

CAUSE NO. 24-09-14422

MORGAN FONT AND TONY DAVIS,	§	IN THE DISTRICT COURT OF
INDIVIDUALLY AND AS NEXT FRIENDS	§	
AND PARENTS OF N.D., A MINOR	§	
CHILD,	§	
	§	
PLAINTIFFS,	§	
VS.	§	
	§	
PAREKH’S KIDS R KIDS CONROE, LLC	§	MONTGOMERY COUNTY, TEXAS
D/B/A KIDS R KIDS OF CONROE; RJR	§	
KIDS, LLC D/B/A KIDS R KIDS OF	§	
CONROE AND D/B/A KIDS “R” KIDS	§	
#20; AND KIDS R KIDS CONROE, LLC	§	
	§	Montgomery County - 457th Judicial District Court
DEFENDANTS.	§	_____ JUDICIAL DISTRICT

ORIGINAL PETITION AND JURY DEMAND

1. Morgan Font and Tony Davis, like many parents across this country and the state of Texas, are working parents that relied on a daycare to provide a safe, caring, nurturing environment for their two-year-old daughter, N.D., while they were working. Morgan Font and Tony Davis trusted that their daughter would be safe at Kids R Kids.¹

2. A safe learning environment and peace of mind are what parents like Morgan Font and Tony Davis pay for and expect. Instead, their worst nightmare became a reality when their daughter N.D. was inappropriately disciplined causing her serious physical, emotional, and mental injuries because of the failures of Kids R Kids. Morgan Font and Tony Davis bring this lawsuit on their family’s behalf asking for answers and asking that Kids R Kids accept responsibility.

¹ This petition refers to Defendant Parekh’s Kids R Kids of Conroe, LLC d/b/a Kids R Kids of Conroe, Defendant RJR Kids, LLC d/b/a Kids R Kids of Conroe and d/b/a Kids "R" Kids #20, and Defendant Kids R Kids Conroe, LLC, collectively as "Kids R Kids". Kids R Kids is a daycare operating at 100 Kids R Kids Dr., Conroe, Texas 77304.

STATEMENT OF FACTS

3. According to Kids R Kids, "Kids R Kids Learning Academy of Conroe prioritize peace of mind to our families and community."² Kids R Kids publicizes and sells parents on the idea that this daycare is dedicated to creating a nurturing and safe learning environment for their children. According to their website, Kids R Kids provides, "Safety first. That's the Kids R Kids way. Safety and care for every child."³ Kids R Kids further asserts that, "How we do things makes a difference! How we care matters."⁴ However, a trail of records from the state of Texas paints a very different picture.

4. Kids R Kids is responsible for qualifying, hiring, training, and supervising their employee caregivers on providing safe and proper care conducive to the welfare of the children; appropriate discipline methods; the prohibition of certain punishment methods; the use of good judgment, competency, and control; and compliance with Texas' minimum standards for childcare.

5. During the months of October 2023 through November 2023, Morgan Font and Tony Davis placed their daughter N.D. in the care of Kids R Kids for daycare. While under the care of Kids R Kids, N.D. was inappropriately disciplined on numerous occasions when she was lifted and pulled by her arms and legs and forcefully pushed onto her nap mat by a frustrated caregiver, leaving bruising. The incidents involving N.D. were discovered during a separate investigation into other accusations of neglect and misconduct against Kids R Kids, involving different children. During that investigation, it was revealed that N.D. had also been the victim of inappropriate

² Kids R Kids of Conroe's Website, <https://kidsrkids.com/conroe/> (last visited July 17, 2024).

³ *Id.*

⁴ *Id.*

discipline and handling. As result, a separate investigation into how Kids R Kids had been treating N.D. during the time period of October and November 2023 was launched.

6. The independent investigation into the Incident by the Texas Health and Human Services Commission Child-Care Licensing Division and the Texas Department of Family and Protective Services concluded that the allegations involving N.D. against Kids R Kids were *substantiated*, and cited Kids R Kids for violating the following childcare licensing rules of Texas:

- **746.2805 Discipline and Guidance – Prohibited punishment, harsh, cruel, or unusual** – Based on the information obtained during the DFPS investigation there is sufficient evidence to support that the discipline used when children did not want to sleep for naptime was harsh and cruel. A caregiver was observed throwing children on cots as well as pushing children on cots and grabbing children by the arm leaving bruising.
- **746.1201(4) General Responsibilities – Ensure no child is abused, neglected, or exploited** - Based on the information obtained during the DFPS investigation there is sufficient evidence to support that abuse occurred at the operation when a caregiver handled children roughly causing bruising on the children.
- **746.1202.(1) General Responsibilities –Demonstrate competency, good judgment, and self-control** - Based on the information obtained during the DFPS INV a caregiver did not use good judgement as they were frustrated while in ratio with the children and did not seek assistance which resulted in children being abused while in care.

