

D-1-GN-25-000531

CAUSE NO. _____

LEEANN HUBER, INDIVIDUALLY AND AS NEXT	§	IN THE DISTRICT COURT OF
FRIEND OF Z.H., A MINOR CHILD; ERIN TAPIERO,	§	
INDIVIDUALLY AND AS NEXT FRIEND OF J.T., A	§	
MINOR CHILD; AND MICHELLE DUFFY,	§	
INDIVIDUALLY AND AS NEXT FRIEND OF A.T., A	§	
MINOR CHILD,	§	
	§	
PLAINTIFFS,	§	TRAVIS COUNTY, TEXAS
	§	
VS.	§	
	§	
YMCA OF CENTRAL TEXAS,	§	201ST, DISTRICT COURT
	§	
DEFENDANT.	§	____ JUDICIAL DISTRICT

PLAINTIFFS' ORIGINAL PETITION AND JURY DEMAND

1. Plaintiffs LeeAnn Huber, Erin Tapiero, and Michelle Duffy, like many parents across this country and the state of Texas, are working parents that relied on a daycare to provide a safe, caring, and nurturing environment for their children while they were working. These parents trusted that their children would be safe at the YMCA.¹

2. These parents trusted that they selected the right daycare that would provide a safe learning environment for their children when they enrolled them at the YMCA. A safe learning environment and peace of mind are what parents like LeeAnn Huber, Erin Tapiero, and Michelle

¹ This Petition refers to Defendant YMCA of Central Texas as “**YMCA.**” Defendant YMCA of Central Texas operates a childcare program at Northwest Elementary School under the license number 1698328 and the licensee’s name of Pflugerville Northwest Elementary Child Development Center.

Duffy pay for and expect. Instead, their worst nightmare became a reality when their children suffered serious physical, emotional, and mental injuries because of the failures of the YMCA. Plaintiffs bring this lawsuit on behalf of their families, asking that the YMCA accept responsibility.

STATEMENT OF FACTS

3. According to the YMCA, "Our mission is to provide a safe, and nurturing environment for all children by promoting healthy character development of spirit, mind and body."² Per the YMCA's own Family Handbook, they "commit to" ensuring "the safety and health of all participants and provide a responsive and caring environment for them."³ However, the story of what happened to Z.H., J.T., and A.T., and a trail of records from the state of Texas paints a very different picture.

4. The YMCA is responsible for qualifying, hiring, training, and supervising its caregiver employees on providing safe and proper care conducive to the welfare of children, appropriate discipline methods, the prohibition of certain punishment methods, compliance with Texas' Minimum Standards for Childcare, the use of good judgment, competency, and control, and the proper response and documentation of incidents of injury and situations that place children at risk.

5. In late February 2024, Pandora's box was opened when a simple hunt for a child's missing shoe revealed regular and ongoing use of prohibited punishments against multiple children

² YMCA of Central Texas, Family Handbook, Northwest Child Development Center, Pg. 3, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.pfisd.net/cms/lib/TX01001527/Centricity/Domain/1960/23-24%20Northwest%20CDC%20Parent%20Handbook.pdf

³ YMCA of Central Texas, Family Handbook, Northwest Child Development Center, Pg. 4, chrome-extension://efaidnbmnnnibpcajpcglclefindmkaj/https://www.pfisd.net/cms/lib/TX01001527/Centricity/Domain/1960/23-24%20Northwest%20CDC%20Parent%20Handbook.pdf

including Z.H., J.T., and A.T. Julie Lichtner, the YMCA Senior Program Director, reached out to the Human Resources Director of Pflugerville ISD via phone for assistance in watching past video footage to help locate a missing shoe. While on the phone with YMCA's Julie Lichtner, the Human Resources Director of Pflugerville ISD observed a YMCA employee subjecting kids to inappropriate and unsafe discipline methods.

6. Video footage from February 21, 2024, shows several children playing in a small make-shift enclosure as YMCA employee Geraline Browning, is observed sitting on a chair and looking down at her personal cell phone, completely inattentive to the children in her care. The YMCA employee is then seen walking over to Z.H., aggressively grabbing her right upper arm, and then forcefully walking her to the middle of the enclosure where she makes Z.H. sit down on the floor. After placing Z.H. on the floor, directly in front of her, the YMCA employee is seen resuming her attention back to her cell phone. The footage shows Z.H. is extremely upset over this interaction.

