Uploaded: 2026OCT16 12:05 Filed By:YSHEVCHENKO on behalf of Bar# 30718 MKRUDYS Reference: EF-220554
eFiled: 2026OCT16 RICHMOND CITY CC EEMARSHALL at 2026OCT16 13:32 CL26005620-00

V I R G I N I A: IN THE CIRCUIT COURT FOR THE CITY OF RICHMOND

LATAISHA BREN'TAI JOHNSON AND KHALIL HART, ADMINISTRATORS OF THE ESTATE OF KING SHA'MAR OVERTON, DECEASED,

Plaintiffs,

v.

Case No.: _____

JURY TRIAL DEMANDED

GREATER RICHMOND AQUATICS PARTNERSHIP d/b/a SWIMRVA,
Serve:
Courtney Moates Paulk, Esq., Registered Agent
c/o Hirschler Fleischer
2100 East Cary Street
Richmond, VA 23223

JOHN/JANE DOE 1, Camp Director,

JOHN/JANE DOES 2 THROUGH 6, Camp Counselors or Lifeguards,

Defendants.

COMPLAINT

Plaintiffs LaTaisha Bren'Tai Johnson and Khalil Hart, Administrators of the Estate of King Sha'Mar Overton, Deceased, by counsel, move this Court for judgment against Defendants Greater Richmond Aquatics Partnership d/b/a SwimRVA ("SwimRVA"), John/Jane Doe 1, and John/Jane Does 2 through 6 (Doe 1 and Does 2 through 6 together, the "Doe Defendants"). They state:

1. King Sha'Mar Overton was nine years old. He could not swim. His mother, LaTaisha Johnson, enrolled him in summer camp at SwimRVA so that he could learn. SwimRVA holds itself out as a water-safety organization that teaches "drown-proofing." On June 15, 2026, King's first day of camp, Ms. Johnson told SwimRVA staff, in person and in writing, that King could not swim. Staff assured her that King was "in the right place."

2. That afternoon, SwimRVA let King into an unstructured "free swim." It assigned no one to watch him and gave him no buddy. One lifeguard watched the pool. She sat at the far

end, facing a large inflatable play structure that drew children to the middle of the pool. The lifeguard chair at the shallow end sat empty.

3. King went under just past the shallow-end rope, in water above his shoulders. He lay beneath the surface for ten minutes or more. Multiple SwimRVA lifeguards, counselors, and instructors were working at the facility that day. None saw him. When free swim ended, staff called his group out of the water without accounting for him. A young girl spotted him, and a mother at the pool with her own children pulled him out. SwimRVA staff then asked one another whether he was one of theirs. He died at an area hospital.

4. SwimRVA ran its camp without the license Virginia requires, and it never told Ms. Johnson. In 2024, SwimRVA's Executive Director told the General Assembly that Virginia lacked statewide standards to prevent drowning at pools. With no statewide pool safety standards, licensure was the state's check on how SwimRVA supervised the children in its camp. SwimRVA avoided it anyway. No state inspector ever looked at its camp or its practices. A license would have required that children King's age always be within sight and sound of staff, and that staff account for every child in the water. SwimRVA did neither. On July 20, 2026, the Virginia Department of Education ("VDOE") found that the camp was an unlicensed child day program and that no exemption applied.

5. Defendants' negligence, gross negligence, and willful and wanton negligence caused King's death.

PARTIES

6. Plaintiff LATAISHA BREN'TAI JOHNSON is King's mother and was his caregiver from birth. Plaintiff KHALIL HART is King's sister. Both are, and were at all relevant times, residents of the Commonwealth of Virginia.

7. On August 17, 2026, the Circuit Court of the City of Richmond appointed Plaintiffs Administrators of the Estate of King Overton, Deceased. They qualified under Va. Code Ann. § 64.2-454 to prosecute this action. A copy of the Certificate of Qualification is attached as **Exhibit 1**.

8. Defendant GREATER RICHMOND AQUATICS PARTNERSHIP d/b/a SWIMRVA is a Virginia nonstock corporation with its registered office in the City of Richmond. It owns, leases, or operates aquatics facilities in the Richmond region. These include the SwimRVA North facility at 317 N. Wilkinson Road in Henrico County ("SwimRVA North"). SwimRVA owned, operated, staffed, and controlled the summer camp King attended.

9. Defendant JOHN/JANE DOE 1 was, at all relevant times, employed by SwimRVA as the director or manager of SwimRVA North or its summer camp. Upon information and belief, Doe 1 supervised the lifeguards and camp staff at SwimRVA North and set the lifeguard staffing for its pools.

10. Defendants JOHN/JANE DOES 2 THROUGH 6 were, at all relevant times, employed by SwimRVA as lifeguards, swim instructors, or camp counselors at SwimRVA North.

11. Each Doe Defendant bore specific responsibility for the health and safety of the children at the camp, including King. Each acted at all relevant times within the scope of his or her employment or agency with SwimRVA.

JURISDICTION AND VENUE

12. Plaintiffs bring this wrongful death action under Va. Code Ann. § 8.01-50 *et seq.* They seek all relief the statute allows.

13. This Court has subject matter jurisdiction. Va. Code Ann. § 17.1-513. The amount in controversy exceeds this Court's jurisdictional minimum.

