



IN THE SUPERIOR COURT OF THE STATE OF DELAWARE

MALACHI BIGGS,

Plaintiff,

v.

DELAWARE STATE UNIVERSITY,
DESEAN JACKSON, TRAVIS
CLARK, JANE HICKS, and
ANTHONY HEBERT,

Defendants.

C.A. No.:

TRIAL BY JURY OF
TWELVE DEMANDED

COMPLAINT

1. Plaintiff, Malachi Biggs (“Plaintiff”), is a resident of the State of North Carolina.
2. At all relevant times, Plaintiff was enrolled as a full-time student at Delaware State University, was a member of the football team, and resided in dormitory housing located on Delaware State University’s campus.
3. Defendant, Delaware State University (“Defendant DSU”) is a university with its principal campus and business address located at 1200 N. DuPont Highway, Dover, Delaware 19901.
4. Defendant DSU can be served through its President, Tony Allen, Ph.D., at 1200 N. DuPont Highway, Dover, Delaware 19901.

5. Defendant, DeSean Jackson (“Defendant Jackson”), at all relevant times, was and is employed by Defendant DSU as the head coach of Defendant DSU’s football program.

6. Upon information and belief, Defendant Jackson is a resident of the State of New Jersey and maintains an office located at 1200 N. DuPont Highway, Dover, Delaware 19901.

7. Defendant, Travis Clark (“Defendant Clark”), at all relevant times, was and is employed by Defendant DSU as the assistant head football coach and/or safeties coach of Defendant DSU’s football team.

8. Upon information and belief, Defendant Clark is a resident of the State of Delaware and maintains an office located at 1200 N. DuPont Highway, Dover, Delaware 19901.

9. Defendant, Jane Hicks (“Defendant Hicks”), at all relevant times, was and is employed by Defendant DSU as the Director of Football Operations of Defendant DSU’s football team.

10. Upon information and belief, Defendant Hicks is a resident of Delaware and maintains an office located at 1200 N. DuPont Highway, Dover, Delaware 19901.

11. Defendant, Anthony Hebert (“Defendant Hebert”), at all relevant times, was enrolled as a full-time student at Delaware State University and was a member of Defendant DSU’s football team who played as a safety and/or defensive back.

12. Upon information and belief, Defendant Hebert is a resident of the State of California who resides at 1885 Aztec Circle, Corona, California 92879.

13. Upon information and belief, after graduating from Delaware State University in 2026, Defendant Hebert has since been employed as a member of the coaching staff and/or graduate assistant for Defendant DSU’s football team.

14. Upon information and belief, at all relevant times, Defendant DSU, Defendant Jackson, Defendant Clark, and Defendant Hicks individually, collectively, jointly, and/or severally owned operated, maintained, managed, secured, and/or supervised the campus and athletic facilities located at 1200 N. DuPont Highway, Dover, Delaware 19901, including the football field, the practice field(s) used by the football team, the locker room, and the athletic facilities used by members of the football team (hereinafter, the “Subject Property”).

15. Upon information and belief, at all relevant times, Defendant DSU, Defendant Jackson, Defendant Clark, and Defendant Hicks individually, collectively, jointly, and/or severally were owners, operators, managers, controllers, and/or employers of persons with management, maintenance, operations, and/or

security responsibilities of the Subject Property and, at all relevant times, exercised control and possession of the Subject Property.

16. Defendant DSU, Defendant Jackson, Defendant Clark, and Defendant Hicks owed duties to their students, student-athletes, invitees, and other persons lawfully on the Subject Property, including Plaintiff, to maintain the Subject Property in a secure and safe condition by removing hazardous and dangerous conditions and/or people.

17. Upon information and belief, at all relevant times, Defendant DSU, Defendant Jackson, Defendant Clark, and Defendant Hicks individually, collectively, jointly, and/or severally were owners, operators, managers, controllers, and/or employers of persons with management, maintenance, operations, and/or security responsibilities of members of the football team and, at all relevant times, exercised control and possession of members of the football team, its coaches and other staff members, and its athletes.

18. Defendant DSU, Defendant Jackson, Defendant Clark, and Defendant Hicks owed duties to their students, student-athletes, invitees, and other persons lawfully on the Subject Property and who were members of the football team, including Plaintiff, to maintain the Subject Property in a secure and safe condition by removing hazardous and dangerous conditions and/or people.

FACTS

19. On or about November 19, 2025, Plaintiff was lawfully on the premises of the Subject Property through his capacity as a full-time student-athlete and member of Defendant DSU's football team.

20. Prior to the 6:30 A.M. football practice, Plaintiff arrived early to receive treatment in the treatment room.

21. Once Plaintiff's treatment finished, Plaintiff went to the locker room to prepare for practice.

22. Upon information and belief, Defendant Hebert and at least two other members of the football team were either already present in the locker room when Plaintiff entered or were present very shortly after Plaintiff entered the locker room.

23. While in the locker room, Defendant Hebert approached another team member and confronted him about a post on Instagram.

24. Defendant Hebert grabbed that team member and began choking him in response to the post on Instagram.

25. Defendant Hebert then approached Plaintiff and confronted Plaintiff about the post on Instagram.

26. Defendant Hebert grabbed Plaintiff and placed him in a chokehold.

27. Specifically, upon information and belief, Defendant Hebert was angry that Plaintiff and the other player he assaulted had referred to him in the post on Instagram as “buddy.”

28. Defendant Hebert told Plaintiff to “tap out” and he would stop choking him.

29. Defendant Hebert proceeded to ignore Plaintiff’s numerous attempts to “tap out” or free himself, eventually rendering Plaintiff unconscious and dropping him to the ground, head or face first.

30. As a result of falling to the ground in an unconscious state, Plaintiff suffered severe and permanent injuries to his head, face, mouth, tongue, and teeth, including, but not limited to, multiple fractures to his jaw, a deep laceration to his chin requiring surgery, and irreparable damage to at least a dozen teeth requiring extraction, root canals, and additional invasive dental treatments.

