

CC-24-00284-E

CAUSE NO. \_\_\_\_\_

VERONICA REYNOLDS, INDIVIDUALLY  
AND AS NEXT FRIEND OF C.R., A  
MINOR CHILD,

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IN THE COUNTY COURT

PLAINTIFFS,

VS.

AT LAW NO. \_\_\_\_

MISS BLOOMINGDALE’S ACADEMY,  
INC.,

DEFENDANT.

DALLAS COUNTY, TEXAS

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**ORIGINAL PETITION AND JURY DEMAND**

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1. Veronica Reynolds, Individually and as Next Friend of C.R., a minor child, like many parents across this country and the state of Texas, is a working mother that relied on a daycare to provide a safe, caring, nurturing environment for her daughter, C.R., while she was working. Veronica trusted that her daughter would be safe at Miss Bloomingdale’s Academy<sup>1</sup> for daycare.

2. A safe learning environment and peace of mind are what parents like Veronica pay for and expect. Instead, Veronica’s worst nightmare became a reality when her daughter C.R. suffered serious physical, emotional, and mental injuries because of the failures of Miss Bloomingdale’s Academy. Veronica brings this lawsuit on her family’s behalf asking for answers and asking that Miss Bloomingdale’s Academy accept responsibility.

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<sup>1</sup> This petition refers to Defendant Miss Bloomingdale’s Academy, Inc. as “Miss Bloomingdale’s Academy.”

## STATEMENT OF FACTS

3. Miss Bloomingdale’s Academy boasts itself as a daycare center that is dedicated to creating a nurturing and safe environment for the children in their care, claiming they “... are dedicated to strong academics in a safe, nurturing, and joyful atmosphere.”<sup>2</sup> They further assert that their caregivers receive the required training to be fully capable of providing the children the care that is necessary to ensure their safety and well-being with the assurance that “All of our teachers are trained by, and must meet the standards of Miss Bloomingdale, as well as state requirements.”<sup>3</sup> However, investigation records from the state of Texas paints a very different picture.

4. Miss Bloomingdale’s Academy is responsible for qualifying, hiring, training, and supervising its employee-caregivers on safe and proper care conducive to the welfare of children; supervising children at all times to ensure their safety and wellbeing; performance of proper name-to-face checks to ensure all children are accounted for; ensuring no child is neglected; having appropriate visual and/or auditory awareness of each child; maintaining a safe environment for children in their care; maintaining compliance with Texas’ minimum standards for childcare; the use of good judgment, competency, and control; and proper response and documentation of incidents that place a child at risk.

5. On or about Wednesday, October 26, 2022, Veronica placed her daughter C.R. in the care of Miss Bloomingdale’s Academy for daycare. While under the care of Miss Bloomingdale’s Academy, C.R. was negligently supervised, endangering her health, safety, and life. Miss

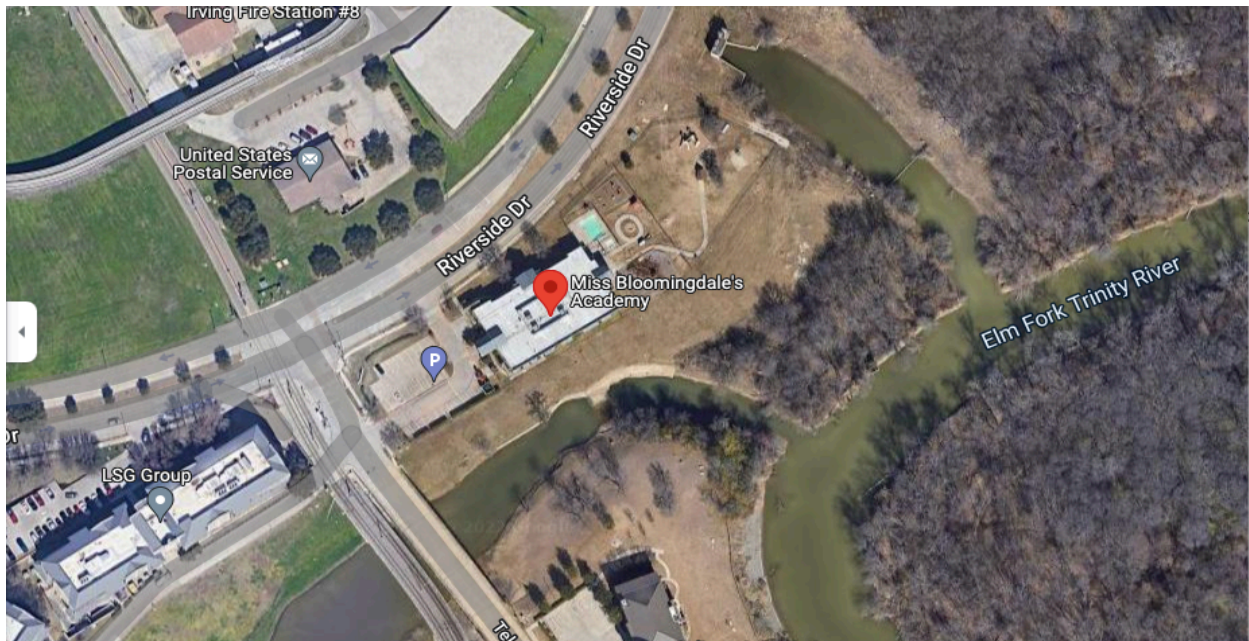
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<sup>2</sup> Miss Bloomingdale’s Academy Website, <https://www.missbloomingdales.com/> (last visited December 19, 2023).