7. Kids R Kids 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 the injuries sustained by N.D. Kids R Kids has a clear recent history of failing to qualify, train, and supervise employees; failing to follow the minimum standards; and failing to properly care for children.

8. The following is an overview of some of the citations issued by the Texas Health and Human Services Commission from April 2021 through October 2023:

April 2021:

- Cited for allowing two caregivers that did not have cleared background checks to be in charge of children.
- Cited for failing to properly supervise children.
- Cited multiple times for several different caregivers failing to complete required training.
- Cited for using dangerous sleep practice when allowing infants to sleep in restrictive devices.
- Cited for failing to have the proper depth of surface filling on the playground.
- Cited for failing to ensure an allergy plan was followed and unexpired medication was available for use, if necessary.

October 2021:

- Cited for failing to use proper methods of discipline and guidance.
- Cited for failing to demonstrate competency, good judgment, and self-control when a caregiver roughly handled a child.
- Cited for allowing four caregivers that did not have cleared background checks to be in charge of children.
- Cited for failing to update and maintain required background check lists.

April 2022:

- Cited for failing to complete required training.
- Cited for failing to follow proper diaper changing steps.
- Cited for failing to have a current required gas leak inspection.
- Cited for failing to have the proper depth of surface filling on the playground.
- Cited for failing to ensure an allergy plan was followed and unexpired medication was available for use, if necessary.
- Cited for failing to have proof of education requirements/photo ID on file for an employee.

July 2022:

- Cited for failing to have a completed current annual sanitation inspection.

September 2022:

- Cited for failing to notify parents of a change in operational policies and enrollment agreements.
- Cited for failing to ensure all staff have up-to-date required training completed.
- Cited for failing to complete required monthly fire drills.
- Cited for 6 out of 19 caregivers failing to have the required current CPR/First Aid training.

December 2022:

- Cited for failing to have updated feeding instructions on file for infants.

May 2023:

- Cited for failing to maintain proper child to caregiver ratio.
- Cited for failing to have a current fire inspection.
- Cited for failing to update and maintain required background check lists.

June 2023:

- Cited for caregivers failing to know how many children they are responsible for.
- Cited for failing to keep the space free from hazards when two holes in the ground were found on the playground and equipment and furniture was stashed in a bathroom accessible to children, posing a risk.

July 2023:

- Cited for failing to complete background check.
- Cited for failing to have a proper allergy safety plan on file with an unexpired epi-pen for a child with a known food allergy.
- Cited for improper diapering procedures when a caregiver wore the same pair of gloves to change the diapers of multiple children.

August 2023:

- Cited for caregivers failing to know how many children they are responsible for.
- Cited for caregiver using personal cell phone while caring for children.
- Cited for failing to maintain proper child to caregiver ratio.
- Cited for failing to maintain the playground in a safe and clean manner.

October 2023:

- Cited for failing to properly supervise children.
- Cited for failing to maintain proper child to caregiver ratio.
- Cited for failing to keep one hand on a child that was laying on a diaper changing table

9. Despite Kids R Kids' lengthy history of citations by Texas Health and Human Services Commission, Kids R Kids continues to defy the childcare licensing rules of Texas. Kids R Kids has received the following additional citations since the discovery of N.D.'s incidents:

February 2024:

- Cited for failing to maintain proper child to caregiver ratio.
- Cited for caregivers failing to know how many children they are responsible for.
- Cited for failing to smooth, non-absorbent, easy to clean diaper changing mat.

- Cited for failing to demonstrate competency, good judgment, and self-control.
- Cited for failing to properly dispose of soiled diapers.

April 2024:

- Cited for failing to maintain a food allergy emergency plan for a child with a known peanut allergy.

10. What happened to N.D. was preventable. As a direct and proximate result of the actions and omissions of Kids R Kids, Plaintiffs Morgan Font, Tony Davis and N.D. 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. Plaintiffs Morgan Font and Tony Davis are the biological parents of Plaintiff N.D., a minor, and are citizens and residents of Montgomery County, Texas.

14. Defendant Parekh's Kids R Kids of Conroe, LLC d/b/a Kids R Kids of Conroe 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, Bisma Parekh, 17519 Brackenbrae Lane, Richmond, Texas 77407, or wherever they may be found.

15. Defendant RJR Kids, LLC d/b/a Kids R Kids of Conroe and d/b/a Kids "R" Kids #20 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, Kimberly A. Bartley, at 15150 Middlebrook Drive, Houston Texas 77058, or wherever they may be found.

