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IN THE CIRCUIT COURT OF THE STATE OF OREGON
FOR THE COUNTY OF MULTNOMAH

DOUGLAS BRENNER,)	Case No.:
)	
Plaintiff,)	
)	COMPLAINT FOR NEGLIGENCE
v.)	
)	(NOT SUBJECT TO MANDATORY
WILLIE TAGGART, an individual;)	ARBITRATION)
NATIONAL COLLEGIATE ATHLETIC)	
ASSOCIATION, a foreign entity; IRELE)	PRAYER: \$11,500,000
ODERINDE, an individual; and)	ORS 21.160(1)(e) - \$1,111
UNIVERISTY OF OREGON, a public)	
body of the State of Oregon,)	JURY TRIAL DEMANDED
)	
Defendants.)	

1.

Defendant National Collegiate Athletic Association (“NCAA”) is and at all times material has been an organization (unincorporated association) made up of college and university members and holds itself out as the governing body to ensure student athlete safety in college sports, including college football, and has engaged in regular and sustained business activity in Multnomah County.

2.

Defendant University of Oregon (“University”) is and at all times material has been the flagship university of the State of Oregon and a member

1 institution of defendant NCAA. Defendant University is a public body of the
2 State of Oregon, and has engaged in regular and sustained business activity in
3 Multnomah County.

4 3.

5 At all material times, defendant Willie Taggart (“Taggart”) was the head
6 coach of defendant University’s college football team.

7 4.

8 At all material times, defendant Irele Oderinde (“Oderinde”) was the
9 strength and conditioning coach of defendant University’s college football team.

10 5.

11 At all times material, defendant NCAA acted through its employees,
12 agents, and apparent agents.

13 6.

14 At all times material, defendant University acted through its employees,
15 agents, and apparent agents, including the individual defendants Taggart and
16 Oderinde, and in concert with defendant NCAA.

17 7.

18 At all times material, defendant Taggart acted personally or in concert
19 with defendant Oderinde or through defendant Oderinde, who was acting on
20 behalf of, under the authority of, and pursuant to the control of defendant
21 Taggart.

22 //

1 8.

2 In the latter half of the 19th century, college football quickly grew in
3 popularity. Serious injuries were common, and it was not unheard of for
4 college student athletes to be killed in furtherance of the game. Reasonably,
5 gratuitous injuries to players prompted many universities and colleges to
6 discontinue the sport. By 1905, the excessive injuries to student athletes had
7 threatened the existence of college football, and President Theodore Roosevelt,
8 in an effort to preserve the game, convened a conference of colleges and
9 universities at the White House to determine if the excessive injuries of student
10 athletes in college football could be curtailed. Later that year, the presidents of
11 62 colleges and universities founded the Intercollegiate Athletic Association to
12 create uniform rules for college football to protect the student athletes from
13 needless injuries. In 1910, the IAA changed its name to the National Collegiate
14 Athletic Association (NCAA), defendant, and it has kept that name to this day.

15 9.

16 Over the next century up until the present, defendant NCAA, through its
17 role as the rule-making steward of player safety positioned itself at the center
18 of college sports revenue. Defendant NCAA now spearheads and organizes a
19 multi-billion-dollar business, with the profits enjoyed by its own multi-million-
20 dollar executives and member universities and colleges.

21 10.

22 A primary engine for the above revenue is the ever-increasing competitive
23 nature of college football, in which NCAA member institutions place greater

1 and greater pressure on the coaches and student athletes to win and
2 outperform opposing teams from other institutions.

3 11.

4 To further the above model, many NCAA member institutions provide
5 lucrative multi-million-dollar college football coaching contracts, with the
6 understanding that if the head coaches and/or assistant coaches fail to
7 promptly field highly competitive teams, then they will be fired.

8 12.

9 Many college football coaches respond to that ever-present pressure to
10 win and win now by imposing extraordinary strength and conditioning
11 practices in hopes of making the student athletes bigger, more disciplined, and
12 stronger than the student athletes on opposing teams. These training regimens
13 often are designed to meet the coach's and university's immediate goal to win
14 games without adequate regard for known risks to the short-term or long-term
15 health of the student athletes.

16 13.

17 Such regimens often take the form of physically impossible and
18 unreasonably repetitious exercises which the coaches impose as physical
19 punishment on the student athletes and to work the student athlete's body to
20 its outer limits without regard for known risks to the short-term or long-term
21 health of the student athletes.

