

CAUSE NO. 25-001764-CV-272

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| CLARA GONZALEZ AND JAVIER | § | IN THE DISTRICT COURT OF |
| PEREZ, INDIVIDUALLY AND AS | § | |
| PARENTS AND NEXT FRIENDS OF | § | |
| J.P.G., A MINOR CHILD, | § | |
| | § | |
| PLAINTIFFS, | § | |
| VS. | § | BRAZOS COUNTY, TEXAS |
| | § | |
| MITABANI, LLC D/B/A AGGIELAND | § | |
| COUNTRY SCHOOL, | § | |
| | § | |
| DEFENDANT. | § | _____ JUDICIAL DISTRICT |

ORIGINAL PETITION AND JURY DEMAND

1. Clara Gonzalez and Javier Perez, like many parents across this country and the state of Texas, are working parents who rely on a daycare to provide a safe, caring, nurturing environment for their two-year-old daughter, J.P.G., while they are working. Clara Gonzalez and Javier Perez trusted that their daughter would be safe while in the care of Aggieland Country School.¹

2. A safe learning environment and peace of mind are what parents like Clara Gonzalez and Javier Perez pay for and expect. Instead, their trust was violated when their daughter J.P.G. suffered serious physical, emotional, and mental injuries because of the failures of Aggieland Country School as a result of the daycare's routine practice of placing two-year-old J.P.G. alone, outside, because she was crying during naptime. They bring this lawsuit on their family's behalf asking for answers and asking that Aggieland Country School accept responsibility.

¹ This petition refers to Defendant Mitabani, LLC d/b/a Aggieland Country School as "Aggieland Country School."

I. STATEMENT OF FACTS

3. “Embracing individual differences and nurturing the whole child” is the motto that Aggieland Country School proudly touts.² Parents rely on the daycare’s promises of a “child-centered community” that “honors individuality and encourages respect.”³ Yet, beneath the polished language of the daycare’s website—a sanctuary of promises gilded with words like “respect,” “compassion,” and “child-centered”—an unforgiveable contradiction played out in silence when Aggieland Country School repeatedly placed two-year-old J.P.G.—a toddler, too young to defend herself—outside alone during naptime.⁴

4. Despite the daycare’s claims to “honor” the “individuality” of each child, Aggieland Country School inappropriately punished J.P.G. for being an innocent toddler who struggled to fall asleep during naptime. Aggieland Country School quotes Maria Montessori’s wisdom about experience shaping education, but no parent would have ever imagined that the educational experience their child would receive would involve being frightened and isolated and having their emotional needs dismissed as inconvenient noise.⁵ In choosing silence over support, control over compassion, Aggieland Country School shattered its own values—not quietly, but with the deafening hypocrisy of promises broken.

5. Aggieland Country School is responsible for qualifying, hiring, training, and supervising its employees on providing safe and proper care conducive to the welfare of the children; properly supervising children in their care at all times; compliance with Texas’s minimum standards for childcare; the use of good judgment, competency, and control; proper naptime

² Aggieland Country School Website, <https://www.aggielandcountryschool.com/> (last visited 06/27/2025).

³ Aggieland Country School Website, <https://www.aggielandcountryschool.com/about> (last visited 12/18/2023).

⁴ *Id.*

⁵ *Id.*

procedures; proper and safe discipline practices; and the proper reporting and documentation of incidents involving injury and risk of harm to children in their care. Yet, Aggieland Country School's violation history with the state of Texas clearly displays their continued failures to adhere to the minimum standards to protect the children in their care.

6. On November 16, 2023, during a routine licensing inspection by the state of Texas, a state inspector discovered two-year-old J.P.G. locked outside, unsupervised, and hovered in the corner of the daycare's back porch with a red face, visibly upset and terrified. It was a chilly day with temperatures around 60 degrees. J.P.G. was found curled up in the corner of the back porch with nothing but a t-shirt and jeans on. The Aggieland Country School employees responsible for the safety and care of J.P.G. *admittedly* placed her outside intentionally.

7. Even more shocking, the state investigation revealed that it was a *routine practice* to place J.P.G. outside whenever she cried during naptime—a practice that had occurred nearly daily since August or September of that year. Whenever J.P.G. cried or could not sleep, an employee would pick her up, place her on the back porch, and close the door, leaving J.P.G. outside alone for undetermined amounts of time. In an attempt to justify the conduct, Aggieland Country School's employees claimed they would watch two-year-old J.P.G. through a window, but the state investigation showed that the area where J.P.G. was placed was not even visible to employees through the window.