31. After Plaintiff regained consciousness, he immediately went to the training room across the street from the locker room to seek help.

32. The football team’s trainer assisted Plaintiff and called an ambulance.

33. Plaintiff was transported to the emergency room at Kent General Hospital (Bayhealth Hospital) via ambulance where he was admitted and diagnosed with, among other things, multiple severe jaw fractures and a deep laceration to his chin.

34. Plaintiff was discharged from the hospital the following day with instructions to follow up with an OMFS surgeon at Christiana Hospital – which he and his family did. The OMFS surgeon recommended surgery to address Plaintiff’s severe and extensive injuries.

35. Rather than undergoing surgery in Delaware, Plaintiff returned home North Carolina where he could seek medical treatment through the University of North Carolina Medical Center and recover from his significant injuries at home with the help of his parents and other family members.

36. Once home, Plaintiff sought treatment from another specialist, a Doctor of Dental Surgery (“DDS”), at the aforementioned University.

37. The DDS diagnosed Plaintiff with serious injuries, including a mandible symphysis fracture, fractures to the right and left mandible condylar heads, and nine broken rear teeth. Plaintiff also severed a ligament under his tongue and required the placement of a metal plate in his chin.

38. On December 1, 2025, Plaintiff underwent the first of several surgeries to address the fractures to his jaw, which included immobilization of his jaw (*i.e.*, wiring it shut).

39. Plaintiff has remained out of school since the date of the assault as he continues to recover, attend multiple medical visits, and begins to undergo a series of dental and oral surgeries. His most recent surgery occurred Friday, April 10, 2026.

40. Upon information and belief, Defendant Hebert was never disciplined academically, athletically, or otherwise by Defendant DSU, Defendant Jackson, Defendant Clark, or Defendant Hicks for the assault of either player. In fact, Defendant Hebert was permitted to play in a football game just three days after the assaults occurred.

41. At some point following the subject assault, Defendant DSU, Defendant Jackson, Defendant Clark, and/or Defendant Hicks, working individually or collectively, intentionally removed and/or directed to be removed Defendant Hebert's biography (*i.e.*, his high school, height, weight, etc.) from Defendant DSU's website and intentionally changed and/or directed to be changed Defendant Hebert's class year.

42. The assault on Plaintiff resulted in severe personal injuries to Plaintiff, including, but not limited to, multiple fractures to his jaw, a deep laceration to his chin and irreparable damage to at least a dozen teeth requiring extraction, root canals, and additional invasive dental treatment.

43. Upon information and belief, Defendant Herbert sent a text message to Plaintiff acknowledging he assaulted Plaintiff later in the day on which it had occurred after a team meeting during which coaching staff, including Defendant Jackson and/or Defendant Clark, addressed the assault that had occurred that morning.

44. Upon information and belief, after graduating from Delaware State University in 2026, Defendant Hebert has since been employed as a member of the coaching staff and/or graduate assistant for Defendant DSU's football team.

COUNT I
NEGLIGENCE AS TO DEFENDANT DSU

45. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 44 of this Complaint as if fully set forth herein.

46. At all relevant times, Plaintiff was a business invitee on the Subject Property at the time of the assault via his status as a student-athlete and as a member of Defendant DSU's football team.

47. At all relevant times, Defendant DSU, by and through its duly authorized agents, servants, workmen, and/or employees, owned, operated, maintained, managed, secured, controlled, and/or supervised the Subject Property, including the athletic facilities where Plaintiff was injured.

48. Defendant DSU owed Plaintiff a non-delegable duty to take reasonable protective measures to protect Plaintiff from the risk of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct on the Subject Property.

49. Defendant DSU owed Plaintiff a non-delegable duty to exercise reasonable care in the oversight, supervision, and control of the Subject Property and all activities conducted thereon, including school-sponsored athletic programs such as its football program.

50. Defendant DSU owed Plaintiff a non-delegable duty to implement and enforce reasonable policies, procedures, and practices in its athletic facilities and programs on the Subject Property to protect Plaintiff from the risk of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct by other students, teammates, and third parties.

51. Defendant DSU, by and through its duly authorized agents, servants, workmen, and/or employees, was negligent, grossly negligent, reckless, willful and/or wanton in failing to take reasonable protective measures to protect Plaintiff from crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct.

52. Defendant DSU is jointly and severally negligent, grossly negligent, careless, reckless, willful and/or wanton, and breached its duties of reasonable care for the safety and protection of individuals lawfully present on the Subject Property, including Plaintiff, in the following ways:

a) Failing to adequately supervise the Subject Property, including its athletic facilities and the locker room;

b) Failing to adequately supervise and investigate the conduct of its student-athletes, including Defendant Hebert's actions;

c) Failing to implement and enforce adequate and reasonable policies and procedures prohibiting and preventing crimes, assaults, harassment,

hazing, altercations, and/or dangerous physical conduct on the Subject Property, including in its athletic facilities and the locker room;

d) Failing to provide adequate and reasonable security measures, monitoring, or staff presence on the Subject Property, including in its athletic facilities and the locker room, despite the foreseeable risk of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes;

e) Failing to adequately and reasonably train and oversee its employees and agents, including Defendant Jackson, Defendant Clark, and Defendant Hicks, athletic staff, and students regarding the prevention and reporting of altercations, assaults, and other dangerous physical conduct on the Subject Property, including in its athletic facilities and the locker room;

f) Failing to intervene, interrupt, or prevent Defendant Hebert's escalating physical conduct that led to Plaintiff's injuries and damages;

g) Failing to have adequate policies and procedures in place to ensure that dangerous individuals, such as Defendant Hebert, are not enrolled as students or do not participate in Defendant DSU's athletic programs;

h) Failing to properly warn Plaintiff about the foreseeable risk of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes;

i) Failing to properly warn Plaintiff about the foreseeable risk of student-athletes, such as Defendant Hebert, who pose a risk to physical safety to student-athletes, such as Plaintiff, and others;

j) Failing to properly warn Plaintiff about previous crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct by Defendant Hebert and/or other members of Defendant DSU's football team;

k) Failing to properly warn Plaintiff about previous assaults occurring on the Subject Property, including in its athletic facilities and the locker room; and

l) Was otherwise negligent, grossly negligent, careless, reckless, willful and/or wanton as discovery will show.

