

CASE NO. \_\_\_\_\_

JEFFERSON CIRCUIT COURT  
DIVISION \_\_\_\_\_

JUDGE \_\_\_\_\_

**V.R.R., a minor by and through his mother,  
guardian, and next friend, KENDRA REED**

**PLAINTIFF**

v.

**DANIEL TRAHAN, IN HIS OFFICIAL  
CAPACITY AND INDIVIDUALLY**

**DEFENDANT**

**Serve: Daniel Trahan (at former place of employment)  
Fern Creek High School  
9115 Fern Creek Road  
Louisville, Kentucky 40291**

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**COMPLAINT**

The Plaintiff, V.R.R., a minor by and through his natural mother, guardian, and next friend, Kendra Reed, by and through counsel, and for his Complaint against the Defendant, Daniel Trahan, individually and in his official capacity, states as follows:

1. This is a case about a 16-year-old JCPS student who broke his leg after crashing a motorcycle that he was encouraged to drive by his teacher, Defendant Daniel Trahan.
2. This was not a spur-of-the-moment mistake by Defendant Trahan; to the contrary, he had planned to allow his students to drive the motorcycle for months, a fact confirmed not only by other students, but also Mr. Trahan's choice to obtain a football helmet for V.R.R. and his other students to wear for head protection.
3. Setting aside the fact that it is literally illegal to drive a motorcycle while wearing a football helmet, Mr. Trahan knew that the football helmet he provided to V.R.R. was broken, and chose to use it anyway.

4. On a more fundamental level, it was illegal for V.R.R. to drive the motorcycle to begin with, because V.R.R. did not even have a learner’s permit, much less a driver’s license with the motorcycle endorsement that was required for him to operate the motorcycle legally.

5. Very much to their credit, Defendant Trahan’s superiors have done the right thing and acknowledged the common-sense fact that Defendant Trahan should have never, ever let V.R.R. drive the motorcycle.

6. For example, school principal Rebecca Nicolas prepared a written statement after the crash, and concluded as follows:

I had no notification that Mr. Trahan intended to take the bike to the track or to let students ride it. If he had notified me of this at any time I would have told him that he could not do this for obvious safety and liability issues.

7. Likewise, after an investigation into the crash, JCPS Superintendent Martin Pollio suspended Defendant Trahan, and ultimately terminated Defendant Trahan, solely because of Defendant Trahan’s misconduct that led to the crash.

8. Even the Kentucky Educational Professional Standards Board (“EPSB”) – that is, the Kentucky organization responsible for licensing and disciplining teachers – took the extraordinarily unusual step of suspending Defendant Trahan’s license for two years, in apparent recognition that Defendant Trahan’s conduct was reckless, and should never be tolerated in our schools.

9. Unlike his bosses and the EPSB, Defendant Trahan has not done the right thing; instead, to this very day, Defendant Trahan has done everything in his power to avoid responsibility for his obviously terrible decision to allow V.R.R. to drive the motorcycle.

10. For example, in the disciplinary investigations that followed the crash, Defendant Trahan falsely claimed that V.R.R. was not allowed to drive the motorcycle and instead unexpectedly took off on it without warning.

11. We know this is malarkey, not only because Defendant Trahan admitted on the day of the crash that V.R.R. was allowed to drive the motorcycle and because multiple students acknowledged that Defendant Trahan planned on allowing students to drive the motorcycle, but also because Defendant Trahan went to the trouble of obtaining the broken football helmet for his students to use while driving the motorcycle.

12. Likewise, Defendant Trahan has pointed the finger at JCPS administration, by claiming both that administration approved of the concept of unlicensed children speeding around school grounds on motorcycles, and that JCPS failed to appropriately train him.

13. Simply put, it was Defendant Trahan's job to keep V.R.R. safe, and part of this job included the obvious responsibility to not allow V.R.R. to drive a motorcycle.

14. The fact that it was Defendant Trahan's job to keep V.R.R. safe is common sense and is also reflected in numerous well-established JCPS policies, JCPS procedures, JCPS guidelines, JCPS directives regarding conduct, Kentucky law, and Kentucky administrative regulations – some of which are discussed below.

15. One need not be a rocket scientist to realize that a 16-year-old student who does not have a learner's permit and has no experience driving motorcycles is likely to crash and get hurt if they are encouraged by their teacher to drive a motorcycle without any meaningful instruction.

16. Put another way, the fact that V.R.R. would crash the motorcycle was both foreseeable and should have been anticipated by Defendant Trahan, in part for the reasons described herein.

