

IN THE CIRCUIT COURT OF THE 9th
JUDICIAL CIRCUIT IN AND FOR
ORANGE COUNTY, FLORIDA

CASE NO. 2012 CA 5516

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A.C., a minor, by and through his
legally appointed guardian of property,
GINETTE SINK, and N.E., individually
and as mother and guardian of the
person of A.C., a minor,

Plaintiffs,

vs.

KIDDIE U, INC., a Florida corporation
for profit,

Defendant.

**COMPLAINT FOR DAMAGES
AND DEMAND FOR JURY TRIAL**

Plaintiffs, A.C., a minor, by and through his legally appointed guardian of property, GINETTE SINK, and N.E., individually and as mother and guardian of the person of A.C., a minor, by and through undersigned counsel, hereby sue Defendant, KIDDIE U., INC., a Florida corporation for profit, and allege as follows:

1. This is an action for damages in excess of \$5,000.00 (fifteen thousand dollars), exclusive of interest and costs and otherwise within the jurisdictional limits of this court.



2. At all times material, Plaintiffs, A.C. and N.E., were residents of Orange County, Florida.

3. At all times material, Defendant, KIDDIE U, INC., was and is a Florida corporation for profit authorized to do business and doing business in the State of Florida and Orange County (hereinafter “KIDDIE U”).

4. At all times material, Plaintiff GINETTE SINK has been duly appointed as the legal guardian of the property of minor A.C. by the guardianship court in Orange County, Florida.

5. The minor Plaintiff, identified by his initials A.C., is a child who was the victim of a sexual battery and is being identified by this pseudonym to protect his privacy. The mother of minor Plaintiff A.C., is identified by her initials N.E. The actual identity of the Plaintiffs is known to the Defendants and/or their complete identities will be provided in discovery to the Defendants.

5. At all times material, Defendant owned, operated, managed, maintained, supervised, ran, and controlled a certain child care center known as “Kiddie U,” located at 7666 Wallace Road, Orlando, Orange County, Florida.

6. Defendant offered for a fee to members of the public, including the Plaintiffs herein, to provide expert child care services to preschool and school children.



7. At all times material, Defendant employed teachers, assistants, babysitters, and other staff to care for, supervise and teach the children in their care, including the minor Plaintiff.

8. At all times material, Defendant KIDDIE U employed, hired, retained, trained, supervised, contracted, controlled and/or directed certain persons to care for, teach, watch and supervise the minor Plaintiff at said KIDDIE U child care center.

7. On and before August 26, 2010 the minor Plaintiff A.C. was a 6 year-old child enrolled at KIDDIE U and was in the custody and care of the Defendant.

8. On August 26, 2010, minor Plaintiff A.C.'s mother, N.E., learned for the first time that on that day, and on at least four other times, her son was sexually battered by an older child who was permitted to sexually abuse her child.

9. The older child, identified as C.G., was approximately three years older than A.C. but was permitted by Defendant's employees and staff to have access to the much younger minor Plaintiff.

10. The Defendant and its employees and staff were also aware that "C.G." had built a "fort" with sheets and other materials in the "gym room" in which the minor plaintiff was assigned, which "fort" provided seclusion and a perfect location for the sexual abuse taking place right in the middle of KIDDIE U.

11. The “fort” prevent any supervision of the children inside and it is the reason why “C.G.” was able to commit the homosexual acts of sexual battery upon the 6 year-old minor Plaintiff.

12. The acts of sexual battery committed by “C.G.” upon the minor Plaintiff included fondling, oral sex and sodomy, resulting in significant and permanent injuries as set forth below.

COUNT I

NEGLIGENCE OF DEFENDANT KIDDIE U

Plaintiffs re-allege and re-adopt paragraphs 1 through 12 as if fully set forth herein, and alternatively and/or concurrently further allege that:

13. Prior to August 21, 2010 Plaintiff N.E. had enrolled her son in child care at Defendant Kiddie U.

14. At all times and prior to August 21, 2010, employees and representatives of KIDDIE U had assured Plaintiff N.E., as mother of minor Plaintiff A.C., that her son was safe, would be cared for in a skilled and expert manner, and in fact the facility had state of the art security and safety equipment.

