggles, you should always call for a cease-fire.

4 No one should probably have been playing paintball inside on April 10, 2003, because of the extremely
5 cold temperature of the building. This kind of incident will never happen at my new paint ball area since
6 we play the game entirely outside. On the other hand, it's not entirely Chris' fault either. S/he wanted the
7 business, but even a good manager can't control what every player does every minute of every game.

8
9 All in all, Sabotage was a good addition to RAGE and a good thing to bolster tourism on the island of
10 Saipan. It introduced the island to the sport and created a new niche in the tourism market to hold them
11 over until my place could be opened in Guam. Now they have a place where they can have fun and be
12 safe. That's an unbelievable combination that should make Chris even more nervous than this lawsuit.

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14 Subscribed and sworn to before me this day of, 2003.

15 Notary Public
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1 CHRIS SCHULTZ, being duly sworn, deposes and says:

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3 I'm CHRIS SCHULTZ. I'm 49 years old and have been for about three years now. You'll never hear me
4 utter the word fifty while I've still got my own teeth. I have a wonderful spouse, Pat, and three kids.
5 Kenny is 19 and the twins Marek and Reina, are 16. Being an entrepreneur has been really good for my
6 family. I'm able to provide for them and spend lots of time at home.

7
8 I was born in Guam and have lived in different parts of Micronesia most of my life. I didn't know what
9 to do with my life when I graduated from high school. I didn't have the money to go to college and I
10 wasn't inclined to take a government job. I've got some problems with authority so I had always planned
11 on being my own boss, I'd rather give the orders that take them if you know what I mean.

12
13 Since my junior year of high school I've always tried to spend my summers through out Asia to keep
14 track of new fads and trends that would attract tourists to the islands. I thought that if I was exposed to
15 enough ideas I could eventually bring one of them to Saipan to tap into the tourist market and make a
16 small fortune. After some ill -fated ventures with underwater sports and a cowboy-style park, I had the
17 ultimate brainstorm. The secret to my success wasn't in capitalizing on one fad- it was in taking
18 advantage of all them.

19
20 It was this theory that RAGE Enterprises was born on September 20, 1983, at the beginning of the boom
21 in Saipan. I had saved up all my money from odd jobs for years and was able to attract additional
22 investors from around the island and Japan. They realized that there wasn't much to do on the island and
23 that a new entertainment complex could really take off for the tourist market. My idea for the center was
24 to have it capitalize on whatever activity was hot at the moment. For a lot of years I was just able to turn
25 a small profit after paying off the bills and loans, but eventually, it really took off.

26 I am now the proud owner and operator of an entertainment empire. It was born in Saipan of all places,
27 but now this one horse island can't hold me back any longer. Due to the wild success of Sabotage I've
28 recently sold franchises of RAGE to pals in Guam, Okinawa, and Cairns.

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One of the reasons that Sabotage has been so popular with investors is that it doesn't take a lot of overhead to get started. In Saipan, I can't charge outrageous fees for playing time that paint ball operations get in other areas in Asia. That means I have to find some way to keep costs down. It has taken some innovative thinking, but in the end, that hard work allows me to provide the best entertainment value in town.

Some of the cost cutting measures I took when implementing the game were buying paint balls in bulk, buying used guns, and buying from a company that was going out of business. I was kind of suspicious at the great price for the goggles, but the sales rep told me they never had a pair of goggles crack upon impact and that I could return the whole line if that ever happened.

During the holidays of 2002, I made great improvements to Sabotage, My biggest customer complaints in the fall was the lack of power of the guns, I felt they were pretty good for used equipment, but hey, the paying customer is always right. That's why I paid one of my regular customers to adjust all the guns to fire the pellets at a higher velocity. The international safety standard for paint guns is to fire at a rate no more than 300 feet per second; I had this guy set the guns at a rate of 295 FPS. Because this was a homemade adjustment, the paint balls didn't all fire at exactly the same speed. On average, however, I was giving my customers great gun speeds and following safety regulations.

