

1 MARK L. WEBB, ESQ. (SBN 067959)
2 LAW OFFICES OF MARK L. WEBB
3 S.F. Historic Landmark No. 48
4 294 Page Street
5 San Francisco, CA 94102
6 Telephone: (415) 621-4500
7 Facsimile: (415) 621-4173

8 Attorney for Plaintiffs

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10 SUPERIOR COURT OF THE STATE OF CALIFORNIA
11 IN AND FOR THE COUNTY OF MARIN
12 UNLIMITED JURISDICTION

13 CYNTHIA MAY-CARMEN Guardian ad
14 Litem for RYAN MAY-CARMEN a minor,
15 CHERYL ABPLANALP as Guardian ad Litem
16 for ALLEN ABPLANALP a minor, BRIAN
17 ANGLLEN as Guardian ad Litem for DYLAN
18 ANGLLEN, a minor, CARLA J. BAIRD as
19 Guardian ad Litem for JORDAN BAIRD, a
20 minor, DARRELL BELYEU as Guardian ad
21 Litem for COLTON BELYEU, a minor,
22 ROXANNE BERRY as Guardian ad Litem for
23 FREDDY BERRY, a minor, VIRGINIA KINES
24 Guardian ad Litem for DARRELL KINES, a
25 minor, TINA LUZ Guardian ad Litem for
26 MICHAEL JONATHON LUZ, a minor,
27 SANDY HUBER Guardian ad Litem for
28 ANTHONY MCCURDY, a minor,

Plaintiffs,

vs.

WALMART STORES, INC., a business entity;
DYNACRAFT INDUSTRIES, INC., a business
entity; CARL WARREN & CO., and DOES 1 -
250, inclusive,

Defendants.

Case No. CIV050622

**PLAINTIFFS' MOTION FOR A NEW
TRIAL; MEMORANDUM OF POINTS
AND AUTHORITIES IN SUPPORT
THEREOF; AND DECLARATION OF
MARK L. WEBB**

Judge: Hon. Michael B. Dufficy
Action Filed: Feb. 14, 2005
Trial Date: Nov. 30, 2005
Hearing Date:

I. INTRODUCTION

The instant case was brought by nine families, represented by a sole practitioner attorney in San Francisco, who had discovered in the course of a previous and similar product liability

1 case that numerous children across the country had been lied to and deceived about the extent of
2 other similar accidents when they attempted to make a claim for injuries. The plaintiffs' attorney
3 brought together nine families from eight different states, some of whom had signed settlement
4 agreements allegedly under false pretenses: they had asked, point-blank, whether there had been
5 other similar accidents and were told "no," and on those representations, the agreements were
6 executed. Others had been given the run-around and were never given any kind of settlement at
7 all. What they all had in common was that in each and every case, the plaintiffs were riding a
8 bicycle sold by WAL-MART and imported by DYNACRAFT with a front wheel quick-release
9 that suddenly detached, causing the wheel to come undone. Also in common among the
10 plaintiffs was the fact that several years had gone by from the point that they had been led to
11 believe that there were no other accidents until the time they learned of the hundreds of similar
12 incidents. It is in this context that the plaintiffs' attorney brought together the families to seek
13 redress for the injuries that were not properly compensated, including subsequent manifestations
14 of brain damage, and also for the deceitful, unfair, and dishonest business practices that occurred
15 and continue to be perpetrated upon many others to this very day.

16 Against this backdrop, the Trial Judge permitted one of the defendants to bring in **one of**
17 **the largest law firms in the world**, the Gardere Wynne Sewell Firm of Texas. Over objection,
18 the Judge allowed no less than six individual attorneys to actively participate in the trial on
19 behalf of defendant DYNACRAFT and its agent CARL WARREN & COMPANY. In addition
20 to the Gardere Firm, two other firms, Phillips, Spallas & Angstadt and Gordon & Rees, were
21 engaged to join forces against the sole practitioner plaintiffs' attorney.

22 Despite the fact that defense attorneys were collaborating in connection with trying this
23 case, the Trial Judge allowed the jury to believe that they were separate attorneys, not working
24 together at all! For instance, Exhibit A (attached hereto), is a designation of expert witnesses
25 which makes it clear that WAL-MART's attorneys, Phillips, Spallas & Angstadt, used and
26 designated the **very same experts** in this case as defendant DYNACRAFT's attorneys.

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1 Additionally, the exhibit lists of defendants were identical, as were most of the motions for
2 summary judgments¹ (copies not attached due to excessive volume).