7. Frustrated by Z.H.'s crying, the footage then shows the YMCA employee grabbing Z.H. by the throat and choking and shaking Z.H. as she berates her for crying. Terrified and desperate to break free, Z.H. is seen grabbing onto the YMCA employee's hand as it is gripped around her throat. The YMCA employee then releases Z.H. and once again directs her attention back to her cell phone as Z.H. continues to cry.



8. Thereafter, the Pflugerville ISD Police Department began their investigation into what was first discovered on the February 21, 2024, footage. During the investigation, Ms. Huber reported to detectives that Z.H. would often come home with unexplained bruises and scratches, but when she would question the YMCA, they could never explain how Z.H. sustained the injuries and was never provided with incident reports for those injuries. As such, the detectives continued to watch more and more video footage.

9. On March 21, 2024, Pflugerville ISD Police Detectives met with Carla Amacher, the YMCA District Executive Director, and Adrienne Smith, the YMCA location Director, and showed them video footage of incidents involving at least three children. The YMCA employees both assisted in identifying the children seen in the footage. Despite observing the incidents involving at least three children, YMCA failed to report the incidents to the state, failed to create an incident report, and failed to notify the parents of at least two of the three children involved, as Texas law requires YMCA to do.

10. The investigation that followed revealed the conduct of the YMCA employee was common at the YMCA. Additional video footage revealed numerous other children were

subjected to the same or similar prohibited forms of punishments, including 2-year-old J.T. and 2-year-old A.T.

- a. **Video footage from January 29, 2024, at 4:00pm**, shows the YMCA employee aggressively yank 2-year-old A.T. by her left arm, off a stepstool she is using to reach a sink. A.T. is seen walking away crying in fear and pain.
- b. **Video footage from February 7, 2024, at 2:23pm**, shows the YMCA employee grabbing another 2-year-old with her left hand around the left side of the child's neck and her right hand at the child's chest and then proceeding to carry the child in this manner to a napping area before placing the child face-down on a nap mat.
- c. **Video footage from February 7, 2024, at 2:27pm**, shows the YMCA employee roughly grabbing a 2-year-old child from under the arms.
- d. **Video footage from February 12, 2024, at 9:04am**, shows the YMCA employee grabbing J.T. by her neck and choking her for 6 seconds before releasing her. J.T. is seen hysterically crying from the pain and trauma.
- e. **Video footage from February 20, 2024, at 8:02am**, shows the YMCA employee grab A.T. from behind at the neck and collarbone with both hands and aggressively push A.T. to the floor. A.T. immediately begins to cry and grabs her neck from the pain as the YMCA employee takes a toy away from A.T. to place it on a shelf out of reach from A.T. The YMCA employee is then seen grabbing A.T. off the floor from underneath her arms and aggressively placing A.T. on a chair while A.T. continues to cry.
- f. **Video footage from February 20, 2024, at 8:32am**, shows the YMCA employee grabbing J.T. from the back of the neck, spinning her around 180 degrees, and forcing

her to the floor before stomping off. A few seconds later, the YMCA employee walks back toward J.T. and berates her causing J.T. hysterically cry. The other children in the class are seen frozen in fear as they watch.

g. **Video footage from February 20, 2024, at 8:55am**, shows the YMCA employee approach A.T. causing A.T. to flinch and cover her head in fear. The YMCA employee then grabs A.T.'s face at the jawbone area underneath her ears, applying pressure to the mandibular angle pressure point, and pulling A.T. onto her lap.

h. **Video footage from February 21, 2024, at 10:10am**, shows the YMCA employee grab an unknown child at the base of the neck and collarbone area to then shake the child and scold the child. The child begins to cry and is seen grabbing and touching the back and left side of his neck in pain.

i. **Video footage from February 21, 2024, at 10:13am**, shows the YMCA employee bumping into A.T. while walking through the play area, causing A.T. to fall and hit her forehead on a cabinet. Instead of tending to A.T. – who is crying and holding her forehead in pain – the YMCA employee looks down at A.T. and then just walks away.

11. The investigation further revealed that the YMCA failed to create incident reports related to any of the incidents until after the state licensing department issued citations for the failure and instructed the YMCA to provide incident reports to the parents in compliance with the laws of Texas.

