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

JONATHAN BOLAND,  
  
Plaintiff,  
  
v.  
  
PARKROSE SCHOOL DISTRICT;  
SHANNON ANASTASIADIS; MAURICE  
FRANCE; JUN KAWAGUCHI; DAVE  
RICHARDSON; and KAREN GRAY,  
  
Defendants.

Case No.  
  
**COMPLAINT**  
  
**(Child Abuse as defined in ORS  
17.117(2); Negligence; Negligence Per Se;  
Fraudulent Concealment)**  
  
**NOT SUBJECT TO ARBITRATION**  
  
**Prayer amount: \$950,000, plus costs and  
disbursements**  
  
**(Fee Authority ORS 21.160(1)(c))**  
  
**JURY TRIAL REQUESTED**

Plaintiff alleges:

1.

Plaintiff was a student at Parkrose High School from 2011 to 2015. As a student at Parkrose High School, he played interscholastic sports, including football.

2.

Defendant Parkrose School District (“PSD”) is a public entity duly incorporated and under Oregon law as a school district. It operates Parkrose High School in Portland, Multnomah County, Oregon.

3.

Parkrose High School (“PHS”) is a public school under the jurisdiction and control of Defendant Parkrose School District.

1 4.

2 At all relevant times, Defendant Shannon Anastasiadis (“Anastasiadis”) was an employee  
3 and/or agent of PSD, as the school nurse for Parkrose High School. All actions alleged herein by  
4 Defendant Anastasiadis were taken under color of state law and in the course and scope of her  
5 employment with PSD.

6 5.

7 At all relevant times, Defendant Maurice France (“France”) was an employee and/or  
8 agent of PSD as the football coach. All actions alleged herein by Defendant France were taken  
9 under color of state law and in the course and scope of his employment with PSD.

10 6.

11 At all relevant times, Defendant Jun Kawaguchi (“Kawaguchi”) was an employee and/or  
12 agent of PSD, as a trainer for the PHS football team. All actions alleged herein by Defendant  
13 Kawaguchi were taken under color of state law and in the course and scope of his employment  
14 with PSD.

15 7.

16 At all relevant times, Defendant Dave Richardson (“Richardson”) was an employee  
17 and/or agent of PSD, as the Athletic Director. All actions alleged herein by Defendant  
18 Richardson were taken under color of state law and in the course and scope of his employment  
19 with PSD.

20 8.

21 Defendant Karen Gray (“Gray”) was an employee and/or agent of PSD as the  
22 superintendent of PSD during 2018. All actions alleged herein by Defendant Gray were taken  
23 under color of state law and in the course and scope of her employment with PSD.

24 9.

25 While playing football for Parkrose, plaintiff was coached by defendant France and was  
26 athletically trained by defendant Kawaguchi.

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10.

Pursuant to ORS 336.485(2)(a), and OAR 581-022-2215(4), both of which were in effect while plaintiff played football for Parkrose High School, a school district must ensure that coaches receive annual training regarding the recognition of symptoms of concussion, seeking proper medical treatment for suspected concussions, and determining when the athlete may safely return to the athletic event or training. The School Board must establish by rule the requirements of the concussion training program and timelines to ensure that each coach receives the concussion training.

11.

Pursuant to OAR 581-022-2215(2)(f), which was in effect while plaintiff played football for Parkrose High School, each school district is required to ensure that no coach allows a student to participate in an athletic event or training on the same day the player has been diagnosed with a concussion or has exhibited signs, symptoms or behaviors consistent with a concussion.

12.

Pursuant to OAR 581-022-2215 (2), which was in effect while plaintiff played football for Parkrose High School, each school district is required to ensure that no coach allows a student prohibited from returning to athletic events or training, as described in OAR 581-022-2215 (2)(f), until that student (A) no longer exhibits signs, symptoms or behaviors consistent with a concussion and (B) receives a medical release form from a health care professional.

13.

