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Attorney for Plaintiffs

THIS IS NOT AN
ARBITRATION CASE

ANDREW BRADLEY
344 Savannah Road
Lewes, Delaware

JAMES HARRIS
6 Fox Tropic Court
P.O. Box 253
Cedar Brook, New Jersey

and

ALEXANDER BINDER
6 Longstream Court, Apt.201
Baltimore, Maryland

Plaintiff(s)

vs.

YORK COLLEGE OF PENNSYLVANIA
441 Country Club Road
York, Pennsylvania

NATE COOKE, individually and in
his capacity as HEAD ATHLETIC
TRAINER FOR YORK COLLEGE OF
PENNSYLVANIA
441 Country Club Road
York, Pennsylvania

SEAN SULLIVAN,
individually and in his capacity
as ASSISTANT DEAN OF ATHLETICS
AND RECREATION FOR YORK COLLEGE OF
PENNSYLVANIA
441 Country Club Road
York, Pennsylvania

THOMAS KESSLER, individually and

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

CIVIL ACTION

NOVEMBER 2008

NOVEMBER TERM 2008,

No.: 000279

COMPLAINT AND DEMAND
FOR TRIAL BY JURY

in his capacity as HEAD COACH OF :
WRESTLING FOR YORK COLLEGE OF :
PENNSYLVANIA :
441 Country Club Road :
York, Pennsylvania :

COUNT I - PLAINTIFFS VS. ALL DEFENDANTS

NEGLIGENCE

1. Plaintiffs, are all adult individuals residing at the addresses set forth above.

2. Defendant, York College of Pennsylvania is an entity of unknown format located within the Commonwealth of Pennsylvania. At all times relevant, York College of Pennsylvania was the employer of all defendants named herein.

3. Defendant, Nate Cooke is believed to be an individual and citizen of the Commonwealth of Pennsylvania, employed by York College of Pennsylvania at the address above. At all times relevant hereto, defendant Cooke was acting as an agent, servant, and/or employee of York College of Pennsylvania.

4. Defendant, Sean Sullivan is believed to be an individual and citizen of the Commonwealth of Pennsylvania, employed by York College of Pennsylvania at the address above. At all times relevant hereto, defendant Sullivan was acting as an agent, servant, and/or employee of York College of Pennsylvania.

5. Defendant, Thomas Kessler is believed to be an individual and citizen of the Commonwealth of Pennsylvania, employed by York College of Pennsylvania at the address above. At all times relevant hereto, defendant Kessler was acting as an

6. During the 2006-2007 season, all of the plaintiffs named herein were students of the defendant York College of Pennsylvania. All plaintiffs were also members of the wrestling team for the defendant college.

7. During or about October 2, 2006, full contact practice for the subject wrestling team began.

8. During the week of October 16, 2006, plaintiffs became aware that a teammate named William Rider had been afflicted with lesions on his skin. Thereafter, Mr. Rider was kept out of practice approximately three days and then returned to participate and wrestle with bandages over his lesions.

9. Plaintiffs would later learn that Mr. Rider was suffering from a primary infection of Herpes Simplex 1, sometimes referred to as Herpes Gladiatorum.

10. Over the following weeks, several other teammates of plaintiffs became afflicted with herpetic lesions and all of these individuals continued to engage in full contact practice with bandages over their lesions.

11. During this period of time, plaintiffs wrestled in practice with most or all of these individuals.

12. On November 4, 2006, plaintiff Andrew Bradley noticed

that he developed a rash around his left eye or about November 4, 2006.

13. On Sunday, November 5, 2006, plaintiff Andrew Bradley fell ill with flu symptoms, chills, nightsweats, swollen lymph glands, and fever. The rash by his left eye had formed a thick crust of dried puss when he woke up from sleeping.

14. On November 6, 2006, plaintiff Bradley reported to the Student Health Center that his left eye was red, crusty and had been itching for three days.

15. On November 7, 2006, plaintiff Bradley is diagnosed with having contracted Herpes Simplex 1 Virus for the first time.

