

CAUSE NO. 199-05515-2025

HAILEY SCOTT AND CHRISTOPHER MIRZAI,
INDIVIDUALLY AND AS PARENTS AND NEXT
FRIENDS OF E.M., A MINOR CHILD,

PLAINTIFFS,

VS.

RS THRIVE MCKINNEY, LLC D/B/A THE
LEARNING EXPERIENCE, AND
RS THRIVE CHS, LLC D/B/A THE LEARNING
EXPERIENCE,

DEFENDANTS.

IN THE DISTRICT COURT OF

COLLIN COUNTY, TEXAS

____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION AND JURY DEMAND

1. Hailey Scott and Christopher Mirzaie, 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 daughter, E.M., while they are working. Hailey Scott and Christopher Mirzaie trusted that their daughter would be safe while in the care of The Learning Experience.¹

2. A safe learning environment and peace of mind are what parents like Hailey Scott and Christopher Mirzaie pay for and expect. Instead, Hailey Scott and Christopher Mirzaie's trust was violated when their daughter E.M. suffered serious physical, emotional, and mental injuries because of the failures of The Learning Experience to keep the daycare safe from dangerous conditions. Hailey Scott and Christopher Mirzaie bring this lawsuit on their family's behalf asking for answers and asking that The Learning Experience accept responsibility.

¹ This petition refers to Defendants RS Thrive McKinney, LLC d/b/a The Learning Experience and RS Thrive CHS, LLC d/b/a The Learning Experience collectively as “The Learning Experience.”

I. STATEMENT OF FACTS

3. The Learning Experience is entrusted with a profound responsibility: to protect and care for the young, vulnerable children in its facility. The Learning Experience 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; safeguarding children against safety hazards; maintaining a safe environment for children in their care; compliance with Texas's minimum standards for childcare; the use of good judgment, competency, and control; and the proper reporting and documentation of incidents involving injury or risk of harm to children in their care.

4. The Learning Experience prides itself on being "dedicated to providing outstanding ... childcare services."² At The Learning Experience, parents are promised that the well-being and safety of children and staff are a top priority and reassured a comprehensive safety policy is in place.³ The Learning Experience assures parents that staff are trained "on a regular basis in health and safety regulations"⁴ But those promises were shattered when 2-year-old E.M. was severely injured due to The Learning Experience's reckless disregard for safety and its repeated failure to comply with Texas's minimum childcare standards.

5. On May 28, 2024, The Learning Experience failed to maintain the safety of their facility, resulting in 2-year-old E.M. slipping on water leaking into the facility during a rainstorm. The toddler fell forward, slamming her face and mouth into the ground with such force that one of

² The Learning Experience Website, <https://thelearningexperience.com/faq/> (last visited 07/30/2025).

³ *Id.*

⁴ *Id.*

her teeth was instantly and visibly chipped. Her mouth bled so profusely it soaked her dress, stained her face, and continued to bleed for hours.



E.M.'s bloodied and soaked shirt



E.M.'s mouth injury the following day

6. An investigation conducted by the state revealed that The Learning Experience was aware of the leaking water into the building – yet no guards were put up and no warning signs were posted. In fact, no measures were taken at all to keep children away from the wet, slippery floor— leaving the area accessible to toddlers and putting all children in care at risk of serious harm and injury.

7. Worse still, The Learning Experience failed to take the most basic steps to get her the urgent medical attention, despite the obvious severity of her injuries. The investigation revealed that *multiple caregiver employees* were admittedly concerned with the severity of E.M.'s injury and believed she required emergency care—but no one called 911. Instead, in a call to E.M.'s parents, The Learning Experience downplayed the incident and injuries, assuring E.M.'s parents

she was okay. When E.M.'s mother asked if she should come pick E.M. up early, The Learning Experience assistant director told her "no," explained her lip was just "bleeding a little," she was given an ice pack and was "doing fine" – *leaving her in pain, bleeding, and frightened, waiting for hours* before receiving proper medical care.

8. The Learning Experience was aware of the storms that morning. In fact, they had delayed the opening of the daycare as a result. Every staff member at the daycare knew there was water coming from underneath the playground door. The Learning Experience had a duty to address the hazardous condition. Simply put, The Learning Experience had the chance to prevent this, but they chose inaction. The daycare knew about the water hazard and failed to take even the simplest of precautions. This was *not* a tragic "accident." It was a *preventable injury* caused by negligence, poor judgement, and blatant disregard for the safety of a child.

9. As a direct result of the failures of The Learning Experience, E.M. ultimately lost one of her front teeth prematurely and experienced discoloration of the other front tooth. The inaction of The Learning Experience resulted in a 2-year-old girl who suffered physical trauma, emotional distress, mental anguish and lasting fear—pain that no child should ever endure. Liability is clear. What happened to E.M. was not only foreseeable—it was entirely preventable.

