

COHEN, PLACITELLA & ROTH, P.C.

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RILEY MCCUSKER,

PLAINTIFF,

vs.

ARENA GYMNASTICS, INC.;
MAGGIE HANEY;
VICTORIA LEVINE;
MONMOUTH GYMNASTICS ACADEMY
ELITE, LLC;
MONMOUTH GYMNASTICS ELITE, INC.;
TMC MARLBORO, LLC;
JOHN DOE GYM OWNERS 1-100;
JANE DOE GYMNASTICS ACADAMIES
1-100.

DEFENDANTS.

SUPERIOR COURT OF NEW
JERSEY

LAW DIVISION: MONMOUTH
COUNTY

DOCKET NO. _____

CIVIL ACTION

DEMAND FOR TRIAL BY JURY
DESIGNATION OF TRIAL
ATTORNEY

COMPLAINT

Plaintiff, Riley McCusker, by way of complaint against the Defendants Arena Gymnastics, Inc., Maggie Haney, Victoria Levine, Monmouth Gymnastics Academy Elite, LLC, Monmouth Gymnastics Elite, Inc, TMC Marlboro, LLC, John Doe Gym Owners 1-100, and Jane Doe Gymnastics Academies 1-100, jointly, severally and in the alternative, states:

PARTIES

1. Plaintiff, Riley McCusker, (“Plaintiff”) is and was at all relevant times a citizen and resident of the State of New Jersey, residing at [REDACTED]

[REDACTED]; as such, Plaintiff was a minor during the times the events complained about herein occurred. She reached the age of majority on [REDACTED] 2019.

2. Defendant Arena Gymnastics, Inc. (“Arena”) is, and at all times mentioned herein was, a New Jersey Corporation, with its principal place of business located at 6 Tennis Court, Trenton, New Jersey 08619.
3. This Court has personal jurisdiction over Arena as Arena is a Corporate citizen of New Jersey, with principal place of business in New Jersey and regularly conducted business in the State of New Jersey during all times relevant hereto, including but not limited to owning a USAG member gym in which Plaintiff Riley McCusker and other gymnasts engaged in training.
4. At all times relevant hereto, Arena was acting individually, and/or by and through its duly authorized, actual, apparent, and/or ostensible servants, employees, agents and/or independent contractors over which it controlled or had the right to control, and any and all of whom were acting within the course and scope of their authority, duties, employment or agency with Arena, including but not limited to Defendant Maggie Haney and Defendant Victoria Levine identified herein.
5. Maggie Haney is a citizen and resident of the State of New Jersey residing at [REDACTED]
[REDACTED]
6. This Court has personal jurisdiction over Maggie Haney (“Haney”) as she is domiciled and lives in Freehold, New Jersey and she regularly conducted business in State of New Jersey during all times relevant hereto, including but not limited to acting as Coach for MG Elite, including coaching Plaintiff, Riley McCusker.

7. Victoria Levine (“Levine”) is a citizen and resident of the State of New Jersey and can be served at [REDACTED].
8. This Court has personal jurisdiction over Victoria Levine as she lives in Morganville, New Jersey and she regularly conducted business in the State of New Jersey during all times relevant hereto, including but not limited to acting as Coach for MG Elite, including coaching Plaintiff, Riley McCusker
9. Defendant Monmouth Gymnastics Academy Elite, Inc. (“MGA Elite”) is, and at all times mentioned herein was, a New Jersey Corporation, with its principal place of business located at 600 and 300 Campus Drive, Morganville, New Jersey 07751.
10. This Court has personal jurisdiction over MGA Elite as MGA Elite is a Corporate citizen of New Jersey, with principal place of business in New Jersey and regularly conducted business in the State of New Jersey during all times relevant hereto, including but not limited to owning a USAG team of which Plaintiff Riley McCusker was a member.
11. At all times relevant hereto, MGA Elite was acting individually, and/or by and through its duly authorized, actual, apparent, and/or ostensible servants, employees, agents and/or independent contractors over which it controlled or had the right to control, and any and all of whom were acting within the course and scope of their authority, duties, employment or agency with MGA Elite, including but not limited to Defendant Maggie Haney and Defendant Victoria Levine identified herein.
12. Defendant Monmouth Gymnastics Elite, Inc. (“MG Elite”) is, and at all times mentioned herein was a New Jersey Corporation, with its principal place of business located at 600 and 300 Campus Drive, Morganville, New Jersey 07751.

