

115897-CV

CAUSE NO. _____

MARK HAGAN, INDIVIDUALLY AND	§	IN THE DISTRICT COURT OF
AS NEXT FRIEND OF COLE HAGAN,	§	
A MINOR AND THAO HUYNH HAGAN	§	
	§	
VS.	§	BRAZORIA COUNTY, T E X A S
	§	
ROBERT BRANDON MITCHELL,	§	
INDIVIDUALLY AND AS NEXT	§	
FRIEND OF REID MITCHELL,	§	
A MINOR, LOGAN HUBER, TRISTA	§	
WYLDE HUBER, THOMAS HOLLAND	§	
AND WENDI HOLLAND,	§	
INDIVIDUALLY AND AS NEXT	§	
FRIEND OF AYDEN HOLLAND, A	§	
MINOR, HAILEY VITEK RODD AND	§	
STEVEN RODD, INDIVIDUALLY AND	§	
AS NEXT FRIEND OF KENNA RODD,	§	
A MINOR AND KYLER RODD, A	§	
MINOR, PAUL CAGLE,	§	
INDIVIDUALLY AND AS NEXT	§	
FRIEND OF RACHEL MYERS, A	§	
MINOR, SHELLEY STROUD AND	§	
RODNEY STROUD, INDIVIDUALLY	§	
AND AS NEXT FRIEND OF CADE	§	
STROUD, A MINOR	§	_____ JUDICIAL DISTRICT

PLAINTIFF'S ORIGINAL PETITION AND JURY DEMAND

TO THE HONORABLE JUDGE OF SAID COURT:

COMES NOW, MARK HAGAN, INDIVIDUALLY AND AS NEXT FRIEND OF COLE HAGAN, A MINOR and THAO HUYNH HAGAN, hereinafter sometimes referred to as "Plaintiff," or "Plaintiffs" complaining of Robert Brandon Mitchell, Individually and As Next Friend of Reid Mitchell, A Minor, Logan Huber, Trista Wylde Huber, Thomas Holland and Wendi Holland, Individually and As Next Friend of Ayden Holland, A Minor, Hailey Vitek Rodd and Steven Rodd, Individually and As Next Friend of Kenna Rodd, A Minor and Kyler Rodd, A Minor, Paul Cagle, Individually and As Next Friend of Rachel Myers, A Minor, Shelley Stroud and

Rodney Stroud, Individually and As Next Friend of Cade Stroud, A Minor, hereinafter sometimes referred to as “Defendant” or “Defendants” and for cause of action would show unto the Court as follows:

I. Level

Discovery is intended to be conducted under Level 2 of the Texas Rules of Civil Procedure 190. Plaintiffs affirmatively plead that they seek only monetary relief in excess of \$50,000,000, including damages of any kind and excluding penalties, costs, expenses, pre-judgment interest, and attorney fees.

II. Parties

Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor, is a resident of Lake Jackson, Brazoria County, Texas.

Plaintiff, Thao Huynh Hagan is a resident of Lake Jackson, Brazoria County, Texas

Defendant, Robert Brandon Mitchell, Individually and As Next Friend of Reid Mitchell, A Minor, is an individual residing in Brazoria County, Texas, and may be served with process at his residential address of 203 Hancock Street, Clute, Texas 77531, or wherever he may be located.

Defendant, Logan Huber, is an individual residing in Brazoria County, Texas, and may be served with process at his residential address of 250 Laurel Street, Lake Jackson, Texas 77566, or wherever he may be located.

Defendant, Trista Wylde Huber, is an individual residing in Brazoria County, Texas, and may be served with process at her residential address of 250 Laurel Street, Lake Jackson, Texas 77566 or wherever she may be found.

Defendant, Thomas Holland, Individually and As Next Friend of Ayden Holland, A Minor, is an individual residing in Brazoria County, Texas, and may be served with process at his

residential address of 604 Oleander Street, Lake Jackson, Texas 77566, or wherever he may be found.

Defendant, Wendi Holland, Individually and As Next Friend of Ayden Holland, A Minor, is an individual residing in Brazoria County, Texas, and may be served with process at her residential address of 604 Oleander Street, Lake Jackson, Texas, 77566 or wherever she may be found.