I have the playing field inside and keep it really cold for a break from the heat for tourists. People love it, it's the coldest spot on the islands. Another change I made was to reduce the size of the playing fields and put in more obstacles. This made for less running around and more shooting and hiding. Because of the additional obstacles, competitors actually get hit by less direct shots than they would have in the past.

The smaller fields also makes the games faster paced and more exciting.

I run a clean cutting edge operation and hire the best employees. The best ones are the ones who'll work for minimum wage anyway. Many of the games at RAGE are physical contests. Therefore, I make everyone who plays sign a document acknowledging the nature of the activity. This is my policy and I

1 follow it every time. I don't want to get sued, especially when things are just starting to take off again for
2 me. I also ID the high school kids to make sure they aren't minors.

3
4 I got no way of knowing whether a signature on my form is authentic. I'm no forensic ologost or
5 whatever handwriting experts are called. I just know, if there's a signature on the paper, its good enough
6 for me. In Jamie's case I remember s/he got the form signed quickly, but for all I know his/her mom was
7 out in the car.

8
9 We provide safety equipment for all the participants and inform them they have to wear this protective
10 gear in order to play Sabotage, the goggles are especially important because they protect the eyes, which
11 are vulnerable. My employees who brief the kids immediately before the game are required to announce
12 that goggles may not be taken off under any circumstances. I did not see the briefing before the game
13 where Jamie was injured, but I am very firm about this warning policy. My workers know that if they fail
14 to provide this instruction about the goggles even once, it is grounds for termination.

15
16 We also have warning signs posted at the information desk and in the changing area. The changing area is
17 dark because it is lit with black lights for effect. The signs are still easy to read in my opinion. I
18 specifically told Jamie and his/her friends to read the same warning sign posted behind the information
19 desk. I can't specifically say whether s/he read it, but if I told them too, what else can I do?

20
21 I feel terrible that anyone got hurt at my establishment, but those are the breaks. If his/her goggles really
22 weren't working, which I think is just a story, s/he could have called for the field judge who would have
23 immediately called a timeout and escorted him/her safely off the field. All a player has to do to call a
24 time out is yell "Cease fire" and hold their gun straight up in the air. The players are told in the pre game
25 warm up that they are too immediately stop shooting if they hear that warning. I would have inspected
26 Jamie's goggles and given him/her a new pair if necessary. To be fair, I wouldn't have even charged for
27 the game s/he came out of, even though s/he played more than half of it. Taking the goggles off was
28 stupid and his/her own fault. S/he needs to accept personal responsibility of the action.

1
2 There are no real “losers” in paintball. As long as you fight valiantly, you gain respect of your opponents.
3 In most games of Sabotage only a few people survive and the some people can’t avoid getting shot every
4 game. Players understand the risks of the game and that’s why they respect restrictions like the “cease
5 fire” rule. Calling a time out would not have hurt “Killer” Killili’s reputation. I just don’t understand
6 what s/he was thinking.
7

8 Anyone who had been to RAGE in the last six months should have been able to tell how seriously we
9 take goggles around here. There’s even a slogan to remind employees to check for goggles during
10 equipment test before the game starts, “No glasses, no passes.” All employees are instructed in knowing
11 how to say the phrase in English, Chamorro, Carolinian, Japanese, Korean, Russian, Tagalog and
12 Mandarin.
13

14 One of my former employees did send me an email once about the quality of my equipment- as I said we
15 love technology around here. Kelly said s/he felt we weren’t using the best weapons and protective gear
16 we could be. S/he further said his/her uncle had some prime stuff we could rent if we wanted. I’m sure
17 Kelly meant well, but there was no way I was going to pay large amounts of cash for weapons that we
18 couldn’t even own. Kelly just didn’t realize that to run a profitable business you have to limit your costs.
19 That’s why his/ her establishment will never get off the ground. S/he may attract a lot of customers, but
20 paintball will probably go out of style before s/he is able to pay off all that fancy-schmancy equipment.
21