14. Venue is proper in this Court on two independent grounds:

a. SwimRVA has its registered office and registered agent in the City of Richmond. Va. Code Ann. § 8.01-262(2).

b. SwimRVA regularly conducts substantial business activity in the City of Richmond, and this forum has a practical nexus to this action. *Id.* § 8.01-262(3). The following facts show that business activity:

i. SwimRVA operates an indoor aquatics facility at 3701 R Street in the City of Richmond. It calls the facility "SwimRVA-Church Hill" and lists it among its locations.

ii. SwimRVA operates the pool at SwimRVA-Church Hill year-round. The pool has six lanes and is 25 yards long.

iii. At SwimRVA-Church Hill, SwimRVA sells swim lessons to preschoolers, school-age children, and adults. Classes meet Monday through Thursday. SwimRVA charges $175 per month.

iv. SwimRVA also trains its competitive swim team, the SwimRVA Rapids, at SwimRVA-Church Hill Monday through Thursday evenings. It charges $165 to $199 per month, plus a $125 annual registration fee. In September 2026, it held an open house there for its swim team.

v. SwimRVA staffs SwimRVA-Church Hill with its own lifeguards, coaches, and swim instructors.

FACTS

SwimRVA Held Itself Out as Teaching "Drown-Proofing"

15. SwimRVA holds itself out to the public, and to the parents who entrust their children to it, as an organization devoted to swimming and water safety. It has publicly promoted its ability to teach "drown-proofing."

16. SwimRVA runs summer camps for children at its facilities, including SwimRVA North. Those camps enroll children who cannot swim. Teaching those children to swim is a core service that SwimRVA markets and sells.

17. SwimRVA knew that drowning is a leading cause of death for children. It knew that a child who cannot swim faces mortal danger in and around a pool. It knew that constant, competent, and accountable supervision is essential to that child's survival.

18. SwimRVA also knew which children are most at risk. In its annual returns to the Internal Revenue Service, SwimRVA has stated that "70 percent of African-American children do not learn how to swim" and that "African-American children drown at rates five times that of the rest of the population."

King

19. King lived with his mother, LaTaisha Johnson. His family describes him as small, mighty, and hilarious. He loved motorcycles, softball, golf, and playing the violin. He attended St. Andrew's School in Richmond and was looking forward to returning to school in the fall.

20. King was Black. He was one of the children SwimRVA's own filings identify as most at risk of drowning.

21. King could not swim. His family takes an annual trip to South Carolina, and King wanted to be safe in the water. His mother enrolled him in SwimRVA's summer camp at SwimRVA North so that he would learn to swim.

June 15, 2026: Drop-Off

22. On the morning of Monday, June 15, 2026, Ms. Johnson dropped King off for his first day of camp. She told SwimRVA staff at drop-off that King could not swim.

23. A SwimRVA staff member responded, "Okay, good, that's what he's here for," or words to that effect. In front of SwimRVA staff, King excitedly told his mother, "Mommy, I'm going to go in the four feet." He meant the part of the pool that was four feet deep. Ms. Johnson told him, "No, you're not, you don't know how to swim." Four feet of water was above King's shoulder height.

24. Another SwimRVA worker told Ms. Johnson, "Well, he's in the right place, don't you worry."

25. Ms. Johnson completed forms, including a questionnaire, stating that King could not swim. A man on SwimRVA's staff who was assisting at drop-off took King's hand and led him away.

26. SwimRVA assigned King to camp group two, known as the "red" group. The group had 12 children. Its scheduled swim time was 1:15 p.m. to 2:15 p.m. An unstructured "free swim" followed. Free swim was not a lesson. It had no instruction.

The Pool That Afternoon

27. Six lifeguards were working at SwimRVA North that day. SwimRVA assigned two of them to the L-shaped pool where King drowned (the "Pool"). One was assigned to a ground-level chair inside the shallow-end rope, in the three-foot children's area (the "shallow-end chair").

The other was assigned to a stand at the far end of the Pool. A third lifeguard guarded the lap pool. Five camp counselors and one free swim instructor were also present.

28. The shallow-end rope ran along the four-foot mark and divided the shallow end from the deeper water. The shallow-end chair overlooked the shallow-end rope.

29. SwimRVA had placed a large inflatable play structure in the middle of the Pool. It was about the size of a late-model car. It had a sloped climbing area that rose above the water. SwimRVA tethered it to the bottom of the Pool with underwater ropes. It sat directly in front of the stand at the far end, the only lifeguard stand staffed that afternoon.

30. The structure drew children to it. Upon information and belief, on June 15, children in the Pool were gathered on it or around it.

31. SwimRVA knew the structure would draw campers toward it, including non-swimmers. It knew the structure would draw the lifeguard's attention away from the rest of the Pool.

32. Children climb on a structure like this, crowd around it, and swim under it. A lifeguard watching it is not watching the rest of the pool. Accepted aquatic practice is to add lifeguards when such a structure is in use, so that the structure and the rest of the water are each watched.

33. SwimRVA added no lifeguard. Its one staffed stand faced the children gathered around the structure. And, as alleged below, it left the shallow-end chair empty.