17. At the risk of stating the obvious, it is not OK for our school teachers to encourage and permit unlicensed students to zoom around the grounds of our public schools on dangerous home-made motorcycles.

18. But when a teacher does it anyway, and somebody gets hurt, the teacher should be held responsible.

19. Bottom line, this never should have happened – and because it did, Defendant Trahan should be held accountable.

### **JURISDICTION**<sup>1</sup>

20. Plaintiff incorporates by reference as if set forth fully herein each and every averment, allegation and statement contained in the previous paragraphs of this Complaint.

21. V.R.R. is a minor child, and sues by his mother, Kendra Reed, as his natural mother, guardian, and next friend.

22. Kendra Reed is the natural and legal mother of V.R.R.

23. At all times relevant herein, Kendra Reed and V.R.R. were citizens and residents of Jefferson County, Kentucky.

24. At all times relevant herein, V.R.R. was a student at Fern Creek High School in Jefferson County, Kentucky.

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<sup>1</sup> This subheading, and the other subheadings in this Complaint, are included solely for organizational purposes and are not intended to exhaustively list the causes of action pled herein or otherwise substantively affect the allegations of this Complaint.

25. At the time of the incidents that gave rise to this cause of action, Defendant Daniel Trahan (sometimes referred to herein as “Trahan”) was an employee of JCPS, and served in the position of teacher at Fern Creek High School.

26. Trahan is being sued in his official capacity and individually.

27. The Jefferson County Board of Education and/or Jefferson County Public Schools purchased policies of insurance that provide insurance coverage for the negligence, gross negligence, and other conduct of Defendant Trahan as alleged herein.<sup>2</sup>

28. This Court has personal jurisdiction over Defendant Trahan pursuant to Kentucky law.

29. The acts and/or omissions complained of herein, which include but are not limited to both the April 26, 2022 motorcycle crash described above as well as Defendant Trahan’s conduct that preceded the same, occurred in Louisville, Jefferson County, Kentucky, and Plaintiff has been damaged in excess of the minimal jurisdictional limits of this Court.

30. This Court therefore has subject matter jurisdiction over this case.

31. Venue is proper in this Court pursuant to KRS Chapter 452, and specifically including but not limited to KRS 452.460.

32. This action is not removable to federal court for many reasons, including the facts that:

- a) there are no federal claims asserted in this lawsuit, the claims asserted herein arise exclusively under Kentucky law, Plaintiff does not assert any claim under federal

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<sup>2</sup> See, e.g., November 15, 2022 Jefferson County Public Schools Annual Comprehensive Financial Report (“The District is exposed to various forms of loss of assets associated with the risks of fire, personal liability, theft, vehicle accidents, errors and omissions, fiduciary responsibility, etc. Each of these risk areas is covered through the purchase of commercial insurance. To further reduce financial risk to the District, additional policies are purchased to address the risk that claims could exceed the insurance coverage limits.”).

law or regulation, and to the extent any claim or factual assertion herein may be construed as stating a federal claim, Plaintiff disavows that claim;

- b) there is not complete diversity of citizenship;
- c) this is not a class action; and
- d) this suit involves a local controversy vital to the well-being of Kentucky's citizens, the safety and security of their citizens at a state-funded educational institution, and the use of Kentucky taxpayer dollars by a Kentucky educational institution.

**CAUSES OF ACTION AGAINST DEFENDANT TRAHAN:  
NEGLIGENCE, NEGLIGENCE PER SE, AND RELATED THEORIES**

33. Plaintiff incorporates by reference as if set forth fully herein each and every averment, allegation and statement contained in the previous paragraphs of this Complaint.

34. Defendant Trahan had a ministerial duty, pursuant to common law and/or statute and/or administrative regulation and/or other written or unwritten policies, regulations and/or rules to V.R.R. to exercise due care for V.R.R.'s safety while V.R.R. was under his direction and control, and to otherwise act reasonably in his interactions with Plaintiff.

35. Defendant Trahan breached said duty, and said breach caused injury to V.R.R.

36. The foregoing incident occurred because V.R.R. and/or the other students at Fern Creek were either not being supervised, were not being supervised adequately by Defendant Trahan, and/or were being negligently supervised by Defendant Trahan.

37. Defendant Trahan was specifically responsible for and assigned to supervise V.R.R. at times all relevant hereto (including but not limited to the morning of April 26, 2022) pursuant to the law, Fern Creek and/or JCPS policy/procedure/regulation/the like (including the documents referenced herein), and/or common sense.