10. During the investigation by the state of Texas childcare licensing division, The Learning Experience was cited for violating the following childcare licensing laws:

- **746.3407 – Health Practices, Maintenance:** Failing to clean, repair, and maintain the building, grounds, and equipment to protect the health of the children.
- **746.1201 – Responsibilities for Child-Care Center Personnel:** Failing to demonstrate competency, good judgment, and self-control in the presence of children and when performing assigned responsibilities

11. The Learning Experience was entrusted to protect 2-year-old E.M. and keep her safe. Instead, they failed E.M., her family, and the standards they claimed to uphold. Their violation history with the State of Texas shows a pattern of failing to meet the minimum requirements designed to keep children safe – for example, in November 2023, The Learning Experience received two citations for violating the minimum standards that required all staff and the director to have current training and certification in Pediatric First Aid and CPR. The harm to E.M. was a predictable outcome of a facility that has repeatedly ignored its responsibilities.

12. As a direct and proximate result of the actions and omissions of The Learning Experience, Plaintiffs Hailey Scott, Christopher Mirzaie, and E.M. 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 Hailey Scott and Christopher Mirzaie are the biological parents of Plaintiff E.M., a minor, and are citizens and residents of Denton County, Texas.

12. Defendant RS Thrive McKinney, LLC d/b/a The Learning Experience is a Texas limited liability company doing business in this state. The Defendant operates a daycare under operation license number 1631744, located at 2401 FM 544, Lewisville, Texas 75056, and may be served with process by serving its registered agent, Rachana Kumari at 953 Redbird Lane, Allen, Texas 75013.

13. Defendant RS Thrive CHS, LLC d/b/a The Learning Experience is a Texas limited liability company doing business in this state. The Defendant operates a daycare under operation license number 1631744, located at 2401 FM 544, Lewisville, Texas 75056, and may be served with process by serving its registered agent, Rachana Kumari at 953 Redbird Lane, Allen, Texas 75013.

IV. JURISDICTION & VENUE

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

15. Venue is proper in Collin County, Texas, under Texas Civil Practices and Remedies Code Section 15.002(a) because this is the county where each of the named Defendants' principal place of business is registered.

V. CAUSES OF ACTION AGAINST DEFENDANTS

Count One – Negligence

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

17. 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 had a duty to maintain a safe environment for children in its care to prevent harm and injury to E.M. and other children similarly situated. 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 maintain a safe environment for children;

- d. Failing to communicate known safety hazards with all staff;
- e. Failing to safeguard children against known hazards;
- f. Failing to keep children safe while in their care;
- g. Failing to properly supervise the children in their care at all times;
- h. Failing to maintain awareness the children they are responsible for;
- i. Failing to employ caregivers who demonstrate competency, good judgment, and self-control;
- j. Failing to ensure no child is abused, neglected, or exploited;
- k. Failing to properly hire, qualify, train, and supervise its employee-caregivers and staff identifying and safeguarding children against safety hazards;
- l. Failing to properly hire, qualify, train, and supervise its employee-caregivers and staff on responding to medical emergencies to a child;
- m. Failing to properly notify parents of a situation placing a child at risk;
- n. Failing to notify parents of an injury to a child requiring medical treatment; and
- o. 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.

18. Defendants had a duty to exercise ordinary care in caring for and supervising the children in its care to prevent injury to E.M. and other children similarly situated.

19. Defendants had a duty to maintain a safe environment for children in its care to prevent injury to E.M., and other children similarly situated.

20. Defendants had a duty to hire, train, and supervise caregiver-employees and staff to ensure that hazards were identified and safe-guarded against, so as to prevent injury to E.M., and other children similarly situated.

21. Defendants 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 safeguard children against known hazards; failing to communicate known safety hazards to all staff; failing to hire, train, and supervise qualified caregivers and staff to care for children; and failing to immediately *and honestly* notify parents of any situation placing their child at risk or causing harm.

22. 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

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

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

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

26. Defendants' violation of the statutes was the proximate cause of the incident in question.

Count Three – Gross Negligence

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

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

29. 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.

30. 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

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

32. Defendants are the owner, operator, and/or possessor of the daycare premises located at 2401 FM 544, Lewisville, TX 75056, operation license number 1631744.

33. At the time of the incident, E.M. was a minor placed in the care of Defendants and was thus an "invitee" to whom Defendants owed a duty to exercise ordinary care.

34. 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.

35. Defendants owed Plaintiffs a legal duty to ensure E.M.'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 cared for and supervised at all times. Defendants breached these duties by failing to identify and safeguard against known safety hazards; 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 properly respond to an injury requiring medical treatment; by failing to immediately and accurately notify parents of an incident involving injury to child.

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

VI. RESONDEAT SUPERIOR

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

38. 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 their 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*.

VII. DAMAGES

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

40. As a direct and proximate cause of Defendants' negligent acts and/or omissions, Plaintiffs Christopher Mirzaie and Hailey Scott, Individually and as Parents and Next Friends of Plaintiff E.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, 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.

41. 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

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

43. 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.

44. 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.

VIII. JURY TRIAL

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

IX. U.S. LIFE TABLES

46. 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: August 1, 2025.

Respectfully submitted,

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