16. Defendant Kids R Kids Conroe, LLC 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, Bisma Parekh, 17519 Brackenbrae Lane, Richmond, Texas 77407, or wherever they may be found.

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 Montgomery 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

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 Defendants. 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 properly supervise the children in their care;
- d. Failing to intervene to ensure a child's safety;
- e. Failing to maintain a safe environment for children;
- f. Choosing to inappropriately discipline minor Plaintiff N.D.;
- g. Failing to ensure that expectations for a child's behavior are appropriate or the developmental level of that child;
- h. Failing to use only constructive, age-appropriate methods of discipline;
- i. Failing to properly hire, qualify, train, and supervise its employee-caregivers trusted with the care of minor Plaintiff N.D.;
- j. Failing to use positive methods of discipline and guidance with the children in its care;
- k. Choosing to use prohibited discipline technique that is harsh, cruel, or unusual;
- l. Failing to ensure caregiver employees demonstrate competency, good judgment, and self-control; and
- m. Failing to adhere to the Texas Minimum Standards for Childcare.

21. Defendants had a duty to exercise ordinary care in caring for, supervising, and disciplining the children in their care so as to prevent injury to Plaintiff N.D. and other children similarly situated.

22. Defendants had a duty to maintain a safe environment for children in their care so as to prevent injury to N.D., and other children similarly situated.

23. Defendants had a duty to hire, train, and supervise caregiver employees to ensure that children were not subjected to inappropriate discipline, so as to prevent injury to N.D., and other children similarly situated.

24. Defendants breached the duty of care by failing to care for children, failing to supervise children, failing to appropriately discipline children, failing to properly train, hire, and supervise their employees, and failing to maintain a safe environment for children.

25. Defendants' 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

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

27. Defendants failed to exercise the mandatory standard of care in violation of the Texas Department of Family and Protective Services, Minimum Standards for Child-Care.

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

29. Defendants' violation of the statutes was the proximate cause of the Incident in question.

30. As a result of the Defendants' acts and/or omissions in violating the statutes, Plaintiffs sustained damages.

Count Three – Gross Negligence

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

32. Defendants' conduct was more than momentary thoughtlessness or inadvertence. Rather, the acts and/or omissions by Defendants in the preceding paragraphs constitute gross negligence as that term is defined in Texas Civil Practices and Remedies Code §41.001(11).

33. Defendants' conduct involved an extreme degree of risk, considering the probability and magnitude of potential harm to the Plaintiffs. Defendants 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.

34. 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

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

36. Defendants own, operate, and/or possess the daycare premises located at 100 Kids R Kids Drive, Conroe, Texas, 77304, operation license number 829695.

37. At the time of the Incident, N.D. was a minor child placed in the care of Defendants and was thus an “invitee” to whom Defendants owed a duty to exercise ordinary care.

38. Plaintiffs’ injuries were the direct and contemporaneous result of Defendants’ ongoing negligent activity on the premises at the time of the injuries and damages sustained.

39. Defendants owed Plaintiffs a legal duty to ensure N.D.’s safety in maintaining proper care over the children, ensuring discipline over the children is appropriate, ensuring that employees are necessarily hired, trained, supervised, and terminated in order to maintain a safe environment for children. Defendants breached these duties by permitting one of their employee-caregivers to inappropriately discipline children.

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

RESPONDEAT SUPERIOR

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

42. The negligence, carelessness, and callousness of Defendants' employees proximately caused the damage and losses suffered by Plaintiffs as a result of the injury. At all times material to this action, Defendants' employees were acting in the course and scope of their employment. Accordingly, Defendants may be held responsible for their employees' negligence under the doctrine of respondeat superior.

DAMAGES

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

44. As a direct and proximate cause of Defendants' negligent acts and/or omissions, Plaintiffs Morgan Font and Tony Davis, individually, and as Parents and Next Friends of Plaintiff N.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, 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.

45. 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

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

47. Plaintiffs would further show that the acts and/or omissions of the Defendants complained of herein were committed knowingly, willfully, intentionally, with actual awareness, and with the specific and predetermined intention of enriching said Defendants at the expense of Plaintiffs.

48. The grossly negligent conduct of Defendants, as described herein, constitutes conduct for which the law allows the imposition of exemplary damages. Accordingly, Plaintiffs seek the award of exemplary damages against Defendants pursuant to Chapter 41 of the Texas Civil Practices and Remedies Code.

JURY TRIAL

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

U.S. LIFE TABLES

50. 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 Defendants be cited to appear and answer herein and upon final hearing hereof, they take, have and recover, of and from said Defendants, 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: September 16, 2024

Respectfully submitted,

THE BUTTON LAW FIRM

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