

IN THE DISTRICT COURT OF MUSKOGEE COUNTY
STATE OF OKLAHOMA

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COUNTY OF MUSKOGEE
FILED

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PAULA SEXTON
COURT CLERK

JULIE ROBINSON, on behalf of herself and)
As parent and next of kin to and on)
behalf of J. R., a)
minor child,)

Plaintiff,)

Vs.)

Case No. CJ-2018- 418
Judge Thygesen

CHAMPIONS DAY CARE, a general)
partnership, consisting of Marnita Archie,)
Lathon Archie III, Lathon Archie Jr. and)
Candace Archie and each of them jointly)
And severally)
and, Opal Jimerson, and)
Jane Doe #1, Jane Doe #2, Jane Doe#3, and,)
John Doe#1.)

Defendants.)

PETITION FOR DAMAGES

Comes now the Plaintiff, Julie Robinson, on behalf of herself individually and as mother and next-of-kin to J.R., a minor child, by and through her counsel, Steve Money Law, PLLC, and for her causes of action against the Defendants, and each of them, alleges and states as follows:

GENERAL ALLEGATIONS

1. That Champions Day Care Center (hereinafter "Champions") is a duly organized and existing general partnership (the Partnership) consisting of general partners Marnita Archie, Lathon Archie III (deceased), Lathon Archie Jr. and Candace Archie each of whom are jointly and severally liable for the acts of the Partnership.

2. Defendant Champions is a duly licensed day care facility in good standing with the state of Oklahoma and is in the business of providing day care for minor children.

3. That Champions conducts business within Muskogee County and was open for and conducting business on August 9, 2018.
4. That Champions has the duty and responsibility of providing a safe environment to protect the children in Champion's care during its normal course of business.
5. That Opal Jimerson is the Director of Champions and oversaw the operations of Champions on August 9, 2018.

COUNT 1
(NEGLIGENCE)

6. That on or about the 9th day of August 2018, Defendant Champions Day Care Center was open for business caring for minor children of various ages, including J.R.
7. That little six-year old J.R. arrived to be cared for per her usual schedule.
8. That upon arrival J.R. was in good health, her face and skull were fully intact, unmarked and undamaged in any way.
9. That while J.R. was in the care and custody of Champions, Champions had the duty and obligation to provide a safe and secure environment for J.R. and to protect her from injuries, wounds and other damages.
10. That sometime during normal business hours J.R. was injured in such a violent manner that she suffered severe and perhaps permanently disfiguring wounds to her face.
11. That the devastating injuries to J.R. include, without limitation, a fractured orbital bone, damage to roots of her teeth, contusion to the inside of her mouth and a severe disfiguring gash to her upper lip requiring sutures.
12. That the injuries to J.R. were not self-inflicted nor by any outside third-party.

13. That Champions breached its duty to provide adequate staffing and supervision and to protect J.R.
14. That all injuries to J.R. occurred while in the sole care and custody of Champions.
15. That the injuries and damages suffered by J.R. became known to Champions but Champions failed to call 911 or to immediately seek any emergency medical care or treatment.
16. That Defendant Opal Jimerson, in her personal vehicle, transported J.R. to an urgent care center.
17. That Defendant Jimerson telephoned the Plaintiff asking Plaintiff to meet at the urgent care.
18. That Defendant Jimerson told the Plaintiff that J.R. had "busted her lip."
19. That due to the severity of J.R.'s wounds and injuries the urgent care center immediately directed Defendant Jimerson to take J.R. to St. Francis Hospital in Muskogee.
20. That Defendant Jimerson did not tell the Plaintiff that J.R.'s eye was black and swollen shut or that her lip was gashed virtually through-and-through and was bleeding profusely.
21. That Champions failure and neglect to provide adequate supervision and safe environment constitutes a breach of its duties to J.R.
22. That the breach of duty by Champions to protect J.R. is the proximate and legal cause for the disfigurement and devastating injuries suffered by J.R.
23. That the Defendants, and each of them, including Jane Does 1-3 and John Doe #1 are jointly and severally liable for all injuries, damages and disfigurement caused to J.R. while in the care and control of Champions.

