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<p>JOHN DOE c/o Laffey Bucci & Kent, LLP 1435 Walnut Street, 7th Floor Philadelphia, PA 19102</p> <p style="text-align: center;">Plaintiff,</p> <p>v.</p> <p>GERMANTOWN ACADEMY 340 Morris Road Fort Washington, PA</p> <p style="text-align: center;">Defendant.</p>	<p>PHILADELPHIA COUNTY COURT OF COMMON PLEAS LAW DIVISION</p> <p>FEBRUARY TERM, 2016</p> <p>No. <u>JURY TRIAL DEMANDED</u></p>
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NOTICE

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COMPLAINT - CIVIL ACTION

1. The plaintiff, John Doe, (fictitious, anonymous name), is an adult individual residing in the Commonwealth of Pennsylvania. Plaintiff's name and address are not contained in this Complaint so as to protect the privacy and identity of John Doe, who is a victim of crime and incurred injuries and damages of a sensitive nature as a child as a result of the acts and failures of defendant outlined below. Plaintiff has also endured significant and severe public ridicule and harassment as a result of false statements made public by defendant and/or its agents, thereby warranting the use of a pseudonym. Plaintiff may be contacted through his counsel as outlined herein.
2. There exists good cause for plaintiff to use pseudonyms due to the harmful effect of the public disclosure of his identity and the harm inflicted upon John Doe and his family to date as a result of false statements made public by defendant regarding this matter. Plaintiff, John Doe, has personally verified the facts as set forth in this Complaint as evidenced by the attached Verification. Defendant is aware of plaintiff's identity and suffers no prejudice as a result of concealing his identity in the Complaint and Verifications.
3. Defendant, Germantown Academy (hereinafter referred to as "GA") is a Pennsylvania corporation with a registered business address of 340 Morris Road, Fort Washington, PA 19034. It is authorized to do business and is doing business in the Commonwealth of Pennsylvania as a private institution, operating as an elite preparatory school, grades kindergarten through twelfth (12th) grade, of which Plaintiff attended beginning in ninth (9th) grade to twelfth (12th) grade.

4. At all relevant times, the Germantown Academy Aquatic Club (hereinafter "GAAC") was an elite, competitive swimming program founded, owned, operated and/or controlled by GA located on GA's campus.

5. At all relevant times hereto, GA was acting by and through their duly authorized actual and/or apparent agents, servants and employees, in particular, their head of school, board of directors and/or trustees, teachers, dean of students, supervisors and/or coaches, acting within the course and scope of their actual and/or apparent agency and/or employment.

6. At all relevant times, Richard "Dick" Shoulberg (hereinafter "Shoulberg") was head coach of GAAC and an employee of GA for over forty (40) years, working in the course and scope of his employment with GA. At relevant times, Shoulberg also served on the Board of USA Swimming and was head of the American Swimming Coaches Association.

7. At all relevant times, Christopher Lear (hereinafter "Lear") was an assistant coach of GAAC and was an employee of GA working in the course and scope of his employment with GA.

8. At all relevant times, Jim Connor was head of school of GA and was an employee of GA working in the course and scope of his employment with GA.

9. At all relevant times, Jim Fennerly was athletic director of GA and was an employee of GA working in the course and scope of his employment with GA.

10. In addition to the direct claims against GA, GA is vicariously liable to Plaintiff for injuries sustained as a result of negligence, gross negligence, outrageous conduct and/or reckless misconduct, as described further herein, of persons or entities whose conduct was under their control, or right to control, specifically, their board of directors/trustees, Richard Shoulberg, Christopher Lear, Jim Connors and Jim Fennerly, and whose conduct directly and proximately

caused Plaintiff's injuries. Moreover, Defendant GA ratified the actions of Shoulberg and Lear, thereby making them vicariously liable for those acts.

11. Venue is proper in Philadelphia County pursuant to Pa. R. C. P. 2179(a)(2) as Germantown Academy regularly conducts business within Philadelphia County through, including but not limited to, its various partnerships with Philadelphia entities and schools, as well as Pa. R. C. P. 2179(a)(3) and (a)(4) as the statements at issue in Plaintiff's defamation/false light claims below were published and disseminated throughout Philadelphia County by Philadelphia publications, including, but not limited to, the Philadelphia Inquirer.

Introduction

12. For decades, there has been a national epidemic of child abuse among organized swim programs throughout the country perpetrated by both coaches and swimmers alike. As of 2014, more than 100 USA Swimming coaches have received lifetime bans relating to abuse that has occurred in their programs, including at least one assistant coach at GA who served under Shoulberg who repeatedly sexually abused a fourteen (14) year old swimmer in GAAC.

13. This statistic, however, represents only a fraction of the abuse as many instances go unreported, even in cases where abuse is known and/or suspected to have occurred. This statistic also does not fully represent the rampant teammate on teammate hazing and abuse that occurs throughout youth, high school and college swimming programs, often with the acquiescence and/or deliberate ignorance of coaches and supervisors.

14. The matter at hand is about a national powerhouse swim program with a history of pervasive child abuse of youth swimmers that has occurred over decades under the watch of Richard "Dick" Shoulberg. Under Coach Shoulberg, child participants of GAAC were physically, mentally and/or sexually abused by coaches and youth participants, and a culture of

tolerance of abuse was enabled and furthered by Shoulberg and his staff, evidenced by their continued failure to report and/or prevent suspected, reasonably knowable and/or known child abuse.