16. Approximately one week after plaintiff Andrew Bradley became ill, plaintiff James Harris also developed flu-like symptoms. He later tested positive for the herpes virus for the first time in his life. His outbreak was on his head in his scalp area.

17. Thereafter, in December 2006, plaintiff Alexander Binder developed a rash on his neck and shoulder area. Although Mr. Binder initially tested negative when the herpes virus began to run rampant among York College wrestling team members in November 2006, he thereafter tested positive and has suffered

from severe outbreaks.

18. Prior to contracting the virus, defendants Kessler, Cooke, and Sullivan all informed plaintiffs that there was no concern about the transmission of the virus unless an active outbreak came into contact from one wrestler to another. An e-mail was sent by the head trainer Cook to all members of the wrestling team, the Athletic Department and the head of the college's health center to this effect.

19. Several of plaintiffs' teammates suffered visible outbreaks of the herpes virus prior to plaintiffs' diagnoses in the days and weeks after William Rider's outbreak. These team members each had the herpetic lesions wrapped with tape.

20. The tape was adhesive and appeared similar to an ace bandage. Defendant Cooke, the trainer, put the bandages on the afflicted team members.

21. Plaintiffs all wrestled with these infected teammates on a daily basis while they were bandaged. Each infected teammate was only caused to sit out of practice for three days after the infection came to light. It is unknown if any had seen the doctor or been medicated during plaintiffs' exposure to them.

22. The individual defendants knew or should have known of the risks of infection prior to permitting infected team members to engage in direct contact with one another.

23. Defendants failed to follow NCAA procedures and guidelines governing skin infections. Specifically, the defendant coach, trainer, and athletic director not only permitted, they knowingly required wrestlers to engage in practice with active herpetic lesions.

24. The 2006 NCAA Wrestling Rules provide for 120 hours of antiviral therapy prior to permitting an athlete with an active outbreak from participation.

25. Significantly, no participation is allowed for those with active outbreaks. This includes "covering" the lesions, which is not acceptable.

26. Additionally, the defendants conducted no meeting with the team until a significant number of wrestlers already had it and the defendants permitted certain wrestlers such as plaintiffs to actively wrestle those who had the infection.

27. Defendants Kessler, Cooke, and Sullivan did not begin to check the skin of all wrestlers sometime in December 2006, after the large portion of the team had outbreaks. Defendants

were on notice of the need to do so and also to properly treat the situation but failed to do so.

28. No information was provided to plaintiffs by defendants prior to their infection, despite defendants' clear notice of the situation. Clearly, defendants had an obligation to provide information about the risks of contracting this condition.

29. The above described actions or inactions by defendants were made without due caution, circumspection and were otherwise negligence. Moreover, said actions were contrary to the NCAA Rules and Regulations pertaining to Wrestling as described above.

30. As a result of defendants' conduct, plaintiffs have suffered injuries which are serious and permanent in nature including, but not limited to contraction of permanent virus; and various other ills and injuries which plaintiff suffers and may continue to suffer indefinitely.

31. As a further result of the aforesaid conduct, Plaintiffs have been obliged to receive and undergo medical attention and care, including medication, and to incur various and diverse expenses for an indefinite time in the future.

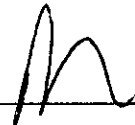
32. As a further result of the aforesaid conduct, plaintiffs have suffered severe physical pain and trauma, mental

upset and anguish and humiliation, and may continue to suffer the same for an indefinite time in the future.

33. The actions of defendants Kessler, Cooke, and Sullivan are imputed upon defendant, York College of Pennsylvania under principals of agency and vicarious liability.

WHEREFORE, plaintiffs demand judgment against all defendants jointly and/or severally together with delay damages in an amount in excess of Fifty Thousand (\$50,000.00) Dollars.

DEMAND IS HEREBY MADE FOR A TRIAL BY JURY AS TO ALL ISSUES



DAVID A. AVEDISSIAN, ESQUIRE