

1 DATED: August 27, 2008.

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PARKER WALTERS, P.C.

By /s/ Eduardo Chavez
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IN THE CIRCUIT COURT OF OREGON
DUNIWAY COUNTY

KELLY SIMON, an unmarried individual,

Plaintiff,

v.

TERRY SWIFT, an unmarried individual;
EASTSIDE HIGH SCHOOL,

Defendants.

No. CV2008-35789

ANSWER

Defendants answer plaintiff's Complaint as follows:

1. Defendants admit the allegations in paragraphs 1 through 4
2. Defendants admit that (i) plaintiff is the surviving parent of Jordan Simon ("Jordan"), and (ii) Jordan died on May 6, 2008; and are without sufficient information and knowledge to admit or deny the remaining allegations in paragraph 5.
3. Defendants admit that (i) Jordan enrolled as a freshman and joined the track team at Eastside High School ("Eastside") during the 2004-05 school year, and (ii) at the time of Jordan's

1 death, Jordan was a 17-year old senior and a star sprinter on Eastside's track team; and are
2 without sufficient information and knowledge to admit or deny the remaining allegations in
3 paragraph 6.

4 4. Defendants are without sufficient information and knowledge to admit or deny the
5 allegations in paragraphs 7 through 9.

6 5. Defendants deny the allegations in paragraphs 10 through 13.

7 6. Defendants deny all allegations that have not been admitted expressly in this Answer.

8 **Affirmative Defenses**

9 1. Plaintiff's claims, if any, are barred by plaintiff's comparative negligence.

10 2. Plaintiff's claims, if any, are barred by Jordan's assumption of the risk.

11 3. Defendants may learn of additional affirmative defenses during the course of discovery,
12 and reserve the right to amend this Answer to assert such affirmative defenses.

13 WHEREFORE, defendants pray for:

14 A. Judgment dismissing plaintiff's claims with prejudice;

15 B. An award of their taxable costs; and

16 C. Such other relief as the Court deems just and proper.

17 DATED: September 12, 2008.

18 FOSTER & COLLINS, LLP

19
20 By /s/ Sarah Cavanaugh
21 Sarah Cavanaugh
Attorneys for Defendants

22 Copy of the foregoing mailed
23 on September 12, 2008, to:

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28 /s/ Ruth Smith