

CAUSE NO. _____

STEPHANIE MORGAN, INDIVIDUALLY
AND AS NEXT FRIEND OF M.O., A
MINOR CHILD; JUSTIN BRANNON,
INDIVIDUALLY AND AS NEXT FRIEND
OF S.B., A MINOR CHILD,

IN THE DISTRICT
COURT OF

PLAINTIFFS,

HENDERSON COUNTY, TEXAS

VS.

BUILDING BLOCKS CHILDCARE
CENTER INC; AND STEVEN
STEARMAN,

DEFENDANTS.

____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION AND JURY DEMAND

1. Plaintiffs Stephanie Morgan and Justin Brannon, like many parents across this country and the state of Texas, are working parents that relied on a daycare to provide a safe, caring, and nurturing environment for their children while they were working. These parents trusted that their children would be safe at Building Blocks Childcare Center with owner, Steven Stearman.¹

2. These parents trusted that they selected the right daycare that would provide a safe learning environment for their children when they enrolled them at Building Blocks Childcare Center. A safe learning environment and peace of mind are what parents like Stephanie Morgan and Justin Brannon, pay for and expect. Instead, their worst nightmare became a reality when

¹ This Petition refers to Defendant Building Blocks Childcare Center Inc. as “Building Blocks Childcare Center.”

their children suffered serious physical, emotional, and mental injuries because of the failures of Building Blocks Childcare Center and Steven Stearman. Plaintiffs bring this lawsuit on behalf of their families, asking that Building Blocks Childcare Center and Steven Stearman accept responsibility.

STATEMENT OF FACTS

3. Building Blocks Childcare Center’s “mission statement” states that they “***will provide childcare that will nurture the spiritual, physical, and educational growth of children.***”² They emphasize they “want to ***exceed your expectations for superior childcare.***”³ However, no parent would expect “superior childcare” to allow three toddlers to walk out a backdoor unsupervised and unnoticed.

4. Building Blocks Childcare Center is responsible for qualifying, hiring, training, and supervising its employee caregivers on providing safe and proper care conducive to the welfare of the children, supervising children in their care at all times to ensure their safety and wellbeing; performance of proper name-to-face checks to ensure all children are accounted for; ensuring no child is neglected; having appropriate visual and/or auditory awareness of each child; maintaining a safe environment for children in their care; compliance with Texas’s minimum standards for childcare; the use of good judgement, competence, and control; and the proper reporting and documentation of incidents involving injury or risk of harm to children in their care.

5. On December 5, 2023, at or around 4:25 PM, 20-month-old S.B. and 17-month-old M.O. were discovered outside of a neighboring bank by a good Samaritan who was exiting the drive-

² Building Blocks Childcare Center, Inc.’s Parent Handbook, at p. 1, “Mission Statement.”

³ *Id.* at p. 1, “Welcome to Building Blocks Childcare Center.”

thru of the bank. The three children were unsupervised and improperly clothed. Fortunately, the good Samaritan saw them before she or any other car struck them. According to good Samaritan, the children were visibly cold, upset, and crying when she found them. The children's diapers were soaked through and smelled awful.

6. After she gathered them, she first went to Building Blocks Childcare Center to try to identify the children. When she did not receive any acknowledgment, she went back to the bank and knocked on their door. Two bank tellers came out to help her hold the three children. As they were holding the children, a Building Block Childcare Center employee opened the door and looked out at them. At first, when asked if the three children belonged to their center, the Building Blocks Childcare Center employee did not answer. A second Building Block Childcare Center employee came out and explained that the employee who opened the door *was in fact* responsible for supervising the three children at the time of their exit and was currently being trained. It was then that the good Samaritan and bank tellers confirmed that Building Block Childcare Center had allowed three toddlers to exit the building and walk the shopping plaza unsupervised.

7. Rather than immediately gathering the three children and bringing them inside for safety, the Building Blocks Childcare Center employees went back into the daycare, leaving the children with the good Samaritan and bank tellers. Scared for the safety of the children, the good Samaritan and bank tellers then called the police for assistance.