38. Pursuant to common law and/or statute and/or administrative regulation and/or other written or unwritten policies, regulations and/or rules, Defendant Trahan had a ministerial

duty to reasonably and adequately supervise students in Defendant Trahan's charge, including V.R.R.

39. Indeed, pursuant to Marson v. Thomason, 438 S.W.3d 292, 301 (Ky. 2014), the Kentucky Supreme Court "has repeatedly stated that a teacher's duty to supervise students is ministerial, as it requires enforcement of known rules."

40. Likewise, pursuant to Patton v. Bickford, 529 S.W.3d 717, 737 (Ky. 2016), "a teacher's duty to supervise students is ministerial in nature and that the consequences for a breach of that duty may not be dismissed under the cover of qualified immunity".

41. Similarly, pursuant to Ritchie v. Turner, 559 S.W.3d 822, 832 (Ky. 2018), "actually supervising the students [is] a ministerial duty for those who are assigned such supervision."

42. Defendant Trahan breached his ministerial duties, including but not limited to his ministerial duty to supervise V.R.R., and said breach caused injury to Plaintiff.

43. Pursuant to the foregoing well-established authority, Defendant Trahan is not immune for his conduct and/or negligent supervision of V.R.R.

44. Put another way, the conduct of Defendant Trahan was ministerial in nature, and/or was taken in bad faith, and/or was outside of the scope of his respective employment or authority, and/or violated Plaintiff's constitutional, statutory, or other well-established rights (which include but are not limited to rights contained in policies or procedures and/or case law and/or Kentucky Administrative Regulations), and/or is otherwise conduct for which Defendant Trahan is not entitled to immunity.

45. Accordingly, pursuant to well-established Kentucky law, Defendant Trahan is not immune for his negligent, grossly negligent, reckless, and otherwise tortious and improper conduct as described in part herein.

46. Additionally, JCPS Policy 09.221 restates the requirement of KRS 161.180 that teachers and administrators “shall hold pupils to a strict account for their conduct on school premises”, and also provides that “[s]tudents will be under the supervision of a qualified adult”.

47. Defendant Trahan failed to comply with this policy.

48. Defendant Trahan failed to comply with other policies, procedures, guidelines, and/or directives either promulgated or followed by JCPS and/or Fern Creek High School and/or other entities.

49. Had Defendant Trahan done his job and followed JCPS policies and/or the law, V.R.R. would not have been hurt.

50. Bottom line, Defendant Trahan negligently and inadequately supervised V.R.R. and/or was otherwise negligent and/or otherwise engaged in conduct for which he is not entitled to immunity.

51. Defendant Trahan had a duty to reasonably supervise V.R.R. to prevent V.R.R. from being hurt and to otherwise take action to avoid and minimize injury to V.R.R., and Defendant Trahan breached this duty, causing harm and damages to V.R.R.

52. In Kentucky, a “special relationship” is formed between a school district and its students whereby “the protective custody of teachers is mandatorily substituted for that of the parent.” See Williams, et al. v. Kentucky Department of Education, et al., 113 S.W.3d 145, 148 (Ky. 2003).



53. Persons standing in a special relationship with others in their charge may be held liable for failure to protect them from harm. See Lane v. Commonwealth, 956 S.W.2d 874 (Ky. 1997); Williams, supra.

54. Defendant Trahan had a special relationship with V.R.R. pursuant to the foregoing cases and their progeny, which further confirms that Defendant Trahan had a duty to Plaintiff to exercise reasonable care, not act negligently, and otherwise not do exactly what he did in this case as described in part above.

55. Defendant Trahan's special relationship with V.R.R. required Defendant Trahan to take all reasonable steps to protect V.R.R. from harm, ensure V.R.R.'s safety, and otherwise not allow V.R.R. to speed off on a homemade motorcycle and ultimately crash.

56. Defendant Trahan failed to take reasonable steps to protect V.R.R., and Defendant took no meaningful or effective action to prevent V.R.R.'s injuries and damages.

57. Defendant Trahan further had a common law duty to V.R.R. requiring Defendant Trahan to exercise reasonable care to ensure V.R.R.'s safety while at Fern Creek High School.

58. Defendant Trahan's acts and/or omissions described herein above breached Defendant Trahan's duty to exercise reasonable care to ensure V.R.R.'s safety at Fern Creek High School.

59. Defendant Trahan was negligent in failing to exercise due care for V.R.R.'s safety and/or was negligent in failing to provide supervision reasonably necessary to safeguard V.R.R.