13. This Court has personal jurisdiction over MG Elite as MG Elite is a Corporate citizen of New Jersey, with principal place of business in New Jersey and regularly conducted business in the State of New Jersey during all times relevant hereto, including but not limited to owning a USA Gymnastics (“USAG”) team of which Plaintiff Riley McCusker was a member.
14. At all times relevant hereto, MG Elite was acting individually, and/or by and through its duly authorized, actual, apparent, and/or ostensible servants, employees, agents and/or independent contractors over which it controlled or had the right to control, and any and all of whom were acting within the course and scope of their authority, duties, employment or agency with MG Elite.
15. Defendant TMC Marlboro, L.L.C. (“Marlboro”) is, and at all times mentioned herein was, a New York State Corporation, with its principal place of business located in New York City. Marlboro is the owner of Monmouth Gym in Monmouth, New Jersey.
16. This Court has personal jurisdiction over Marlboro as Marlboro regularly conducted business in the State of New Jersey during all times relevant hereto, including but not limited to owning the Monmouth Gymnastics gym in Monmouth, New Jersey.
17. At all times relevant hereto, Marlboro was acting individually, and/or by and through its duly authorized, actual, apparent, and/or ostensible servants, employees agents and/or independent contractors over which it controlled or had the right to control, and any and all of whom acting within the course and scope of their agency with Marlboro.
18. John Doe Gym Owners 1-100 are fictitious gym owners which, at all relevant times herein, owned and operated gyms used by the Coach Defendants (defined below) to coach and instruct Plaintiff, Riley McCusker.

19. Jane Doe Gymnastic Academies 1-100 are fictitious Gymnastic Academies which, at all relevant times herein, employed Maggie Haney and/or Victoria Levine and were teams in which Plaintiff, Riley McCusker participated.
20. Defendants Arena Gymnastics, Inc., MGA Elite, MG Elite, TMC Marlboro, LLC, John Doe Gym Owners 1-100 and Jane Doe Gymnastics Academies 1-100 are collectively referred to as the “Gym Defendants”.
21. Defendants Haney and Levine are referred to herein individually as “Coach Defendant” and collectively as “Coach Defendants”.

OPERATIVE FACTS

Maggie Haney and Victoria Levine’s Coaching at Monmouth Gym and Arena Gym

22. Maggie Haney was a USAG member coach.
23. Victoria Levine is a USAG-member coach and assistant coach to Maggie Haney.
24. Maggie Haney and Victoria Levine coached the MG Elite team, which included Plaintiff, Riley McCusker.
25. As a professional gymnastic coach and trainer of young gymnasts such as Plaintiff, the Coach Defendants each had a duty to ascertain and know at all times the capabilities and physical condition of the young athletes they were coaching and training and not direct them to attempt or perform skills, exercises or routines that endangered or harmed them.
26. At all times materials herein the Coach Defendants knew or had reason to know that Plaintiff had sustained or developed an injury or injuries to her body or had a medical condition that made it risky and dangerous to Plaintiff’s physical health and well-being for her to strenuously train and/or to sustain, apply or place stress and/or physical force upon injured, weakened or otherwise compromised body structures or members.

