

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF OHIO
WESTERN DIVISION**

DANIEL SPRINSKI, JR., Individually and as
Natural Parent and Next Friend of D.E.S., a
minor child
307 Jackson Street
Elmore, Ohio 43416

and

AMY SPRINSKI, Individually and as Natural
Parent and Next Friend of D.E.S., a minor
child
307 Jackson Street
Elmore, Ohio 43616

Plaintiffs,

v.

WOODMORE LOCAL SCHOOLS
349 Rice Street
Elmore, Ohio 43416
Serve: Linda Bringman
Superintendent
349 Rice Street
Elmore, Ohio 43416

and

BRITTON DEVIER
8130 Bowling Green Road East
Apartment E
Bowling Green, Ohio 43402

and

TODD BRINGMAN
2205 Hessville Road
Elmore, Ohio 43416

Defendants.

) Case No.:

) Judge:

) **COMPLAINT WITH JURY DEMAND**
) **ENDORSED HEREON**

) Charles E. Boyk (0000494)
) Michael A. Bruno (0033780)
) Wesley D. Merillat (0080253)
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) *Attorneys for Plaintiffs*

_____/

NOW COME the Plaintiffs, by and through undersigned counsel, and for their Complaint, hereby aver and state as follows:

PRELIMINARY STATEMENT

1. This civil rights case challenges the tortious misconduct committed against Plaintiff D.E.S., a minor child, during the course of the Woodmore Local Schools High School football practice on September 10, 2013. Plaintiff D.E.S. was a member of the football team and was participating in practice when Defendants organized and implemented an attack against Plaintiff D.E.S. as part of an effort to punish and haze certain members of the football team. As a direct and proximate result of the Defendants' conduct, Plaintiff D.E.S. suffered severe and permanent personal injuries including a traumatic brain injury. Plaintiffs bring this civil rights and state law action to secure fair compensation for Plaintiffs and to encourage Defendants and others in similar positions of authority to refrain from the future use of unnecessary excessive force against the children under their care.

THE PARTIES

2. Plaintiff Daniel Sprinski, Jr., is a resident of Ottawa County, Ohio, with a residential address of 307 Jackson Street, Elmore, Ohio 43416. Plaintiff Daniel Sprinski, Jr. is the guardian and natural parent of Plaintiff D.E.S., a minor child.

3. Plaintiff Amy Sprinski is a resident of Ottawa County, Ohio, with a residential address of 307 Jackson Street, Elmore, Ohio 43416. Plaintiff Amy Sprinski is the guardian and natural parent of Plaintiff D.E.S., a minor child.

4. Plaintiff D.E.S. is a resident of Ottawa County, Ohio. At all relevant times herein Plaintiff D.E.S. was a minor child, 16 years of age, residing in the exclusive care and custody of

his parents, Daniel and Amy Sprinski, at the residential address of 307 Jackson Street, Elmore, Ohio 43416.

5. At all relevant times herein Plaintiff D.E.S. was enrolled as a sophomore student in the Woodmore Local School District attending Woodmore High School in Elmore, Ottawa County, Ohio.

6. At all relevant times herein Plaintiff D.E.S. was a member of the Woodmore High School football team.

7. Defendant Woodmore Local Schools (hereinafter “Woodmore”) is a consolidated school district located in Sandusky and Ottawa Counties. Woodmore is organized and governed under the laws of the state of Ohio. Defendant Woodmore is a “person” under 42 U.S.C. § 1983 and at all times relevant to this case acted under color of law.

8. Woodmore owns, operates, and controls all of the schools within the Woodmore Local School District, including Woodmore High School, located at 633 Fremont Street, Elmore, Ottawa County, Ohio 43416. Woodmore also owns the grounds surrounding the high school that are used as practice facilities by its athletic teams.