12. In addition, state licensing department interviews conducted with YMCA employees revealed that daycare was routinely out of ratio, placing too many children in the care of too few caregivers, specifically in the classroom where Z.H., J.T., and A.T. were placed. According to

statements made by YMCA employees, the Director was aware of the classrooms being out of ratio but was often not present at the YMCA location in order to assist.

13. Even more alarming, the YMCA did not immediately terminate Geraline Browning after learning of the first incident involving Z.H. Instead, the YMCA placed their employee on suspension, before finally terminating her once Pflugerville ISD Police Department became involved.

14. Subsequently, upon involvement of law enforcement, the YMCA employee was arrested, criminally charged, and is awaiting trial. As the wheels of the criminal justice system turn in the prosecution of Geraline Browning, LeeAnn Huber, Erin Tapiero, and Michelle Duffy bring this civil suit looking for answers, justice, and accountability from the YMCA.

15. The YMCA 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. The Texas Health and Human Services Commission Child-Care Licensing Division and the Texas Department of Family and Protective Services conducted and independent investigations into the incidents involving Plaintiffs and concluded that the allegations were substantiated, **citing the YMCA for TWENTY-THREE individual deficiencies** 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:**
 - A child was physically abused while in care.
- **746.2805 – Prohibited Punishments – No Harsh, Cruel, or Unusual:**
 - A caregiver grabbed a child by the throat and shook the child causing the child to have difficulty breathing.
- **FIVE CITATIONS ISSUED FOR VIOLATING 746.2805(3) – Prohibited Punishments – Grabbing and Pulling:**

- A caregiver grabbed a child's arm to move her to a different place in the classroom.
 - A caregiver grabbed a child at the base of the neck while in the classroom causing the child to cry.
 - A caregiver grabbed a child by the neck and chest to redirect the child.
 - A caregiver grabbed a child by the neck while forcing the child down to the ground.
 - A caregiver grabbed a child by the neck, and holding the child by the neck as the child is redirected across the room by the back of the neck. The caregiver is also observed grabbing another child by the bottom of the neck.
- **FOUR CITATIONS ISSUED FOR VIOLATION OF 746.701(5) – Licensing Incident/Illness Report Form – Situation Placing Children at Risk:**
 - The operation did not provide the Licensing Incident/illness report form, or any written injury/illness form to the parents of children that were injured in care.
- **746.1203(3)(D) – Personal use of electronic devices, such as cell phones, MP3 players, tablets, and vide games:**
 - A caregiver was observed using her cell phone while caring for a group of children.
- **TWO CITATIONS ISSUED FOR VIOLATION OF 746.2805(1) – Prohibited Punishments – Corporal Punishment:**
 - A caregiver was observed bumping her leg into a child causing the child to fall down.
 - A caregiver picked a child up by the neck and moved them from a standing position at a table to a sitting position on the ground.
- **THREE CITATIONS ISSUED FOR VIOLATION OF 746.2501(4) – Care Requirements for Toddlers – Holding and Comforting:**
 - A caregiver did not intervene to hold or comfort a crying child.
 - A caregiver did not hold or comfort a child who was visibly upset after being picked and moved by her neck.
 - A caregiver did not hold or comfort a child who was visibly upset after being redirected across the room by the neck.
- **THREE CITATIONS ISSUED FOR VIOLATION OF 746.305(a)(6) – Report Situation Placing Children at Risk:**
 - The operation did not notify CCR of a situation that placed children at risk while in care.

- **TWO CITATIONS ISSUED FOR VIOLATION OF 746.1201(1) – Responsibilities of Employees and Caregivers – Demonstrate Competency, Good Judgment and Self-Control:**
 - Good judgment and self-control were not demonstrated when a caregiver displayed negative behaviors towards children in care and lost her temper towards children in care.
- **746.1601 – Child/Caregiver Ration – 13 or More Children:**
 - A two-year-old classroom was out of ratio as it had one caregiver caring for 13-14 children.

16. The investigation conducted by the state of Texas revealed that other YMCA employees observed Geraline Browning failing to properly supervise children in her care. They reported seeing Geraline Browning often stepping out of the classroom and leaving children completely unsupervised and noticed Geraline Browning using her personal cell phone several times while caring for children.