22 I am not any sort of technician or engineer, but I can test out equipment and see if it works. I’m an avid
23 player of the game and its exactly the same equipment I rent out to customers. To my knowledge, we
24 never had any major problems with our goggles fogging up prior to the events of April 10, 2003. We
25 have even had a positive review article in Operation Action Oceania. The article is framed and on the
26 wall behind the ticket counter. The reviewer didn’t really like our equipment but s/he didn’t report any
27 problems with it. If the reviewer had recommended that we implement additional safety precautions, we
28 would have immediately done so.
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Since Sabotage began, I figure that thousands of people have played the game and there have been only minor injuries. A few people before and after Jamie have lost their heads and removed their goggles on the field. Usually this has occurred in the split seconds when someone is frustrated after being shot. In all of those cases, someone else usually thought to call a cease fire or order the person to put the goggles back on.

Other than Jamie Killili, we have never had a participant sustain a head or an eye injury. Just because someone got injured playing a sport does not mean the game is unsafe. People get hurt in established, organized sports all the time. Look at how many people are injured every year playing football or even running track. Sometimes accidents happen and sometimes people cause their own injuries when they don't follow instructions. If Sabotage was inherently unsafe, I would not have added it to my business. Heck, my kids are big fans of the game and you can be sure I wouldn't let them play if I thought they were at risk.

Subscribed and sworn to me this day of 2003

Notary Public

1 **AFFIDAVIT** **J.T. HOCOG, being duly sworn, deposes and says :**

2 My name is JT Hocog. I am 19 years old and a freshman at the University of Guam. Jamie Killili used to
3 be one of my best friends; we hung out a lot in high school. Volleyball isn't one of the more popular
4 spectator sports so when I wasn't busy studying, I tried to go and cheer on the team during the big games.
5 Jamie and I some of the other players would usually go out for pizza or to parties after the games. I don't
6 know if Jamie will ever forgive me for testifying against him/her in this lawsuit, but I still feel it is my
7 duty to tell the truth.

8
9 I was with Jamie when s/he was injured playing volleyball, and when s/he was hurry playing paint ball on
10 April 10, 2003. The volley ball injury seemed a lot more serious to me. I mean, s/he got knock cold that
11 day. When s/he went to see the doctor s/he was told to avoid physical activity for awhile. That advice
12 was enough for the coach to keep Jamie on the bench, but it wasn't enough to keep Jamie from getting on
13 the court in pickup games after practice.

14
15 When s/he got hit in the head with the paint ball, s/he was only hurt for a second. When Kelly and one of
16 the referees came over to see if Jamie was okay, S/he got up and said S/he was ready to keep playing. I
17 think his/ her exact words were "the paintball didn't break, I'm not dead yet." I talked Jamie into going
18 home anyway because I didn't want to mess around with a head injury especially after how sick the last
19 one made him/her.

20
21 After the incident at RAGE, I saw Jamie the next day, but then I didn't talk to him/her for a couple of
22 weeks. We don't have any classes together so I did not realize that s/he was absent from school.
23 Sometimes we talk allot on the phone, other times we go for week without speaking. It just depends on
24 our schedules. I had some tough exams during this time so I didn't have tine to chat. I figured Jamie
25 wasn't calling me because s/he was busy with volleyball.

26
27 It's true that Jamie, a bunch of our friends and I skipped school to go to RAGE. It's really not like me to
28 do something like that but I hadn't missed a day of school all year and was felling a little wild. Plus it was

1 really hot and that cool playing field was just we needed to refresh. I was glad that Jamie was able to get
2 home after getting hurt that day. I didn't really want to have to call a doctor because I figured we would
3 then get caught for cutting class.

4
5 I saw the warning signs about Sabotage at RAGE. It said this was a physical game and all participants
6 assume the risk of injury. The signs were small, but I could make them out just fine. The counter where
7 we paid for the game was not very far from the wall where the sign was posted. When Chris told us to
8 read the sign I did see Jamie glance in the general direction that s/he pointed.

9
10 The warning signs made the game sound somewhat dangerous, but I figured they wouldn't have a sport
11 like this if it wasn't safe. After doing quick mental calculations, I decided the odds of getting hurt were
12 pretty slim. Once when the game first opened, I found an article on the Internet that said more people are
13 hurt playing golf every year than paint ball. That's a pretty good statistic in my book.

