

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

ZACHARY D. HOFFMAN, a minor, by
KIMBERLY HOFFMAN and DOUGLAS
HOFFMAN, his parents and natural
guardians,

Plaintiff,

v.

BOROUGH OF SEWICKLEY;
AVONWORTH ATHLETIC
ASSOCIATION, INC.; and QUAKER
VALLEY RECREATION
ASSOCIATION,

Defendants.

: CIVIL ACTION

:

: No. GD-16-004447

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: **COMPLAINT**

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: Filed on behalf of Plaintiff

:

: Counsel of record for this party:

:

: Alan H. Perer, Esquire

: Pa. ID. #23603

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: SWENSEN & PERER

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NOTICE TO DEFEND

You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so, the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.

YOU SHOULD TAKE THIS PAPER TO YOUR LAWYER AT ONCE. IF YOU DO NOT HAVE OR KNOW A LAWYER, THEN YOU SHOULD GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

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The Allegheny County Bar Association
11th Floor Koppers Building
436 Seventh Avenue
Pittsburgh, PA 15219
(412) 261-5555

IN THE COURT OF COMMON PLEAS OF ALLEGHENY COUNTY, PENNSYLVANIA

ZACHARY D. HOFFMAN, a minor, by : CIVIL ACTION
KIMBERLY HOFFMAN and DOUGLAS :
HOFFMAN, his parents and natural : No. GD-16-004447
guardians, :

Plaintiff, :

v. :

BOROUGH OF SEWICKLEY; :
AVONWORTH ATHLETIC :
ASSOCIATION, INC.; and QUAKER :
VALLEY RECREATION :
ASSOCIATION, :

Defendants.

COMPLAINT

AND NOW comes the Plaintiff, Zachary D. Hoffman, a minor by Kimberly Hoffman and Douglas Hoffman, his parents and natural guardians, by and through his attorneys, Alan H. Perer, Esquire, and SWENSEN & PERER and files this Complaint, which avers the following:

1. Plaintiff, Zachary D. Hoffman, is a 12-year-old minor, having a date of birth on 4/14/03, and resides with his parents, Kimberly Hoffman and Douglas Hoffman, at 40 Newgate Road, Pittsburgh, PA 15202.
2. Defendant Borough of Sewickley is a Pennsylvania municipal corporation located within Allegheny County with its principle office and place of business at 601 Thorn Street, Sewickley, PA 15143.
3. Defendant Borough of Sewickley owns and maintains Chadwick Field located within Allegheny County at Chadwick Street and Walnut Street in Sewickley, PA.

4. Defendant Avonworth Athletic Association, Inc. is a non-profit Pennsylvania corporation with a principal place of business at 6521 Brighton Road, Pittsburgh, PA 15202.
5. Defendant Quaker Valley Recreation Association is a non-profit Pennsylvania corporation with a principal place of business at 341 Beaver Street, Sewickley, PA 15143.
6. Zachary Hoffman plays little league baseball for the Avonworth Athletic Association, Inc. This incident occurred during his second year playing.
7. On April 13, 2015, Zachary Hoffman and his team were playing a game against a team from the Quaker Valley Recreation Association. The game was played at Chadwick Field.
8. The fencing that lined Chadwick Field contained signs stating “field maintained by Sewickley Borough.”
9. The first base line dugout at Chadwick Field had an opening in the fencing where the back stop ends and the dugout begins. This open area was not covered by any fencing, screen and/or any other type of covering at the time of the accident.
10. It is an established custom within Little League baseball that the dugout is entirely covered by fencing, screens and/or other types of covering apparatus, leaving no open spaces for batted baseballs to enter the dugout.
11. Prior to April 13, 2015, there had been at least one previous instance of a batted baseball hitting a baseball player in the dugout at Chadwick Field.
12. While his team was up at bat, Zach was watching his team bat in the first base line dugout at Chadwick Field.

