

POST & SCHELL, P.C.

BY: MICHAEL A. BOOMSMA, ESQUIRE

E-MAIL: mboomsma@postschell.com

I.D. # 56062

1869 CHARTER LANE

P.O. BOX 10248

LANCASTER, PA 17605-0248

717-291-4532

ATTORNEYS FOR DEFENDANTS
WARWICK MIDGET FOOTBALL
LEAGUE, INC. D/B/A WARWICK
YOUTH FOOTBALL ASSOCIATION,
PAT TOCCI, MIKE WINTERS, ZACH
ROWE, GORDON YOUNG, JEFF VAN
BROOKHOVEN

L.R. RETTEW, A MINOR, BY HIS PARENT
AND NATURAL GUARDIAN, JANIKA E.
RETTEW, AND JANIKA E. RETTEW, IN
HER OWN RIGHT,

Plaintiffs,

vs.

WARWICK MIDGET FOOTBALL
LEAGUE, INC. D/B/A WARWICK YOUTH
FOOTBALL ASSOCIATION, PAT TOCCI,
MIKE WINTERS, ZACH ROWE, GORDON
YOUNG, JEFF VAN BROOKHOVEN, RED
ROSE MIDGET FOOTBALL LEAGUE
D/B/A RED ROSE FOOTBALL LEAGUE,
AND LAWRENCE FISHER

Defendants.

COURT OF COMMON PLEAS
LANCASTER COUNTY

No. CI-19-08790

JURY TRIAL DEMANDED

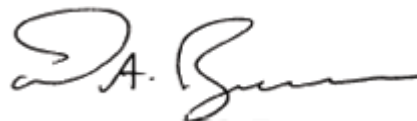
NOTICE TO PLEAD

TO: **PLAINTIFFS**

YOU ARE HEREBY NOTIFIED to file a written response to the enclosed Preliminary
Objections within twenty (20) days of service thereof or an order may be entered against you.

POST & SCHELL, P.C.

BY:



DATED: September 25, 2019

Michael A. Boomsma, Esquire
Attorneys for Defendants
Warwick Midget Football League, Inc.
d/b/a Warwick Youth Football Association
Pat Tocci, Mike Winters, Zach Rowe,
Gordon Young, Jeff Van Brookhoven

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D/B/A RED ROSE FOOTBALL LEAGUE,
AND LAWRENCE FISHER

Defendants.

COURT OF COMMON PLEAS
LANCASTER COUNTY

No. CI-19-08790

JURY TRIAL DEMANDED

**PRELIMINARY OBJECTIONS OF DEFENDANTS WARWICK MIDGET
FOOTBALL LEAGUE, INC. D/B/A WARWICK YOUTH FOOTBALL ASSOCIATION,
PAT TOCCI, MIKE WINTERS, ZACH ROWE, GORDON YOUNG
AND JEFF VAN BROOKHOVEN TO PLAINTIFFS' COMPLAINT**

Defendants, Warwick Midget Football League, Inc. d/b/a Warwick Youth Football Association, Pat Tocci, Mike Winters, Zach Rowe, Gordon Young, and Jeff Van Brookhoven ("Objecting Defendants"), by their attorney, Michael A. Boomsma, Esquire and Post and Schell, P.C., hereby file these Preliminary Objections to Plaintiffs' Complaint, and in support thereof aver as follows:

I. FACTS AND PROCEDURAL HISTORY

1. This case arises out of the participation of minor Plaintiff L.R. in organized tackle football activities as a member of the Defendant Warwick Youth Football Association (“WYFA”).

2. Specifically, Plaintiffs contend that L.R. sustained a head injury during a game on September 17, 2017. *See* Plaintiffs’ Complaint attached hereto as **Exhibit A**, generally.

3. On that date, Plaintiffs assert that various Objecting Defendants held leadership and/or coaching positions within WYFA. *Id.*

4. On that same date, Plaintiffs’ allege that Defendant Red Rose Midget Football League (“Red Rose”) was an umbrella organization sponsoring youth football in which WYFA participated. *Id.*

5. Additionally, Plaintiffs’ allege that Defendant Lawrence Fisher was acting in some unknown role under the scope and authority of WYFA and/or Red Rose. *Id.* ¶ 27.

6. Plaintiffs are asserting negligence claims against each defendant. *Id.* ¶¶ 52-67.

7. While Plaintiffs filed the instant Complaint on September 16, 2019, litigation of Plaintiffs’ cause of action actually commenced on March 26, 2018 when Plaintiffs filed a complaint in the Lancaster County Court of Common Pleas docketed at CI-18-02104 (hereinafter “2018 action”) raising almost identical factual claims against the identical defendants it has in this action. *See* Plaintiffs’ Complaint in docket CI-18-02104 attached hereto as **Exhibit B**.

8. The current 2018 action is currently assigned to Judge Jeffrey D. Wright who has conducted hearings and ruled on preliminary objections and motions.

9. Plaintiffs in the 2018 action included Lance McKinnon who is the stepfather of L.R. and husband of Janika Rettew. *Id.*

10. In the 2018 action, Plaintiff initially asserted five causes of action, three sounding in various iterations of negligence, one in civil conspiracy, and one for injunctive relief. *Id.*

11. As it pertains to the alleged physical injuries sustained by L.R., Plaintiffs' alleged that those were a result of the negligence of Defendants in maintaining equipment, negligent training and negligent coaching. *Id.*

12. Distilled to their essence, the factual claims revolved around an allegation that upon sustaining a head injury, and reporting symptoms of that injury to defendants Young and Van Brookhoven, Defendants allowed L.R. to continue playing in the football game without proper medical care thus subjecting him to additional injury. *Id.* ¶¶ 26-42.

13. The allegations in the 2018 action are virtually identical to those raised in the instant Complaint.

14. Following service of the Complaint in the 2018 action counsel for all parties reached an agreement whereby Plaintiffs agreed to the voluntary dismissal of the claims against Red Rose and Fisher. *See* Petition for Partial Discontinuance attached hereto as **Exhibit C**. The remaining parties also agreed to the amendment of the Complaint to remove the claim for injunctive relief. *See* Stipulation to Amend Complaint attached hereto as **Exhibit D**.

15. Objecting Defendants filed their Answer and New Matter on June 18, 2018 to which Plaintiffs filed Preliminary Objections on July 9, 2018. *See* Docket for CI-18-02104 attached hereto as **Exhibit E**.

16. Following briefing and oral argument, the Court entered an order on November 9, 2018 granting in part and denying in part Plaintiffs' Preliminary Objections. *Id.* On December 7, 2018 Plaintiffs filed an answer to Objecting Defendants new matter cross claims effectively closing the pleadings.

17. In relevant part, the Answer and New Matter filed by Defendants in the 2018 action included cross claims against Janika Rettew and Lance McKinnon for negligent care and supervision of L.R. which are still pending.

18. The parties have been engaged in ongoing discovery efforts since shortly after Plaintiffs filed their Complaint in the 2018 action. As part of this discovery process, the parties exchanged interrogatories and requests for production of documents and each have produced responses to the same. The parties have also exchanged supplemental discovery responses.

19. As part of the discovery process, Objecting Defendants have served subpoenas on numerous third-parties for various medical and educational records and have obtained over 2,000 pages of records as a result.

20. Further, the parties began depositions with Plaintiffs' prior counsel who deposed Defendants Zachary Rowe and Jeffrey Van Brookhoven on January 11, 2019.

21. Additionally, the depositions of Plaintiffs Lance McKinnon and Janika Rettew were scheduled to take have taken place on March 27, 2018.

22. These depositions were cancelled when Plaintiffs substituted their current counsel in the 2018 action on March 26, 2019, the day before the depositions were to have taken place.

23. On May 15, 2019, Plaintiffs filed a Petition to Discontinue the 2018 action pursuant to Pa. R.C.P. 229 and 2039. *See* Exhibit E.

24. Plaintiffs failed to comply with L.C.R.C.P. 206.4(c) in their filing of this Petition and as a result, on May 17, 2019 the Court entered an order granting Plaintiffs' Petition to Discontinue Action without Objecting Defendants having an opportunity to respond to it. *Id.*

25. Objecting Defendants filed a Motion to Vacate the discontinuance of the 2018 action on May 31, 2019. *Id.* Following a conference with the Honorable Jeffery D. Wright, the parties agreed and stipulated that the 2018 action should be reinstated. *Id.*

26. The Order dismissing the 2018 action was vacated and the action was reinstated by Order of Court on August 9, 2019. *See* Order and Stipulation of August 9, 2019 attached hereto as **Exhibit F**.

27. During the period of almost 19 months of active litigation on the 2018 action, Objecting Defendants' principal has incurred over \$37,000.00 in attorney fees, costs and expenses.

28. Additionally, by attempting to restart the process with a new complaint on a new docket, Plaintiffs' have been granted almost 19 months of pre-complaint discovery without leave of court.

29. All of this has been done to the extreme detriment of Objecting Defendants.

30. The 2018 action is presently still pending before the Court and remains assigned to Judge Wright for disposition. As a result, Objecting Defendants are faced with two (2) identical lawsuits against them, a posture which is not permitted under Pennsylvania law.

II. LEGAL ARGUMENT

Plaintiffs' Complaint should be dismissed pursuant to Pa. R.C.P. 1028(a)(6) since there is a currently pending action brought by the same plaintiffs alleging the same causes of action against the same defendants.

31. Pennsylvania Rule of Civil Procedure 1028(a)(6) expressly affords the right to preliminarily object based upon the "pendency of a prior action."

32. The purpose of the doctrine of *lis alibi pendens* is to protect defendants from harassment by having to defend several suits on the same cause of action at the same time.

Ferrick Constr. Co. v. One Beacon Ins. Co., 2004 Phila. Ct. Com. Pl. LEXIS 70 (2004). *Accord Davis Cookie Company, Inc. v. Wasley*, 566 A.2d 870 (Pa. Super 1989) (doctrine derives from ancient maxim “*nemo debet bis vexari pro una et eadem cause*” (no man shall be twice vexed for the same cause of action)).

33. The question of the pendency of a prior action is purely a question of law determinable from an inspection of the pleadings. *Richner v. McCance*, 13 A.3d 950, 958 (Pa. Super. 2011).

34. Once raised, a court must stay or dismiss the duplicative proceeding. *Ferrick Constr. Co.*, *supra*.

35. The instant matter is a textbook example for the application of *lis pendens*.

36. With the exception of Lance McKinnon, the Plaintiffs in the instant action are the same Plaintiffs in the 2018 action. Similarly, the Defendants in the instant action are the same Defendants in the 2018 action.

37. That Lance McKinnon is excluded from this action, or that Plaintiffs’ are now unhappy with their prior decision to dismiss Red Rose and Fisher from the 2018 action are immaterial as both of those actions can be addressed within the confines of the existing 2018 action.

38. That is, in the currently pending 2018 action, Plaintiffs can seek leave of court to reinstate the claims against Fisher or Red Rose whose dismissal to which they previously agreed. Similarly, if Lance McKinnon no longer wishes to remain a Plaintiff party in the 2018 action, he can file a voluntary discontinuance as to his claims only.

39. Further, in comparing the pending 2018 action to the new complaint, the causes of action and the factual allegations underlying them are the same.

40. Both include claims of negligence based on negligent equipment, training and coaching which are also asserted in the instant matter.

41. The causes of action in the 2018 action are brought on behalf of L.R. and by Janika E. Rettew in her own right, just as Plaintiffs have done in the instant matter.

42. The only difference in the causes of action is the abandonment by Plaintiffs in the instant action of any claim for civil conspiracy. Again, this decision could have been handled via Plaintiffs seeking leave to file an amended complaint in the 2018 action and does not allow them to avoid the consequence of Pa. R.C.P. 1028(a)(6).

43. The relief sought, monetary damages in excess of \$50,000 including the recovery of medical expenses incurred by Plaintiffs on behalf of L.R., is virtually identical in both suits.

44. As an important additional consideration, it must be noted that Plaintiff agreed to the 2018 action being reinstated 40 days before filing the instant complaint.

