

CAUSE NO. CC-23-00436-D

NATALY RADWAN, INDIVIDUALLY AND AS NEXT FRIEND OF N.R, A MINOR CHILD,	§	IN THE COUNTY COURT
	§	
	§	
PLAINTIFFS,	§	
	§	
VS.	§	AT LAW NO. _____
	§	
LITTLE DUMPLINGS DAYCARE, LLC	§	
	§	
DEFENDANT.	§	DALLAS COUNTY, TEXAS

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**ORIGINAL PETITION AND JURY DEMAND**

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1. Nataly Radwan, 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 son, N.R., while she was working. Ms. Radwan trusted that her son would be safe at Little Dumplings Daycare.<sup>1</sup>

2. A safe learning environment and peace of mind are what parents like Ms. Radwan pay for and expect. Instead, Ms. Radwan's worst nightmare became a reality when her son N.R. suffered serious physical, emotional, and mental injuries because of the failures of Little Dumplings Daycare. Ms. Radwan brings this lawsuit on her family's behalf asking for answers and asking that Little Dumplings Daycare accept responsibility.

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<sup>1</sup> This Petition refers to Defendant Little Dumplings Daycare, LLC as "Little Dumplings Daycare."

## STATEMENT OF FACTS

3. According to Little Dumplings Daycare, “We ensure every child has the opportunity to thrive in a nurturing environment. We understand that each child is unique, and we support and encourage them to develop at their own pace through our exciting teaching method.”<sup>2</sup> Little Dumplings Daycare publicizes and sells parents on the idea that this daycare is dedicated to creating a nurturing and safe learning environment for their children. “We are committed to providing your children with the best care possible. We do this by hiring exceptional, qualified teachers who pass extensive background checks and regularly complete continuing education courses in early childhood education.”<sup>3</sup> However, a trail of records from the state of Texas paints a very different picture.

4. Little Dumplings Daycare is responsible for qualifying, hiring, training, and supervising its caregiver employees on providing safe and proper care conducive to the welfare 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.

5. On or about Thursday, December 16, 2021, Ms. Radwan placed her two-year-old son N.R. in the care of Little Dumplings Daycare. While under the care of Little Dumplings Daycare, N.R. was inappropriately disciplined when he was picked up by the arm, isolated from the rest of the

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<sup>2</sup> *Little Dumplings Daycare, LLC’s Website Homepage*, <https://littledumplingsdaycare.com/index.html> (last visited December 23, 2022).

<sup>3</sup> *Little Dumplings Daycare, LLC’s Website*, <https://littledumplingsdaycare.com/staff.html> (last visited December 23, 2022).

children, and had food withheld from him as a form of punishment, causing physical, mental, and emotional injuries and damages to N.R. (hereinafter, "the Incident"). On this day, Ms. Radwan decided to watch the daycare's live stream footage after her son, N.R., was coming home with unexplained injuries from daycare. As Ms. Radwan witnessed the Incident on the daycare's live stream footage, she was shocked and horrified by what she was seeing happening to her son. N.R. was ignored when he asked for food and water, had his head pushed down aggressively into his pillow, was moved from a table by grabbing one arm, and was isolated from other children in the classroom. Ms. Radwan notified Little Dumplings Daycare about what she witnessed and the facility admitted to inappropriately disciplining N.R. Despite this acknowledgment, Little Dumplings Daycare failed to report the incident to the state of Texas as it is required to do.

6. 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 revealed that Little Dumplings Daycare's caregiver employee involved in the Incident had restrictions on her background check. The video footage revealed that N.R. had expressed moments of discomfort when he was seen holding and tucking his arm into his body, crying, running away in fear after being inappropriately grabbed by his arm *multiple* times and being spoken to in harsh and threatening manner. In addition, it revealed that snacks were withheld from N.R. as a form of punishment, while the entire classroom was served. N.R. asked for snacks a total of five times and each time was told in harsh tones to "get back" and "go sit down!" The investigators also observed through the classroom footage that the children in the class were not being properly supervised, were left out of control as they were running around, taking toys

from each other, getting into personal belongings, and even hitting each other, all while the caregiver employees stood around, disengaged from the children. N.R. was also observed walking around with a bottle in his teeth for twenty minutes and was permitted to lay down with it during nap time, in violation of the minimum standards of care for the safety of children. The footage revealed a systematic disregard for the Texas minimum standards for child care. The state of Texas concluded that the allegations involving N.R. against Little Dumplings Daycare were substantiated, and cited Little Dumplings Daycare for violating the following childcare licensing rules of Texas:

- **746.1201(4)** – Ensure that no child is abused, neglected, or exploited while in the care of the center.
- **746.2805(1)** – Prohibited punishments. There must be no corporal punishment or threats of corporal punishment.
- **746.2805(2)** – Prohibited punishments. There must be no punishment associated with food, naps, or toilet training.
- **746.2505(4)(C)** – Never allow a toddler to walk with bottle. Bottles and training cups, if used, must be used for drinking and feeding, and never allow toddlers to sleep with or walk around with a bottle or training cup.
- **746.3317(6)** – Food service and preparation requirements. You must serve children’s food on plates, napkins, or other sanitary holders.

