

STATE OF SOUTH CAROLINA )  
 )  
COUNTY OF GREENVILLE )  
 )  
Desiree Moffitt and Jacob Fields, )  
Individually, and as Parents and Next )  
Friends of their Minor Child, )  
 )  
Plaintiffs, )  
vs. )  
 )  
Chestnut Hills Mental Health, Inc., d/b/a )  
Springbrook Autism Behavioral Health )  
f/k/a Springbrook Behavioral Health, )  
 )  
Defendants. )  
 )

IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT

C.A. File No. 2020-CP-23-04033

**SUMMONS**  
(Jury Trial Demanded)

**YOU ARE HEREBY SUMMONED** and required to Answer the Amended Complaint in this action, a copy of which is herewith served upon you, and to serve a copy of your Answer to said Amended Complaint on the subscriber at his Office at 1539 Healthcare Drive, Rock Hill, South Carolina, 29732, within thirty (30) days from the service hereof, exclusive of the date of such service; and if you fail to Answer the Amended Complaint within the time aforesaid, judgment by default will be rendered against you for the relief demanded in the Amended Complaint.

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Attorneys for Plaintiffs

October 8, 2020

Rock Hill, South Carolina

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IN THE COURT OF COMMON PLEAS  
THIRTEENTH JUDICIAL CIRCUIT  
  
C.A. File No. 2020-CP-23-04033  
  
**PLAINTIFFS’ FIRST AMENDED  
COMPLAINT**  
(Jury Trial Demanded)

NOW COMES Desiree Moffitt and Jacob Fields, Individually, and as Parents and Next Friends of their Minor Child, by and through their undersigned counsel, and for their Complaint against the above-named Defendants, allege as follows:

**SUMMARY OF THIS ACTION**

1. This case involves the abuse and neglect of a six-year-old child over a period of more than a year.
2. The Minor Child in this case was admitted as a resident to Springbrook Behavioral Health due to difficulties resulting from autism and fragile X syndrome.
3. Though he is from North Carolina, Minor Child’s parents were told that Springbrook Behavioral Health, located in Traveler’s Rest, South Carolina, was the best and most appropriate place for the care of their six-year-old child.
4. Once admitted to Springbrook Behavioral Health, Minor Child suffered abuse at the hands of employees of Springbrook Behavioral Health.

5. Minor Child was subjected to being placed into a darkened locked room by himself though he is cognitively, intellectually and emotionally impaired.

6. Minor Child was subjected, as were the majority of the children at Springbrook Behavioral Health, to daily or frequent instances of abuse and neglect.

7. There are instances of children being beat, choked, tortured, injured and neglected while residents of this facility,

8. It has been investigated over 100 times by the South Carolina Department of Health and Environmental Control.

9. Springbrook Behavioral Health, now known as Springbrook Autism Behavioral Health, is still open, receiving money and abuse is still occurring on a frequent basis.

## **PARTIES**

### **Plaintiffs**

10. Desiree Moffitt (hereinafter “Mother” or “Ms. Moffitt”) and Jacob Fields (hereinafter “Father” or “Mr. Fields”) are Minor Child’s parents.

11. Mother and Father may be collectively referred to herein as “Parents” or “Plaintiffs.”

12. Minor Child is a minor who was six at the time of his admission to Springbrook Behavioral Health.

13. Plaintiffs bring this case in their individual capacities for their personal claims, and on behalf of Minor Child as his parents and next friends.

14. Father, Mother, and Minor Child are residents of North Carolina.

15. Pursuant to South Carolina Rule 41.2(a)(2), Minor Child’s name is not contained in the Complaint to protect Minor Child’s privacy as all incurred injuries and damages are of a sensitive nature due to Defendants’ reckless, grossly negligent, and negligent acts and omissions.

**Defendants**

16. Chestnut Hill Mental Health, Inc. (hereinafter “CHMH”) operates the behavioral health facility that is now known as Springbrook Autism Behavioral Health (hereinafter, “Springbrook Autism”) that was formerly known as Springbrook Behavioral Health (hereinafter, “SBH”).

17. The three entities, CHMH, Springbrook Autism and SBH are consolidated for the purposes of this complaint and will be referred to collectively herein as “Springbrook” or “Defendants.”

