CHAPTER ONE

The Avenger

It was the biggest case of his life, the pinnacle of a long and brilliant career. Trial lawyer Bob Habush had sued Mitsubishi Heavy Industries America on behalf of the widows of three ironworkers who had been killed during the construction of Miller Park stadium in Milwaukee. Mitsubishi had been hired to build a retractable roof for the new ballpark, and on July 14, 1999, a giant crane nicknamed Big Blue lifted 450 tons of steel in heavy winds and cracked in half, toppling into the bowl of the unfinished stadium. Sixteen months later, in a grueling, tumultuous trial, Habush argued that Mitsubishi was negligent and that the company’s management had ignored warnings of unsafe working conditions. Now the case finally was in the hands of the jury.

The courtroom was packed, standing room only. Families of the ironworkers huddled together. Courthouse lawyers and law clerks lined the walls. Curious spectators craned their necks to get a better look as TV cameras hummed.

“Has the jury reached a verdict, Mr. Foreman?” the judge asked.

“Yes, sir,” said the foreman. He handed the verdict to the bailiff, who passed it to the judge.

The wait was never ending, an eternity to Habush as he sat at the plaintiff’s table. His heart pounded. His legs felt weak. Sweat poured down his back. After more than one hundred jury trials, it never got easier.

“Why do I keep torturing myself?” he wondered, shaking his head from side to side.

He knew the answer all too well.
It was a personal tragedy earlier in his life that unleashed an uncompromising drive for vengeance and shaped his career as a trial lawyer. Bob Habush was in his second year of law school at the University of Wisconsin when his wife, Mimi, gave birth to their first child, a healthy baby girl. Born on April 29, 1960, Sherri showed no signs of complications following the delivery. When her proud parents took her home, their small Madison apartment was filled with warmth and joy.

When Sherri was two months old, she was inoculated for diphtheria, pertussis, and tetanus, a routine procedure. At the time, the standard triple-antigen vaccination was given two injections that also included a fourth antigen to prevent polio. A DPT “polio-plus” vaccine, a quadruple antigen called Quadrigen, was new on the market, developed and sold by the pharmaceutical giant Parke-Davis. The Habushes’ pediatrician recommended the new vaccination.

“After she had her first shot, we noticed that her head started to drop to the side a little bit,” recalls Bob Habush. “She’d be sitting in the high chair and there was this kind of subtle staring. We took her to the pediatrician and he said not to worry, she’s fine. So he gave her the second shot.”

Within days, Sherri started having seizures. Her arms jerked sporadically while she lay awake or fed from a bottle. Her movements were out of control. Bob and Mimi rushed her to Wisconsin General Hospital and met with the chief of pediatric neurology, who diagnosed Sherri with myoclonic epilepsy. She was admitted to the hospital and put on sedatives to stop the seizures, but they continued, shaking the child mercilessly. It was not epilepsy.

The Habushes were sure their daughter was going to die. Sick with guilt, they felt alone and helpless. “What’s wrong with us? What caused this?” they asked the neurologist. The doctor shook his head. “These things happen,” he said.

They learned of an emergency treatment at the Mayo Clinic, given by the pediatric neurologist Gordon Millichap, that involved ACTH, a synthetic hormone used to treat other medical conditions. They drove to Rochester, Minnesota, to meet the doctor. “He was a small man and British, with a
very distinct British accent,” says Habush. “At the time he seemed compassionate and caring.”

Dr. Millichap started Sherri on the drug, and the seizures stopped. The Habushes’ relief, though, was short-lived. An electroencephalogram showed abnormal brain-wave deviation. The harm had been done.

“She had brain damage,” Habush says. “We didn’t know to what extent. We had no idea whether she would ever sit up, whether she would talk or walk. We just didn’t know.”

The heartsick young parents went home without any answers. “We just sobbed and sobbed and sobbed,” says Habush. “I never felt that bad before, and I have never felt that bad since. The idea of having your first baby, a little innocent baby, devastated neurologically . . . We thought maybe there was something genetically wrong with us and that we caused it. It was awful. But at that point there was no blaming anyone other than ourselves.”

The Habushes’ pediatrician offered some chilling advice: “Put her in an institution and forget about her. She’s going to ruin your life.”

The couple was stunned. “There is no way we’re going to put Sherri away,” Habush said to his wife. “We’re going to take care of this child. I [don’t] know how. I’m still in law school, and we don’t have any money or health insurance. But we’ll find a way.”

Beneath Habush’s frustration and despair, an anger churned. On the day Sherri was admitted to Wisconsin General Hospital, he visited the pediatric ward. Parents stood silently beside their children’s hospital beds. “What a terrible community of sorrow, of anguish,” Habush remembers thinking. “‘There is no God,’ I told myself. ‘All these innocent kids, suffering. No good God could ever do this.’ The anger bubbled over. I wanted to kill somebody. I just didn’t know who.”