Free Swim

34. Upon information and belief, King entered the Pool during free swim. SwimRVA's staff encouraged him into the water rather than keeping him out of it, though they knew he could not swim.

35. No SwimRVA lifeguard, instructor, or counselor watched King, accounted for him, or kept him in water suited to a non-swimmer. SwimRVA did not pair him with a buddy. It assigned no staff member to watch him.

36. Upon information and belief, SwimRVA's older, more experienced lifeguards took their break during free swim. Young camp counselors were largely left to supervise the children in their place. Plaintiffs do not know whether those counselors held current lifeguard certifications. SwimRVA does.

37. Upon information and belief, SwimRVA conducted no buddy check, headcount, or other accounting of the children in the water at any point during free swim.

Who Was Watching the Pool

38. Other groups were at the Pool that afternoon. Several people who were not SwimRVA employees were there and have described what they saw. They include a church daycare teacher whose group had just arrived (the "teacher"), a second staff member of her daycare program (the "daycare staff member"), a nurse who is a member of the SwimRVA North pool (the "nurse"), and a mother at the Pool with her own children who pulled King from the water (the "bystander").

39. According to the teacher and the daycare staff member, only one lifeguard was watching the Pool. She sat on the stand at the far end, near the deep end, facing the inflatable structure.

40. The shallow-end chair sat empty the entire time the teacher was at the Pool. No lifeguard guarded the shallow end, which was filled with children who could not swim.

41. Upon information and belief, the lifeguard assigned to the shallow-end chair had abandoned it. Plaintiffs do not know where that lifeguard went. SwimRVA does.

42. With the chair empty, no one watched the water just beyond the shallow-end rope, where King went under.

43. According to the teacher, most of the other lifeguards and pool staff had gathered by a tent near the bathrooms and the baby pool, close to the pool entrance. Upon information and belief, none of them were directly supervising any child in the water.

44. The daycare staff member saw the camp counselors gathered under an awning by the women's bathroom, talking among themselves. All but one of the counselors were young. The daycare staff member observed that "no one appeared to be paying attention to the swimmers in the water," or words to that effect.

45. None of the lifeguards, camp counselors, or the free swim instructor working at SwimRVA North that day saw King in the water.

The Same Conditions on Earlier Days

46. The teacher had brought her kindergarten class to SwimRVA North once before, one week earlier. On that visit, too, she saw no lifeguard guarding the shallow end. Other teachers from her program told her they had seen the same thing on their own visits. On that earlier visit she also saw children swimming near and under the inflatable structure.

47. The daycare staff member also brought children to SwimRVA North regularly that summer. On those visits, SwimRVA staffed the Pool with a single lifeguard. Once, a second lifeguard moved to the shallow end after children began running around. That lifeguard stayed about five minutes and then went back to talking with the camp counselors by the women's bathroom.

48. As a child, the daycare staff member swam on a swim team in the Pool. Two or three lifeguards guarded it then, covering both the deep end and the shallow end. After SwimRVA took over the Pool, witnesses reported seeing only one lifeguard; the second chair was left empty.

49. Upon information and belief, Doe 1 regularly permitted the Pool to operate with only one lifeguard on duty. Doe 1 did so while camp children, including children who could not swim, were in the water. On June 15, the Pool again had only one lifeguard watching it.

King Beneath the Surface

50. The teacher arrived at the Pool with her group of 13 kindergartners minutes before King was recovered. She waited in the check-in line directly behind the bystander. The teacher checked her phone in that line. It was 2:27 p.m.

51. As the teacher walked into the pool area, she saw at the edge of her vision a dark mass beneath the surface, just beyond the shallow-end rope. Children were playing around it. She took it to be a child swimming underwater. She never saw the figure come up. Upon information and belief, the dark mass she saw was King.

52. That water was visible from the pool deck. A lifeguard in the shallow-end chair, scanning the water, would have seen the dark mass too.

53. The teacher's group settled at tables by the shallow end. She handed out goggles, which took a few more minutes. Her children entered the water on the side nearest the baby pool. She stepped into the Pool and began playing with them.

54. The daycare staff member arrived with the teacher's group. He was in the water with the children in his care when King was pulled out. He never saw King swimming. He believes King was underwater the entire time the daycare staff member was at the Pool.

55. According to several witnesses, King was underwater for approximately ten minutes or longer. The teacher, the daycare staff member, and the bystander never saw King above the surface.

56. Drowning is a process, not an instant. A drowning child typically struggles at or near the surface, where he can be seen, commonly for 30 to 60 seconds, before he submerges. That is why trained lifeguards, actively and continuously scanning the water, are indispensable.

57. Once submerged, a child remains rescuable and revivable for minutes. An attentive, properly trained, properly positioned lifeguard scanning the water would have seen King struggle, seen him go under, and pulled him out. Had any Defendant been watching King, he would have lived.

A Child Finds King

58. At about 2:40 p.m., free swim ended and staff called the camp children out of the Pool. Staff had just sent King's red group and the green group out of the water. The pink and yellow groups were about to go in. SwimRVA's counselors had not accounted for King. They did not know where he was.

59. As staff were calling the campers out, a young girl, around seven years old, spotted King under the water. She alerted the bystander.