13. One of Zach's teammates hit the ball, and it went directly through the open area in the fencing and struck Zach on the left side of the head in the temple area. Zach experienced severe and permanent injuries including a fractured skull, intense bleeding in his brain and permanent brain damage.
14. Zach still continues to suffer symptoms related to this injury.
15. Zach is currently unable to attend school on a regular basis due to his symptoms.
16. As a direct and proximate cause of all Defendants' negligence, carelessness, recklessness and/or other liability producing-conduct, Plaintiff Zachary D. Hoffman, sustained significant injuries, requiring hospitalization, brain surgery and continuing treatment, including but not limited to the following:
 - a. Fractured skull;
 - b. Brain shift;
 - c. Traumatic injury to the head;
 - d. Lump on the left side of his head the size of a baseball;
 - e. Epidural and subdural bleeding;
 - f. Emergency surgery to evacuate the blood from around the skull;
 - g. Concussion;
 - h. Nausea;
 - i. Vomiting;
 - j. Dizziness;
 - k. Chronic headaches;
 - l. Change in behavior and behavioral problems;

- m. Mood swings;
- n. Difficulty sleeping;
- o. Other injuries that may be of a permanent nature; and
- p. Other injuries, the full extent of which at this time remains unknown.

COUNT I

ZACHARY D. HOFFMAN, a minor by KIMBERLY HOFFMAN and DOUGLAS HOFFMAN, his parents and natural guardians v. BOROUGH OF SEWICKLEY

NEGLIGENCE

- 17. Plaintiff hereby incorporates all preceding paragraphs as though set forth at length herein.
- 18. Defendant Borough of Sewickley had a duty to maintain Chadwick Field, provide a safe environment for baseball teams playing on Chadwick Field and prevent baseball teams from playing on Chadwick Field if the environment would not be safe.
- 19. Defendant Borough of Sewickley was negligent in all of the following particulars:
 - a. Failing to use a fence, screen and/or other covering apparatus to cover the open area between the backstop and dugout fences;
 - b. Violating Little League customs in failing to provide a complete fence, screen and/or other covering apparatus to protect and cover the entire dugout including any open areas;
 - c. Allowing baseball teams to use Chadwick Field when there was no fence, screen and/or other covering apparatus to cover the open area between the backstop and dugout fences;
 - d. Failing to prevent baseball teams from using Chadwick Field when there was no fence, screen and/or other covering apparatus to cover the open area between the

backstop and dugout fences;

- e. Maintaining the first base dugout too close to the backstop;
 - f. Allowing baseball teams to use Chadwick Field when the first base dugout was too close to the backstop;
 - g. Failing to prevent baseball teams from using Chadwick Field when the first base dugout was too close to the backstop;
 - h. Allowing baseball teams within this age group to use Chadwick Field when the field dimensions are too small for the size and strength of the players in this age group, especially dangerous to unprotected areas of the field;
 - i. Failing to prevent baseball teams within this age group from using Chadwick Field when the field dimensions are too small for the size and strength of the players in this age group, especially dangerous to unprotected areas of the field;
 - j. Allowing baseball teams within this age group to use Chadwick Field when the field dimensions are too small for the batting equipment used, which has more spring and makes baseballs come off the bat faster and quicker, especially dangerous to unprotected areas of the field; and
 - k. Failing to prevent baseball teams within this age group from using Chadwick Field when the field dimensions are too small for the batting equipment used, which has more spring and makes baseballs come off the bat faster and quicker, especially dangerous to unprotected areas of the field.
20. As a direct and proximate result of the negligence, recklessness, carelessness, and/or other liability-producing conduct on the part of the Defendant, Plaintiff Zachary D.

Hoffman has suffered the injuries described in paragraph 16 and incorporated by reference herein.

21. As a direct and proximate result of the negligence, recklessness, carelessness, and/or other liability-producing conduct on the part of the Defendant, Plaintiff Zachary D.

