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KING COUNTY
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CASE NUMBER: 18-2-08008-8 KNT

SUPERIOR COURT OF WASHINGTON FOR COUNTY OF KING

ESTATE OF LUPO BENSON, and JIMMY
BENSON, JR., AND CHRISTINE BENSON,
Parents of Lupo Benson, Decedent

Plaintiffs

Vs.

KENT SCHOOL DISTRICT No. 415, a
Washington state governmental agency,

Defendant

NO.

COMPLAINT FOR DAMAGES

Comes now the Plaintiffs, by and through their attorneys of record, Richard H.
Adler and Melissa D. Carter of Adler Giersch PS, for cause of action for personal injuries
against Kent School District No. 415, complain and allege as follows:

I. PARTIES, JURISDICTION AND VENUE

1.1 Decedent Lupo Benson was a resident of Kent, King County, Washington
at the time of his death.

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1.2 Plainiffs Jimmy Benson, Jr. and Christine Benson are husband and wife and at all relevant times have resided in Kent, King County, Washington.

1.3 Kent School District No. 415 (hereinafter, "School District") is a Washington state governmental entity, pursuant to RCW 4.96.020, and is located in Kent, King County, Washington.

1.4 The incidents complained of occurred in King County, Washington, and arose out of the School District's conduct, or lack of conduct, and the School District is located in King County, Washington. As such, this Court has subject matter jurisdiction over this matter and venue is proper and appropriate.

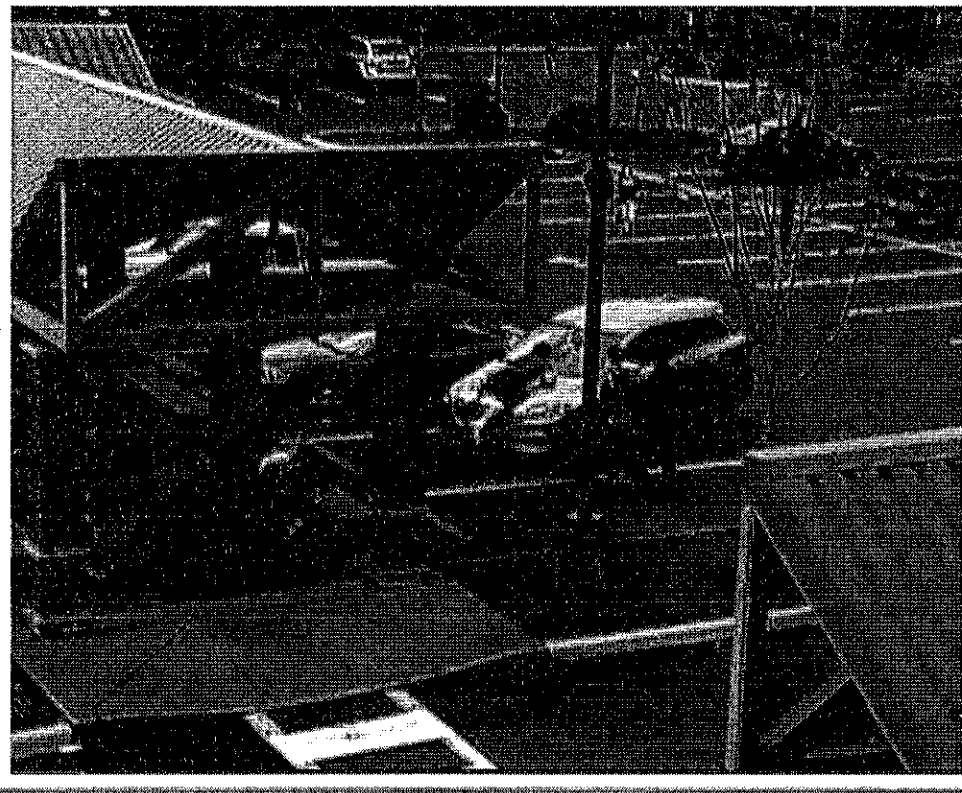
1.5 Per RCW 4.96.020, a Notice of Claim has been filed for the Plaintiffs with the School District at least 60 days prior to filing this lawsuit.

II. FACTS

2.1 On or about March 31, 2015, Decedent Lupo Benson (DOB 11/28/1996) was a high school senior at Kent-Meridian High School, located within the School District. Tyler Reber was also a high school senior at Kent-Meridian High School on this date as well.

2.2 Immediately after school classes ended on March 31, 2015, Decedent Lupo Benson crawled onto the hood of a Mazda SUV that was parked in the EW parking lot, known as the “Annex Lot” at the Kent-Meridian High School parking lot. Tyler Reber was sitting in the driver’s seat of the parked SUV at that time.

2.3 After some discussion, the boys decided to go for a joy ride around the school parking lot, which was full of students leaving school for the day.



2.4 Although School District had a policy forbidding “reckless driving” in the parking lot and even assigned multiple staff and School District personnel to monitor student traffic, both vehicular and pedestrian, in the Annex Lot that afternoon, there was no School District personnel present in the Annex Lot after school classes ended on March 31, 2015.