9. Upon information and belief, Woodmore also funds, organizes, and operates all school-sanctioned sports or athletic programs in place in the school district, including the Woodmore High School football team. Woodmore is also responsible for hiring, training, compensating, and supervising all coaches employed by the Woodmore athletic programs, including those employed to coach the Woodmore High School football team.

10. Defendant Britton Devier is a resident of Wood County, Ohio, with a residential address of 8130 Bowling Green Road East, Apartment E, Bowling Green, Ohio 43402. Upon information and belief, at all relevant times herein Defendant Britton Devier was an employee of

Woodmore as Head Football Coach of the Woodmore High School football team and was acting within the scope of his employment therewith. Defendant Britton Devier is a “person” under 42 U.S.C. § 1983 and at all times relevant to this case acted under color of law. He is sued individually and in his official capacity as an employee of Woodmore Local Schools.

11. Defendant Todd Bringman is a resident of Ottawa County, Ohio, with a residential address of 2205 Hessville Road, Elmore, Ohio 43416. Upon information and belief, at all relevant times herein Defendant Todd Bringman was employed by Woodmore as an Assistant High School Football Coach and was acting within the scope of his employment therewith. Defendant Todd Bringman is a “person” under 42 U.S.C. § 1983 and at all times relevant to this case acted under color of law. He is sued individually and in his official capacity as an employee of the city of Woodmore Local Schools.

JURISDICTION AND VENUE

12. This Court has jurisdiction over this action pursuant to 28 U.S.C.A. § 1331 as Plaintiffs’ claims arise under Defendants’ violations of the Constitution and laws of the United States of America.

13. Venue is proper in the Northern District of Ohio pursuant to 28 U.S.C.A. § 1391, as the events giving rise to Plaintiffs’ claims occurred within this district, and Defendants reside and/or conduct business in the Northern District of Ohio.

FACTS

14. Plaintiff D.E.S. attended Woodmore Local Schools as a student from kindergarten through December 2013. Beginning in the seventh grade, and continuing through the fall of 2013, Plaintiff D.E.S. participated in organized sports as a defensive back and wide receiver on Woodmore’s Middle School and High School football teams, respectively.

15. With the commencement of the fall 2013 school semester, the football team held daily practices beginning at approximately 3:00 PM and ending at approximately 6:00-6:30 PM Monday through Thursday. Plaintiff D.E.S. attended all practices and was hopeful that he would receive his varsity letter for contributions made during games in the 2013 season.

16. Practices were held without incident until Tuesday, September 10, 2013, the date on which the injuries to Plaintiff D.E.S. giving rise to Plaintiffs' claims occurred.

17. At the beginning of the September 10th practice, coaches instructed players that, unlike most Tuesday practices, the practice would not involve full contact and that players were not to wear their full uniforms due to excessive heat with temperatures on the practice field exceeding 90 degrees. Coaches instead instructed players to dress in helmets, shoulder pads, girdles with hip pads, and shorts.

18. Practice proceeded as "non-contact" with players running drills in their respective position groups for approximately 1-1.5 hours. At that point, the coaching staff, particularly Defendants Britton Devier and Todd Bringman, expressed displeasure with a perceived lack of enthusiasm or "hustle" on the part of the players.

19. Defendant Britton Devier stopped practice and ordered all of the players to return to the locker room and change into full uniforms. Defendant Devier further informed the players that they had eight (8) minutes to go to the locker room, change and return to the practice field.

20. Defendant Britton Devier further informed the players that failure to return to the field within the allotted eight (8) minutes would result in severe consequences for any latecomers.

21. The players, including Plaintiff D.E.S., hurriedly ran to the locker room to change in an effort to meet Defendant Devier's deadline. However, the vast majority of the team failed

to reach the practice field before the eight (8) minute time limit expired. Indeed, upon information and belief, of the approximately 45 children on the team, only 6-10 returned within the eight (8) minute window with the rest of the team returning shortly thereafter.