18. Springbrook is located in Travelers Rest, Greenville County, South Carolina.

19. Springbrook is a for-profit corporation with its principal place of business in Greenville County, South Carolina.

20. Upon information and belief, Springbrook has been repeatedly investigated by state licensing organizations and law enforcement for issues including allegations of sexual assault and maltreatment of a vulnerable juvenile population.

**GENERAL ALLEGATIONS APPLICABLE TO DEFENDANTS**

21. Springbrook has the right or power to direct and control the way its employees and/or agents provide care and operate the business of delivering non-medical care for a fee through its behavioral health facilities.

22. Springbrook has the right or power to direct and control the way its employees and/or agents hire, retain, supervise, and train staff under its employment or agency.

23. Upon information and belief, Springbrook utilizes outside third party entities to provide policies, procedures, and guidance on the ways they provide care to its residents.

24. Springbrook has non-delegable duties to provide physicians, nurses, and staff with adequate knowledge and training to be able to provide necessary and reasonable non-medical care to patients at its behavioral health facility in Travelers Rest, South Carolina.

25. Before the events underlying this case, which took place between January 2019 and April 2020, employees and/or agents of Springbrook had actual knowledge that staff engaged in inappropriate conduct against residents.

26. Since 2019, employees and/or agents of Springbrook have been aware and continue to mistreat and abuse multiple children who are residents.

27. Before the events underlying this case took place between January 2019 and April 2020, employees and/or agents of Springbrook had actual knowledge that its vulnerable population of residents were subject to abuse and neglect if reasonable precautions were not exercised in hiring, supervision, training, and employment.

28. Despite this knowledge, and despite knowing that staff had the opportunity to abuse, neglect and torture vulnerable children who suffered from intellectual and cognitive impairments, they employed and continue to employ unsuitable employees on their premises.

29. Springbrook describes itself as “The Springbrook Autism Program grew out of three decades of experience in behavioral and mental health care. We founded the program after recognizing a need in our region for greater support and professional treatments and therapies for families struggling with the behaviors associated with autism.”

30. They describe their philosophy as “To be part of Springbrook you cannot just come to work. We at Springbrook are personally invested in making a positive difference in the lives of our patients and families by understanding their individual needs. They require and deserve our

compassion, empathy, and commitment to their treatment. We are here to change, heal, and save lives.”

31. At all times relevant hereto, the employees at Springbrook (with respect to the facts alleged herein) acted within the scope of their employment and/or agency with Springbrook while interacting with Minor Child and/or while witnessing interactions between Minor Child and employees and/or agents employed at Springbrook.

32. Defendant houses and provides institutional care and services to children and teens (and adults to age 21) who suffer from autism, and/or other intellectual and cognitive disabilities.

33. Behavioral health facilities like those run by Defendants are imposed with great responsibility in their hiring and supervision of employees since they are providing care and services to a vulnerable population.

34. Defendant undertook the duty of providing living and non-medical behavioral services to Minor Child knowing he suffered from autism and fragile X syndrome, and exhibited emotional and behavioral issues related to autism and fragile X syndrome.

35. Defendant knew Minor Child was more emotionally fragile as a result of his co-diagnosis of autism and fragile X syndrome, and also knew that if he was abused or neglected it would exacerbate his already pre-existing emotional and behavioral difficulties, in addition to causing new emotional and behavioral difficulties.

36. The negligent, grossly negligent, reckless, willful or wanton acts, omissions, and liability of Defendants includes that of their agents, principals, employees, and/or servants, both directly and vicariously, pursuant to principals of non-delegable duty, corporate liability, apparent authority, agency, ostensible agency, and/or *respondeat superior*.

### **JURISDICTION AND VENUE**

37. Springbrook has its principal place of business located in South Carolina.

38. The incident(s) giving rise to this litigation occurred in Travelers Rest, Greenville, County, South Carolina.

39. Plaintiffs and Minor Child are citizens and residents of North Carolina.

40. Venue is proper in Greenville County, South Carolina.

### **NON-MEDICAL NATURE OF ACTIONS AND NO CAPS ON DAMAGES**

41. Section 15-79-100 of the South Carolina defines medical malpractice actions and the types of entities and person covered under such definitions.

42. Residential Treatment Facilities for children and adolescents (hereinafter, "RTF"), such as Springbrook, may be covered under the definition of medical malpractice but only if the services rendered to a resident are medical in nature.

