

I.
DISCOVERY CONTROL PLAN

Plaintiffs affirmatively plead that they seek monetary relief aggregating more than \$50,000, and request that the Court enter a Discovery Control Plan pursuant to Discovery Control Level III.

II.
PARTIES

1. Plaintiff David Spence, Individually and as Next Friend of Ryan Spence, a Minor, is a resident of Tarrant County, Texas.

2. Plaintiff Karyn Spence, Individually and as Next Friend of Ryan Spence, a Minor, is a resident of Tarrant County, Texas.

3. Defendant North Texas Youth Football Association is an unincorporated entity doing business in the State of Texas. Defendant may be served with process by serving its President, Todd Mashaw, 201 Odyssey Lane, Mansfield, Texas, 76063.

4. Defendant Mansfield Peewee Football Association, Inc. is a corporation doing business in the State of Texas. Defendant may be served with process by serving its Registered Agent, Richard D. Watts, 1103 Hidden Creek Drive, Mansfield, Texas 76063.

5. Defendant William David Sibley is a resident of Tarrant County. Service of process may be had on Defendant by serving said Defendant at his place of residence: 4200 Fox Court, Arlington, Texas, 76001.

6. Defendant Nicholas L. Banschbach is a resident of Tarrant County. Service of process may be had on Defendant by serving said Defendant at his place of residence: 4200 Fox Court, Arlington, Texas, 76001.

III. JURISDICTION & VENUE

1. Jurisdiction is proper in this Court because the amount in controversy exceeds the minimum jurisdictional requirements of this Court.

2. Venue is proper in Tarrant County pursuant to §15.001 *et seq.* of the Texas Civil Practice & Remedies Code because all or a substantial part of the events or omissions giving rise to the claim occurred in Tarrant County.

IV. FACTUAL BACKGROUND

1. At all relevant times, Ryan Spence was a member of the Mansfield Bengals football team. The Mansfield Bengals football team is now, and was at all relevant times chartered by, administered by, governed by, a subsidiary of and/or a constituent team of Mansfield PeeWee Football Association, Inc.

2. Mansfield Football Association, Inc., is now, and was at all relevant times chartered by, administered by, governed by, a subsidiary of and/or a constituent of the North Texas Youth Football Association.

3. At all relevant times, Defendant North Texas Youth Football Association conducted business by and through Defendant Mansfield PeeWee Football Association, Inc.

4. At all relevant times, Defendant Mansfield PeeWee Football Association, Inc. conducted business by and through its employees, agents, members, and/or representatives, including but not limited to William David Sibley and Nicholas L. Banschbach.

5. Defendant Banschbach was at all relevant times an assistant coach of the Mansfield Bengals football team, and thereby an employee, agent, member, and/or representative of Mansfield PeeWee Football Association, Inc.

6. Defendant Sibley was at all relevant times the head coach of the Mansfield Bengals football team, and thereby an employee, agent, member, and/or representative of Mansfield PeeWee Football Association, Inc.

7. On or about November 21, 2008, employees, agents, members, and/or representatives of Defendants Mansfield PeeWee Football Association, Inc. and

North Texas Youth Football Association conducted football practice and/or training on the grounds of Brooks Wester Middle School in Mansfield, Texas. As a part of this football practice/training, Defendant Banschbach conducted a highly-unconventional drill purposed with teaching players, including Plaintiff Ryan Spence, how to avoid clipping below the waist, illegal low blocks and/or “chop blocks”¹ attempted by opposing players. Clipping below the waist, illegal low blocks and “chop blocks” are prohibited at any level of play, from PeeWee football to NFL, due to the risk of injury to players that these maneuvers pose.

8. As part of the drill identified in the preceding paragraph, Defendant Banschbach swung a full-sized tackling dummy horizontally toward players’ legs and/or knees. Defendant Banschbach conducted this drill under the supervision of Defendant Sibley.

9. Defendant Banschbach negligently swung a tackling dummy horizontally toward Ryan Spence’s legs, hitting Ryan in the left leg. When Defendant Banschbach hit Ryan Spence with the tackling dummy he tore the anterior cruciate ligament, and the medial and lateral menisci in Ryan’s left knee. Defendant Banschbach also caused Ryan to sprain the posterior cruciate, lateral collateral and medial collateral

¹A “chop block” occurs when one player hits an opponent above the waist while another player hits the same opponent below the waist and the opponent is not carrying the ball.

ligaments in his left knee.

10. As a result of the above-described injuries, Ryan required two surgical procedures, as well as physical therapy, and in reasonable medical probability Ryan will require additional surgery and physical therapy in the future.

V.
CAUSES OF ACTION AGAINST
DEFENDANT NICHOLAS L. BANSCHBACH

1. Defendant Banschbach negligently struck Ryan Spence's person with a tackling dummy, causing him bodily injury as a result.

2. The negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth in paragraphs VIII - X below, for which each and all of the Defendants are legally responsible.

VI.
CAUSES OF ACTION AGAINST
DEFENDANT WILLIAM DAVID SIBLEY

1. Defendant Sibley, acting in a supervisory capacity as head coach, by and on behalf of Mansfield PeeWee Football Association, Inc. and/or North Texas Youth Football Association, was negligent in:

A. Failing to properly supervise and train assistant coaches with regard to coaching youth football;

- B. Failing to properly supervise and train assistant coaches with regard to conducting youth football training/practice, and
- C. Failing to have adequate policies and procedures in place to dictate appropriate practice drills.

