



serious physical, emotional, and mental injuries because of the failures of Pinnacle Montessori. The Henderson's bring this lawsuit on their family's behalf asking for answers and asking that Pinnacle Montessori accept responsibility.

### I. STATEMENT OF FACTS

3. According to Pinnacle Montessori, "Our consistent recognition as the leading Montessori school in Texas is a testament to our dedication to our children and parents."<sup>2</sup> Pinnacle Montessori publicizes and sells parents on the idea that this daycare is dedicated to creating a nurturing and safe learning environment for their children. However, records from the state of Texas paint a very different picture.

4. Pinnacle Montessori is responsible for qualifying, hiring, training, and supervising its caregiver employees on providing safe and proper care conducive to the welfare of the children, ensuring no child is neglected, supervising children at all times, having appropriate visual and/or auditory awareness of each child, providing positive methods of discipline and guidance, and compliance with Texas' minimum standards for childcare.

5. On or about Tuesday, March 1, 2022, Mr. Henderson arrived at Pinnacle Montessori around 5 o'clock to pick up W.H. from daycare. Mr. Henderson walked towards W.H.'s classroom to gather W.H.'s things to go home. Mr. Henderson noticed the other children in W.H.'s class playing in the gym, but not W.H. When Mr. Henderson opened W.H.'s classroom door he heard crying, then saw W.H. sitting in the corner crying. W.H. was sitting in the corner of a dark classroom all alone.

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<sup>2</sup> Pinnacle Montessori at Melissa's website, <https://www.pinnaclemontessori.com/melissa/2> (last visited June 27, 2023).

6. Understandably, Mr. Henderson wanted answers from Pinnacle Montessori. Surveillance video showed W.H.'s caregiver sweeping the classroom as the children gathered near the door, then W.H.'s caregiver approached him grabbed his right arm placing him in the corner behind the classroom door. The caregiver continued to clean the classroom, then led the children out of the classroom, but not W.H. W.H. remained in the corner where the caregiver placed him. The caregiver turned the classroom lights off leaving W.H. alone in the corner in a dark classroom.



7. Childcare facilities are required to follow strict minimum care 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. 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 W.H. and concluded that the allegations involving W.H. against Pinnacle Montessori were substantiated and cited Pinnacle Montessori for violating the following childcare licensing rules of Texas:

- **746.1203(4) Responsibilities of Employees and Caregivers – Supervision of children**
  - A child was left unattended in his [room] for approximately 14 minutes while his classmates were outside of the classroom. The child was found unattended in the class by his parent.
- **746.2803(4)(D) Positive Methods of Discipline and Guidance – Brief supervised separation**
  - The child involved in this incident was observed left in time out for more than the allowed number of minutes based on his age of 2 years; more than 2 minutes.
- **746.1203(3)(C) Responsibilities of Employees and Caregivers – Supervision of children – free from other activities**
  - After reviewing footage of the timeframe leading up to the incident, the caregiver in the classroom was observed sweeping and cleaning for a long period of time; not interacting with or supervising the children fully at this time.

8. What happened to W.H. was preventable. As a direct and proximate result of the actions and omissions of Pinnacle Montessori, Plaintiffs sustained serious injuries and damages.

## **II. DISCOVERY CONTROL PLAN & CLAIM FOR RELIEF**

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

10. As required by 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 actually awarded will ultimately be determined by a jury.

## **III. PARTIES**

11. Plaintiffs Rick Henderson and Jessica Henderson are the biological parents of Plaintiff W.H., a minor, and are citizens and residents of Collin County, Texas.

12. Defendant Enlightened Beginnings, LLC d/b/a Pinnacle Montessori of Melissa (herein referred to as “Defendant” or “Pinnacle Montessori”) is a limited liability company doing

business in the State of Texas, its state of formation. Defendant may be served with process by serving its registered agent, Alex Freeman, 18740 Wainsborough Lane, Dallas, TX 75287, or wherever he may be found.

#### **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 Collin 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**

##### **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 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 provide proper supervision;
- e. Failing to complete name-to-face recognition counts of children in care;

- f. Failing to properly hire, qualify, train, and supervise its employee-caregivers trusted with the care of minor Plaintiff W.H.;
  - g. Failing to use positive methods of discipline;
  - h. Failing to ensure caregiver employees demonstrate competency, good judgment, and self-control;
  - i. Failing to adhere to the Texas Minimum Standards for Childcare.
17. Defendant had a duty to exercise ordinary care in caring for and supervising the children in its care so as to prevent injury to Plaintiff W.H. and other children similarly situated.
18. Defendant had a duty to maintain a safe environment for children in its care so as to prevent injury to W.H. and other children similarly situated.
19. Defendant had a duty to hire, train, and supervise caregiver employees to ensure that children were not subjected to inappropriate discipline and prohibited forms of punishment, so as to prevent injury to W.H. 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 use positive methods of discipline, failing to be free of other activities, failing to properly train, hire, and supervise its employees.
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 and Protective Services, Minimum Standards for Child-Care.

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

25. Defendant's violations of the statutes were the proximate cause of the Incident in question.

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

### **Count Three – Gross Negligence**

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

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

29. 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.

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. Defendant is the owner, operator, and/or possessor of the daycare premises located at 2233 Sam Rayburn Hwy, Melissa, TX 75454, operation license number 1721695.

33. At the time of the Incident, W.H. was a minor child placed in the care of Defendant and

was thus an “invitee” to whom Defendant owed a duty to exercise ordinary care.

34. 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.

35. Defendant owed Plaintiffs a legal duty to ensure W.H.’s safety in maintaining proper care over the children, ensuring that employees are necessarily hired, trained, supervised, and terminated in order to maintain a safe environment for children, ensuring children are properly supervised, and nurtured with positive methods of discipline. Defendant breached these duties by failing to maintain a safe environment for W.H., failing to train and supervise its caregiver employees on how to supervise children, and by failing to ensure employees use positive methods of discipline.

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

#### **VI. RESPONDEAT SUPERIOR**

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

38. 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 this action, Defendant’s employees were acting in the course and scope of their employment. Accordingly, Defendant’s 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 Defendant's negligent acts and/or omissions, Plaintiff Rick Henderson and Jessica Henderson, Individually, and as Next Friend of Plaintiff W.H., 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, sustained in the future;
- c) Mental anguish in the past;
- d) Mental anguish, in reasonable probability, sustained in the future;
- e) Reasonable and necessary medical expenses in the past;
- f) Reasonable and necessary medical expenses, in reasonable probability sustained in the future;
- g) Disfigurement sustained in the past;
- h) Disfigurement, 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.

41. Plaintiffs' damages clearly exceed the minimal 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**

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 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.

44. 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.

#### **IX. JURY TRIAL**

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

#### **X. U.S. LIFE TABLES**

48. 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 trial 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 27, 2023

Respectfully submitted,

**THE BUTTON LAW FIRM**

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Bar No. 24077428

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Envelope ID: 77953011

Filing Code Description: Plaintiff's Original Petition (OCA)

Filing Description: PLAINTIFFS' ORIGINAL PETITION AND JURY DEMAND

Status as of 7/28/2023 9:57 AM CST

Associated Case Party: RickHenderson

Name	BarNumber	Email	TimestampSubmitted	Status
Russell Button		service@buttonlawfirm.com	7/27/2023 2:38:44 PM	SENT