Pursuant to ORS 336.485(3)(b), and OAR 581-022-2215(2)(g), both of which were in effect while plaintiff played football for Parkrose High School, a concussed player may not participate in events or training until he has received a release form from a health care professional. ORS 336.485(1)(b), and OAR 581-022-2215(1)(d) define a health care professional as a physician, physician assistant or nurse practitioner licensed or certified under Oregon laws.

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14.

While playing football for Parkrose, plaintiff received numerous blows to his head, resulting in three diagnosed concussions, other concussions or similar head and brain injuries that were not diagnosed, severe headaches, blurred vision and fatigue. Plaintiff was later diagnosed with diminished mental capacity and a neurocognitive disorder related to multiple concussions.

15.

While plaintiff was playing football for Parkrose, defendants, perhaps including employees of defendant Parkrose School District not named as defendants, failed to subject plaintiff to concussion protocols or take other proper actions to determine if plaintiff had sustained concussions while playing football.

**FIRST CLAIM FOR RELIEF – NEGLIGENCE**

16.

Plaintiff re-alleges and incorporates paragraphs 1 through 15.

17.

Defendants, as well as other employees of Parkrose School District acting within the course and scope of their employment, were negligent, causing plaintiff's injuries, in one or more of the following particulars:

(a) Defendants PSD and Richardson failed to train coaches regarding the recognition of symptoms of concussion, how to seek proper Kawaguchi medical treatment for suspected concussions, and training in determination of when the athlete may safely return to the event or training;

(b) Defendants failed to take proper steps to assure that plaintiff was not returned to play or training on the same day that plaintiff exhibited signs, symptoms, or behaviors consistent with a concussion, or had been diagnosed with a concussion;

(c) Defendants failed to take proper steps to assure that plaintiff was not returned to play

1 or training after being concussed until plaintiff no longer exhibited signs, symptoms or behavior  
2 consistent with concussions; and

3 (d) Defendants failed to take proper steps to assure that plaintiff was not returned to play  
4 or training after being concussed until plaintiff received a medical release from a health care  
5 professional.

6 18.

7 In fact, defendants and other employees of PSD actively encouraged plaintiff to play  
8 football when they knew he was demonstrating signs of concussion.

9 (a) For example, defendant France knew that plaintiff was suffering ongoing headaches  
10 and that plaintiff found it necessary to spend time laying down in a dark room before games to  
11 alleviate those systems.

12 (b) For another example, after plaintiff suffered his third concussion, plaintiff's mother  
13 asked that he not play in the next game – an important playoff game. Defendants encouraged her  
14 to wait and see how plaintiff progressed. Defendants then allowed plaintiff to play the next  
15 game on information and belief without obtaining a doctor's release to play in that game.

16 (c) Defendants thus affirmatively placed plaintiff in a position of danger by returning him  
17 to play without the legally required medical clearance after plaintiff had experienced a  
18 concussion, and while he was still exhibiting signs and symptoms of a concussion, subjecting  
19 plaintiff to a second concussion and traumatic brain injury.

20 19.

21 Defendants' acts constitute child abuse as defined by ORS 12.117(2).

22 20.

23 As a direct and foreseeable result of defendants' acts and failures to act as described  
24 above, plaintiff suffered and continues to suffer, severe, sustained and likely permanent brain  
25 injuries, resulting in diminished mental capacity and a neuro-cognitive disorder.

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21.

As a result of defendants’ unlawful actions, plaintiff has suffered past medical expenses. Plaintiff will suffer further economic damage in the form of future medical expenses, including but not limited to occupational therapy, neurologic care, specialized vision care, psychiatric care, and assistance with activities of daily living, and he will also suffer impaired earning capacity. Plaintiff has suffered and will continue to suffer economic damage in an amount to be determined at trial, but which is alleged to be not more than \$200,000.

22.

As a direct result of defendants’ negligence, plaintiff suffered non-economic damages in the form of physical pain and suffering, permanent injuries, anxiety, depression, embarrassment in an amount to be determined at trial, but which is alleged to be not more than \$750,000.