It would be some time before he would find out.

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Bob Habush has known this feeling of simmering rage for nearly as long as he can remember. When faced with a fight-or-flight choice, his instinct is to fight. When provoked or wronged, rather than turn the other cheek, he’ll strike back at whoever delivers the harmful blow. It’s an anger born out
of an unsuppressed drive to right a wrong, to get even. “It’s a quiet sort of intensity,” he says. “A restlessness, a will to fight to the end.”

That will to fight has served Habush well in his fifty years as a personal injury attorney. He was able to harness his rage and put it to good use as he rose to become one of the most respected trial lawyers in the United States. In his own words, “I’m good at what I do, and when I’m angry, I’m really good.”

His quest for revenge goes hand in hand with his ability to empathize with those who have suffered tragedy or injustice. “I’ve lived through enough personal tragedy in my life that I can identify with people who have been injured and are in a bad way through the fault of others—which gets me angry,” he says. “It shows, and that’s an attribute as a trial lawyer.”

Representing the underdog, he has taken on giants, such as automobile manufacturers, the chemical industry, heavy-machinery makers, Big Pharma, and Big Tobacco, as well as bad drivers and bad doctors, making changes in the safety of everyday products and in laws that continue to protect consumers today. Chrysler, Toyota, Dow Chemical, International Harvester—Habush doesn’t flinch at the size or legal firepower of his opponents.

He took on Volkswagen, representing Larry Totsky, who suffered permanent injuries after crashing his VW Beetle. Habush, investigating the crash as part of the discovery process, proved that a chunk of concrete had fallen from the ceiling in a German assembly plant and gotten lodged inside the steering gearbox of Totsky’s vehicle as it was being built. The encapsulated concrete years later had worked its way into the gears and impaired the Beetle’s steering system while Totsky was driving along a freeway one night. Suddenly he could not steer. His car left the road and rolled several times, leaving him permanently paralyzed from the neck down. In January 1975, a Wisconsin jury awarded him $1.86 million, the largest personal injury award in the state at the time.

Habush took on the British company Smith & Nephew, one of the world’s largest manufacturers of medical devices, for making latex gloves that caused a near-fatal allergic reaction in a hospital worker. He represented the radiologic technician Linda Green, who, years before the medical industry became aware of latex allergies, developed an inexplicable skin
rash, respiratory complications, and symptoms that resembled anaphylactic shock. In one of the only such trials in the country, Habush showed that the manufacturing process used at a Smith & Nephew plant in Malaysia failed to remove excessive latex proteins from the gloves, which caused allergies in Green and thousands of other health-care workers. The case went to the Wisconsin Supreme Court, which sided with Green and affirmed a jury’s verdict of $1 million. The U.S. Food and Drug Administration ordered manufacturers to attach warning labels to their latex products. Soon after, latex gloves were restricted in medical centers.

In another case, Habush went head-to-head with corporate giant Firestone following the explosion of a fifty-five-gallon drum of methanol, which severely burned and permanently disfigured two employees of a service station. The jury decided Firestone had failed to properly label the drum with a warning and awarded $942,000 in the verdict.

Habush took on Costco Wholesale Corporation for making high chairs that failed to prevent small children from slipping under the food tray and getting hung on the strap underneath. He represented the family of Nathan Heintz, a four-year-old boy who suffered brain damage because of a chair’s poorly designed restraint. The lawsuit led to a $2.7 million settlement and a drastic reduction in the number of deaths and injuries after manufacturers were compelled to redesign the chairs.

High chairs, latex gloves, seat belts, car seats, camp stoves, bottle caps, extension cords, forklifts, farm machines, rearview mirrors, air bags, bicycles, and children’s vaccinations: that’s a long list of products that were unsafe and have since been redesigned or recalled because of the efforts of Habush and a select group of other plaintiff’s lawyers.

“In cases like these, I’m representing people who have been devastated by injury,” he says. “Their lives have been turned on their heads, and they’re out of money and they’ve got no future. When you dig into these cases, when you see what I see, you discover that these companies knew their products were hurting people—but not enough people. The body count hadn’t gotten high enough for them to do anything about it. They believe it will cost too much money to add the safeguards. It’s about profits before safety.”

Habush has won landmark cases. In 1988, he sued the Blood Center of Southeastern Wisconsin for failing to test blood for HIV contamination,
a first-of-its-kind case that netted his client $3.9 million and caused the nation’s blood banks to correct faulty inventory practices.

His fighting instinct also launched him into the role of political activist. For years, as a board member and then president of the American Trial Lawyers Association (ATLA), Habush fought tort reform in Congress and across the country, going head-to-head against a movement that had tried for decades to undermine laws that provide legal recourse when people have been unjustly treated, injured, or killed. “Bob Habush is a giant among the nation’s trial lawyers,” says Leo Boyle, a Boston attorney and past president of ATLA, which is now known as the American Association for Justice.

