

CAUSE NO. _____

ALLISON PEDIGO, INDIVIDUALLY AND AS
PARENT AND NEXT FRIEND OF M.K., A MINOR
CHILD,

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IN THE DISTRICT COURT OF

PLAINTIFFS,

VS.

HARRIS COUNTY, TEXAS

NOOR, INC. D/B/A SPELL WELL MONTESSORI
SCHOOL,

DEFENDANTS.

_____ JUDICIAL DISTRICT

ORIGINAL PETITION AND JURY DEMAND

1. Allison Pedigo, 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 daughter, K.M., while she is working. Allison Pedigo trusted that her daughter would be safe while in the care of Spell Well Montessori School.¹

2. A safe learning environment and peace of mind are what parents like Allison Pedigo pay for and expect. Instead, Allison Pedigo's trust was violated when her daughter K.M. suffered serious physical, emotional, and mental injuries because of the failures of Spell Well Montessori School. Allison Pedigo brings this lawsuit on her family's behalf asking for answers and asking that Spell Well Montessori School accept responsibility.

¹ This petition refers to Defendant Noor, Inc. d/b/a Spell Well Montessori School as "Spell Well Montessori School."

I. STATEMENT OF FACTS

3. “We give children knowledge with love” is the motto that Spell Well Montessori School proudly stands by.² Parents rely on Spell Well Montessori School’s assurances “that their children are attending a school where they can be safe, comfortable, and happy.”³ Spell Well Montessori School touts its many accreditations while promising families that their children will receive individual attention from their teachers.⁴ Spell Well Montessori School promises families that they will “encourage the independent exploration of learning and the joy of discovery.”⁵ However, no parent would imagine that the promised *independent exploration* would include leaving their child outside unsupervised for an undetermined amount of time

4. Spell Well Montessori School 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; 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. Spell Well Montessori 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.

5. On June 5, 2023, 2-year-old K.M. was discovered outside unsupervised for an undetermined amount of time. On that day, K.M.’s mother received a call from the Spell Well

² Spell Well Montessori Website, <https://spellwellmontessori.com/about-us/> (last visited 02/13/2024)

³ *Id.*

⁴ *Id.*

⁵ Spell Well Montessori Website, <https://spellwellmontessori.com/> (last visited 02/29/2024)

Montessori School management informing her that K.M. had received scratches to her face without an explanation as to how, where, and why – and certainly without mention of K.M. being found alone, outside of the daycare. When Allison pressed for an explanation, it was only then that she was then informed that K.M. had been found outside alone with the scratches on her face. Spell Well Montessori School was unable to provide her with a clear explanation of how K.M. had gotten outside or how long she had been left outside unsupervised, offering only that she had received scratches to her face while she was outside.

6. When Allison was allowed to speak with K.M.'s caregiver to get more details, the caregiver immediately began blaming the child. The caregiver then explained that she was laying down with another child, assisting them with their nap, while the second caregiver was changing diapers. The caregiver further provided that she *looked over at K.M.'s nap mat and noticed she was gone*. The caregiver claimed that she looked for K.M. in the classroom before eventually looking outside through the window where she *observed K.M. rolling around in branches*. The caregiver then explained that when she went outside to get K.M., *she was sitting in a chair*. When K.M. was picked up from the daycare, the caregiver *provided a stick to the family explaining that was what caused the scratches to K.M.'s face*. When Allison requested to view the video footage, the footage for K.M.'s classroom was "lost" and "unavailable," despite there not being any issues with other classroom recordings noted.

7. During an independent investigation into the incidents involving K.M. by the state of Texas childcare licensing division, the explanations of what happened that day continued to vary. The assistant director provided that the caregiver *heard the classroom door open* and got up immediately to get K.M. from outside. Explaining that *K.M. was found right outside the door*.

The responsible caregiver also altered her recollection of the incident, claiming that *she heard the door open but could not get up due to being present with another child*. The caregiver states that when she did see K.M. outside, she was *sitting in a chair smiling* – stating that *she did not see her playing with sticks but "it is only logic."* The director claims that the entire incident *happened within 25 seconds of K.M. opening the door*. However, just like the stories, the math does not add up. The only thing that remained consistent throughout Spell Well Montessori School's explanations, was their failure to accept responsibility and their continuous blaming of the 2-year-old child for her bad behavior.