3 The trial, which plaintiffs' counsel² estimated in good faith would last three weeks, was
4 ultimately dragged out to nine weeks by the defense. It became clear that at least **15 defense**
5 **attorneys** were working in the courtroom. It is unknown how many other attorneys and
6 paralegals were working on this case outside the courtroom.

7 Although no formal objections were raised by the sole practitioner (who brought in
8 another sole practitioner to help him in the trial), it was clear from the beginning that this
9 plaintiffs' team would daily encounter voluminous mounds of paper lodged by these attorneys,
10 creating obstacles and delays of the trial. Of course, these delays favored the defense, who then
11 proceeded to wage a war of attrition, first on the Judge, who became impatient and agitated on
12 occasion, and then on the jury.

13 It was under these circumstances, where plaintiffs' counsel was seriously outnumbered
14 and overwhelmed by the power and force of what newspapers called a "cadre" of attorneys (not
15 to mention the unlimited wealth and resources available to WAL-MART and DYNACRAFT),
16 that the rulings complained of herein had an even **greater dramatic impact** than might normally
17 be the case.

18 Thus, when the Trial Judge clearly manifested his **bias and favoritism** towards the
19 defense attorneys by chiding plaintiffs' counsel for cross-examination on a videotape, and
20 admonished the jury to disregard comments made in plaintiffs' attorney's rebuttal argument, the
21 jury could not help but receive the message that the Trial Judge felt that the case should be
22 decided for the defense. Furthermore, when the Trial Judge openly expressed his opinion that
23 the alleged defect was, in fact, **no defect at all**, even though not in the presence of the jury, he
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25 ¹ Defendants improperly "joined and adopted" each others motions for summary
26 judgment and motions for summary adjudication in direct contravention to the California Rules
27 of Court and case law. (See Plaintiffs' opposition papers.)

28 ² Plaintiffs' counsel, Mark L. Webb, is a former organized crime Strike Force Attorney
and Assistant U.S. Attorney with substantial trial experience.

1 was acting improperly and outside the bounds of the neutrality that a Trial Judge must maintain
2 at all times. This hostile anti-plaintiff environment created by the Trial Judge primed the jury for
3 unchecked misconduct and personal accusations by defense attorneys in closing argument, which
4 created unfair, unjust and improper prejudice to plaintiffs' case. (In the defense closing
5 arguments, plaintiffs' counsel was personally and directly attacked by name for simply bringing
6 this case to trial.)³ Indeed, instead of attempting to level the playing field, so that the plaintiffs
7 could simply have a **fair trial** despite the overwhelming numbers against them, this Trial Judge
8 openly manifested a bias against the plaintiffs and in favor of the defense, thus preventing the
9 successful prosecution of a legitimate product defect claim, which, to this day, threatens
10 hundreds of thousands of existing product owners.

11 Therefore, plaintiffs herein move this court for an order for a new trial based on several
12 grounds:

13 First, the Court improperly excluded evidence of clear violations of the Consumer
14 Product Safety Act (CPSA) by the defendants, **while at the same time** allowing the defendants
15 to introduce into evidence a CPSA-related letter (never produced to plaintiffs in discovery).

16 Second, a new trial is also justified due to misconduct by the Trial Judge in openly
17 expressing his bias in favor of the defendants both **in the presence of the jury and outside the**
18 **presence of the jury** by making comments that clearly demonstrated he had reached a
19 conclusion in favor of the defendants.

20 Third, the Trial Judge refused to issue a bench warrant for a properly subpoenaed
21 witness, John Berman, former President of DYNACRAFT, who had previously made numerous
22 false statements under oath. Compounding this issue was the Trial Judge's *sua sponte* bolstering
23 of Suzie Mueller, the witness whose testimony impeached John Berman's testimony.

26 ³ "Misconduct of counsel may be an irregularity in the proceedings which is grounds for
27 new trial." Russell v. Dopp, (App. 4 Dist. 1995) 42 Cal.Rptr.2d 768 "Personal attacks on
28 opposing party and their attorneys, whether outright or by insinuation, constitute misconduct..."
Las Palmas Associates v. Las Palmas Center Associates, (App. 2 Dist. 1991) 1 Cal.Rptr.2d 301

1 Fourth, the Trial Judge failed to allow testimony of a material witness, John Buchholz,
2 after he was called to the stand, which created the impression of wrongdoing by plaintiffs.