27. At all times materials herein the Gym Defendants knew or had reason to know that Plaintiff had sustained or developed an injury or injuries to her person or had a medical condition that made it risky and dangerous to Plaintiff's physical health and well-being for her to strenuously train and/or to sustain, apply or place stress and/or physical force upon injured, weakened or otherwise compromised body structures or members.
28. On or about April 2017, Defendant Haney directed and forced Plaintiff Riley McCusker to train on an injured wrist, despite Haney's full knowledge that Plaintiff Riley McCusker was injured.
29. On or about July 2017 to October 2017, Defendant Haney directed and forced Plaintiff to perform skills while suffering from a hamstring injury despite Defendant Haney's full knowledge that Plaintiff's leg was so injured. As a result, Plaintiff's hamstring injury was exacerbated and worsened.
30. Between approximately August 2017 to October 2017, Defendant Haney directed and forced Plaintiff to train on a fractured ischium, thereby exacerbating Plaintiff's injury and causing her great pain and suffering.
31. On or about January 18, 2018, Defendant Haney directed and forced Plaintiff to perform exercises and skills on an injured foot, despite Plaintiff repeatedly telling Defendant Haney of her condition and the pain it was causing her. It was later determined that Plaintiff's injured foot had multiple stress fractures.
32. On or about September 2018, Defendant Haney, during a balance beam training session, screamed loudly into Plaintiff's ear while performing a backwards flip on the beam, thereby distracting Plaintiff and causing her fall off of the beam to her injury and harm.

33. On or about January 2019 to March 2019, Defendant Haney directed and forced Plaintiff to perform gymnastic skills with a shoulder injury despite her full knowledge that Plaintiff's shoulder was injured and compromised, with an impingement and tear in her supraspinous ligament. As a result, Plaintiff's shoulder injury was exacerbated and worsened.
34. On or about June 2019, Plaintiff Riley McCusker was diagnosed with exercise-induced rhabdomyolysis. Despite this condition and Plaintiff's complaints of pain to them, Defendant's Haney and Levine both directed and forced her to continue strenuous training. The training exacerbated the rhabdomyolysis and caused Plaintiff to suffer and endure great pain, and risked plaintiff suffering grave injury and harm to her person.

CAUSES OF ACTION

Count 1: Riley McCusker vs. Arena Gymnastics, MGA Elite, MG Elite, TMC Marlboro, LLC, John Doe Gym Owners 1-100, and Jane Doe Gymnastics Academies 1-100,

35. Plaintiff incorporates by reference all previous allegations contained in the preceding paragraphs as if set forth fully herein.
36. Each of Gym Defendants owed Plaintiff a duty and/or assumed a duty to keep them safe while competing, practicing, or training at Monmouth Gym and Arena Gym.
37. At all times material herein, the Gym Defendants knew or had reason to know the Coach Defendants' practices, demeanor, conduct and actions towards the young gymnast athletes they were coaching and training in their facility were harmful, abusive and/or detrimental to the health and well-being of the athletes.
38. At all times material herein, the Gym Defendants knew or had reason to know the Coach Defendants were directing and forcing young athletes, such as Plaintiff, to train and

perform routines when they were injured or in weakened condition, and therefore at risk of further injuring themselves or exacerbating preexisting injuries.

39. Despite their actual or constructive knowledge, the Gym Defendants failed to take reasonable actions or precautions to protect Plaintiff and other young athletes being trained by the Coach Defendants from being harmed or injured while training in their facilities.
40. The Gym Defendants jointly, severally and in the alternative breached their duties owed to Plaintiff which caused injuries to Plaintiff as described above.
41. The negligent and careless conduct of Gym Defendants includes, among other things, the following acts and omissions:
 - a. Allowing the Coach Defendants to use or continue to use Monmouth Gym facility and Arena Gym facility despite its or their knowledge of their improper coaching and training practices and/or their abuse of MG Elite and MGA Elite gymnasts, including Plaintiff;
 - b. Failing to have in place adequate policies, procedures, or protocols to ensure the safety of MG Elite and MGA Elite gymnasts, including Plaintiff;
 - c. Failing to have coaches and trainers follow MG Elite and MGA Elite Gymnastics' policies, procedures and protocols on gymnasts training while they are injured;
 - d. Failing to protect MG Elite and MGA Elite gymnasts, including Plaintiff from psychological, emotional and physical abuse by the Coach Defendants;
 - e. Failing to provide a safe gym environment for MG Elite and MGA Elite gymnasts.
42. As a result of the negligence and carelessness of Defendants Arena Gymnastics, MGA Elite, MG Elite, TMC Marlboro, LLC, John Doe Gym Owners 1-100, and Jane Doe Gymnastics Academies 1-100 described above, Plaintiff sustained injuries requiring medical care causing her to sustain expenses to treat and care for same. The injuries are or may be permanent and or continuing in nature.