22. Plaintiff D.E.S. did not return to the practice field within the eight (8) minute time limit.

23. Upon the team's return to the field, Defendant Devier handed over control of the practice to Defendant Todd Bringman. Upon information and belief, Defendant Bringman was the primary disciplinarian on the coaching staff and regularly utilized obscenities to berate and chastise players.

24. Defendant Bringman instructed the group of players that had returned within eight (8) minutes to line up shoulder-to-shoulder in a single file line. He then instructed all other players who had not returned in time to line up in the same manner with a distance of approximately 8-10 yards between the two lines.

25. Defendant Bringman informed the players that the group that had returned within eight (8) minutes were "New Woodmore" and that they were willing to do what it took to succeed on the field. He then identified the group that did not return on time as "Old Woodmore" and said that they were guilty of the same passive and "soft" behavior exhibited by prior Woodmore teams.

26. Plaintiff D.E.S. was placed in the Old Woodmore line.

27. Defendant Bringman then instructed the players that New Woodmore was going to hit Old Woodmore as hard as they could and that Old Woodmore was to take the hit and to make no effort to defend themselves.

28. New Woodmore players then ran, one at a time, towards the Old Woodmore player across from them, tackling and driving the Old Woodmore player to the hard and unpadded ground.

29. Initially, an Old Woodmore player utilized his hands in an effort to avoid the brunt of the hit and to defend himself. Defendant Bringman and other Woodmore coaches berated the player for attempting to protect himself and instructed him to run as punishment for failing to follow instructions. After this incident the Old Woodmore players placed their arms at their sides or behind their backs and made no effort to defend or protect themselves from the hit and tackle.

30. Defendant Bringman encouraged New Woodmore players to hit the Old Woodmore players as hard as they could throughout the drill and even gave several New Woodmore players a push start from the line so that they could hit the targeted Old Woodmore player with even greater force.

31. During the course of the drill Plaintiff D.E.S. was hit exceptionally hard and was driven to the ground where the back of his head stuck the compacted dirt playing surface. The player tasked with hitting and tackling Plaintiff D.E.S. has not been identified.

32. During the drill several New Woodmore players were uncomfortable hitting their defenseless teammates and either did not hit the Old Woodmore players as hard as they could or cycled to the back of the New Woodmore line to avoid having to hit their teammates in such a manner to the extent possible.

33. After each Old Woodmore player had been hit and tackled, the coaching staff instructed the team to participate in another, non-tackling drill. Following completion of this

drill the team was then instructed to begin running plays with the starting offense against a scout team defense.

34. During the course of the offensive practice Plaintiff D.E.S. attempted to play defensive back on the scout team. While participating on the scout team Plaintiff D.E.S. began to act confused and disoriented. Plaintiff D.E.S. also vomited during this time. The starting receiver lined up against Plaintiff D.E.S. instructed him to leave the field and stand on the sideline.

35. After leaving the playing field Plaintiff D.E.S. subsequently collapsed.

36. Following his collapse the coaching staff checked on Plaintiff D.E.S. and helped him to his feet. They then instructed two of the players to help Plaintiff D.E.S. to the locker room while they continued with practice.

37. Once in the locker room Plaintiff D.E.S. was taken to the athletic trainer's office and was placed on the treatment table.

38. Upon information and belief, Plaintiff D.E.S. appeared disoriented and ill.

39. The athletic trainer did not call for an ambulance to transport Plaintiff D.E.S. to the hospital.

40. Following practice Plaintiff D.E.S. was helped to the automobile operated by his older brother, who was also a member of the team, and was driven home. Upon returning home, Plaintiff D.E.S. was met by his parents, Plaintiffs Daniel and Amy Sprinski, who had been alerted of their son's condition by the trainer immediately prior to Plaintiff D.E.S. leaving the high school.