43. South Carolina Code of Regulation 61-103 is the codification of the duties, responsibilities and obligations of a residential treatment facility for children and adolescents.

44. Springbrook is regulated by the provisions of 61-103.

45. S.C. Code of Regulations 61-103, section 101, defines abuse as:

Abuse.

Physical abuse or psychological abuse.

Physical Abuse. The act of intentionally inflicting or allowing to be inflicted physical injury on a resident by an act or failure to act. Physical abuse includes, but is not limited to, slapping, hitting, kicking, biting, choking, pinching, actual or attempted sexual battery, use of medication outside the standards of reasonable medical practice for the purpose of controlling behavior, and unreasonable confinement.

Physical abuse also includes the use of a restrictive or physically intrusive procedure to control behavior for the purpose of punishment except that a



therapeutic procedure prescribed by a licensed physician or other legally authorized healthcare professional or that is part of a written care plan by a physician or other legally authorized healthcare professional is not considered physical abuse. Physical abuse does not include altercations or acts of assault between residents.

Psychological Abuse.

Deliberately subjecting a resident to threats or harassment or other forms of intimidating behavior causing fear, humiliation, degradation, agitation, confusion, or other forms of serious emotional distress.

48. S.C. Code of Regulations 61-103, section 101, defines exploitation as:

R. Exploitation. 1) Causing or requiring a resident to engage in an activity or labor that is improper, unlawful, or against the reasonable and rational wishes of a resident. Exploitation does not include requiring a resident to participate in an activity or labor that is a part of a written care plan or prescribed or authorized by the resident's attending physician; 2) an improper, unlawful, or unauthorized use of the funds, assets, property, power of attorney, guardianship, or conservatorship of a resident by an individual for the profit or advantage of that individual or another individual; or 3) causing a resident to purchase goods or service for the profit or advantage of the seller or another individual through undue influence, harassment, duress, force, coercion, or swindling by overreaching, cheating, or defrauding the resident through cunning arts or devices that delude the resident and cause him or her to lose money or other property.

49. S.C. Code of regulations 61-103, section 100, defines restraints as:

QQ. Restraint. Any means by which movement of a resident is inhibited, for example, physical, mechanical, or chemical. In addition, devices shall be considered a restraint if a resident is unable to easily release from the device.

50. S.C. Code of Regulations 61-103, section 501, defines the persons responsible for the actions of employees within the facility as:

Governing Authority: The governing board, or the owner, or the person or persons designated by the owner as the governing authority shall be the supreme authority responsible for the management control of the facility and is ultimately accountable for the safety of residents and staff and the quality of care, treatment, and services provided.

51. RTFs such as Springbrook have persons who become residents of their facility for extended periods of time, as opposed to hospitals, where the care is temporary in nature.

52. RTFs provide the overwhelming majority of care and assistance to their residents through employees who are referred to as MHAs or mental health assistants.

53. Upon information and belief, the MHAs in a RTF like Springbrook are only required to have a high school education or GED.

54. When a MHA renders care to a child at Springbrook, they are not trained or educated in the diagnosis of medical conditions.

55. MHAs can only provide services that are medical in nature when clinically indicated, ordered by a licensed medical provider and for which they have been trained.

56. If MHAs decide to discipline, restrain, or act in a way which is outside any clinically accepted protocol, it is not medical in nature.

57. RTFs (through the use of MHAs) provide food to the resident which is not medical in nature.

58. RTFs (through the use of MHAs) communicate with and assist in activities of daily living which is not medical in nature.

59. RTFs (through the use of MHAs) monitor the activities of the residents which is usually not medical in nature.

60. RTFs (through the use of MHAs) provide security and discipline to the residents of the facility which is not medical in nature.

61. When a MHA renders assistance or services or fails to render assistance or services, and it results in abuse, exploitation or neglect of a child resident of Springbrook, it is not medical in nature.

62. When there is accepted medical protocol for rendering assistance or services, such as physical restraint, when it is done outside the bounds of reasonable restraint, it is actually abuse and not medical in nature.

63. All of the negligent, grossly negligent and reckless actions or inactions by the MHAs of Springbrook in regard to care of services and assistance to Minor Child which are the basis of this complaint are not medical in nature.