8. During the investigation by the state of Texas childcare licensing division, Spell Well Montessori School was cited for violating the following childcare licensing laws:

- **746.305(6) – Report Situation Placing Children at Risk:** On 06/05/2023, a child, 2 years of age opened and exited the side door in the Discover's classroom without adult supervision, which led to a gated outside area. As of 06/08/2023, the Director did not report the incident to childcare regulation.
- **746.1205(a)(4) – Supervision ensures each child's safety, well-being, including physical proximity and auditory visual awareness of each child's on going activity:** One child, two years of age exited the side door in the classroom to the outside area unsupervised. The incident resulted in the child being hurt. The caregivers were not in physical proximity and lacked visual awareness of the child during the time of the incident.

9. Spell Well Montessori School was also cited for additional unrelated violations during the same investigation:

- **746.5013(a)(3) – Safety Requirements for Wading Pools – Stored So Do Not Hold Water:** A pool observed had a standing body of water that was accessible to children. The pool was not gated, and the remainder of the pool water was accessible to children while they were outside.
- **746.5015(c) – Safety Requirements for Sprinkler Play – Equipment and Water Hoses Kept Out of Child's Reach:** During the walkthrough a water hose, a swimming

pool, and sprinkler equipment was observed near the outdoor play area, which was accessible to children.

10. The following is an overview of some of the other citations issued by Texas Health and Human Services Commission from October 2020 through present:

- **October 2020:**
 - Cited for failing to document required pediatric CPR/first aid training.
- **October 2021:**
 - Cited for failing to keep required personnel records.
 - Cited for policies failing to comply with rules.
 - Cited for failing to complete current background checks.
 - Cited for failing to complete and maintain children's admission records.
 - Cited for failing to document required pediatric CPR/first aid training.
 - Cited for failing to complete current pediatric first aid, rescue breathing, and choking training.
 - Cited for director failing to complete 30 hours of annual training.
 - Cited for failing to document annual training on required content.
- **October 2022:**
 - Cited for employees/caregivers/directors failing to complete required pediatric CPR training.
 - Cited for failing to complete documented training hours on remaining topics.
 - Cited for failing to maintain personnel and training records.
 - Cited for failing to document original training certification in personnel records.
 - Cited for employees/caregivers/directors failing to complete orientation training.
 - Cited for failing to document written feeding instructions from parents for infants in care.
- **November 2022:**
 - Cited for failing to document original training certification in personnel records.
- **July 2023:**
 - Cited for failing to maintain personnel and training records.
 - Cited for failing complete an incident report for an incident that resulted in a child being injured.
- **October 2023:**

- Cited for failure to notify parents of children enrolled of an abuse/neglect deficiency cited at the daycare.
- Cited for an infant being observed sleeping with blanket in their crib during nap time.
- Cited for director's failure to complete the required annual training.
- Cited for failing to conduct the required annual sanitation inspection.
- Cited for two caregivers on staff not having the required CPR/First-Aid certification training.

11. As noted by the state of Texas in the minimum standard of care requirements for childcare licensing, "[s]upervision is basic to the prevention of harm. Parents have an understanding that caregivers will supervise their children in their absence." Simply put, what happened to K.M. was preventable. As a direct and proximate result of the actions and omissions of Spell Well Montessori School, Plaintiffs Allison Pedigo and K.M. 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. Plaintiff Allison Pedigo is the biological parent of Plaintiff K.M., a minor, and is a citizen and residents of Harris County, Texas.

12. Defendant Noor, Inc. d/b/a Spell Well Montessori School a Texas corporation doing business in this State. The Defendant operates a daycare under operation license number 838397, located at 17502 W. Strack Drive, Spring, Texas 77379, and may be served with process

by serving its registered agent, Nilofer Siddiqui, 46 Lake Sterling Gate Drive, Spring, Texas 77379.

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 Harris 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 so as to prevent harm and injury to K.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 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 account for the number of children a caregiver is responsible for;

- 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. Failure to provide parents with a copy of a completed incident report for incidents involving injuries to their child; and
 - k. 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 K.M. and other children similarly situated.
18. Defendant had a duty to maintain a safe environment for children in its care to prevent injury to K.M., 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 K.M., 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 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 17512 W. Strack Drive, Spring, Texas 77379, operation license number 838397.

32. At the time of the incident, K.M. 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 K.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 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 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, Plaintiff Allison Pedigo, individually, and as Parents and Next Friend of Plaintiff K.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.
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: March 8, 2024.

Respectfully submitted,

THE BUTTON LAW FIRM

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Associated Case Party: ALLISON PEDIGO, INDIVIDUALLY AND AS PARENT AND NEXT FRIEND OF M.K., A MINOR CHILD

Name	BarNumber	Email	TimestampSubmitted	Status
Russell Button		russell@buttonlawfirm.com	3/8/2024 11:13:00 AM	SENT
Ashley Washington		ashley@buttonlawfirm.com	3/8/2024 11:13:00 AM	SENT