14
15 Before we started playing we were told that is we thought we were in any danger for any reason, or if we
16 had a technical problem, we could call for the referee and the match would be immediately stopped until
17 the problem was resolved. I don't remember being specifically told not to remove the goggles. Jamie and
18 I were fooling around during the pre-game briefing so maybe that's why we didn't hear the warning if
19 there was one. In any case, such a warning would have to be redundant. Leaving the safety equipment on
20 seems like a common sense idea to me.

21
22 When the instruction started talking about shooting and killing, Jamie got all worked up. We had never
23 been out to play this game before, but I think Jamie was a closet fan. S/he said s/he had seen the
24 championships on television and thought s/he could play with the pros. S/he seemed familiar with how
25 the game was played and was impatient during the safety instructions. Sometimes his/her competitive
26 spirit really gets the best of his/her judgment.

27 The preferential treatment Jamie receives, as an athlete has always been a bit of a strain on our friendship.
28 The academic competitions I'm part of ever get as much respect as the sporting events that Jamie is

1 involved in. I try to not let it bother me, but its hard- especially when Jamie's ego starts working
2 overtime. S/he is used to getting away with whatever s/he wants. We had a big falling out this past
3 summer when Jamie wanted to go mountain biking in a restricted area and I wouldn't. Jamie figured it
4 would be a great adrenaline rush and that no one would find out, but I wasn't prepared to take that risk.

5
6 Jamie's famous competitive streak was in full force on April 10, 2003. Because of the previous head
7 injury, Jamie had not been in any truly competitive situation for 2 weeks. That seemed to be causing
8 Jamie a lot of stress. Jamie told me s/he was far too good for the pick up volleyball s/he was playing to be
9 any sort of challenge. There may have been another reason that Jamie was obsessed with wining at
10 Sabotage that day. S/he was disobeying her/his mom to go to RAGE so Jamie figured April 10 might be
11 her/his only shot at paint ball glory. S/he wouldn't want to be remembered as anything less than the best.
12 When our team lost the first game of Sabotage that day, s/he practically threw a fit. S/he even tried to
13 blame me for the loss, despite the fact that s/he got killed long before I did. Jamie didn't want to leave the
14 playing field to get set up for the next game, but one of the referees told him/her it wouldn't take very
15 long. We did not have to sit through another explanation of the rules because there were not any new
16 players.

17
18 During the second game Jamie was even more intense. This time it seemed like s/he was out to get Kelly
19 specifically. We were on the defensive and I was behind the same bunker as Jamie. Jamie is generally
20 better at this sort of thing than I am so I was trying to follow her/his lead. The game was going fine, but
21 then Jamie ducked behind the bunker and removed his/her goggles. I couldn't believe that Jamie was
22 careless enough to remove his/her goggles in the middle of a game. As soon as I saw what was taking
23 place, I told him/her to put them back on immediately. When s/he wouldn't listen to me. I was going to
24 call a time out and get the referee's attention. Before I got a chance, Jamie stood up and go hit in the side
25 of the head. The whole thing happened rather quickly, so I don't think the shooter had any idea Jamie
26 was in danger.

1 I did hear Jamie say s/he couldn't see Kelly right before s/he took the goggles off. I don't know if it was
2 because the goggle fogging up or just because Kelly was hiding. I never had any trouble with any of my
3 equipment.

4
5 As far as the game being dangerous, I just don't see it. With the proper safety gear and some extra
6 clothes for padding. I could barely feel the paint balls. Even the one that didn't break only stung for a
7 brief second.

8
9 Even though the injury didn't seem that serious at the time, Jamie did get real sick the next day. I stopped
10 over to visit, and s/he could hardly talk. I felt really bad, but at the same time I think the injury is his/her
11 own fault. Looks like Killer's competitive streak finally got the best of her/him.