3 The cumulative effect of these errors was to shape the jury's impression of this case
4 completely in favor of the defense, which can be the only explanation for the defense verdict that
5 **shocked the entire Bay Area.**⁴

7 II. POINTS AND AUTHORITIES

8 **A. Trial Judge's Failure to Admit CPSC Evidence Unfairly Prejudiced Plaintiffs**

9 An overt act of the judge which prevents the complaining party from having a fair and
10 impartial trial constitutes an irregularity warranting new trial; such irregularity must be shown by
11 affidavits presented in conjunction with a new trial motion. West's Ann.Code Civ.Proc. § 657,
12 subd. 1, *see also* Schrader Iron Works, Inc. v. Lee, 26 Cal.App.3d 621 (1972)

13 The most overt act and irregularity on the part of this Judge was the introduction of
14 defense documentary evidence that DYNACRAFT complied with CPSC government regulations
15 (see Exhibit C) while simultaneously **precluding plaintiffs from any discussion of defendants'**
16 **CPSC violations**, which evidence plaintiffs were prepared to present, including the failure to
17 report settlements. The defense evidence, in the form of a letter, was inevitably construed by the
18 jury to mean that DYNACRAFT was in **complete compliance** with the Consumer Product
19 Safety Commission (CPSC), and in fact served to exonerate DYNACRAFT in the eyes of the
20 jury (see Exhibit B, Declaration of Jury Foreperson Janice Perez Ross), since it implied that
21 **DYNACRAFT was lawfully reporting accidents to the CPSC and no government action**
22 **was taken.**

23
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25 ⁴ Indeed, when the infamous quick-release lever on a brand new bicycle broke in half in
26 the jury deliberation room during normal usage, everyone associated with the press assumed
27 there could be no better proof that the product was defective (or as plaintiffs' expert John
28 Howard had said, "a piece of junk."). **Therefore, when the Judge told the jury to disregard**
the fact that the lever had broken, he might just as well have told the jury to disregard
plaintiffs' entire case!

1 **This error alone deprived plaintiffs of a fair trial** because it gave the jury the **false**
2 **impression** that DYNACRAFT had fully complied with the CPSA in all respects. However, the
3 error was compounded when the Judge inexplicably restricted and precluded plaintiffs from
4 presenting clear evidence that defendants systematically and continuously violated CPSA
5 sections 23, 24 and 37, which require the reporting of other settled cases in connection with
6 similar alleged defects. (The fact that **DYNACRAFT** was fined \$1.4 million by the CPSC in
7 late 2004 for **failure to report defective products** in a timely manner was also excluded, though
8 it would have clarified the false impression that DYNACRAFT obeyed the law).

9 By these overt acts, the Trial Judge not only erred in the exclusion of appropriate
10 evidence, but improperly poisoned the jury panel with the admission of un-contradicted
11 assertions of CPSA compliance, over objection. Beneficial, relevant, and probative evidence of
12 material facts pertaining to liability and wrongdoing was admitted in favor of defendants, but
13 plaintiffs were not allowed to offer any meaningful debate or contrary evidence on this critical
14 issue. This created unfair prejudice and error because **DYNACRAFT's clear and repeated**
15 **violations of the CPSA went unknown to the jury** and uncontested by plaintiffs per the Trial
16 Judge's ruling, leaving the jury in a vacuum with the sole perception that defendants were fully
17 compliant with the Federal rules of reporting. (*See* Exhibit B, Declaration of Jury Foreperson
18 Janice Perez Ross).

19 Despite plaintiffs' counsel pointing out the clear inequity and inconsistency of this ruling
20 in a separate letter brief (see Exhibit D), the Judge continued to favor the defendants with this
21 completely anomalous ruling, a ruling which subsequently ended plaintiffs' claim of a defect.

22 **B. Trial Judge's Bias Unfairly Prejudiced Plaintiffs**

23 As per Cal. Code Civ. Proc. § 657 and Schrader Iron Works, (*supra*) the Trial Judge did
24 not provide a fair and impartial trial due to the manifestation of his bias against the plaintiffs'
25 case. On numerous occasions, the Judge's favor of defense attorneys and defendants' case took
26 the form of uncontrolled anger and critical remarks that were made both in and out of the
27 presence of the jury. Such biased conduct was not only harmful when taken alone, but also
28 created an environment conducive to personally attacking plaintiffs' attorney without reprisal.