22 //

1
2 Defendants NCAA, University, Taggart, and Oderinde knew or had reason
3 to know for many years that such physical regimens imposed by college
4 coaches on student athletes under the guise of strength and conditioning
5 exercise have resulted in orthopedic injuries, organ failures/injuries, and
6 deaths to student athletes. Defendant NCAA's guidelines against such
7 practices, which it published for the use of member institutions and coaches,
8 identify numerous injury and death events from such regimens, including but
9 not limited to the following cases of exertional rhabdomyolysis, kidney injury,
10 and associated harms:

11 a) Thirteen student athletes from a college football team were
12 hospitalized for several days for exertional rhabdomyolysis following the team's
13 first workout after a three-week winter break. The coaches imposed a
14 physically impossible exercise regimen of squats and told the student athletes
15 that the workout "would demonstrate who wanted to be on the team."

16 b) Five student athletes developed exertional rhabdomyolysis and one
17 had bilateral fasciotomy for thigh compartment syndrome, when coaches after
18 the winter break transition period imposed intense squat drills.

19 c) Twelve student athletes of another football were hospitalized with
20 exertional rhabdomyolysis with three requiring fasciotomies for compartment
21 syndrome, when a new football coach decided to test the players resolve by
22 submitting them to intensive and repetitive push up and upper body drills.

1 15.

2 Defendants NCAA, University, Taggart, and Oderinde knew or had reason
3 to know for many years that intensive and repetitive workouts used in physical
4 regimens present a much greater risk of causing exertional rhabdomyolysis
5 and other injuries to student athletes when the coaches impose the regimens
6 during team transition periods, e.g. soon after winter or summer break,
7 because the student athletes are not yet acclimated to such intensive
8 repetitions, or when the coach imposes the exercise in the early morning hours
9 when the body is pre-dehydrated from sleep.

10 16.

11 At all times material and despite their knowledge of the serious health
12 injuries and deaths suffered by student athletes from such practices,
13 defendants NCAA and University have declined to prohibit or regulate physical
14 punishment regimens in the strength and conditioning training that college
15 football coaches impose upon players.

16 17.

17 During the 2016 football season, the Oregon Ducks had a losing season
18 for the first time in over a decade. That single losing season was unacceptable
19 to defendant University, and University fired the coach, Mark Helfrich. Winning
20 was so important to defendant University that it was undeterred by his
21 contractual buy-out clause, which would require University to pay him
22 upwards of \$15,000,000 to fire him.

1 18.

2 In December 2016, after firing the above coach, defendant University
3 hired defendant Taggart to be the head football coach of the Oregon Ducks with
4 a \$16,000,000 contract.

5 19.

6 Defendant Taggart, within a month of being hired, fired every assistant
7 coach for the Oregon Ducks football team, many of whom had been working
8 with the program for decades. He also removed the football team's strength
9 and conditioning coach, James Radcliffe, from training football players. Coach
10 Radcliffe was a nationally recognized and certified strength and conditioning
11 coach who followed an evidence-based practice for improving student athletic
12 performance, while ensuring student athlete health and safety. He did not
13 impose such extreme physical regimens. Defendant Taggart fired him in favor
14 of hiring defendant Oderinde to be the strength and conditioning coach for the
15 student athletes. Defendant Oderinde had worked as defendant Taggart's
16 strength and conditioning coach at the two previous schools where Taggart
17 coached before coming to the University of Oregon. Defendant Oderinde not
18 only was willing to put student athletes through nonevidence-based physical
19 punishment regimens, but also did not carry industry required certification to
20 be a strength and conditioning coach.

21 20.

22 Perhaps unknown to others at defendant University, defendant Taggart
23 and defendant Oderinde had a history of imposing the extreme physical

1 regimens on student athletes that were contrary to the warnings and guidelines
2 of defendant NCAA, and they intended to bring those practices to the
3 University's football team.

4 21.

5 When defendant Taggart was hired in December 2016, during the
6 student athletes' winter break period. Team strength and conditioning
7 workouts would not begin until on or about January 10, 2017. Defendant
8 Taggart informed the student athletes that he and the new coaches were going
9 to focus on discipline in strength and conditioning and that they were "going to
10 find the snakes in the grass and cut their heads off." He also emphasized to
11 the student athletes that they were free to quit the team, that he welcomed that
12 they quit the team, and that he saw the primary purpose of his job to replace
13 the current players recruited under Helfrich with his own recruits.

14 22.

15 Defendant Taggart also identified a small handful of exceptional student
16 athletes already with the program who were known to work hard, and he
17 named those student athletes to a leadership team. Those members had the
18 special job of setting an example of hard work and determination for the rest of
19 the team during team practices and training. Defendant Taggart named
20 plaintiff Doug Brenner to the leadership team.

21 23.

