

INSTRUCTIONS FOR S. COHEN (Plaintiff's Engineering Expert)

[Note: do not let anyone see these instructions.]

1. Case Summary

Ash Johnson was in a fatal accident on October 1, [-1] when the motorcycle he/she was riding in the dry riverbed of the Ronson River hit a large rock. He/She was ejected over the handlebars and fell face down in the gravel breaking his/her neck.

At the time of the accident, Ash Johnson was wearing an open-faced helmet with a 3-inch rigid visor made by Best Helmets. His/Her father/mother, Riley Johnson, has talked to a law firm about bringing a wrongful death lawsuit against Best Helmets. The law firm is looking for engineering experts who can evaluate the helmet to determine if it is unreasonably dangerous and was the cause of Ash's fatal injuries.

2. Personal Background

You have been an engineer focusing on design and safety issues for many years. Your current resume setting out your professional background and experience is attached to these instructions.

3. Your Story

You talked to a lawyer in the firm representing Johnson and agreed to evaluate the Best Helmets open-face helmet with the 3-inch stiff visor to determine whether the helmet is unreasonably dangerous. You will charge \$500/hr. to make this evaluation.

You have come to the following conclusions:

1. The design of the Best Helmet with a stiff 3-inch visor is unreasonably dangerous.
2. The Best Helmet is unreasonably dangerous since it has no warnings on the helmet.

You agree to provide a current resume and an expert report that meets the requirements of Rule 26.

4. Documents

You have seen, and are familiar with, the documents attached to these instructions. If there is a circumstance where, while you are staying in character, you would show one of the

documents below to an attorney, you can do so, but you cannot show any attorney this set of instructions.

5. Instructions on role-playing

In role-playing S. Cohen, please stay “in character” at all times.

To play this expert witness role, you will probably need to do some computer research to “get up to speed” so you can realistically play the role of an engineer. You will want to become familiar with issues regarding the open-face v. close-face design, the stiff visor v. the flexible visor, warnings, Underwriters Laboratories, federal and state regulations, etc.

Resume of S. Cohen
1000 Mill Avenue
College Town, XX

Education

Rensselaer Polytechnic Institute (R.P.I.)
BA degree, [-28]
PhD degree, Material Sciences, [-23]

Work

Underwriters Laboratory, [-23]-[-13]

Professor in XX State University Engineering Department, [-13]-present
(Tenured & Full Professor in [-8])
Courses in design and safety, [-8]-present
Courses in helmet design and safety, [-5]-present
(Course centers on factors that affect football, motorcycle, and other
helmet designs.)

Publications

Several articles in professional journals, primarily focusing on design and
safety concerns in the helmet industry.

**Professor S. Cohen, Ph. D.
XX State University
Engineering Department
1000 Mill Avenue
College Town, XX**

I have been retained by plaintiff to examine and evaluate the helmet involved in this litigation (*Johnson v. Best Helmets*) and form an opinion whether or not the helmet is unreasonably dangerous. I am being compensated at the rate of \$500/hr. for my time spent on this matter. I have examined the helmet involved in this accident.

Motorcycle helmets are of three basic designs: full-face, open-face, and off-road/dirt bike. The full-face helmet offers the most protection from head injuries, since it surrounds the head and protects the rider's face, eyes, and chin. However, full-face helmets are heavy, hot, and can be foggy, and are generally the most expensive. Consequently, some riders will refuse to wear a full-face helmet, and no jurisdiction requires wearing a full-face helmet.

The open-face helmet offers less protection to the rider, because it does not cover the face or chin. It is also cooler and less prone to get foggy on humid days and is less expensive.

The third general type of helmet is the off road/dirt bike helmet, which usually has a removeable, or snap off visor that is usually flexible, and whose primary function is to shield the eyes from the sun.

It is my opinion that the Best Helmet involved in this case is unreasonably dangerous. First, the 3-inch stiff visor can act like a lever if a rider falls face down in an accident, increasing the likelihood of a catastrophic neck injury. Indeed, that appears to be the case here. A manufacturer should adequately warn the rider of risks involved in using an open-face helmet. That warning should be clear and prominent. In this case the helmet carried no warning; only the instructions contained a warning. The helmet should have contained a clear and prominent warning on the helmet itself.

I understand that P. Newsome has also been retained to express an opinion on whether the Best Helmet brim design and absence of warnings made it unreasonably dangerous. I do not know Mr. /Ms. Newsome, and I have not been made aware, as of this date, as to what his/her opinions are.