Defendant, Hailey Vitek Rodd, Individually and As Next Friend of Kenna Rodd, A Minor and Kyler Rodd, A Minor, is an individual residing in Brazoria County, Texas and may be served with process at her residential address of 66 Parsley Court, Lake Jackson, Texas 77566, or wherever she may be found.

Defendant, Steven Rodd, Individually and As Next Friend of Kenna Rodd, A Minor and Kyler Rodd, A Minor, is an individual residing in Brazoria County, Texas and may be served with process at his residential address of 66 Parsley Court, Lake Jackson, Texas 77566, or wherever he may be found.

Defendant, Paul Cagle, Individually and As Next Friend of Rachel Myers, A Minor, is an individual residing in Brazoria County, Texas and may be served with process at his residential address of 56 Cherrywood Court, Lake Jackson, Texas 77566, or wherever he may be found.

Defendant, Shelley Stroud, Individually and As Next Friend of Cade Stroud, A Minor, is an individual residing in Brazoria County, Texas and may be served with process at her residential address of 217 Violet Lane, Lake Jackson, Texas 77566, or wherever she may be found.

Defendant, Rodney Stroud, Individually and As Next Friend of Cade Stroud, A Minor, is an individual residing in Brazoria County, Texas and may be served with process at his residential address of 217 Violet Lane, Lake Jackson, Texas 77566, or wherever he may be found.

III. Jurisdiction and Venue

This Court has subject matter jurisdiction over this case under its general jurisdiction as conferred by the Texas Constitution because Plaintiffs' damages exceed the minimum jurisdictional requirements of this Court and no other court has exclusive jurisdiction over this case.

This Court has personal jurisdiction over Defendants because they are a resident and/or citizens of the State of Texas, and committed a tort within the State of Texas in Brazoria County, Texas.

Venue is proper in Brazoria County, Texas pursuant to Tex. Civ. Prac. & Rem. Code §15.002(a) because Brazoria County, Texas is the county in which all or a substantial part of the events or omissions giving rise to the claim occurred.

IV. Misnomer and Alter Ego

In the event that any parties are misnamed or not included herein, it is Plaintiffs' contention that such was a misnomer and/or such parties are/were alter egos of parties named herein.

V. Facts

Cole Hagan is a junior at Brazoswood High School and a respected member of the Brazoswood Buccaneers football team. On or about December 3, 2021, Plaintiff, Cole Hagan, a minor, was invited to a party at the home of Defendant, Paul Cagle, Individually and As Next Friend of Rachel Myers, A Minor, located at 56 Cherrywood Court, in Lake Jackson, Texas by acquaintances who he believed to be his friends, specifically, Reid Mitchell, Rachel Myers, Logan Huber, Cade Stroud, Ayden Holland, Kenna Rodd and Kyler Rodd. While at the party on Cherrywood Court at the home of Paul Cagle, Cole was advised by his "friends" (Logan Huber and Ayden Holland) that someone had damaged his vehicle, which was parked on the street on

Cherrywood Court. Cole Hagan was lured outside the home by these so-called “friends” (Logan Huber and Ayden Holland) where he was brutally and viciously attacked by his football teammate, Reid Mitchell. The attack by Reid Mitchell on Plaintiff, Cole Hagan, was done without warning or provocation. Rachel Myers, Logan Huber, Cade Stroud, Ayden Holland, Kenna Rodd and Kyler Rodd were part of the plan and invited Cole Hagan to the party knowing that Reid Mitchell planned to attack Cole Hagan.

As a result of the aforementioned brutal and vicious assault caused by the Defendant, Reid Mitchell and the tortious conduct of Defendants, Paul Cagle, Logan Huber, Ayden Holland, Rachel Myers, Kenna Rodd, Kyler Rodd, and Cade Stroud, Plaintiff, Cole Hagan, A Minor sustained serious bodily injuries, which required hospitalization in the Intensive Care Unit because of severe, traumatic head injuries and other severe bodily injuries. Cole has now been transferred to a rehabilitation center where he has begun lengthy rehabilitation, including extensive speech and physical therapies. Further, Cole Hagan has missed and continues to miss his junior year in high school and as a high school athlete, has also missed games and will likely not be able to play sports in either high school or college in the future. Football has been Cole Hagan’s passion for many years.