45. If Plaintiffs wanted to challenge the Defendants' Motion to Vacate the order dismissing the 2018 action, they should have done so. Instead, they agreed the 2018 action should remain viable and agreed to its reinstatement. *See* Exhibit F.

46. It is clear that Plaintiffs have attempted to gain a do-over of their earlier pleading by bringing this "new" action -- much to the detriment of Objecting Defendants who have already spent significant time, money and resources in the defense of the 2018 action.

47. Additionally, the instant action represents the utilization by Plaintiffs on an inappropriate back-door method to obtain pre-complaint discovery without leave of court as required by the Pennsylvania Rules of Civil Procedure.

48. Because the instant action involves the same parties, causes of action and requested relief, Pa. R.C.P. 1028(a)(6) requires that the instant action be dismissed.

WHEREFORE, Warwick Midget Football League, Inc. d/b/a Warwick Youth Football Association, Pat Tocci, Mike Winters, Zach Rowe, Gordon Young, and Jeff Van Brookhoven, respectfully requests this Honorable Court grant the instant Preliminary Objections and enter the proposed Order.

POST & SCHELL, P.C.

BY:



DATED: September 25, 2019

Michael A. Boomsma, Esquire
Attorneys for Defendants
Warwick Midget Football League, Inc.
d/b/a Warwick Youth Football Association
Pat Tocci, Mike Winters, Zach Rowe,
Gordon Young, Jeff Van Brookhoven

EXHIBIT A

MCCORMICK & PRIORE, P.C.
BY: PHILIP D. PRIORE, ESQUIRE
PAMELA PLAYO LIN, ESQUIRE
ATTORNEY ID #38987/313026
FOUR PENN CENTER, SUITE 800
1600 JOHN F. KENNEDY BOULEVARD
PHILADELPHIA, PA 19103
(T) 215-972-0161
(F) 215-972-5580
EMAIL: PPRIORE@MCCORMICKPRIORE.COM
PLIN@MCCORMICKPRIORE.COM

ATTORNEYS FOR PLAINTIFF

CI-19-08790

L.R. RETTEW, A MINOR, BY HIS
PARENT AND NATURAL
GUARDIAN, JANIKA E. RETTEW, AND
JANIKA E. RETTEW, IN HER OWN RIGHT,
111 East Woods Drive
Lititz, PA 17543
Plaintiffs,

vs.

WARWICK MIDGET FOOTBALL LEAGUE,
INC. D/B/A WARWICK YOUTH FOOTBALL
ASSOCIATION
1520 Brunnerville Road
Lititz, PA 17543

And

PAT TOCCI
364 Cardinal Road
Lititz, PA 17543

And

MIKE WINTERS
4 Whitetail Path
Lititz, PA 17543

and

ZACH ROWE
492 Crosswinds Drive
Lititz, PA 17543

and

GORDON YOUNG
13 Santa Fe Drive
Lititz, PA 17543

and

COURT OF COMMON PLEAS

LANCASTER COUNTY

**COMPLAINT
JURY TRIAL DEMANDED**

NO. CI-18-

9-17-2019

\$211.75 And

ACH64207707

receipt

111764

JEFF VAN BROOKHOVEN
823 Pine Hill Road
Lititz, PA 17543

And
RED ROSE MIDGET FOOTBALL LEAGUE
D/B/A RED ROSE FOOTBALL LEAGUE
27 Rodney Road
Landisville, PA 17538

and
LAWRENCE FISHER
480 Stony Battery Road
Landisville, PA 17538

CI-19-08790

Defendants:

NOTICE:

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 other 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 A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

LANCASTER BAR ASSOCIATION
LAWYER REFERRAL AND INFORMATION SERVICE
28 E. ORANGE STREET
LANCASTER, PA 17602
TELEPHONE: (717)-393-0737

AVISO

Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta asentar una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomará mdidas y puede continuar la demanda en contra suya sin previo aviso o notificación. Además, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.

LLEVE ESTA DEMANDA A UN ABOGADO INMEDIATA-
MENTE. SI NO TIENE ABOGADO O SINO TIENE EL DI-
NERO SUFICIENTE DE PAGAR TAL SERVICIO, VAYA EN PERSONA
O LLAME POR TELEFONO A LA OFICINA CUYA
DIRECCIÓN SE ENCUENTRA ESCRITA ABAJO PARA
AVERIGUAR DONDE SE PUDE CONSEGUIR ASISTENCIA
LEGAL.

ASOCIACIÓN DE LICENCIADOS DE LANCASTER
SERVICIO DE REFERENCIA E INFORMACIÓN LEGAL
28 E. ORANGE STREET
LANCASTER, PA 17602
TELÉFONO: (215) 238-6333

Plaintiffs, Jankika E. Rettew and L.R. Rettew, a minor, residing at 111 East Woods Drive,
Lititz, Pennsylvania, 17543, by way of Complaint and Jury Demand hereby state:

CIVIL ACTION

PRELIMINARY STATEMENT

1. On September 17, 2017, minor-plaintiff, L.R. Rettew, (hereinafter "L.R.")
suffered severe and permanent injuries while playing football for defendant, Warwidge Midget

Football League, Inc., d/b/a Warwick Youth Football Association and Red Rose Midget Football

League d/b/a Red Rose in Lancaster, Pennsylvania.

2. Specifically, L.R. suffered a head injury during the game, and while the game was ongoing, L.R. complained to the defendants named herein of headaches, disorientation, while also displaying signs and symptoms of a head injury and/or concussion, including dizziness, disorientation and confusion.

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3. Despite his complaints, the defendants named herein allowed L.R. to return to the field to play, and he suffered multiple injuries, including, but not limited to, a traumatic brain injury and concussion.

4. As a result of those injuries, L.R. has undergone, and continues to undergo, extensive medical treatment and surgeries to treat his brain injury, among other debilitating injuries.

5. L.R.'s tragic injuries were preventable.

6. The defendants named herein knew, or should have known, of the risk of head injury to L.R. when allowing him to continue playing football despite L.R.'s complaints and visible signs of a head injury, including but not limited to, dizziness, disorientation and confusion.

7. However, the defendants named herein failed to, *inter alia*, provide adequate supervision and training, permitted minor-plaintiff to play football while injured, provided an unsafe environment to minor-plaintiff, and failed to take reasonable steps to insure the safety of their players, including minor-plaintiff, resulting in serious injuries to minor-plaintiff.

PARTIES AND JURISDICTION

8. Plaintiff, Janika Rettew is an adult citizen residing at 111 East Woods-Drive, in Lititz, Pennsylvania 17543.

9. Minor-Plaintiff, L.R. McKinnon, is citizen and resides with his parent and natural guardian, Plaintiff, Janika Rettew, at 111 East Woods-Drive in Lititz, Pennsylvania 17543.

10. Defendant, Warwick Midget Football League, Inc., d/b/a Warwick Youth Football Association (hereinafter "WYFA"), is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered business address located at 1520 Brunnerville Road, Lititz, Pennsylvania 17543. **CI-19-08790**

11. At all times material hereto, WYFA was acting individually and by and through its officers, agents, ostensible agents, servants, and/or employees, who were acting in the course and scope of their employment, service, agency, and under the direct control and/or right of control, of WYFA.

12. Defendant, Red Rose Midget Football League d/b/a Red Rose Football League (hereinafter "RED ROSE"), is a corporation organized and existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a registered business address located at 27 Rodney Street, in Lancaster, Pennsylvania 17603.

13. At all times material hereto, RED ROSE was acting individually and by and through its officers, agents, ostensible agents, servants, and/or employees, who were acting in the course and scope of their employment, service, agency, and under the direct control and/or right of control, of RED ROSE.

14. As set forth in *infra*, Red Rose is an organization which manages and supervises a youth football program for minors.

15. As set forth *infra*, WYFA is a member organization of Red Rose, and WYFA manages and supervises a youth football program for minors.

16. Defendant, Pat Tocci (hereinafter "TOCCI") is an adult citizen residing at 364 Cardinal Road, in Lititz, Pennsylvania 17543.

17. At all times material hereto, TOCCI was the Director of WYFA and was acting under the course and scope of his employment, service, agency, and under the authority, direct control, and/or right of control of WYFA and/or RED ROSE.

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18. Defendant, Mike Winters (hereinafter "WINTERS") is an adult citizen residing at 4 Whitetail Path, in Lititz, Pennsylvania 17543.

19. At all times material hereto, WINTERS was the Co-Director of WYFA and was acting under the course and scope of his employment, service, agency, and under the authority, direct control, and/or right of control of WYFA and/or RED ROSE.

20. Defendant, Zach Rowe (hereinafter "ROWE") is an adult citizen residing at 492 Crosswinds Drive, in Lititz, Pennsylvania 17543.

21. At all times material hereto, ROWE and was acting under the course and scope of his employment, service, agency, and under the authority, direct control, and/or right of control of WYFA and/or RED ROSE.

22. Defendant, Gordon Young (hereinafter "YOUNG") is an adult citizen residing at 13 Santa Fe Drive, in Lititz, Pennsylvania 17543.

23. At all times material hereto, YOUNG was a coach for WYFA's "B Team" and was acting under the course and scope of his employment, service, agency, and under the authority, direct control, and/or right of control of WYFA and/or RED ROSE.

24. Defendant, Jeff Van Brookhoven (hereinafter "VAN BROOKHOVEN") is an adult citizen residing at 823 Pine Hill Road, in Lititz, Pennsylvania 17543.

25. At all times material hereto, VAN BROOKHOVEN was an assistant coach for WYFA's "B Team" and was acting under the course and scope of his employment, service, agency, and under the authority, direct control, and/or right of control of WYFA and/or RED ROSE.

26. Defendant, Lawrence Fisher (hereinafter "FISHER") is an adult citizen residing at 480 Stony Battery Road, Landisville, Pennsylvania 17538.

27. At all times material hereto, FISHER was acting under the scope and authority of WYFA and/or RED ROSE.

FACTS COMMON TO ALL COUNTS

28. RED ROSE is a youth football league organization.

29. RED ROSE promulgates by-laws to govern the conduct of its member organizations, including WYFA.

30. RED ROSE organizes, sponsors and/or supports member organizations, like WYFA, to conduct youth football games.

31. WYFA, as a member of RED ROSE, is required to conduct themselves in accordance with RED ROSE'S Bylaws in addition to WYFA's Bylaws.

32. According to RED ROSE'S Bylaws, "all coaches must complete an agreed upon online concussion clinic or attend a concussion clinic."

33. RED ROSE's Bylaws further provide that the coaches are "to provide safe playing situations for their players."

34. According to WYFA's Bylaws, its mission is to "inspire the youth of our community to practice ideals of *health, citizenship and character.*"

35. WYFA's Bylaws also provide that they will promote *"the concept of placing the team before the individual."*

36. WYFA and RED ROSE provide the equipment used by players in its games, including minor-plaintiff, and said equipment includes but is not limited to, helmets and mouthpieces.

37. On September 17, 2017, minor-plaintiff, L.R., a member of WYFA's "B Team" participated in a youth football game through WYFA and/or RED ROSE. **CI-19-08790**

38. During the course of the game, L.R. utilized a helmet and mouthpiece supplied by WYFA and/or RED ROSE.

39. While playing in the game, L.R. was violently kicked in his head and/or otherwise injured his head, and upon information and belief, experienced a loss of consciousness.

40. After injuring his head, L.R. returned to the team's sideline and complained to his coaches, Young and Brookhaven, of a headache, dizziness and feeling disoriented.

41. It is believed and therefore averred that while speaking to his coaches, YOUNG and VAN BROOKHOVEN, L.R. also displayed visible symptoms of a head injury and/or concussion, including, but not limited to, disorientation, dizziness and confusion.

42. Defendants, YOUNG and VAN BROOKHOVEN inspected minor-Plaintiff's helmet.

43. Despite his complaints and visible appearance, defendants, YOUNG and VAN BROOKHAVEN allowed L.R. to return to the field of play.

44. Despite his complaints and visible appearance, Defendants failed to conduct an impact evaluation for concussion and/or head injury.