During his term as ATLA president, Habush formed working partnerships state by state with public interest groups—consumer groups, education groups, environment groups, senior groups, labor organizations—to develop strategies to repel the tort reformers’ attacks. In those days, “ATLA was the strongest political lobbying force of Congress,” says Russ Herman, a New Orleans attorney who served on the ATLA executive committee during Habush’s two-year presidency and subsequently was elected president of the association. “The first piece of legislation that ATLA had to fight on the floor of the Congress was defeated through Bob’s leadership.”

Habush was also a pioneer in courtroom practice, adds Herman. “He is extraordinarily gifted. Bob is a very dynamic fellow, very thoughtful, and very focused. And, of course, he’s very persuasive. Yet he never learned how to practice law on his knees. You can’t intimidate him. So here you have the trial lawyer who was schooled in politics, an effective leader, and a great courtroom trial lawyer. He’s a complete package. And that doesn’t come along very often.”

Above all, Habush seems to relish the roles of protector and avenger. It’s what drives him to continue practicing law, now in his sixth decade. “To me, it’s not just another case to work on,” he explains. “It’s about getting even. It’s about the fight.”

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Robert Lee Habush was born on March 22, 1936, the middle child of three, the brother of two sisters. Both of his parents were raised in Milwaukee and
were children of European immigrants. His mother, Beatrice, was a loving and nurturing mother and housewife.

“During World War II, she planted a victory garden in our yard—peas, beans, potatoes, and cucumbers, which she canned to make dill pickles,” Habush remembers. “She was a wonderful mother. She stood about five feet tall and limped badly. She told my sisters and me that she was pushed down a fire escape as a child and broke her hip. Later we learned that she was born with a congenital hip deformation, and at the time the doctors didn’t know how to fix it. She had a hard time getting around and must have been ashamed of it. But she was quite beautiful.”

His father, Jesse Habush, was a lawyer. Slim and handsome, he sold shoes while working his way through Marquette University and Marquette Law School. After graduating in 1930, Jesse began his practice during the early years of the Great Depression. “At that time, lawyers had a hard time making a living,” says Habush. “The money wasn’t there. Lawyers were starving. My father was Jewish, and none of the big law firms would hire him, so he had to hustle to scrape by, going bar to bar, handing out his calling cards, making friends with bartenders, cops, hospital nurses, and ambulance drivers, looking for business. He would take any case he could get, and all these assholes in the big firms looked down their noses at him as an ambulance chaser. It was a tough life. No one ever gave him anything.”

Jesse kept a small notebook in his desk drawer during those years and recorded how much he made on each case—$1.50, $2.50, $7.50—page after page of the fees he collected. It wasn’t until World War II that he finally began making a livable wage.

From Habush’s birth until he was eleven, his parents rented a house north of Milwaukee in the suburb of Whitefish Bay, where they raised their family. “We lived in a three-bedroom rental, a red brick house,” he recalls. “There was a vacant lot next door and other empty lots all through the neighborhood where I would play. You could see dozens of excavations that never were finished. This was during World War II, when housing construction came to a halt.”

His father, at six feet tall, seemed like a giant to the young boy. “He was aloof and a strict disciplinarian,” Habush says, “who never was reluctant to slap my sisters and me if we got into some kind of mischief. When I
broke the neighbor’s window with a baseball, my mother protected me by not telling my father. He terrified me, and I never felt that he loved me. All in all, I remember those days in that red brick house as generally happy ones because my mother filled what void emotionally my father had left.”

The Village of Whitefish Bay hugs the western shoreline of Lake Michigan, eight miles north of Milwaukee’s city limits, insulated from the big-city problems. The small, close-knit community is predominantly white, and a significant percentage—nearly 60 percent—is Roman Catholic. Today, minorities make up about 10 percent of the population, and the city’s median household income stands around $102,000, more than double that of the state’s median income.

Demographics were of little interest to a boy whose day-to-day world stretched no farther than his leafy backyard and grade-school playground. The surroundings were idyllic. Yet very early in his life, Habush sensed he was somehow different, separate from his friends and classmates, a social outlander. The feeling, little more than amorphous at first, was thrown into stark relief when he was in kindergarten.

“I had a friend named Norman,” he says. “He lived four houses down from me. Norman and I played together every day. He was my best friend, my only friend.”

One day they were outside, playing near Norman’s house, and it started to rain.

“Let’s go inside,” Habush said, and the two boys ran to Norman’s backyard.

“Wait here,” Norman said and went inside the house. A minute or two later, he came back, closing the door behind him. “Bobby, you can’t come in,” he said.

“Why?” Habush asked.

“Because you killed Jesus.”

Habush didn’t understand. “No, I didn’t. What are you talking about? What do you mean?”