VI. Assault and Defamation by Defendant, Reid Mitchell, A Minor

At the time and on the occasion in question, Defendant, Reid Mitchell, a Minor, intentionally, knowingly, or recklessly caused Plaintiff, Cole Hagan’s severe head and bodily injuries by violently injuring Plaintiff, Cole Hagan and/or repeatedly striking Plaintiff, Cole Hagan. Reid Mitchell’s unjustified and unprovoked actions constitute criminal and civil assault for which Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor seek the recovery of actual and exemplary damages.

The occurrence made the basis of this suit and the resulting injuries and damages were proximately caused by the assault by the Defendant, Reid Mitchell, A Minor.

Defendant, Reid Mitchell, A Minor, made physical contact with Plaintiff, Cole Hagan, A Minor's person, by brutally striking him, resulting in severe brain trauma and bodily injuries to the Plaintiff, Cole Hagan, A Minor.

The assault by the Defendant, Reid Mitchell upon Plaintiff, Cole Hagan, A Minor's person was done intentionally, knowingly, and recklessly, causing severe injuries to the Plaintiff, Cole Hagan, A Minor.

Plaintiff, Cole Hagan, A Minor's injuries resulted from Defendant, Reid Mitchell's malice, which entitles Plaintiff, Cole Hagan, A Minor to exemplary damages under Texas Civil Practice and Remedies Code § 41.003(a).

Further, Defendant, Reid Mitchell made false and defamatory statements, both oral and written, injuring Plaintiff, Cole Hagan's reputation.

Each and all of the above acts and/or omissions were a proximate cause of the following made the basis of this suit and the injuries and damages suffered by Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor, herein.

VII. Negligence of Defendant, Robert Brandon Mitchell

Defendant Robert Brandon Mitchel, Individually knew or should have known of the plan to attack Cole Hagan.

VIII. Threat of Bodily Injury and Defamation by Defendant, Logan Huber

At the time and on the occasion in question, Defendant, Logan Huber, intentionally, knowingly, or recklessly caused Plaintiff, Cole Hagan's severe head and bodily injuries by luring him outside of the home on Cherrywood Court when he knew that Reid Mitchell intended to

brutally assault Plaintiff, Cole Hagan. Further, Logan Huber threatened Plaintiff with imminent bodily injury. Logan Huber's unjustified and unprovoked actions constitute criminal and civil assault for which Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor seek the recovery of actual and exemplary damages.

The occurrence made the basis of this suit and the resulting injuries and damages were proximately caused by the threat of bodily injury by the Defendant, Logan Huber.

By luring Cole Hagan outside, knowing that Reid Mitchell was planning to violently attack him, Defendant, Logan Huber's behavior was done negligently recklessly, causing severe injuries to the Plaintiff, Cole Hagan, A Minor.

Plaintiff, Cole Hagan, A Minor's injuries resulted from Defendant, Logan Huber's malice, which entitles Plaintiff, Cole Hagan, A Minor to exemplary damages under Texas Civil Practice and Remedies Code § 41.003(a).

Further, Defendant, Logan Huber made false and defamatory statements, both oral and written, injuring Plaintiff, Cole Hagan's reputation.

Each and all of the above acts and/or omissions were a proximate cause of the following made the basis of this suit and the injuries and damages suffered by Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor, herein.

IX. Negligence of Defendant, Trista Wylde Huber

Defendant, Trista Wylde Huber, Individually knew or should have known of the plan to attack Cole Hagan.

X. Threat of Bodily Injury and Defamation by Defendant, Ayden Holland

At the time and on the occasion in question, Defendant, Ayden Holland, intentionally, knowingly, or recklessly caused Plaintiff, Cole Hagan's severe head and bodily injuries by luring

him outside of the home on Cherrywood Court when he knew that Reid Mitchell intended to brutally assault Plaintiff, Cole Hagan. Further, Ayden Holland threatened Plaintiff with imminent bodily injury. Ayden Holland's unjustified and unprovoked actions constitute criminal and civil assault for which Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor seek the recovery of actual and exemplary damages.