60. The bystander was a regular pool member there. She was not a SwimRVA lifeguard, counselor, or staff member. She had checked in only minutes before.

61. The bystander found King just beyond the shallow-end rope, in water measured at four feet, two inches deep. He lay near a ladder at the edge of the shallow end, on the side of the Pool farthest from the baby pool.

62. That water was above King's shoulder height. It was the "four feet" he had mentioned to his mother, in front of the SwimRVA staff, that morning.

63. The bystander went beneath the surface to reach King. She found him motionless and unresponsive. She carried him through the water to the side. She looked for a lifeguard. No one blew a whistle. No SwimRVA employee came to help her.

64. From the corner of her eye, the teacher saw the bystander looking toward the spot where the teacher had seen the dark mass minutes earlier. The teacher then heard someone cry out, "Oh my God," and heard splashing. She turned and saw the bystander lifting King out of the water. He was visibly unconscious.

65. Upon information and belief, a second pool member, who was not a SwimRVA employee, helped the bystander lift King out of the water.

66. About ten minutes passed between the moment the teacher saw the dark mass and the moment the bystander lifted King from that same area. Upon information and belief, King lay beneath the surface there the entire time.

67. The bystander said King was "filled with water." Water and a large amount of white foam poured from his mouth and nose.

68. The teacher saw that King's body was stiff. His arms were raised and rigid. His feet stuck up and stayed that way. King never visibly responded to any effort to save him.

69. No SwimRVA employee saw King go under. No SwimRVA employee saw him at the bottom of the pool. No SwimRVA employee found him or brought him to the side. Upon information and belief, the first SwimRVA employee to respond was the lifeguard in the stand at the far end. She came only after the bystander had found King and carried him to the side.

70. Once King was out of the water, SwimRVA's staff did not know who he was. They asked one another whether he was "ours," meaning a SwimRVA camper. He was.

71. Everyone in the water quickly left the Pool. The teacher tried to turn her children away from the scene. Two of them were very upset by what they had seen. Many children asked about the "dead boy."

The Effort to Save King

72. The nurse was reading on the adult side, across the Pool from the children. She saw someone running, which is unusual at a pool. She then saw King lying at the side of the Pool. She went to him at once. Others were already at his side. She told them she was a nurse and joined them.

73. King had no pulse. The nurse and a man at King's head checked his carotid and brachial pulses and found none. Upon information and belief, the man at King's head was a SwimRVA employee.

74. The nurse joined in CPR. She called for a rescue mask and an AED. She asked whether anyone had called 911.

75. At about 2:40 p.m., Henrico County Police Division officers were called to SwimRVA North for a report of a medical emergency.

76. Water poured from King's mouth throughout the CPR. It never stopped. So much water collected on his chest that the nurse called for a towel. She had to wipe his face again and again to seal the rescue mask over it. Each chest compression pushed more water and vomit out of him.

77. King's lungs were full of water. Rescue breaths could not reach them. The man at King's head could not get air into him. The nurse took his place and tried herself. She said the air went into King's stomach instead. In her judgment, these were classic signs of drowning.

78. Upon information and belief, a second man, a young man with brown hair believed to be a SwimRVA lifeguard, joined the rescuers at some point. The lifeguards communicated nothing to the people around them. One young lifeguard, watching the CPR, burst into tears.

79. The nurse worked on King for about ten minutes. Henrico County Division of Fire personnel then arrived and took over. They worked on him for ten minutes or more. They took King to an area hospital.

80. After paramedics had taken King to the ambulance, a man who appeared to be a SwimRVA manager arrived at the Pool. The teacher heard him say, "So you think we are going to have to cancel the swim meet?" The kindergartners in her care were still crying.

King's Death

81. According to the Office of the Chief Medical Examiner ("OCME"), King was pronounced dead at the hospital at 3:42 p.m., "shortly after presentation."

82. The OCME autopsied King on June 16, 2026. It issued its final report on August 21, 2026.

83. The OCME found that King died of drowning. It recorded the time of the event as "UNKNOWN" and the event as "Unwitnessed."

84. The OCME found "no trauma or suspicious findings" and "no apparent natural disease."

85. The OCME found that King's upper airways "[contained] clear edema fluid."

86. The OCME found that King's lungs were "congested and edematous." It diagnosed "[p]ulmonary vascular congestion and edema." Under the microscope, King's lungs showed "[i]ntra-alveolar hemorrhage." That is bleeding within the air sacs of the lungs.

87. The OCME diagnosed King's brain with "hypoxic changes and edema." Hypoxic changes result from a lack of oxygen.

88. When King's body reached the OCME, the marks of the effort to save him remained. An endotracheal tube was still in his mouth and a defibrillator pad was still on his chest. Intraosseous needles were in both shins.

SwimRVA's Silence

89. SwimRVA has never told King's mother how long he was underwater. It has declined to tell King's family the ages of the lifeguards on duty when King drowned, the roles its counselors and lifeguards were assigned that afternoon, or the training they received.

90. SwimRVA has produced no sign-in sheet or other record of which children were at the Pool during free swim. Upon information and belief, none exists.