22 On or about January 10, 2017, defendants Taggart and Oderinde
23 planned to subject the student athletes to an extreme physical regimen on the

1 first day back from winter break as part of the coaches' efforts to, in Taggart's
2 words, "find the snakes in the grass and cut their heads off." The coaching
3 defendants planned to impose a physically grueling training exercise that they
4 developed over their years working together that would require the student
5 athletes to exceed the outer limits of their will, discipline, strength, and
6 physical health.

7 24.

8 The coaching defendants knew or had reason to know, or knew and did
9 not care that the football players would be at their weakest condition following
10 the winter break transition period. Because the NCAA did not enforce such
11 guidelines, the coaching defendants did not care that the workout violated
12 NCAA guidelines for protecting student athletes from severe over-exertion
13 injuries such as death and rhabdomyolysis. The workouts took place every
14 morning on four consecutive days. Some student athletes, including plaintiff,
15 started their exercise regimen at 6:00 a.m.

16 25.

17 Defendant coaches did not review the training program with University
18 sports medical staff to ensure it was safe for the student athletes, and
19 defendant University failed to require defendant Taggart and Oderinde to do so.

20 26.

21 The student athletes were divided into three workout groups of about 40
22 student athletes each (a 6 a.m. group, an 8 a.m. group, and a 10 a.m. group)
23 with each group being subject to a workout that would last approximately one

1 to one and a half hours. The coaching defendants had the walls of the workout
2 room of the \$100 million Hatfield-Dowlin Complex lined with garbage cans,
3 because they knew or had reason to know from their previous experiences that
4 the regimen that they intended to impose on the student athletes would cause
5 many student athletes to vomit, and the coaches did not want the student
6 athletes to vomit on the floor of the pristine and valuable facility. They also did
7 not make water available in the workout room for at least the first day of the
8 workouts.

9 27.

10 The workout initially required approximately 40 or so student athletes to
11 do 10 perfect push-ups in unison. If even one of the 40 student athletes were
12 out of unison with the others or failed to use perfect technique, then the
13 coaches punished all of the student athletes by having them perform numerous
14 up-downs and begin the push-up drill again. Such unison or perfect technique
15 from 40 players for ten consecutive pushups was not possible. Indeed,
16 defendant Oderinde during the workout made it clear very quickly that the
17 team would never satisfy the “10 perfect push-ups” goal, and that the entire
18 purpose of the work out was to weed out the “snakes” on the team. Defendant
19 Oderinde transitioned the workout to near-unceasing, repetitive up-down
20 punishment drills for the hour to hour and a half session.

21 28.

22 During the workout, if even one student athlete needed to stop
23 performing the punishment drills to catch his breath, to vomit, or otherwise

1 address physical pain and injury, then the rest of the student athletes were
2 punished with additional push-ups or up-downs until the exhausted, injured,
3 or vomiting student athlete returned.

4 29.

5 By the time the workout period ended, the student athletes had
6 performed hundreds of push-ups and up-downs without rest, and while being
7 prohibited, at least on the first day, from drinking water during the workouts.

8 30.

9 As the student athletes became more exhausted and appeared close to
10 physically breaking, defendant Oderinde would shout, "If anyone wants to quit
11 on their team, feel free to stop. If you want to give up on your team, then you
12 can." One player informed defendant Oderinde of severe pain in his shoulders,
13 and defendant Oderinde replied, "I don't give a fuck about your shoulders! Do
14 you think Stanford gives a fuck about your shoulders?" Those statements
15 combined with defendant Taggart's threat that the coaches intended to "find
16 the snakes in the grass and cut their heads off" signaled to the student athletes
17 that there would be consequences if they failed to keep working through the
18 exercise, no matter their physical breaking point.

19 31.

20 Over the course of several days, student athletes vomited, passed out, or
21 collapsed during the workouts. Defendant University's medical staff
22 acknowledged that the workout went beyond the student athletes' natural
23 limits after the first day, but rather than stop the workouts, University staff

1 brought in oxygen tanks on the second day of the workout to facilitate
2 defendants Taggart and Oderinde's desire to proceed as they saw fit.

3 32.

4 At all times material, defendant Taggart exercised actual control over
5 what defendant Oderinde was doing and knew or had reason to know of
6 defendant Oderinde's conduct mentioned herein.

7 33.

8 Defendant Taggart knew or had reason to know that the physical drills
9 that he was imposing upon the student athletes went beyond the scope of his
10 authority as a University employee and he is therefore personally liable under
11 paragraph 45(a) and (b) as his conduct is not protected by the Oregon Tort
12 Claims Act.

13 34.

14 Defendants Taggart and Oderinde further knew or had reason to know
15 that depriving the student athletes of water during the exhausting exercises
16 served no legitimate training purpose.

17 35.