15. Following an investigation performed by administrators at GA relating to child abuse allegations in the swim program, it was confirmed that **"many incidents"** of abuse occurred over the years under Shoulberg's reign that were **"confirmed by multiple witnesses"** and that it was **"undisputed that there were violations of our school's policies."**

16. Despite the confirmation of "many" incidents of abuse that occurred under Shoulberg, GA outrageously and unconscionably allowed Shoulberg to continue coaching and chose not to alert the public at large to their findings and/or dangers associated with participating in GAAC or take any remedial measures whatsoever to prevent future abuse from occurring.

17. This lawsuit is also about GA's failure to protect plaintiff and other children from severe and pervasive abuse that was rampant for years throughout GAAC, perpetrated by both coaches and students, the blatant refusal of their employees to report known and/or suspected child abuse that was being or had been committed upon a student at GA, of which they knew or should have known and the unconscionable and outrageous conduct of GA in retaining coaches/employees after knowing of multiple instances of abuse involving multiple coaches/students/children in GAAC, thereby again exposing children, including plaintiff, to known danger.

18. This lawsuit is also about publicly false statements made by GA's employees and GA's failure to correct same in order to preserve Shoulberg's, GAAC's and GA's public reputation at the expense of a minor student/swimmer, namely, plaintiff, and the horrific mental and emotional abuse, harassment, ridicule and public defamation suffered by plaintiff as a result.

Factual Background

19. By way of background, John Doe was a nationally renowned, successful and talented youth long distance swimmer. As a result, in April of 2012, while in eighth grade, John Doe was invited to begin training after school at GA with the high school/senior group of GAAC. At the time, the head coach was Richard "Dick" Shoulberg and his assistant coaches were Christopher Lear, Keri McIlvain and Claire Crippen.

20. Immediately upon being integrated into the senior training group, plaintiff was subjected to the same physical and mental abuse that other children had been forced to suffer for decades under Shoulberg's tenure.

21. Specifically, Shoulberg would severely degrade another minor student in the program, A.L., calling him lazy and stupid and telling him that John Doe was smarter and going to be more successful in the pool. This type of "pitting" one swimmer against another was common place under Shoulberg's regime.

22. As a result of pitting A.L. against John Doe, as often happened in GAAC, A.L. began to abuse John Doe both physically and mentally, and the abuse increased the more that Shoulberg pitted the boys against each other.

23. From the outset, John Doe was subjected to abuse that no child, especially a child as young as fourteen (14) years-old, should be subjected to. He was continuously and repeatedly called vulgar names, was told he was worthless and an "under-developed piece of shit." John Doe was hit and punched in the locker room before and after practice, was slammed into walls, and would be kicked and kneed in the stomach. He would also have his nipples twisted until he

collapsed in pain, his chest hair was ripped out and he was urinated on (which was a common occurrence in the swim program over the years).

24. If John Doe swam faster in practice or Shoulberg degraded A.L. or praised John Doe, then John Doe would be beaten and abused even further and more severely. If Shoulberg yelled at John Doe for not working hard, then he was also abused in the locker room for being an "embarrassment to GA swimming."

25. Under the supervision and in the charge and care of Coach Chris Lear, in August 2012, John Doe attended a sectional meet in Buffalo, NY. Despite knowing there was a problem with A.L. and despite the abuse that John Doe was suffering, the coaches placed John Doe in the same hotel room with A.L. for the weekend. There were never any room checks or supervision by coaching staff on this trip or any other trip/meet that John Doe attended despite GA's knowledge of the problem with A.L.

26. As a result of being placed in the same room as A.L. in Buffalo, A.L. hit and punched John Doe when back at their hotel room. The last evening of the meet, A.L. got on top of John Doe and beat him for more than five minutes before another member of the team entered the room and ripped A.L. off of John Doe and told him to leave him alone. A.L. also backed John Doe against a wall and kneed him in his genital area. John Doe fell to the ground and A.L. continued to beat him on the ground. Later on, A.L. again attacked and beat John Doe until another teammate pulled him off and held A.L. down until he was in control. At no time were there any supervision or room checks at the team hotel.

27. To compound the agony for John Doe, at the same meet in Buffalo, John Doe was not eating as a result of the physical and emotional abuse he was enduring. Chris Lear became

enraged that John Doe did not want to eat when he took the team to dinner and screamed multiple profanities at John Doe in front of the team saying, "You will eat where I take you to eat!" Lear told him "Have your fucking mom get your food from now on!" Lear continued to verbally abuse John Doe, screaming at him as he drove a van of swimmers back to the hotel. Other witnesses watched Chris Lear scream at and verbally attack a younger female swimmer on the pool deck during the same meet.

28. In September of 2012, John Doe began freshman year at GA at the age of fourteen (14) and the abuse continued on a daily basis. He was made to carry A.L.'s books, run errands for him and had to give him his clothes for A.L. to use. A.L. threatened John Doe that if he swam faster than A.L. at practice, then A.L. would beat him harder and longer, but at the same time, if John Doe swam slower than A.L. at practice, Shoulberg and Lear would scream and make derogatory comments to John Doe and A.L. would beat him for making coaches angry. The mental abuse was torture.

29. John Doe also had his "speaking rights" to the girls' team taken away and if John Doe did not do as instructed, he would again be beaten. John Doe was forced to sit at a table comprised only of swimmers for lunch and do as the upper classman instructed. This was the culture of the swim program under Shoulberg.

30. In December of 2012, the team went on a winter training trip to Florida. A.F., a GAAC alumnus, came back to swim for a couple of days with the team at that time. The abusive aspect of the program was apparent when John Doe witnessed A.F. beat A.L. on the ground in A.L.'s room. John Doe ran away quickly fearing the same would happen to him. A.L. thereafter

moved into John Doe's room, continued to have fits of anger and degraded John Doe in any way possible.