12 Subscribed and sworn to before me this day of ----2003
13 Notary Public.

1 **Affidavit ALEX PARK, being duly sworn deposes and says:**

2
3 I'm ALEX PARK, editor of Operation Action Oceania. I'm 66 years young. I was one of the pioneers in
4 the sport of paintball and believe I know more about it than any other person on God's green earth. I
5 graduated from high school in 1955. After graduation I got a job covering obscure sporting events for a
6 small travel magazine. I didn't have any experience in writing but I lied on my resume and got the job.
7 Turned out that I was pretty good at it. The magazine started sending me around the world to investigate
8 and report on developing recreational activities. In 1972 I witnessed what I believe to be the first ever-
9 documented game of what we now call paint ball.

10
11 While trapped in a submarine for nine months, a bored, but visionary sailor made a mold from a small
12 rubber ball he carried for good luck. He then developed a mixture of corn syrup and flour that would
13 harden into a shell when baked. He used this mixture to make small castings that he filled with water and
14 food coloring. After borrowing a friend's sling shot he began to bombard unsuspecting colleagues. By
15 the end of the mission, every one on board was making paint balls and various paint weapons in order to
16 defend themselves.

17
18 When they arrived back on base, this group of sailors decided to have one last game before they were sent
19 home. I was at the base doing a story on the inter armed forces dart tournament when I saw a flier for the
20 paintball game. After attending the game and having a wonderful time. I wrote a piece that was sent over
21 the wires and the rest was history.

22 Now the game is played with automatic rifles and all sorts of other gadgets. I travel to every major paint
23 ball tournament in the country and Asia. I still play in the senior division. I stayed with the younger pros
24 as long as I could, but when I broke my hip falling out of a tree, they forced me into semi-retirement.

25
26 Paint ball is a pretty simple idea. Small paint pellets are loaded into a pressurized air rifle and combatants
27 fire at each other. The International Paint Ball Association has set standards regarding the speed at which
28 paint balls can be fired. The top limit is 300 feet per second. I've found that above 300 FPS, accuracy is
--

1 hard to maintain in any event, so it doesn't make sense to set weapons to fire at a higher rate. Proper
2 safety equipment is also important. Every participant must wear a helmet and goggles. In addition, you
3 should always wear a long sleeved shirt and long trousers to minimize the sting of getting hit. At every
4 paint ball facility, participants are given basic safety instructions and commonsense guidelines to reduce
5 the risk of injuries.

6
7 In addition to my duties as senior editor of OAO, also write a review columns for paint ball magazines.
8 This column in a way to highlight new courses around the world and inform paint ball enthusiasts which
9 battlefields might be worth a visit. These reviews rate the courses on a scale of 1-4, with 4 being a perfect
10 rating. In addition to the overall score, the rating is broken down into different categories including
11 equipment, safety, challenge, and course.

12
13 I had the opportunity to review Sabotage course at RAGE Enterprises when it first opened in the fall of
14 2002. For a new course with an inexperienced owner, it was a fine operation. A copy of the article
15 accounting my review of RAGE is attached to this affidavit.

16
17 RAGE received an overall of 3 stars. This is pretty high, as I've never actually given an overall 4 star
18 rating. I've yet to discover a perfect course. The overall rating was boosted by an exciting game structure
19 and a 4 star course design. It also didn't hurt that I played Sabotage on a gorgeous warm day with the
20 doors to the facility rolled up and the island breeze blowing in.

21
22 The other reviewed components of the operation didn't fair quite as well. The safety rating was only 2 1/2
23 stars, largely because of some holes and unstable structures on the playing field. These potential hazards
24 combined with a misstep for an average player could lead to an injury. After the review of the course was
25 published, I spoke with Chris Schultz who indicated these hazards would be fixed. When I returned to the
26 course in late February, the changes had been made in addition to an indoor cold playing field.

1 The lowest rated category for the paint ball games at RAGE was equipment. This category received only
2 2 stars. The guns and ammunition were both of mid line quality. The guns were older but easy to reload
3 and were fairly accurate. It may have been my imagination but it seemed like the guns were firing faster
4 when I played the course in the spring.

