

IN THE COURT OF CLAIMS OHIO

2012 DEC 31 PM 2: 37

ORIGINAL

JAMES DANIEL HUGHES
126 Private Drive 2265
South Point, Ohio 45680

and

JAMES DAVID HUGHES
126 Private Drive 2265
South Point, Ohio 45680

and

KELLEY DAWN HUGHES
126 Private Drive 2265
South Point, Ohio 45680

and

JOSHUA MICHAEL HUGHES, a minor,
by and through his next friend,
KELLEY DAWN HUGHES
126 Private Drive 2265
South Point, Ohio 45680

and

KAITLYN ELIZABETH HUGHES, a minor,
by and through her next friend,
KELLEY DAWN HUGHES
126 Private Drive 2265
South Point, Ohio 45680

and

KRYSTEN MARIE HUGHES, a minor,
by and through her next friend,
KELLEY DAWN HUGHES
126 Private Drive 2265
South Point, Ohio 45680

Plaintiffs

vs.

2012-09059

Case No. _____

Judge: _____

**COMPLAINT; WITH
JURY DEMAND**

ON COMPUTER

THE OHIO STATE UNIVERSITY)
c/o Daniel A. Malkoff)
1590 North High Street – Suite 500)
Columbus, OH 43201)
Defendant.)

Plaintiffs hereby state their causes of action against defendant as follows:

INTRODUCTION

1. Plaintiff, James Daniel Hughes (Daniel), was an 18 year old resident of the state of Ohio at all times relevant to this case and a Freshman Honors Student at The Ohio State University (OSU), living on campus at OSU in September, 2012.
2. Plaintiff, James David Hughes is the father of James Daniel Hughes.
3. Plaintiff Kelley Dawn Hughes is the mother of James Daniel Hughes.
4. Plaintiff Joshua Michael Hughes is the brother of James Daniel Hughes.
5. Plaintiff Kaitlyn Elizabeth Hughes is a sister of James Daniel Hughes.
6. Plaintiff Krysten Marie Hughes is a sister of James Daniel Hughes.
7. Defendant The Ohio State University (“OSU”) is a state university located in Columbus, Ohio and an instrumentality of the State of Ohio.
8. This Court has exclusive jurisdiction over claim against OSU pursuant to O.R.C 2743.02 and 3345.40.
9. In 2009, OSU planned to build a new building on the Columbus Campus called the Chemical and Biomolecular Engineering and Chemistry Building (“CBEC”)
10. During the bid process for Architects and Contractors for CBEC, OSU specifically indicated that “CBEC is located in one of the most pedestrian orientated and densest areas of The Ohio State University Columbus Campus referred to as the Academic Core North.”
11. CBEC was built in an area of campus where numerous other surrounding buildings were actively and repetitively utilized by students throughout the day for classroom study and dorm use.
12. Specifically, it was reasonably foreseeable that a high volume of students would walk by the CBEC construction site in order to attend class and use their dorm rooms.
13. The property where CBEC was constructed, at 151 Woodruff Avenue in Columbus, Ohio, was at all times relevant property which defendant OSU enjoyed sole ownership.

14. Defendant OSU participated in the architectural design of various aspects of CBEC.
15. Defendant OSU also contracted with various companies who participated in the design, planning and construction of CBEC at 151 Woodruff Avenue in Columbus, Ohio.
16. These included Gilbane, Burt, Hill and Pelli, Clarke, Pelli.
17. Defendant OSU participated in planning, discussion and implementation of the location of where construction vehicles would enter and exit the CBEC construction site.
18. Defendant OSU also participated in planning, discussion and implementation of traffic and pedestrian safety for incoming and outgoing construction vehicles in and around the CBEC construction site.