“My brother says the Jews killed Jesus and my family doesn’t want you in my house.”

Habush ran home and burst into the kitchen, crying.

“What’s the matter?” said his mother.
“Norman doesn’t want to play with me anymore,” he told her.
“Well, why not?”
“He said I killed Jesus, and when I went over to his house, his family wouldn’t let me in. Why did he say I killed Jesus? Who is Jesus?”
His mother sat him down and explained. “Some people believe Jesus was God. Jewish people believe there was a Jesus but that he wasn’t God. And there are some bad people who blame Jewish people for killing Jesus. Those people are still mad at us.”
“Well, can I still play with Norman?” he asked.
“Yes, of course you can still play with Norman.”
Looking back, Habush says that from that point on, he knew Norman thought he was different. “That was a seed that got planted. I remember how bad I felt and how shocked I was, because I didn’t feel different.”
Habush went to Henry Clay Elementary, a two-story public school a block from the high school. Although he didn’t know it at the time, Habush was the only Jewish boy at Clay Elementary when he entered first grade.
“I’d go out on the playground and the other boys would say, ‘There’s a Jew. There’s a Jew. Let’s get the Jew.’ And I was bewildered. I hadn’t done anything wrong.”
Habush lived twelve blocks from the school and would walk home every day. One day, he was confronted by a gang of grade-school toughs. “The leader was a kid called Pudge,” he remembers. “He lived on the next street over from me. They saw me walking home, and Pudge yelled, ‘Let’s get him!’ About five or six of them jumped me. They kicked me and beat on me. ‘Dirty Jew!’ they screamed. ‘You killed Christ. We’re gonna kill you!’ I remember coming home with a bloody nose and bruises. My mother, of course, felt badly about it.
“What should I do?” I asked her as she patched me up. She said, ‘Just find a different way home so they can’t find you.’”
It didn’t work. The bullying continued until he’d finally had enough. On a Saturday, he made the short walk to Pudge’s house and waited for him in the yard. “When he came out, I walked right up and punched him, as hard as I could, in the nose,” says Habush. “Blood started pouring out, and he started crying—which made me feel really good. I got back at every one of those kids. I would wait for them after school as they were walking home.
I’d tap them on the shoulder and, when they turned around, smash them as hard as I could in the nose.”

That ended the neighborhood bullying of Bobby Habush. Banned from his friend Norman’s house and beaten up because he was Jewish, Habush had tasted revenge, a taste that was satisfying yet bittersweet. “There was a newfound respect for me,” he says. “But I was still different. I was the still ‘the Jew.’ And from that point on, I was an outsider.”

He had won the battle, but the war would never end. Vengeance would now become self-fulfilling. It was part of his DNA.

Habush nonetheless tried to fit in at Henry Clay Elementary. He played team sports—football, basketball, track—and studied hard to get good grades, earning A’s and B’s in each class, which pleased his teachers. But being Jewish had cast him as odd man out. Occasionally new students would transfer into his school. Some of them would find a reason to belittle Habush, and their offhand insults would ignite his tinderbox temper. He remembers one day in sixth grade: “We were rehearsing for a play, and I blew one of my lines. This new kid said, ‘You dizzy Jew,’ and, whop, I knocked him right out of his chair. The kids in the classroom started screaming, and out I went to the principal’s office. My father, much to his dismay, had to come to school, and I had to promise the principal that it would never happen again. But as I walked out of the office with my father, he said to me, ‘Anytime someone says something like that again, you knock him down.’ He was very supportive of what I’d done. In fact, when I think back about my relationship with my father, that is one of my clearest memories. But that was the only thing my father ever praised me for. Not the grades, not my athletic prowess, but defending myself, which of course stuck in my mind.”

Habush was a talented athlete in the seventh and eighth grades. He was a running back on the football team, a guard on the basketball team, and a high jumper on the track team. “Excelling at sports made me accepted by my peers,” he says. “But I never really felt comfortable.”

On the track field in those days, there were no protective pads around the sand pit where the high jumper landed. At one meet, just before the end of his last year at Henry Clay, Habush completed a jump and fell hard on the wooden frame bordering the pit. “I dislocated my wrist and broke both bones in my left arm,” he says. “A very bad break and a very bad dislocation.”
The following year, Habush entered Whitefish Bay High School, the city's only public high school. He was among a dozen other Jewish boys and girls there, yet he still had the reputation of an outsider, a scrappy fighter who wouldn't tolerate insults. The anti-Semitism persisted, albeit less conspicuously.

Habush tried out for the freshman football team, the Whitefish Bay Blue Dukes. With his arm still weak from the track accident, he decided not to go out for running back and approached the coach one day during practice. “Coach, I’d like to play quarterback,” he said.

The coach looked the freshman over. “Habush,” he replied, “if you’re a quarterback, I’m the Pope.”