91. Upon information and belief, SwimRVA has also declined to provide records to the Commonwealth's Attorney's investigators examining King's death. Apart from written statements its employees gave on June 15, 2026, SwimRVA and its employees have declined to be interviewed by those investigators. SwimRVA and its employees have not indicated that they will cooperate with the special prosecutor now handling the criminal investigation into King's death.

SwimRVA Ran Its Camp Without a License

92. The statutes and regulations cited in this Complaint are those in force on June 15, 2026.

93. Virginia requires a license for any program that, while parents are away, takes responsibility for the supervision, protection, and well-being of children under 13. Va. Code Ann. §§ 22.1-289.02, 22.1-289.011(B). Operating such a program without a license is a Class 1 misdemeanor, and each day of unlicensed operation is a separate offense. *Id.* § 22.1-289.027(3).

94. Licensure is how Virginia protects those children. A licensed program must meet the Standards for Licensed Child Day Centers, 8VAC20-780. VDOE inspects licensed programs and enforces those standards.

95. SwimRVA's camp required a license. SwimRVA ran it from 9:00 a.m. to 4:00 p.m., Monday through Friday, at SwimRVA North. Swim lessons took about an hour and a half of that day. The rest went to meals, unstructured time, and games such as kickball, human bowling, and relay races. All day, SwimRVA had custody of the children, including King.

96. SwimRVA never obtained a license. It never told Ms. Johnson that its camp operated outside state oversight.

97. As a result, no state inspector ever visited the camp. None evaluated the inflatable structure SwimRVA put in the Pool, how SwimRVA staffed its lifeguard posts, or its practice of putting non-swimmers into open water during free swim with no one assigned to watch them. Upon information and belief, the Henrico County Health Department inspects the Pool only on complaint and last inspected it in 2021.

98. Had SwimRVA been licensed, the standards would have required, among other things:

a. that children under ten "always shall be within actual sight and sound supervision of staff," 8VAC20-780-340(F);

b. that staff-to-children ratios be maintained while children swim, with staff counted only while directly supervising children, 8VAC20-780-350(B), (G); 8VAC20-780-460(A);

c. that at least two staff members supervise swimming at all times, and that a certified lifeguard be on duty in addition to those staff, not in place of them, 8VAC20-780-460(A)(1), (A)(2), (B); and

d. that "[s]taff shall have a system for accounting for all children in the water," 8VAC20-780-480(C).

99. Failing to obtain a license did not free SwimRVA from these standards. It freed SwimRVA only from anyone checking whether it met them.

100. Staff count toward the required staff-to-children ratios only while they are directly supervising children. 8VAC20-780-350(G). The counselors talking among themselves under the awning by the women's bathroom were not directly supervising children. Neither were the staff gathered by the tent. Upon information and belief, during free swim, no SwimRVA staff member was directly supervising King's red group in the water.

101. On January 22, 2024, SwimRVA's Executive Director, Adam Kennedy, wrote to the General Assembly in support of House Bill 354. That bill would have directed the Board of Health to adopt safety regulations for public pools.

102. In that letter, Mr. Kennedy stated that Virginia was one of only four states east of the Mississippi River without statewide standards for injury and drowning prevention. He stated that SwimRVA had been in repeated communication with the Virginia Department of Health about adopting minimum safety standards for pools.

103. The Governor vetoed House Bill 354, and the House of Delegates sustained the veto. SwimRVA knew of that gap in state oversight. With no statewide pool safety standards, licensure was the state's check on how SwimRVA supervised the children in its camp. SwimRVA still ran its camp without the license that would have subjected the camp to inspection.

104. After King's death, VDOE investigated. On July 20, 2026, it found that SwimRVA was operating an unlicensed child day program and that all three of its camp locations required a license. VDOE rejected each exemption SwimRVA asserted:

a. The camp was not a single-focus program. Most of the camp day had nothing to do with swimming, and SwimRVA had no policy limiting a child's attendance to 25 days in three months. Va. Code Ann. § 22.1-289.030(A)(1).

b. The camp did not fit the hours-based exemption, under which no child younger than five may attend more than six hours a week and no school-age child may attend more than six hours a week when school is in session or 12 hours a week when school is not in session. Children attended for far more. *Id.* § 22.1-289.030(A)(2).

c. The camp was not an exempt out-of-school time program. SwimRVA's staff training standards were not consistent with the Board of Education's regulations, and its background checks did not meet Virginia law. *Id.* § 22.1-289.030(B)(11).

105. VDOE ordered SwimRVA to come into compliance or close. SwimRVA did not get a license. Instead, it changed the camp's schedule to try to fit an exemption. The way SwimRVA ran the camp on June 15, it fit none.

SwimRVA's Failures

106. At the time King drowned, SwimRVA:

a. failed to have an adequate number of lifeguards on duty;

b. upon information and belief, failed to position and rotate its lifeguards so that all areas of the Pool were continuously scanned;

c. anchored a large inflatable play structure directly in front of its only staffed lifeguard stand and added no lifeguard to watch it;

d. left the lifeguard chair at the shallow end empty;

e. upon information and belief, failed to maintain any system to account for every child in the water, and operated no buddy system, conducted no buddy check, and performed no headcount at any point during free swim;

f. failed to act on Ms. Johnson's oral and written statements that King could not swim before permitting him into water above his shoulder height;

g. upon information and belief, failed to swim test King or otherwise assess his ability in the water before permitting him to swim, and failed to adequately identify, mark, or restrict known non-swimmers such as King; and

h. allowed, and encouraged, King to enter an unstructured "free swim" that let non-swimming children, including King, into the water without individual supervision, without any assigned buddy, and without any accounting of who was in the water.