<sup>3</sup> Miss Bloomingdale’s Academy Website, <https://www.missbloomingdales.com/about-us> (last visited December 19, 2023).

Bloomington's Academy failed to properly supervise the children in its care when C.R. was able to walk out of the classroom, open the back door that led to the outdoor playground and exit the facility completely unnoticed and unaccompanied for an extended and unknown amount of time (hereinafter, "the Incident"). Video footage obtained by Texas Health and Human Services Childcare Licensing Division, shows the classroom door propped open and C.R. walking out of the classroom. Once out of the classroom, C.R. turns left toward the back door of the facility where she is then easily able to push the metal back door open that leads to the outdoor playground area and exit the facility alone and unsupervised. Once outside, C.R. first played on the playground that was age appropriate for her, but she was then able to go through a gate and down a hill that led to a second playground that was inappropriate and unsafe for C.R.'s age group as it is designed for school age children. This second playground structure is located farther back from the facility and was near a damaged fence with an opening that allowed enough space for C.R. to go through and walk just a few steps away to the Elm Fork Trinity River where she could have potentially slipped and drowned. This also provided for the possibility of her wandering toward the busy main road and into oncoming traffic or being abducted in plain sight.

6. After some time on that second age-inappropriate playground, C.R. then walked to a third age-inappropriate playground designated for children 3 to 4 years old, where she remained for some time playing. C.R. was then seen on the video footage, walking back toward the metal door she exited from where she started pulling and yelling as she tried to pull the door open to get back inside the facility. After several minutes of failing to successfully open the door or get anyone's attention to allow her back in the building, C.R. started crying in fear.



7. While all this was happening outside, Miss Bloomingdale's Academy caregiver employees failed to notice C.R. was missing from her classroom. It was not until C.R.'s father arrived at Miss Bloomingdale's Academy to pick her up that he was shaken to find that C.R. was not in her classroom and not a single caregiver or staff member had noticed she was missing or could account for her whereabouts. A search for C.R. began as Miss Bloomingdale's Academy

staff and C.R.'s father scoured the facility, searching through different rooms of the facility. C.R.'s father suddenly heard loud banging and screaming coming from outside the facility and was understandably shocked when he opened the door to find it was C.R. outside, visibly distressed and upset. Miss Bloomingdale's Academy had no explanation for C.R.'s parents on how she ended up outside or how long she was left unsupervised.

8. Miss Bloomingdale's Academy negligently operated its facility and placed C.R. at direct risk of serious life-threatening injury or death. Miss Bloomingdale's Academy failed to properly supervise the children in its care; failed to conduct proper name to face checks to account for children in their care; failed to recognize a child was missing from their care; failed to provide a safe environment for a child in their care; failed to ensure no child was neglected in their care; negligently hired unqualified and untrained employees; failed to supervise its employees; and left C.R. and numerous other children in the hands of incompetent and irresponsible caregivers. Supervision is an essential component of the prevention of harm. Supervision requires knowing the ongoing activity of each child, having appropriate physical proximity, visual and/or auditory awareness, and properly accounting for every child in their care.

9. Miss Bloomingdale's Academy is required to follow strict minimum 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. During an independent investigation into the incident conducted by Texas Health and Human Services Child-Care Licensing it was discovered that Miss Bloomingdale's Academy failed to conduct a face and head count of the children in their care. The investigator then found that children were being transferred into different classrooms without Miss Bloomingdale's Academy properly documenting and

accounting for the children being transferred in between classes. Miss Bloomingdale's Academy's failure to account for each child under their care and supervision and failure to notice that a child in their care was missing for a significant period of time putting the children in direct risk of serious harm, injury, or death. The state of Texas concluded that the allegations involving C.R. against Miss Bloomingdale's Academy were substantiated, and cited Miss Bloomingdale's Academy for violating the following childcare licensing rules of Texas:

- **§746.1201(4)** – AP Responsibilities of Employees and Caregivers – Ensure No Child Abused, Neglected, or Exploited
- **§746.1201(1)** – Responsibilities of Employees and Caregivers – Demonstrate Competency, Good Judgment, Self-Control: Caregivers did not use good judgment as they did not follow operation policies regarding how they account for children in each classroom and during transitions.
- **§746.3407** – Maintenance of Building, Grounds, and Equipment: The playground needs repair.

