

CAUSE NO. 048-336224-22

JAYNISHA JACKSON, INDIVIDUALLY AND AS	§	IN THE DISTRICT COURT OF
NEXT FRIEND OF D.M, A MINOR CHILD,	§	
	§	
PLAINTIFFS,	§	
VS.	§	TARRANT COUNTY, TEXAS
	§	
WEST FORT WORTH DAY CARE, LLC D/B/A	§	
COMPASS CHILDREN'S ACADEMY,	§	
	§	
DEFENDANT.	§	_____ JUDICIAL DISTRICT

ORIGINAL PETITION AND JURY DEMAND

Jaynisha Jackson, like many parents across this country and the state of Texas, is a working mother that relied on a daycare to provide a safe, caring, nurturing environment for her daughter, D.M., while she was working. Jaynisha Jackson trusted that her daughter would be safe at Compass Children's Academy for daycare.¹

A safe learning environment and peace of mind are what parents like Jaynisha Jackson pay for and expect. Instead, Jaynisha Jackson's worst nightmare became a reality when her daughter D.M. suffered serious physical, emotional, and mental injuries because of the failures of Compass Children's Academy. Jaynisha Jackson brings this lawsuit on her family's behalf asking for answers and asking that Compass Children's Academy accept responsibility.

¹ This Petition refers to Defendant West Fort Worth Day Care, LLC as "Compass Children's Academy," Defendant's assumed name it uses to do business in the state of Texas.

STATEMENT OF FACTS

"Compass Children's Academy is dedicated to providing a safe learning environment to children that will enhance their developmental skills and nurture a healthy attitude towards learning, while providing parents peace of mind at a reasonable cost."² Compass Children's Academy plasters this Mission Statement on the homepage of its website, selling and publicizing to parents that this daycare is dedicated to creating a safe learning environment for their children. However, a trail of records from the state of Texas paints a very different picture.

Compass Children's Academy is responsible for qualifying, hiring, training, and supervising its employee caregivers on safe and proper care of children, appropriate discipline methods, the prohibition of certain punishment methods, compliance with Texas' minimum standards for childcare, the use of good judgment, competency, and control, proper response and documentation of incidents of injury, and appropriate action in the event of a medical emergency.

Friday, June 11, 2021, Jaynisha Jackson placed her daughter D.M. in the care of Compass Children's Academy for daycare. Surveillance footage reveals that D.M. was inappropriately disciplined when she was yanked by her arm from under a table with enough force to cause D.M. to spin around and fall to the floor. D.M. was then yanked a second time to lift her from the floor and taken to sit against a wall with force, while in the care of Compass Children's Academy, causing bodily injuries and damages, including dislocating her elbow (hereinafter, "the Incident).

² *Compass Children's Academy Website Homepage*, <https://compasschildren.com/> (last visited September 2, 2022).

Footage shows D.M. crying and coveting her arm in pain. Following the Incident, Compass Children's Academy chose to not contact D.M.'s mother, emergency services, or the state of Texas to report the injuries and incident. D.M. was left in pain for the remainder of the day, until her mother Jaynisha Jackson arrived to pick her up from daycare.

Law enforcement was called to the scene by Jaynisha Jackson, but Compass Children's Academy Director instructed the employee involved to go home in advance of the police arriving at the daycare. By Monday, June 14, 2021, Compass Children's Academy decided to welcome that same employee back to her job, placing her in charge of the care of children without requiring any additional training.

An independent investigation into the Incident by the Texas Health and Human Services Commission Child-Care Licensing Division and the Texas Department of Family and Protective Services concluded that the reckless acts of Compass Children's Academy caused physical injury resulting in substantial threat of harm to D.M. Moreover, the state of Texas investigators immediately put a safety plan in place to exclude the involved employee from the property, despite Compass Children's Academy's decision to retain them.

Compass Children's Academy has been cited by the state of Texas numerous times for failing to ensure that the operation and its caregivers meet the minimum standards, laws, and regulations in place to keep kids safe. A history of citations, inspections, investigations, and deficiencies from the state show the same conduct and failure to act that led to the Incident and the injuries sustained by D.M. Compass Children's Academy has a clear recent history of failing to qualify, train, and supervise employees, failing to follow the minimum standards, and failing to properly care for children.