There was no arguing. The coach’s mind was made up. “Well, he sure wasn’t the Pope,” Habush says, looking back. “But I really loved football. So I settled for playing end and linebacker that season. But I was still a starting player.”

In his sophomore year, Habush decided to try out for wide receiver. His arm had healed and his confidence had returned. The junior varsity coach, Marshall Riebolt, assigned him to the position.

The first game of the season was scheduled for a Friday night, which posed a problem for Habush. It was the first night of Yom Kippur, the holiest of all nights for Jews, a day of atonement.

“You’re not playing football tonight. You’re going to temple,” Habush’s father told him.

“No, Dad. I’m playing football. I’m on the team. It’s our first game of the season. I’ve gotta play.”

Jesse Habush wouldn’t budge. “You are not playing football!” he yelled. “As long as you live in my house, you do what I say. Or you can move out.”

Back and forth they argued, storming from room to room, until Beatrice began crying, pleading with her son to listen to his father.

“Bobby, you’ll miss one game,” she said. “It’s no big deal.”

But it was a big deal to the starting wide receiver. The following Monday, Coach Riebolt stopped him in the hallway at school. “Habush, where were you Friday? Why weren’t you at the game?”

“I had to go to temple, Coach. It was Yom Kippur.”

Riebolt was unforgiving. “Well, you decide whether you want to be
a rabbi or a football player. Until you do, you’re no longer the starting wide receiver.”

Habush couldn’t believe it. As he recalls, “I felt like I had gotten hit by a four-hundred-pound defensive tackle. But there was nothing I could do. I was on his shit list and I was staying there.”

Habush today sees the demotion as an anti-Semitic put-down. He intellectualized it as such when he was in high school, but the incident made an impression, adding to his anger and feeling of being isolated. He could have quit the team. But the coach’s comment only made him more defiant. He dug in his heels and finished out the season, most of the time sitting on the bench.

In his senior year, however, he grew tired of being a benchwarmer. “I never got off third string,” he says, “so I thought, ‘Screw it.’ I quit the team.” He tried out for a role in the senior class play, trading his shoulder pads for cue cards.

Throughout high school, it never crossed his mind to hide the fact that he was Jewish. “Never. It was always ‘Come on. Do you want to see if a Jew is weak? Do you want to see if a Jew can’t fight?’ There was a lot of that going around at the time, particularly during World War II. [People would say,] ‘Jews didn’t go into combat. Jews were put in the finance corps instead because Jews couldn’t fight’—that sort of thing.

“Following the Holocaust, when it was discovered that six million Jewish souls were rounded up, marched into the freight cars, and murdered by the Nazis, people asked, ‘Why didn’t they fight? Why didn’t they resist?’ But people had forgotten the Jewish rebellion in the Warsaw ghetto, and the uprising at the Treblinka death camp, and the resistance groups in Germany, France, and Belgium. There was defiance, and there were fighters. But there was this common misbelief, this class libel, that Jews were not fighters.”

When provoked, no matter what the circumstances, Habush would come out swinging, defiant and defensive. “I couldn’t overcome my feeling of being on the outside,” he says. “There was always that big chip on my shoulder waiting for someone to knock it off. And my reaction was abrupt.”

That mixture of brashness and reserve, combined with his engaging smile, crew cut, and athletic build, made Habush popular among the girls at Whitefish Bay High School. He was oblivious of his good looks. In fact,
he suffered a measure of insecurity, thinking he was awkward and unattractive. That self-consciousness turned into a hotheaded possessiveness when he began dating a girl named Mimi Friedman.

The two met in the summer of 1953. Habush was going into his senior year at Whitefish Bay. Mimi, two years younger, was a sophomore at Washington High School, across town. They both went to a picnic one day at Milwaukee’s McGovern Park. Habush sat by the swimming pool with Jerry Friedman, Mimi’s cousin, and stared at Mimi, who was sunning herself. At five feet four, with dark brown hair cut into a ducktail style, she was a young beauty.

“Our cousin Mimi’s really a great-looking girl,” Habush said. “I’d like to ask her out.”

“Forget about it. She’s going steady,” Friedman said.

“Maybe I can put an end to that,” Habush said as he stood up. Though he couldn’t swim, he jumped into the shallow end of the pool and pretended to do the crawl, walking through the water toward Mimi.

“I’m Bob,” he said to her. “How would you like to go out sometime?”

“I can’t,” she replied, eyeing him curiously. “I’m going steady.”

“Well, maybe you should break up,” he said, grinning. “Just let me know when you’re ready.” Then he “swam” back to the other side of the pool.

Sitting down next to Mimi’s cousin, he made a pledge. “I’m going to marry that girl.”

Later that night, Mimi confided to her mother about her soon-to-be ex-boyfriend, “You know, I think I’m going to break up with Bernie.”