31. While in Florida, Shoulberg's conduct was not much better than A.L.'s. One morning, when he felt the team was supposedly disrespectful to coach Kerri McIlvain, Shoulberg forced certain kids to swim with their sneakers on, then get out of the pool and run with wet shoes and suits for a total of over 7 miles outside in thirty (30) degree weather. Shoulberg would force them to run a half mile and then jump in the pool, get out and then run again so they would stay wet in the cold. Shoulberg then would not allow certain kids to ride back to the hotel in the van, including John Doe, and forced them to walk back to the hotel in wet shoes in thirty (30) degree weather. This resulted in GA sending an email to parents on January 4, 2013 to discuss allegations of abuse involving the coaching staff and swimmers. Not surprisingly, GA took no corrective action whatsoever.

32. In February of 2013, at an InterAc swim meet held at Malvern Prep, the freshmen were forced to participate in a tradition in GAAC called "Freshman Fight Club." "Freshman Fight Club" is a yearly tradition in GAAC wherein freshmen were forced to fight each other until one of them pinned the other down while upperclassmen watched and rooted them on. Again, not surprisingly, the coaches at the school allowed this to happen year after year.

33. Having undergone spinal cord surgery when he was twelve-years-old, the hitting and wrestling caused John Doe to injure his already compromised back while being forced to fight another freshman. Although required to report this to the administration pursuant to GA's policy, it was either never reported by Shoulberg or other members of the coaching staff because it was accepted as part of the culture in the program or it was reported to the administration who

knowingly and deliberately ignored same. Regardless of who consciously disregarded the safety of the kids on the team, there was absolutely no corrective action, punishment or preventative measures taken to ensure it never happened again. Nor were any parents told about it.

34. Not long after John Doe was injured in "Freshman Fight Club," amazingly, the coaching staff continued to put John Doe in danger by forcing him to room with A.L. once again at the Eastern Championships held in late February 2013. As a result, A.L. once again beat John Doe up in their hotel room after A.L. was furious following losing a race.

35. In the summer of 2013 at Nor Gwyn pool, Coach Chris Lear threw an empty large blue chemical bucket at John Doe as he swam in a workout because he did not do the set as well as Lear had thought he should have. The set was 10,000 IM and it was over two hours of straight swimming with no break. John Doe never saw the bucket coming as he was swimming, but it slammed his hand causing a large chunk of skin to come out of his hand and causing permanent scarring.

36. Shoulberg, who should have been helping John Doe and/or reporting Lear to the administration and/or doing something to protect the kids on the team, incredibly called John Doe over after the incident and told John Doe the afternoon practice would be the hardest in his life as punishment for not swimming well that morning. When John Doe got home from practice that day and showed his Mother his hand, she called Shoulberg and asked him what had happened. Shoulberg admitted that Lear threw a bucket in a fit of anger apparently because John Doe had not performed well on the set.

37. The following day, Shoulberg was furious that John Doe's Mother had called to question what was going on, thereby taking it out on the team during practice as the set that afternoon was extremely difficult.

38. In July of 2013, A.L. continued his torture and abuse of John Doe. A.L. sent threatening text messages to John Doe, warning him that A.L. would physically go after him at some point. One day, while practicing at Lynwood Gardens training for the upcoming junior national championships in California, A.L. continuously taunted and threatened John Doe, telling him how he cannot wait until California where John Doe would not have anyone to protect him and that John Doe better not go to sleep because John Doe would be sorry. A.L. said he was going to sodomize John Doe at night if he did fall asleep.

39. As a result, John Doe finally broke down, screaming at A.L. in front of Shoulberg. Shoulberg, instead of disciplining A.L., told John Doe to stop it, that they were in public and told A.L. to leave John Doe alone or "his Mother will be calling me to complain." John Doe thereafter told Shoulberg that he did not want to be in the same room with A.L. However, continuing to exhibit his callous and endangering attitude towards children in the program, Shoulberg told John Doe that he would room with A.L. and "that is the end of the discussion."

40. John Doe remained in constant fear and in a state of psychological unrest, being afraid to speak up in fear of the coaching staff and other members of the team, while remaining in fear of A.L.'s threats of rape and assault.

41. In September of 2013, John Doe and another member of GAAC informed Shoulberg's assistant about their concern for their safety on the team as a result of the way they had been treated. The assistant told them to talk to Shoulberg about it.

42. On September 10, 2013, Shoulberg's assistant confronted Shoulberg, telling him he needed to take action to protect the safety of the kids on the team, including plaintiff. Not surprisingly, Shoulberg did nothing.

43. On September 11, 2013, John Doe went to Shoulberg for help, laying out for Shoulberg each and every instance of abuse he had endured and his need for help and protection, as well as the need for protection of the younger members of the program as they had begun to be subjected to the same abuse John Doe endured. Again, consistent with his attitude and the culture he facilitated in the program, Shoulberg told John Doe to "get the hell out of my office."

44. Although mandated to immediately report the abuse pursuant to Pennsylvania law, USA Swimming Safe Sport regulations and GA and GAAC policy, Shoulberg chose not to report it. Instead, he added fuel to the fire of the hell that John Doe was in as a result of Shoulberg's deliberate and callous indifference to the kids on the team, including, but not limited to plaintiff.

45. That same day, John Doe went to Keri McIlvain, an English teacher and swim coach at GA, and told her everything that happened as he believed she would help. McIlvain told John Doe to "grow a thicker skin" in response and unfortunately, like Shoulberg, chose not to report it to anyone and instead, chose to allow John Doe and other members of GAAC to continue to be endangered and abused.