The following is an overview of some of the citations issued by the Texas Health and Human Services Commission from January 2016 through June 2021:

- January 2016:
 - o Cited for employees failing to properly supervise children in care.
- April 2016:
 - o Cited for failing to report an injury to a child that required medical treatment.
- August 2016:
 - o Cited for employees failing to properly supervise children in care.
- February 2018:
 - o Two citations related to the use of prohibited punishments relating to the use of harsh and cruel punishment methods and corporal punishment.
 - o Cited for the director failing to ensure employees comply with the state's minimum standards for childcare.
- July 2018:
 - o Cited for caregivers failing to know what children they are responsible for.
- January 2020:
 - o Cited for failing to report an injury to a child that required medical attention.
 - o Cited for the director failing to ensure employees comply with the state's minimum standards for childcare.
- September 2020:
 - o Cited for failing to report child abuse.
 - o Cited for failing to ensure no child is abused, neglected, or exploited.
 - o Cited for caregivers failing to demonstrate good judgment, competency, and self-control.
- November 2020:
 - o Cited for caregivers failing to demonstrate good judgment, competency, and self-control.
- December 2020 through June 2021:
 - o Plan of Action put in place for heightened oversight of the facility, its employees, and the care provided to children.

In December 2020, the state of Texas imposed a six month “Plan of Action” on Compass Children’s Academy to evaluate, monitor, and supervise its ability to meet the minimum standards for childcare after a series of extremely concerning investigations were conducted and numerous deficiencies were found, calling into question the safety of children at Compass Children’s Academy. This plan of action included completing parent surveys, frequent staff observations and evaluations, video footage of caregivers and employees, and even hiring tenured program coordinators to as caregiver mentors. It is no coincidence that D.M. suffered at the hands of Compass Children’s Academy *just* as this Plan of Action was lifted.

What happened to D.M. was preventable. As a direct and proximate result of the actions and omissions of Compass Children’s Academy, Plaintiffs Jaynisha Jackson and D.M. sustained injuries and damages.

DISCOVERY CONTROL PLAN & CLAIM FOR RELIEF

1. Discovery in this matter is intended to be conducted under Level 3 of the Texas Rules of Civil Procedure.
2. As required by the Texas Rule of Civil Procedure 47(c), Plaintiffs’ counsel states that Plaintiffs seek monetary relief over \$1,000,000.00; however, the amount of monetary relief awarded will ultimately be determined by a jury.

PARTIES

3. Plaintiff Jaynisha Jackson is the biological mother of Plaintiff D.M., a minor, and are citizens and residents of Tarrant County, Texas.
4. Defendant West Fort Worth Day Care, LLC d/b/a Compass Children’s Academy (hereinafter referred to as “Defendant”) is a limited liability company doing business in the State

of Texas, its state of formation. Defendant may be served with process by serving its registered agent, Pamela Gillinger, located at 10332 Westpoint Blvd, Fort Worth, Texas 76108, or wherever they may be found.

JURISDICTION & VENUE

5. The Court has subject matter jurisdiction over this lawsuit because the amount in controversy exceeds this Court's minimum jurisdictional requirements.

6. Venue is proper in Tarrant County, Texas, under Texas Civil Practices and Remedies Code Section 15.002(a) because this is the county where all or part of the events or omissions giving rise to the claim occurred.

