

IN THE CIRCUIT COURT OF MONONGALIA COUNTY, WEST VIRGINIA

**KEN DIVINEY, Parent and Next Friend
of RYAN KENNETH DIVINEY, and
BRIAN MATTHEW MCLHINNEY,**

Plaintiffs

v.

CIVIL ACTION NO. _____

**AUSTIN VANTREASE,
JONATHAN MAY,
COLIN MCKEEFERY,
BRANDON GROUX,
TYLER HUSFELT, and
ALEXANDER WOODS,**

Defendants.

COMPLAINT

NOW COME the Plaintiffs, Ken Diviney, Parent and Next Friend of Ryan Diviney, and Brian Mclihinney, and for their Complaint against the Defendants, state the following:

1. The Plaintiff Ryan Diviney is a Virginia resident.
2. The Plaintiff Brian Mclihinney is a West Virginia resident.
3. Upon information and belief, the Defendants May, Mckeeferery, Greux, Husfelt and Woods are residents of the State of Delaware.
4. Upon information and belief, the Defendant Vantrease is an inmate at the North Central Regional Jail, located near Greenwood, West Virginia.
5. All acts alleged hereinafter occurred in Monongalia County, West Virginia.

NEGLIGENCE

6. On November 7, 2009, near the North Willey Street Dairy Mart in Morgantown, WV, at approximately 3:10 a.m., the Plaintiffs Ryan Diviney and Brian Mclihinney were

walking towards the Dairy Mart convenience store when they became engaged in an oral argument with the Defendants.

7. Shortly thereafter, the argument turned into a physical altercation, and the Defendants chased the Plaintiff Ryan Diviney as he tried to escape, and negligently, recklessly and willfully obstructed him from escaping to safety.
8. The Defendants Austin Vantrease and Jonathan May negligently, willfully and/or maliciously injured the Plaintiffs, causing the Plaintiffs severe personal injury.
9. The actions of Defendants McKeefery, Groux, Husfelt and Woods in substantially encouraging the physical altercation and preventing the Plaintiffs from escaping were substantial contributing factors in causing the injuries to the Plaintiffs.
10. As a proximate result of negligence on the part of all of the Defendants, the Plaintiff Ryan Kenneth Diviney suffered the following damages:
 - a. Past, present and future medical, nursing and related expenses;
 - b. Past, present and future pain and suffering;
 - c. Past present and future loss of enjoyment of life;
 - d. Past, present and future mental anguish;
 - e. Past, present and future lost wages and loss of earning capacity; and
 - e. Permanent injury.
11. As a proximate result of the negligence on the part of all of the Defendants, the Plaintiff Brian Matthew McIhinney suffered the following damages:
 - a. Past medical expenses;
 - b. Past, present and future pain and suffering;

- c. Past, present and future annoyance and inconvenience;
- d. Past, present and future mental anguish.

WHEREFORE, the Plaintiffs Ken Diviney, Parent and Next Friend of Ryan Kenneth Diviney, and Brian Matthew McInhinney demand judgment against the Defendants in such amount in excess of this Court's minimum jurisdictional limits as will provide fair compensation for the Plaintiffs' injuries, together with prejudgment and post judgment interest, their attorney's fees and costs, and punitive damages to punish and deter such future conduct.

THE PLAINTIFF REQUESTS A JURY TRIAL.

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