5
6 The problem with goggles and masks is that one size really doesn't fit all. The goggles are usually big
7 enough, but the adjustable strap doesn't always work that well. This makes it so sometimes the eyepiece
8 isn't pulled directly against the face. This would allow cold air to enter the goggles and come into contact
9 with a player's warm skin causing the lenses to fog up. Goggles are ordinarily work fine, but the
10 potential for failure is there. While worn, goggles would be more than adequate to protect against injuries
11 to the eyes and temple.

12
13 Another part of my job is to keep track of any injuries occurring at paint ball courses. As part of their
14 membership in the International Paint Ball Association; paint ball courses owners are required to report
15 any serious injuries that occur in their fields. A serious injury results in disfigurement or doctor's care,
16 except for such things as scrapes or sprains. I compile data on these injuries to demonstrate that paintball
17 is not an extremely dangerous sport. There are some dangers to the game that would be obvious to
18 anyone who has watched it even once, but far fewer serious injuries occur playing paintball than in
19 soccer, football, hockey, or basketball. I've never compared it to volleyball. But, like ultimate fighting
20 and professional wrestling, paint ball has developed its enemies. When I get called to Washington to
21 defend the sport in front of a Congressional Committee, I'll be ready with my own statistics to throw at
22 those senators.

23
24 The typical paint ball injury is a turned ankle or sprained wrist resulting from a fall on uneven terrain.
25 There are occasionally broken bones when players fall out of high obstacles or into bigger ditches. The
26 most serious injuries have been snakebites, but that's not a concern in Saipan.

1 I don't know of anyone ever having been killed or seriously injured as a result of being hit with a
2 paintball, except for someone losing an eye every couple of years. Despite the movement in the industry
3 to promote proper eye protection, there's always someone who thinks they're indestructible.

4
5 Different paint balls strike with different impact depending on the consistency of the ball, the speed it's
6 fired at and the angle it hits the target. Improper equipment, inappropriate firing speeds or unusually
7 dense paint ball could all potentially result in injuries to players. That's why the IPA carefully regulated
8 all its field owners and equipment manufacturers.

9
10 With the exception of the head injury to Jamie Killili, there have been no injuries reported from RAGE
11 Enterprises. Jamie's injury was reported to the IPA after the lawsuit was filed. This would not ordinarily
12 be considered timely reporting, but Chris Schultz said s/he had no idea Jamie has been injured until the
13 lawsuit was filed.

14
15 As far as the dispute in this case about it being too cold inside to play paintball I think it's a bunch of
16 malarkey. I have been to tournaments in sub-zero weather and paintballs just don't normally freeze. The
17 paint mixture can remain in liquid form for some time in the cold. I would not hesitate to play paint ball
18 in any weather, and I wouldn't think twice about organizing a game for others as long as the temperature in
19 36 degrees or more. Of course, that minimum temperature assumes players are using fresh ammunition
20 and guns that are within the acceptable FS limits.

21
22 Paint ball manufacturers have been working for years to try to develop the optimum hardness level for the
23 outer shell. While the quality of paint balls has improved over time, it is still difficult to construct an
24 object that is fragile enough to break every time it hits a target but sturdy enough to not break on the gun
25 during loading and firing process. It is true that sometimes paintballs do not break, but this is more of a
26 result of the angle it collides with someone, not the temperature of the paint. Even when a paintball
27 doesn't break, it may hit with more impact, but it does not suddenly change consistency. A plastic shell is
28 a plastic shell no matter how it hits you.

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I was not at RAGE Enterprises when Jamie Killili was injured on April 10, 2003, I can say that the two times I was at RAGE there were several warning signs posted. They were behind the counter, but I'm 66 and I could make them out just fine.

The young person who gave us instructions for the games I played also gave us thorough safety instructions. S/he specifically told us not to remove our goggles for any reason if we were on the playing field. It is unfortunate that someone was injured playing this fine game, but it happens, this does not mean we can blame the person who ran the game. There are casualties in any battle.

Subscribed and sworn to before me this day, 2003
Notary Public.