8. Rather than call each parent and notify them of the situation that placed their child at risk of serious bodily harm, kidnapping, or even death, Building Blocks Childcare Center chose to notify just one parent of the three children via phone call. Instead, Building Blocks Childcare

Center and Mr. Stearman await the arrival of the others at the daycare before attempting to communicate the situation. Each parent was told a different story by Mr. Stearman. The common lie told by Mr. Stearman was that the children were outside for “only a couple of minutes.” Mr. Stearman left out that the children were found unsupervised by the good Samaritan wandering in a busy drive-thru of a bank, barefoot, cold, crying, without pants on, with soiled diapers, and covered in painful spurweed grass “stickers” that were stuck to the clothing, arms, and legs.

9. Upon information and belief, video footage from the neighboring bank reveals the truth of the matter – and paints a very different story from what Mr. Stearman told each parent. The footage was viewed by bank employees and reportedly shows that the children left from the back door of the daycare center. Minor M.O. had exited and entered the building three times by himself, one time for approximately 15 minutes. At one point, a teacher put a door stopper underneath the door to keep it open for kids who were arriving from the nearby elementary school. You can see the teacher assisting the kids inside, but the door remains open. It is at this point all three children exited the building and wandered to the bank.

10. Further investigation revealed that the three children were in a class of only 6 but were still able to exit the building unnoticed for an extended period of time. Mr. Stearman told a parent that this incident was the “perfect storm” because the backdoor was broken, and the daycare was short-handed that day due to one caregiver calling out sick that morning while a different one had to leave early for personal reasons.

11. Building Blocks Childcare Center is required to follow strict minimum guidelines set forth by the State of Texas through the Department of Family and Protective Services. These

minimum standard guidelines carry the force of the law. The Texas Health and Human Services Commission Child-Care Licensing Division and the Texas Department of Family and Protective Services conducted an independent investigation into the incident involving Plaintiffs and concluded that the allegations against Building Blocks Childcare Center were substantiated, citing Building Blocks Childcare Center for violating the following childcare licensing rules of Texas:

746.1011(a) – Director present-minimum 75%: *During the investigation, it was found that the director has not been at the facility for 75 percent of the time.*

746.3501 (1) – Diaper changing steps – prompt: *This standard was found to be deficient during the DFPS investigation. During the course of the investigation there was sufficient evidence to support that diapers in the infant room were not being changed promptly.*

746.1201 (4) – AP Responsibilities of Employees and Caregivers - Ensure No Child Abused, Neglected, or Exploited (Abuse/Neglect): *Three children exited the building from a door in the infant room and were outside of the building unsupervised for over 10 minutes.*

746.701 (5) – Licensing Incident/Illness Report Form – Situations Placing Children at Risk: *This standard was found to be deficient during the DFPS investigation. The incident reports for the incident were not signed by the parent and one parent did not receive an incident report.*

746.2401 (7) – Basic Requirements for Infants – Never Unsupervised: *This standard was found deficient during the DFPS investigation. The infant children were left unsupervised in the classroom when the caregiver left the room to take a school age child to their classroom.*

746.2403 (6) – Infant Care Area – Not Used as a Passageway: *This standard was found deficient during the DFPS investigation. The operation allowed a child that was dropped off by the school bus to come in the door from the outside directly into the infant room and pass through the room and then be taken to their room.*

12. Building Blocks Childcare Center 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 Plaintiffs. Building Blocks Childcare Center has a clear history of failing to qualify, train, and supervise employees, failing to follow the minimum standards, and failing to properly care for children.

