

IN THE CIRCUIT COURT OF MADISON COUNTY, ALABAMA

**STEVEN FRANKLIN, JR., a minor who)
 sues by and through his Mother and Next)
 Friend, ALTHEA BASDEN,)**

Plaintiff,)

v.)

Civil Action No.: _____)

**JOHN PHILLIPS, an individual, and)
 EPSCO, INC., a corporation,)**

JURY TRIAL DEMANDED)

Defendants.)

COMPLAINT

COMES NOW, Steven Franklin, Jr., the Plaintiff in the above-styled action, by and through his Mother and Next Friend Althea Basden, and alleges the following against Defendants John Phillips and EPSCO, Inc.

PARTIES, JURISDICTION AND VENUE

1. Plaintiff, Steven Franklin, Jr. is a minor individual and lives with his Mother and Next Friend, Althea Basden who is an individual over nineteen (19) years of age, both are residents of Madison County, Alabama.

2. Defendant, John Phillips, is an individual over nineteen (19) years of age and alleged to be a resident of Madison County, Alabama. John Phillips, at all times relevant to the incident made the basis of Plaintiff’s Complaint, was an employee of EPSCO, Inc., serving as a security officer at Mae Jemison High School (hereinafter “Mae Jemison”) in Madison County, Alabama.

3. Defendant, EPSCO, Inc. (hereinafter “EPSCO”) is a foreign staffing corporation with its principle place of business in Lee County, Mississippi, and at all times relevant to the

incident made the basis of Plaintiff's Complaint, conducted business in Madison County, Alabama.

4. The actions, inactions and/or events giving rise to Plaintiff's claims occurred wholly within the geographical boundaries of Madison County, Alabama.

5. The amount in controversy exceeds the jurisdictional minimums of this Honorable Court.

6. Jurisdiction and venue are proper in this Court.

FACTUAL ALLEGATIONS COMMON TO ALL COUNTS

7. Plaintiff, at all times relevant to the incident made the basis of this Complaint, was an enrolled student at Mae Jemison High School in Madison County, Alabama.

8. Defendant EPSCO, at all times relevant to the incident made the basis of this Complaint, furnished Huntsville City public schools with security officers to provide for the safety, welfare and protection of students who attend Huntsville City Schools, including Mae Jemison.

9. Defendant, John Phillips, at all times relevant to the incident made the basis of this Complaint, was an employee of Defendant, EPSCO, and was serving as a security officer at Mae Jemison.

10. On May 21, 2018, on the Mae Jemison premises, Plaintiff became involved in a fight with another Mae Jemison student.

11. To stop the fight, John Phillips corralled Plaintiff, lifted him from the ground, and slammed Plaintiff down onto the concrete sidewalk, striking Plaintiff's head on the concrete pavement.

12. Steven Franklin, Jr. was caused to suffer severe, life-threatening and permanent injuries, including but not limited to:

- a. a fractured skull;
- b. severe subdural hematoma, requiring surgical craniotomy;
- c. loss of consciousness resulting in memory loss and confusion;
- d. injury to Plaintiff's neck, shoulder and back;
- e. severe headaches; and
- f. fevers with the potential for cranial abscesses.

COUNT I
NEGLIGENCE/WANTONNESS
ALL DEFENDANTS

13. Plaintiff adopts and incorporates each and every paragraph above as if fully set out herein.

14. Plaintiff alleges that Defendant, John Phillips, as a security officer responsible for the safety and well-being of Mae Jemison students, including Plaintiff, had a duty to protect the students of Mae Jemison and to use reasonable care, caution and restraint in the event of an fight, altercation or any other incident involving the safety, welfare and well-being of students at Mae Jemison.

15. Plaintiff alleges that Defendant, John Phillips, breached that duty by negligently and/or wantonly using excessive and unnecessary force on Steven Franklin by lifting Steven Franklin from the ground and slamming his body onto the concrete pavement and striking his head on the concrete.