18 Defendants Taggart and Oderinde knew or had reason to know of the
19 type of severe consequences that could result from the exercise drill, and
20 knowingly conducted the exercise drill with conscious disregard to the
21 detrimental health consequences for the student athletes. Defendant Oderinde
22 was well aware of the health risks of the regimen, and even mockingly asked of
23 student athletes whether they "had any blood in their pee yet."

1 36.

2 Alternatively, if defendant Oderinde was not aware of the consequences
3 of the exercise drills, he was wholly incompetent to have been hired to perform
4 a job as a strength and conditioning coach for a college football team.

5 37.

6 Predictably, student athletes had discolored urine from muscles breaking
7 down and the resulting blood products passing through their kidneys. Student
8 athletes' muscles were seizing up, and some could not even move their arms.
9 Three student athletes from the 6 a.m. workout group, including plaintiff, were
10 hospitalized for multiple days with extreme cases of exertional rhabdomyolysis
11 which causes a risk of severe kidney damage and death. Plaintiff was one of
12 the hospitalized student athletes, and he suffered serious and permanent
13 injuries further described below.

14 38.

15 Defendant NCAA has known about college football coaches repeatedly
16 inflicting exercise drills that provide no evidence-based benefit to the student
17 athletes and which create serious risks of exertional injuries of orthopedic
18 injury, organ damage, and death. Although defendant NCAA has full authority
19 to prohibit such practices under its fundamental mission to protect student
20 athletes from needless injury, NCAA refuses to prohibit the practice.

21 39.

22 Defendants' negligence caused plaintiff to suffer severe injuries, some of
23 which are permanent, including permanent renal injury, shortening of his life

1 span by upwards of ten years, resulting in increased susceptibility of kidney
2 failure, kidney disease, and death, severe physical and emotional pain, and an
3 impaired opportunity to play football in college and thereafter, and caused,
4 continues to cause, and will permanently cause pain, discomfort, disability,
5 humiliation, fear, and interference with ordinary activities, all to his
6 noneconomic damage in the amount of \$6,000,000.

7 40.

8 As a further result of defendants' negligence, plaintiff has incurred past
9 medical bills, impairment of earning capacity, and will incur future medical
10 bills all to his economic damage in the amount of \$5,500,000.

11 41.

12 To the extent that such notice was required, notice of all claims was
13 properly given within the period of time required by ORS 30.275.

14 FOR A FIRST CLAIM FOR RELIEF FOR NEGLIGENCE against defendant
15 University of Oregon, plaintiff alleges:

16 42.

17 Plaintiff re-alleges and incorporates by reference paragraphs 1 – 41,
18 above.

19 43.

20 Defendant University was negligent in one or more of the following ways:

21 a) In failing to prohibit or regulate the type of physical punishment
22 regimens imposed on the student athletes by defendants Taggart and
23 Oderinde;

1 FOR A THIRD CLAIM FOR RELIEF FOR NEGLIGENCE against defendant
2 Irele Oderinde, plaintiff alleges:

3 46.

4 Plaintiff re-alleges and incorporates by reference paragraphs 1 – 41,
5 above.

6 47.

7 Defendant Oderinde was negligent, in one or more of the following ways:

- 8 a) In imposing physical punishment regimens on the students;
9 b) In failing to prohibit the type of physical punishment regimens he
10 imposed on the student athletes; and
11 c) In leading strength and conditioning exercises when he lacked the
12 training necessary to safely lead those exercises.

13 FOR A FOURTH CLAIM FOR RELIEF FOR NEGLIGENCE against
14 defendant NCAA, plaintiff alleges:

15 48.

16 Plaintiff re-alleges and incorporates by reference paragraphs 1 – 41,
17 above.

18 49.

19 Defendant NCAA was negligent, in one or more of the following ways:

- 20 (a) In failing to regulate extreme physical regimens imposed by college
21 football coaches on student athletes, including the above-described regimens
22 imposed by defendants Taggart and Oderinde on the University of Oregon
23 students;

1 (b) In failing to prohibit extreme physical regimens imposed by college
2 football coaches on student athletes, including the above-described regimens
3 imposed by defendants Taggart and Oderinde on the University of Oregon
4 students; and

5 (c) In failing to enforce rules against extreme physical regimens
6 imposed by college football coaches on student athletes, including the above-
7 described regimens imposed by defendants Taggart and Oderinde on the
8 University of Oregon students.

9 WHEREFORE, plaintiff prays for judgment against defendants in the
10 amount of \$6,000,000 noneconomic damages and \$5,500,000 economic
11 damages, or in an amount to be determined by a jury, plus costs and
12 disbursements incurred herein.

13 Dated: January 9, 2019.

14 /s/ Mark McDougal

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24 Plaintiff hereby provides notice of his intent to amend to include punitive
25 damages.