Hoffman sustained damages including but not limited to:

- a. Past and future medical expenses;
- b. Lost earning capacity;
- c. Past and future pain and suffering, and scarring;
- d. Embarrassment, humiliation, inconvenience, emotional distress and mental anguish;
- e. Past and future loss of the ordinary pleasures of life; and
- f. All other damages recoverable under the law.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendant in an amount in excess of the jurisdictional limits of arbitration.

JURY TRIAL DEMANDED

COUNT II

ZACHARY D. HOFFMAN, a minor by KIMBERLY HOFFMAN and DOUGLAS HOFFMAN, his parents and natural guardians v. AVONWORTH ATHLETIC ASSOCIATION, INC.

NEGLIGENCE

22. Plaintiffs hereby incorporate by reference all preceding paragraphs as though set forth at length herein.

23. Defendant Avonworth Athletic Association, Inc. had a duty to ensure the safety of its

players and the field it was playing on, and prevent its players from playing if the field and playing environment would not be safe.

24. Defendant Avonworth Athletic Association, Inc. was negligent in all of the following particulars:

- a. Failing to use a fence, screen and/or other covering apparatus to cover the open area between the backstop and dugout fences;
- b. Violating Little League custom in failing to provide a complete fence, screen and/or other covering apparatus to protect and cover the entire dugout including any open areas;
- c. Allowing baseball teams to use Chadwick Field when there was no fence, screen and/or other covering apparatus to cover the open area between the backstop and dugout fences;
- d. Failing to prevent its baseball team from using Chadwick Field when there was no fence, screen and/or other covering apparatus to cover the open area between the backstop and dugout fences;
- e. Allowing its baseball teams to use Chadwick Field when the first base dugout was too close to the backstop;
- f. Failing to prevent its baseball team from using Chadwick Field when the first base dugout was too close to the backstop;
- g. Allowing its baseball teams within this age group to use Chadwick Field when the field dimensions are too small for the size and strength of the players in this age group, especially dangerous to unprotected areas of the field;

- h. Failing to prevent its baseball teams within this age group from using Chadwick Field when the field dimensions are too small for the size and strength of the players in this age group, especially dangerous to unprotected areas of the field;
 - i. Allowing its baseball teams within this age group to use Chadwick Field when the field dimensions are too small for the batting equipment used, which has more spring and makes baseballs come off the bat faster and quicker, especially dangerous to unprotected areas of the field; and
 - j. Failing to prevent its baseball teams within this age group from using Chadwick Field when the field dimensions are too small for the batting equipment used, which has more spring and makes baseballs come off the bat faster and quicker, especially dangerous to unprotected areas of the field.
25. As a direct and proximate result of the negligence, recklessness, carelessness, and/or other liability-producing conduct on the part of the Defendant, Plaintiff Zachary D. Hoffman has suffered the injuries described in paragraph 16 and incorporated by reference herein.
26. As a direct and proximate result of the negligence, recklessness, carelessness, and/or other liability-producing conduct on the part of the Defendant, Plaintiff Zachary D. Hoffman sustained damages including but not limited to:
- a. Past and future medical expenses;
 - b. Lost earning capacity;
 - c. Past and future pain and suffering, and scarring;
 - d. Embarrassment, humiliation, inconvenience, emotional distress and mental

anguish;

- e. Past and future loss of the ordinary pleasures of life; and
- f. All other damages recoverable under the law.

WHEREFORE, Plaintiff demands judgment in his favor and against Defendant in an amount in excess of the jurisdictional limits of arbitration.