41. Mr. and Mrs. Sprinski immediately transported Plaintiff D.E.S. to St. Charles Hospital. Due to the severity of his injuries he was subsequently transferred via

ambulance to Mercy St. Vincent Medical Center hospital where he was initially diagnosed with a concussion, paresthesia and pain of both upper extremities, and cervical ligamentous injury causing transient weakness and sensory changes in his arms and legs. Plaintiff D.E.S. has subsequently been diagnosed with a traumatic brain injury.

42. Upon information and belief, the injuries sustained by Plaintiff D.E.S. were incurred during the course of the Old Woodmore/New Woodmore Drill conducted by, and at the express direction of, Defendants Bringman and Devier.

43. The Old Woodmore/New Woodmore Drill, by both its design and execution, provided no instruction to the Woodmore High School football team in any skills or techniques for improved performance in the game of football.

44. Upon information and belief, in the apparent purpose of the drill was to punish members of the squad for exhibiting the lack of drive to succeed that Defendants Devier and Bringman associated with prior Woodmore squads.

45. Upon information and belief, another purpose of the New Woodmore/Old Woodmore Drill was to initiate the Old Woodmore players into the New Woodmore team and/or mentality by requiring them to “take the hit” before they could join their fellows on the New Woodmore team.

46. In forcing the children on the Old Woodmore team to stand defenseless and absorb a hit and tackle delivered by the New Woodmore players, Defendants Devier and Bringman were aware, and/or should have been aware on the basis of facts known, that serious injury was likely and/or probable to occur to Old Woodmore players, including Plaintiff D.E.S., yet Defendants took no action to prevent these injuries or to alter or abandon the drill. Indeed,

Defendant Bringman encouraged the New Woodmore players to increase the ferocity of their hits on the Old Woodmore squad throughout the drill.

47. The conduct of Defendants Devier and Bringman was outrageous and evidences a complete disregard for the safety of the children under their care, custody and control.

48. At all times relevant to this action, Defendants Devier and Bringman acted unreasonably, negligently, recklessly, wantonly, willfully, knowingly, intentionally, and/or with deliberate indifference to the safety and rights of Plaintiff D.E.S.

49. Defendant Woodmore has subsequently ratified the use of excessive force by Defendant Devier and Bringman against Plaintiff D.E.S., as well as the hazing of Plaintiff D.E.S. by Defendants Devier and Bringman as evidenced by, at minimum, its failure to discipline and/or dismiss Defendant Devier from his employment with Woodmore.

50. As a direct and proximate result of the actions of Defendants, Plaintiff D.E.S. suffered significant and severe personal injuries including a traumatic brain injury. In addition, Plaintiffs believe that Plaintiff D.E.S.'s injuries are permanent and will require additional and costly long-term medical care and treatment. Also as a direct and proximate result of his injuries, Plaintiff D.E.S. is no longer able to participate in sports or many other activities of daily life that he used to enjoy.

FIRST CAUSE OF ACTION
(Excessive Force and Violation of Civil Rights-All Defendants)

51. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

52. In committing the acts detailed above, Defendants have, under color of law, deprived Plaintiff D.E.S. of rights, privileges, and immunities secured to him by the Fourteenth Amendment to the United States Constitution including the right to be free of excessive force.

53. Pursuant to 42 U.S.C.A. § 1983, Defendants are therefore liable for the injuries suffered by Plaintiff D.E.S. as a direct and proximate result of their deliberate, willful, and/or wanton violations of Plaintiff D.E.S.'s civil rights.

SECOND CAUSE OF ACTION
(Negligence-Defendants Devier and Bringman)

54. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

55. Defendants Devier owed a duty of care to Plaintiff D.E.S. to provide appropriate supervision and care to Plaintiff D.E.S. during football practices and to take reasonable steps to ensure that practices were conducted in a safe manner.

56. Defendants Devier and Bringman breached that duty of care by failing to take any steps by requiring Plaintiff D.E.S. to participate in a drill which provided no instruction in proper football techniques and skills and, instead, was designed to cause pain and injury to Plaintiff D.E.S.