46. That night, John Doe's Mother also called Shoulberg regarding the abuse and harassment John Doe had endured. Shoulberg said he knew there were issues and that he was handling it with the school. Again, Shoulberg did not report the abuse to anyone following the call from John Doe's Mother or take any real corrective action whatsoever.

47. During this same time, as a result of getting no help whatsoever from anyone at GA other than Shoulberg's assistant who confronted Shoulberg, John Doe's already fragile mental status began to decline dramatically. He began hiding in his room, not sleeping and was afraid to go to school.

48. John Doe was also receiving threats for being a "rat" about the abuse in the program and that he should watch where he goes. Not surprisingly, John Doe was petrified of going to school or swimming at this time.

49. Thereafter, John Doe's Mother met with Shoulberg regarding the abuse and Shoulberg once again lied to her, telling her that he was "handling it." John Doe's Mother told Shoulberg that John Doe was afraid. Shoulberg confirmed he knew that John Doe was previously assaulted. Again he lied, saying that the school was handling it when he knew the school was not involved at this point, that no one had reported it to the school and that no corrective action was taking place.

50. The following day, Shoulberg's assistant confronted Shoulberg once again, telling him that he needs to handle it, that he was no better than Joe Paterno because he had done nothing and kids' lives were in danger. Instead of following his duties to report and the advice of his own assistant, Shoulberg told his assistant that she was forbidden to speak with John Doe's Mother.

51. That same day, multiple boys on the team informed Shoulberg that they too were being physically and mentally abused and that it was happening approximately 5-6 times a week. At least one coach demanded that Shoulberg take action. However, Shoulberg threatened to fire that coach if they refused to follow orders. Not surprisingly, Shoulberg chose not to report the abuse to anyone.

52. The following day, disgusted by the fact that Shoulberg actively concealed the abuse and torment suffered by boys on the team, knowingly allowed it to continue and chose not to report it in violation of his duties under GA and GAAC policy, USA Swimming policy and Safe Sport regulations, as well as Pennsylvania law, Shoulberg's assistant went to Jim Fennerty, GA Athletic Director, the next day and told him everything she knew. Fennerty himself interviewed the boys who were involved separately and took statements. As a result, John Doe continued to receive threats for being a "rat," thereby causing him to become even more despondent and slip into an even greater depression and psychological abyss.

53. After Shoulberg's assistant informed Jim Fennerty about the abuse that was occurring in the program, Shoulberg retaliated against John Doe, continuously and repeatedly mentally tormenting him. The mistreatment of John Doe by Shoulberg was so bad that members of the swim program actually reported it to Athletic Director Jim Fennerty. **Amazingly, no one at GA reported any of the reports of abuse that had occurred in the swim program to authorities despite their obligation to do so, thereby directly and continuously endangering the safety of members on the swim team and ratifying the conduct of Shoulberg and the program.**

54. Following the investigation by Jim Fennerty, under the guise of a suspension or for "health reasons," toward the end of October 2013, Shoulberg took a leave of absence from GA.

55. Upon Shoulberg's departure from GA in October of 2013, the Philadelphia Inquirer published a story regarding the reasons for his departure. In a deliberate effort to defame John Doe and his family, Shoulberg issued a statement to the Inquirer, giving categorically false statements about the events leading up to his absence, stating that he "had done nothing wrong" and implying that no misconduct or instances of abuse had ever occurred, thereby casting John Doe in a false light in multiple periodicals throughout the country, the Philadelphia Inquirer and periodicals in the swimming community.

56. Following Shoulberg issuing the false statements described above, John Doe's Mother contacted GA and begged the school to stop Shoulberg from making these statements to the media as it was only generating anger and hatred towards John Doe and his family for the belief that the allegations of what happened to John Doe were false and that John Doe's family was responsible for Shoulberg being suspended.

57. Amazingly, despite knowing abuse/hazing had occurred throughout the years in the swim program, including to John Doe, in an effort to protect its own interests, GA continued to cover it up, never once issuing a statement to any media outlets that the abuse had occurred and/or that Shoulberg allowed it to occur and did not report same. GA deliberately and intentionally protected its own reputation, the reputation of Shoulberg and the swim program at the expense of those who were abused, including Plaintiff.

58. In fact, in October of 2013, GA confirmed in a private email that there had been "many" incidents of abuse over the years in the boys swim program and that "this was confirmed by multiple witnesses and involved multiple targets" and "it is undisputed that there were violations of our school's policies." It was also confirmed by GA that at least one student other than John Doe had left GA as a result of the abuse he/she endured.

59. However, this information was never made public by GA. As such, Shoulberg continued to falsely reiterate his innocence, casting John Doe out as a liar and making him the brunt of the blame for Shoulberg's claims to the media that he had "done nothing wrong" and was wrongfully ousted.

60. The school continued to ratify these statements to the media by refusing to take action. As a result, parents, students and alumni became extremely angry after Shoulberg was suspended. Shoulberg continued to proclaim his innocence and the school did not issue a statement to the contrary, leaving them to believe he was. Hence, parents, students and alumni thereafter directed their anger towards John Doe.

61. As a result, John Doe suffered in school on a daily basis as animosity from his teammates, as well as their parents, was building for reporting the abuse. The comments written on social media, swimming fan websites, and news media message boards throughout the country were beyond denigrating and extremely difficult for John Doe to read as he was being blamed for Shoulberg's removal and Shoulberg continued to plead innocence. The public was forced to conclude that Shoulberg was telling the truth, that he was innocent and that John Doe was a liar who had disingenuously caused the departure of Shoulberg, thereby only compounding and adding to John Doe's public scorn and misery.