10. What happened to C.R. was preventable. As a direct and proximate result of the actions and/or omissions of Miss Bloomingdale's Academy, Plaintiffs sustained injuries and damages.

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

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

12. 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.

## **PARTIES**

13. Plaintiff Victoria Reynolds is the biological mother of Plaintiff C.R., a minor, and are citizens and residents of Dallas County, Texas.

14. Defendant Miss Bloomingdale's Academy, Inc. (hereinafter referred to as "Defendant") is a corporation doing business in the State of Texas, its state of formation. Defendant may be served with process by serving its registered agent, Melissa McRae, located at 5100 Riverside Drive, Irving, Texas 75014, or wherever they may be found.

## **JURISDICTION & VENUE**

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

16. Venue is proper in Dallas 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.

## **CAUSES OF ACTION**

### **Count One – Negligence**

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

18. 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 properly supervise the children in their care;
  - d. Failing to maintain a safe environment for children;
  - e. Failing to properly hire, qualify, train, and supervise its employee-caregivers trusted with the care of minor Plaintiff C.R.;
  - f. Failing to have appropriate visual and/or auditory awareness of each child;
  - g. Failing to account for all children under their care and supervision;
  - h. Choosing to continue to employ an unqualified, untrained, and unsupervised caregiver;
  - i. Failing to ensure caregiver employees demonstrate competency, good judgment, and self-control;
  - j. Failing to ensure no child is abused, neglected, or exploited;
  - k. Failing to perform name-to-face counts of children;
  - l. Failing to maintain its premises in good repair; and
  - m. Failing to adhere to the Texas Minimum Standards for Childcare.
19. 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 C.R. and other children similarly situated.
20. Defendant had a duty to maintain a safe environment for children in its care so as to prevent injury to C.R., and other children similarly situated.
21. Defendant had a duty to hire, train, and supervise caregiver employees to ensure that children in their care were safe to prevent injury to C.R., and other children similarly situated.



22. Defendant breached the duty of care by failing to care for the children; failing to supervise the children; failing to have appropriate visual and/or auditory awareness of each child; failing to properly train, hire, and supervise its employees; failing to maintain a safe environment for children; and failing to properly account for every child under their care and supervision.

23. 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**

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

25. 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.

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

27. Defendant's violation of the statutes was the proximate cause of the Incident in question.

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

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

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

30. 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).

31. 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.

32. 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**

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

34. Defendant was the owner, operator, and/or possessor of the daycare premises located at 5100 Riverside Drive, Irving, Texas 75039, operation license number 406187, during the time of this incident.

35. At the time of the Incident, C.R. 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.

36. 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.

37. Defendant owed Plaintiffs a legal duty to ensure C.R.’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, and ensuring that every child is properly accounted for. Defendant breached these duties by failing to maintain a safe environment for C.R. and failing to train and supervise its caregiver employees on how to supervise children.

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

#### **RESPONDEAT SUPERIOR**

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

40. 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 may be held responsible for its employees' negligence under the doctrine of respondeat superior.

### **DAMAGES**

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

42. As a direct and proximate cause of Defendant's negligent acts and/or omissions, Plaintiff Victoria Reynolds, individually, and as Next Friend of Plaintiff C.R., 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. Loss of wages in the past;
- h. Loss of wages, in reasonable probability, sustained in the future;
- i. Loss of wage-earning capacity in the past;
- j. Loss of wage-earning capacity, in reasonable probability, sustained in the future;

- k. Physical impairment in the past;
  - l. Physical impairment, in reasonable probability, sustained in the future;
  - m. Loss of the normal enjoyment of the pleasure of life in the past;
  - n. Loss of the normal enjoyment of the pleasure of life, in reasonable probability, sustained in the future;
  - o. Costs of suit; and
  - p. All other relief, in law and equity, to which Plaintiffs may be entitled.
43. 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**

44. Plaintiffs incorporate by reference the preceding paragraphs as if stated fully herein.
45. 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.
46. 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.

#### **JURY TRIAL**

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

### **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 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 10, 2024.

Respectfully submitted,

### **THE BUTTON LAW FIRM**

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### **ATTORNEYS FOR PLAINTIFFS**

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Russell Button on behalf of Russell Button

Bar No. 24077428

service@buttonlawfirm.com

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Associated Case Party: VERONICA REYNOLDS, INDIVIDUALLY AND AS NEXT FRIEND OF C.R., A MINOR CHILD

Name	BarNumber	Email	TimestampSubmitted	Status
Russell Button		service@buttonlawfirm.com	1/12/2024 4:15:23 PM	SENT