

CAUSE NO. _____

JAMEELAH BECTON INDIVIDUALLY
AND AS PARENT AND NEXT FRIEND
OF H.D., A MINOR CHILD,

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IN THE DISTRICT COURT OF

PLAINTIFFS,

VS.

EL PASO COUNTY, TEXAS

MKG INVERSIONES, LLC, D/B/A MINI
ME’S CHILD CENTER,

DEFENDANT.

_____ JUDICIAL DISTRICT

ORIGINAL PETITION AND JURY DEMAND

1. Jameelah Becton, like many parents across this country and the state of Texas, is a working parent who relies on a daycare to provide a safe, caring, nurturing environment for her son, H.D., while she is working. Ms. Becton trusted that her son would be safe while in the care of Mini Me’s Child Center.¹

2. A safe learning environment and peace of mind are what parents like Ms. Becton pay for and expect. Instead, Ms. Becton’s worst nightmares became a reality when her son H.D. suffered serious physical, emotional, and mental injuries because of the failures of Mini Me’s Child Center. Ms. Becton brings this lawsuit on her family’s behalf asking for answers and asking that Mini Me’s Child Center accept responsibility.

I. STATEMENT OF FACTS

¹ This petition refers to Defendant MKG Inversiones, LLC, d/b/a Mini Me’s Child Center, as “Mini Me’s Child Center”.

3. Mini Me's Child Center reassures parents that they "have provided quality child care to the El Paso and Tigua communities" since 2018.² Mini Me's Child Center solicits and sells working parents on the idea that this daycare has highly qualified teachers who would keep their children safe, proudly touting itself as being certified as a Texas Rising Star.³ However, a trail of records from the state of Texas paints a very different picture.

4. Mini Me's Child 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; ensuring no child is neglected; providing an environment free of safety hazards with the potential to cause harm or injury to children; ensuring that equipment is securely anchored according to manufacturer's specifications to prevent collapsing, tipping, sliding, moving, or overturning; providing individual lockers, cubicles, separate hooks and shelves, or other adequate storage space for each child's personal belongings; and maintaining compliance with Texas's minimum standards for childcare.

5. On April 4, 2023, Ms. Becton placed her son, H.D., in the care of Mini Me's Child Center for daycare. While under the care of Mini Me's Child Center, H.D. was left unsupervised while gathering his belongings from a locker that was improperly and unsafely anchored to the wall. Another child's backpack was stacked on H.D.'s backpack. Without assistance and supervision from Mini Me's Child Center employees, H.D. was left alone to pull on the other child's backpack in an attempt to reach his own. The locker fell forward, detaching from the wall entirely, and falling on top of H.D., slamming him to the ground and pinning him between the locker and a

² *Mini Mes' Child Center website*, https://mini-mes-child-center.business.site/?utm_source=gmb&utm_medium=referral (last visited December 8, 2023).

³ *Id.*

nearby table. As a result, H.D. suffered from a contusion to the left elbow and a severe concussion, causing him physical, emotional, and psychological harm and damages (hereinafter, “the Incident”). The weight of the locker required the strength of two adults to lift it up and free H.D., and the force of the impact broke the nearby table.

6. During an independent investigation into the incidents involving H.D. by the state of Texas childcare licensing division, it was discovered that the locker in question was donated to Mini Me’s Child Center. Mini Me’s Child Center did not have the required manufacturer’s instructions or anchoring equipment, instead Mini Me’s Child Center improperly attempted to anchor the locker to the wall with nothing more than some common screws. Rather than supervise H.D. and assist him in gathering his things, Mini Me’s Child Center instructed H.D. to get his things. The state’s investigation revealed that it was common practice for Mini Me’s Child Center to allow children to retrieve their belongings from the locker while unsupervised.

7. Mini Me’s Child Center negligently secured the locker to the wall and as a result the state of Texas concluded that Mini Me’s Child Center violated the following childcare licensing laws:

- **746.4601 (5) – Safety Requirements – Equipment must be securely anchored according to manufacturer’s specifications to prevent collapsing, tipping, sliding, moving, or overturning:** The manner in which the locker was attempted to be anchored to the wall placed a child at severe risk of injury.