45. At no time material thereto did defendants notify minor-plaintiff's mother, plaintiff, JANIKA RETTEW of L.R.'s injury during the football game.

46. Plaintiffs relied upon Defendants to exercise due care in the performance of coaching minor-plaintiff and protecting minor-plaintiff from suffering injuries during the course of the youth football game.

47. Defendants failure to exercise due care in the undertaking of this duty increased the risk of harm to minor-plaintiff.

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48. As a direct and proximate result of Defendants' carelessness, negligence, gross negligence, recklessness, and other liability-producing conduct, L.R. suffered serious, severe and permanent disabling injuries.

49. L.R.'s injuries include but are not limited to: traumatic brain injury, concussion, vestibular dysfunction, photophobia, cognitive deficits, reduced processing speed, attention and reasoning, dizziness, vertigo, physical pain, suffering, mental distress, and other injuries the full extent of which are not yet known, and some or all of which may be permanent in nature.

50. All of the aforementioned injuries:

- a. have prevented minor-plaintiff from engaging in and enjoying the normal activities of his life;
- b. will prevent minor-plaintiff from engaging in and enjoying the normal activities of his life in the future;
- c. will prevent minor-plaintiff from attending to duties, activities, and occupations which he would otherwise have undertaken in the future, causing a loss of earning capacity;
- d. have in the past and continuing presently require plaintiffs to spend money and incur obligations, including cost of medicines, medical care, hospitalizations, treatment, operations, testing, rehabilitation, therapy, in an effort to treat, alleviate, care for, and/or cure minor plaintiff's aforementioned injuries;

- e. will require plaintiffs to spend money and incur obligations in the future in an effort to treat and care for the aforementioned injuries;
- f. will be permanent.

51. Minor-plaintiff's aforementioned injuries were caused by the negligence of Defendants, their respective agents, servants, and/or employees, and was due in no manner whatsoever to any act or failure to act on the part of the Plaintiffs herein.

CI-19-08790

FIRST CAUSE OF ACTION – NEGLIGENCE
MINOR-PLAINTIFF L.R. RETTEW v. DEFENDANTS, RED ROSE AND WYFA

52. Plaintiffs hereby incorporate by reference all of the averments and allegations contained in the foregoing paragraphs as though the same were set forth herein.

53. The negligence, gross negligence, carelessness, and reckless conduct of Defendants, their officers, agents, ostensible agents, servants, and/or employees, includes the following:

- a. Failing to competently examine minor-plaintiff, L.R.;
- b. Failing to timely examine minor-plaintiff, L.R.;
- c. Failing to provide appropriate equipment to protect minors, including minor-plaintiff while playing football;
- d. Failing to provide minor-plaintiff with proper safety equipment while playing a contact sport;
- e. Failing to ensure that the football equipment supplied by defendants to minor-plaintiff was properly maintained;
- f. Supplying defective helmets to minors, including minor-plaintiff;
- g. Failing to undergo concussion and/or head injury training as required pursuant to the Bylaws of WYFA and RED ROSE;
- h. Failing to provide a safe environment for its players, including minor-plaintiff;
- i. Failing to have licensed physicians and/or other medical professionals trained in the evaluation and management of concussions present during the youth football

games to minimize the risk of head and other physical injuries;

- j. Failing to have appropriate policies in place relating to evaluations for indications of head injury;
- k. Failing to implement proper policies regarding concussion evaluations;
- l. Failing to provide adequate supervision;
- m. Failing to provide adequate training;
- n. Allowing minor plaintiff to continue playing football while injured;
- o. Failing to ensure the safety and well-being of minors, including minor-plaintiff;
- p. Failing to perform impact/concussion testing;
- q. Failure to provide safety training;
- r. Failing to properly supervise players, including minor-plaintiff;
- s. Failing to understand the risks of danger posed by youth football games;
- t. Failing to contract and/or retain a professional, responsible and/or reliable persons to supervisor minors;
- u. Negligently hiring, retaining, and/or training individuals and/or entities whom failed to take action to prevent said incident from occurring;
- v. Failing to provide adequate safety measures for minor-plaintiff to protect himself during the football games;
- w. Failing to take reasonable safety and security measures to ensure the safety and well-being of minor plaintiff;
- x. Failing to contract and/or retain a professional, responsible and/or reliable persons to supervisor minors;
- y. Causing minor-plaintiff to sustain a traumatic brain injury;
- z. Failing to prevent injuries to Plaintiffs;
- aa. Increasing the risk of harm to Plaintiffs;
- bb. Failing to safeguard the welfare of all minors, including minor-plaintiff;

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cc. Breaching their duties under various sections of the Restatement of Law of Torts

(Second), including but not limited to §§323 and 324 ;

dd. Violating Pennsylvania's Safety in Youth Sports Act, codified as 24 P.S. §§ 5321-5323;

ee. Negligence *per se*;

ff. Failing to exercise due care and/or caution under the circumstances;

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gg. Allowing and/or requiring minor-plaintiff to continue playing football;

hh. Failing to take feasible, reasonable and cost-effective precautions that would have prevented minor-plaintiff's serious injuries;

ii. Otherwise acting negligently and carelessly in allowing minor-plaintiff to continue play football despite his head injury;

jj. Otherwise acting negligently and carelessly in allowing minor-plaintiff to return to the field to play football without having minor-plaintiff medically cleared to do so; and

kk. other acts or omissions constituting negligence as may be ascertained through discovery and may be demonstrated by the evidence at the trial of this case.

54. By reason of the carelessness, negligence, gross negligence and recklessness of Defendants, minor-plaintiff was caused to suffer excruciating and agonizing pain and suffering, and injuries including, as set forth more fully above.

55. By conducting themselves as described above, Defendants evidenced a reckless and/or conscious disregard for the rights and safety of others, including plaintiffs.

56. By conducting themselves as described above, Defendants acts and/or omissions were a substantial factor, a factual cause, and/or increased the harm of minor-plaintiff's catastrophic injuries.

57. Plaintiffs claim damages for the aforesaid injuries suffered by minor-plaintiff, specifically including but not limited to the physical pain, suffering, and mental distress

undergone by minor-plaintiff, and the loss of life's pleasures suffered by minor-plaintiff, and the loss of earning capacity suffered by minor-plaintiff, and the cost and expenses of medical, rehabilitative and other care necessitated by the physical and mental injuries sustained by minor-plaintiff, and other disability-related expenses, from the time of defendants' tortious acts and/or omissions to such time in the future as minor-plaintiff will probably live.

WHEREFORE, Plaintiffs demand judgment against all Defendants jointly, severally, and/or in the alternative for compensatory damages as may be permitted pursuant to the laws of Commonwealth of Pennsylvania, together with interest, costs, and attorney's fees.

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SECOND CAUSE OF ACTION – NEGLIGENCE
MINOR PLAINTIFF, L.R. RETTEW V. DEFENDANTS, TOCCL WINTERS, ROWE,
YOUNGE, VAN BROOKHOVEN, FISHER

58. Plaintiffs hereby incorporate by reference all of the averments and allegations contained in the foregoing paragraphs as though the same were set forth herein.

59. The negligence, gross negligence, carelessness, and reckless conduct of Defendants, their officers, agents, ostensible agents, servants, and/or employees, includes the following:

- a. Failing to competently examine minor-plaintiff, L.R.;
- b. Failing to timely examine minor-plaintiff, L.R.;
- c. Failing to provide appropriate equipment to protect minors, including minor-plaintiff while playing football;
- d. Failing to provide minor-plaintiff with proper safety equipment while playing a contact sport;
- e. Failing to ensure that the football equipment supplied by defendants to minor-plaintiff was properly maintained;
- f. Supplying defective helmets to minors, including minor-plaintiff;
- g. Failing to require their coaches to undergo concussion and/or head injury

training and/or adequate training as required pursuant to Defendants' respective Bylaws;

- h. Failing to implement and/or enforce proper policies requiring coaches to undergo training for evaluations of concussions and/or traumatic brain injuries;
- i. Failing to select competent coaches;
- j. Failing to ensure the coaches underwent concussion and/or head injury training as required pursuant to Defendants' respective Bylaws;
- k. Failing to provide a safe environment for its players, including minor-plaintiff, including failing to follow applicable rules and guidelines;
- l. Failing to have licensed physicians and/or other medical professionals trained in the evaluation and management of concussions present during the youth football games to minimize the risk of head and other physical injuries;
- m. Failing to have appropriate policies in place relating to evaluations for indications of head injury;
- n. Failing to implement proper policies regarding concussion evaluations;
- o. Failing to provide adequate supervision;
- p. Failing to provide adequate training;
- q. Allowing minor-plaintiff to continue playing football while injured;
- r. Allowing improperly trained coaches to be responsible for the safety and well-being of minors, including minor-plaintiff;
- s. Failing to ensure the safety and well-being of minors, including minor-plaintiff;
- t. Failing to perform impact/concussion testing;
- u. Failure to properly train employees;
- v. Failure to provide safety training;
- w. Failing to properly supervise coaches;

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- x. Failing to properly supervise players, including minor-plaintiff;
- y. Failing to understand the risks of danger posed by youth football games;
- z. Failing to contract and/or retain a professional, responsible and/or reliable persons to supervisor minors;
- aa. Negligently hiring, retaining, and/or training individuals and/or entities whom failed to take action to prevent said incident from occurring;
- bb. Failing to provide adequate safety measures for minor-plaintiff to protect himself during the football games;
- cc. Failing to take reasonable safety and security measures to ensure the safety and well-being of minor-plaintiff;
- dd. Failing to contract and/or retain a professional, responsible and/or reliable persons to supervisor minors;
- ee. Causing minor plaintiff to sustain a traumatic brain injury;
- ff. Failing to prevent injuries to Plaintiffs;
- gg. Increasing the risk of harm to plaintiffs;
- hh. Failing to safeguard the welfare of all minors, including minor-plaintiff.
- ii. Breaching their duties under various sections of the Restatement of Law of Torts (Second), including but not limited to §§323 and 324 ;
- jj. Violating Pennsylvania's Safety in Youth Sports Act, codified as 24 P.S. §§ 5321-5323;
- kk. Negligence per se;
- ll. Failing to exercise due care and/or caution under the circumstances;
- mm. Allowing and/or requiring minor-plaintiff to continue playing football;
- nn. Failing to take feasible, reasonable and cost-effective precautions that would have prevented minor-plaintiff's serious injuries;
- oo. Otherwise acting negligently and carelessly in allowing minor-plaintiff to return to the field to play football without having minor-plaintiff medically cleared to do so; and

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Ricci Dehl

pp. other acts or omissions constituting negligence as may be ascertained through discovery and may be demonstrated by the evidence at the trial of this case.

60. By reason of the carelessness, negligence, gross negligence and recklessness of Defendants, minor-plaintiff was caused to suffer excruciating and agonizing pain and suffering, and injuries including, as set forth more fully above.

61. By conducting themselves as described above, Defendants evidenced ~~deliberate~~ **CF-19-08790** and/or conscious disregard for the rights and safety of others, including plaintiffs.

62. By conducting themselves as described above, Defendants acts and/or omissions were a substantial factor, a factual cause, and/or increased the harm of minor-plaintiff's catastrophic injuries.

63. Plaintiffs claim damages for the aforesaid injuries suffered by minor-plaintiff, specifically including but not limited to the physical pain, suffering, and mental distress undergone by minor-plaintiff, and the loss of life's pleasures suffered by minor-plaintiff, and the loss of earning capacity suffered by minor-plaintiff, and the cost and expenses of medical, rehabilitative and other care necessitated by the physical and mental injuries sustained by minor-plaintiff, and other disability-related expenses, from the time of defendants' tortious acts and/or omissions to such time in the future as minor plaintiff will probably live.

WHEREFORE, Plaintiffs demand judgment against all Defendants jointly, severally, and/or in the alternative for compensatory damages as may be permitted pursuant to the laws of Commonwealth of Pennsylvania, together with interest, costs, and attorney's fees.

THIRD CAUSE OF ACTION – NEGLIGENCE
PLAINTIFF, JANIKA RETTEW v. ALL DEFENDANTS

64. Plaintiffs hereby incorporate by reference all of the averments and allegations contained in the foregoing paragraphs as though the same were set forth herein.

