

23-3263-431
CAUSE NO. _____

BARBARA EPTING AND BOJUSTIN EPTING, § IN THE DISTRICT COURT OF
INDIVIDUALLY AND AS PARENTS AND NEXT §
FRIENDS OF L.E., A MINOR CHILD, §
§
PLAINTIFFS, §
VS. § DENTON COUNTY, TEXAS
§
SPRINGBOK ACADEMY, INC., D/B/A §
SPRINGBOK ACADEMY, §
§
DEFENDANT. § _____ JUDICIAL DISTRICT

ORIGINAL PETITION AND JURY DEMAND

1. Barbara and BoJustin Epting, like many parents across this country and the state of Texas, were working parents who relied on a daycare to provide a safe, caring, and nurturing environment for their two children while working. Mr. and Mrs. Epting trusted that their daughter, Lillian Epting, would be safe at Springbok Academy.¹
2. A safe, nurturing environment and peace of mind are what parents like Mr. and Mrs. Epting pay for and expect. Instead, there worst nightmare became a reality when their daughter Lillian Epting suffered serious physical, emotional, and mental injuries because of the failures of Springbok Academy. Barbara and BoJustin Epting bring this lawsuit on their family’s behalf asking for answers and asking that Springbok Academy accept responsibility.

¹ This Petition refers to Defendant Springbok Academy, Inc., d/b/a Springbok Academy as “Springbok Academy.”

I. STATEMENT OF FACTS

3. Springbok Academy prides itself on being an institution that has “serv[ed] the Denton community by providing quality care” for families since 1996.² Springbok Academy alleges to provide “in-house training” in addition to a required 24 hours of annual training to its employee-caregivers.³ Springbok Academy claims to believe that a nurturing environment is “the best way to achieve children’s highest potential,” while committing to parents that they will reach this “potential in a safe, clean and nurturing atmosphere.”⁴ However, state-led investigations into Springbok Academy reveal a very different picture.

4. Springbok Academy is responsible for qualifying, hiring, training, and supervising its employee caregivers on providing safe and proper care conducive to the welfare of children; ensuring the safety of children in their care; maintaining clean equipment to protect the health of children; using, storing and disposing of hazardous materials as recommended by the manufacturer; ensuring chemicals used are permissible under label directions when children are present; guarding children from unsafe chemicals, materials, and items; appropriate nap time procedures; prohibited forms of restraint and touching; and ensuring compliance with Texas’s minimum standards for childcare.

5. On Friday, February 25, 2022, Barbara and BoJustin Epting placed their one-year-old daughter, Lillian Epting, in the care of Springbok Academy for daycare. While under the care of Springbok Academy, caregiver employees hired, trained, and supervised by Springbok Academy physically restrained and forced Lillian Epting to lay face down on a nap mat previously

² *Springbok Academy’s Website*, <https://www.springbokacademy.com/> (last visited April 3, 2023).

³ *Id.* at <https://www.springbokacademy.com/faq> (last visited April 3, 2023).

⁴ *Id.* at https://www.springbokacademy.com/about_us (last visited April 3, 2023).

cleaned with Carroll Clean Multi-Q Sanitizer—a commercial grade, corrosive disinfectant—without any protective covering. Lillian Epting’s hair and skin were directly exposed to the harsh chemicals causing her hair to be singed and leaving her face permanently scarred with chemical burns resulting in physical, emotional, and psychological harm and damages (hereinafter, “the incident”). Despite Lillian Epting crying out in pain and showing physical signs of distress and discomfort as she fought to get off of her nap mat for two hours, the daycare chose not to immediately contact Lillian Epting’s parents or the state to inform them of the incident. Instead, caregivers repeatedly placed Lillian Epting on the nap mat, restraining her with their leg as she turned around under the leg of the caregiver, crying, touching her face, and further exacerbating her injuries. Springbok Academy’s failure to follow instructions on the use of Carroll CLEAN Multi-Q Sanitizer created an unsafe environment for Lillian Epting and others similarly situated.

6. During an independent investigation into the incident involving Lillian Epting by Health and Human Services Commission, it was discovered that the staff were inadequately trained in the proper way to clean and sanitize the nap mats. Not a single staff member could explain how to use the cleaning supplies in a consistent manner. Carroll CLEAN Multi-Q Sanitizer, the product used for cleaning nap mats and other items in the classroom, requires a dilution of 5 gallons of water to every 4 ounces of solution and is to be used only on hard, non-porous surfaces.⁵ If using on objects that may come into contact with the mouth, like many items in a toddler classroom, the product calls for 4 gallons of water to every 1-2 ounces of solution for hard, non-porous surfaces only.⁶ Usage instructions such as these are meant to be followed to ensure the safety of those who come into contact with the chemicals—just like Texas’s minimum

⁵ Carroll CLEAN Multi-Q Sanitizer, Manufacturer Instructions for Use.