43. Plaintiff further suffered great pain, discomfort and emotional distress.

WHEREFORE, Plaintiff demands judgement against Defendants Arena Gymnastics, MGA Elite, MG Elite, TMC Marlboro, LLC, John Doe Gym Owners 1-100, and Jane Doe Gymnastics Academies 1-100, jointly, severally and in the alternative for damages, together with attorneys' fees, interest and costs.

Riley McCusker vs. Maggie Haney

Count 2: Negligence

44. Plaintiff incorporates by reference all previous allegations contained in the preceding paragraphs as if set forth fully herein.

45. Defendant Haney owed Plaintiff a duty and/or assumed a duty to keep her safe while competing, practicing, or training at Monmouth Gym and Arena Gym and not to increase the risks over and above those inherent in the sport of gymnastics.

46. Defendant Haney breached this duty, which caused injuries to Plaintiff as described above.

47. The negligent and careless conduct of Haney includes among other things, the following acts and omissions:

- a. Failing to follow MG Elite and MGA Elite Gymnastics' policies, procedures and protocols on gymnasts training while injured;
- b. Failing to provide a safe gym environment for MG Elite and MGA Elite gymnasts;
- c. Not following progressions for gymnastics skills as outlined and mandated by USAG;
- d. Refusing to spot or physically support gymnasts, including Plaintiff, when they (she) requested it during a skill, exercise or routine;
- e. Directing and forcing gymnasts to perform exercises and skills while injured;

- f. Ignoring gymnasts' complaints of pain and physical signs of injury;
 - g. Forcing gymnasts to perform exercises and/or skills beyond the individual gymnast's experience;
 - h. Ignoring doctor's recommendations and medical restrictions for injured gymnasts;
 - i. Physically forcing gymnasts, including Plaintiff, to perform exercises and stretches while injured;
48. As a result of the negligence and carelessness of Defendant Haney described above, Plaintiff sustained injuries requiring medical care causing her to sustain expenses to treat and care for same. The injuries are or may be permanent and or continuing in nature.
49. Plaintiff further suffered great pain, discomfort and emotional distress and sustained costs and expenses which may and will continue in the future.

WHEREFORE, Plaintiff demands judgement against Defendant Haney, jointly, severally and in the alternative for damages, together with attorneys' fees, interest and costs.

Riley McCusker vs. Maggie Haney

Count 3: Intentional Infliction of Emotional Distress

50. Plaintiff incorporates by reference all previous allegations contained in the preceding paragraphs as if set forth fully herein.
51. Defendant Haney intended to inflict emotional distress on Plaintiff and/or acted in reckless disregard of a high degree of probability that severe emotional distress would follow her actions.
52. The extreme and outrageous conduct of Maggie Haney includes among other things the following acts and omissions:
- j. Body shaming;
 - k. Promotion of unhealthy eating habits;

- l. Promotion of unhealthy weight loss habits;
 - m. Promotion of amenorrhea;
 - n. Bullying;
 - o. Shaming of gymnasts, including Plaintiff, in front of other gymnasts;
 - p. Repeated belittling of gymnasts, including Plaintiff.
53. Defendant Haney's extreme and outrageous conduct caused severe emotional distress to Plaintiff, causing her injury, pain and suffering and necessitating medical and psychological treatment and care, together with the cost of treating same.
54. Plaintiff further sustained costs and expenses which may and will continue in the future.
55. The injuries are or may be permanent and or continuing in nature.

WHEREFORE, Plaintiff demands judgement against Defendant Haney, jointly, severally and in the alternative for damages, together with attorneys' fees, interest and costs.