COUNT ONE – Intentional, Willful, Wanton, and/or Negligent Conduct

19. Paragraphs 1 through 18 are incorporated here as if fully rewritten.
20. On September 5, 2012, defendant OSU was responsible for the safe construction and supervision of the CBEC construction site, including ensuring the safe movement of vehicles coming into and out of the construction site, as well as ensuring the safety of any and all pedestrian/bicycle and other vehicle traffic around the four borders of the CBEC construction site.
21. Defendant OSU knew the CBEC site was located in one of the “most pedestrian orientated and densest areas of OSU Columbus Campus” and therefore proper precautions would be necessary to ensure the safety of the students going to and from class around this site.
22. Despite the high density of student traffic around CBEC, on September 5, 2012 the vehicle construction gate to the CBEC construction site was left open and construction traffic was allowed to come in and out without any security, personnel or sufficient precautions to those students and traffic around the site.
23. Defendant OSU consciously and intentionally disregarded the rights and safety of Plaintiffs and/or were negligent in many respects, including but not limited to:
 - a. The failure to plan for and provide any personnel/security/flaggers to ensure the safe movement of traffic into and out of the construction site;
 - b. The failure to plan for and provide any personnel to help guide, watch over or monitor construction trucks moving in and out of the construction site while students, traffic and other pedestrians utilized the sidewalk adjacent to CBEC; and

- c. Failure to plan for and provide sufficient barriers and signage to prevent students, pedestrians or other traffic from being able to utilize the sidewalk adjacent to CBEC where heavy construction vehicles entered and exited the site frequently; and
 - d. Failure to plan for and provide a safer access point for construction traffic to enter and exit the construction site thereby either limiting or making any contact with pedestrians and other traffic non-existent.
24. As a direct and proximate result of the intentional, willful, wanton, and negligent conduct of OSU, Daniel was run over by a dump truck entering the CBEC construction site while he was traveling to class at OSU directly causing severe and debilitating damages.

Plan, Design and Architect

25. On September 5, 2012, defendant OSU was jointly responsible for the design, architect services, planning and implementation of various plans and designs for the CBEC construction site on 151 Woodruff Avenue in Columbus, Ohio, including access and safety during construction.
26. As such, defendant OSU was responsible for the safe design, planning and supervision of the construction site, including selection of the entry and exit point for construction vehicles, ensuring the safe movement of vehicles coming into and out of the construction site, as well as ensuring the safety of any and all pedestrian/bicycle and other vehicle traffic around the four borders of the CBEC construction site.
27. Despite information regarding CBEC noted above, defendant OSU consciously and intentionally disregarded the rights and safety of Plaintiffs and/or were negligent in many respects, including but not limited to:
- a. The failure to plan for and provide any personnel/security/flaggers to ensure the safe movement of traffic into and out of the construction site;
 - b. The failure to plan for and provide any personnel to help guide, watch over or monitor construction trucks moving in and out of the construction site while students, traffic and other pedestrians utilized the sidewalk adjacent to CBEC; and
 - c. Failure to plan for and provide sufficient barriers and signage to prevent students, pedestrians or other traffic from being allowed to utilize the sidewalk adjacent to CBEC where heavy construction vehicles entered and exited the site frequently; and
 - d. Failure to plan for and provide a safer access point for construction traffic to enter and exit the construction site thereby either limiting or making any contact with pedestrians and other traffic non-existent.

28. As a direct and proximate result of the intentional, willful, wanton, and negligent conduct of OSU, Daniel was run over by a dump truck entering the CBEC construction site while Daniel while traveling to class at OSU directly leading to severe and debilitating injuries.

COUNT FOUR – Loss of Consortium

29. Paragraphs 1 through 28 are incorporated here as if fully rewritten.

30. At the time of the crash set forth above, and at all times since the crash, Daniel was the son of James David and Kelley Dawn Hughes and the brother of Joshua Michael, Kaitlyn Elizabeth, and Krysten Marie Hughes.

31. As a direct and proximate result of defendants' negligent, willful, wanton, and/or intentional acts, James, Kelley, Joshua, Kaitlyn and Krysten Hughes lost the services, companionship, and consortium of Daniel and suffered mental anguish and emotional distress.

COUNT FIVE – Punitive Damages

32. Paragraphs 1 through 31 are incorporated here as if fully rewritten herein.

33. Defendant OSU acted with an intentional and conscious disregard for the rights and safety of Plaintiffs, and all OSU students and pedestrians, in their plan, design and implementation of construction traffic for the building of CBEC.

34. This unfortunate tragedy and severe injuries to Plaintiffs were both completely foreseeable and entirely preventable given the knowledge OSU had regarding the CBEC site location and student traffic around this site. Despite this Defendant OSU consciously disregarded the rights and safety of Plaintiff's in failing to plan for and implement procedures to protect students and others while construction vehicles entered and exited from the CBEC site.