53. As a direct and proximate result of Defendant DSU's negligence, gross negligence, carelessness, recklessness, willfulness, and/or wantonness, Plaintiff was physically assaulted by Defendant Hebert, sustaining the injuries and damages described herein.

54. As a direct and proximate result of Defendant DSU's negligence, gross negligence, carelessness, recklessness, willfulness, and/or wantonness, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants; and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;

c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;

d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;

e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies; and

f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

55. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendant, Delaware State University, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT II
NEGLIGENT HIRING, SUPERVISION, AND RETENTION
AS TO DEFENDANT DSU

56. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 55 of this Complaint as if fully set forth herein.

57. At all relevant times, Plaintiff was a business invitee on the Subject Property at the time of the assault via his status as a student-athlete and as a member of Defendant DSU's football team.

58. At all relevant times, Defendant DSU owned, operated, maintained, managed, secured, controlled, and/or supervised the Subject Property, including the athletic facilities where Plaintiff was injured, and employed Defendant Jackson, Defendant Clark, and Defendant Hicks.

59. At all relevant times Defendant Jackson, Defendant Clark, and Defendant Hicks were acting within the course and scope of their employment and/or were performing work Defendant DSU assigned, authorized, controlled, and/or benefited from.

60. Defendant DSU owed Plaintiff a non-delegable duty to exercise care in the hiring, training, supervision, and retention of its employees and agents to prevent foreseeable harm.

61. Prior to hiring Defendant Jackson, Defendant Clark, and/or Defendant Hicks and/or during Defendant Jackson's, Defendant Clark's, and/or Defendant Hicks' tenure, Defendant DSU knew or, in the exercise of reasonable care, should have known that Defendant Jackson, Defendant Clark, and/or Defendant Hicks were unfit, incompetent, careless, or otherwise posed unreasonable risks of harm to persons such as Plaintiff.

62. Upon information and belief, such knowledge is supported by, for example:

a) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to create an unsafe environment in the lock room and on the Subject Property;

b) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to utilize and instill a “tough guy” coaching philosophy and/or attitude in Defendant DSU’s football program and football players, which relied heavily upon the use of gang-associated slang and gang-associated mentality;

c) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to encourage football players not to permit others “disrespecting” them;

d) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to hire other members of Defendant DSU’s football team’s coaching staff who were unfit, incompetent, careless, or who otherwise posed unreasonable risks of harm to persons such as Plaintiff;

e) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to not discipline members of Defendant DSU’s football team who violated Defendant DSU’s own internal policies, procedures, and applicable

standards, the N.C.A.A.'s policies, procedures, rules, and laws, and/or local, state, or federal law by, for example, assaulting and/or fighting other players;

f) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to select players for the football team who they knew or should have known pose a serious risk of harm to other players, such as Defendant Hebert;

g) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to retain players on the football team who they knew or should have known posed a serious risk of harm to other players, such as Defendant Hebert;

h) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to allow Defendant Hebert to remain on Defendant DSU's football team after they knew or should have known Defendant Hebert previously fought and/or assaulted other team members prior to the subject incident;

i) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to provide inadequate or non-existent supervision in the athletic facilities on the Subject Property, including the locker room, used by Defendant DSU's football team;

j) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to create and instill a violent culture in Defendant DSU's football team either overtly or through acts of omission;

k) Permitting Defendant Jackson, Defendant Clark, and Defendant Hicks to encourage crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes; and

l) Permitting Defendant Jackson, Defendant Clark, and/or Defendant Hicks to hire Defendant Hebert as a member of coaching staff and/or as a graduate assistant for Defendant DSU's football team.

63. Defendant DSU negligently hired Defendant Jackson, Defendant Clark, and/or Defendant Hicks by failing to use reasonable care in screening, vetting, background-checking, verifying qualifications, and/or investigating Defendant Jackson's, Defendant Clark's, and/or Defendant Hicks' fitness for their respective positions.

64. Defendant DSU negligently supervised Defendant Jackson, Defendant Clark, and/or Defendant Hicks by failing to use reasonable care to monitor Defendant Jackson, Defendant Clark, and/or Defendant Hicks, enforce safety and conduct rules, correct known problems, and/or ensure Defendant Jackson, Defendant Clark, and/or Defendant Hicks complied with Defendant DSU's own internal policies, procedures, and applicable standards, as well as any and all policies, procedures, rules, and laws promulgated by the N.C.A.A.

65. Defendant DSU negligently retained Defendant Jackson, Defendant Clark, and Defendant Hicks by continuing to employ and/or assign duties that placed

them in a position to cause harm, despite actual or constructive notice that they presented a risk of harm.

66. As a direct and proximate result of Defendant DSU's negligent hiring, supervision, and/or retention, Defendant Jackson, Defendant Clark, and/or Defendant Hicks engaged in wrongful, negligent, reckless, intentional, willful and wanton, and/or otherwise unsafe conduct as alleged herein, including, but not limited to,

a) Upon information and belief Defendant DSU knew or should have known that Defendant Jackson, Defendant Clark, Defendant Hicks, and their staff were providing inadequate or non-existent supervision in the locker room and potentially other team common areas;

b) Upon information and belief Defendant DSU knew or should have known that Defendant Jackson, Defendant Clark, Defendant Hicks, and their staff created and promoted an unsafe environment in the locker room by permitting and utilizing gang related language, promoting a violent culture - either overtly or through acts of omission, failing to properly discipline violent player behavior, and allowing dangerous acts of bullying and assault under the guise of "horseplay;" and

c) Were otherwise negligent, grossly negligent, reckless, willful and/or wanton as discovery will show,

which caused the assault and Plaintiff's injuries and damages as alleged herein.

