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## Paralyzed football player sues Barre school system

By [Thatcher Moats](#) Times Argus Staff

BARRE — A former Spaulding High School football player whose vertebrae shattered as he collided with an opponent almost four years ago is suing the school system, claiming his former football coaches' negligence led directly to the injury that left him paralyzed.

Derek Felix, now a 20-year-old who lives with his parents and brother in Barre and uses a wheelchair, filed the lawsuit against the Barre Supervisory Union last year in Washington County Superior Court, and the two sides are involved in the discovery process and moving towards a trial.

Felix was a 16-year-old junior in high school when he joined the Spaulding football team shortly after moving to Vermont from Chandler, Ariz., in September 2005. He was sent into a game against Brattleboro midway through the fourth quarter to play defensive back, and on his second play, he attempted to tackle a running back who was trying for a two-point conversion. Felix put his head down, made helmet-to-helmet contact as he tried to tackle the running back and broke his spine.

The lawsuit contends that Felix never should have been sent into that game, because he hadn't completed 10 practices, the minimum number a player needs before being eligible to play in a game under Vermont Principals' Association rules.

The suit also claims that Felix was not instructed how to tackle; not taught that tackling headfirst could result in "catastrophic injury"; and was put in the game even though the coaches had not assessed his skills.

The supervisory union, through its attorney Pietro Lynn, denies those allegations.

"We wish nothing but the best for Derek Felix," said Lynn. "That having been said, we do not believe any of the employees of the school were negligent."

Spaulding football coaches are not named as defendants in the lawsuit, but are named in the body of the complaint.

Two coaches — head coach Philip Joyal and assistant coach Dennis Hill — have both testified in depositions that they did instruct Felix how to safely and properly tackle, according to Lynn.

"The coaches were extremely careful with Derek Felix and they did not make a bad decision," Lynn said.

Lynn also denies that the coaches violated the 10-practice rule.

According to Felix's lawyer Richard Rubin, the supervisory union is counting as practices a game that Felix attended with the team but did not play in, along with meetings he had with coaches. But both sides agree that there is nothing written down that defines what a practice is. Lynn said meetings with coaches are legitimate because players need to know the offensive and defensive schemes, in addition to physical conditioning and learning about safety.

The number of times Felix met with coaches is in dispute.

Another reason the school employees were negligent, Rubin contends, is that Felix was never shown a video about safe tackling that was showed to other Spaulding players, because Felix joined the team after the season began.

"He wasn't shown that," said Rubin.

In answer to Felix's lawsuit, Lynn wrote that Felix was the one who was negligent and also wrote that Felix "assumed the risk of his own injuries."

"The risk of injury here is one that is inherent in the sport of football," said Lynn.

But Rubin said a broken neck is an uncommon injury that a player does not "assume" when they put on a helmet and pads.

"It's not true or fair to say you assume the risk of having a broken neck when you play football," he said.

"It's not like lightning struck," he added. "This did not have to happen."

Rubin also says that Hill, the assistant coach, hadn't taken a required coach's course.

If Felix is successful in his lawsuit, the consequences could be far-reaching, Lynn believes, which is one reason he doesn't think the supervisory union or its insurance company will settle in this case. Lynn said if schools are held liable in cases like this, it could make football "financially impracticable" at many schools.

Lynn said that once lawyers finish deposing witnesses, he will file a motion asking the court to dismiss the case. If that request is not granted, he believes the case will go to trial and is "extremely confident" the supervisory union would win.

"We think the evidence is in our favor," he said.

Felix's lawsuit does not name a dollar amount. But according to Rubin, a "life care plan" he had an expert develop calculates that it would cost between \$8.1 million and \$9.3 million to take care of Felix for the rest of his life. The plan takes into account lost wages, and the high dollar amount is driven largely by the cost of having an attendant care for Felix.

Rubin, who works in Barre, said the school system's insurance plan has a maximum coverage of \$5 million.

Felix is a quadriplegic and is paralyzed except for limited use of his arms, and he is also able to move a few fingers, Rubin said, but he does not have fine motor skills.

Rubin said he hopes to have the case resolved by this winter.

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