### AUTISM

64. The facts relevant to this case occurred at Springbrook in 2019 and 2020.

65. During that time, Springbrook held itself out to state agencies and other behavioral professionals as a residential treatment facility for the treatment and management of children with autism.

66. Children with autism present a wide array of potential cognitive and behavioral difficulties.

67. According to the Center for Autism Related Disorders (hereinafter, "CARD"), "Autism Spectrum Disorder (ASD) is a developmental disorder marked by impaired social interaction, limited communication, behavioral challenges, and a limited range of activities and interests. It has been estimated to affect 1 in 54 individuals in the United States and it is more common in boys than girls."

68. CARD also states that, "Individuals with ASD can show a wide variety of behavioral symptoms, from failure to develop appropriate peer relationships to a delay in, or a total lack of, spoken language. For individuals who do speak, there may be a repetitive use of language or a delay in the ability to sustain a conversation with others. Symptoms of autism can also include

hyperactivity, short attention span, impulsivity, aggressiveness, self-injurious behavior, and temper tantrums.”

69. CARD suggests “Evidence-based autism treatment promotes the development of social and communication skills and minimizes behaviors that interfere with functioning and learning. Intensive, sustained, evidence-based autism treatment can increase an individual’s ability to acquire language, learn, function in the community, and fulfill his/her potential. The Diagnostic and Statistical Manual of Mental Disorders is the most widely accepted reference used for the classification and diagnosis of ASD. The most recent edition (DSM-5; American Psychiatric Association, 2013), redefined the diagnostic criteria for ASD, which was previously regarded as three distinct diagnoses (i.e., autistic disorder, pervasive developmental disorder—not otherwise specified, and Asperger’s disorder). The DSM-5, however, classifies ASD as a single disorder characterized by persistent deficits in social communication and social interaction, in addition to restricted, repetitive patterns of behavior, interests, or activities”

70. It is apparent to anyone with an autistic child or in the autism field that these children present unique behavioral and cognitive challenges.

71. Over the past several years, there have been cutting edge research and methodology to create innovative learning and behavioral modification techniques to support the quality of life of an autistic child and their family.

72. One of the most fundamental behavioral issues understood in this field is that these children have sensory deficits or overloads and can be triggered by different things.

73. It is also known that these children need their sleep.

74. They need stability.

75. They need patient, kind and compassionate workers involved in their care.

76. Springbrook cites a finding from research on their website which states “. . . the most promising finding, from these study results is that addressing anxiety through therapy and through modifying the environment may also help treat the core behavioral and social concerns associated with autism.”

77. Springbrook acknowledges that addressing anxiety through different modalities can lead to enhanced life opportunity for these vulnerable children.

78. Dragging children around by different body parts does not accomplish this mission.

79. Throwing children into darkened rooms and shutting the door on them while they bang their heads against the door is not an accepted modality of treatment.

80. “Gang” tackling and laying on children by multiple adults is not an accepted modality of therapy or restraint.

81. Sexual innuendo or abuse is not an accepted modality of treatment.

82. Allowing children to live in mold infested premises and laying on mold infested pillows is not an accepted modality of treatment.

83. Allowing children to walk around with days-old feces attached to their clothing is not an accepted modality of treatment.

84. Forcing children to urinate or defecate on themselves because the staff member is too lazy to get up and assist a child is not an accepted modality of treatment.

85. Screaming and yelling in the middle of the night by staff who should be maintaining a stable environment and allowing children to sleep is not an accepted modality of treatment.

86. Holding a child up by his neck until he turns purple is not an accepted modality of treatment.

87. Knowing that staff are engaged in promiscuous activity leaving children unattended is not an accepted modality of treatment.

**GENERAL FACTUAL ALLEGATIONS APPLICABLE TO ALL CLAIMS**

88. Prior to January 2019, Minor Child was under the authority and care of the Minor Child's Parents in North Carolina.

89. At that time the Parents of Minor Child decided that they needed to place Minor Child into an inpatient treatment facility for increasingly difficult behaviors associated with fragile X syndrome and autism.

90. Fragile X syndrome is a genetic condition that causes behavioral issues and intellectual impairment, among other things.

91. Minor Child was also diagnosed with autism.

92. Minor Child's autism diagnosis, coupled with his fragile X status, means he is intellectually and cognitively impaired.