67. As a direct and proximate result of Defendant DSU's negligence, gross negligence, carelessness, recklessness, willfulness, and/or wantonness, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants; and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

- b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;
- c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;
- d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;
- e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies; and
- f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

68. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

69. Defendant DSU's conduct was a substantial factor in bringing about Plaintiff's harm, and Plaintiff's harm was a foreseeable risk of Defendant's failure to use reasonable care in hiring, supervising, and/or retaining Defendant Jackson, Defendant Clark, and/or Defendant Hicks.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendant, Delaware State University, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT III
NEGLIGENT TRAINING AS TO DEFENDANT DSU

70. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 69 of this Complaint as if fully set forth herein.

71. At all relevant times, Plaintiff was a business invitee on the Subject Property at the time of the aforementioned incident via his status as a student-athlete and as a member of Defendant DSU's football team.

72. At all relevant times, Defendant DSU owned, operated, maintained, managed, secured, controlled, and/or supervised the Subject Property, including the athletic facilities where Plaintiff was injured, and employed Defendant Jackson, Defendant Clark, and Defendant Hicks.

73. At all relevant times, Defendant Jackson, Defendant Clark, and/or Defendant Hicks were acting within the course and scope of their employment and/or performing work Defendant DSU assigned, authorized, controlled, and/or benefited from.

74. Defendant DSU owed Plaintiff a non-delegable duty to exercise reasonable care to train its employees and agents so they could perform their job duties in a safe and competent manner and so as to avoid creating an unreasonable risk of harm to others, including Plaintiff.

75. Defendant DSU knew, or in the exercise of reasonable care, should have known that inadequate training of employees performing coaching duties, administrative duties, disciplinary duties, and serving in supervisory positions for Defendant DSU's football team could foreseeably result in harm to persons such as Plaintiff.

76. Defendant DSU breached its non-delegable duty of reasonable care by negligently failing to implement, provide, and/or enforce adequate training, including, but not limited to:

a) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures for student-athlete safety and/or security;

b) Failing to train and/or to enforce Defendant Jackson, Defendant Clark and/or Defendant Hicks with respect to policies and procedures regarding locker room supervision and best practices;

c) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures for student-athlete use of the training facilities used by members of the football team;

d) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures for preventing and addressing violent, criminal, and/or dangerous physical conduct on the Subject Property and in the athletic facilities used by members of the football team;

e) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures for preventing and addressing violent, criminal, and/or dangerous physical conduct between members of the football team;

f) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures concerning player behavior, crimes, assaults, hazing, altercations and/or dangerous physical conduct by or between members of the football team;

g) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures to investigate and adequately discipline and correct dangerous physical conduct when it occurred or when it should have been discovered;

h) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures to adequately supervise members of

the football team, including Plaintiff and Defendant Hebert, after team-related activities and in areas where players congregate or gather;

i) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures to reasonably and promptly recognize signs or reports of threats, aggression, or escalating conflict amongst members of the football team;

j) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding proper procedures to ensure timely access to appropriate and adequate medical care;

k) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks to comply with applicable internal policies, industry standards, and/or reasonable safety practices relating to the coaching of and carrying out of administrative and supervisory functions for Defendant DSU's football team;

l) Failing to evaluate competency, provide refresher training, and/or correct known training deficiencies after prior incidents, complaints, or near misses, including, but not limited to, violent, criminal, and/or dangerous physical conduct between members of the football team;

m) Failing to train Defendant Jackson, Defendant Clark, and/or Defendant Hicks regarding any and all applicable policies, procedures, rules, and laws promulgated by the N.C.A.A. relating to the commission of crimes, assaults

harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes, and the investigation, reporting, and discipline of same; and

n) Was otherwise negligent, grossly negligent, reckless, willful and/or wanton as discovery will show.

77. As a direct and proximate result of Defendant DSU's negligent training, Defendant Jackson, Defendant Clark, and/or Defendant Hicks lacked the training and competence necessary to safely perform assigned duties and, therefore, engaged in negligent, careless, reckless, and/or unsafe acts and omissions as alleged in this Complaint, including the conduct described herein, which caused the aforementioned incident.

78. As a direct and proximate result of Defendant DSU's negligence, carelessness, and/or recklessness, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from

entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants;
and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;

c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;

d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;

e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies;
and

f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

79. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

80. Defendant DSU's conduct was a substantial factor in bringing about Plaintiff's harm, and Plaintiff's harm was a foreseeable risk of Defendant DSU's failure to use reasonable care in training Defendant Jackson, Defendant Clark, and/or Defendant Hicks.

81. Defendant DSU's negligent training was a substantial factor in bringing about Plaintiff's injuries and damages, and Plaintiff's harm was a foreseeable result of Defendant DSU's failure to use reasonable care in training its employees and agents.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendant, Delaware State University, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT IV
NEGLIGENCE AS TO DEFENDANTS JACKSON, CLARK, AND HICKS

82. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 81 of this Complaint as if fully set forth herein.

83. At all relevant times, Plaintiff was a business invitee on the Subject Property at the time of the assault via his status as a student-athlete and as a player on Defendant DSU's football team.

84. At all relevant times, Defendant Jackson, Defendant Clark, and Defendant Hicks, jointly and/or severally owned, operated, maintained, managed, secured, controlled, and/or supervised the Subject Property, including the athletic facilities and the locker room where Plaintiff was injured.

85. At all relevant times, Defendant Jackson, Defendant Clark, and Defendant Hicks, jointly and/or severally trained, coached, managed, secured, controlled, and/or supervised the members of Defendant DSU's football team, including Plaintiff and Defendant Hebert.