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1. Bias In the Presence of the Jury

On two separate occasions, Judge Dufficy went out of his way, *sua sponte*, to chide plaintiffs’ lead counsel in this case. On one occasion, during the videotaped deposition of a defense expert (neuropsychologist Dr. Michael Chafetz), the witness was being asked why his notes indicated something far different from his report as to how long he had examined the child in question for brain injury. **Judge Dufficy slammed his hand down on his bench and insisted that the videotape be shut off**, as he hurriedly left the bench **red-faced with anger**. At this point, nothing could be done by any attorney in the case, since this cross-examination was already conducted several weeks earlier on videotape. Without even an objection from the defense, Judge Dufficy thus demonstrated **in front of the jury** his personal anger toward plaintiffs’ counsel. This act transmitted the message to the jury that this Judge was enraged by conduct of plaintiffs’ counsel wherein **no objection was ever raised by defense counsel**. After taking a recess of about 10-15 minutes to get composed, Judge Dufficy assumed the bench and announced to the jury that the jury should not take any meaning from his behavior, a vain attempt to “un-ring the bell” or eradicate the effect of his unmitigated anger toward plaintiffs’ counsel. This conduct was in clear violation of the Judge’s obligation to remain neutral and impartial, and demonstrates how this irregular conduct by the Trial Judge poisoned the jury.

In fact, at no time during the nine week trial (which should have been a three-week trial, but was extended by the battalion of 15 defense lawyers) did Judge Dufficy in any way criticize any of the activities of defense counsel before the jury in this case, even when faced with clear evidence that defense counsel deceived the court regarding the availability of experts for trial.⁵

Further, after plaintiffs’ rebuttal argument, Judge Dufficy, **on his own**, stated on the record that he was “shocked” by the argument. No reason was given for this reaction; however, Judge Dufficy’s conduct had once again made it clear that he did not approve of plaintiffs’ counsel and plaintiffs’ case. In fact, Judge Dufficy gave the jury a post-rebuttal admonition that

⁵ The defense attorneys were allowed to produce four medical experts at trial via videotape, falsely claiming that they were unable to attend trial. Also, the defense attorneys repeatedly pretended they had no connection to one another nor shared a common defense plan.

1 had been specifically crafted by the defense lawyers, which **chastised** plaintiffs' counsel for his
2 rebuttal and **praised** defense counsel for their ethics! This admonition was given just moments
3 before deliberations began and **served to condone not only the relentless personal attacks on**
4 **plaintiffs' counsel,**⁶ but also defense counsel's conduct that impugned plaintiffs for failing to
5 admit evidence which **had been specifically excluded by the defense in limine!** Such support
6 of questionable ethical behavior of defense counsel while simultaneously handicapping and
7 admonishing plaintiffs' counsel is irregular at best, and even with liberal interpretation, cannot
8 be considered impartial or fair.

9 An interview with the jury foreperson demonstrates that the Judge's bias did not go
10 unnoticed! (see Exhibit B, Declaration of Jury Foreperson Janice Perez Ross). For example, on
11 one occasion when plaintiffs' counsel wished to write on butcher block paper during live witness
12 testimony, the Judge, *sua sponte*, **prohibited plaintiffs' counsel from doing so**, despite the fact
13 that defense counsel had been doing so each day of trial. **It was only after defense counsel**
14 **himself pointed out this inconsistency, that the Judge reversed himself.**

15 The proper, impartial role of a Trial Judge has long been recognized in California:

16 "From the high and authoritative position of a judge presiding at a
17 trial before a jury, his influence with them is of vast extent, and he
18 **has it in his power**, by words or actions, or both, to **materially**
19 **prejudice the rights and interests of one or the other of the**
20 **parties.** By words or conduct he may on the one hand support the
21 character or testimony of a witness, or on the other may destroy
22 the same, in the estimation of the jury; and thus, his personal and
23 official influence is exerted to the unfair advantage of one of the
24 parties, with a corresponding detriment to the cause of the other."
(See McMinn v. Whelan, 27 Cal 300, 320 (1865)) (emphasis
25 added).

26 See also People v. Hefner (127 Cal.App.3d 88), where the Trial Judge was criticized for
27 making remarks that "...could not help but convey the judge's apparent impression that defense
28 counsel was being unfair to the witnesses involved..." (see page 94).