65. As a result of the aforesaid negligent acts and/or omissions of defendants WYFA, RED ROSE, TOCCI, WINTERS, ROWE, YOUNGE, BROOKHOVEN and FISHER, plaintiff, JANIKA RETTEW, has been obliged to spend money and incur obligations in an effort to treat and care for her injured son, minor-plaintiff, L.R.

66. As a result of the aforesaid negligent acts and/or omissions of defendants WYFA, RED ROSE, TOCCI, WINTERS, ROWE, YOUNGE, VAN BROOKHOVEN and FISHER, plaintiff, JANIKA RETTEW will be obliged to spend money and incur obligations in the future for medical expenses and treatment for her son, minor plaintiff, L.R., during the course of his minority.

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67. As a result of the aforesaid negligent acts and/or omissions of defendants WYFA, RED ROSE, TOCCI, WINTERS, ROWE, YOUNGE, VAN BROOKHOVEN and FISHER, plaintiff, JANIKA RETTEW will be deprived of her son's earnings and the value of his services.

WHEREFORE, Plaintiffs demand judgment against all Defendants jointly, severally, and/or in the alternative for compensatory damages as may be permitted pursuant to the laws of Commonwealth of Pennsylvania, together with interest, costs, and attorney's fees.

Respectfully submitted,

MCCORMICK & PRIORE, P.C.

/s/ PHILIP D. PRIORE

PHILIP D. PRIORE, ESQUIRE

PAMELA PLAYO LIN, ESQUIRE

ATTORNEYS FOR PLAINTIFFS

DATED: SEPTEMBER 16, 2019

VERIFICATION

I, Plaintiff, Janika Rettew, individually, and as the guardian of L.R., a minor, verifies that the statements made in the foregoing *First Amended Complaint* are true and correct to the best of my knowledge, information, and belief. The undersigned understands that the statements therein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Dated: 9/11/19


JANIKA RETTEW

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts that require filing confidential information and documents differently than non-confidential information and documents.

CI-19-08790

MCCORMICK & PRIORE, P.C.

/S/ PHILIP D. PRIORE

PHILIP D. PRIORE, ESQUIRE

PAMELA PLAYO LIN, ESQUIRE

ATTORNEYS FOR PLAINTIFFS

DATED: SEPTEMBER 16, 2019

EXHIBIT B

RUSSELL, KRAFFT & GRUBER, LLP
Aaron K. Zeamer, Esquire
Attorney I.D. 205784
Brandon S. Harter, Esquire
Attorney I.D. 307676
930 Red Rose Court, Suite 300
Lancaster, PA 17601
Telephone: (717) 293-9293
Facsimile: (717) 293-5130

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION – EQUITY AND LAW

CI-18-02104

LANCE MCKINNON; JANIKA E. RETTEW;
L.R., A MINOR, BY LANCE MCKINNON
AND JANIKA RETTEW, GUARDIANS
Plaintiffs

v.

No. CI-18-

WARWICK MIDGET FOOTBALL LEAGUE,
INC. D/B/A WARWICK YOUTH FOOTBALL
ASSOCIATION, PAT TOCCI, MIKE
WINTERS, ZACH ROWE, GORDON
YOUNG, JEFF VAN BROOKHAVEN, RED
ROSE MIDGET FOOTBALL LEAGUE
D/B/A RED ROSE FOOTBALL LEAGUE
AND LAWRENCE FISHER
Defendants

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 Notice is 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 or for any other claim or relief requested. 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 A LAWYER OR CANNOT AFFORD ONE, GO TO OR TELEPHONE THE OFFICE SET FORTH BELOW TO FIND OUT WHERE YOU CAN GET LEGAL HELP.

Lancaster Bar Association
Lawyer Referral Service
717-393-0737

RUSSELL, KRAFFT & GRUBER, LLP
Aaron K. Zeamer, Esquire
Attorney I.D. 205784
Brandon S. Harter, Esquire
Attorney I.D. 307676
930 Red Rose Court, Suite 300
Lancaster, PA 17601
Telephone: (717) 293-9293
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INC. D/B/A WARWICK YOUTH FOOTBALL
ASSOCIATION, PAT TOCCI, MIKE
WINTERS, ZACH ROWE, GORDON
YOUNG, JEFF VAN BROOKHAVEN, RED
ROSE MIDGET FOOTBALL LEAGUE
D/B/A RED ROSE FOOTBALL LEAGUE
AND LAWRENCE FISHER
Defendants

COMPLAINT

1. This action arises from the traumatic brain injury sustained during the course of a Warwick Youth Football Game and the systematic failures the led to such injury.

2. Plaintiffs bring this action to recover for the monetary costs incurred and to obtain injunctive relief to enforce Defendants' own rules and regulations to prevent future injuries to other children.

PARTIES

3. Plaintiffs Lance McKinnon and Janika E. Rettew are adults residing at 111 East Woods Drive, Lititz, PA 17543.

4. Lance McKinnon and Janika Rettew are the parents and guardians of Lance McKinnon.

5. Defendant Warwick Midget Football League, Inc., d/b/a Warwick Youth Football Association ("WYFA") is a Pennsylvania corporation with a registered address at 1520 Brunnerville Road, Lititz, PA 17543.

6. Defendant Pat Tocci is an adult residing at 364 Cardinal Road, Lititz, PA 17543.

7. Defendant Mike Winters is an adult residing at 4 Whitetail Path, Lititz, PA 17543.

8. Defendant Zach Rowe is an adult residing at 492 Crosswinds Drive, Lititz, PA 17543.

9. Defendant Gordon Young is an adult residing at 13 Santa Fe Drive, Lititz, PA 17543.

10. Defendant Jeff Van Brookhoven is an adult residing at 823 Pine Hill Road, Lititz, PA 17543.

11. Defendant Red Rose Midget Football League d/b/a Red Rose Football League (the "Red Rose League") is a Pennsylvania corporation with a registered address at 27 Rodney Street, Lancaster, Pennsylvania 17603.

12. Defendant Lawrence Fisher is an adult individual residing at 480 Stony Battery Road, Landisville, Pennsylvania 17538.

THE RED ROSE LEAGUE AND WYFA

13. The Red Rose League is an organization set up to manage and supervise a football program for minors.

14. At all relevant times, Defendant Fisher was the Director of the Red Rose League.

15. WYFA is a member organization of the Red Rose League.

16. At all relevant times, Defendant Tocci was the Director of WYFA.

17. At all relevant times, Defendant Winters was the Co-Director of WYFA.
18. At all relevant times, Defendant Young was WYFA's 'B' Team Coach.
19. At all relevant times, Defendant Van Brookhaven was an assistant coach for WYFA's 'B' Team.

20. The Red Rose League promulgates by-laws to govern the conduct of its member organizations, including WYFA.

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21. Among the Red Rose League's by-laws is a requirement that all coaches must complete concussion training.

22. WYFA provides the equipment used by the minors in its games, including helmets and mouthpieces.

23. The Red Rose League and WYFA are responsible for ensuring the reasonable safety of the equipment supplied to the minors.

24. The Red Rose League and WYFA are responsible for training and monitoring the coaches in its games.

25. The Red Rose League and WYFA is responsible for the reasonable safety and well-being of the minors playing in its football games.

L.R.'S INJURY

26. On Sunday, September 17, 2017, L.R. participated in a Red Rose League game as a member of WYFA's 'B' Team (the "Game").

27. During the Game, L.R. utilized a helmet and mouthpiece supplied by WYFA.

28. During the Game, L.R. was coached by Defendants Young and Van Brookhaven.

29. L.R. sustained a significant head injury during the Game.

30. After sustaining a head injury, L.R. returned to his teams sideline complaining of a headache and disorientation.

31. Upon information and belief, L.R. also displayed non-verbal signs of a head injury, including dizziness and confusion.

32. L.R.'s coaches, including Defendants Young and Van Brookhaven, failed to administer any concussion testing or otherwise identify L.R.'s injury.

33. L.R.'s coaches, including Defendants Young and Van Brookhaven, failed to take any precautions such as holding L.R. out of the Game until his condition improved.

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34. Instead, L.R.'s coaches returned him to the field of play.

35. The return of an adolescent athlete into a football game after sustaining a head injury significantly increases the risk of injury.

36. Upon information and belief, L.R.'s injury was exacerbated by continuing to play in the Game.

37. Plaintiffs were not informed of L.R.'s injury during the Game by anyone associated with WYFA.

38. Plaintiffs were also not informed of L.R.'s injury after the Game by anyone associated with WYFA.

39. L.R. was subsequently diagnosed with a concussion arising from his injury during the Game.

40. As a direct and proximate result of that injury, L.R. has suffered, and continues to suffer, severe impacts including headaches, difficulty focusing, difficulty completing school work, and difficulty completing other tasks.

41. As a direct and proximate result of his injury, L.R. has also lost the ability to participate in sporting events and other traditional childhood activities.

42. As a direct and proximate result of L.R.'s injury, Plaintiffs have incurred significant medical expenses, educational expenses, and other costs.

COUNT I - NEGLIGENCE IN MAINTAINING EQUIPMENT
PLAINTIFFS v. DEFENDANTS RED ROSE FOOTBALL LEAGUE, FISHER, WYFA,
TOCCI, WINTERS, AND ROWE

43. Plaintiffs incorporate by reference the foregoing paragraphs.

44. The Red Rose League was responsible for ensuring that its member organizations provided and maintained proper equipment to protect the minors in the Red Rose League's football games.

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45. As Director of the Red Rose League, Defendant Fisher was responsible for ensuring the aforementioned duties were completed.

46. WYFA was responsible for ensuring the equipment it supplied to minors in its association was properly maintained.

47. Defendant Rowe, as the Equipment Manager, was directly responsible for the aforementioned duties.

48. Defendants Tocci and Winters, as Director and Co-Director, were responsible for the supervision of Defendant Rowe's duties as Equipment Manager.

49. Upon information and belief, equipment supplied to L.R. by WYFA was defective, including, without limitation, by:

- A. Being distributed without timely recertification and refurbishment;
- B. Being distributed without adequate padding; and
- C. Being distributed without being properly fitted for L.R.

50. Defendant Rowe failed to perform his duties as Equipment Manager by failing to ensure L.R. received proper equipment.

51. Defendants the Red Rose League, Fisher, Tocci, and Winters failed to enforce their rules regarding safe equipment to ensure the safety of L.R.'s equipment.

52. As a direct and proximate result of the Association's failure to use reasonable care in providing the equipment, L.R. was injured and/or sustained a more severe injury than he would have otherwise sustained.

WHEREFORE, Plaintiffs respectfully request the entry of a judgment against Defendants Red Rose League, Fisher, WYFA, Tocci, Winters, and Rowe, jointly and severally, in an amount in excess of \$50,000, plus such other relief as the Court deems appropriate.

COUNT II - NEGLIGENCE IN TRAINING
PLAINTIFFS V. RED ROSE LEAGUE, FISHER, WYFA, TOCCI, AND WINTERS

53. Plaintiffs incorporate by reference the foregoing paragraphs.

54. Under the by-laws of the Red Rose League, all coaches must complete concussion training.

55. The coaches of WYFA's 'B' Team did not all complete concussion training as required.

56. Defendants Fisher, Tocci, and Winters knew or should have known that WYFA's coaches did not complete the required concussion training.

57. The Red Rose League and WYFA, acting through their Directors and officers, knew or should have known WYFA's coaches did not complete the required concussion training.

58. As a direct and proximate result of Defendants' failures to ensure their own concussion training requirements were followed, L.R. sustained a significant head injury that was not diagnosed.

59. As a direct and proximate result of the Association's failure to use reasonable care in providing the equipment, L.R. was injured and/or sustained a more severe injury than he would have otherwise sustained.

WHEREFORE, Plaintiffs respectfully request the entry of a judgment against Defendants Red Rose League, Fisher, WYFA, Tocci, and Winters, jointly and severally, in an amount in excess of \$50,000, plus such other relief as the Court deems appropriate.