2. Each of the negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth in paragraphs VIII - X, for which each and all of the Defendants are legally responsible.

VII.
CAUSES OF ACTION AGAINST DEFENDANTS
NORTH TEXAS YOUTH FOOTBALL ASSOCIATION
AND MANSFIELD PEEWEE FOOTBALL ASSOCIATION, INC.

1. At all relevant times, Defendant William David Sibley and Defendant Nicholas L. Banschbach were agents, employees, and/or representatives of Defendant Mansfield PeeWee Football Association, Inc. and North Texas Youth Football Association.

2. Defendants, acting through their employees, agents, and representatives, were negligent in:

- A. Failing to properly supervise and train employees, agents, and representatives with regard to coaching youth football;

- B. Failing to properly supervise and train employees, agents, and representatives with regard to conducting youth football training/practice, and
 - C. Failing to have adequate policies and procedures in place to dictate appropriate practice drills.
3. Defendants breached the following nondelegable duties:
- A. Defendants had a nondelegable duty to provide rules and regulations for the safety of players;
 - B. Defendants had a nondelegable duty to avoid harm to third parties by the negligence of their employees, agents, and representatives;
 - C. Defendants had a nondelegable duty to select careful and competent employees, and
 - D. Defendants had a nondelegable duty to take precautions against dangers involved in work entrusted to their employees, agents, and representatives.
4. Defendants are vicariously liable for the negligent acts and/or omissions of William David Sibley and Nicholas L. Banschbach under the doctrines of agency, apparent agency, agency by estoppel and respondeat superior.

5. Defendant North Texas Youth Football Association and Defendant Mansfield PeeWee Football Association, Inc. were engaged in a joint enterprise.

6. Each of the negligent acts and/or omissions outlined above were individually and in the aggregate a proximate cause of the damages set forth in paragraphs VIII - X, for which each and all of the Defendants are legally responsible.

VIII.
DAMAGES FOR PLAINTIFF RYAN SPENCE

1. As a direct and proximate result of Defendants' acts and omissions described above, Ryan Spence has suffered damages in the past which include:

- A. Medical expenses;
- B. Physical pain and suffering;
- C. Mental anguish;
- D. Physical impairment or physical incapacity, and
- E. Disfigurement.

2. As a direct and proximate result of Defendants' acts and omissions described above, Ryan Spence in all likelihood will suffer damages in the future which include:

- A. Medical Expenses;
- B. Physical pain and suffering;

- C. Mental anguish;
- D. Physical impairment or physical incapacity, and
- E. Disfigurement.

IX.
DAMAGES FOR PLAINTIFF DAVID SPENCE

1. Plaintiff David Spence is the father of Ryan Spence. As a result of his son's injuries, Mr. Spence has suffered damages which include:

- A. Medical expenses incurred on behalf of Ryan Spence in the past, and medical expenses that, in all likelihood, he will continue to incur on behalf of Ryan Spence in the future, and
- B. Mental anguish in the past that in all likelihood will continue in the future.

X.
DAMAGES FOR PLAINTIFF KARYN SPENCE

1. Plaintiff Karyn Spence is the mother of Ryan Spence. As a result of her son's injuries, Mrs. Spence has suffered damages which include:

- A. Medical expenses incurred on behalf of Ryan Spence in the past, and medical expenses that, in all likelihood, she will continue to incur on behalf of Ryan Spence in the future.

XI.
CLAIM FOR PRE-JUDGMENT AND POST-JUDGMENT INTEREST

Plaintiffs assert a claim for pre-judgment and post-judgment interest in accordance with Texas law.

XII.
JURY DEMAND

Pursuant to Rules 216 and 217 of the Texas Rules of Civil Procedure, Plaintiffs request a jury trial of this matter. Accordingly, Plaintiffs tendered the proper jury fee with the filing of Plaintiff's Original Petition.

XIII.
REQUEST FOR INITIAL DISCLOSURE

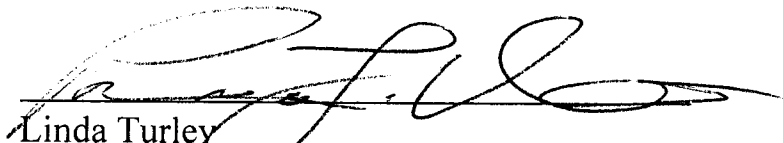
Pursuant to Rule 194 of the Texas Rules of Civil Procedure, Plaintiffs request that Defendant disclose to Plaintiffs, within 50 days of the service of this request, the information and materials described in Rule 194.2(a) through (k), to be produced at the Turley Law Firm, 1000 Turley Law Center, 6440 N. Central Expressway, Dallas, Texas 75206.

The Defendant is hereby given notice that any document or other material, including electronically stored information, that may be evidence or relevant to any issue in this case is to be preserved in its present form until this litigation is concluded.

WHEREFORE, Plaintiffs pray that Defendants North Texas Youth Football Association, Mansfield PeeWee Football Association, Inc., William David Sibley and Nicholas L. Banschbach, be served and cited to appear and answer herein and upon final hearing of this cause, that Plaintiffs have judgment against Defendants, jointly and severally, for damages described herein, for cost of suit, interest as allowable by law, and for such other relief to which Plaintiffs may be justly entitled.

Respectfully submitted,

TURLEY LAW FIRM



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