The occurrence made the basis of this suit and the resulting injuries and damages were proximately caused by the threat of bodily injury by the Defendant, Ayden Holland.

By luring Cole Hagan outside, knowing that Reid Mitchell was planning to violently attack him, Defendant, Ayden Holland's behavior was done intentionally, knowingly, and recklessly, causing severe injuries to the Plaintiff, Cole Hagan, A Minor.

Plaintiff, Cole Hagan, A Minor's injuries resulted from Defendant, Ayden Holland's malice, which entitles Plaintiff, Cole Hagan, A Minor to exemplary damages under Texas Civil Practice and Remedies Code § 41.003(a).

Further, Defendant, Ayden Holland made false and defamatory statements, both oral and written, injuring Plaintiff, Cole Hagan's reputation.

Each and all of the above acts and/or omissions were a proximate cause of the following made the basis of this suit and the injuries and damages suffered by Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor, herein.

XI. Negligence of Defendant, Thomas Holland, Individually

Defendant, Thomas Holland, Individually knew or should have known of the plan to attack Cole Hagan.

XII. Negligence of Defendant, Wendi Holland, Individually

Defendant, Wendi Holland, Individually, knew or should have known of the plan to attack Cole Hagan.

XIII. Threat of Bodily Injury by Defendant, Kenna Rodd

At the time and on the occasion in question, Defendant, Kenna Rodd, intentionally, knowingly, or recklessly caused Plaintiff, Cole Hagan's severe head and bodily injuries by sending photographs of Cole Hagan to Reid Mitchell to commence the plan to brutally assault Plaintiff, Cole Hagan.

Plaintiff, Cole Hagan, A Minor's injuries resulted from Defendant, Kenna Rodd's malice, which entitles Plaintiff, Cole Hagan, A Minor to exemplary damages under Texas Civil Practice and Remedies Code § 41.003(a).

Each and all of the above acts and/or omissions were a proximate cause of the following made the basis of this suit and the injuries and damages suffered by Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor, herein.

XIV. Threat of Bodily Injury by Defendant, Kyler Rodd

At the time and on the occasion in question, Defendant, Kyler Rodd, intentionally, knowingly, or recklessly caused Plaintiff, Cole Hagan's severe head and bodily injuries by sending photographs of Cole Hagan to Reid Mitchell to commence the plan to brutally assault Plaintiff, Cole Hagan.

Plaintiff, Cole Hagan, A Minor's injuries resulted from Defendant, Kyler Rodd's malice, which entitles Plaintiff, Cole Hagan, A Minor to exemplary damages under Texas Civil Practice and Remedies Code § 41.003(a).

Each and all of the above acts and/or omissions were a proximate cause of the following made the basis of this suit and the injuries and damages suffered by Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor, herein.

XV. Negligence of Defendant, Hailey Vitek Rodd, Individually

Defendant, Hailey Vitek Rodd, Individually, knew or should have known of the plan to attack Cole Hagan.

XVI. Negligence of Defendant, Steven Rodd, Individually

Defendant, Steven Rodd, Individually, knew or should have known of the plan to attack Cole Hagan.

XVII. Threat of Bodily Injury by Defendant, Rachel Myers

At the time and on the occasion in question, Defendant, Rachel Myers, intentionally, knowingly, or recklessly caused Plaintiff, Cole Hagan's severe head and bodily injuries by luring him to the party on Cherrywood Court when she knew that Reid Mitchell intended to brutally assault Plaintiff, Cole Hagan.

The occurrence made the basis of this suit and the resulting injuries and damages were proximately caused by the threat of bodily injury by the Defendant, Rachel Myers.

Plaintiff, Cole Hagan, A Minor's injuries resulted from Defendant, Rachel Myers' malice, which entitles Plaintiff, Cole Hagan, A Minor to exemplary damages under Texas Civil Practice and Remedies Code § 41.003(a).