86. Defendant Jackson, Defendant Clark, and Defendant Hicks owed Plaintiff a non-delegable duty to take reasonable protective measures to protect Plaintiff from the risk of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct on the Subject Property, including the athletic facilities and the locker room.

87. Defendant Jackson, Defendant Clark, and Defendant Hicks owed Plaintiff a non-delegable duty to exercise reasonable care in the oversight, supervision, and control of the Subject Property and all activities conducted thereon, including school-sponsored athletic programs, such as football.

88. Defendant Jackson, Defendant Clark, and Defendant Hicks, by and through its duly authorized agents, servants, workmen, and/or employees, was negligent, grossly negligent, reckless, willful and/or wanton in failing to take reasonable protective measures to protect Plaintiff from crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct.

89. Defendant Jackson, Defendant Clark, and Defendant Hicks are jointly and severally negligent, grossly negligent, careless, reckless, willful and/or wanton, and breached its duties of reasonable care for the safety and protection of individuals lawfully present on the Subject Property, including Plaintiff, in the following ways:

a) Failing to adequately supervise the Subject Property, including the athletic facilities and the locker room;

b) Failing to adequately supervise the members of Defendant DSU's football team, including Defendant Hebert;

c) Failing to adequately supervise and investigate the conduct of their student-athletes, including Defendant Hebert's actions;

d) Failing to implement and enforce adequate and reasonable policies and procedures prohibiting and preventing crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct on the Subject Property, including in the athletic facilities and the locker room;

e) Failing to provide adequate and reasonable security measures, monitoring, or staff presence on the Subject Property, including in the athletic facilities and the locker room, despite the foreseeable risk of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes;

f) Failing to adequately and reasonably train and oversee their employees and agents, athletic staff, and student-athletes regarding the prevention and reporting of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct on the Subject Property, including in the athletic facilities and the locker room;

g) Failing to provide timely intervention, interruption, and/or prevent Defendant Hebert's escalating physical conduct that led to Plaintiff's injuries and damages;

h) Failing to have adequate policies and procedures in place to ensure that dangerous individuals, such as Defendant Hebert, are not enrolled as students and do not participate in Defendant DSU's athletic programs, such as its football team;

i) Failing to have adequate policies and procedures in place to ensure appropriate and timely disciplinary actions are undertaken in response to

crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes;

j) Failing to take any action and/or taking action that is not commensurate with Defendant Hebert's actions against Plaintiff;

k) Failing to properly warn Plaintiff about the foreseeable risk of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes;

l) Failing to properly warn Plaintiff about the foreseeable risk of student-athletes, such as Defendant Hebert, who pose a risk to physical safety to student-athletes, such as Plaintiff, and others;

m) Failing to properly warn Plaintiff about previous assaults and instances of physical misconduct by Defendant Hebert and/or other members of Defendant DSU's football team;

n) Failing to properly warn Plaintiff about previous assaults occurring on the Subject Property, including in the athletic facilities and the locker room;

o) Failing to enforce and/or comply with any and all applicable policies, procedures, rules, and laws promulgated by the N.C.A.A. relating to the commission of crimes, assaults harassment, hazing, altercations, and/or dangerous

physical conduct between student-athletes, and the investigation, reporting, and discipline of same; and

p) Were otherwise negligent, grossly negligent, reckless, willful and/or wanton as discovery will show.

90. As a direct and proximate result of Defendant Jackson's, Defendant Clark's, and/or Defendant Hicks' negligence gross negligence, carelessness, recklessness, willfulness, and/or wantonness, Plaintiff was physically assaulted by Defendant Hebert, sustaining the injuries and damages described herein.

91. As a direct and proximate result of Defendant Jackson's, Defendant Clark's, and/or Defendant Hicks' negligence, gross negligence, carelessness, recklessness, willfulness, and/or wantonness, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from

entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants;
and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;

c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;

d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;

e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies;
and

f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

92. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendants, DeSean Jackson, Travis Clark, and Jane Hicks, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT V
NEGLIGENT SUPERVISION AS TO
DEFENDANTS JACKSON, CLARK, AND HICKS

93. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 92 of this Complaint as if fully set forth herein.

94. At all relevant times, Defendant Jackson, Defendant Clark, and Defendant Hicks were employed by Defendant DSU as the head coach, assistant head coach, and director of football operations, respectively, of Defendant DSU's football team and each had supervisory authority and responsibility over the team's student-athletes, assistant coaches, graduate assistants, operations staff, and the conduct, safety, and discipline of same within team-related environments and

activities, including practices, games, locker rooms, weight rooms, and athletic and training facilities.

95. As the head coach, assistant head coach, and director of football operations, Defendant Jackson, Defendant Clark, and Defendant Hicks owed Plaintiff a non-delegable duty to use reasonable care in:

a) Supervising student-athletes and staff to prevent foreseeable harm, harassment, and violence;

b) Implementing and enforcing reasonable policies, procedures, and codes of conduct addressing player conflicts, crimes, assaults, harassment, altercations, hazing, and violence;

c) Training assistant coaches, graduate assistants, and staff on conflict recognition, de-escalation, supervision, and incident response;

d) Retaining only those student-athletes and staff who can be safely supervised within the program and taking reasonable corrective or disciplinary action when risks are known or should be known;

e) Coordinating with Defendant DSU's athletics administration, academics administration, public safety, and/or Delaware Statute University Police Department to address threats and ensure incident reporting, documentation, and appropriate medical response; and

f) Enforcing and complying with any and all applicable policies, procedures, rules, and laws promulgated by the N.C.A.A. relating to the commission of crimes, assaults harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes, and the investigation, reporting, and discipline of same.