16. The actions and inactions of Defendant, John Phillips, were negligent and/or wanton.

17. Defendant, John Phillips, was operating within the scope of his employment with Defendant, EPSCO, as a security officer at Mae Jemison.

18. Plaintiff further alleges that as a direct result of the negligence and/or wantonness of Defendants, Plaintiff was caused to suffer the following damages and harm:

- a. Severe, life-threatening and permanent injuries;
- b. Medical expenses, past and future;
- c. Absences from school and extra-curricular educational opportunities, past and future;
- d. Pain, suffering, mental anguish and emotional distress, now and into the future;
- e. Other injuries and damages.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the jury selected to hear this case render a verdict for the Plaintiff, and against Defendants, John Phillips and EPSCO, for compensatory and punitive damages, in an amount that adequately reflects the enormity and wrongfulness of the Defendants' conduct and that will effectively prevent other similar wrongful acts by Defendants in the future. Furthermore, the Plaintiff requests that the Court enter a judgment consistent with the jury's verdict, together with interest from the date of judgment and the costs incurred in prosecuting this lawsuit.

COUNT II
RESPONDEAT SUPERIOR

19. Plaintiff adopts and incorporates each and every paragraph above as if fully set out herein.

20. On May 21, 2018, Defendant, EPSCO, was the employer of Defendant, John Phillips.

21. Defendant, John Phillips, was acting as the agent, servant and/or employee of Defendant, EPSCO and was acting within the line and scope of his employment with EPSCO by serving as a security officer at Mae Jemison which was in furtherance of the business purposes of EPSCO.

22. As a result of the foregoing, Defendant, EPSCO is vicariously liable to Plaintiff for the negligent and/or wanton conduct of Defendant, John Phillips that caused the serious, life-threatening and permanent injuries, and all other damages incurred by Plaintiff.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the jury selected to hear this case render a verdict for the Plaintiff, and against Defendant, EPSCO, for compensatory and punitive damages, in an amount that adequately reflects the enormity and wrongfulness of the Defendant's conduct and that will effectively prevent other similar wrongful acts by Defendant in the future. Furthermore, the Plaintiff requests that the Court enter a judgment consistent with the jury's verdict, together with interest from the date of judgment and the costs incurred in prosecuting this lawsuit.

COUNT THREE
NEGLIGENT/WANTON HIRING, TRAINING, RETENTION
AND/OR ENTRUSTMENT
EPSCO, INC.

23. Plaintiff adopts and incorporates each and every paragraph above as if fully set out herein.

24. At the time of the occurrence forming the basis of the Plaintiff's Complaint, Defendant, John Phillips, was acting as the agent, servant and/or employee of Defendant, EPSCO.

25. As John Phillips' principal and/or employer, Defendant, EPSCO, had a duty to exercise due and proper diligence in an effort to hire, train and/or supervise competent employees.

26. Defendant, EPSCO, negligently and/or wantonly breached this duty by failing to hire, train or supervise competent employees on or about the date of the occurrence made the basis of the Plaintiff's Complaint.

27. Due to EPSCO's negligent and/or wanton hiring, training, supervision, and retention of Defendant, John Phillips, John Phillips was retained to serve as a security officer at Mae Jemison and caused the listed injuries and harm to Steven Franklin.

WHEREFORE, PREMISES CONSIDERED, Plaintiff requests that the jury selected to hear this case render a verdict for the Plaintiff, and against Defendant, EPSCO, for compensatory and punitive damages, in an amount that adequately reflects the enormity and wrongfulness of the Defendant's conduct and that will effectively prevent other similar wrongful acts by Defendant in the future. Furthermore, the Plaintiff requests that the Court enter a judgment consistent with the jury's verdict, together with interest from the date of judgment and the costs incurred in prosecuting this lawsuit.

Respectfully Submitted,

/s/ Leila H. Watson

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TO CLERK: PLEASE SERVE DEFENDANTS BY CERTIFIED MAIL:

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Accepting Service on behalf of Defendant

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