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COUNT III - NEGLIGENT COACHING
PLAINTIFFS V. DEFENDANTS WYFA, YOUNG, AND VAN BROOKHAVEN

60. Plaintiffs incorporate by reference the foregoing paragraphs.

61. L.R. sustained a concussion during the Game.

62. Defendants Young and Van Brookhaven knew or should have known that L.R. sustained a concussion.

63. Defendants Young and Van Brookhaven failed to take any reasonable actions to protect L.R. including, without limitation, sending him for medical treatment, withholding him from the Game, or notifying L.R.'s parents.

64. As a direct and proximate result of the breaches by Defendants Young and Van Brookhoven, Plaintiffs and their minor son have suffered and continue to suffer damages.

65. At all relevant times Defendants Young and Van Brookhoven were acting on behalf of WYFA.

WHEREFORE, Plaintiffs respectfully request the entry of a judgment against Defendants WYFA, Young, and Van Brookhaven, jointly and severally, in an amount in excess of \$50,000, plus such other relief as the Court deems appropriate.

COUNT IV - CIVIL CONSPIRACY
PLAINTIFFS V. ALL DEFENDANTS

66. Plaintiffs incorporate by reference the foregoing paragraphs.

67. Subsequent to L.R.'s injury, Plaintiffs requested information from Defendants Young and Van Brookhaven about the injury.

68. Plaintiffs were referred to Defendants Tocci, Winters, and Fisher in subsequent conversations for such information.

69. Defendants Young, Van Brookhaven, Rowe, Tocci, Winters, and Fisher each refused to provide full and accurate information regarding L.R.'s injury.

70. Defendants' refusal to provide information caused Plaintiffs to incur additional medical expenses to diagnose and treat L.R.'s condition.

71. Upon information and belief, Defendants agreed to conceal information about L.R.'s condition for the purpose of precluding Plaintiffs from uncovering their negligence.

72. Upon information and belief, Defendants further agreed to intimidate Plaintiffs into not publicly discussing or disclosing Defendants' negligence.

73. In furtherance of this conspiracy, Defendants:

A. Concealed information from Plaintiffs;

B. Retained legal counsel to threaten Plaintiffs with a frivolous lawsuit for asking questions about L.R.'s injury; and

C. Demanded the return of L.R.'s equipment to prevent Plaintiffs from having the equipment properly examined for defects.

WHEREFORE, Plaintiffs respectfully request the entry of a judgment against all Defendants in an amount in excess of \$50,000, plus such other relief as the Court deems appropriate.

COUNT V - REQUEST FOR INJUNCTIVE RELIEF
PLAINTIFFS V. DEFENDANTS RED ROSE LEAGUE AND WYFA

74. Plaintiffs incorporate by reference the foregoing paragraphs.

75. The by-laws of the Red Rose League require that all coaches complete concussion training.

76. Despite such requirements, numerous coaches through the Red Rose League do not complete concussion training.

77. The Red Rose League, and its member organization WYFA, should be compelled by the Court to comply with its by-laws and to provide reasonable training to avoid future injuries like the one sustained by L.R.

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WHEREFORE, Plaintiffs respectfully request the entry of an injunctive order for a period of not less than five (5) years compelling strict compliance with the Red Rose League's concussion training requirements and to demonstrate such compliance to the Court on an annual basis, plus such other relief as the Court deems appropriate.

RUSSELL, KRAFFT & GRUBER, LLP

By: Brandon S. Harter

Aaron K. Zeamer, Esquire

Attorney I.D. 205784

Brandon S. Harter, Esquire

Attorney I.D. 307676

930 Red Rose Court, Suite 300

Lancaster, PA 17601

Telephone: (717) 293-9293

Facsimile: (717) 293-5130

Attorneys for Plaintiffs


VERIFICATION

I verify that the facts in the foregoing document are true and correct to the best of my knowledge, information and belief. I understand that false statements herein are made subject to the penalties of 18 Pa. C.S. § 4904 relating to unsworn falsification to authorities.

Date: 3/22/2018

By:  **CI-18-02104**
Lance McKinnon

Date: 3/22/2018

By: 
Janika Rettew

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

RUSSELL, KRAFFT & GRUBER, LLP **CI-18-02104**

By: Brandon Harter

Aaron K. Zeamer, Esquire

Attorney I.D. 205784

Brandon S. Harter, Esquire

Attorney I.D. 307676

930 Red Rose Court, Suite 300

Lancaster, PA 17601

Telephone: (717) 293-9293

Facsimile: (717) 293-5130

Attorneys for Plaintiffs

EXHIBIT C

RUSSELL, KRAFFT & GRUBER, LLP
Brandon S. Harter, Esquire
Attorney I.D. 307676
Aaron K. Zeamer, Esquire
Attorney I.D. 205784
930 Red Rose Court, Suite 300
Lancaster, PA 17601
Telephone: (717) 293-9293
Facsimile: (717) 293-5130

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

LANCE MCKINNON, JANIKA RETTEW,
L.R., A MINOR, BY LANCE MCKINNON
AND JANIKA RETTEW, GUARDIANS,
Plaintiffs

v.

No. CI-18-02104

WARWICK MIDGET FOOTBALL LEAGUE,
INC. D/B/A WARWICK YOUTH FOOTBALL
ASSOCIATION, GORDON YOUNG, JEFF
VAN BROOKHAVEN, ZACH ROWE, MIKE
WINTERS, PAT TOCCI, RED ROSE
MIDGET FOOTBALL LEAGUE D/B/A RED
ROSE FOOTBALL LEAGUE, AND
LAWRENCE FISHER,
Defendants

**PETITION FOR PARTIAL DISCONTINUANCE PURSUANT TO Pa.R.C.P. 229(B) AND
Pa.R.C.P. 2039(A)**

1. On March 26, 2018, a Complaint was initiated against various defendants including, without limitation, against Red Rose Midget Football League d/b/a Red Rose Football League and Lawrence Fisher.

2. Plaintiffs, individually and on behalf of minor, L.R., respectfully request the Court dismiss the claims against Defendants Red Rose Midget Football League d/b/a Red Rose Football League and Lawrence Fisher without prejudice.

3. Undersigned counsel has obtained the consent of Michael Boomsma, Enquire, counsel for the remaining Defendants for this discontinuance.

4. Defendants request leave for a partial discontinuance to these Defendants pursuant to Pa.R.C.P. 229(b) and for the Court's approval pursuant to Pa.R.C.P. 2039(a).

WHEREFORE, Plaintiffs respectfully request entry of the Proposed Order dismissing Defendants Red Rose Midget Football League d/b/a Red Rose Football League and Lawrence Fisher without prejudice.

Date: 5 / 31 / 18

RUSSELL, KRAFFT & GRUBER LLP

By: Brandon S. Harter

Brandon S. Harter, Esquire

Attorney I.D. 307676

Aaron K. Zeamer, Esquire

Attorney I.D. 205784

930 Red Rose Court, Suite 300

Lancaster, PA 17601

Telephone: (717) 293-9293

Facsimile: (717) 293-5130

Attorneys for Plaintiffs

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

LANCE MCKINNON, JANIKA RETTEW,
L.R., A MINOR, BY LANCE MCKINNON
AND JANIKA RETTEW, GUARDIANS,
Plaintiffs

v.

No. CI-18-02104

WARWICK MIDGET FOOTBALL LEAGUE,
INC. D/B/A WARWICK YOUTH FOOTBALL
ASSOCIATION, GORDON YOUNG, JEFF
VAN BROOKHAVEN, ZACH ROWE, MIKE
WINTERS, PAT TOCCI, RED ROSE
MIDGET FOOTBALL LEAGUE D/B/A RED
ROSE FOOTBALL LEAGUE, AND
LAWRENCE FISHER,
Defendants

ORDER

AND NOW, this ____ day of _____, 2018, it is hereby ORDERED that the
Petition for Partial Discontinuance Pursuant to Pa. R.C.P. 229(b) and Pa. R.C.P. 2039(a) is
granted and claims against Defendants Red Rose Midget Football League, d/b/a Red Rose
Football League and Lawrence Fisher are dismissed without prejudice.

BY THE COURT:

J.

cc: Brandon S. Harter, Esquire
Michael A. Boomsma, Esquire
Lawrence Fisher
Red Rose Midget Football League

IN THE COURT OF COMMON PLEAS OF LANCASTER COUNTY, PENNSYLVANIA
CIVIL ACTION – LAW

LANCE MCKINNON, JANIKA RETTEW,
L.R., A MINOR, BY LANCE MCKINNON
AND JANIKA RETTEW, GUARDIANS,
Plaintiffs

v.

No. CI-18-02104

WARWICK MIDGET FOOTBALL LEAGUE,
INC. D/B/A WARWICK YOUTH FOOTBALL
ASSOCIATION, GORDON YOUNG, JEFF
VAN BROOKHAVEN, ZACH ROWE, MIKE
WINTERS, PAT TOCCI, RED ROSE
MIDGET FOOTBALL LEAGUE D/B/A RED
ROSE FOOTBALL LEAGUE, AND
LAWRENCE FISHER,
Defendants

RULE

AND NOW, this _____ day of _____, 2018, upon consideration of the within
Petition, a Rule is hereby entered upon the Respondents, to show cause, if any there may be,
within 20 days why the relief requested herein should not be granted.

BY THE COURT:

J.

cc: Brandon S. Harter, Esquire
Michael A. Boomsma, Esquire
Lawrence Fisher
Red Rose Midget Football League

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

RUSSELL, KRAFFT & GRUBER, LLP

By: Brandon Hart

Brandon S. Harter, Esquire

Attorney I.D. 307676

Aaron K. Zeamer, Esquire

Attorney I.D. 205784

930 Red Rose Court, Suite 300

Lancaster, PA 17601

Telephone: (717) 293-9293

Facsimile: (717) 293-5130

Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

I certify that I am this day serving upon the person(s) and in the manner(s) stated below
the foregoing document:

Service via First Class Mail:

Michael A. Boomsma, Esquire
Post & Schell, P.C.
1869 Charter Lane
P.O. Box 10248
Lancaster, PA 17601-5956

Attorneys for Defendants

Mr. Lawrence Fisher
480 Stony Battery Road
Landisville, PA 17538

Red Rose Midget Football League
c/o Mr. Lawrence Fisher
480 Stony Battery Road
Landisville, PA 17538

Date: 5 / 31 / 18

RUSSELL, KRAFFT & GRUBER, LLP

By: Brandon Harter

Brandon S. Harter, Esquire
Attorney I.D. 307676
Aaron K. Zeamer, Esquire
Attorney I.D. 205784
930 Red Rose Court, Suite 300
Lancaster, PA 17601
Telephone: (717) 293-9293
Facsimile: (717) 293-5130

Attorneys for Plaintiffs

EXHIBIT D

POST & SCHELL, P.C.
BY: MICHAEL A. BOOMSMA, ESQUIRE
E-MAIL: mboomsma@postschell.com
I.D. # 56062
1869 CHARTER LANE
P.O. BOX 10248
LANCASTER, PA 17605-0248
717-291-4532

ATTORNEYS FOR DEFENDANTS
WARWICK MIDGET FOOTBALL
LEAGUE, INC. D/B/A WARWICK
YOUTH FOOTBALL ASSOCIATION,
PAT TOCCI, MIKE WINTERS, ZACH
ROWE, GORDON YOUNG, JEFF VAN
BROOKHAVEN

LANCE MCKINNON, JANIKA E. RETTEW,
L.R., A MINOR, BY LANCE MCKINNON
AND JANIKA RETTEW, GUARDIANS,

Plaintiffs,

vs.

WARWICK MIDGET FOOTBALL
LEAGUE, INC. D/B/A WARWICK YOUTH
FOOTBALL ASSOCIATION, PAT TOCCI,
MIKE WINTERS, ZACH ROWE, GORDON
YOUNG, JEFF VAN BROOKHAVEN, RED
ROSE MIDGET FOOTBALL LEAGUE
D/B/A RED ROSE FOOTBALL LEAGUE
AND LAWRENCE FISHER,

Defendants.