CAUSES OF ACTION

Count One – Negligence

7. Plaintiff incorporates by reference the preceding paragraphs as if stated fully herein.

8. The occurrence made the basis of this suit, reflected in the above paragraphs, and the resulting injuries and damages of Plaintiffs were proximately caused by the negligent conduct of the Defendant. Defendant was negligent by breaching the duty that was owed to Plaintiffs, to exercise ordinary care in one or more of the following acts or omissions, constituting negligence:

- a. Failing to exercise the care that was necessary under the circumstances;
- b. Failing to do what a reasonable daycare would have done under the circumstances;
- c. Failing properly supervise the children in their care;
- d. Failing to intervene to ensure a child's safety;
- e. Failing to maintain a safe environment for children;

- f. Choosing to inappropriately discipline minor Plaintiff D.M.;
 - g. Failing to properly hire, qualify, train, and supervise its employee-caregivers trusted with the care of minor Plaintiff D.M.;
 - h. Choosing to continue to employ an unqualified, untrained, and unsupervised caregiver;
 - i. Failing to appropriately respond in an emergency situation;
 - j. Failing to use positive methods of discipline and guidance with the children in its care;
 - k. Choosing to use prohibited forms of punishment;
 - l. Failing to ensure caregiver employees demonstrate competency, good judgment, and self-control;
 - m. Failing to record and report serious injuries sustained by a child in its care; and
 - n. Failing to adhere to the Texas Minimum Standards for Childcare.
9. Defendant had a duty to exercise ordinary care in caring for, supervising, and disciplining the children in its care so as to prevent injury to Plaintiff D.M. and other children similarly situated.
10. Defendant had a duty to maintain a safe environment for children in its care so as to prevent injury to D.M., and other children similarly situated.
11. Defendant had a duty to hire, training, and supervise caregiver employees to ensure that children were not subjected to inappropriate discipline, so as to prevent injury to D.M., and other children similarly situated.
12. Defendant breached the duty of care by failing to care for the children, failing to supervise the children, failing to appropriately discipline the children, failing to properly train,

hire, and supervise its employees, failing to maintain a safe environment for children, failing to immediately terminate an employee who excessively disciplined and harmed a child, failing to call for medical attention after a minor child in their care sustained injuries, failing to create an incident report for an incident involving serious injury to a child, and failing to report to the relevant state agency an incident involving serious injury to a child.

13. Defendant's negligent acts and/or omissions, and breach of duties, directly and proximately caused injury to Plaintiffs, which resulted in significant damages.

Count Two – Negligence Per Se

14. Plaintiffs incorporate by reference the preceding paragraphs as if stated fully herein.

15. Defendant failed to exercise the mandatory standard of care in violation of the Texas Department of Family and Protective Services, Minimum Standards for Child-Care.

16. In the foregoing claims of negligence per se, Plaintiffs were, at all times, members of the class that the statutes the Defendant violated were designed to protect.

17. Defendant's violation of the statutes was the proximate cause of the Incident in question.

18. As a result of the Defendant's acts and/or omissions in violating the statutes, Plaintiffs sustained damages.

Count Three – Gross Negligence

19. Plaintiffs incorporate by reference the preceding paragraphs as if stated fully herein.

20. Defendant's conduct was more than momentary thoughtlessness or inadvertence. Rather, the acts and/or omissions by Defendant in the preceding paragraphs constitute gross negligence as that term is defined in Texas Civil Practices and Remedies Code §41.001(11).

21. Defendant's conduct involved an extreme degree of risk, considering the probability and magnitude of potential harm to the Plaintiffs. Defendant had actual, subjective awareness of the risk involved, but, nevertheless, proceeded in conscious indifference to the rights, safety, or welfare of Plaintiffs or of others similarly situated.

22. The above acts and/or omissions were singularly and cumulatively the proximate cause of the occurrence in question and the resulting injuries and damage sustained by Plaintiffs.

Count Four – Negligent Activity

23. Plaintiffs incorporate by reference the preceding paragraphs as if stated fully herein.

24. Defendant is the owner, operator, and/or possessor of the daycare premises located at 10332 Westpoint Blvd, Fort Worth, Texas 76108, operation license number 1181706.

25. At the time of the Incident, D.M. was a minor child placed in the care of Defendant and was thus an "invitee" to whom Defendant owed a duty to exercise ordinary care.

26. Plaintiffs' injuries were the direct and contemporaneous result of Defendant's ongoing negligent activity on the premises at the time of the injuries and damages sustained.