26 ⁶ "Misconduct of counsel may be an irregularity in the proceedings which is grounds for
27 new trial." Russell v. Dopp, (App. 4 Dist. 1995) 42 Cal.Rptr.2d 768 "Personal attacks on
28 opposing party and their attorneys, whether outright or by insinuation, constitute misconduct..."
Las Palmas Associates v. Las Palmas Center Associates, (App. 2 Dist. 1991) 1 Cal.Rptr.2d 301

1 And see People v. Roberts (85 Cal.App 696 (1927)), where the Appellate Court reversed
2 a judgment due to judicial misconduct:

3 “By constant interference and prejudicial rulings, the hostile
4 attitude of the Court towards appellants must have been clear to
5 the jury. In our opinion, the conduct of the Trial Court was such
6 that the appellants did not have a fair trial.”

6 In reversing a civil verdict in Etzel v. Rosenbloom (83 Cal.App.3d 758 (1948)), the
7 appellate court properly stated the judge’s role as follows: “**Four things belong to a judge: To**
8 **hear courteously, to answer wisely, to consider soberly and to decide impartially.**” (page
9 765, **emphasis added**) And further:

10 “...that courtesy is not only a privilege which a judge may extend
11 to counsel, witnesses, jurors and litigants, but it is a **duty** which
12 he owes to the humblest member of the public. The trial of a
13 lawsuit is a serious matter...” (Ibid)

13 Such courtesy and duty **were not extended** by Judge Dufficy: the materially prejudicial
14 rulings regarding pertinent CPSC evidence; the hostile attitude towards plaintiffs’ counsel, case
15 and evidence; the bolstering of defense counsel; all were both independent issues and factors that
16 contributed to the unfair advantage enjoyed by defendants throughout the trial, the result of
17 which was error and insurmountable prejudice to plaintiffs’ case.

18 **2. Bias Outside the Presence of the Jury**

19 Judge Dufficy, on the record, indicated his personal view (which was completely in
20 accord with defendants’ case) that “the quick-release works fine if it’s tightened properly.” This
21 literally **echoed** the defense posture, which cast blame on seven, eight, and nine-year-old
22 children for failing to adjust the complicated quick-releases themselves. This comment also
23 made it clear that the Judge had personally reached a conclusion on the ultimate, pivotal issue of
24 fact in this case!

25 On the other hand, there was open hostility and no judicial support for the plaintiffs’
26 evidence that **even if the quick-releases in question were properly tightened, there was no**
27 **effective retention or safety device in place on the bicycles**, making them defective. Despite
28 this evidence from distinguished experts John Howard (an Olympic cyclist) and Robert N.

1 Anderson, a PhD metallurgist (who said that the chrome on the bicycles in question made it more
2 likely for the quick-releases to loosen), **Judge Dufficy improperly stated, on the record, that**
3 **in his opinion, a quick-release was not at all dangerous as long as properly tightened!**⁷

4 With respect to a key witness from **DYNACRAFT**, Suzie Mueller: she was proven to be
5 **telling half-truths at best** about her conversations with, Jerome Berman, the former President of
6 **DYNACRAFT**, regarding his knowledge of prior, similar front-wheel quick-release failure
7 accidents, when Judge Dufficy, **without warning or solicitation**, stated on the record that he
8 thought that Ms. Mueller was “a very impressive witness.” These bolstering remarks were made
9 despite two glaring holes in her credibility:

10 First, Mr. Berman’s testimony blatantly contradicted that of Ms. Mueller on the grounds
11 that he denied any knowledge of other similar accidents, yet he refused to return from a skiing
12 trip to provide such testimony.

13 Second, Ms. Mueller was cross-examined about the production of a **key letter** dated
14 August 27, 2001, which **admitted improper quick-release installation had resulted in**
15 **accidents**. In that letter, it was clear that a **prior letter** of August 20, 2001 had been sent to
16 **DYNACRAFT** from an attorney for an assembly company complaining about the frequency of
17 front wheel quick-release accidents. Despite numerous court orders for document production,
18 **DYNACRAFT failed to produce that letter prior to trial**. However, **in the midst of cross-**
19 **examination, for the first time**, Ms. Mueller stated that she **had** found the letter prior to coming
20 to court. During a recess, the letter was then provided to plaintiffs’ counsel and, in fact, **did**
21 **contain numerous assertions** from Huffy’s attorney that if **DYNACRAFT** did not take
22 responsibility for these quick-release accidents, that Huffy (and for that matter, Target, who was
23 selling these bikes) would have to do business elsewhere. This letter would have been
24 **instrumental** in showing that **DYNACRAFT’s** product was defective in the eyes of outside
25 parties and that, in fact, **DYNACRAFT** knew this and was aware of a potential defect. Despite

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27 ⁷ This is analogous to a judge, out of the hearing of the jury, declaring that he considers a
28 criminal defendant to be guilty, but that he would simply wait for the jury to make such a
decision.