⁶ *Id.*

standard of care requirements for staff to be properly trained on using, storing and disposing of hazardous materials as recommended by manufacturer. If Springbok Academy adhered to the requirements set forth by the state of Texas and the product label instructions, Lillian Epting would not have suffered.

7. Further, had Springbok Academy trained their employee caregivers properly in using Quick CLEAN Multi-Q Sanitizer, they would have seen the First Aid instructions providing that in the event the product comes into contact with skin, contaminated clothing should be removed and skin should be immediately rinsed with plenty of water for 15-20 minutes.⁷ However, video footage of the incident shows Lillian Epting is seen crying in distress, fighting to get off of the mat for two hours. In fact, an hour and 20 minutes had gone by before a caregiver is seen briefly picking Lillian Epting to provide comfort and examine her before placing her back on the nap mat despite her face appearing swollen and red. Lillian Epting's cries were so severe that other caregivers not in the classroom admit to hearing her cries of pain. Video footage of the incident reveals Lillian Epting showing immediate signs of discomfort within minutes of being placed face down on the nap mat. When Lillian Epting was placed on her back for a total of 8 minutes, her hair was singed from the strong chemical exposure as she continued to cry out in distress while rubbing her face and holding the back of her head.

8. As a result of this investigation, the state of Texas concluded that the allegations against Springbok Academy involving Lillian Epting were substantiated, and cited Springbok Academy for violating the following childcare licensing rules of Texas:

- **746.1003(2) – Director Responsibilities – Ensuring all employees comply with minimum standards.** “Based on evidence gathered throughout the investigation,

⁷ *Id.* at First Aid Instructions

employees indicated that they are not properly trained in handling and using materials or chemicals.”

- **746.2905(1) – Children Not Required to Sleep – Must not force a child to sleep or put anything in or on a child’s head or body to force the child to rest or sleep.** “Based on evidence obtained during the investigation, a caregiver forced a child to remain laying with their head down on the nap mat.”
- **746.3407(13) – Environmental Health – Using, storing, and disposing of hazardous materials as recommended by manufacturer.** “It was determined that hazardous materials was not being used according to manufacturer’s instructions when a child received an injury.”

9. The state of Texas investigator immediately put corrective measures in place to ensure Springbok Academy takes the necessary steps to correct and comply with the multiple violations.

10. Sadly, this was not the first time Springbok Academy was cited for failure to meet Texas’s minimum standard of care requirements. They have been cited numerous times for failing to ensure that the operation and its caregivers meet the minimum standards, laws, and regulations in place to keep children safe. A history of citations, inspections, investigations, and deficiencies from the state shows the same conduct and failure to act that led to the incidents and the injuries sustained by Lillian Epting Springbok Academy has a clear, recent history of failing to qualify, train, and supervise employees; failing to follow minimum standards; and failing to ensure the safety of the children in their care.

11. The following is an overview of some of the citations issued by Texas Health and Human Services Commission from February 2017 through February 2022.

- **February 2017**
 - Cited for caregivers failing to adequately supervise children.
- **February 2018**

- Cited for caregivers failing to demonstrate competency, good judgment, and self-control.
 - Cited for children failing to wash hands before eating.
 - Cited for employees failing to wash hands before feeding.
 - Cited for failing to provide positive methods of discipline and guidance.
 - Cited for critical illness or injury requiring first aid of CPR.
 - Cited for caregivers failing to ensure no child is abused, neglected, or exploited.
- **June 2021**
 - Cited for failing to complete background check prior to being present at operation.
 - **February 2022**
 - Cited for caregivers failing to know the group they are responsible for.
 - Cited for failing to wash infant's hands.

12. What happened to Lillian Epting was preventable. As a direct and proximate result of the actions and omissions of Springbok Academy, Plaintiffs Barbara Epting, BoJustin Epting, and Lillian Epting 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), Plaintiff's 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

15. Plaintiffs Barbara Epting and BoJustin Epting are the biological parents of Plaintiff Lillian Epting (Date of Birth: 02/11/2021), a minor, and are citizens and residents of Denton County, Texas.