8. That day, J.P.G. became physically sick. She began running a fever and having a runny nose for days after she was discovered on the porch. After the state licensing inspector caught Aggieland Country School in the act of intentionally placing J.P.G. alone outside, the daycare chose not to inform J.P.G.'s parents of what happened. It was not until a state investigator reached out to initiate an investigation that Clara Gonzalez and Javier Perez first learned of the

shocking events involving their innocent child. This failure to disclose critical information reflects a continued pattern by Aggieland Country School—one of disregarding J.P.G.’s basic needs and betraying the trust placed in them to ensure the toddler’s care, safety, and well-being.

9. The investigation by the state of Texas resulted in citations being issued against Aggieland Country School for the violation of the following childcare licensing laws:

- **746.1205(a)(4) – Supervision ensures each child’s safety, well-being, including physical proximity and auditory or visual awareness of each child’s on-going activity:**

A child in care was sent to the back porch of the toddler building after starting to cry during nap time. The child in care was sitting on the ground upset. The door to the back porch was closed and both staff members were in the classroom. Neither staff member had auditory or visual awareness of the child placed on the porch.

- **746.1201(4) – AP Responsibilities of Employees and Caregivers-Ensure No Child Abused, Neglected, or Exploited:**

This standard was found to be deficient as part of a DFPS Investigation. An *administrative penalty* will be recommended as a result of this citation, per HRC §42.05.

- **746.307(b)(4) – Parental Communication - Report Situation Placing Children at Risk:**

The operation *failed to notify parents* of a child in care that was placed outside, on the porch without adult supervision.

10. Notably, Aggieland Country School was also cited for additional violations during the same investigation, indicating a clear lack of proper training, supervision of employees, and safety protocols throughout the daycare:

- **746.1309(e) – Documented Annual Training – Required Content:**

Four caregivers, including the Director’s training record, was lacking several health and safety audit including: preventing and responding to emergencies due to food or an allergic reaction, understanding building and physical premises safety, including identification and protection from hazards that can cause bodily injury such as electrical hazards, bodies of water, and vehicular traffic; and handling, storing, and disposing of hazardous materials.

- **746.1315(b)(1) CPR Training and Recertification Adhere to Guidelines – Skill Based:**
One caregiver who has been employed for at least 90 days has CPR training from an online resource instead of a hands-on skills component.
- **746.901 – Required Personnel Records:**
Three caregivers are lacking a notarized affidavit of employment in their file. Two caregivers also were *lacking documented orientation* with each topic selected with a signature.
- **746.3415(4) – Employee Handwashing After Diapering a Child:**
A caregiver was conducting diaper changes and was wearing gloves. She *did not remove the gloves at any point in between diaper changes and did not wash her hands in between diaper changes.*
- **746.3503(a) – Diaper Changing Equipment – Smooth, Non-absorbent, Easy to Clean Surface:**
A fabric *floor rug was used for diaper changes* instead of a waterproof non-absorbent surface. This also prevented the diaper changing surface from being sanitized after each diaper change.

11. Aggieland Country School was entrusted with the care and safety of two-year-old J.P.G. Instead, they dismissed her needs, locked her outside, left her alone, and ignored her causing her physical, mental, and emotional damages.

12. This investigation revealed more than a policy violation. It uncovered a pattern of neglect and a failure of basic human care. And it is the story of a child who cried behind a locked door—and the system that must never let it happen again. As a direct and proximate result of the actions and omissions of Aggieland Country School, Plaintiffs Clara Gonzalez, Javier Perez, and J.P.G. sustained injuries and damages.

II. DISCOVERY CONTROL PLAN & CLAIM FOR RELIEF

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

14. 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.

III. PARTIES

11. Plaintiffs Clara Gonzalez and Javier Perez are the biological parents of Plaintiff J.P.G., a minor, and are citizens and residents of Brazos County, Texas.

12. Defendant Mitabani, LLC d/b/a Aggieland Country School, is a Texas limited liability company doing business in this State. The Defendant operates a daycare under operation license number 1725676, located at 1500 Quail Run, College Station, Texas 77745, and may be served with process by serving its registered agent, Melissa Benn at 4438 State Highway 6 South, Suite 101, College Station, TX 77845.