Each and all of the above acts and/or omissions were a proximate cause of the following made the basis of this suit and the injuries and damages suffered by Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor, herein.

XVIII. Negligence of Paul Cagle, Individually

At the time and on the occasion in question, Defendant, Paul Cagle, had a duty to exercise the degree of reasonable care that a reasonably prudent person would use to avoid harm to others under circumstances similar to those described herein, and to protect its guests.

Plaintiff, Cole Hagan, A Minor's injuries were directly and proximately caused by Paul Cagle's negligent, careless, and reckless disregard of said duty.

On the occasion in question, Plaintiff, Cole Hagan, A Minor's damages were proximately caused by the negligence, carelessness, and recklessness and resulting assault by Defendant, Paul Cagle in one or more of the following non-exclusive particulars:

- a. In failing to keep guests safe from being assaulted by other guests while on the property in question;
- b. In failing to use ordinary care to ensure its guests were safely treated on the property by other guests;
- c. In failing to be attentive;
- d. In allowing Reid Mitchell to knowingly and intentionally commit aggravated assault; and
- e. In serving alcoholic beverages to minor at the property in question.

Defendant, Paul Cagle, knowingly provided alcoholic beverages to minors, Reid Mitchell, Ayden Holland, Kenna Rodd, Kyler Rodd, and Cade Stroud at his home on Cherrywood Court. The minors' intoxication caused injury to the Plaintiff, Cole Hagan.

Each and all of the above and foregoing acts, both omission and commission, singularly or in combination with others, constituted negligence which proximately caused the occurrence made the basis of this suit, and Plaintiff, Cole Hagan, A Minor's injuries and damages pled herein.

XIX. Threat of Bodily Injury by Defendant, Cade Stroud

At the time and on the occasion in question, Defendant, Cade Stroud intentionally, knowingly, or recklessly caused Plaintiff, Cole Hagan's severe head and bodily injuries by being an accomplice to the plan to lure Plaintiff, Cole Hagan, to the home on Cherrywood Court.

By luring Cole Hagan outside, knowing that Reid Mitchell was planning to violently attack him, Defendant, Cade Stroud's behavior was done intentionally, knowingly, and recklessly, causing severe injuries to the Plaintiff, Cole Hagan, A Minor.

Plaintiff, Cole Hagan, A Minor's injuries resulted from Defendant, Cade Stroud's malice, which entitles Plaintiff, Cole Hagan, A Minor to exemplary damages under Texas Civil Practice and Remedies Code § 41.003(a).

Each and all of the above acts and/or omissions were a proximate cause of the following made the basis of this suit and the injuries and damages suffered by Plaintiff, Mark Hagan, Individually and As Next Friend of Cole Hagan, A Minor, herein.

XX. Negligence of Defendant, Shelley Stroud, Individually

Defendant, Shelley Stroud, Individually, knew or should have known of the plan to attack Cole Hagan.

XXI. Negligence of Defendant, Rodney Stroud, Individually

Defendant, Rodney Stroud, Individually, knew or should have known of the plan to attack Cole Hagan.

XXII. Thao Huynh Hagan's Claim for Loss of Consortium

As a proximate result of the negligent conduct of Defendants, Thao Huynh Hagan, as the Mother of Plaintiff, Cole Hagan, has suffered and will continue to suffer a loss of consortium, including, but not limited to, past and future mental anguish, including emotional pain, torment,

and suffering, experienced by Thao Huynh Hagan because of the severe injuries of her beloved son, Cole Hagan, and, all facts considered therein by law as a result of the matters made the basis of this suit.

XXIII. Gross Negligence and Conduct by Defendants

Defendants' acts and/or omissions set forth above constitute gross negligence under §41.001(11) of Tex. Civ. Prac. & Rem. Code because, when viewed objectively from the standpoint of the Defendants at the time of its occurrence, each act and/or omission involved an extreme degree of risk, considering the probability and magnitude of the potential harm to others; and the Defendants had actual, subjective awareness of the risk involved, but nevertheless proceeded with conscious indifference to the rights, safety, or welfare to others. Defendants' gross negligence was a proximate cause of the incident made the basis of this lawsuit.