62. After USA Swimming found out about the abuse to John Doe, A.L. was ultimately suspended from USA swimming for 90 days. A.L. was also arrested by Whitemarsh Township, charged and plead guilty relating to his continued torture and abuse of John Doe. John Doe, a child, was forced to participate in the criminal process, being interviewed multiple times, having to relive all of the abuse he suffered, all the while continuously worrying about retaliation. However, Shoulberg was not reprimanded by anyone, including USA Swimming or GA.

63. In fact, inexplicably and unconscionably, despite the fact that the administration now *knew* about the history of abuse and hazing in the swim program under Dick Shoulberg, Shoulberg was allowed to return to GA as coach emeritus in January of 2014. As a result, Shoulberg continued to make snide comments and displayed increased anger towards John Doe. He continued to antagonize John Doe by saying things in front of the team and would not communicate with John Doe on a personal basis. He would also bark inappropriate comments over the pool microphone and in person to others as well, calling the girls' team fat, out of shape, sluts and tramps. Claire Crippen had to remove the microphone from the office because of his continued inappropriate behavior.

64. Additionally, Shoulberg *continued* to make false statements to the media in order to cover up the culture of abuse in his program and protect his national reputation in the swimming community at the expense of John Doe and his family. **Not once has GA prevented Shoulberg from doing same nor issued a statement containing the truth of what has occurred or demanded any statements be retracted.** As a result, John Doe has been forced to quietly suffer at Shoulberg and GA's expense.

65. Shoulberg's continued anger towards John Doe during the Fall of 2014 was displayed daily as he sat by lane six (John Doe's training lane) and caused John Doe to have increased anxiety as his comments were derogatory and mean spirited. Shoulberg "bitted" another swimmer, A.A., against John Doe the same way he did with A.L. and John Doe in the past. As such, John Doe's Mother was force to demand another meeting with school officials asking them to remove Shoulberg from lane six, as well as not allowing Shoulberg to coach John Doe. Not surprisingly, this did not stop Shoulberg.

66. As a result of the actions/inactions of Shoulberg and GA in January 2015, John Doe reached his breaking point, wanting to quit school and swimming. He was unable to attend school for a week and could no longer swim and subject himself to Shoulberg and his vengeful comments/attitude. However, he continued to train in the morning at GA without Shoulberg present, but he was now forced to travel to Allentown each afternoon to train with his new team.

67. John Doe was out casted upon quitting the team. Often times team members harassed him via text messages, refusing to speak to him or swim in his lane or in the lane next to him. He could not eat lunch in the cafeteria in fear of retaliation and was completely rejected by his friends and team members, as kids have said no one wants to be seen with him because he is a "rat and a snitch."

68. John Doe became despondent, severely depressed and needed medical intervention. As such, he began treating with a psychologist and psychiatrist on a regular basis and was forced to take several anti-depressants merely to function on a regular basis.

69. During the Summer of 2015, John Doe had a severe panic attack during a meet in which he vomited during the race, causing him to ingest and inhale large amounts of water

thereby rendering him unconscious. He was rescued from the pool and resuscitated, however, that was the end of his incredibly promising swimming career.

70. Prior to undergoing the abuse described above, John Doe was a healthy Olympic trial prospect swimmer with national interest from elite Division One swimming programs. He was all but guaranteed a scholarship to swim at a Division One college. Today, he no longer swims competitively, no longer garners interest from college programs as a result and is medically dependent on treatment and medication to function.

71. To this day, Shoulberg continues to text GA students (in violation of GA policy) and GAAC swimmers about this matter, which has generated an enormous amount of hostility towards John Doe as Shoulberg has told them he could not be at GA because of John Doe. This is in direct violation of GA's policy concerning texting and was addressed in a January 15, 2015 email.

72. Under the guise of retirement, Shoulberg left GA in June of 2015. However, Shoulberg continues to tell people that John Doe got him fired and that GA was not renewing his contract. Families continue to be angry as they believed Shoulberg was not retiring but being unjustly fired. Shoulberg created backlash by continuing to claim his innocence and resentment and anger towards John Doe from the community continues.

COUNT I - NEGLIGENCE
Plaintiff v. Defendant

73. Plaintiff incorporates paragraphs 1-74 as if they were set forth fully herein.

74. Defendant GA knew, had reason to know, or were otherwise on notice of the unlawful conduct of Shoulberg, Lear and/or other individual employees who failed to protect the safety of children in the swim program, including plaintiff. Yet GA failed to take reasonable

steps and failed to implement reasonable safeguards to prevent acts of unlawful abuse, harassment, etc. in the future by GAAC members and members of the coaching staff, including but not limited to, preventing or avoiding placement of John Doe in functions or environments in which he would be endangered.

75. Furthermore, at no time during the periods of time alleged did GA have in place a system or procedure to supervise and/or monitor A.L., Shoulberg and/or Lear or other members of GAAC or the coaching staff to ensure that children, including John Doe, were not abused.

76. Moreover, as set forth above, the incidents of abuse in GA's swim program were neither isolated nor unusual. For years, GA failed to reprimand, punish, report, or otherwise sanction A.L., students, Shoulberg, Lear and/or other members of the coaching staff which it knew or had reason to know were a danger to children in the swim program. GA's knowing acquiescence and silence with respect to the known, or reasonably knowable, activities of A.L., Shoulberg, Lear, other members of the coaching staff and other members of the swim program who abused others constituted a course of conduct through which acts of violence and mental torment and the violation of the sanctity of children were condoned, approved, and effectively authorized.

77. Through its failure to timely reprimand and sanction the acts referenced above, and for all of the other reasons set forth herein including, without limitation, its failure to take the steps necessary to prevent the occurrence of such reprehensible acts, GA ratified said actions and, accordingly, is vicariously liable for the actions of their individual employees, including Dick Shoulberg and Christopher Lear.