96. On or about November 19, 2025, while on the Subject Property and in connection with Defendant DSU's football team's activities, Plaintiff was violently choked to the point of unconsciousness by Defendant Hebert, causing Plaintiff to sustain serious and permanent injuries.

97. Prior to the assault, risks of crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct, intimidation, or escalating conflicts in team athletic facilities and locker rooms were known or reasonably foreseeable within collegiate athletic programs and to Defendant Jackson, Defendant Clark, and Defendant Hicks in their various roles, including through:

a) The inherently high-tension environment of competitive team sports in confined spaces following practices/games;

b) Observed or reported frictions, threats, or confrontations among players, including Defendant Hebert in the ordinary course of the season; and/or

c) Industry and institutional standards, N.C.A.A. guidance, and Delaware State University policies on preventing crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct, as well as athlete safety.

98. Defendant Jackson, Defendant Clark, and Defendant Hicks breached their duties to Plaintiff by negligently supervising members of the football team, including Defendant Hebert, by, among other acts and omissions,

a) Failing to implement, communicate, and enforce adequate anti-violence, anti-hazing, and conflict management policies and locker room protocols;

b) Failing to provide adequate training to assistant coaches, graduate assistants, and staff on monitoring high risk areas (e.g., locker rooms, weight room, treatment, and/or training spaces) and on deescalation and immediate intervention procedures;

c) Failing to assign or ensure sufficient (or any) supervision during known high risk times and in known high risk locations;

d) Failing to investigate, document, and address prior warning signs or incidents of aggression, intimidation, or escalating conflict involving team members, including the assailant, and to take corrective or disciplinary action where warranted;

e) Retaining team members in roles or access privileges despite knowledge, or reason to know, of violent propensities or repeated misconduct indicating a risk to teammates;

f) Failing to coordinate with athletic administration and campus/public safety to prevent foreseeable harm, including implementing access controls and response protocols;

g) After the assault, failing to promptly secure the scene, ensure timely medical evaluation and appropriate forensic documentation/reporting, and preserve evidence—thereby compounding harm and impairing Plaintiff's recovery and proof of injuries; and

h) Failing to enforce and/or comply with any and all applicable policies, procedures, rules, and laws promulgated by the N.C.A.A. relating to the commission of crimes, assaults harassment, hazing, altercations, and/or dangerous physical conduct between student-athletes, and the investigation, reporting, and discipline of same.

99. As a direct and proximate result of Defendant Jackson's, Defendant Clark's, and Defendant Hicks' negligence, carelessness, and/or recklessness, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants; and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;

c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;

d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;

e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies; and

f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

100. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

101. Defendant Jackson's, Defendant Clark's, and Defendant Hicks' conduct was a substantial factor in bringing about Plaintiff's harm, and Plaintiff's harm was a foreseeable risk of Defendant's failure to use reasonable care in supervising members of Defendant DSU's football team, including Defendant Hebert.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendants, DeSean Jackson, Anothny Clark, and Jane Hicks, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT VI
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS
AS TO DEFENDANTS DSU, JACKSON, CLARK, AND HICKS

102. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 101 of this Complaint as if fully set forth herein.

103. Defendant DSU, Defendant Jackson, Defendant Clark, and Defendant Hicks, jointly and/or severally negligently and/or recklessly caused severe emotional distress to Plaintiff by and through their extreme and outrageous conduct, including, but not limited to:

a) Conspiring with other, unidentified Defendant DSU employees and/or agents to obfuscate legal action against Defendant Hebert by, for example, removing any information about Defendant Hebert's previous football experience (*i.e.*, class year, where he went to high school, height, weight, biography, etc.) on Defendant DSU's website;

b) Protecting Defendant Hebert and/or other players who have previously physically assaulted other team members or others from disciplinary and/or legal action;

c) Creating an environment which fostered or resulted in "tough guy" mentality;

d) Instilling values and principals in their student-athletes which fostered or resulted in a “tough guy” mentality and were consistent with the promotion of violence;

e) Enrolling and/or recruiting students, such as Defendant Hebert, who Defendants Jackson, Clark, and Hicks knew or should have known had a past history of physical violence against others, and upon information and belief also engaged in violence towards teammates during his playing career at DSU;

f) Allowing students, such as Defendant Hebert, to participate in school-sponsored athletics programs, such as the football team, who Defendants Jackson, Clark, and Hicks knew or should have known have a past history of physical violence against others;

g) Failing to take disciplinary action against Defendant Hebert and/or other players who have previously physically assaulted other team members or others and/or who are known to have or who should have been known to have violent and dangerous propensities which would have prevented, or, at least, discouraged future acts of physical violence against others;

h) Failing to implement and enforce adequate and reasonable policies and procedures prohibiting and preventing assaults, harassment, or other dangerous physical conduct, such as, for example, similar to those implemented and enforced by entities such as the N.C.A.A. and/or N.F.L.; and

i) Were otherwise negligent, grossly negligent, reckless, willful and/or wanton as discovery will show.

104. As a direct and proximate result of Defendant DSU's, Defendant Jackson's, Defendant Clark's, and Defendant Hicks' negligence, gross negligence, carelessness, recklessness, willfulness, and/or wantonness, Plaintiff was physically assaulted by Defendant Hebert, sustaining the injuries and damages described herein.

105. As a direct and proximate result of Defendant DSU's, Defendant Jackson's, Defendant Clark's, and Defendant Hicks' negligence, gross negligence, carelessness, recklessness, willfulness, and/or wantonness, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from

entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants;
and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;

c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;

d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;

e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies;
and

f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

106. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendants, Delaware State University, DeSean Jackson, Anothny Clark, and Jane Hicks, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT VII
RECKLESS, WILLFUL AND WANTON, AND NEGLIGENT CONDUCT
AS TO DEFENDANT HEBERT

107. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 106 of this Complaint as if fully set forth herein.