WHEREFORE, Plaintiff (s) prays for judgment against the Defendants, and each of them, jointly and severally, for compensatory damages in an amount of not less than TEN-THOUSAND AND NO/100 DOLLARS (\$10,000.00) plus all costs and fees including attorney fees and such other relief as the Court deems preproperate.

COUNT II
(RES IPSA LOQUITOR)

Comes now the Plaintiff(s) and hereby adopts and incorporates by reference paragraphs 1-23 as if fully restated herein and additionally states as follows:

24. That the injuries and wounds inflicted upon and suffered by J.R. were neither self-inflicted nor previously existing.

25. That the injuries and wounds suffered by J.R. were caused and inflicted during such time that J.R. was in the sole custody, care and control of Champions.

26. That the doctrine of *Res Ipsa Loquitor* applies to the facts herein subjecting all Defendants, jointly and severally, to liability for all economic and non-economic damages suffered by the Plaintiff(s).

WHEREFORE, Plaintiff (s) prays for judgment against the Defendants, and each of them, jointly and severally, for compensatory damages in an amount of not less than TEN-THOUSAND AND NO/100 DOLLARS (\$10,000.00) plus all costs and fees including attorney fees and such other relief as the Court deems appropriate.

COUNT III

(EXEMPLARY DAMAGES)

Comes now the Plaintiff(s) and hereby adopts and incorporates by reference paragraphs 1-26 as if fully restated herein and additionally states as follows:

27. That Champions is supervised and regulated by the Oklahoma Department of Health and Human Services (DHS).

28. That DHS has the duty and obligation to ensure that licensed day care centers are operated in compliance with the rules and regulations of the State of Oklahoma as promulgated by the DHS.

29. That since 2015 DHS has performed at least 16 regulatory inspections to ascertain whether Champions is operating in compliance with the rules and regulations of the State of Oklahoma.

30. That on or about January 4, 2016, DHS found violations for no weekly lesson plans and no weekly menu posted as required by DHS rules. No disciplinary action was taken by DHS against Champions.

31. That on or about September 13, 2016, DHS found that three staff members of Champions, Marcie Bridges, Jonathan Collins and Tori Jimerson did not have current "Professional Development Ladder" certificate compliance ("PDL") as required by DHS rules. . No disciplinary action was taken by DHS against Champions.

32. That on or about May,4, 2017, DHS found Champions in violation of DHS rules in that employee Bertha Anderson did not have a PDL certificate. .No disciplinary action was taken by DHS against Champions.

33. That on or about May 4, 2017, DHS found that Champions employee Kyla Hamm did not have a current CPR & First aid training certificate. No disciplinary action was taken by DHS against Champions.

34. That on or about May 4, 2017, DHS found that Champions Physical Environment Checklist had not been completed in over a year. No disciplinary action was taken by DHS against Champions.

35. That on or about September 14, 2017, DHS found that a classroom of 2-year old children and older were out of the mandatory adult-to-children ratio with only 1 adult supervisor for 9 children including 5 two-year olds. No disciplinary action was taken by DHS against Champions.

36. That on or about January 2, 2018, DHS found that there was a large gap in the outdoor fenced play area and that the gate did not latch to the fence. No disciplinary action was taken by DHS against Champions.

37. That on or about January 2, 2018, DHS found that there was a large kitchen knife accessible to children near the kitchen area. No disciplinary action was taken by DHS against Champions.

38. That on or about January 2, 2018, DHS found standing water in a mop bucket in the hall area that was accessible to children. No disciplinary action was taken by DHS against Champions.

39. That on or about January 2, 2018, DHS found that yet another staff member did not have her PDL certificate. No disciplinary action was taken by DHS against Champions.

40. That on or about August 16, 2018, DHS found that an infant was sleeping in an inappropriate sleep environment. No disciplinary action was taken by DHS against Champions.

41. That on or about August 10, 2018, the day after J.R.'s face was smashed, DHS found that Champions failed to comply with the supervision rules and regulations of DHS and found the complaint of lack of supervision by the Defendants as "Founded".