78. Moreover, GA had a duty to protect John Doe when he was entrusted to their care by his parents. John Doe's care, welfare, and/or physical custody were temporarily entrusted to

GA, and GA voluntarily accepted the entrusted care of Plaintiff. As such, GA owed John Doe, a minor child, a special duty of care, in addition to a duty of ordinary care, and owed John Doe the higher duty of care that adults dealing with children owe to protect them from harm.

79. As set forth above, GA, through their agents and/or employees subjected Plaintiff to cruel and unjust hardship in conscious disregard of Plaintiff's rights. GA knew or reasonably should have known that Shoulberg, Lear and other members of the coaching staff were unfit agents.

80. It was foreseeable that if GA did not adequately exercise or provide the duty of care owed to children in their care, including, but not limited to John Doe, the children entrusted to GA's care would be vulnerable to abuse.

81. For years prior to the abuse of plaintiff, as set forth herein, GA knew or had reason to know that kids in GAAC were being abused which was facilitated by the culture and environment created and allowed by the coaching staff.

82. GA knew, and/or should have known, that those individuals who had abused others or who allowed same to occur were likely to commit further acts of abuse/allowance of abuse in the future. GA owed to the public in general, and to John Doe in particular, a duty to reasonably identify, remove, and/or report (to law enforcement authorities, USA Swimming authorities and/or to parents) individuals who it knew, or should have known, were abusing other kids or allowing same to occur.

83. GA owed to the public in general, and to John Doe in particular, a duty to reasonably supervise and/or monitor individuals who it knew, or should have known, were abusing others or allowing abuse to occur.

84. Having taken custody of John Doe (who, at the time of all of the events at issue here was between the ages of fourteen (14) and seventeen (17)) under circumstances such as to deprive him of his entitlement to safe care and protection, GA owed to John Doe a duty to aid and/or protect him and to control the actions of third parties, including, but not limited to A.L., Shoulberg and Lear, as set forth in Restatement (Second) of Torts §§ 314A(4), 315.

85. GA did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify (and deal with) abuse that was occurring.

86. Despite actual knowledge of A.L., Shoulberg and/or Lear abusing John Doe, he was continually subjected to both despite the foreseeable risk that A.L., Shoulberg and/or Lear would engage in repeated acts of abuse, GA did not have in place (or failed to enforce) adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify, and deal with individuals like A.L., Shoulberg and/or Lear who were abusing or allowing the abuse of children.

87. GA did not have in place adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of students/employees who were allowing abuse to occur in the swim program who were in the employ and/or service of GA, for the reporting to criminal authorities abuse or employees who were allowing abuse or for the reporting to parents of children enrolled at GA or GAAC who were subjected to abuse.

88. As discussed above, GA failed to fulfill its legal duty to protect John Doe from the depraved acts outlined above. Moreover, GA failed to take the reasonable steps to ensure that teachers, administrators, coaches and employees were psychologically fit to supervise, instruct, and mentor children in its school by:

- a. Failing to prohibit, restrict, or limit the activities of employees who allowed of furthered abuse/hazing and/or failed to report same;
- b. Failing to reasonably and properly investigate allegations of hazing and/or child abuse;
- c. Failing to properly train and instruct its coaches and employees;
- d. Failing to have in place standards of acceptable and unacceptable conduct;
- e. Failing to designate competent investigators to evaluate complaints of abuse;
- f. Failing to have in place standards for reporting acts of misconduct/abuse/hazing to law enforcement authorities, parents, and/or administrators.
- g. permitting Richard Shoulberg to abuse a minor student/participant on the premises of GA during school hours and elsewhere;
- h. permitting Christopher Lear to abuse a minor student/participant on the premises of GA during school hours and elsewhere;
- i. permitting A.L. to abuse a minor student/participant on the premises of GA during school hours and elsewhere;
- j. permitting A.L., Shoulberg and Lear to violate Pennsylvania criminal statute
- k. failing to properly and adequately supervise and discipline its employees to prevent the abuse that occurred to Plaintiff;
- l. failing to adopt, enforce and/or follow adequate policies and procedures for the protection and reasonable supervision of children who attend GA and/or participate in GAAC, including Plaintiff, and, in the alternative, failing to implement and comply with such procedures which had been adopted;
- m. failing to implement, enforce and/or follow adequate protective and supervisory measures for the protection of students at GA or participants in GAAC, including Plaintiff;
- n. creating an environment that facilitated abuse on Plaintiff;
- o. failing to adopt, enforce and/or follow policies and procedures to protect minors against harmful influence and contact by its employees and participants, including Richard Shoulberg, Christopher Lear and A.L.;

- p. breaching the duties imposed by Restatement (Second) of Torts, § 324A, as adopted in Pennsylvania;
- q. failing to warn Plaintiff of the risk of harm posed by Richard Shoulberg, Christopher Lear and/or A.L. after Defendants knew or should have known of such risk;
- r. failing to provide Plaintiff with any assistance in coping with the injuries sustained;
- s. severely aggravating the injuries to Plaintiff by Defendants' reprehensible conduct when allowing Richard Shoulberg to continue coaching after confirmation of many instances of abuse, including, the abuse that occurred to Plaintiff;
- t. violation of duties imposed by Restatement (Second) of Agency § 213 and Restatement (Second) of Torts § 317, as adopted in Pennsylvania;
- u. failing to warn Plaintiff of the risk of harm that Plaintiff may suffer as a result of further contact with Richard Shoulberg, Christopher Lear and/or A.L.;
- v. failing to warn or otherwise make reasonably safe the property which Defendants possessed and/or controlled, leading to the harm of Plaintiff;
- w. failing to adopt/implement and/or enforce policies and procedures for the reporting to law enforcement, Office of Children and Youth, USA Swimming, authorities within GA and GAAC and/or other authorities of harmful acts to children;
- x. failing to report A.L., Shoulberg and/or Lear's harmful acts to authorities within GA and/or other authorities;
- y. violating its own policies and/or by-laws regarding child abuse and/or harassment by staff and/or students/GAAC participants;
- z. violating the requirements of Pennsylvania's Child Protective Services Law, 23 § 6311(a) and (b), constituting negligence *per se*;
- aa. ignoring, concealing, or otherwise mitigating the seriousness of the known danger that Richard Shoulberg, Christopher Lear and/or A.L. posed;
- bb. failing to prevent the repeated and continued abuse that was committed on Plaintiff;