108. Defendant Hebert, individually and/or acting in concert with others, without Plaintiff's consent or provocation, intentionally, recklessly, willfully, wantonly, and/or negligently attacked Plaintiff by putting Plaintiff in a choke hold, demanding Plaintiff "tap out," and ignoring Plaintiff's multiple attempts to "tap out," thereby exposing Plaintiff to an unreasonable risk of bodily harm and/or death and

ultimately causing Plaintiff to lose consciousness and fall to the floor sustaining the significant injuries described herein.

109. Defendant Hebert, individually and/or acting in concert with others, further acted in an intentional reckless, willful, wanton, and/or negligent manner in that he placed Plaintiff in a choke hold, demanded Plaintiff “tap out,” and ignored Plaintiff’s multiple attempts to “tap out,” thereby causing Plaintiff to lose consciousness and fall with actual or constructive knowledge of the great likelihood he would make contact with an injured Plaintiff, thus exposing Plaintiff to an unreasonable further risk of serious bodily injury.

110. As a direct and proximate result of the intentional, reckless, willful, wanton, and/or negligent conduct of Defendant Hebert, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from

entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants;
and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;

c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;

d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;

e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies;
and

f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

111. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendant, Brian Hebert, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT VIII
BATTERY AS TO DEFENDANT HEBERT

112. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 111 of this Complaint as if fully set forth herein.

113. At all relevant times, Defendant Hebert acted intentionally and/or with the knowledge that his actions were substantially certain to result in contact with Plaintiff's person.

114. On or about November 19, 2025 on the Subject Property, Defendant Hebert committed an act or acts that caused a harmful and offensive contact with Plaintiff's person, including, but not limited to, placing Plaintiff in a choke hold, telling Plaintiff to "tap out," and ignoring Plaintiff's numerous attempts to "tap out,"

thereby causing Plaintiff to lose consciousness and fall to the floor sustaining the injuries described herein.

115. The conduct was not consented to by Plaintiff and was harmful and offensive to a reasonable sense of personal dignity.

116. Defendant Hebert's intentional acts were a direct and proximate cause of the harmful and offensive contact with Plaintiff.

117. Defendant Hebert's conduct was intentional, willful, wanton, and/or malicious, thereby warranting an award of punitive damages in an amount sufficient to punish Defendant Hebert and to deter similar conduct.

118. As a direct and proximate result of Defendant Hebert's battery, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from

entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants;
and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;

c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;

d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;

e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies;
and

f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

119. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendant, Brian Hebert, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT IX
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
AS TO DEFENDANT HEBERT

120. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 119 of this Complaint as if fully set forth herein.

121. At all relevant times, Defendant Hebert engaged in the conduct described herein toward Plaintiff.

122. On or about November 19, 2025, prior to the 6:30 A.M. practice, Defendant Hebert committed the following acts:

a) After receiving treatment in the treatment room, Plaintiff arrived in the locker room to prepare for that morning's practice.

b) While in the locker room, Defendant Hebert approached another team member and confronted him about a post on Instagram.

c) Defendant Hebert grabbed that team member and began choking him in response to the post on Instagram.

d) Defendant Hebert then approached Plaintiff and confronted Plaintiff about the post on Instagram.

e) Defendant Hebert also grabbed Plaintiff and began choking him in response to the post on Instagram.

f) Defendant Hebert told Plaintiff to “tap out” and he would stop choking him.

g) Plaintiff complied, but Defendant Hebert ignored Plaintiff’s numerous attempts to “tap out.”

h) Defendant Hebert choked Plaintiff for a sufficient length of time to render Plaintiff unconscious.

i) Upon realizing Plaintiff was unconscious, Defendant Hebert released Plaintiff who immediately fell to the ground due to his unconscious state.

j) As a result of falling to the ground in an unconscious state, Plaintiff suffered severe and permanent injuries to his head, face, mouth, and teeth, including, for example, multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to nine teeth.

123. Defendant Hebert's conduct, viewed in context—including choking another member of the football team, the power imbalance between himself and Plaintiff, Defendant Hebert's threats, the public humiliation and physical injuries Plaintiff suffered, and other aggravating factors—was extreme and outrageous and went beyond all possible bounds of decency tolerated in a civilized community.

124. Defendant Hebert intended to cause Plaintiff severe emotional distress and/or acted with reckless disregard of the high probability that Plaintiff would suffer severe emotional distress.

125. Defendant Hebert's misconduct was a direct and proximate cause of Plaintiff's severe emotional distress.

126. As a result, Plaintiff suffered severe emotional distress, including, but not limited to, past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life.

127. As a direct and proximate result of Defendant Hebert's intentional misconduct, Plaintiff has suffered and will continue to suffer:

a) Serious and permanent bodily injuries, including, but not limited to:

i) Multiple fractures to his jaw, a deep laceration to his chin, and irreparable damage to at least one dozen teeth requiring extraction, root canals, and/or additional invasive dental and/or surgical treatment;

ii) The necessity of undergoing numerous, painful surgeries to remove teeth which are damaged beyond repair, bone grafting, surgically inserting cadaver bone into his dental palate to prevent damaged and/or repaired teeth from entering Plaintiff's sinus cavity, and/or surgical insertion of multiple steel implants; and

iii) The necessary use of dentures, braces, ongoing dental work, and/or surgical replacement of certain teeth with time due to Plaintiff's young age and the natural growth of his mouth,

all of which, including the necessary healing process between procedures, will take an additional three years;

b) Past and future physical pain and suffering, physical disability, permanent impairment, loss of physical mobility, scarring, and disfigurement;

c) Past and future mental anguish, emotional distress and the physical manifestation of effects therefrom, stress, anxiety, fright, grief, depression, embarrassment, and loss of enjoyment of life;

d) Past and future medical expenses and/or medical liens, including emergency care, hospitalization, surgery, postoperative care, and rehabilitation;

e) Past economic and/or financial damages, including, but not limited to lost tuition, room and board, meal plans, and school and athletic supplies; and

f) Future lost wages, future loss of earning capacity, and future loss of employment opportunity.