COURT OF COMMON PLEAS
LANCASTER COUNTY

No. CI-18-02104

JURY TRIAL DEMANDED

STIPULATION TO AMEND PLAINTIFFS' COMPLAINT AND CAPTION

AND NOW, this 5th day of July, 2018, in light of the
Order of this Honorable Court dated June 12, 2018 granting Plaintiff's Petition for Partial
Discontinuance come the parties who stipulate and agree as follows:

1. Count V (Request for Injunctive Relief) is removed, deleted and otherwise stricken from the Complaint.
2. Defendant, Jeff Van Brookhaven's name is correctly spelled "Brookhoven" and the caption will be amended to reflect that change.

3. In light of the Cross Claims raised in Defendants New Matter as well as the dismissal of the Red Rose Midget Football League d/b/a Red Rose Football League and Lawrence Fisher from the action, the caption is changed to the following:

LANCE MCKINNON, JANIKA E. RETTEW,
L.R., A MINOR, BY LANCE MCKINNON
AND JANIKA RETTEW, GUARDIANS,

Plaintiffs,

vs.

WARWICK MIDGET FOOTBALL
LEAGUE, INC. D/B/A WARWICK YOUTH
FOOTBALL ASSOCIATION, PAT TOCCI,
MIKE WINTERS, ZACH ROWE, GORDON
YOUNG, AND JEFF VAN BROOKHOVEN,

Defendants,

vs.

LANCE MCKINNON AND JANIKA E.
RETTEW,

Cross Claim Defendants.

COURT OF COMMON PLEAS
LANCASTER COUNTY

No. CI-18-02104

JURY TRIAL DEMANDED

RUSSELL, KRAFFT & GRUBER, LLP

DATED: 7/5/18

BY: Brandon Harter
Aaron K. Zeamer, Esquire
Brandon S. Harter, Esquire
Attorneys for Plaintiffs

POST & SCHELL, P.C.

DATED: 7/16/18

BY: Michael A. Boomsma
Michael A. Boomsma, Esquire
Attorneys for Defendants
Warwick Midget Football League, Inc.
d/b/a Warwick Youth Football Association
Pat Tocci, Mike Winters, Zach Rowe,
Gordon Young, Jeff Van Brookhaven

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Attorneys for Defendants
Warwick Midget Football League,
Inc. d/b/a Warwick Youth Football
Association, Pat Tocci, Mike
Winters, Zach Rowe, Gordon
Young, and Jeff Van Brookhaven

Signature:



Name: Michael A. Boomsma, Esquire

Attorney No.: 56062

CERTIFICATE OF SERVICE

I, Michael A. Boomsma, attorney for Defendants, Warwick Midget Football League, Inc. d/b/a Warwick Youth Football Association, Pat Tocci, Mike Winters, Zach Rowe, Gordon Young, and Jeff Van Brookhaven, do hereby certify that on the date set forth below, I did serve a true and correct copy of the foregoing document upon the following person(s) by electronically filing and serving same via the File & ServeXpress Electronic Filing system (same is available for viewing and downloading from the File & ServeXpress Electronic Filing system):

Brandon S. Harter, Esquire
RUSSELL, KRAFFT & GRUBER, LLP
930 Red Rose Court, Suite 300
Lancaster, PA 17601

POST & SCHELL, P.C.

By:



Dated: July 17, 2018

Michael A. Boomsma, Esquire
Attorneys for Defendants
Warwick Midget Football League, Inc.
d/b/a Warwick Youth Football
Association, Pat Tocci, Mike Winters,
Zach Rowe, Gordon Young, and Jeff
Van Brookhaven

EXHIBIT E

PROTHONOTARY OF LANCASTER COUNTY

Katherine Wood-Jacobs
Prothonotary



George Alspach
Solicitor

LANCE MCKINNON (et al.)
vs.
WARWICK MIDGET FOOTBALL LEAGUE INC (et al.)

Case Number
CI-18-02104

PROTHONOTARY DOCKET ENTRIES

03/26/2018 CONFIDENTIAL DOCUMENT FORM FILED BY BRANDON S. HARTER, ESQ.

03/26/2018 COMPLAINT WITH CERTIFICATE OF COMPLIANCE FILED BY BRANDON S. HARTER, ESQ.

03/26/2018 CAPTION ENTRY IS: LANCE MCKINNON; JANIKA E. RETTEW; L.R., A MINOR, BY LANCE MCKINNON AND JANIKA RETTEW, GUARDIANS V. WARWICK MIDGET FOOTBALL LEAGUE, INC. D/B/A WARWICK YOUTH FOOTBALL ASSOCIATION, PAT TOCCI, MIKE WINTERS, ZACH ROWE, GORDON YOUNG, JEFF VAN BROOKHAVEN, RED ROSE MIDGET FOOTBALL LEAGUE D/B/A RED ROSE FOOTBALL LEAGUE AND LAWRENCE FISHER

03/28/2018 CASE ASSIGNED TO JUDGE WRIGHT

04/06/2018 ENTRY OF APPEARANCE OF MICHAEL BOOMSMA ESQ WARWICK MIDGET FOOTBALL LEAGUE, INC. D/B/A WARWICK YOUTH FOOTBALL ASSOCIATION, PAT TOCCI, MIKE WINTERS, ZACH ROWE, GORDON YOUNG, AND JEFF VAN BROOKHAVEN

04/25/2018 ACCEPTANCE OF SERVICE ON BEHALF OF DEFENDANTS WARWICK MIDGET FOOTBALL LEAGUE, INC. DBA WARWICK YOUTH FOOTBALL ASSOCIATION, ZACH ROWE AND PAT TOCCI. SIGNED BY M. BOOMSMA WITH CERTIFICATE OF COMPLIANCE AND CONFIDENTIAL INFORMATION SHEET

04/26/2018 04/02/2018 3:36PM SERVED THE COMPLAINT IN CIVIL ACTION (CICA) BY PERSONAL SERVICE UPON JEFF VAN BROOKHOVEN AT 823 PINE HILL RD, LITITZ, PA 17543. SO ANSWERS: DEPUTY ANDREW BROWN, DEPUTY SHERIFF OF LANCASTER COUNTY, PA. 04/02/2018 2:53PM I, DEPUTY ANDREW BROWN, BEING DULY SWORN ACCORDING TO LAW, STATES I MADE DILIGENT SEARCH AND INQUIRY FOR THE WITHIN NAMED DEFENDANT TO WIT: PAT (PATRICK) TOCCI, BUT WAS UNABLE TO LOCATE THE DEFENDANT. THE SHERIFF THEREFORE RETURNS THE WITHIN REQUESTED COMPLAINT IN CIVIL ACTION (CICA) AS "NOT FOUND" AT 364 CARDINAL RD, LITITZ, PA 17543. SPOKE WITH RIKKI ARTUS, THE CURRENT OWNER OF THIS ADDRESS. PATRICK TOCCI HAS NOT LIVED OR OWNED THIS HOUSE FOR OVER ONE YEAR, ACCORDING TO MS. ARTUS. 04/02/2018 3:45PM SERVED THE COMPLAINT IN CIVIL ACTION (CICA) BY HANDING A COPY TO LISA WINTERS (SPOUSE), WHO ACCEPTED AS "ADULT PERSON IN CHARGE" FOR MIKE WINTERS AT 4 WHITETAIL PATH, LITITZ, PA 17543. SO ANSWERS: DEPUTY ANDREW BROWN, DEPUTY SHERIFF OF LANCASTER COUNTY, PA. 04/05/2018 3:35PM I, DEPUTY PAUL LASPINO, BEING DULY SWORN ACCORDING TO LAW, STATES I MADE DILIGENT SEARCH AND INQUIRY FOR THE WITHIN NAMED DEFENDANT TO WIT: ZACH ROWE, BUT WAS UNABLE TO LOCATE THE DEFENDANT. THE SHERIFF THEREFORE RETURNS THE WITHIN REQUESTED COMPLAINT IN CIVIL ACTION (CICA) AS "NOT FOUND" AT 492 CROSSWINDS DR., LITITZ, PA 17543. TALKED TO CURRENT OCCUPANT (RACHEAL HURR) WHO RELATED THAT THE DEFENDANT DOESNT LIVE THERE. SHE STATED THAT SHE MOVED IN TO THIS ADDRESS IN JUNE OF 2017. 04/05/2018 5:27PM SERVED THE COMPLAINT IN CIVIL ACTION (CICA) BY PERSONAL SERVICE UPON GORDON YOUNG AT 13 SANTA FE DRIVE, LITITZ, PA 17543. SO ANSWERS: DEPUTY PAUL LASPINO, DEPUTY SHERIFF OF LANCASTER COUNTY, PA. 04/17/2018 7:31PM I, DEPUTY RANDY RODRIGUEZ, BEING DULY SWORN ACCORDING TO LAW, STATES I MADE DILIGENT SEARCH AND INQUIRY FOR THE WITHIN NAMED DEFENDANT TO WIT: RED ROSE MIDGET FOOTBALL LEAGUE D/B/A RED ROSE FOOTBALL LEAGUE, BUT WAS UNABLE TO LOCATE THE DEFENDANT. THE SHERIFF THEREFORE RETURNS THE WITHIN REQUESTED COMPLAINT IN CIVIL ACTION (CICA) AS "NOT FOUND" AT 27 RODNEY ST., LANCASTER, PA 17603. I SPOKE WITH TENANT AND OWNER OF PROPERTY, TAMMY MILLARD. SHE STATED SHE HAS BEEN AT ADDRESS FOR OVER 20 YEARS AND HAS NEVER BEEN ASSOCIATED WITH DEFENDANT IN QUESTION. 04/17/2018 12:00AM I, DEPUTY BRAD BRENNEMAN, BEING DULY SWORN ACCORDING TO LAW, STATES I MADE DILIGENT SEARCH AND INQUIRY FOR THE WITHIN NAMED DEFENDANT TO WIT: WARWICK MIDGET FOOTBALL LEAGUE D/B/A WARWICK YOUTH FOOTBALL ASSOCIATION, BUT WAS UNABLE TO LOCATE THE DEFENDANT. THE SHERIFF THEREFORE RETURNS THE WITHIN REQUESTED COMPLAINT IN CIVIL ACTION (CICA) AS "NOT FOUND" AT 1520 BRUNNERVERVILLE RD, LITITZ, PA 17543. SPOKE WITH PAUL MAURO WHO SAID HE NO LONGER LIVES AT THIS ADDRESS. HE SAID THAT HE WAS THE PRESIDENT OF THE WARWICK MIDGET FOOTBALL LEAGUE IN 2014, BUT HE IS NO LONGER INVOLVED WITH THIS GROUP. ATTORNEY'S OFFICE CONFIRMED THAT AN ATTORNEY FOR WARWICK MIDGET FOOTBALL LEAGUE WILL ACCEPT FOR THEM. 04/24/2018 10:18AM SERVED THE COMPLAINT IN CIVIL ACTION (CICA) BY HANDING A COPY TO LAWRENCE FISHER, WHO ACCEPTED AS "ADULT PERSON IN CHARGE" FOR RED ROSE MIDGET FOOTBALL LEAGUE D/B/A RED ROSE FOOTBALL LEAGUE AT C/O LAWRENCE FISHER, 480 STONY BATTERY RD, LANDISVILLE, PA 17538. SO ANSWERS: DEPUTY LINDA PAULEY, DEPUTY SHERIFF OF LANCASTER COUNTY, PA. 04/24/2018 10:18AM SERVED THE COMPLAINT IN CIVIL ACTION (CICA) BY PERSONAL SERVICE UPON LAWRENCE FISHER AT 480 STONY BATTERY RD, LANDISVILLE, PA 17538. SO ANSWERS: DEPUTY LINDA PAULEY, DEPUTY SHERIFF OF LANCASTER COUNTY, PA. PERSONALLY SERVED LAWRENCE FISHER WITH 2 COPIES OF CIVIL WRIT SHERIFF COSTS: \$375.44 SO ANSWERS, CHRISTOPHER LEPLER

05/31/2018 PETITION FOR PARTIAL DISCONTINUANCE PURSUANT TO PA.R.C.P. 229(B) AND PA.R.C.P. 2039(A) WITH CERTIFICATE OF SERVICE, CERTIFICATE OF COMPLIANCE AND CONFIDENTIAL INFORMATION FORM FILED BY BRANDON S. HARTER, ESQ. WITH CONFIDENTIAL INFORMATION FORM. (SENT TO JUDGE WRIGHT 6-8-18)

06/13/2018 ORDER:

AND NOW, THIS 12TH DAY OF JUNE, 2018, IT IS HEREBY ORDERED THAT THE PETITION FOR PARTIAL DISCONTINUANCE PURSUANT TO PA. R.C.P. 229(B) AND PA. R.C.P. 2039(A) IS GRANTED AND CLAIMS AGAINST DEFENDANTS RED ROSE MIDGET FOOTBALL LEAGUE, D/B/A RED ROSE FOOTBALL LEAGUE AND LAWRENCE FISHER ARE DISMISSED WITHOUT PREJUDICE.