Riley McCusker vs. Maggie Haney

Count 4: Assault

56. Plaintiff incorporates by reference all previous allegations contained in the preceding paragraphs as if set forth fully herein.
57. Defendant Haney did intend to cause a harmful or offensive contact with Plaintiff and/or put her in an imminent apprehension of such contact, while working as Plaintiff's USAG Coach.
58. As a result of Defendants Haney's assault Plaintiff suffered physical injury, offense and insult.

59. Defendant Haney's tortious conduct caused severe emotional distress to Plaintiff, further causing her injury and necessitating medical and psychological treatment and care, together with the cost of treating same.

60. Plaintiff further suffered great pain, discomfort and emotional distress and sustained costs and expenses which may and will continue in the future

WHEREFORE, Plaintiff demands judgement against Defendant Haney, jointly, severally and in the alternative for damages, together with attorneys' fees, interest and costs.

Riley McCusker vs. Victoria Levine

Count 5: Negligence

61. Plaintiff incorporates by reference all previous allegations contained in the preceding paragraphs as if set forth fully herein.

62. Defendant Levine owed Plaintiff a duty and/or assumed a duty to keep her safe while competing, practicing, or training at Monmouth Gym and Arena Gym and not to increase the risks over and above those inherent in the sport of gymnastics.

63. Defendant Levine breached this duty, which caused injuries to Riley McCusker as described above.

64. The negligent and careless conduct of Defendant Levine includes among other things, the following acts and omissions:

- a. Failing to follow MG Elite and MGA Elite Gymnastics' policies, procedures and protocols on gymnasts training while injured;
- b. Failing to provide a safe gym environment for MG Elite and MGA Elite gymnasts;
- c. Not following progressions for gymnastics skills as outlined and mandated by USAG;
- d. Refusing to spot or physically support gymnasts, including Plaintiff, when they (she) requested it during a skill, exercise or routine;

- e. Directing and forcing gymnasts to perform exercises and skills while injured;
 - f. Ignoring gymnasts' complaints of pain and physical signs of injury;
 - g. Forcing gymnasts to perform exercises and/or skills beyond the individual gymnast's experience;
 - h. Ignoring doctor's recommendations and medical restrictions for injured gymnasts;
 - i. Physically forcing gymnasts, including Plaintiff, to perform exercises and stretches while injured.
65. As a result of the negligence and carelessness of Defendant Levine described above, Plaintiff sustained injuries requiring medical care causing her to sustain expenses to treat and care for same. The injuries are or may be permanent and or continuing in nature.
66. Plaintiff further suffered great pain, discomfort and emotional distress and sustained costs and expenses which may and will continue in the future.

WHEREFORE, Plaintiff demands judgement against Defendant Levine, jointly, severally and in the alternative for damages, together with attorneys' fees, interest and costs.

Riley McCusker vs. Victoria Levine

Count 6: Intentional Infliction of Emotional Distress

67. Plaintiff incorporates by reference all previous allegations contained in the preceding paragraphs as if set forth fully herein.
68. Defendant Levine intended to inflict emotional distress on Plaintiff and/or acted in reckless disregard of a high degree of probability that severe emotional distress would follow her actions.
69. The extreme and outrageous conduct of Defendant Levine includes among other things the following acts and omissions:
- a. Body shaming;

- b. Promotion of unhealthy eating habits;
- c. Promotion of unhealthy weight loss habits;
- d. Promotion of amenorrhea;
- e. Bullying;
- f. Shaming of gymnasts, including Plaintiff, in front of other gymnasts;
- g. Repeated belittling of gymnasts, including Plaintiff.

70. Defendant Levine's extreme and outrageous conduct caused severe emotional distress to Plaintiff, causing her injury, pain and suffering and necessitating medical and psychological treatment and care, together with the cost of treating same.

71. Plaintiff further sustained costs and expenses which may and will continue in the future.

72. The injuries are or may be permanent and or continuing in nature.

WHEREFORE, Plaintiff demands judgement against Defendant Levine, jointly, severally and in the alternative for damages, together with attorneys' fees, interest and costs

BY: /s/ Christopher M. Placitella

CHRISTOPHER M. PLACITELLA, ESQ.