35. Had Defendant OSU not intentionally, willfully and negligently failed to plan for and properly implement the CBEC site, Daniel would not have been crushed by a dump truck on September 5, 2012.

Damages

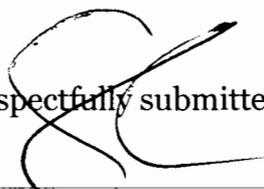
36. As a direct and proximate result of the intentional acts and/or negligence of defendant OSU, Daniel sustained multiple injuries, including, but not limited to, a crushed pelvis, a fracture of the spinal column, a partial pelvectomy, the amputation of his left leg and penis, spinal injuries leading to nerve damage and infections of his pelvis and other areas of his body.

37. As a further direct and proximate result of the intentional acts and/or negligence of defendant OSU, Daniel sustained and will sustain past and future medical

expenses, great pain and suffering, permanent injuries, temporary and permanent disability, humiliation, embarrassment, loss of enjoyment of life and future lost wages.

WHEREFORE, plaintiffs demand judgment against defendant OSU, in an amount in excess of \$25,000, plus court costs, as well as punitive damages and any other relief to which they are entitled.

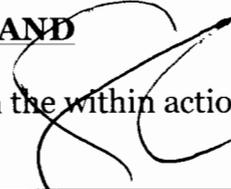
Respectfully submitted,



Stephen S. Crandall, Esq. (0063810)
Of Counsel Marc G. Pera (0069231)
Crandall Law, LLC
539 E. Washington St.
Chagrin Falls, OH 44022
(216) 538-1981- Phone
(440) 338-8286- Facsimile
steve@crandallesq.com

JURY DEMAND

Plaintiffs hereby demand a trial by jury in the within action.



Stephen S. Crandall, Esq. (0063810)
Marc G. Pera, Esq. (0069231)
Attorneys for Plaintiff

IN THE COURT OF CLAIMS OF OHIO

JAMES D. HUGHES, et al.,

Plaintiffs,

-vs-

THE OHIO STATE UNIVERSITY

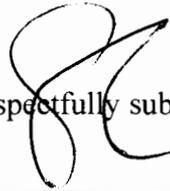
Defendant.

)
)
) CASE NO:
)
) JUDGE
)
)
) Praecipe
) **INSTRUCTIONS TO THE CLERK**
)
)
)
)

INSTRUCTIONS TO THE CLERK: Please serve the following Defendant with a copy of the complaint and summons via certified mail:

The Ohio State University
c/o Daniel A. Malkoff
1590 North High Street- Suite 500
Columbus, OH 43201

Respectfully submitted,



STEPHEN S. CRANDALL #0063810

Crandall Law, LLC
539 E. Washington St.
Chagrin Falls, OH 44022
(216) 538-1981
(440) 338-8286- facsimile
steve@crandallesq.com
Attorney for Plaintiffs



CRANDALL
LAW LLC

Ohio Super Lawyers – Top 10 | The National Trial Lawyers - Top 100 | Multi-Million Dollar Advocates Forum
Board Certified Trial Lawyer | Cleveland Trial Lawyers- Top 5 | Elite Lawyers of America

December 28, 2012

Court of Claims of Ohio-Clerk of Courts
The Ohio Judicial Center
65 South Front Street
Columbus, OH 43215

RE: Filing Complaint

Dear Clerk:

Enclosed is the following:

- Complaint and Jury Demand (*Original and 2 Copies*)
- Check in the amount of \$25.00
- Praecipe- Instructions for Service
- Statement of the Existence of Connected Action

Would you please:

- File accordingly,
- Serve a copy of the complaint as described in the Instructions for Service
- Return one time-stamped copy in the self-addressed, stamped envelope provided

Thank you in advance for your assistance with this filing. Should you have any questions or concerns please feel free to contact me at (216) 538-1981.

Respectfully,

Stephen S. Crandall, Esq.

Enc.

Mail to: 539 E. Washington St. | Chagrin Falls, OH 44022
P: (855)OHIO-ESQ | F: (440)338-8286 | C: (216)538-1981
steve@crandallesq.com

50 Public Square | Terminal Tower
35th Floor | Cleveland, OH 44113
www.crandallesq.com

2012 DEC 31 PM 2:36

FILED
COURT OF CLAIMS
OF OHIO