Despite their ensuing steady relationship, Habush was insecure about Mimi. “That continued throughout college, and forever, really,” he says. “When she became my girlfriend, I was jealous of every guy who looked at her. The hairs on the back of my neck would stand on end. I was convinced she would want to go out with someone else and break up with me. And that translated into a problem.

“One time we were out ice-skating. I kept falling down, and then I’d get up and she’d laugh. And some guy came around and pushed me down and took her hand and started skating away with her. I went off the ice, took off my skates, waited for him to come around, grabbed him, pulled him off the ice, and decked him with one punch.
“Mimi was very upset. But this was me. This was Bobby Habush. I was afraid of nothing. I was afraid of nobody—bigger guys, smaller guys, one guy, two guys, I didn’t care. It made no difference to me. What started to develop was a fearlessness, an attitude that I was not afraid of the consequences. I just acted impulsively. It just happened. And I was not afraid of getting beat.”

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In 1954, after graduating from high school, Habush enrolled at the University of Wisconsin in Madison. He was ninety miles away from home. And Mimi. “My girl is back in Milwaukee and I’m in Madison, worrying twenty-four hours a day that she’s dating someone else,” he recalls.

At UW, he joined Phi Sigma Delta, a Jewish fraternity, although he admits, “I was the worst possible person to ever join a fraternity because I don’t like people telling me what to do when I don’t want to do it.” He signed on as a pledge and ran into trouble right away. One weekend, he wanted to go home to visit Mimi. The active fraternity brothers ordered him to remain at the frat house and shine their shoes. “Go screw yourself,” he told them and caught a bus to Milwaukee.

“Well, a pledge is not supposed to talk like that to an active,” he says now. “They didn’t take kindly to that. But the fraternity had just bought a house and needed all the money they could get from their new pledge class, and they couldn’t afford to kick me out.”

The insolent pledge was pushed to the limit during Hell Week, when pledges had to pass initiations to rise to the status of active members. One of the initiations required them to drink milk out of bottles fitted with nipples, like baby bottles. When one active made a crude remark regarding Habush’s girlfriend, he let loose: “The story is I choked him into unconsciousness until someone hit me over the head with a chair and knocked me out. . . . That was my temperament through my college days. I hadn’t changed a bit from my high school days.”

At UW, Habush also had signed up for the Army ROTC (Reserve Officers’ Training Corps) a college-based program for training commissioned officers. From 1948 to 1973, in times of peace and war, men were drafted
to fill vacancies in the armed forces that could not be filled by volunteers. College students were granted deferments. Habush had no objection to serving, but instead of being drafted and ranked as a private, he decided to join the ROTC and become an officer.

He signed on for the military police. “Because I was going to law school, I thought—mistakenly—that the military police would have the potential of participating in court martials,” he says.

Following basic training and infantry training, Habush was assigned to the military police center in Fort Gordon, Georgia, near Augusta, for six months of active duty. There, as an officer, he was tasked with training a battalion of young soldiers. His athleticism, combined with his pugnacious, never-back-down personality, meshed perfectly with the leadership role of turning fresh draftees into military cops.

“I was a second lieutenant,” remembers Habush, “and I put them through self-defense courses and other very physical things. I had to teach them how to fight, but the fighting was not boxing. It was how to hurt people and, if necessary, kill people with your hands. This was no sport. It was how to put them unconscious by a blow to the back of the ear, how to bring them down with a knee.”

Some of the soldiers in the battalion were social misfits who needed more discipline and direction in their lives. Habush was just the guy to provide it. “I had a bunch of kids from New York and New Jersey who thought they were pretty tough,” he says. “They were an unruly bunch. Totally undisciplined. Never took an order from anybody. They had no fathers and no male influence, and they didn’t like taking commands. These guys were troublemakers. My job was to take some of the starch out of them. Little by little, they finally learned how to march and how to salute and how to behave themselves.”

The army clearly suited him. For the first time, he had found a very legitimate way to channel his combative nature. “I loved the training. I just loved it,” he admits. “It released some of my frustration, and I enjoyed the discipline, the regimentation, the rules and regs. The whole physicality of being in school sports had fit perfectly for me. I was never afraid of a fight. The army was an extension of that.”

This was in the 1950s and early 1960s, after the Korean War had ended and before Vietnam began to heat up, so Habush did not serve in combat.
or overseas. But after the ROTC, he continued in the Army Reserve for close to ten years before retiring as a captain. “When I tell people I loved the army, they think I’m totally insane.”

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Throughout their early twenties, Bob and Mimi’s marriage remained on solid ground, despite the guilt and anger that had swept over them after learning of their daughter Sherri’s brain damage. “We’d been together since high school, and our roots were so deep that the tree just never got blown over,” Habush says. There were no special education classes offered in public school at the time, although he would later work to change that. Sherri attended Montessori School with nondisabled children. Mimi, though, was reluctant to have her play with other kids or go to birthday parties.