15. At all times material Defendant owed the Plaintiffs a duty of reasonable care, which duty included providing supervision to the minor Plaintiff, keeping children together by age, and preventing one child from physically or sexually abusing

another child while in the care, custody and control of Kiddie U.

16. At all times material, Defendant is and was vicariously liable by virtue of *respondet superior* for the acts and omissions of its employees, staff, teachers, agents and servants at the subject facility known as Kiddie U.

17. Defendant KIDDIE U, by and through the acts and omissions of its employees, teachers, staff, agents, and/or servants, breached its duty of care to the Plaintiffs and was negligent in one or more of the following ways:

- a. By negligently failing to provide reasonable child care to minor A.C.;
- b. By negligently allowing the presence of the older, larger child, "C.G." in the room where minor Plaintiff A.C. was placed and/or negligently placing "C.G." in said room;
- c. By negligently allowing, creating, condoning, maintaining and/or ignoring a certain hidden area known as a "fort" in said room where the minor Plaintiff was placed, which afforded privacy to the sexually abusing child and prevented reasonable visibility and supervision by the staff of what was taking place, which included acts of homosexual sexual assault and battery including forced oral sex and sodomy;
- d. By negligently failing to advise or warn N.E. of the presence of a boy in A.C.'s room who was three years older and considerably larger;
- e. By negligently failing to advise or warn N.E. of the presence of the "fort" and any other area which afforded privacy and a lack of supervision so that her son could be violently sexually assaulted while in the care, custody and control of Defendant KIDDIE U;

- f. By negligently and/or intentionally misrepresenting to N.E. that Defendant KIDDIE U provided a safe environment for her child and that all rooms afforded video surveillance when in fact the room in which this sexual abuse took place had no security or video cameras;
- g. By failing to take reasonable steps to stop the sexual abuse once it became apparent that something untoward was taking place right in the room in KIDDIE U when those who are in the business of caring for children would know, or reasonably should know, that acts of sexual violence and/or other inappropriate acts were taking place inside this room;
- h. By failing to properly and/or appropriately staff the room in which minor Plaintiff A.C. was assigned, either in numbers of staff or in the skill of the staff assigned, including on August 26, 2010 having only one teacher in the gym room when the situation called for more than that and the Defendant's own standards called for greater supervision;
- i. By failing to advise parents of other children in this classroom that their child might have been victimized by the minor perpetrator "C.G." when, upon information and belief, it appears that minor Plaintiff A.C. was not the only child victimized in this hidden area of KIDDIE U;
- j. other acts of negligence not yet discovered.

18. Due to the above negligent acts of Defendant KIDDIE U, minor Plaintiff A.C. was sexually assaulted and abused by "C.G." while in the custody, care and control of KIDDIE U.

19. As a direct and proximate result of the negligence and carelessness of Defendant KIDDIE U, minor Plaintiff A.C. was sexually assaulted and sexually battered, including being fondled, forced to perform oral sex, and sodomized; suffered pain therefrom; sustained disabilities, mental anguish, psychological injury (including but not limited to post traumatic stress disorder), loss of capacity of enjoyment of life, loss of earning capacity in the future, inconvenience, aggravation of pre-existing conditions, and all other elements of damages allowed under Florida law. All of these injuries are permanent and continuing in nature.

20. As a further direct and proximate result of Defendant KIDDIE U's negligence, Plaintiff N.E., as mother of minor Plaintiff A.C., has incurred medical and psychological expenses for his care and treatment in an effort to alleviate and cure his injuries, and will continue to incur additional expenses in the future.

WHEREFORE, Plaintiffs demand judgment in excess of the Court's jurisdictional limits, pre- and post-judgment interest as allowed by law, costs in bringing this action, and demands a trial by jury on all issues so triable.