17. The YMCA negligently operated its facility, failed to ensure its employees were qualified individuals, failed to train its employees on proper methods of discipline and guidance, and failed to supervise the conduct of its employees. What happened to Z.H., J.T., and A.T. was preventable. As a direct and proximate result of the actions and omissions of the YMCA, Plaintiffs sustained injuries and damages.

18. On December 8, 2023 – just a couple months before Pandora’s box was opened – the YMCA negligently failed to properly supervise J.T. and another child, when YMCA employees left J.T. and the other child behind, alone and unsupervised, during a fire drill. The investigation into the incident revealed ongoing issues with YMCA staff qualifications, staff training, staff supervision, and the center being out of ratio. The following information was shared by YMCA employees with childcare licensing investigators during the investigation into the incident involving J.T. being negligently supervised by the YMCA:

- a. The stand-in Director, who was a YMCA employee from the *Round Rock* location that was stepping in to help staff the center told licensing investigators that she felt the staff needed more training and that they needed to figure out a solid plan for staffing and leadership.
- b. A YMCA employee reported that she didn't think the place was a safe place for children, the toddler staff didn't have hands-on training, she had concerns over the staff not being honest on incident reports, infants were kept in highchairs for too long, and that the center was out of ratio often. She also reported that the center did not have enough toys, so the children were always fighting with each other. She reported that when she would raise these concerns, nothing would be done.
- c. Another YMCA employee reported that the staff was not trained on how to handle a fire drill. Even more alarming, she reported that she had not had any formal training from the YMCA, despite having worked there for two months. She reported that when she would bring up concerns regarding things like ants outside, being put out of ratio, staff being on their personal cell phones, and a lack of help – nothing would be resolved.
- d. A third YMCA employee reported that the employees in the class next door to her, the toddler class, did not have proper training. Further, she reported an ongoing concern with the turnover in the Director's position as she had seen five different Directors over the course of her three years of employment.

19. The investigation into the incident involving the failure to properly supervise J.T. on December 8, 2023, resulted in a deficiency citation for the failure to supervise and a deficiency

citation for failing to have a qualified person designated as in charge of the facility during the absence of the Director. Clearly, it was not a matter of *if* a child would be hurt by the failures of the YMCA – but rather, a question of *when*.

20. In addition to the December 2023 incident involving J.T., the YMCA 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 incidents and the injuries sustained by Z.H., J.T., and A.T. The YMCA 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.

21. The following is an overview of some of the citations issued by Texas Health and Human Services Commission Child-Care Licensing Division, from August 2019 through January 2023:

- **October 2019:**
 - Cited for failing to complete an annual Consumer Product Safety Form

- **December 2019:**
 - Cited for failing to have the license and the keeping children safe poster posted in the center and for failing to have a current employee list.
 - Cited for failing to have the operating hours and the infant safe sleep policies noted in their operational policies.

- **March 2021:**
 - Cited for failing to complete an annual Consumer Product Safety Form

- **September 2021:**
 - Cited for failing to have the background check results of a caregiver before allowing a caregiver to care for children

- **February 2022:**
 - Cited for failing to adhere to the child/caregiver ratios.
 - Cited due to two caregivers and the director's failure to know how many children they were responsible for or their ages.

- Cited for failing to notify licensing of a change in director.
 - Cited for failing to have the updated vaccine records for children.
 - Cited for placing infants in restrictive devices and not given ample opportunities for physical activity.
- **January 2023:**
 - Cited for failing to review and update the infant feeding instructions as required to do so every 30 days.
- **December 2023:**
 - Cited for failing to properly supervise the children to ensure each child's safety and well-being when two children (J.T. and another child) were left alone in a classroom during a fire drill.
 - Cited for failing to have the fire extinguishers inspected as they are required to do on a monthly basis.
 - Cited for failing have someone responsible or in charge of the operation in the absence of the director.
 - Cited for failing to have the carbon monoxide detector system inspected or tested annually.
- **March 2024:**
 - Cited for blocking the emergency exit in a classroom

DISCOVERY CONTROL PLAN & CLAIM FOR RELIEF

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

23. 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

24. Plaintiff LeeAnn Huber is the biological mother of Plaintiff Z.H., a minor child, and are citizens and residents of Travis County, Texas.

25. Plaintiff Erin Tapiero is the biological mother of Plaintiff J.T., a minor child, and are citizens and residents of Williamson County, Texas.