93. This intellectual and cognitive impairment manifests itself in different forms, including aggressive, violent behavior towards other children.

94. Minor Child's Parents applied for their child to be a resident of Springbrook.

95. They had searched for places in North Carolina to handle their child, but they were not aware of any facility in North Carolina that could supposedly provide the same specialized services as Springbrook.

96. The Parents were informed by a man named Scott Compton that Springbrook was a great facility and a great fit for their son.

97. They were informed that Springbrook was an autism specialty clinic.

98. They were told that the staff was vetted and treated the children who were residents at the facility in a safe and caring manner.

99. The Parents were told that the facility had special programs in place to help their child progress.

100. Though Minor Child was autistic, he still had the capacity to grow and learn, and hopefully begin to deal with any issues that caused aggressive behavior towards others.

101. When a child is autistic and known to be aggressive, there are certain accepted forms of therapy to help teach or modify the child's behavior.

102. The Parents relied on the representation of Springbrook in sending their child to this facility to help him grow and modify his concerning behavior.

103. Though autistic children may be impaired, they still feel and have emotional pain.

104. These children also need a stable environment.

105. They need to be able to trust people.

106. When Minor Child was admitted to Springbrook, he had a baseline of behavior.

107. The baseline was that he was a sweet child at times but behaved aggressively towards his parents and young siblings.

108. He had a device that he used to chew on so that he did not chew on himself.

109. He did not have bruises all over his body.

110. He did not have cuts or sores to his face.

111. He did not have many urinary tract infections since the age of 4 prior to entering the Springbrook facility.

112. After Minor Child became a resident of the Springbrook facility, his parents would call and try to inquire about his health and progress, but were often ignored.

113. Communication with their child was difficult because they were in another state.

114. When they would come to visit their child, they noticed a large number of bruises, scratches, scrapes, bumps, rashes, and at times, wounds on his body.

115. The parents of Minor Child questioned the facility about these marks.

116. They were told that Minor Child roughhoused with, and was targeted by, other kids.

117. The amount of bruises and the size of the bruises were not consistent with horseplay bruises they had witnessed prior to his admission.

118. The parents trusted the administrators and caregivers though, and continued to monitor their child.

119. Each time they saw him, he had multiple areas of scratches, marks, and bruises.

120. Minor Child was non-communicative; thus he could not tell someone that he was being abused.

121. The parents were suspicious of the behavior going on at Springbrook, but they trusted that their child was being cared for.

122. They began to notice that he had dark circles under his eyes.

123. They now know their child was likely suffering from sleep deprivation.

124. When an autistic child is sleep deprived, it affects everything in their being.

125. They become disruptive and act out more.

126. When they act out more, they are sometimes put in seclusion.

127. Upon information and belief, during this time Springbrook's seclusion method consisted of placing a child in a completely dark room with the door locked.

128. Prior to admission, Minor Child's Mother was informed that the seclusion room was just an isolated room away from the unit that kids go to for multiple reasons.



129. Minor Child's Mother was assured that the door was always open and staff was with them.

130. There are multiple instances of children being placed into this completely dark seclusion room with a closed door and banging their heads against a wall or door until they knocked themselves out or became exhausted.

131. Minor Child, upon information and belief, was subjected to this seclusion room form of torture by different employees and/or agents of Springbrook.

132. This facility supposedly had a process in place to report suspected abuse by employees and/or agents.

133. Rebekah Carden is the employee at Springbrook to whom staff are to report abuse and/or problematic situations.

134. Unfortunately, upon information and belief, many times when any report of abuse was made, Rebekah informed other employees and staff who were members of her family who then attempted to intimidate the reporting employees.

135. As Minor Child continued to live at the facility, his parents noticed that he continued having bruising, cuts or scrapes, and blackened, sunken eyes.

136. Within a week of admission, Minor Child was taken to the ER for a urinary tract infection and vomiting.

137. The Mother of Minor Child was contacted in December, 2019 by someone with knowledge regarding the care her son received at Springbrook.

138. At that time, the Mother of Minor Child was told that her son had been abused.

139. She asked what had happened.

140. She was told her son had been restrained and pinned to the ground by five adult male staff members.

141. She was under the impression her son had been repeatedly dragged and forced into the seclusion room by his wrists, arms, and/or armpits while he kicked and screamed in protest.

