

Athlete Pressured To Play Through Head Injury Sues Football Coach And School District

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Attorneys filed a lawsuit Feb. 26 in the Michigan Eastern District Court for incidents that involved a high school football player in Flint, Michigan, in 2015-16. The lawsuit alleges that the player's former coach, the current high school's athletic director, failed to follow the appropriate concussion protocols set forth by the Michigan High School Athletic Association (MHSAA) when the player took a hard hit to his head and allegedly suffered a concussion while participating in football activities. It is also alleged that the former coach perpetuated and advanced a culture in which injuries to student athletes who participated in football activities were ignored, discounted and/or otherwise disregarded. The lawsuit blames the former coach for fostering an environment in which the high school's football players were discouraged from disclosing injuries or seeking medical help. The former coach allegedly publicly berated and embarrassed players who spoke of injuries and used denigrating language directed at players in order to enforce this culture.

The incidents in question stem from a series of events that took place in October 2015. During one specific football practice, the player, then a junior on the varsity football team, was involved in helmet-to-helmet contact with another player. Because of the contact, the player was visibly shaken; his subsequent actions, as described by teammates, were synonymous with an individual who has sustained a concussive event, including memory loss, blank staring and loss of balance and coordination. The lawsuit alleges that the coach failed to instruct the player to seek immediate medical attention or follow up treatment from a family doctor and failed to inform any administrators, educators or the student's parents of the hit or concussion-like symptoms. Furthermore, the former coach knew, or should have known, that the player had possibly suffered a concussion in practice and prevented him from playing in games or practicing until a medical professional cleared him to return. The lawsuit calls the former coach's conduct objectively unreasonable.

MHSAA concussion protocol states that any athlete who exhibits signs, symptoms or behaviors consistent with a concussion (such as loss of consciousness, headache, dizziness, confusion or balance problems) shall be immediately removed from the contest and shall not return to play until cleared by an appropriate health care professional. Prior to returning to physical activity (practice or competition), the student and parent (if a minor student) must complete the Post-Concussion Consent Form, which accompanies the written unconditional clearance of an MD, DO, PA or NP. Subsequent violations of this protocol would render the player ineligible and subject the offending team to probation and/or game forfeiture, according to policy.

In this matter, it is alleged that the former coach held the player out for one practice the following day, but allowed the player to play in the team's next football game two days after the first incident and without invoking any return-to-play protocol. The player suffered another blow to the head during game play, which once again left him unsteady on his feet and required assistance to help him to the sideline. The player was unable to swallow any water and subsequently suffered a seizure and passed out before being taken to the hospital, where he stayed for two days. When he regained consciousness, he did not remember getting hit or the ride to the hospital. He was diagnosed with a post-traumatic seizure and a concussion. The suit states that he continued to experience sporadic seizures over the next several months until April 2016. He also experienced reoccurring episodes in which his limbs and head would shake, and he heard hostile voices. He experienced changes in his personality, difficulty in school, sleepiness and difficulty concentrating over the next several months, leading to concerns regarding the

potential long-term effects from his injuries.

The lawsuit alleges that hard or violent headfirst collisions between players were a regular occurrence with the football team, and that collisions regularly resulted in players being knocked unconscious on the field or exhibiting signs of brain trauma or concussion-like symptoms. Players experiencing such symptoms didn't receive medical treatment or testing to determine the existence or severity of a concussion. Instead, the former coach and other assistant coaches fostered and advanced an attitude of "go hard, hit hard." Coaches also discouraged players from seeking medical assistance when injured and berated students into not reporting injuries by calling them "sissies" and telling them to "play through the pain," further perpetuating this hostile sporting environment. The lawsuit names both the former coach and school district as defendants, claiming that school district educators and administrators were aware of the environment fostered by the former coach with the football team that caused players to participate in football activities, despite being physically unable to do so.

Count I: Substantive Due Process Violation of the 14th Amendment - 42 U.S.C. § 1983 (State Created Danger)

The suit states that the former coach had a duty to protect the player from dangers of harm that were known to him and created by him. He failed in this duty by committing affirmative acts that created or increased the risk the player was subjected to, thus leading to his injuries. By his own actions, the former coach fostered and advanced a culture that increased these risks. This constituted a "state-created danger" in violation of the player's constitutional rights under the Due Process Clause of the 14th Amendment of the U.S. Constitution to personal security and bodily integrity, and to be free from state actions that deprive a person of life, liberty or property without due process of law.

Count II: Substantive Due Process Violation of the 14th Amendment - 42 U.S.C. § 1983 (Deliberate Indifference)

The former coach acted with deliberate indifference to the health and safety of the player when he knew and disregarded a substantial risk by failing to evaluate the player for head-related injuries, despite having knowledge that he had suffered a violent hit to the head and exhibited signs of a concussion. Additionally, the former coach failed to notify any health care personnel regarding the player's condition and failed to follow proper procedures (as outlined by MHSA) in place for the recognition, evaluation and treatment of head trauma. The suit notes that the former coach had ample time to consider his actions with respect to the player's condition and didn't have to make a hurried judgment call. His actions were objectively unreasonable and constitute a violation of the player's constitutional rights under the Due Process Clause of the 14th Amendment, as his conduct was malicious, deliberate, intentional and undertaken with a total disregard of the known risk that the player faced.

Count III: Municipal/Supervisory Liability - 42 U.S.C. § 1983

The school district owed the player a duty to properly hire, supervise, monitor and train its employees so as not to violate constitutional protections afforded to students. At the time of the incidents that led to the suit, the former coach was an employee of a public school district, acting as a public school athletic director and coach, and was acting within the scope of his employment and under the color of state law. As such, the school district is liable for the player's constitutional rights violations on the part of the former coach. The former coach wasn't only the head football coach, but also the athletic director and therefore had a supervisory role and decision-making authority to enact policies, procedures and regulations related to the health and safety of student athletes, specifically injuries related to concussions. Both the school district and former coach were deliberately indifferent to the player's constitutional rights by failing to supervise school district personnel when they had knowledge of repeated instances of ignoring and/or downplaying injuries suffered by students during football activities. As such, both the school district and former coach are liable to the player under federal law for injuries suffered, including severe physical, psychological and emotional injuries.

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Count IV: Gross Negligence/Willful and Wonton Conduct The school district and former coach owed a duty to the player to act in a reasonable manner and with reasonable care to avoid creating or increasing the likelihood of injury. The former coach was grossly negligent and acted in a willful or wanton manner toward the player when he pushed the player to continue participation in football activities following his initial violent collision with another player, a collision that left the player exhibiting clear signs of a concussion. The former coach's conduct was the proximate cause of the player's injuries following the second violent collision. Being further injured was a reasonably foreseeable result of the former coach's gross negligence.

The lawsuit is seeking \$75,000, plus costs, interest and attorney fees, as well as punitive and/or exemplary damages.

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