XXIV. Damages

As a result of the occurrence in question, Plaintiff, Cole Hagan, A Minor, sustained serious personal injuries, mental anguish, physical pain and suffering, medical expenses in the past and future, impairment and disability in the past and future, lost wages in the past, and loss of earning capacity in the future. It is believed that Plaintiff, Cole Hagan, A Minor will also suffer legally recoverable damages in the future and also brings this suit for exemplary damages. Plaintiff will respectfully request the Court and Jury to determine the amount of loss Plaintiff has incurred and will incur in the future not only from a financial standpoint, but also in terms of good health and freedom from pain and worry. There are certain elements of damages provided by law that Plaintiff is entitled to have the Jury in this case consider separately to determine the sum of money for each element that will fairly and reasonably compensate Plaintiff for the injuries, damages and losses

incurred from the date of the accident in question until the time of trial of this case. Those elements of damages are as follows:

1. The physical pain that the Plaintiff has suffered from the date of the occurrence in question up to the time of trial;
2. The mental anguish that the Plaintiff has suffered from the date of the occurrence in question up to the time of trial;
3. The amount of reasonable medical expenses necessarily incurred in the treatment of the Plaintiff's injuries from the date of the occurrence in question up to the time of trial;
4. The physical impairment which Plaintiff has suffered from the date of the occurrence in question up to the time of trial; and
5. Plaintiff's loss of wages from the date of the occurrence in question up to the time of trial; and
6. The disfigurement which Plaintiff has suffered from the date of the occurrence in question up to the time of trial.

Further, the following are elements of damages to be considered separately which Plaintiff will sustain in the future beyond the trial that are determined by a preponderance of the evidence upon trial of this cause:

1. The physical pain that the Plaintiff will suffer in the future beyond the time of trial;
2. The mental anguish that the Plaintiff will suffer in the future beyond the time of trial;
3. The reasonable value of medical expenses that will necessarily be incurred in the treatment of the Plaintiff's injuries in the future beyond the time of trial;
4. The physical impairment which the Plaintiff will suffer in the future beyond the time of trial; and
5. Plaintiff's loss of earning capacity in the future beyond the time of trial; and
6. The disfigurement which Plaintiff has suffered from the date of the occurrence in question up to the time of trial.

Plaintiff seeks only monetary relief of more than \$50,000,000, including damages of any kind and excluding penalties, costs, expenses, pre-judgment interest, and attorney's fees and a demand for judgment for all the other relief to which the party deems himself entitled. Further, Plaintiff invokes Section 41.008(c)(4) because Defendants' conduct was committed knowingly and intentionally and as such, there is no limitations on the amount of recovery of exemplary damages. Plaintiff makes this damage calculation pursuant to Rule 47. This statement is made solely for the purpose of providing information on the nature of the case, does not affect Plaintiff's substantive rights, and is made subject to Plaintiff's right to amend.

XXV. Required Disclosures

Pursuant to Texas Rule of Civil Procedure 194(a), each Defendant is required to disclose, within thirty (30) days of the filing of the first answer, the information or material described in Rule 194.2(b)1-12. Any Defendant that is served or otherwise joined after the filing of the first answer must make their initial disclosures within thirty (30) days after being served or joined.

XXVI. TRCP 193.7

Pursuant to Texas Rule of Civil Procedure 193.7, Defendants are hereby put on continuous notice that any documents produced in response to written discovery will be used in pretrial proceedings and at trial and will be deemed authentic unless you make valid objections to authenticity pursuant to this rule.

XXVII. Demand for Jury

Plaintiffs request a trial by jury and herewith tenders the appropriate fee.

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendants be cited to appear and answer and that upon final hearing, Plaintiffs recover judgment against the Defendants for their damages as they may appear at trial hereof, prejudgment and post-judgment interest, costs of

court, and such other relief to which Plaintiffs may be entitled.

Respectfully Submitted,

KLITSAS & VERCHER, P.C.

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