Suddenly, one day Mimi received a phone call. “Hello, Mrs. Habush, my name is Marjorie Grant,” said the caller. “I got your name from our doctor, Gordon Millichap, at the Mayo Clinic. Several years ago, my son Scotty had the same vaccination as your daughter, and like your daughter, he was brain damaged too. I found out that Quadrigen was the shot that caused brain damage to Scotty. I’m sorry to bring it up, but I thought you ought to know.”

Mimi was stunned. She thanked Marjorie for calling, hung up, and waited anxiously for her husband to come home from work. When she told him the news, Habush was ambivalent, unsure whether he wanted to open old wounds. “Come on, Mimi. Forget it,” he said. “It’s taken us seven years to try to deal with this and get over the terrible guilt. Let’s not walk down that path.”

But Mimi insisted that he look into Marjorie Grant’s claim. “You’re a lawyer. You’ve got to do this,” she pressed. “Mrs. Grant said there were other cases against the drug company. You’ve got to find out the truth.”

Habush eventually agreed. He began researching the drug company, Parke-Davis. Founded after the Civil War, the Detroit pharmaceutical firm was a leader in the field of vaccination development and had been one of several manufacturers contracted to produce the Salk vaccine for the polio
virus in the 1950s. Parke-Davis had developed Quadrigen in 1954 and, with FDA approval, had begun distributing the vaccine five years later.

Habush discovered a lawsuit against Parke-Davis that had been tried in federal court in North Dakota in 1966. Four-month-old Shane Stromsodt had been given Quadrigen by his family’s doctor in October 1959, just months before the vaccine had been administered to Sherri. The baby boy began suffering severe convulsions and was left permanently brain damaged, like Sherri. The court had awarded the Stromsodts $500,000.

Then a second Quadrigen case surfaced, *Tinnerholm v. Parke-Davis & Co.*, this one in New York City. In November 1959, again an infant was given the vaccine and suffered convulsions, mental retardation, and paralysis, strikingly similar to the effects suffered by Shane Stromsodt and Sherri. The *Tinnerholm* award was $610,000.

“Both were brain-damaged kids. Both had received Quadrigen. Both got verdicts against Parke-Davis,” says Habush. Evidence from the two trials had exposed Parke-Davis’s Quadrigen as a dangerously crippling drug.

Habush began to build his case, gathering transcripts from the trials and appellate briefs: “I read through both cases, boxes and boxes of files. I was convinced there was something there and that the doctors had lied to us. They refused to tell us what they already knew—that the vaccine was defective. The doctors damn well knew that. They knew from tests and clinical studies that this was a potential danger, and they never warned anyone about it. My child had been brain damaged by a drug company that put out a defective product.”

Habush could feel the rage begin to crest. “I mean, the top of my head was ready to come off. I was this fighting guy, this angry guy, and now beside himself, consumed with getting even.”

Habush decided to contact Dr. Millichap, the pediatric neurologist. He wanted to confront him face-to-face. Millichap by then had left the Mayo Clinic and was the chief of pediatric neurology at Children’s Memorial Hospital in Chicago. Habush drove from Milwaukee to Chicago to see him.

Standing in the doctor’s dimly lit office, Habush felt nervous, unsure how to confront Millichap without losing his temper. With a few years of litigating under his belt, though, he knew how to present himself forcefully and intensely, yet in a calm and controlled way.
“Hello, Mr. Habush,” said Dr. Millichap, extending his right hand. “How is Sherri doing?”

Habush stared at him, his own right hand still at his side, and then said, “You lied to us, doctor. You knew all along it was the vaccination that caused her seizures and her brain damage, didn’t you?”

Millichap was taken aback. “Yes,” he admitted in a whisper.

“Why didn’t you tell us?” Habush asked. “We postponed having another child because we blamed ourselves. We were filled with guilt, and we were angry at each other. Why didn’t you tell us?”

Millichap was at a loss for words. “I couldn’t tell you . . . The Mayo Clinic . . . the policy was not to encourage litigation. Parke-Davis, the drug manufacturer, they were a big grant giver to the clinic. I would have been fired if I had told you.”

The explanation wasn’t enough. “Dr. Millichap,” said Habush, his heart pounding, “you owe me. You owe Mimi and you owe Sherri. You ruined our lives. I’m now going to sue the drug company, and your payback will be to agree to be my expert witness against Parke-Davis.”

The doctor considered the veiled demand and then nodded. “OK. I will testify.”

Habush nodded back. “My lawyer will be in touch with you,” he said and walked out of the office.

He had nailed down his expert witness, an important first step. Next he needed a lawyer to run the case. He was a client at this point, the father of the injured girl. He called upon the attorneys for the plaintiffs in the two previous Quadrigen cases. Jack Fuchsberg, a legendary trial lawyer in New York City and the first attorney in the United States to win a personal injury verdict of more than $1 million, had represented the Tinnerholms. The California torts attorney Melvin Belli had represented the Stromsodts in North Dakota.