- cc. allowing Richard Shoulberg to remain on staff after knowing that abuse within his program was rampant and knowing he failed to report suspected child abuse;
- dd. failing to properly supervise and/or discipline its employees;
- ee. failing to adequately and properly train its employees regarding abuse of students by teachers and/or employees; and
- ff. negligently managing and/or operating GA and/or GAAC.

90. As a result of the negligent, intentional, outrageous, wrongful, deliberately and recklessly indifferent and unlawful conduct of Defendant, Plaintiff, John Doe, suffered severe injuries and damages, including, but not limited to:

- a. panic attacks;
- b. sleeplessness;
- c. loss of appetite;
- d. bruising and abrasions;
- e. physical injuries as outlined in Plaintiff's medical records;
- f. permanent scarring;
- g. nausea;
- h. post-traumatic stress disorder;
- i. depression;
- j. anxiety;
- k. psychological injuries and conditions;
- l. psychiatric injuries and conditions;
- m. severe and permanent injuries as describe in the medical records of plaintiff;
- n. past pain and suffering;
- o. future pain and suffering;

- p. past medical expenses;
- q. future medical expenses;
- r. past mental anguish;
- s. future mental anguish;
- t. loss of earning capacity;
- u. embarrassment;
- v. humiliation; and
- w. loss of life's pleasures.

91. Defendants knew or should have known about the severe risk of their failure to take any appropriate precautions outlined above and acted with a reckless disregard for such risk for which Plaintiff is entitled to and hereby seeks punitive damages pursuant to the requirements of Pennsylvania law.

92. Defendants' actions and failures as described herein are outrageous and were done recklessly with a conscious disregard of the risk of harm to plaintiff for which Plaintiff is entitled to and hereby seeks punitive damages.

WHEREFORE, Plaintiff, John Doe, demands judgment against Defendant, Germantown Academy, in a sum in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, in compensatory damages and punitive damages, exclusive of pre-judgment interest, post-judgment interests and costs.

**COUNT II – NEGLIGENCE AND INTENTIONAL INFLICTION OF
EMOTIONAL DISTRESS**
Plaintiff v. Defendant

93. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 91 and throughout this entire complaint as though same were fully set forth herein at length.

94. Defendants, by and through their contact with Plaintiff, as described above, negligently, recklessly and/or intentionally committed multiple acts of extreme and outrageous conduct which caused severe emotional, psychological, and psychiatric injuries, distress, and harm to Plaintiff, which also manifested in physical injuries to Plaintiff as set forth above, in an extreme, outrageous and harmful manner.

WHEREFORE, Plaintiff, John Doe, demands judgment against Defendant, Germantown Academy, in a sum in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, in compensatory damages and punitive damages, exclusive of pre-judgment interest, post-judgment interests and costs.

COUNT III-NEGLIGENT FAILURE TO RESCUE
Plaintiff v. Defendant

95. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 93 and throughout this complaint as though same were fully set forth herein at length.

96. The negligence and recklessness of Defendants, in directly and proximately causing the injuries and damages to Plaintiff described herein, include:

- a) failing to take reasonable and necessary steps to rescue the Plaintiff after placing him in a perilous position;
- b) failing to exercise reasonable and necessary steps to prevent further harm after rendering the Plaintiff in danger of further harm;
- c) failing to take reasonable and necessary steps to give aid or assistance to the Plaintiff after rendering him in danger of further harm;

d) failing to take reasonable steps to obtain aid or assistance for the Plaintiff after rendering him in danger of further harm;

e) failing to take reasonable and necessary steps to prevent the delay in the appropriate care of the Plaintiff;

f) violation of the duties set forth in Restatement (Second) of Torts, Sections 314A & 322, as adopted in Pennsylvania.

97. As a proximate and direct result of Defendant's breaches described in the preceding paragraph, Plaintiff sustained psychological and physical harms and injuries as described above.

98. The aforementioned incidents resulted from the negligence, recklessness and/or intentional acts of Defendant and was due in no manner whatsoever to any act or failure to act on part of Plaintiff.

WHEREFORE, Plaintiff, John Doe, demands judgment against Defendant, Germantown Academy, in a sum in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, in compensatory damages and punitive damages, exclusive of pre-judgment interest, post-judgment interests and costs.

COUNT IV - NEGLIGENCE PER SE
FAILURE TO REPORT SUSPECTED CHILD ABUSE IN VIOLATION OF
THE PENNSYLVANIA CHILD PROTECTIVE SERVICES LAW (PCPSL)
Plaintiff v. Defendant

99. Plaintiff incorporates herein by reference all of the allegations contained in paragraphs 1 through 97 and throughout this complaint as though same were fully set forth herein at length.

100. Defendant knew, had knowledge or had reasonable suspicion of harmful acts being committed by A.L., Shoulberg and/or Lear on Plaintiff and negligently, recklessly and/or

intentionally violated their statutory duty to report such abuse as required by Pennsylvania's Child Protective Services Law (PCPSL), 23 § 6311(a) and (b) et. seq.