142. Plaintiffs bring this action for Defendants' failure to adequately supervise Minor Child, as well as Defendants' employees' abuse of Minor Child.

143. Defendants' failure to adequately supervise Minor Child and employees resulted in the employees behaving improperly with Minor Child.

144. At all relevant times hereto, Defendants authorized and/or entrusted employees to have contact with residents suffering from cognitive, intellectual or emotional issues (which made them particularly vulnerable), including Minor Child.

145. Springbrook is supposed to be a facility that facilitates support and care for residents with behavioral issues.

146. They undertake this "mission" with the knowledge that if they employ persons who exploit or abuse their residents, it will cause the residents (such as Minor Child) grave harm on top of the emotional and cognitive issues they already face.

147. It is also known in the behavioral health industry that the particular characteristics of this type of institution invites unsavory employees.

148. Many of these children are uncommunicative.

149. They cannot report their abuse.

150. The persons who work in these types of behavioral facilities know that if they do something wrong it is their word against an emotionally/intellectually disabled child (who may not be able to talk).

151. South Carolina has mandatory reporting laws.

152. These reporting laws require someone who learns of emotional abuse, sexual abuse, physical abuse, or acts perpetrated on a minor that puts them in danger or potential danger, to report this act or persons committing the acts to the proper authorities.

153. There are scads of instances of abuse at Springbrook for many years.

154. Even if someone were to suggest that MHAs or Springbrook nurses were not subject to mandatory reporting (and Plaintiff thinks they are), when employees reported abuse to Rebekah Carden she was obligated to contact law enforcement or the Department of Social Services.

155. Defendants failed to take reasonable steps and/or failed to implement reasonable safeguards, to avoid acts of unlawful conduct by their employees, including, but not limited to, preventing or avoiding placement of known abusers in environments in which they had contact with vulnerable residents.

156. Furthermore, at no point during the periods of time alleged did Defendants have in place an adequate system or procedures to supervise and/or monitor employees, representatives, or agents to ensure they did not abuse or exploit vulnerable patients at Springbrook

157. Furthermore, at no point during the periods of time alleged did Defendants have in place an adequate system or procedures to supervise and/or monitor employees, representatives, or agents to ensure they reported abuse of patients at Springbrook.

158. Having been in Defendants' care under circumstances such as to deprive Minor Child of his normal opportunities for protection, Defendants owed a duty to control the acts of their agents, servants, and/or employees.

159. Upon information and belief, Defendants have, for years, failed to reprimand, punish, report, or otherwise sanction employees they knew, or had reason to know, were abusing, exploiting or neglecting children under their care or failing to report such abuse.

160. Defendants' knowing acquiescence and silence with respect to the known, or reasonably knowable, activities of child abusers, constituted a course of conduct through which acts of abuse and neglect were condoned, approved, and effectively authorized.

161. Through their failure to timely reprimand and sanction the acts referenced herein, and for all of the other reasons set forth in this Complaint including, without limitation, their failure to take the steps necessary to prevent the occurrence of such reprehensible acts, Defendants ratified said actions and, accordingly, are vicariously liable for the actions of their employees.

162. But for Defendants' actions, Father, Mother, and Minor Child would not have sustained injuries and damages.

163. Despite actual knowledge of multiple instances in which unqualified employees, poorly trained employees, improperly supervised employees, and potential predators were employed and/or assigned to positions within Springbrook, and despite the foreseeable risk that said unqualified employees, poorly trained employees, improperly supervised employees, and potential predators posed, Defendants allowed employees to engage in repeated acts of abuse, exploitation and neglect.

164. Defendants did not have in place, or failed to enforce, adequate, reasonable, and necessary rules, regulations, policies, and procedures which could effectively identify and prevent abuse, exploitation or neglect.

165. At all times relevant hereto, Defendants did not have in place, or failed to enforce, adequate, reasonable, and necessary rules, regulations, policies, and procedures for the removal of potential abusers or predators in their employ and/or service.

166. At all times relevant hereto, Defendants did not have in place, or failed to enforce, adequate, reasonable, and necessary rules, regulations, policies, and procedures which provided for reporting potential predators or abusers in their employ or service to law enforcement.

167. As set forth in this Complaint, Defendants failed to fulfill their legal duty to protect Minor Child and other residents from abuse, exploitation, or neglect, as well as other vile acts of its employees described above.