13. The following is an overview of some of the citations issued by the Texas health and Human Services commission from August 2021-January 2024:⁴

- August 2021:
 - o Cited for not having an electronic Child safety alarm equipped in each vehicle.
 - o Cited for not having a hand washing sink in the diaper changing area for children over the age of 18 months old.
 - o Cited for not keeping floors, ceilings, and walls in good repair and clean.
- July 2023
 - o Cited for failing to maintain a safe and proper child/caregiver ratio.
- September 2023
 - o Cited for keeping sleeping infants in restrictive equipment.
- December 2023
 - o Cited for not allowing a CPS agent to observe a classroom.
- January 2024
 - o Cited for allowing an unqualified caregiver to care for a group of children unsupervised.

14. Building Blocks Childcare Center is responsible for qualifying, hiring, training, and supervising its employee caregivers on providing safe and proper care conducive to the welfare of the children, supervising children in their care at all times to ensure their safety and wellbeing; performance of proper name-to-face checks to ensure all children are accounted for; ensuring no child is neglected; having appropriate visual and/or auditory awareness of each child; maintaining a safe environment for children in their care; compliance with Texas's minimum

⁴ This list does not include investigations with pending deficiencies or additional allegations that were investigated but had no outcome.

standards for childcare; the use of good judgement, competence, and control; and the proper reporting and documentation of incidents involving injury or risk of harm to children in their care.

15. Building Blocks Childcare Center's owner, Mr. Stearman, was aware that his daycare was understaffed that day. Mr. Stearman was also aware that his employee who was in charge of supervising the three children was unqualified, not adequately trained, and not supposed to be a group of children alone.

16. Building Blocks Childcare Center negligently operated its facility, failed to ensure its employees were qualified individuals, and failed to supervise the conduct of its employees. What happened to S.B. and M.O. was preventable. As a direct and proximate result of the actions and omissions of Building Blocks Childcare Center, Plaintiffs sustained injuries and damages.

DISCOVERY CONTROL PLAN & CLAIM FOR RELIEF

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

18. 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

19. Plaintiff Stephanie Morgan is the mother of Plaintiff M.O., a minor, and are citizens and residents of Tool, Henderson County, Texas.

20. Plaintiff Justin Brannon is the parent of Plaintiff S.B., a minor, and are citizens and residents of Mabank, Kaufman County, Texas.

21. Defendant Building Blocks Childcare Center Inc is a for-profit corporation doing business in the State of Texas. Defendant may be served with process by serving its registered agent, C&R Associates, 594 N. 4th Street, Wills Point, TX 75169.

22. Defendant Steven Stearman is an individual and resident of Henderson County, Texas. Defendant may be served with process at his residence, 173 Fairhill Ln, Mabank, Texas 75156, or wherever he may be found.

JURISDICTION & VENUE

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

24. Venue is proper in Henderson County, Texas, under Texas Civil Practices and Remedies Code Section 15.002(a) because this is the county in which a defendant resides at the time the cause of action accrued.

CAUSES OF ACTION AGAINST DEFENDANTS

Count One – Negligence

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

26. 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 Defendants. Defendants were 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 to 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. Failing to employ caregivers who demonstrate competency, good judgment, and self-control;
 - g. Failing to ensure no child is abused, neglected, or exploited;
 - h. Failing to perform name-to-face counts of children;
 - i. Failing to maintain its premises in good repair;
 - j. Failing to have appropriate visual and/or auditory awareness of each child;
 - k. Failing to account for all children under their care and supervision;
 - l. Choosing to continue to employ an unqualified, untrained, and unsupervised caregiver;
 - m. Failing to immediately notify parents of a situation that placed their child at risk;
 - n. Failing to adhere to the Texas Minimum Standards for Childcare.
27. Defendants had a duty to exercise ordinary care in caring for and supervising the children in its care so as to prevent injury to Plaintiffs and other children similarly situated.
28. Defendants had a duty to maintain a safe environment for children in its care so as to prevent injury to Plaintiffs, and other children similarly situated.
29. Defendants had a duty to hire, train, and supervise caregiver-employees and staff to ensure that children in their care were properly supervised to prevent injury to Plaintiffs and other children similarly situated.