101. Defendant's violations constitute negligence *per se* under Pennsylvania law.
102. Defendant's negligent, reckless and/or intentional failure to report such harmful acts allowed A.L., Shoulberg and/or Lear to continually abuse Plaintiff.
103. Such failure on the part of the Defendant was reckless, intentional, knowing, grossly negligent, deliberately and recklessly indifferent, outrageous, malicious and/or was a reckless and conscious disregard for the safety of Plaintiff.

WHEREFORE, Plaintiff, John Doe, demands judgment against Defendant, Germantown Academy, in a sum in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, in compensatory damages and punitive damages, exclusive of pre-judgment interest, post-judgment interests and costs.

COUNT V – FALSE LIGHT
Plaintiff v. Defendant

104. Plaintiffs incorporate herein by reference all the allegations contained in paragraphs 1 through 102 and throughout this entire complaint as though same were fully set forth herein at length.

105. Beginning in 2013, the defendant, through its employee, Shoulberg, made public statements concerning the matter at hand.

106. Specifically, in a December 8, 2013 Philadelphia Inquirer article, Shoulberg was quoted as saying he "did nothing wrong" and that his leave was not related to any criminal or ethical violations, which is completely false, as demonstrated above.

107. The statements made by the defendant concerning plaintiff and the matter at hand as described more fully above were made to the public and published, through various local and national newspapers, including, but not limited to, the Philadelphia Inquirer.

108. The statements made by the defendant concerning plaintiff as described more fully above are highly offensive to a reasonable person. Defendant made these public statements in an effort to show that plaintiff, a victim of horrific abuse at the hands of multiple people in GAAC, was a liar in order to preserve the credibility of GA, GAAC and Shoulberg.

109. The statements made by defendant described more fully above were and are false.

110. Defendant knew that the statements were false and/or acted with reckless disregard for the statements falsities and/or acted careless as to whether the statements were true or false.

111. In fact, GA knew and also received notice from John Doe and John Doe's Mother that the statements of Shoulberg were false when both informed the administration of same and demanded some action be taken to stop Shoulberg from doing so.

112. Despite knowing said statements were false, GA chose not to retract the statements or issue a statement correcting same so the truth was known.

113. The statements above are a major misrepresentation of plaintiff's character and history of what occurred and serious offense would reasonably be expected by a reasonable man in his position. Namely, the knowingly false statements made by defendant were purposefully made in an effort to show that John Doe was a liar, which any reasonable man in his position, namely, a victim of abuse who was attempting to shed light on the truth, would reasonably take serious offense to. Defendant attempted to discredit John Doe in order to further attempt to protect their own reputation.

114. Defendant, through its employee, Shoulberg, also made false statements regarding John Doe to the public, namely, that Shoulberg is innocent but being wrongfully fired by GA because of John Doe.

115. As a result of the actions of the defendant in making false statements about the matter at hand, and namely, casting plaintiff in a false light in order to preserve the credibility of GA and Shoulberg himself, plaintiff, John Doe was caused to suffer severe psychological and psychiatric trauma and injuries, sleeplessness, aggravation of post-traumatic stress disorder, humiliation, embarrassment, loss of self-esteem, mental anguish, anxiety, continuous emotional pain and suffering, past and future medical expenses, a loss of life's pleasures, and an inability to continue his daily chores, obligations, and activities.

116. Defendant's actions as described herein are outrageous and were done recklessly with a conscious disregard of the risk of harm to plaintiff for which plaintiffs are entitled to and hereby seek punitive damages.

WHEREFORE, Plaintiff, John Doe, demands judgment against Defendant, Germantown Academy, in a sum in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, in compensatory damages and punitive damages, exclusive of pre-judgment interest, post-judgment interests and costs.

COUNT VI - DEFAMATION
PLAINTIFF v. DEFENDANT

117. Plaintiffs incorporate herein by reference all the allegations contained in paragraphs 1 through 115 and throughout this entire complaint as though same were fully set forth herein at length.

118. The statements made by the defendant as described more fully above constitute communications, some of which were published throughout the country, including within Philadelphia, PA, through various newspapers, including the Philadelphia Inquirer, as described more fully above.

119. The statements/communications made by the defendant are defamatory such that they so tend to harm plaintiff's reputation so as to lower him in the estimation of his community and/or to deter third persons from associating or dealing with plaintiff.

120. The communications made by the defendant were made to make plaintiff, a victim of abuse, look like a liar in order to preserve the credibility of defendant and Shoulberg.

121. All the statements/communications made by defendant were defamatory.

122. At all relevant times, plaintiff was and is a private figure, not a public figure.

123. As a result of the actions of the defendant in making defamatory communications about this matter and plaintiff specifically, in order to preserve the credibility of defendant and Shoulberg himself, plaintiff, John Doe was caused to suffer the harms, damages and injuries described more fully above.

124. Defendant's actions as described herein are outrageous and were done recklessly with a conscious disregard of the risk of harm to plaintiff for which plaintiff is entitled to and hereby seek punitive damages.

WHEREFORE, Plaintiff, John Doe, demands judgment against Defendant, Germantown Academy, in a sum in excess of Fifty Thousand (\$50,000.00) Dollars, and in excess of the prevailing arbitration limits, in compensatory damages and punitive damages, exclusive of pre-judgment interest, post-judgment interests and costs.

LAFFEY, BUCCI & KENT, LLP

BY:

/s/

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JEFFREY F. LAFFEY, ESQUIRE
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Attorneys for Plaintiff, John Doe

Date: February 5, 2016