BY THE COURT:
JEFFERY D. WRIGHT

CC: BRANDON S. HARTER, ESQ.
MICHAEL A. BOOMSMA, ESQ.
LAWRENCE FISHER
RED ROSE MIDGET FOOTBALL LEAGUE

236 NOTICE SENT 6/18/18

06/13/2018 AMENDED CAPTION ENTRY IS: LANCE MCKINNON; JANIKA E. RETTEW; L.R., A MINOR, BY LANCE MCKINNON AND JANIKA RETTEW, GUARDIANS V. WARWICK MIDGET FOOTBALL LEAGUE, INC. D/B/A WARWICK YOUTH FOOTBALL ASSOCIATION, PAT TOCCI, MIKE WINTERS, ZACH ROWE, GORDON YOUNG, JEFF VAN BROOKHAVEN

06/18/2018 ANSWER AND NEW MATTER OF DEFENDANTS TO PLAINTIFFS' COMPLAINT FILED BY MICHAEL A. BOOMSMA, ESQUIRE. CERTIFICATE OF SERVICE OF THE SAME AND CERTIFICATE OF COMPLIANCE

07/09/2018 CONFIDENTIAL INFORMATION FORM

07/09/2018 PRELIMINARY OBJECTIONS TO ANSWER AND NEW MATTER OF DEFENDANTS TO PLAINTIFFS' COMPLAINT WITH NOTICE TO PLEAD SIGNED BY BRANDON S. HARTER, ESQUIRE. CERTIFICATE OF COMPLIANCE AND CERTIFICATE OF SERVICE FILED.

07/11/2018 CONFIDENTIAL INFORMATION FORM

07/11/2018 CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED BY MICHAEL A. BOOMSMA, ESQ.

07/17/2018 AMENDED CAPTION ENTRY IS: LANCE MCKINNON; JANIKA E. RETTEW; L.R., A MINOR, BY LANCE MCKINNON AND JANIKA RETTEW, GUARDIANS V. WARWICK MIDGET FOOTBALL LEAGUE, INC. D/B/A WARWICK YOUTH FOOTBALL ASSOCIATION, PAT TOCCI, MIKE WINTERS, ZACH ROWE, GORDON YOUNG, JEFF VAN BROOKHAVEN, RED ROSE MIDGET FOOTBALL LEAGUE D/B/A RED ROSE FOOTBALL LEAGUE AND LAWRENCE FISHER V. LANCE MCKINNON AND JANIKA E. RETTEW

1. COUNT V (REQUEST FOR INJECTIVE RELIEF) IS REMOVED AND DELETED AND OTHERWISE STRICKEN FROM THE COMPLAINT.
2. DEFENDANT, JEFF VAN BROOKHAVEN'S NAME IS CORRECTLY SPELLED "BROOKHOVEN" AND THE CAPTION WILL BE AMENDED TO REFLECT THAT CHANGE.
3. IN LIGHT OF THE CROSS CLAIMS RAISED IN DEFENDANTS NEW MATTER AS WELL AS THE DISMISSAL OF THE RED ROSE MIDGET FOOTBALL LEAGUE D/B/A RED ROSE FOOTBALL LEAGUE AND LAWRENCE FISHER FROM THE ACTION, THE CAPTION IS CHANGED.

FILED BY BRADON S. HARTER, ESQ. AND MICHAEL A. BOOMSMA, ESQ.

07/17/2018 STIPULATION TO AMEND FILED BY BRADON S. HARTER, ESQ. AND MICHAEL A. BOOMSMA, ESQ. CERTIFICATE OF SERVICE AND CERTIFICATE OF COMPLIANCE ATTACHED.

07/19/2018 CONFIDENTIAL INFORMATION FORM

07/19/2018 BRIEF IN SUPPORT OF PLAINTIFFS' PRELIMINARY OBJECTIONS WITH CERTIFICATE OF COMPLIANCE, CERTIFICATE OF SERVICE AND CONFIDENTIAL INFORMATION INFORMATION FORM SIGNED BY BRANDON S. HARTER, ESQUIRE

08/08/2018 DEFENDANTS' RESPONSE TO PRELIMINARY OBJECTIONS OF CROSSCLAIM DEFENDANTS LANCE MCKINNON AND JANIKA E. RETTEW FILED BY MICHAEL A. BOOMSMA, ESQ. CERTIFICATE OF COMPLIANCE AND CERTIFICATE OF SERVICE ATTACHED.

08/08/2018 DEFENDANTS' MEMORANDUM OF LAW IN OPPOSITION TO THE PRELIMINARY OBJECTIONS OF CROSSCLAIM DEFENDANTS, LANCE MCKINNON AND JANIKA E. RETTEW FILED BY MICHAEL A. BOOMSMA, ESQ. CERTIFICATE OF COMPLIANCE AND CERTIFICATE OF SERVICE.

08/20/2018 PRAECIPE TO LIST FOR DISPOSITION OF PLAINTIFFS' PRELIMINARY OBJECTIONS TO DEFENDANTS' NEW MATTER CROSSCLAIMS AND ORAL ARGUMENT FILED, WITH CERTIFICATES OF SERVICE AND COMPLIANCE OF SAME, BY MICHAEL A. BOOMSMA, ESQ. (ASSIGNED TO JUDGE WRIGHT - AUGUST 29, 2018)

08/30/2018 CERTIFICATE PREREQUISITE TO SERVICE OF SUBPOENAS PURSUANT TO RULE 4009.22 FILED BY MICHAEL A. BOOMSMA, ESQ.

09/05/2018 SCHEDULING ORDER:

AND NOW, THIS 4TH DAY OF SEPTEMBER, 2018:
ORAL ARGUMENT ON PLAINTIFF'S PRELIMINARY OBJECTIONS IS SCHEDULED FOR OCTOBER 25, 2018, AT 10:00 A.M. IN CHAMBERS #5 OF THE LANCASTER COUNTY COURTHOUSE, 50 NORTH DUKE STREET, LANCASTER, PENNSYLVANIA.

BY THE COURT:
JEFFERY D. WRIGHT

CC: BRANDON S. HARTER, ESQ.
MICHAEL A. BOOMSMA, ESQ.

236 NOTICE SENT 9/5/18

09/05/2018 PRELIMINARY OBJECTIONS - HEARING SCHEDULED

11/09/2018 ORDER:

AND NOW, THIS 9 DAY OF NOVEMBER, 2018, IN CONSIDERATION OF PLAINTIFF'S PRELIMINARY OBJECTIONS, DEFENDANT'S RESPONSE AND ORAL ARGUMENT THEREON:

IT IS HEREBY ORDERED THAT PLAINTIFF'S PRELIMINARY OBJECTIONS ARE GRANTED IN PART AND DENIED IN PART.

PLAINTIFF'S OBJECTION COUNT III OF DEFENDANT'S NEW MATTER/CROSSCLAIM IS GRANTED. COUNT III OF DEFENDANT'S NEW MATTER/CROSSCLAIM IS DISMISSED.

THE REMAINDER OF PLAINTIFF'S PRELIMINARY OBJECTIONS ARE DENIED. PLAINTIFF IS GRANTED THIRTY (30) DAYS FROM THE DATE OF THIS ORDER TO FILE AN ANSWER TO PLAINTIFF'S COMPLAINT.

BY THE COURT:
JEFFERY D. WRIGHT

CC: BRANDON S. HARTER, ESQ.
MICHAEL A. BOOMSMA, ESQ.

236 NOTICE SENT 11/14/18

12/07/2018 REPLY TO NEW MATTER AND CROSSCLAIMS WTH CERTIFICATE OF SERVICE FILED BY: BRANDON HARTER, EQ.

03/26/2019 PRAECIPE TO WITHDRAW AND ENTER APPEARANCE WITH CERTIFICATE OF COMPLIANCE AND CERTIFICATE OF SERVICE SIGNED BY BRANDON S. HARTER, ESQUIRE - EFILED

03/26/2019 PRAECIPE TO WITHDRAW THE APPEARANCE OF BRANDON S. HARTER, ESQ. AND AARON K. ZEAMER, ESQ. AND ENTER THE APPEARANCE OF PHILIP D. PRIORE, ESQ. ON BEHALF OF PLAINTIFFS, FILED.

04/09/2019 MOTION OF DEFENDANTS FOR A PRETRIAL STATUS CONFERENCE TO SET CASE MANAGEMENT DEADLINES PURSUANT TO PA.R.C.P. 212.3 FILED BY MICHAEL A. BOOMSMA, ESQ. CERTIFICATE OF SERVICE OF SAME.

04/09/2019 PRAECIPE FOR ASSIGNMENT OF THE MOTION FOR PRETRIAL STATUS CONFERENCE. ORAL ARGUMENT REQUESTED. FILED BY MICHAEL A. BOOMSMA, ESQ. CERTIFICATE OF SERVICE OF SAME. (ASSIGNED TO JUDGE WRIGHT - APRIL 10, 2019)

04/12/2019 SCHEDULING ORDER
AND NOW, THIS 11TH DAY OF APRIL, 2019, A PRE-TRIAL CONFERENCE PURSUANT TO LOCAL
RULE NO. 212.3 AND PA.R.CIV.P.NO.212.3 IS SCHEDULED FOR MAY 31, 2019 AT 1:30P.M. IN
CHAMBERS NO. 5 OF THE LANCASTER COUNTY COURTHOUSE, 3RD FLOOR, 50 NORTH DUKE
STREET, LANCASTER, PENNSYLVANIA 17602. STRICT COMPLIANCE WITH ALL PROVISIONS OF
PA. R. CIV. P. NOS. 212.2 AND 212.3, AND LOCAL RULE NOS. 212.2 AND 212.3, IS REQUIRED.
ALL PRE-TRIAL CONFERENCE STATEMENTS MUST BE RECEIVED IN PRINTED FORMAT IN
CHAMBERS NO. 5 (50 NORTH DUKE STREET, 3RD FLOOR, LANCASTER, PENNSYLVANIA 17602)
NO LATER THAN MAY 17, 2019. IF A PARTY'S STATEMENT IS NOT RECEIVED BY THIS DEADLINE,
THAT PARTY MAY BE PRECLUDED FROM RAISING THOSE MATTERS REQUIRED TO BE
DISCLOSED IN THE STATEMENT PURSUANT TO PA. R. CIV. P. NO. 212.2(A) AND (B). FAILURE OF
A PARTY TO COMPLY WITH PA.R.CIV.P.NO.212.2(A) AND (B) MAY RESULT IN DELAYING THE
SCHEDULING OF TRAIL OR IN OTHER SANCTIONS. SEE PA. R. CIV.P. NO. 212.2(C). PRE-TRIAL
CONFERENCE STATEMENTS MUST ALSO BE FILED WITH THE OFFICE OF THE PROTHONOTARY.
PROVIDING THE STATEMENT TO CHAMBERS DOES NOT CONSTITUTE FILING.
COUNSEL SHOULD CONSULT WITH THEIR RESPECTIVE CLIENTS REGARDING SETTLEMENT
PRIOR TO THE PRE-TRIAL CONFERENCE AND SHOULD BE PREPARED TO DISCUSS
SETTLEMENT OF THE CASE, AS WELL AS ALL OTHER MATTERS ENUMERATED IN
PA.R.CIV.P.NO.212.3(A), DURING THE CONFERENCE. IN ADDITION TO THE MATTERS SET FORTH
IN PA.R.CIV.P.NO.212.2(A) AND (B), THE PRE-TRIAL CONFERENCE STATEMENT SHALL INCLUDE A
STATEMENT OF THE MANNER IN WHICH COUNSEL HAS COMPLIED WITH PA.R.CIV.P.NO.213(C)
(1) (GOOD FAITH EFFORTS TO RESOLVE THE CASE).
TRIAL COUNSEL NOT IN COMPLIANCE WITH PA.R.CIV.P.NO.212.3(C)(2), AND WITHOUT PRIOR
COURT APPROVAL FOR NONCOMPLIANCE, WILL BE BOUND BY ORDERS AND RULINGS ISSUED
AT THE PRE-TRIAL CONFERENCE.
COUNSEL SHALL DIRECT HIS/HER CLIENT OR AUTHORIZED REPRESENTATIVE TO BE AVAILABLE
AT THE TIME OF THE PRE-TRIAL CONFERENCE, EITHER PRESENT IN THE COURTHOUSE OR
ACCESSIBLE BY TELEPHONE, IN THE EVENT THAT SETTLEMENT OR OTHER MATTERS
REQUIRING THE ADVICE AND CONSENT OF THE CLIENT MUST BE RESOLVED AT THE PRE-TRIAL
CONFERENCE. SEE PA. R CIV.P. NO. 212.3(C)(3).
BY THE COURT: JEFFERY D. WRIGHT, JUDGE
CC: BRANDON S. HARTER, ESQ.
MICHAEL A. BOOMSMA, ESQ.
236 NOTICE SENT 04-11-19