60. Injury to V.R.R. was foreseeable (or should have been foreseeable) to Defendant Trahan.

61. Pursuant to KRS 158.444 et seq. and related Kentucky Administrative Regulations, Defendant Trahan had a duty to follow administrative regulations related to school safety, student discipline, and related matters.

62. These laws and regulations were not followed in this case or with respect to V.R.R.

63. Pursuant to KRS 161.180 et seq. and related Kentucky Administrative Regulations, Defendant Trahan had a duty to hold students, including V.R.R., to a strict account for their conduct on school premises.

64. These laws and regulations were not followed in this case or with respect to V.R.R.

65. V.R.R. is a member of the class of persons intended to be protected by each of the foregoing regulations and laws.

66. V.R.R. suffered an injury which each of the foregoing regulations and laws were designed to prevent.

67. Defendant Trahan's failure to appropriately supervise V.R.R. constituted a violation of Kentucky law, including but not limited to one or more of the laws discussed herein.

68. Defendant Trahan is therefore negligent per se.

69. Defendant Trahan's negligence per se caused V.R.R. to endure and to continue to endure in the future extensive mental and physical pain and suffering all in an amount sufficient to invoke the jurisdiction of this Court.

70. For a variety of reasons, including but not limited to those lined out above, Defendant Trahan failed to do his job and/or failed to follow the law and/or failed to follow JCPS policies, procedures, guidelines and the like.

71. Had Defendant Trahan done his job and/or followed the law and/or followed JCPS policies, procedures, guidelines and the like, V.R.R. would not have been injured.

72. Because Defendant Trahan did not do his job and/or follow the law and/or follow JCPS policies, procedures, guidelines, or the like, V.R.R. was injured.

73. As a direct and proximate result of Defendant Trahan's conduct described in part above, V.R.R. has endured and will in the future endure extensive mental and physical pain and suffering, medical expenses, and/or lost wages/impairment of capacity to labor and earn money, all in an amount sufficient to invoke the jurisdiction of this Court.

74. The conduct of Defendant Trahan as described in part above was illegal, negligent, and constitutes a significant and/or gross deviation from a minimally acceptable standard of reasonable care, and was grossly negligent, wanton, oppressive, malicious, and/or reckless conduct.

75. Plaintiff, therefore, is entitled to recover punitive damages due to the aforementioned wanton, reckless, oppressive, malicious, and grossly negligent conduct and/or other conduct described in part herein.

**WHEREFORE** V.R.R., a minor by and through his natural mother, guardian, and next friend, Kendra Reed, demands as judgment against the Defendant, Daniel Trahan, individually and in his official capacity, as follows:

1. His physical injuries, past, present and future;
2. His pain and suffering, past, present and future;
3. His emotional distress, past, present, and future;
4. Reasonable attorney's fees and costs incurred in this action to the extent recoverable by law;

5. Any additional amounts necessary to fairly and reasonably compensate Plaintiff for the damages sustained by him herein and as described in part hereinabove;
6. Punitive damages;
7. Trial by jury on all issues so triable;
8. His costs herein expended;
9. Any and all other relief to which he may be properly entitled.

Respectfully submitted,

A. Nicholas Naiser  
NAISER LAW OFFICE  
600 W. Main Street, Suite 500  
Louisville, Kentucky 40202  
(502) 584-1210

-and-

James M. Bolus, Jr.  
BOLUS LAW OFFICES  
600 West Main Street, Suite 500  
Louisville, Kentucky 40202  
[bo@boluslaw.com](mailto:bo@boluslaw.com)

By: /s/ A. Nicholas Naiser  
A. Nicholas Naiser

### **CERTIFICATE OF SERVICE**

This will certify that a true copy of the foregoing has been filed electronically on June 22, 2023 with service of process to be effectuated by the Court Clerk on the agents for service of process listed above.

/s/ A. Nicholas Naiser  
A. Nicholas Naiser

It is further certified that a copy of the foregoing pleading was served via Certified U.S. Mail on June 22, 2023. The following parties are hereby notified that they are parties which may take the position that they hold a lien or subrogation interest in the proceeds of this action. Pursuant to KRS 411.188, this shall serve as notification by certified mail that these parties may hold such a lien or subrogation interest, and that the failure to assert subrogation rights by intervention pursuant to Kentucky Civil Rule 24 will result in a loss of those rights with respect

to any final award received by the plaintiff as a result of the action. This pleading shall serve as a certified list filed with the Court that the following parties were notified pursuant to KRS 411.188:

Optum  
Attn: Subrogation  
P.O. Box 2789  
Warminster, PA 18974

/s/ A. Nicholas Naiser  
A. Nicholas Naiser