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Attorney for Claimant

EAST NICOLAUS JOINT UNION HIGH SCHOOL DISTRICT

JUSTIN WILLIAMS, a minor, by and))	
through his mother, MARCIE MACKAY,)	
)	CLAIM FOR PERSONAL INJURIES
Claimant,)	(Government Code § 910)
vs.)	
)	
EAST NICOLAUS JOINT UNION)	
HIGH SCHOOL DISTRICT,)	
)	
Respondents.)	

TO: EAST NICOLAUS JOINT UNION HIGH SCHOOL DISTRICT
2454 Nicolaus Ave.
Nicolaus, California 95659-9605

(a) Claimant's Name and Address
MARCIE MACKAY on behalf of her minor son, JUSTIN WILLIAMS
2217 Golden Gate Drive
Plumas Lake CA 95961

(b) Address To Which Notices Are To Be Sent
Noël M. Ferris
Law Office of Noël M. Ferris
1001 G Street, Suite 301
Sacramento, CA 95814

Claim for Personal Injuries (Govt. Code § 910)

1 (c) Date and Place of Incident

2 August 23, 2011

3 East Nicolaus High School

4 Nicolaus, California

5 (d) Name of Public Employees Causing Injury or Damage

6 Justin Williams, a minor and student at East Nicolaus High School, by and
7 through his mother Marcie Mackay, hereby make this claim against the following:

8 (1) East Nicolaus High School, 2454 Nicolaus Avenue, Nicolaus, California
9 95659;

10 (2) Matthew Roberts, PhD., Principal of East Nicolaus High School;

11 (3) Darren Brown, Assistant Principal/ Athletic Director of East Nicolaus
12 High School;

13 (4) Mark Varnum, a teacher and football coach at East Nicolaus High
14 School;

15 (5) John Dolenga, assistant football coach at East Nicolaus High School;
16 and,

17 (6) Geoff Wahl, assistant football coach at East Nicolaus High School.

18 (e) Description of Incident

19 On or about August 23, 2011 Justin Williams reported to football practice
20 on the Varsity team at East Nicolaus High School. He had missed practice the
21 previous day.

22 Justin Williams was called in to Coach Mark Varnum's office and
23 reprimanded for missing practice and was told that he would not be able to
24

1 participate in the upcoming Friday night game. Coach Varnum then stated
2 "Today you are going to wish you were never born."

3
4 Justin Williams was then ordered to perform various drills while the rest
5 of the team continued with practice. After performing three sets of drills up and
6 down the length of the football field, Justin was ordered to run two miles around
7 the track.

8
9 After completing the run, Justin was ordered by Coach Varnum to stand
10 at the goal line. Eleven members of the kick off team were instructed to kick the
11 ball to Justin and then to run down field and tackle him. On the first kick off,
12 a member of the kicking team stopped Justin's forward progress by "wrapping
13 him up", a practice where the defender wraps his arms around the torso of the
14 ball carrier in a bear hugging maneuver. In this maneuver the ball carrier is not
15 tackled and taken to the ground. Coach Varnum instructed the kick off team to
16 "stop pussy footing around" and to "lay his ass out" referring to Justin. At the
17 time Justin Williams weighed 155 pounds and was one of the smallest players on
18 the team.
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21 Thereafter, the ball was kicked to Justin three times. Each time he was
22 tackled and hit by all eleven members of the team.

23
24 After the first two kicks, Coach Varnum left the field and Coaches Dolenga
25 and Wahl remained and ran the "drill" which was solely to punish Justin for
26 missing practice and to provide an example for the rest of the team.
27

1 The temperature that afternoon was approximately 95 degrees, and Justin
2 had limited access to water. After being subjected to these drills, and given a
3 small amount of water, Justin vomited repeatedly.
4

5 The "drill" previously described is not one recognized as a legitimate football
6 practice and was designed by Coach Varnum both to punish Claimant and to use
7 him as an example to deter other players from missing practice. Coach Varnum
8 had a duty to protect the safety of his players, and intentionally failed to do so by
9 ordering this drill.
10

11 (f) Description of the Injuries, Damages & Negligence

12 Justin was taken to Rideout Memorial Hospital that evening where he was
13 treated for dehydration and was diagnosed with a partially collapsed lung. Two
14 days later, he was seen by his personal physician and was diagnosed with a
15 concussion. Justin has been informed by his physician that he is not allowed to
16 continue on the football team. As a mandatory reporter, Justin's physician
17 reported his injuries to Child Protective Services, stating the "Mechanism of
18 injury concerning for abusive punitive environment at his football practice."
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21 Ms. Mackay reported the events of August 23, 2011 to Assistant Principal/
22 Athletic Director Darren Brown. Brown promised an investigation. (To date,
23 Brown has failed to respond to Ms. Mackay and report to her the result of an
24 investigation.) Varnum remains in his position as football coach. After this
25 meeting, Claimant is informed and believe Coach Varnum called an emergency
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27

1 meeting of the kicking team to coordinate their stories in order to cover up
2 excessive physical contact that occurred. Varnum instructed the players to lie
3 to investigators and to state that they only stopped Justin's forward progress by
4 wrapping him up and that no tackling or piling on occurred.
5

6 Claimant is informed and believes that prior to August 23, 2011, Principal
7 Matthew Roberts, PhD, and Assistant Principal Darren Brown were informed of
8 several incidents involving Coach Varnum which potentially involved criminal
9 behavior and would disqualify Varnum from continuing his position as teacher
10 and football coach. These incidents included sexually inappropriate photographs
11 of a female minor student on Mr. Varnum's cell phone which he offered to display
12 to other members of the coaching staff on a number of occasions. Roberts and
13 Brown failed to conduct a proper investigation into this conduct and sought to
14 cover it up.
15

16 Brown and Roberts have also been informed of an incident where Varnum
17 placed his genitals on the face of a student in June 2011, a practice known as
18 "teabagging." Varnum continues in his position as teacher and coach despite the
19 serious and potentially criminal nature of these allegations.
20

21 Justin Williams has sustained serious injuries as a result of the
22 inappropriate actions by the coaching staff on the football field on August 23,
23 2011 and from the District's failure to adequately supervise and take action
24 relative to previous complaints regarding Coach Varnum.
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1 Claimant is informed and believes that Coach Varnum was hired without
2 due diligence in investigation of his background and was not subject to the
3 standard interview process for the hiring of personnel.
4

5 As a result of East Nicolaus High School's negligence, negligent hiring,
6 training, supervising and failure to provide a safe environment for its students,
7 Claimant has sustained serious personal injuries including a concussion which
8 has ended his participation on the football team.
9

10 (g) Amount of Claim

11 Said claim exceeds the minimum jurisdictional limits of the Superior Court
12 of the State of California, and would not be subject to filing as a limited civil case.
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14 DATED: September 8, 2011 LAW OFFICE OF NOËL M. FERRIS

15
16 By 
17 _____

Noël M. Ferris

State Bar No. 88648
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