JURY TRIAL DEMANDED

COUNT III

ZACHARY D. HOFFMAN, a minor by KIMBERLY HOFFMAN and DOUGLAS HOFFMAN, his parents and natural guardians v. QUAKER VALLEY RECREATION ASSOCIATION

NEGLIGENCE

- 27. Plaintiffs hereby incorporate by reference all preceding paragraphs as though set forth at length herein.
- 28. Defendant Quaker Valley Recreation Association had a duty to ensure the safety of the field it was playing on, and prevent the players of both teams from playing if the field and playing environment would not be safe.
- 29. Defendant Quaker Valley Recreation Association was negligent in all of the following particulars:
 - a. Failing to use a fence, screen and/or other covering apparatus to cover the open area between the backstop and dugout fences;
 - b. Violating Little League custom in failing to provide a complete fence, screen and/or other covering apparatus to protect and cover the entire dugout including any open areas;

- c. Allowing these baseball teams to use Chadwick Field when there was no fence, screen and/or other covering apparatus to cover the open area between the backstop and dugout fences;
- d. Failing to prevent these baseball teams from using Chadwick Field when there was no fence, screen and/or other covering apparatus to cover the open area between the backstop and dugout fences;
- e. Allowing these baseball teams to use Chadwick Field when the first base dugout was too close to the backstop;
- f. Failing to prevent these baseball teams from using Chadwick Field when the first base dugout was too close to the backstop;
- g. Allowing these baseball teams within this age group to use Chadwick Field when the field dimensions are too small for the size and strength of the players in this age group, especially dangerous to unprotected areas of the field;
- h. Failing to prevent these baseball teams within this age group from using Chadwick Field when the field dimensions are too small for the size and strength of the players in this age group, especially dangerous to unprotected areas of the field;
- i. Allowing these baseball teams within this age group to use Chadwick Field when the field dimensions are too small for the batting equipment used, which has more spring and makes baseballs come off the bat faster and quicker, especially dangerous to unprotected areas of the field; and
- j. Failing to prevent these baseball teams within this age group from using

Chadwick Field when the field dimensions are too small for the batting equipment used, which has more spring and makes baseballs come off the bat faster and quicker, especially dangerous to unprotected areas of the field.

30. As a direct and proximate result of the negligence, recklessness, carelessness, and/or other liability-producing conduct on the part of the Defendant, Plaintiff Zachary D. Hoffman has suffered the injuries described in paragraph 16 and incorporated by reference herein.

31. As a direct and proximate result of the negligence, recklessness, carelessness, and/or other liability-producing conduct on the part of the Defendant, Plaintiff Zachary D. Hoffman sustained damages including but not limited to:

- a. Past and future medical expenses;
- b. Lost earning capacity;
- c. Past and future pain and suffering, and scarring;
- d. Embarrassment, humiliation, inconvenience, emotional distress and mental anguish;
- e. Past and future loss of the ordinary pleasures of life; and
- f. All other damages recoverable under the law.

WHEREFORE, Plaintiff demands judgment in her favor and against Defendant in an amount in excess of the jurisdictional limits of arbitration.

JURY TRIAL DEMANDED

Respectfully Submitted,
SWENSEN & PERER

Alan H. Perer, Esquire
Attorney for Plaintiffs

VERIFICATION

We, Kimberly Hoffman and Douglas Hoffman, verify that we are the Plaintiffs in this action and that the statements made in the foregoing **COMPLAINT** are true and correct to the best of our knowledge, information and belief. We understand that false statements herein are made subject to the penalties of 18 Pa. C.S.A. §4904 relating to unsworn falsification to authorities.

Date

Kimberly Hoffman, Plaintiff

Date

Douglas Hoffman, Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within Complaint was served upon the following Defendants, this _____ of March, 2016 first class mail, postage prepaid:

Borough of Sewickley
601 Thorn Street
Sewickley, PA 15143.

Avonworth Athletic Association, Inc.
6521 Brighton Road
Pittsburgh, PA 15202

Quaker Valley Recreation Association
341 Beaver Street
Sewickley, PA 15143

Respectfully submitted,
SWENSEN & PERER

By _____
Alan H. Perer, Esquire
Attorney for Plaintiff