**SECOND CLAIM FOR RELIEF**

**Negligence Per Se (ORS 336.485 and OAR 581-022-2215)**

**(Plaintiff Against All Defendants)**

23.

Plaintiff realleges and incorporated herein by reference the allegations contained in paragraphs 1 through 22 above.

24.

PSD’s actions, as described above, constitute violations of one or more of the following provisions of ORS 336.485 and OAR 581-022-2215:

(a) In failing to ensure no coach allows a member of the PHS junior varsity football team to participate in a football game on the same calendar day that the player has been diagnosed with a concussion or exhibits signs, symptoms or behaviors consistent with a concussion following an observed or suspected blow to the head. ORS 336.485(3)(a)(A)-(B) and OAR 581-022-2215(2)(f)(A)-(B).

(b) In returning plaintiff to practice and participation in a football game after while he

1 still exhibited signs, symptoms and behaviors consistent with a concussion following an  
2 observed or suspected blow to the head or body, and before he received a medical release form  
3 from a qualified health care professional. ORS 336.485(3)(b)(A)-(B) and OAR 581-022-  
4 2215(2)(g)(A)-(B).

5 (c) In failing to ensure that the coaches, assistant coaches, and athletic trainers at PSD  
6 received training which includes: (i) recognizing the signs and symptoms of concussion;  
7 (ii) strategies to reduce the risk of concussions; (iii) seeking proper medical treatment for a  
8 person suspected of having a concussion; (iv) determining when the athlete may safely return to  
9 the event or training; (v) complying with laws prohibiting concussed athletes from returning to  
10 events or training without a medical release from a qualified health care professional. ORS  
11 336.485(2); OAR 581-022-2215 (2)(a)-(e), (4).

12 25.

13 As a direct result of PSD's negligence, plaintiff suffered personal injuries described in  
14 paragraph 20.

15 26.

16 As a direct result of defendants' unlawful actions, plaintiff has suffered and will continue  
17 to suffer economic damage as described in paragraph 21 above.

18 27.

19 As a direct result of defendants' negligence, plaintiff suffered non-economic damages in  
20 the form of physical pain and suffering, permanent injuries, anxiety, depression, embarrassment,  
21 as described in paragraph 22 above.

### 22 **THIRD CLAIM FOR RELIEF**

#### 23 **Fraudulent Concealment**

24 28.

25 Plaintiff re-alleges and incorporates paragraphs 1 through 27.

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29.

Defendants intentionally and fraudulently concealed from plaintiff the fact that they were not complying with Oregon law in relation to plaintiff's head injury. Plaintiff's mother requested plaintiff's records pertaining to his medical history as a football player for PHS in March 2018. Defendant Karen Gray refused to produce those records unless plaintiff's mother, an employee of PSD, signed a document purporting to hold PSD harmless for liability for harming plaintiff.

30.

Even after plaintiff's mother signed such a document, PSD produced only a single medical record in an envelope containing no cover letter or other indication that the single report provided was the *only* document in plaintiff's entire file related to his four years playing football for PHS.

31.

In February 2019, plaintiff's mother again requested his entire file from PSD. This time, PSD admitted, for the first time, that there were virtually no documents showing that defendants complied with Oregon law regarding plaintiff. Current PSD Superintendent Michael Lopes-Serrao finally called plaintiff's mother into his office on February 19, 2019 and admitted PSD's violations of Oregon law.

**JURY DEMAND**

32.

Plaintiff demands a jury trial on all questions of fact or combined questions of law and fact raised in this Complaint.

WHEREFORE, plaintiff prays for the relief as set forth in this Complaint, together with

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1 such other relief that the Court finds just and equitable.

2 DATED this 18th day of March, 2019.

3 TIM VOLPERT, P.C.

4

5 By: s/ Timothy R. Volpert

6 Timothy R. Volpert, OSB #814074

7 Email: tim@timvolpertlaw.com

8 Telephone: (503) 703-9054

9 Of Attorneys for Plaintiff

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