Attorneys for Plaintiff

Dated: October 28, 2020

DESIGNATION OF TRIAL COUNSEL

Pursuant to R.4:5-1(c), Christopher M. Placitella, Esq. is hereby designated trial counsel.

JURY DEMAND

PLEASE TAKE NOTICE that Plaintiff, pursuant to R.4:35-1, demands a trial by jury as to all issues.

Respectfully Submitted,

COHEN PLACITELLA & ROTH, P.C.

/s/ Christopher M. Placitella
CHRISTOPHER M. PLACITELLA, ESQ.

Attorneys for the Plaintiff

Dated: October 28, 2020

CERTIFICATION

The undersigned certifies that to the best of my knowledge this matter is not the subject of any other legal or arbitration proceeding in the Courts of New Jersey. The undersigned further certifies that to my knowledge no other persons should be party to this matter other than those named in this complaint.

COHEN PLACITELLA & ROTH, P.C.

/s/ Christopher M. Placitella
CHRISTOPHER M. PLACITELLA, ESQ.

Dated: October 28, 2020

DEMAND FOR INSURANCE INFORMATION

Pursuant to 4:10-2(b), demand is hereby made of the above Defendants, that you disclose to the undersigned within ten (10) days of the answer of this complaint whether there are any insurance agreements or policies under which any person or firm carrying on an insurance business may be liable to satisfy part or all of a judgment which may be entered in this action or to indemnify or reimburse for payments made to satisfy the judgment. YES () NO ()

If the answer is “yes” attach a copy of each or in the alternative state, under oath or certification (a) number (b) name and address of insurer or issuer (c) inception and expiration dates (d) names and addresses of all persons insured thereunder (e) personal injury limits (f) property damage limits (g) medical payment limits (h) name and address of person who has custody and possession thereof (i) where and when each policy or agreement can be inspected and copied.

COHEN PLACITELLA & ROTH, P.C.

/s/ Christopher M. Placitella
CHRISTOPHER M. PLACITELLA, ESQ.

Attorneys for the Plaintiff

Dated: October 28, 2020

Civil Case Information Statement

Case Details: MONMOUTH | Civil Part Docket# L-003450-20

Case Caption: MCCUSKER RILEY VS ARENA GYMNASTICS, IN C.

Case Initiation Date: 10/28/2020

Attorney Name: CHRISTOPHER M PLACITELLA

Firm Name: COHEN PLACITELLA & ROTH PC

Address: 127 MAPLE AVE

RED BANK NJ 07701

Phone: 7327479003

Name of Party: PLAINTIFF : McCusker, Riley

Name of Defendant's Primary Insurance Company
(if known): Unknown

Case Type: PERSONAL INJURY

Document Type: Complaint with Jury Demand

Jury Demand: YES - 6 JURORS

Is this a professional malpractice case? NO

Related cases pending: NO

If yes, list docket numbers:

Do you anticipate adding any parties (arising out of same transaction or occurrence)? NO

Are sexual abuse claims alleged by: Riley McCusker? NO

THE INFORMATION PROVIDED ON THIS FORM CANNOT BE INTRODUCED INTO EVIDENCE

CASE CHARACTERISTICS FOR PURPOSES OF DETERMINING IF CASE IS APPROPRIATE FOR MEDIATION

Do parties have a current, past, or recurrent relationship? NO

If yes, is that relationship:

Does the statute governing this case provide for payment of fees by the losing party? NO

Use this space to alert the court to any special case characteristics that may warrant individual management or accelerated disposition:

Do you or your client need any disability accommodations? NO

If yes, please identify the requested accommodation:

Will an interpreter be needed? NO

If yes, for what language:

Please check off each applicable category: Putative Class Action? NO **Title 59?** NO **Consumer Fraud?** NO

I certify that confidential personal identifiers have been redacted from documents now submitted to the court, and will be redacted from all documents submitted in the future in accordance with *Rule 1:38-7(b)*

10/28/2020

Dated

/s/ CHRISTOPHER M PLACITELLA

Signed