2.5 School District officials, in particular, Kent-Meridian administrative staff, were made aware prior to the end of school on March 31, 2015 that the staff member assigned to monitor the Annex Lot was unable to supervise students that afternoon. Despite this, School District officials took no steps to find a replacement supervisor to

monitor the Annex Lot and ensure student safety on March 31, 2015.

2.6 As Tyler Reber drove through the parking lot, Lupo Benson lost his grip and fell off the hood of the SUV, striking his head on the pavement.

2.7 Lupo Benson suffered severe conscious pain and suffering as he was transported to Harborview Medical Center and underwent emergency brain surgery.

2.8 Lupo Benson died the following day, April 1, 2015, as a result of his severe head injury.

2.9 Prior to March 31, 2015, “car-surfing” was a known after school activity in the Annex Lot at Kent-Meridian High School and School District officials never took any action to prevent this dangerous activity from occurring on campus.

2.10 Jimmy Benson, Jr. and Christine Benson suffered extreme emotional distress as a result of the School District's recklessness and failure to keep Lupo Benson safe while at school.

III. CAUSE OF ACTION

3.1 Defendant School District owed a duty of care to all students at the Kent-Meridian High School, including Decedent Lupo Benson, to keep them safe.

3.2 Defendant School District owed a special duty to all students at the Kent-Meridian High School, including Decedent Lupo Benson, to protect them from unsafe activity and known hazards on school grounds.

3.3 Defendant School District breached its duties owed to Lupo Benson and was negligent in the following ways:

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1 a. Allowing unsafe activity to be commonplace in the Annex Lot at
2 the Kent-Meridian High School;

3 b. Neglecting to provide adult supervision after school in the Annex
4 Lot until all student vehicles safely left the area;

5 c. Breaching its duty to keep students safe while at school.
6

7 3.4 Said negligence was the proximate cause of the wrongful death of Lupo
8 Benson, and of the resulting injuries and damages to the Plaintiffs.

9 3.5 As a proximate result of the School District's negligence, Lupo Benson did
10 suffer pain, anxiety, emotional distress, and humiliation prior to his death and the Estate
11 is entitled to recover those damages on his behalf per RCW 4.20.020 and RCW 4.20.046.

12 3.6 As a proximate result of the School District's negligence, Plaintiffs Jimmy
13 Benson, Jr. and Christine Benson suffered loss of consortium by the destruction of the
14 parent-child relationship and they are entitled to damages per RCW 4.20.010.

15 **IV. DAMAGES**

16 4.1 As a direct and proximate result of the negligence of the School District,
17 Lupo Benson suffered serious and painful injuries to his person, conscious pain and
18 suffering, as well as loss of life. By reason of the foregoing, the Estate of Lupo Benson,
19 and Jimmy and Christine Benson, sustained general damages in an amount to be proved
20 at trial.
21

22 4.2 As a direct and proximate result of the negligence of the School District,
23 the Estate of Lupo Benson was required to and did incur reasonable and necessary
24

1 medical expenses in an amount to be proved at trial.

2 4.3 As a direct and proximate result of the negligence of the School District,
3 the Estate of Lupo Benson incurred a future loss of earning capacity in an amount to be
4 proved at trial.

5 4.4 As a direct and proximate result of the negligence of the School District,
6 Jimmy Benson, Jr. and Christine Benson suffered loss of consortium and severe
7 emotional distress in an amount to be proved at trial.

8 **V. UNIFORM HEALTH CARE INFORMATION ACT**
9

10 5.1 Pursuant to RCW 5.60.060(4) and the provisions of the Uniform Health
11 Care Information Act, RCW 42.17 and RCW Chapter 70, the Plaintiffs waive the
12 physician/patient privilege 90 days from the date this complaint was filed, to the extent
13 necessary to place any and all alleged damages at issue at the time of trial, and as might
14 be required by any act or statute or case law interpreting the same in the State of
15 Washington. In doing so, Plaintiffs do not waive their right to seek a protective order or
16 otherwise oppose objectionable medical discovery. Plaintiffs' waiver is further
17 conditioned and limited as follows:

- 18 a. The Plaintiff do not waive their constitutional right of privacy;
- 19 b. The Plaintiffs do not authorize the Defendant(s) or Defendants
20 representative to contact any health care providers without notice to counsel, after which
21 they may only be contacted in a manner which complies with the Uniform Health Care
22 Information Act and HIPAA, in proceedings further authorized by the Rules of Civil
23 Procedure subject to any provisions which may be established by this court.

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VI. PRAYERS FOR RELIEF

Wherefore, the Plaintiffs request judgment against the School District as follows:

6.1 For general damages already incurred and future general damages, in an amount now unknown, which will be proved at the time of trial;

6.2 For medical and other treatment expenses incurred and for past medical expenses and other treatment expenses and other costs, in an amount now unknown, which will be proved at the time of trial;

6.3 For loss of earnings and/or future earning capacity;

6.4 For economic damages, including funeral and burial expenses, related to the costs of administration of the Estate of Lupo Benson;

6.5 For additional travel expenses;

6.6 For reasonable attorneys' fees and costs incurred herein;

6.7 For prejudgment interest;

6.8 For such other and further relief as this Court may deem just and equitable in this cause.

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Dated: March 26, 2018

ADLER GIERSCH PS

/s/ Melissa D. Carter

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