7. The state of Texas investigator immediately implemented a safety plan to ensure Little Dumplings Daycare take the necessary steps to correct and comply with the numerous licensing violations cited, including requiring that the caregiver employee involved in the not be allowed on the daycare premises during operating hours.

8. Little Dumplings Daycare 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 N.R. Little Dumplings Daycare 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.

9. The following is an overview of some of the citations issued to Little Dumplings Daycare by the Texas Health and Human Services Commission from October 2021 through November 2022:

- **October 2021:**
  - o Cited for allowing a caregiver employee to care for children without a cleared background check.
- **November 2021:**
  - o Cited for violating the standards on proper child-to-caregiver ratio.
- **January 2022:**
  - o Cited for allowing a caregiver employee to care for children without a required affidavit on abuse and neglect reporting.
- **June 2022:**
  - o Cited for allowing a caregiver employee to care for children without a required affidavit of employment.
- **July 2022:**
  - o Cited for violating the standards on proper child-to-caregiver ratio.
- **September 2022:**
  - o Cited for allowing a caregiver employee to be present at their facility without a clear background check.
  - o Cited when a caregiver employee was observed using a personal device while caring for children.
  - o Cited for allowing an employee to care for children without their training requirements completed.
- **November 2022:**
  - o Cited for failure to ensure three caregiver employee had their required training hours complete and up to date.

10. What happened to N.R. was preventable. As a direct and proximate result of the actions and omissions of Little Dumplings Daycare, Plaintiffs Nataly Radwan and N.R. sustained injuries and damages.

### **DISCOVERY CONTROL PLAN & CLAIM FOR RELIEF**

11. Discovery in this matter is intended to be conducted under Level 3 of the Texas Rules of Civil Procedure.

12. 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**

13. Plaintiff Nataly Radwan is the biological mother of Plaintiff N.R., a minor, and are citizens and residents of Tarrant County, Texas.

14. Defendant Little Dumplings Daycare, LLC (herein referred to as "Defendant" or "Little Dumplings Daycare") 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, United States Corporation Agents, Inc., located at 9900 Spectrum Drive, Austin, Texas 78717-4555, or wherever they may be found.

### **JURISDICTION & VENUE**

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

16. Venue is proper in Dallas 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**

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

18. 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 N.R.;
- g. Failing to ensure that expectations for a child's behavior is appropriate or the developmental level of that child;
- h. Failing to use only constructive, age-appropriate methods of discipline;
- i. Failing to properly hire, qualify, train, and supervise its employee-caregivers trusted with the care of minor Plaintiff N.R.;

- j. Failing to appropriately respond in an emergency situation;
  - k. Failing to use positive methods of discipline and guidance with the children in its care;
  - l. Choosing to use prohibited discipline technique that is humiliating, threatening, or frightening to children such as shaming, ridiculing, speaking harshly, abusively, and with profanity;
  - m. Failing to ensure caregiver employees demonstrate competency, good judgment, and self-control;
  - n. Failing to record and report serious injuries sustained by a child in its care; and
  - o. Failing to adhere to the Texas Minimum Standards for Childcare.
19. 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 N.R. and other children similarly situated.
20. Defendant had a duty to maintain a safe environment for children in its care so as to prevent injury to N.R., and other children similarly situated.
21. Defendant had a duty to hire, training, and supervise caregiver employees to ensure that children were not subjected to inappropriate discipline and prohibited forms of punishment, so as to prevent injury to N.R., and other children similarly situated.
22. 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 it's 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.

23. 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**

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

25. 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.

26. 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.

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

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

### **Count Three – Gross Negligence**

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

30. 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).

31. 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.

32. 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**

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

34. Defendant is the owner, operator, and/or possessor of the daycare premises located at 2510 Texas Drive, Irving, Texas 75062, operation license number 1722821.

35. At the time of the incident, N.R. 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.

36. 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.

37. Defendant owed Plaintiffs a legal duty to ensure N.R.’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 N.R. sustained.

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

#### **RESPONDEAT SUPERIOR**

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

40. 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**

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

42. As a direct and proximate cause of Defendant's negligent acts and/or omissions, Plaintiff Nataly Radwan, individually, and as Parent and Next Friend of Plaintiff N.R., 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.
43. 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**

44. Plaintiffs incorporate by reference the preceding paragraphs as if stated fully herein.
45. 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.
46. 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**

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

**U.S. LIFE TABLES**

48. 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: \_\_\_\_\_

Respectfully submitted,

**THE BUTTON LAW FIRM**

*By: /s/Russell T. Button*

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**ATTORNEYS FOR PLAINTIFFS**

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Bar No. 24077428  
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Associated Case Party: NATALY RADWAN, INDIVIDUALLY

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Russell Button		Service@buttonlawfirm.com	1/20/2023 2:19:09 PM	SENT