1 the **clear concealment** of this key piece of evidence, Judge Dufficy proclaimed that Ms. Mueller
2 was “a very impressive witness,” again manifesting his bias for the defense. Judge Dufficy even
3 refused plaintiffs’ counsel to use the letter, since it “was not produced in discovery!” Thus, such
4 bias and irregular conduct by a Trial Judge resulted in unfair prejudice to plaintiffs’ case.

5 **C. Trial Judge’s Refusal to Enforce Subpoena Unfairly Prejudiced Plaintiffs**

6 As noted above, Mr. Berman, who had been **properly subpoenaed** to offer live
7 testimony, refused to return from a skiing trip in Utah, despite knowing full well of his
8 obligation. The opportunity to explore facts during such live examination of a former President
9 of DYNACRAFT, whose testimony directly contradicted Ms. Mueller’s testimony, would have
10 been invaluable to plaintiffs’ case. Yet, Judge Dufficy refused to issue a warrant to compel Mr.
11 Berman to live testimony.

12 In refusing to issue a bench warrant for Mr. Berman, the Judge **again improperly**
13 **favored the defense** with his ruling. Judge Dufficy had been informed and knew that this
14 witness had made **numerous false statements under oath** in his deposition, such as claiming
15 that he **had never before heard anything about quick-release accidents**, despite the fact that
16 Suzie Mueller testified that she **met regularly with this witness to discuss this very subject**
17 while he was DYNACRAFT’s President. The jury was thus deprived of seeing and hearing a
18 live witness and no reason was ever presented for Judge Dufficy’s failure to hale Mr. Berman to
19 court. (see Exhibit B, Declaration of Jury Foreperson Janice Perez Ross).

20 **D. Trial Judge’s Exclusion of a Material Witness Unfairly Prejudiced Plaintiffs**

21 Finally, in the context of this highly publicized trial, a witness came forward who
22 attempted to offer testimony to the effect that the former CEO of the company, Jerry Berman
23 (John Berman’s brother), had admitted that his bicycles were not only “**pieces of s---**,” but that
24 he knew they were **sold to poor children**, and that there was **a fund set aside to settle cases**
25 **involving such injuries**. The Judge abused his discretion in denying plaintiffs the right to have
26 this witness testify at trial and, in so doing, once again manifested bias against the plaintiffs. (It
27 should be noted that this witness, John Buchholz, was called to the witness stand by plaintiffs in
28 front of the jury. After a defense objection was raised and sustained by the Trial Judge, the jury

1 then could only conclude, since the witness never testified, that again something was done
2 improperly by plaintiffs' counsel.)

3 The plaintiffs should not be prejudiced by the admission of pro-defense evidence like
4 CPSC letters and self-serving limiting instructions, while being restrained from admitting
5 contradictory evidence of their own. To exclude a material witness with personal knowledge of
6 the defendants' state of mind and awareness of their poor-quality products, or to not offer the
7 testimony with a limiting instruction, is further evidence of Judge Dufficy's bias and the
8 unfairness suffered by plaintiffs in this case.

9
10 **III. CONCLUSION**

11 The extensive press coverage and the huge number of attorneys imported by the defense
12 prove how important this trial was.⁸ (see Exhibit E, Declaration of Mark L. Webb). Plaintiffs
13 maintain that they did not receive a fair trial because of serious errors on the part of the Trial
14 Judge, who manifested his bias in favor of the defendants and against plaintiffs in many different
15 ways. Yet, it is **basic** to our system of justice that a fair trial is a right, not a discretionary
16 privilege to be toyed with by an admittedly partial judge.

17 Because of the aforementioned arguments, and now that the heat of battle in the
18 courtroom has subsided, the Trial Judge should **finally** embrace his duty of neutrality and
19 recognize that a new trial should be granted.

20
21 Dated: March 7, 2006

LAW OFFICES OF MARK L. WEBB

22
23
24 By: _____

Mark L. Webb, Esq.
Attorney for Plaintiffs

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26 _____
27 ⁸ Plaintiffs' counsel was recently informed that the New Jersey State Assembly
28 introduced a bill last week to ban quick-releases from children's bicycles because of the publicity
generated by this trial.