COUNT II

NEGLIGENT MISREPRESENTATION BY DEFENDANT KIDDIE U

Plaintiffs reallege and readopt paragraphs 1 through 20 and further allege:

21. At all times material, plaintiff N.E. was and is the mother of minor

Plaintiff A.C., who at age 6 was the victim of a series of sexual batteries while in the custody, care and control of Defendant KIDDIE U.

22. Prior to placing her child, A.C., in the care, custody and control of Defendant KIDDIE U for the first time, Plaintiff N.E. spoke with employees, agents and officers of the Defendant with regard to her child's welfare and safety.

23. One or more representation was made by an employee of Defendant KIDDIE U to the effect that there was a video camera in every room at KIDDIE U.

24. This representation was made to N.E. prior to her paying for her son to attend and become under the care, custody and control of the Defendant, KIDDIE U.

25. Plaintiff N.E. relied upon this representation prior to paying Defendant to care for her son, and prior to Defendant KIDDIE U taking custody of the minor Plaintiff each day for day care.

26. In fact, Plaintiff N.E. learned for the first time on August 26, 2010 that the "gym room" where her son was placed by Defendant KIDDIE U was the only room in the facility which did NOT have any video surveillance or camera.

27. The representation made to Plaintiff N.E. was false at the time it was made, and the Plaintiff relied upon that representation, along with other representations of safety and competence in child care, to the detriment of her son, A.C., who was sexually abused, assaulted and battered while in the care, custody and

control of the Defendant in the “gym room” on five or more occasions on and prior to August 26, 2010 at KIDDIE U.

28. As a direct and proximate result of the misrepresentations of Defendant KIDDIE U, minor Plaintiff A.C. was sexually assaulted and sexually battered, including being fondled, forced to perform oral sex, and sodomized; suffered pain therefrom; sustained disabilities, mental anguish, psychological injury (including but not limited to post traumatic stress disorder), loss of capacity of enjoyment of life, loss of earning capacity in the future, inconvenience, aggravation of pre-existing conditions, and all other elements of damages allowed under Florida law. All of these injuries are permanent and continuing in nature.

29. As a further direct and proximate result of Defendant KIDDIE U's negligence, Plaintiff N.E., as mother of minor Plaintiff A.C., has incurred medical and psychological expenses for his care and treatment in an effort to alleviate and cure his injuries, and will continue to incur additional expenses in the future.

WHEREFORE, Plaintiffs demand judgment in excess of the Court's jurisdictional limits, pre- and post-judgment interest as allowed by law, costs in bringing this action, and demands a trial by jury on all issues so triable.

COUNT III

PARENTAL CONSORTIUM CLAIM BY N.E.

Plaintiffs reallege and readopt paragraphs 1 through 29 and further allege:

30. At all times material, plaintiff N.E. was and is the mother of minor Plaintiff A.C., who at age 6 was the victim of a series of sexual batteries while in the custody, care and control of Defendant KIDDIE U.

31. As a direct and proximate result of the carelessness and negligence of defendant KIDDIE U, as set forth above, N.E. has sustained a loss of the parent-child consortium relationship in the past and will suffer such losses in the future.

32. Additionally, Plaintiff N.E. has incurred expenses for the care and treatment of her son, has missed time from work, and has suffered emotional and mental anguish by having to see the effects of the series of sexual assaults on her 6 year-old son due to the negligence of Defendant KIDDIE U.

WHEREFORE, Plaintiff N.E. demands judgment against Defendant KIDDIE U for damages in excess of the minimal jurisdictional limits of this Court, as well as pre- and post-judgment interest to the extent allowed by law, and demands trial by jury of all issues so triable.

DATED this 2nd day of April, 2012.

LEIGHTON LAW, P.A.
Attorneys for Plaintiffs
1401 Brickell Avenue, Suite 900
Miami, FL 33131
(305) 347-3151
Fax (305) 675-0123

By: _____


JOHN ELLIOTT LEIGHTON
Florida Bar No. 507921
Email: John@LeightonLaw.com