57. Furthermore, in forcing the Woodmore squad, including Plaintiff D.E.S., to participate in the Old Woodmore/New Woodmore Drill, Defendants Devier and Bringman acted in a wanton and reckless manner in that their conduct displays the complete failure to exercise any care to protect the safety of Plaintiff D.E.S. and a complete indifference to the fact that Plaintiff D.E.S.'s injury was a likely outcome of the drill.

58. As a direct and proximate result of Defendants Devier and Bringman's negligence and wanton misconduct, Plaintiff D.E.S. sustained serious and permanent personal injuries necessitating significant hospital and medical care, forcing him to incur hospital and medical care costs and to experience, great pain, suffering, severe mental anguish, and emotional distress.

THIRD AND FOURTH CAUSES OF ACTION
(Assault and Battery-Defendants Devier and Bringman)

59. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

60. In ordering and directing the New Woodmore players to hit Plaintiff D.E.S., Defendants Devier and Bringman, through the instrumentality of the New Woodmore players, willfully threatened or attempted to harm or offensively touch Plaintiff D.E.S.

61. Plaintiff D.E.S. reasonably feared that the harm threatened by Defendants Devier and Bringman would occur and, in fact, Defendants did commit an intentional, offensive touching to Plaintiff D.E.S.'s person.

62. This intentional and offensive contact is beyond the scope of contact and risk to which Plaintiffs' could have and/or did consent.

63. As a direct and proximate result of Defendants Devier and Bringman's intentional and offensive contact, Plaintiff D.E.S. sustained serious and permanent personal injuries necessitating significant hospital and medical care, forcing him to incur hospital and medical care costs, and to experience great pain, suffering, severe mental anguish, and emotional distress.

FIFTH CAUSE OF ACTION
**(Negligent Infliction of Emotional Distress-
Defendants Devier and Bringman)**

64. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

65. Through their wanton and/or intentional acts in ordering and directing the Old Woodmore/New Woodmore Drill, Defendants Devier and Bringman either intended to cause emotional distress or knew or should have known that their actions would result in serious emotional distress to Plaintiff D.E.S.

66. Defendants' conduct was so extreme and outrageous as to go beyond all possible bounds of decency and was such that it can be considered as utterly intolerable in a civilized community.

67. As a direct and proximate result of the Defendants' foregoing acts and omissions, in addition to his significant and severe physical injuries, Plaintiff D.E.S. suffered severe emotional and psychological distress of a serious nature to the degree that no reasonable person, let alone a minor child, could be expected to endure it.

SIXTH CAUSE OF ACTION
(Hazing-Defendants Devier and Bringman)

68. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

69. In initiating and directing the Old Woodmore/New Woodmore Drill and in forcing the members of the Woodmore High School football team, including Plaintiff D.E.S., to participate in said drill Defendants Devier and Bringman recklessly caused or created a substantial risk that the children on the team would suffer mental or physical harm.

70. Upon information and belief, a primary purpose of the Old Woodmore/New Woodmore Drill was to initiate the players designated as "Old Woodmore" into the group identified by Defendants as "New Woodmore."

71. Defendants Devier and Bringman's actions constitute "hazing" as defined by Ohio law at Ohio Rev. Code Ann. § 2903.31, and Defendants are civilly liable for such conduct pursuant to Ohio Rev. Code Ann. § 2307.44.

72. As a direct and proximate result of the hazing activity initiated, permitted, and controlled by Defendants Devier and Bringman, Plaintiff D.E.S. sustained serious and permanent personal injuries necessitating significant hospital and medical care, forcing him to incur hospital

and medical care costs, and to experience great pain, suffering, severe mental anguish, and emotional distress.

SEVENTH CAUSE OF ACTION
(Punitive Damages-Defendants Devier and Bringman)

73. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

74. Defendants' acts were willful and malicious in that Defendants' conduct was carried out with a conscious disregard for the safety and rights of Plaintiff D.E.S.