27. Defendant owed Plaintiffs a legal duty to ensure D.M.'s safety in maintaining proper care over the children, ensuring discipline over the children is appropriate, ensuring that employees are necessarily hired, trained, supervised, and terminated in order to maintain a safe environment for children, and ensuring that serious injuries are recorded and reported. Defendant breached these duties by permitting one of its employee-caregivers to inappropriately discipline children, by allowing that caregiver to remain on staff after the incident, and by failing to create a corresponding incident report and inform the appropriate state entity of the injuries D.M. sustained.

28. Such negligent activity on the part of the Defendant proximately caused the injuries and other damages suffered by Plaintiffs.

RESPONDEAT SUPERIOR

29. Plaintiffs incorporate by reference the preceding paragraphs as if stated fully herein.

30. The negligence, carelessness, and callousness of Defendant's employees proximately caused the damage and losses suffered by Plaintiffs as a result of the injury. At all times material to this action, Defendant employees were acting in the course and scope of their employment. Accordingly, Defendant may be held responsible for its employees' negligence under the doctrine of respondeat superior.

DAMAGES

31. Plaintiff incorporates by reference the preceding paragraphs as if stated fully herein.

32. As a direct and proximate cause of Defendant's negligent acts and/or omissions, Plaintiff Jaynisha Jackson, individually, and as Parent and Next Friend of Plaintiff D.M., a minor child, suffered damages and injuries that include, but are not limited to:

- a. Physical pain and suffering in the past;
- b. Physical pain and suffering, in reasonable probability, sustained in the future;
- c. Mental anguish in the past;
- d. Mental anguish, in reasonable probability, sustained in the future;
- e. Reasonable and necessary medical expenses in the past;
- f. Reasonable and necessary medical expenses, in reasonable probability, sustained in the future;
- g. Loss of wages in the past;

- h. Loss of wages, in reasonable probability, sustained in the future;
 - i. Loss of wage-earning capacity in the past;
 - j. Loss of wage-earning capacity, in reasonable probability, sustained in the future;
 - k. Physical impairment in the past;
 - l. Physical impairment, in reasonable probability, sustained in the future;
 - m. Loss of the normal enjoyment of the pleasure of life in the past;
 - n. Loss of the normal enjoyment of the pleasure of life, in reasonable probability, sustained in the future;
 - o. Costs of suit; and
 - p. All other relief, in law and equity, to which Plaintiffs may be entitled.
33. Plaintiffs' damages clearly exceed the minimum jurisdictional requirements for this Court. Plaintiffs, therefore, seek compensation by the Court and jury for their damages, in an amount to be determined by the jury.

EXEMPLARY DAMAGES

34. Plaintiffs incorporate by reference the preceding paragraphs as if stated fully herein.
35. Plaintiffs would further show that the acts and/or omissions of the Defendant complained of herein were committed knowingly, willfully, intentionally, with actual awareness, and with the specific and predetermined intention of enriching said Defendant at the expense of Plaintiffs.

36. The grossly negligent conduct of Defendant, as described herein, constitutes conduct for which the law allows the imposition of exemplary damages. Accordingly, Plaintiffs seek the award of exemplary damages against Defendant pursuant to Chapter 41 of the Texas Civil Practices and Remedies Code.

JURY TRIAL

37. Plaintiffs demand a jury trial and have tendered the appropriate fee with the filing of this Original Petition.

U.S. LIFE TABLES

38. Notice is hereby given that Plaintiffs intend to use the U.S. Life Tables as prepared by the Department of Health and Human Services.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Plaintiffs pray that Defendant be cited to appear and answer herein and upon final hearing hereof, they take, have and recover, of and from said Defendant, the above damages, exemplary damages, costs of court, pre-judgment interest, post-judgment interest, and for such other and further relief to which they may show themselves justly entitled.

Dated: September 6, 2022.

Respectfully submitted,

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Associated Case Party: JAYNISHA JACKSON, INDIVIDUALLY AND AS NEXT FRIEND OF D.M., A MINOR CHILD

Name	BarNumber	Email	TimestampSubmitted	Status
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