8. As noted by the state of Texas in the minimum standard of care requirements for childcare licensing, “Supervision is basic to the prevention of harm. Parents have an understanding that caregivers will supervise their children in their absence.”⁴ The state of Texas

⁴ *Texas Health and Human Services Minimum Standards for Child-Care Centers Child Care Regulation*, <https://www.hhs.texas.gov/sites/default/files/documents/doing-business-with-hhs/provider-portal/protective-services/ccl/min-standards/chapter-746-centers.pdf> (last visited December 8, 2023).

minimum standards for child care centers further provides, "Supervision alone cannot prevent all accidents and injuries; the environment must be free of health and safety hazards to reduce risks to children."⁵ Simply put, what happened to H.D. was preventable.

9. Mini Me's Child 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 injuries H.D. sustained. Mini Me's Child Center has a clear recent history of failing to qualify, train and supervise employees, failing to follow the minimum standards, and failing to qualify, train, and supervise employees, failing to follow the minimum standards, and failing to properly care for children.

10. The following is an overview of some of the citations issued by the Texas Health and Human Services Commission from May 2019 to March 2023.

- May 2019:
 - o Cited for allowing infants to sleep with bottles.
- June 2019:
 - o Cited for failing to properly sign children in and out of care.
- September 2021:
 - o Cited for allowing infants to sleep with blankets in their crib.
 - o Cited for caregivers failing to maintain control of children in their care and allowing them to climb on tables.
- November 2021:
 - o Cited for failing to supervise children when a caregiver left 6 children unsupervised in a classroom and allowed a toddler to run down the hallway and enter another class without supervision.

⁵ *Id.*

- June 2022:
 - o Cited for failure to remove or repair hazards in the playground area.
- March 2023:
 - o Cited for failing to have an operating hand washing sink in the infant classroom.
 - o Cited for failing to maintain appropriate child to caregiver ratio.

11. What happened to H.D. was preventable. As a direct and proximate result of the actions and/or omissions of Mini Me's Child Center, Plaintiffs Jameelah Becton and H.D. sustained injuries and damages.

II. DISCOVERY CONTROL PLAN & CLAIM FOR RELIEF

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

13. 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 Jameelah Becton are the biological parents of Plaintiff H.D., a minor, and are citizens and residents of El Paso County, Texas.

12. Defendant MKG Inversiones, LLC, d/b/a Mini Me's Child Center is a Texas limited partnership doing business in this State. The Defendant operates a daycare under operation license number 1672908, located at 201 S. Americas Avenue, Suites 204 & 205, El Paso, TX 79907, and may be served with process by serving its registered agent, Myriam Olivas, 12049 Crown Royal, El Paso, Texas 79936.

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 El Paso 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 DEFENDANT

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 supervise children in its care and maintain a safe environment for children to prevent harm and injury to H.D. 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 maintain a safe environment for children;
- e. Failing to maintain and follow required manufacturer's instructions for facility equipment;
- f. Failing to properly anchor large heavy storage equipment in accordance with the manufacturer's instructions as to prevent a safety hazard;

g. 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 H.D. and other children similarly situated.

18. Defendant had a duty to maintain a safe environment for children in its care to prevent injury to H.D., 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 H.D., 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; and failing to hire, train, and supervise qualified caregivers and staff to care for children.

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. Defendant is the owner, operator, and/or possessor of the daycare premises located at 201 S. Americas Avenue, Suites 204 & 205, El Paso, TX 79907, operation license number 1672908.

31. At the time of the incident, H.D. was a minor placed in the care of Defendant and was thus an "invitee" to whom Defendant owed a duty to exercise ordinary care.

32. 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.

33. Defendant owed Plaintiffs a legal duty to ensure H.D.'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 for children where children are supervised

at all times, and ensuring that serious injuries are recorded and reported accurately. Defendant breached these duties by failing to hire, train and supervise its employee-caregivers and management, by failing to properly supervise a child in their care, and by failing to properly anchor large heavy storage equipment to prevent a safety hazard.

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

VI. RESONDEAT SUPERIOR

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

36. 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

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

38. As a direct and proximate cause of Defendant's negligent acts and/or omissions, Plaintiff Jameelah Becton, individually, and as Parents and Next Friend of Plaintiff H.D., 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.

39. 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

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

41. 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.

42. 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

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

IX. U.S. LIFE TABLES

44. 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: January 9, 2024.

Respectfully submitted,

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Russell Button on behalf of Russell Button

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Associated Case Party: JAMEELAH BECTON

Name	BarNumber	Email	TimestampSubmitted	Status
Russell Button		service@buttonlawfirm.com	1/16/2024 2:29:59 PM	SENT