107. SwimRVA also:

a. failed to detect, reach, or rescue King;

b. upon information and belief, failed to train and supervise its staff in basic water-safety and drowning-prevention practices, including scanning, rotation, swim testing, non-swimmer identification, child accounting, and emergency response;

c. upon information and belief, staffed its pool and camp with lifeguards and counselors who were unqualified, uncertified, inadequately trained, or too inexperienced to supervise non-swimming children in the water;

d. upon information and belief, failed to verify and maintain current lifeguard certifications; and

e. failed to obtain for the persons it placed with children the background checks Virginia requires.

SwimRVA Does Not Operate in Fact as a Charity

108. Whether SwimRVA in fact operates as a charity turns on factors including the source of its revenue, its dependence on fees rather than donations, the surpluses it accumulates, its reliance on debt, and the compensation it pays its leadership. SwimRVA's own returns to the Internal Revenue Service answer those factors against charitable operation: they show that it is funded mainly by the fees it charges, not by charitable gifts.

Its Revenue Comes Primarily From Fees, Not Donations

109. For its fiscal year ending July 31, 2025, SwimRVA reported total revenue of $6,234,646. Of that sum, $4,456,730, or 71.5 percent, was program service revenue. That is money the public paid for SwimRVA's services. Contributions, grants, and all other revenue made up the remaining 28.5 percent.

110. SwimRVA's revenue nearly doubled in four years. It reported total revenue of $3,626,230 for its fiscal year ending July 31, 2020, and $6,959,637 for fiscal year 2024.

111. In fiscal year 2024, SwimRVA's revenue exceeded its expenses by $644,976.

112. SwimRVA reported total assets of $12,832,253 for fiscal year 2025.

It Is Financed With Debt

113. For fiscal year 2025, SwimRVA reported total liabilities of $9,629,831. That was about 75 percent of its total assets. It reported $297,635 in interest expense that year.

114. In its return for fiscal year 2024, SwimRVA reported a loan to it from the chair of its board of directors. The original amount of the loan was $4,388,000. The balance due was $4,586,084.

115. Upon information and belief, SwimRVA pays its debts with the fees it charges the public.

It Pays Like a Business

116. In fiscal year 2025, SwimRVA paid $2,876,181 in salaries and wages to employees other than its officers.

117. That year, SwimRVA paid its Executive Director, Adam Kennedy, $195,500 in reportable compensation and $11,952 in other compensation.

118. Five years earlier, Mr. Kennedy's reportable compensation was $129,531. His pay rose about 51 percent in that time.

It Sells Its Camp to the Public

119. SwimRVA offered its summer camp to the general public primarily on a fee-for-service basis.

120. SwimRVA charged $329 to $339 per week for its 2026 general summer camp at SwimRVA North.

SwimRVA North Is a Members-Only Club

121. SwimRVA operates SwimRVA North as a summer membership pool. The public cannot buy admission. Entry requires a paid summer membership.

122. For 2026, SwimRVA charged between $349 and $649 for a summer membership at SwimRVA North.

123. A non-member may enter SwimRVA North only as the guest of a paid member, for a $10 fee.

124. SwimRVA's summer league swim team at SwimRVA North charges members $170 and non-members $220.

Its Purposes Are Commercial and Private

125. In its returns to the Internal Revenue Service, SwimRVA states that its mission is to serve as a catalyst for "water safety, health and fitness, sports tourism, competitive aquatics, and possibility."

126. SwimRVA names "Swim for Economic Vitality" as one of its three core pillars. It promotes that its events generate more than $7 million a year in economic impact for hotels, restaurants, retailers, and tourism partners.

127. SwimRVA also sells safety training and certification courses to aquatic businesses for their staff.

128. SwimRVA was founded by two private schools, a private club swim team, a youth soccer club, and a sports events nonprofit. They were Collegiate School, Trinity Episcopal School, Poseidon Swimming, Richmond Kickers Youth Soccer Club, and Sports Backers.

129. SwimRVA's headquarters pool is named the Collegiate School Aquatics Center. Collegiate School's swim teams hold their home meets there.

Charitable Immunity Does Not Apply

130. SwimRVA is not organized or operated for a charitable purpose within the meaning of Virginia's doctrine of charitable immunity. SwimRVA bears the burden of proving otherwise.

Its revenue comes mainly from fees, not gifts. It is financed with substantial debt. It has run an operating surplus. Its executive pay has risen sharply. Measured by the factors Virginia courts apply, SwimRVA does not operate in fact as a charity. The doctrine does not apply here.

131. Even if SwimRVA were a charity, its immunity would be limited. It would bar only a beneficiary's claim for simple negligence. It would not reach gross negligence or willful and wanton negligence.

