Court File No. 2200/93

ONTARIO COURT OF JUSTICE
(General Division)

B E T W E E N :

LEONARD RENAUD, HEATHER RENAUD, and DONALD RENAUD, BILLY-SUE RENAUD, JAMIE RENAUD and JASON RENAUD, infants under the age of 18 years, by their Litigation Guardian, HEATHER RENAUD

Plaintiffs

- and -

ROBERT JOHN ORR and DONALD BARONS

Defendants

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P R O C E E D I N G S A T T R I A L

(Ruling on Motion)

BEFORE THE HONOURABLE MR. JUSTICE E. LOUKIDELIS
on June 9, 1997, at NORTH BAY, Ontario.

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APPEARANCES:

R. Oatley, Esq. — Co-counsel for the plaintiffs
G. Brock, Ms. — Co-counsel for the plaintiffs

B. Percival, Esq. — Counsel for the defendants

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RULING ON MOTION

LOUKEDELIS, J. (Orally):

Mr. Oatley on behalf of the plaintiffs, wishes to produce certain items of demonstrative evidence during his opening address. They include three photographs, two treatment schedules, and two medical drawings, all of which are to be proven during the trial. Mr. Percival has no objection concerning the three photos. He does however object to the two schedules and the two medical drawings.

Demonstrative depictions can be of great assistance to a jury in understanding the evidence and they can be invaluable trial time savers. It is important that such depictions however be accurate so as not to mislead or inflame a jury.

The schedules show, at a glance, the treatment and medication received by the plaintiff. Mr. Oatley states that it is accurate, taken from all the information and medical records available to him. Mr. Percival's concern is that there may have been pre-accident treatment to the plaintiff - or received by the plaintiff, I should say - not disclosed by OHIP records to date and therefore not on the schedule.

This is a matter that can be explored in cross-examination. Even if shown during trial to be incomplete, the assistance that the schedules now

provide could not be said to be so prejudicial that it would outweigh the present assistance it might provide to the jury. A jury is reminded more than once that counsel's opening address is not evidence itself.

Mr. Percival's objection to the coloured medical drawings gave me some concern. The artist's explanation will no doubt be required as to the accuracy of his or her scale. Also, the proposed Exhibit includes a copy of the actual scan, which provides a proper perspective. Again, the two drawings could be of assistance to the jury's understanding of the cause of the plaintiff's problem and should also be allowed to be produced during counsel's opening address.

On counsel's undertaking to prove the aids in evidence, I am prepared to allow him to produce the Exhibits which have been marked A, B, C, D-1 and -2 and E-1 and -2.

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THIS IS TO CERTIFY that the foregoing is a true and accurate transcription of the notes and recordings of S. Giroux to the best of my skill and ability.

Gayle Gilmore

Gayle Gilmore, Certified Court Reporter

Transcript Order Received: July 3, 1997
Transcript Completed: July 7, 1997
Counsel Notified: July 8, 1997