16. Defendant Springbok Academy, Inc., d/b/a Springbok Academy (hereinafter referred to as "Defendant") is a Texas Corporation doing business in this State. The Defendant operates a daycare under operation license number 928946, located at 1300 Fulton Street, Suite 502, Denton, Texas 76201. Defendant may be served with process by serving its registered agent, Elizabeth Seibt, at 1300 Fulton Street, Suite 502, Denton, Texas 76201.

IV. JURISDICTION & VENUE

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

18. Venue is proper in Denton Country, 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

Count One - Negligence

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

20. 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 so as to prevent harm and injury to Lillian Epting 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 intervene to ensure a child's safety;
- d. Failing to maintain a safe environment for children;
- e. Failing to safely maintain clean equipment to protect the health of children in their care;
- f. Failing to safely use, store, and dispose of hazardous materials;
- g. Choosing to expose Lillian Epting to materials treated with chemicals in areas not permissible under label instructions;
- h. Choosing to force Lillian Epting to sleep while putting something over her body to force her to rest or sleep;
- 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 immediately notify parents on a situation that placed their child at risk;
- k. Failing to report all incidents involving serious injury to children to the Department of Family Protective Services;
- l. Failing to have proper policies and procedures regarding storing and using cleaning materials;
- m. Failing to guard Lillian Epting from exposure to dangerous chemicals, materials, and items;
- n. Failing to complete incident reports on all incidents involving injuries to children;
- o. Failing to provide parents with a copy of a completed incident report for the incident involving injury to their child; and

p. Failing to train and supervise employee-caregivers on the Texas Department of Family Protective Services, Texas Minimum Standards for Child-care Centers.

21. Defendant had a duty to maintain a safe environment for children in its care to prevent injury to Lillian Epting, and other children similarly situated.

22. Defendant had a duty to hire, train, and supervise caregiver-employees and staff to ensure the safety of Lillian Epting, and other children similarly situated.

23. Defendant had a duty to use, store, and dispose of hazardous materials as recommended by the manufacturer.

24. Defendant had a duty to ensure all employees comply with minimum standards of care for Texas childcare centers.

25. Defendant breached the duty of care by failing to provide a safe environment for children; failing to use hazardous chemicals as recommended by the manufacturer; failing to hire, train, and supervise qualified caregivers and staff on the proper handling and use of hazardous materials as recommended by manufacturer; failing to hire, train, and supervise qualified caregivers and staff to care for children; failing to render first aid to a child harmed; failing to create an incident report for an incident involving serious harm or risk to children; and failing to immediately notify parents and the state of any situation creating risk or harm to a child.

26. Defendant's negligent acts and/or omissions and breach of duties directly and proximately caused injury to Plaintiffs, which resulting in significant damages.

Count Two – Negligence Per Se

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

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

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

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

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

Count Three – Gross Negligence

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

33. Defendant's conduct was more than momentary thoughtfulness of 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).

34. 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.

35. 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

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

37. Defendant is the owner, operator, and/or possessor of the daycare premises located at 1300 Fulton Street, Suite 502, Denton, Texas 76201, operation license number 928946.

38. At the time of the incident, Lillian Epting was minor placed in the care of Defendant and was thus an “invitee” to whom Defendant owed a duty exercise ordinary care.

39. Plaintiff’s 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.

40. Defendant owed Plaintiff’s a legal duty to ensure Lillian Epting’s safety in maintaining proper care over the children; ensuring that employees are necessarily hired, trained, and supervised; ensuring hazardous chemicals are used, stored, and disposed of as recommended by manufacturer; and ensuring that serious injuries are recorded and reported. Defendant breached these duties by failing to use hazardous chemical as directed by the manufacturer; by failing to hire, train and supervise their employee-caregivers in the proper use and handling of hazardous cleaning materials; and by failing to hire, train, and supervise employee-caregivers on the proper care of children during naptime.

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

VI. RESONDEAT SUPERIOR

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

12. 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 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

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

14. As a direct and proximate cause of Defendant's negligent acts and/or omissions, Plaintiffs Barbara and BoJusting Epting, individually, and as Parents and Next Friend of Plaintiff Lillian Epting, 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.

15. Plaintiff's 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.

VIII. EXEMPLARY DAMAGES

16. Plaintiff's incorporate by reference the preceding paragraphs as if stated fully herein.

17. 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.

18. 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.

IV. JURY TRIAL

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

X. U.S. LIFE TABLES

20. 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: April 17, 2023.

Respectfully submitted,

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Associated Case Party: Barbara Epting

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