Referred to in some quarters as Bellicose Belli for his relentlessly aggressive style, Belli was a brilliant lawyer. Over the years, he had represented a string of high-profile clients, including Mae West, Errol Flynn, Muhammad Ali, and the Rolling Stones. In his best-known case, Belli represented Jack Ruby, who was on trial for killing Lee Harvey Oswald, John F. Kennedy’s assassin. But Belli also was also a champion of consumer rights law. “They
called him the King of Torts,” Habush recalls. “There’s never been anyone since like him. He invented demonstrative evidence—how to use charts, models, graphs, photographs, and the like.”

Habush hired Belli, and the two began preparing a lawsuit against Parke-Davis. They discussed how they would frame the drug company’s negligence. Says Habush, explaining the science behind the case: “When Parke-Davis added the poliomyelitis vaccine, it aggravated the pertussis vaccine. With some infants, the vaccine for pertussis, or whooping cough, can cause encephalitis, brain inflammation. A preservative agent in Quadrigen altered the cellular structure of the pertussis bacteria, which caused hyper-pertussis encephalitis. That’s what happened with Sherri. She had encephalitis, which caused brain damage. And Sherri wasn’t the only one. Countless kids were brain damaged . . . thousands.”

Sherri’s case never went to trial. Instead, Parke-Davis offered to settle. “They paid a sum in the mid–six figures, which at that time was a lot of money,” Habush says. “Mimi and I put it in a trust for Sherri, which still exists today. The trust has grown tremendously, so if anything happens to us she will always have enough money to be taken care of.”

Soon after, in 1968, Parke-Davis removed Quadrigen from the market. It was dramatic victory for Habush. No other children would be subjected to the risks of the defective vaccine. And while he and Mimi could never turn back the clock, the blame for their daughter’s disability was finally lifted from their shoulders.

Habush decided not to sue Sherri’s pediatrician, the doctor who had administered the Quadrigen. In the course of his investigation, he had acquired the pediatrician’s medical files and knew without a doubt that the doctor should not have given Sherri that second shot. Yet he thought a lawsuit against the drug manufacturer would have a greater impact than a lawsuit against the doctor.

But years later, when Sherri was eighteen, a strange coincidence occurred. “Sherri was in the Special Olympics,” Habush recalls. “She was a swimmer, very strong, just terrific. She was winning gold medals in the local and then regional Olympics. One day we were in Madison for the state finals. I’m sitting in the stands, reading the program before Sherri’s event, and there in the program, listed as medical adviser to the Special Olympics in Madison,
is her pediatrician from when she was an infant. I look across the pool to the officials’ table, but I don’t remember clearly what the doctor looked like. So I walk over to the table and someone points him out to me.”

Habush tapped the doctor on the shoulder and, when he turned around, asked, “Remember me?”

The pediatrician froze. “Yes, I remember you, Mr. Habush.”

“I see you’re the doctor for these handicapped children,” Habush said, holding back his anger. “I find that kind of interesting. Ironic, wouldn’t you say?”

The other man was remorseful. “I never forgave myself for what I had done,” he said. “I can’t tell you how many times I wanted to pick up the phone and call you and your wife to say I’m sorry. Since then, I’ve dedicated myself to handicapped children and to children injured in accidents.”

Swimmers were warming up in the pool, preparing for the next event. “I saw Sherri’s name in the program,” said the doctor. “I knew she was here.”

“Then why didn’t you come over to meet her?” Habush said.

“For the same reason I never called you. I felt guilty.”

Habush gazed at Sherri as she swam a lap. “Well, Doctor, she’s doing fine now. Look at her swim. She’s like a fish in water.”

The sounds of dozens of excited swimmers and their fans echoed in the cavernous room. “I’m very glad to hear you learned your lesson,” Habush said. “And I’m very glad that you’re a better doctor now than you were back in 1960.”

Below the surface, his anger still simmered. He wanted to take a swing at the guy, but he didn’t. He turned and walked back to the other side of the pool to watch his daughter’s race—his anger controlled, reserved for another battle, another time.

The war wasn’t over. The damage wasn’t forgotten. Neither the pediatrician’s long-overdue apology nor the compensation from Parke-Davis could diminish Robert Habush’s sense of outrage over the harm to his daughter and to thousands of other children who had been injected with Quadrigen. There was closure for his wife. But not for him.

“It’s a hundred-year war,” he says today. “There’s not going to be an armistice. There’s not going to be a peace treaty. As long as I’m drawing breath I will get even, I will make them pay: the malpracticing doctors, the
defective manufacturers, the companies who sell unsafe products. That’s the way I am. There is no forgiveness in my heart. There is no turning the other cheek. There never was and there never will be.”