168. As set forth in this Complaint, Defendants failed to take reasonable steps to ensure employees at Springbrook were psychologically fit to provide living and non-medical behavioral health services to residents.

169. There are no affidavits required in this case since the negligence of any Defendant (or employee of a Defendant) was non-medical in nature.

170. Under the facts as described herein, there are no damages “caps” in this action since this is a negligence case with a for-profit behavioral facility alleging conduct that was non-medical in nature.

171. Exploitation and abuse of a minor by employees of a behavioral health facility is non-medical in nature.

172. Failing to supervise the interaction between employees of a behavioral health facility and its residents is non-medical in nature.

173. The negligence allegations in this Complaint are non-medical in nature, and if by some twisted logic were found to be medical in nature, the allegations of negligence, gross

negligence and recklessness fall within the common-sense exception to a medical negligence action.

**FOR A FIRST CAUSE OF ACTION**  
(General Negligence/Non-Medical)

174. Father and Mother hereby incorporate by reference and reallege every allegation of Paragraphs 1 through 173 of this Complaint as if fully set forth herein verbatim.

175. At all times relevant to the allegations contained herein, Defendants owed duties to Minor Child, and in general to all residents receiving care in their facilities and/or by their employees and/or agents.

176. Defendants and their employees and/or agents, undertook the duty to properly investigate, hire, train, retain, and supervise all staff in accordance with the prevailing duty of care in the national community.

177. Defendants and their agents, and/or employees, undertook the duty to render non-medical care to Minor Child in accordance with the applicable duty of care in the national community.

178. Notwithstanding said undertakings, and before and while Minor Child was under the care of Defendants and their employees and/or agents, said Defendants, and/or employees and/or agents departed from prevailing and acceptable standards of non-medical care and/or duty to the Minor Child and were thereby negligent, grossly negligent, reckless, and in violation of the duties owed to the Minor Child and are liable for one or more of the following acts of omission or commission, any or all of which are departures from the prevailing and acceptable duty of care in the national community:

- a) In failing to protect the Minor Child from employees' abuse;
- b) In failing to properly investigate employees after having received

- complaints about abuse with residents;
- c) In failing to ensure all staff were aware of acceptable behavior and in not reporting inappropriate conduct by employees and/or staff;
  - d) In failing to take steps to monitor employees' interactions with residents;
  - e) In failing to prevent adult employees from abusing a minor, six-year-old child;
  - f) In failing to investigate the background of MHAs and other care givers in its employ or service;
  - g) In failing to prohibit, restrict, or limit the activities of employees suspected of abuse;
  - h) In failing to reasonably and properly investigate allegations of abuse;
  - i) In failing to properly train and instruct employees and supervisors including investigators;
  - j) In failing to have in place or failing to enforce standards of acceptable and unacceptable conduct;
  - k) In failing to designate competent investigators to evaluate complaints of abuse;
  - l) In failing to have in place or failing to enforce standards for reporting acts of abuse to law enforcement authorities and/or D.S.S., etc.;
  - m) In failing to properly investigate certain employees before allowing them access to vulnerable residents;
  - n) In failing to train and educate its employees to watch out for abusive acts of fellow staff members, or, if properly trained and educated, the failure of said employees to properly monitor the Minor Child;
  - o) In placing the minor child into an improper seclusion room;
  - p) In failing to ensure Minor Child did not have inappropriate contact with employees;
  - q) In failing to supervise the care provided to the Minor Child by attendants;
  - r) In failing to ensure Minor Child was safe while under Springbrook's care;

- s) In failing to reasonably protect Minor Child from employees' deviant predilections.
- t) In failing to ensure employees were only providing proper care to the Minor Child, as opposed to inappropriate and unnecessary abuse;
- u) In failing to protect Minor Child from predatory and abusive employees; and,
- v) In such other particulars as may be ascertained through discovery.

179. As a direct and proximate result of Defendants' (and their employees or agents') negligence, gross negligence, recklessness, and multiple departures from their duties of care, as noted above, Minor Child has suffered the following damages, including, but not limited to:

- a) Substantial medical expenses that are reasonably certain to occur after age 18 for the remainder of his life;
- b) Substantial life care expenses that are reasonably certain to occur after age 18 for the remainder of his life;
- c) Substantial loss of earnings and impairment of earning capacity that are reasonably certain to occur for the remainder of his life;
- d) Disability for the remainder of his life, including the necessity of psychiatric care;
- e) Substantial injury to his psyche and emotional state; and,
- f) Substantial loss of enjoyment of life.