26. Plaintiff Michelle Duffy is the biological mother of Plaintiff A.T., a minor child, and are citizens and residents of Travis County, Texas.

27. Defendant YMCA of Central Texas (herein referred to as "YMCA") is a corporation doing business in the State of Texas. Defendant may be served with process by serving its registered agent, Patrick Murphy, 6800 Harvey Drive, Waco, Texas 76710.

JURISDICTION & VENUE

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

29. Venue is proper in Travis 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.

NO CHARITABLE IMMUNITY OR LIMITATIONS ON LIABILITY

30. Neither the YMCA nor its employees are entitled to immunity under Texas Civil Practices & Remedies Code Chapter 84, or Texas Family Code § 264.174. At all relevant times, as described above and based on the evidence Plaintiffs anticipate developing throughout this action, the acts and omissions of the YMCA and its employees were willfully negligent and done with conscious indifference or reckless disregard for the safety of Z.H, J.T., and A.T.

CAUSES OF ACTION AGAINST DEFENDANTS

Count One – Negligence

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

32. 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 intervene to ensure a child's safety;
- e. Failing to maintain a safe environment for children;
- f. Failing to ensure that expectations for a child's behavior is appropriate for the developmental level of that child;
- 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. Failing to use only constructive, age-appropriate methods of discipline,
- k. Choosing to use a prohibited discipline technique that is humiliating, threatening, or frightening to children such as shaming, ridiculing, speaking harshly, abuse, physical striking, and/or profanity;
- l. Failing to immediately notify parents of a situation that placed their child at risk;

- m. Failing to use firm, positive statements or redirections of behavior with children;
 - n. Failing to record and report serious injuries sustained by children in its care; and
 - o. Failing to adhere to the Texas Minimum Standards for Childcare.
33. Defendant had a duty to exercise ordinary care in caring for, supervising, and disciplining the children in its care so as to prevent injury to Plaintiffs and other children similarly situated.
34. Defendant had a duty to maintain a safe environment for children in its care so as to prevent injury to Plaintiffs, and other children similarly situated.
35. Defendant had a duty to hire, train, and supervise caregiver-employees and staff to ensure that children were not subjected to inappropriate discipline and prohibited forms of punishment, to prevent injury to Plaintiffs and other children similarly situated.
36. Defendant breached the duty of care by failing to care for the children, failing to supervise the children, failing to appropriately discipline children, failing to maintain a safe environment for children, failing to hire, train, and supervise qualified caregivers and staff to care for children, and failing to immediately notify parents of a situation placing their children at risk or causing harm to them.
37. 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

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

40. 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.

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

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

Count Three – Gross Negligence

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

44. 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).

45. 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.

46. 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

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

48. Defendant is the owner, operator, and/or possessor of the daycare premises located at 14014 Thermal Drive, Austin, Texas 78728, operation license number 1698328.

49. At the time of the incident, Plaintiffs were minor children placed in the care of Defendant and thus were "invitees" to whom Defendant owed a duty to exercise ordinary care.

50. 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.

51. Defendant owed Plaintiffs a legal duty to ensure their safety in maintaining proper care over the children, ensuring proper supervision, ensuring proper discipline methods, ensuring that employees are necessarily hired, trained, supervised, and terminated in order to maintain a safe environment for children, ensuring that serious injuries are recorded and reported, and on responding to medical emergencies. Defendant breached these duties by failing to maintain a safe environment for Plaintiffs, failing to train and supervise its caregiver employees on how to supervise children, and by failing to train and supervise its caregivers on proper forms of discipline.

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

RESPONDEAT SUPERIOR

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

54. 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

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

56. As a direct and proximate cause of Defendant's negligent acts and/or omissions, Plaintiffs 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. Disfigurement, in reasonable probability, sustained in the past;
- f. Disfigurement, in reasonable probability, sustained in the future;
- g. Reasonable and necessary medical expenses in the past;
- h. Reasonable and necessary medical expenses, 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.

57. 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

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

59. 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.

60. 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

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

U.S. LIFE TABLES

62. 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 23, 2025.

Respectfully submitted,

THE BUTTON LAW FIRM

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Russell Button on behalf of Russell Button

Bar No. 24077428

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Associated Case Party: LEEANN HUBER

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Russell Button		service@buttonlawfirm.com	1/23/2025 2:56:15 PM	SENT