30. Defendants breached the duty of care by failing to care for the children, failing to properly supervise the children, failing to have appropriate visual/and or auditory awareness of each child; failing to maintain a safe environment for children, failing to hire, train, and supervise qualified caregivers and staff to care for children, failing to properly account for every child under their care and supervision; and failing to immediately notify parents of a situation placing their children at risk or causing harm to them.

31. Defendants' 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

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

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

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

35. Defendants' violation of the statutes was the proximate cause of the Incident in question.

36. As a result of the Defendants' acts and/or omissions in violating the statutes, Plaintiffs sustained damages.

Count Three – Gross Negligence

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

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

39. Defendants' conduct involved an extreme degree of risk, considering the probability and magnitude of potential harm to the Plaintiffs. Defendants 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.

40. 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

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

42. Defendant Building Blocks Childcare Center Inc is the owner, operator, and/or possessor of the daycare premises located at 210 E Cedar Creek Pkwy, Seven Points, TX 75143, operation license number 1703421.

43. At the time of the incident, Plaintiffs were minor children placed in the care of Defendants and thus were "invitees" to whom Defendants owed a duty to exercise ordinary care.

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

45. Defendants owed Plaintiffs a legal duty to ensure their safety in maintaining proper care over the children, ensuring proper supervision, ensuring that employees are necessarily hired, trained, supervised, and terminated in order to maintain a safe environment for children, and ensuring that every child is properly accounted for. Defendants breached these duties by failing to maintain a safe environment for Plaintiffs and failing to train and supervise its caregiver employees on how to supervise children.

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

RESPONDEAT SUPERIOR

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

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

DAMAGES

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

50. As a direct and proximate cause of Defendants' negligent acts and/or omissions, Plaintiffs 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. Disfigurement, in reasonable probability, sustained in the past;
- f. Disfigurement, in reasonable probability, sustained in the future;
- g. Reasonable and necessary medical expenses in the past;
- h. Reasonable and necessary medical expenses, in reasonable probability, sustained in the future;

- i. Loss of wages in the past;
 - j. Loss of wages, in reasonable probability, sustained in the future;
 - k. Loss of wage-earning capacity in the past;
 - l. Loss of wage-earning capacity, in reasonable probability, sustained in the future;
 - m. Physical impairment in the past;
 - n. Physical impairment, in reasonable probability, sustained in the future;
 - o. Loss of the normal enjoyment of the pleasure of life in the past;
 - p. Loss of the normal enjoyment of the pleasure of life, in reasonable probability, sustained in the future;
 - q. Costs of suit; and
 - r. All other relief, in law and equity, to which Plaintiffs may be entitled.
51. 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

52. Plaintiffs incorporate by reference the preceding paragraphs as if stated fully herein.
53. Plaintiffs would further show that the acts and/or omissions of the Defendants complained of herein were committed knowingly, willfully, intentionally, with actual awareness, and with the specific and predetermined intention of enriching said Defendants at the expense of Plaintiffs.
54. The grossly negligent conduct of Defendants, as described herein, constitutes conduct for which the law allows the imposition of exemplary damages. Accordingly, Plaintiffs seek the

award of exemplary damages against Defendants pursuant to Chapter 41 of the Texas Civil Practices and Remedies Code.

JURY TRIAL

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

U.S. LIFE TABLES

56. 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 Defendants be cited to appear and answer herein and upon final hearing hereof, they take, have and recover, of and from said Defendants, 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: May 1, 2024.

Respectfully submitted,

THE BUTTON LAW FIRM

By: /s/Russell T. Button

Russell T. Button

Texas Bar No. 24077428

russell@buttonlawfirm.com

Ashley D. Washington

Texas Bar No. 24102030

Ashley@buttonawfirm.com

4315 W. Lovers Lane, Suite A

Dallas, Texas 75209

T: 214-888-2216

F: 214-481-8667
Email for Service:
service@buttonlawfirm.com

ATTORNEYS FOR PLAINTIFFS