128. Plaintiff has received in the past and will continue to incur in the future hospital, medical, and other related expenses for treatment of his aforesaid injuries and damages.

129. Defendant Hebert's conduct was willful, wanton, and/or in reckless indifference to the rights of Plaintiff, supporting an award of punitive damages to the extent permitted by Delaware law.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendant, Brian Hebert, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

COUNT X
PUNITIVE DAMAGES AS TO ALL DEFENDANTS

130. Plaintiff alleges and incorporates by reference herein, the allegations set forth in Paragraphs 1 through 129 of this Complaint as if fully set forth herein.

131. At all relevant times, Defendant DSU owned, operated, maintained, managed, secured, controlled, and/or supervised the Subject Property, including the athletic facilities where Plaintiff was injured, and employed Defendant Jackson, Defendant Clark, and Defendant Hicks.

132. At all relevant times, Defendant Jackson, Defendant Clark, and Defendant Hicks, jointly and/or severally trained, coached, managed, secured, controlled, and/or supervised the members of Defendant DSU's football team, including Plaintiff and Defendant Hebert.

133. At all relevant times, Defendant Jackson, Defendant Clark, and Defendant Hicks were employed by Defendant DSU as the head coach, assistant head coach, and director of football operations, respectively, of Defendant DSU's football team and each had supervisory authority and responsibility over the team's student-athletes, assistant coaches, graduate assistants, operations staff, and the conduct, safety, and discipline of same within team-related environments and activities, including practices, games, locker rooms, weight rooms, and athletic and training facilities.

134. At all relevant times, Defendants acted with willful and wanton disregard for the safety and rights of Plaintiff and others similarly situated.

135. Defendants' conduct was outrageous and reflected a conscious indifference to known or obvious risks of harm.

136. Defendants knew, or in the exercise of reasonable awareness should have known, that their conduct created an unreasonable and highly foreseeable risk of serious injury, yet Defendants proceeded in reckless indifference to the consequences.

137. Defendants' misconduct was more than mere inadvertence, mistake, or ordinary negligence, and instead constituted willful, wanton, and reckless misconduct under Delaware law.

138. An award of punitive damages is supported by, for example,

a) Creating an unsafe environment in the locker room and on the Subject Property;

b) Allowing the unsafe environment in the locker room and on the Subject Property to continue;

c) Allowing a history of violent and/or criminal conduct by student-athletes, including members of Defendant DSU's football team, to persist;

d) Creating and instilling a "tough guy" coaching philosophy and/or attitude in Defendant DSU's football program and football players, which relied heavily upon the use of gang-associated slang and promoted a gang-associated mentality;

e) Encouraging football players not to permit others "disrespecting" them;

f) Hiring other members of Defendant DSU's football team's coaching staff who were unfit, incompetent, careless, or who otherwise posed unreasonable risks of harm to persons such as Plaintiff;

g) Not disciplining members of Defendant DSU's football team who violated Defendant DSU's own internal policies, procedures, and applicable standards, the N.C.A.A.'s policies, and/or local, state, or federal law;

h) Protecting and/or displaying overt favoritism to members of Defendant DSU's football team from academic and athletic discipline, and from legal and/or criminal consequences, who are starting players, who come from the same or nearby neighborhoods in their home states (*e.g.*, California) as do members of the coaching staff, and/or who are about to graduate;

i) Selecting players for Defendant DSU's football team who Defendants knew or should have known pose a serious risk of harm to other players;

j) Retaining players on the football team who Defendants knew or should have known posed a serious risk of harm to other players;

k) Allowing Defendant Hebert to remain on Defendant DSU's football team after Defendants knew or should have known he previously assaulted and/or fought other team members prior to the subject incident;

l) Providing inadequate or non-existent supervision in the athletic facilities used by the football team on the Subject Property;

- m) Creating and instilling a violent culture in Defendant DSU's football program and football team, either overtly or through acts of omission;
- n) Attempting to obfuscate this litigation by removing Defendant Hebert's biography (*i.e.*, high school, height, weight, etc.) from Defendant DSU's website and intentionally changing Defendant Hebert's class year;
- o) Attempting to obfuscate this litigation by refusing to release a copy of the police report to Plaintiff without his physical presence on the Subject Property;
- p) Assaulting other players on Defendant DSU's football team;
- q) Encouraging crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct between players on Defendant DSU's football team;
- r) Rewarding crimes, assaults, harassment, hazing, altercations, and/or dangerous physical conduct between players on Defendant DSU's football team by, for example, hiring those players who assault others (*i.e.*, Defendant Hebert) as coaching staff and/or graduate assistants;
- s) Failing to enforce and/or comply with any and all applicable policies, procedures, rules, and laws promulgated by the N.C.A.A. relating to the commission of crimes, assaults harassment, hazing, altercations, and/or dangerous

physical conduct between student-athletes, and the investigation, reporting, and discipline of same; and

t) Other willful, wanton, and reckless misconduct described herein or as discovery will show.

139. As a direct and proximate result of Defendants' willful, wanton, and reckless conduct, Plaintiff suffered the injuries and damages alleged in this Complaint.

140. Accordingly, Plaintiff is entitled to an award of punitive damages in an amount sufficient to punish Defendants and to deter similar conduct.

WHEREFORE, Plaintiff, Malachi Biggs, demands judgment in his favor and against Defendants, Delaware State University, DeSean Jackson, Travis Clark, Jane Hicks, and Brian Hebert, jointly and severally, for compensatory damages, medical bills, general and special damages including pain and suffering, past and future lost wages, loss of earnings and earning capacity, punitive damages, pre- and post-judgment interest in accordance with 6 *Del. C.* § 2301(d), the costs of this action, and any other relief this Court deems just.

MORGAN & MORGAN

/s/ Georgia C. Pham

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