132. The immunity of the Doe Defendants, as SwimRVA's employees and agents, is derivative of SwimRVA's. Because SwimRVA is not entitled to charitable immunity, neither are the Doe Defendants. SwimRVA also failed to use due care in selecting and retaining the Doe Defendants, as alleged in Paragraph 107. That failure is a further reason the doctrine does not reach them. In no event does the doctrine protect the Doe Defendants from liability for their own gross negligence or willful and wanton negligence.

COUNT I

WRONGFUL DEATH

NEGLIGENCE

(Against All Defendants)

133. Plaintiffs re-allege and incorporate by reference every preceding paragraph.

134. Defendants accepted custody and care of King, a nine-year-old child they knew could not swim. They owed King a duty to exercise reasonable care for his health and safety. That duty required them to supervise him continuously in and around the water and to account for him. It required them to assess his swimming ability and restrict him to water and activities suited to it. It applied during unstructured and recreational swimming, when the danger to a non-swimming child is greatest. And it required them to promptly detect and rescue him if he went under.

135. SwimRVA also owed a duty to use due care in hiring, training, certifying, staffing, equipping, and supervising the lifeguards, instructors, and counselors to whom it entrusted young children in and around deep water.

136. SwimRVA further owed a duty to adopt and enforce policies reasonably designed to prevent a child from drowning in its pool. These include staffing ratios, scanning protocols, swim testing, non-swimmer identification, and child-accounting systems.

137. SwimRVA breached each of these duties in the ways alleged in Paragraphs 106 and 107 above and throughout this Complaint. SwimRVA knew or should have known that those failures created an unreasonable risk of drowning to the children in its camp, including King.

138. Each Doe Defendant breached the duty of reasonable care owed to King. The Doe Defendants left the Pool without a scanning watch while it was full of children, including a nine-year-old known non-swimmer. They used no buddy system or buddy check. They kept no account of who was in the water. None of them saw King go under or came to his rescue.

139. Doe 1 also breached the duty of reasonable care by regularly permitting the Pool to operate with only one lifeguard on duty, including on June 15, as alleged in Paragraph 49.

140. Defendants violated regulations adopted to protect children in care, including:

a. 8VAC20-780-340(F) (children under ten always within sight and sound supervision of staff);

b. 8VAC20-780-350(B) and (G) and 8VAC20-780-460(A) (staff-to-children ratios while children swim, counting only staff directly supervising children);

c. 8VAC20-780-460(A)(1), (A)(2), and (B) (at least two staff supervising swimming at all times, plus a certified lifeguard); and

d. 8VAC20-780-480(C) (a system for accounting for all children in the water).

141. These standards govern every swimming or wading activity, including the unstructured free swim during which King drowned. King was within the class of children they protect. His drowning is the harm they address. The standards set a substantive standard of care for supervising children in and around water. They require sight-and-sound supervision, adequate staffing, and an accounting of every child in the water. They are not mere administrative or licensing formalities. Defendants' violations constitute negligence per se.

142. If the Court holds that any such standard does not apply of its own force to an unlicensed program, the standard still defines the care owed by anyone who undertakes to supervise children in and around water. Defendants fell below it. Their departures from it constitute negligence.

143. SwimRVA is also liable for the negligent acts and omissions of its employees and agents, including the Doe Defendants, under the doctrine of *respondeat superior*.

144. As a direct and proximate result of Defendants' negligence, King drowned and died.

145. As a direct and proximate result of King Overton's death, and pursuant to Va. Code Ann. § 8.01-50 *et seq.*, the statutory beneficiaries have sustained damages, including:

a. Sorrow, mental anguish, and solace, which may include society, companionship, comfort, guidance, kindly offices, and advice of the decedent;

b. Loss of services, protection, care, and assistance provided by the decedent; and

c. Loss of the reasonably expected income of the decedent.

146. As a direct and proximate result of King Overton's death, and pursuant to Va. Code Ann. § 8.01-50 *et seq.*, the Estate of King Overton sustained damages, including:

a. Expenses for the care, treatment, and hospitalization of the decedent incidental to the injury resulting in death; and

b. Reasonable funeral expenses.

COUNT II

WRONGFUL DEATH

GROSS NEGLIGENCE

(Against All Defendants)

147. Plaintiffs re-allege and incorporate by reference every preceding paragraph.

148. Under Virginia law, several acts of negligence that separately may not amount to gross negligence may, when combined, have a cumulative effect showing a form of reckless or total disregard for another's safety. *Chapman v. City of Virginia Beach*, 252 Va. 186, 190, 475 S.E.2d 798, 801 (1996). That is the case here. Each Defendant's acts and omissions, taken together, show a total disregard for King's safety.

149. SwimRVA's acts and omissions, considered individually and in combination, showed such indifference to King as to constitute an utter disregard of prudence amounting to a complete neglect of his safety. SwimRVA did not merely supervise King inadequately. As to King, it exercised no care at all. No staff member was assigned to watch him. No buddy was paired with him. No count or accounting ever included him. No SwimRVA employee knew he was in the water, or who he was when he came out. It was gross negligence.

150. SwimRVA accepted into the Pool a nine-year-old it knew could not swim. Upon information and belief, it encouraged him into open water during an unstructured free swim, with no buddy and no one assigned to watch him. Upon information and belief, it relieved its experienced lifeguards during that same period and left young counselors in their place. It left its

shallow-end chair empty, as it had the week before. It kept no account of the children in the water. It left King unwatched and underwater until he drowned.