05/15/2019 PETITION TO DISCONTINUE FILED, WITH PRAECIPE TO DISCONTINUE AND CERTIFICATE OF
SERVICE OF SAME, BY CHRISTOPHER PRIORE, ESQ.

FORWARDED TO ASSIGNED JUDGE JEFFREY WRIGHT VIA INTEROFFICE 5/17/19 R.M.

05/17/2019 ORDER (NO FEE) AND NOW, THIS 17TH DAY OF MAY, 2019, UPON CONSIDERATION OF THE
PETITOON TO DISCONTINUE ACTION OF PLAINTIFF'S, LANCE MCKINNON, JINAKE RETTEW, AND
L.R., A MINOR, BY AND THROUGH LANCE MCKINNON AND JANIKA RETTEW, GUARDIANS, AND
ANY RESPONSE THERETO, IT IS HEREBY ORDERED AND DECREED THAT SAID PETITION IS
HEREBY GRANTED. THIS MATTER IS HEREBY DISCONTINUED WITHOUT PREJUDICE.* (THE
PRE-TRIAL CONFERENCE SCHEDULED FOR MAY 31, 2019 IS CANCELLED.) BY THE COURT:
JEFFREY D. WRIGHT, JUDGE.

COPIES W/236 NOTICES TO: PHILIP D. PRIORE, ESQ. (1) VIA 1ST CLASS, MICHAEL A. BOOMSMA,
ESQ. (1) VIA 1ST CLASS

MAILED: 5/20/2019

05/28/2019 DEFENDANTS' MOTION TO VACATE THE COURT'S ORDER OF MAY 17, 2019 FILED BY MICHAEL A.
BOOMSMA, ESQUIRE CERTIFICATE OF SERVICE AND CERTIFICATE OF COMPLIANCE ATTACHED

EXHIBIT A-E ATTACHED

(SENT TO JUDGE WRIGHT 05/29/19)

05/28/2019 DEFENDANTS' MEMORANDUM OF LAW IN SUPPORT OF THEIR MOTION TO VACATE THE
COURT'S ORDER OF MAY 17, 2019 FILED BY MICHAEL A. BOOMSMA, ESQUIRE

(SENT TO JUDGE WRIGHT 05/29/19)

08/09/2019 ORDER
AND NOW, PURSUANT TO THE ATTACHED STIPULATION OF THE PARTIES AND IN
CONSIDERATION OF THE MOTION TO VACATE FILED BY DEFENDANTS, WARWICK MIDGET
FOOTBALL LEAGUE, INC., D/B/A WARWICK YOUTH FOOTBALL ASSOCIATION, GORDON YOUNG,
JEFF VAN BROOKHOVEN, ZACH ROWE, MIKE WINTERS AND PAT TOCCI, IT IS HEREBY ORDERED
AND DECREED THAT THE MAY 17, 2019 ORDER DISCONTINUING THE ABOVE MATTER IS HEREBY
VACATED, AND THE CASE IS HEREBY REINSTATED.
BY THE COURT: JEFFERY D. WRIGHT, JUDGE
CC: PHILIP D. PRIORE, ESQ.
MICHAEL A. BOONEMA, ESQ.
236 NOTICE SENT 8-9-19

08/09/2019 STIPULATION
FILED BY: PHILIP D. PMORE, ESQUIRE, ATTORNEYS FOR PLAINTIFFS
MICHAEL A. BOOMSMA, ESQUIRE, ATTORNEYS FOR DEFENDANTS

September 25, 2019

EXHIBIT F

LANCE MCKINNON, JANIKA E. RETTEW,
L.R., A MINOR, BY LANCE MCKINNON
AND JANIKA RETTEW, GUARDIANS,

Plaintiffs,

vs.

WARWICK MIDGET FOOTBALL
LEAGUE, INC. D/B/A WARWICK YOUTH
FOOTBALL ASSOCIATION, PAT TOCCI,
MIKE WINTERS, ZACH ROWE, GORDON
YOUNG, AND JEFF VAN BROOKHOVEN,

Defendants.

COURT OF COMMON PLEAS
LANCASTER COUNTY

No. CI-18-02104

JURY TRIAL DEMANDED

ENTERED AND FILED
2019 AUG - 9 AM 9:17
PROTHONOTARY'S OFFICE
LANCASTER, PA

ORDER

AND NOW, pursuant to the attached stipulation of the parties and in consideration of the Motion to Vacate filed by Defendants, Warwick Midget Football League, Inc., d/b/a Warwick Youth Football Association, Gordon Young, Jeff Van Brookhoven, Zach Rowe, Mike Winters and Pat Tocci, it is hereby **ORDERED** and **DECREEED** that the May 17, 2019 Order discontinuing the above matter is hereby **VACATED**, and the case is hereby reinstated.

BY THE COURT:

8/8/19
att C. Hebert
CC Philip D. Price, Esq -1
Michael A. Boonema, Esq -1
mailed

JEFFERY D. WRIGHT
JUDGE

NOTICE OF ENTRY OF ORDER OR DECREE
PURSUANT TO PA. R.C.P. NO. 236
NOTIFICATION - THE ATTACHED DOCUMENT
HAS BEEN FILED IN THIS CASE
PROTHONOTARY OF LANCASTER CO., PA
DATE: 8-9-19 *egj*

POST & SCHELL, P.C.

BY: MICHAEL A. BOOMSMA, ESQUIRE

E-MAIL: mboomsma@postschell.com

I.D. # 56062

1869 CHARTER LANE

P.O. BOX 10248

LANCASTER, PA 17605-0248

717-291-4532

ATTORNEYS FOR DEFENDANTS

LANCE MCKINNON, JANIKA E. RETTEW,
L.R., A MINOR, BY LANCE MCKINNON
AND JANIKA RETTEW, GUARDIANS,

Plaintiffs,

vs.

WARWICK MIDGET FOOTBALL
LEAGUE, INC. D/B/A WARWICK YOUTH
FOOTBALL ASSOCIATION, PAT TOCCI,
MIKE WINTERS, ZACH ROWE, GORDON
YOUNG, AND JEFF VAN BROOKHOVEN,

Defendants.

COURT OF COMMON PLEAS
LANCASTER COUNTY

No. CI-18-02104

JURY TRIAL DEMANDED

STIPULATION

The parties, by and through their counsel agree that the May 17, 2019 Order of Judge Jeffrey D. Wright discontinuing the within matter is to be vacated and the case reinstated.

MCCORMICK & PRIORE, P.C.

BY: 

Philip D. Priore, Esquire
Attorneys for Plaintiffs

DATED: 8/8/19

POST & SCHELL, P.C.

BY: 

Michael A. Boomsma, Esquire
Attorneys for Defendants

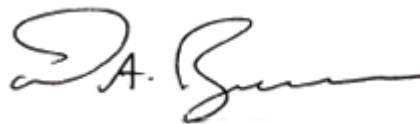
DATED: 8/8/19

CERTIFICATE OF COMPLIANCE

I certify that this filing complies with the provisions of the *Public Access Policy of the Unified Judicial System of Pennsylvania: Case Records of the Appellate and Trial Courts* that require filing confidential information and documents differently than non-confidential information and documents.

Submitted by: Attorneys for Defendants
Warwick Midget Football League,
Inc. d/b/a Warwick Youth Football
Association, Pat Tocci, Mike
Winters, Zach Rowe, Gordon
Young, and Jeff Van Brookhoven

Signature:



Name: Michael A. Boomsma, Esquire

Attorney No.: 56062

CERTIFICATE OF SERVICE

I, Michael A. Boomsma, attorney for Defendants, Warwick Midget Football League, Inc. d/b/a Warwick Youth Football Association, Pat Tocci, Mike Winters, Zach Rowe, Gordon Young, and Jeff Van Brookhoven, do hereby certify that on the date set forth below, I did serve a true and correct copy of the foregoing document upon the following person(s) by electronically filing and serving same via the File & ServeXpress Electronic Filing system (same is available for viewing and downloading from the File & ServeXpress Electronic Filing system):

Philip D. Priore, Esquire
Pamela Playo Lin, Esquire
MCCORMICK & PRIORE, P.C.
Four Penn Center, Suite 800
1600 John F. Kennedy Boulevard, Suite 800
Philadelphia, PA 19103

Red Rose Midget Football
d/b/a Red Rose Football League
27 Rodney Street
Lancaster, PA 17603
Via U.S. First Class Mail

Lawrence Fisher
480 Stony Battery Road
Landisville, PA 17538
Via U.S. First Class Mail

POST & SCHELL, P.C.

By:



Dated: September 25, 2019

Michael A. Boomsma, Esquire
Attorneys for Defendants
Warwick Midget Football League, Inc.
d/b/a Warwick Youth Football
Association, Pat Tocci, Mike Winters,
Zach Rowe, Gordon Young, and Jeff
Van Brookhoven

L.R. RETTEW, A MINOR, BY HIS PARENT
AND NATURAL GUARDIAN, JANIKA E.
RETTEW, AND JANIKA E. RETTEW, IN
HER OWN RIGHT,

Plaintiffs,

vs.

WARWICK MIDGET FOOTBALL
LEAGUE, INC. D/B/A WARWICK YOUTH
FOOTBALL ASSOCIATION, PAT TOCCI,
MIKE WINTERS, ZACH ROWE, GORDON
YOUNG, JEFF VAN BROOKHOVEN, RED
ROSE MIDGET FOOTBALL LEAGUE
D/B/A RED ROSE FOOTBALL LEAGUE,
AND LAWRENCE FISHER

Defendants.

COURT OF COMMON PLEAS
LANCASTER COUNTY

No. CI-19-08790

JURY TRIAL DEMANDED

ORDER

AND NOW, this ____ day of _____, 2019, upon consideration of the Preliminary Objections of Defendants Warwick Midget Football League, Inc. d/b/a Warwick Youth Football Association, Pat Tocci, Mike Winters, Zach Rowe, Gordon Young, and Jeff Van Brookhoven to Plaintiffs' Complaint, supporting brief and any responses thereto, it is hereby **ORDERED** and **DECREED** that said Preliminary Objections are **SUSTAINED**.

It is further **ORDERED** that Plaintiffs' Complaint is **DISMISSED WITH PREJUDICE** and the Prothonotary is directed to close docket CI-19-08790. Any further litigation of Plaintiffs' claim against defendants shall be litigated at the action presently existing at docket CI-18-02104.

BY THE COURT

, J.