IV. JURISDICTION & VENUE

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

14. Venue is proper in Brazos 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.

V. CAUSES OF ACTION AGAINST DEFENDANTS

Count One – Negligence

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

16. 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 had a duty to maintain a safe environment for children in its care to prevent harm and injury to J.P.G. and other children similarly situated. 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 to properly supervise the children in their care at all times;
- d. Failing to know maintain awareness the children they are responsible for;
- e. Failing to interact with children in a positive manner;
- f. Failing to maintain a safe environment for children;
- g. Failing to employ caregivers who demonstrate competency, good judgment, and self-control;
- h. Failing to ensure no child is abused, neglected, or exploited;
- i. Failing to properly hire, qualify, train, and supervise its employee-caregivers and staff on appropriate discipline, handling, and care for children;
- j. Failing to properly hire, qualify, train, and supervise its employee-caregivers and staff on appropriate naptime procedures;
- k. Failing to notify parents of incidents of a situation placing a child at risk;
- l. Failure to provide parents with a copy of a completed incident report for incidents involving injuries to their child; and
- m. Choosing to employ staff who do not know or adhere to the Texas Department of Family Protective Services, Texas Minimum Standards for Child-care Centers.

17. Defendant had a duty to exercise ordinary care in caring for and supervising the children in its care to prevent injury to J.P.G. and other children similarly situated.

18. Defendant had a duty to maintain a safe environment for children in its care to prevent injury to J.P.G., and other children similarly situated.

19. Defendant had a duty to hire, train, and supervise caregiver-employees and staff to ensure that children were properly cared and accounted for, so as to prevent injury to J.P.G., and other children similarly situated.

20. Defendant breached the duty of care by failing to care for the children; failing to supervise the children; failing to maintain awareness of the children in their care; failing to maintain a safe environment for children; failing to interact with children in a positive way; failing to provide appropriate discipline and guidance for the children in their care; failing to use proper naptime procedures; failing to hire, train, and supervise qualified caregivers and staff to care for children; failing to provide an incident report for an incident involving serious harm or risk to children; and failing to immediately *and honestly* notify parents of any situation placing their child at risk or causing harm.

21. 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

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

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

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

25. Defendant's violation of the statutes was the proximate cause of the incident in question.

Count Three – Gross Negligence

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

27. 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 the term is defined in Texas Civil Practices and Remedies Code §41.001(11).

28. 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.

29. 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

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

31. Defendant is the owner, operator, and/or possessor of the daycare premises located at 1500 Quail Run, College Station, Texas 77845, operation license number 1725676.

32. At the time of the incident, J.P.G. was a minor placed in the care of Defendant and was thus an "invitee" to whom Defendant owed a duty to exercise ordinary care.

33. 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.

34. Defendant owed Plaintiffs a legal duty to ensure J.P.G.'s safety in maintaining proper care over the children, ensuring the employees are necessarily hired, trained, supervised, and

terminated in order to maintain a safe environment where children are care for and supervised at all times. Defendant breached these duties by failing to hire, train and supervise its employee-caregivers and management, by failing to account for and maintain awareness of the children in their care, by failing to immediately and accurately notify parents of the incident, and by failing to provide a corresponding incident report to the parents.

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

VI. RESONDEAT SUPERIOR

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

37. 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 their action, Defendant's 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*.

VII. DAMAGES

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

39. As a direct and proximate cause of Defendant's negligent acts and/or omissions, Plaintiffs Clara Gonzalez and Javier Perez, Individually and as Parents and Next Friends of Plaintiff J.P.G., 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, sustain in the future;
- c. Mental anguish in the past;

- d. Mental anguish, in reasonable probability, sustained in the future;
- e. Fear and anxiety in the past;
- f. Fear and anxiety, in reasonable probability, sustained in the future;
- g. Inconvenience in the past;
- h. Inconvenience, in reasonable probability, sustained in the future;
- i. Reasonable and necessary medical expenses in the past;
- j. Reasonable and necessary medical expenses, in reasonable probability, sustained in the future;
- k. Loss of wages in the past;
- l. Loss of wages, in reasonable probability, sustained in the future;
- m. Loss of wage-earning capacity in the past;
- n. Loss of wage-earning capacity, in reasonable probability, sustained in the future;
- o. Physical impairment in the past;
- p. Physical impairment, in reasonable probability, sustained in the future;
- q. Loss of normal enjoyment of the pleasure of life in the past;
- r. Loss of the normal enjoyment of the pleasure of life, in reasonable probability, sustained in the future;
- s. Costs of suit; and
- t. All other relief, in law and equity, to which Plaintiffs may be entitled.

40. 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

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

42. 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.

43. 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.

VIII. JURY TRIAL

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

IX. U.S. LIFE TABLES

45. 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: July 17, 2025.

Respectfully submitted,

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