151. SwimRVA needed no statute or regulation to teach it these duties. Ordinary prudence, and the water-safety expertise SwimRVA itself professes, forbade leaving a nine-year-old who could not swim unwatched in a pool.

152. The acts and omissions of each Doe Defendant, considered individually and in combination, showed such indifference to King as to constitute an utter disregard of prudence amounting to a complete neglect of his safety. As to King, no Doe Defendant exercised any care at all: none watched him, accounted for him, or knew he was in the water. It was gross negligence.

153. The Doe Defendants left the Pool full of children, including a nine-year-old known non-swimmer, without a scanning watch. They used no buddy system or buddy check and kept no account of who was in the water. They had no idea a child had gone under until a bystander recovered him from the bottom of the Pool.

154. Doe 1's conduct was also grossly negligent because Doe 1 regularly permitted the Pool, used by campers who could not swim, to operate with only one lifeguard on duty. A single lifeguard watching the children at the inflatable structure could not also watch the shallow end.

155. As a direct and proximate result of Defendants' gross negligence, King died.

156. As a direct and proximate result of King Overton's death, and pursuant to Va. Code Ann. § 8.01-50 *et seq.*, the statutory beneficiaries and the Estate of King Overton sustained the damages set forth in Paragraphs 145 and 146 above.

COUNT III

WRONGFUL DEATH

WILLFUL AND WANTON NEGLIGENCE

(Against All Defendants)

157. Plaintiffs re-allege and incorporate by reference every preceding paragraph.

158. SwimRVA was willfully and wantonly negligent. It acted, and failed to act, as described throughout this Complaint, in conscious disregard of King's rights and with reckless indifference to the consequences to him. It was aware of its conduct.

159. SwimRVA knew King could not swim. It marketed itself as a water-safety organization that teaches "drown-proofing." It operated an unlicensed child day program free of the supervision standards Virginia imposes to keep children from drowning, and it did not tell Ms. Johnson that it had done so. It knew of the gap in state oversight of pool safety, as alleged in Paragraphs 101 through 103.

160. SwimRVA nonetheless opened an unstructured free swim to King. Upon information and belief, it encouraged him into the water. It gave him no buddy and assigned no one to watch him. It left its shallow end unguarded and added no lifeguard to watch the inflatable structure. It did not watch or account for the children in the Pool.

161. Before June 15, SwimRVA had left its shallow end unguarded, had regularly staffed the Pool with a single lifeguard, and had let children swim near and under the inflatable structure, as alleged in Paragraphs 46 through 49. These were SwimRVA's own practices, and it knew of them. From its knowledge of these existing circumstances and conditions, SwimRVA was aware that its conduct probably would result in injury or death to a child in the Pool, including King.

162. The Doe Defendants were willfully and wantonly negligent. Each knew that children who could not swim were in the Pool during free swim. Upon information and belief, each knew that the inflatable structure drew children to it, that it would draw the lifeguard's attention away from the rest of the Pool, and that the shallow-end chair stood empty.

163. Upon information and belief, each Doe Defendant had worked at SwimRVA North before June 15. Each knew that the shallow end had gone unguarded on earlier days. One of them abandoned the shallow-end chair. None of them watched or accounted for the children in the water.

164. Upon information and belief, Doe 1 knew that the Pool regularly operated with only one lifeguard, because Doe 1 permitted it. Doe 1 knew that campers who could not swim used the Pool during free swim. Doe 1 did nothing to change it.

165. From their knowledge of these existing circumstances and conditions, each Doe Defendant was aware that his or her conduct probably would result in injury or death to a child in the Pool, including King. Each consciously disregarded that risk.

166. As a direct and proximate result of Defendants' willful and wanton negligence, King died.

167. As a direct and proximate result of King Overton's death, and pursuant to Va. Code Ann. § 8.01-50 *et seq.*, the statutory beneficiaries and the Estate of King Overton sustained the damages set forth in Paragraphs 145 and 146 above.

168. Defendants' willful and wanton conduct supports an award of punitive damages under Va. Code Ann. §§ 8.01-52(5) and 8.01-38.1.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs LaTaisha Johnson and Khalil Hart, Administrators of the Estate of King Overton, Deceased, demand judgment against Defendants Greater Richmond Aquatics Partnership d/b/a SwimRVA, John/Jane Doe 1, and John/Jane Does 2 through 6, as follows:

a. One Hundred Million Dollars ($100,000,000) in compensatory damages, jointly and severally;

b. punitive damages in an amount the jury determines, not to exceed Three Hundred Fifty Thousand Dollars ($350,000) against all Defendants combined, the maximum permitted by Va. Code Ann. § 8.01-38.1;

c. the costs of this action;

d. prejudgment interest from June 15, 2026, the date King drowned, under Va. Code Ann. § 8.01-382; and

e. post-judgment interest.

JURY DEMAND

Plaintiffs demand trial by jury on all issues.

Dated: October 16, 2026

Respectfully submitted,

LATAISHA BREN'TAI JOHNSON AND KHALIL HART, ADMINISTRATORS OF THE ESTATE OF KING SHA'MAR OVERTON, DECEASED

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