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8 IN THE CIRCUIT COURT OF OREGON
9 DUNIWAY COUNTY

10 KELLY SIMON, an unmarried individual,

No. CV2008-35789

11 Plaintiff,

COMPLAINT

12 v.

13 TERRY SWIFT, an unmarried individual;
14 EASTSIDE HIGH SCHOOL,

15 Defendants.

16 Plaintiff alleges:

17 **COUNT ONE**

18 **(Negligence/Wrongful Death)**

- 19 1. Plaintiff is an unmarried individual who resides in Duniway County, Oregon.
- 20 2. Terry Swift ("Swift") is an unmarried individual who resides in Duniway County,
21 Oregon. At all relevant times, Swift was the track coach at Eastside High School ("Eastside").
- 22 3. Eastside High School is a private high school with its principal place of business in
23 Duniway County, Oregon.
- 24 4. Jurisdiction and venue are proper in this Court.
- 25 5. Plaintiff is the surviving parent of Jordan Simon ("Jordan"), who died unexpectedly of a
26 heart attack on May 6, 2008.
- 27 6. Jordan began competitive sprinting in grade school. Jordan enrolled as a freshman and
28 joined the track team at Eastside during the 2004-05 school year. At the time of Jordan's death,

1 Jordan was: (i) a 17-year old senior at Eastside; and (ii) a star sprinter on Eastside’s track team.

2 7. An autopsy and laboratory tests confirmed that Jordan’s bloodstream contained extremely
3 high levels of a steroid known as Erythropoietin (“EPO”). EPO is a steroid that commonly is
4 used without a doctor’s prescription and supervision by sprinters and other endurance athletes to
5 improve their performance.

6 8. The EPO in Jordan’s system caused Jordan’s fatal heart attack.

7 9. Jordan never had a doctor’s prescription for EPO.

8 10. Defendants had a duty to (among other things): (i) monitor Eastside’s student athletes
9 for the use of illegal performance-enhancing drugs; (ii) warn Eastside’s student athletes regarding
10 the dangers and risks associated with the use of illegal performance-enhancing drugs; and (iii)
11 discourage Eastside’s student athletes from using illegal performance-enhancing drugs
12 (collectively, the “Duties”).

13 11. Defendants breached their Duties to Jordan, by (among other things): (i) failing to
14 monitor Jordan for the use of illegal performance-enhancing drugs; (ii) failing to warn Jordan
15 regarding the dangers and risks associated with the use of illegal performance-enhancing drugs;
16 and (iii) expressly and/or implicitly encouraging Jordan to use illegal performance-enhancing
17 drugs.

18 12. Defendants’ breach of the Duties proximately caused Jordan’s death.

19 13. Plaintiff has suffered emotionally and physically as a result of Jordan’s death and
20 Defendants’ breach of the Duties.

21 WHEREFORE, plaintiff prays for judgment against Defendants for:

- 22 A. Damages in an amount to be proven at trial;
 - 23 B. An award of taxable costs; and
 - 24 C. Such other relief as the Court deems just and proper.
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