75. Defendants' conduct thereby warrants an assessment of exemplary and punitive damages against each Defendant in an amount appropriate to punish the Defendant and set an example of it.

EIGHTH CAUSE OF ACTION
(Respondeat Superior/Vicarious Liability-Defendant Woodmore)

76. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

77. At all relevant times during the incidents described and alleged herein Defendants Devier and Bringman were acting in the course and scope of their employment with Defendant Woodmore in the provision of public education to the students on the Woodmore High School football team, including Plaintiff D.E.S.

78. Under the doctrines of vicarious liability/*respondeat superior*, principal agency and/or agency by estoppel, and pursuant to Ohio Rev. Code Ann. § 2744, *et seq.*, Woodmore is liable for the negligent, wanton, and/or intentional acts of its agents and employees, including but not limited to the negligent actions of Defendants Devier and Bringman.

NINTH CAUSE OF ACTION
(Negligent Hiring, Supervision, and Training-Defendant Woodmore)

79. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

80. At all times relevant herein, Defendant Woodmore had a duty to properly train and supervise its agents and employees.

81. Specifically, Defendant Woodmore owed a duty to the public and to the Plaintiffs to train its agents and employees on the appropriate means and methods with which to provide appropriate football coaching to high school students and to prevent hazing in athletic programs by coaches or players.

82. Defendant Woodmore also owed a duty to Plaintiffs to appropriately supervise employees in the execution of their employment duties to ensure that they were not wanton, negligent, or incompetent in protecting, monitoring, and/or or caring for the children with which they had been entrusted.

83. Defendant Woodmore also owed a duty to Plaintiffs to employ competent and ethical individuals who had requisite training and experience to appropriately carry out their employment duties.

84. At all times relevant herein, Defendants Devier and Bringman were, at minimum, negligent and/or incompetent in their care and monitoring of Plaintiff D.E.S. and breached their duty to him and Plaintiffs Daniel and Amy Sprinski.

85. At all times relevant herein, Defendant Woodmore knew, or should have known, of the negligence and/or incompetence of Defendants Devier and Bringman.

86. As a proximate result of Woodmore's negligence in hiring, training and/or supervising Defendants Devier and Bringman, Plaintiff D.E.S. suffered severe physical and psychological injury.

TENTH CAUSE OF ACTION
(Loss of Consortium/Services-All Defendants)

87. Plaintiffs hereby incorporate by reference each preceding and succeeding paragraph as though set forth fully at length herein.

88. Plaintiffs Daniel and Amy Sprinski are the natural parents of Plaintiff D.E.S.

89. At all relevant times Plaintiff D.E.S., a minor child, was under the care and custody of Plaintiffs Daniel and Amy Sprinski.

90. As a direct and proximate result of the foregoing acts and omissions, and the resulting injuries, including but not limited to, personal injuries, medical expenses, and pain and suffering sustained by Plaintiff D.E.S., Plaintiffs Daniel and Amy Sprinski have suffered the loss of companionship, society, services, and consortium of their son.

WHEREFORE, Plaintiffs pray for judgment against the Defendants, jointly and severally, as follows:

- A. For an award of compensatory damages, including damages against Defendants and each of them for personal injuries, pain and suffering, disability, medical and hospital expenses, sanctions, exemplary damages, and other damages according to proof at trial in excess of \$75,000;
- B. For reasonable attorneys' fees and costs;
- C. For pre-judgment interest; and
- D. For such further and other relief the court deems just, equitable, and proper.

Dated: February 3, 2014

Respectfully submitted,

/s/Charles E. Boyk
Charles E. Boyk (0000494)
Charles E. Boyk Law Offices, LLC
Attorney for Plaintiffs

JURY DEMAND

The Plaintiff demands a trial by jury on all issues triable by right.

/s/Charles E. Boyk
Charles E. Boyk (0000494)
Charles E. Boyk Law Offices, LLC
Attorney for Plaintiffs