180. As a direct and proximate result of Defendants' (and their employees or agents') negligence, gross negligence, recklessness, and multiple departures from their duties of care as noted above, Plaintiffs suffered the following damages, including, but not limited to:

- a) Substantial medical expenses for their son that are reasonably certain to occur before the Minor Child reaches the age of 18;
- b) Substantial life care expenses for their son that are reasonably certain to occur before the age 18;



- c) Care related to their son's disability that is likely to occur before the age 18, including the necessity of psychiatric care;
- d) Provision of extraordinary medical care for their son;
- e) Expenditure of economic resources to provide for their son before the age of 18, including, but not limited to, special education, assistance, or appropriate therapies such as art therapy, equine therapy, or any other type of treatment which may alleviate some of the Minor Child's suffering due to Defendants' actions and/or inactions;
- f) Substantial injury to their psyche and emotional state;
- g) Loss of society, companionship, and consortium with their son; and,
- h) Lost wages from having to take time off to manage their son, the investigation, and doctors' visits, among other things.

**FOR A SECOND CAUSE OF ACTION**  
(Assault and Battery)

181. Father and Mother hereby incorporate by reference and reallege every allegation of Paragraphs 1 through 180 of this Complaint as if fully set forth herein verbatim.

182. Minor Child was placed in reasonable fear of bodily harm by Defendants' employees' conduct. This is commonly called assault.

183. The employees who committed the unwanted touching or threat of unwanted touching were Springbrook employees.

184. Defendants committed the actual infliction of unlawful, unauthorized, violence on the Minor Child through offensive touching or threat of offensive touching and many other forms of unlawful actions. This is commonly called battery.

185. As a direct and proximate result of the multiple acts and/or omissions as herein alleged on the part of Defendants in committing assault and battery on the Minor Child, the Minor Child has suffered the following damages, including, but not limited to:

- a) Substantial medical expenses that are reasonably certain to occur after age 18 for the remainder of his life;
- b) Substantial life care expenses that are reasonably certain to occur after age 18 for the remainder of his life;
- c) Substantial loss of earnings and impairment of earning capacity that are reasonably certain to occur for the remainder of his life;
- d) Disability for the remainder of his life, including the necessity of psychiatric care;
- e) Substantial injury to his psyche and emotional state; and,
- f) Substantial loss of enjoyment of life.

186. As a direct and proximate result of the multiple acts and/or omissions as herein alleged on the part of Defendants' employees committing assault and battery on the Minor Child, Plaintiffs suffered the following damages, including, but not limited to:

- a) Substantial medical expenses for their son that are reasonably certain to occur before he reaches the age of 18;
- b) Substantial life care expenses for their son that are reasonably certain to occur before the age of 18;
- c) Care related to their son's disability that is likely to occur before the age of 18, including the necessity of psychiatric care;
- d) Provision of extraordinary medical care for their son;
- e) Expenditure of economic resources to provide for their son before the age of 18, including, but not limited to, special education, assistance, or appropriate therapies such as art therapy, equine therapy, or any other type of treatment which may alleviate some of the Minor Child's suffering due to Defendants' actions and/or inactions;
- f) Substantial injury to their psyche and emotional state;
- g) Loss of society, companionship, and consortium with their son; and,
- h) Lost wages from having to take time off to manage their son, the investigation, and doctors' visits, among other things.

**FOR A THIRD CAUSE OF ACTION**  
(Violation of Restatement of Torts 323)

187. Father and Mother hereby incorporate by reference and reallege every allegation of Paragraphs 1 through 186 of this Complaint as if fully set forth herein verbatim.

188. Defendants undertook, for consideration, the provision of living and non-medical behavioral health services to Minor Child pursuant to Restatement (Second) Torts §§ 323.

189. The Restatement's negligent undertaking provisions impose a duty of care only when a defendant renders services that it "should recognize as necessary for the protection" of another. §§ 323.

190. Defendants should have recognized as necessary the protection of the Minor Child's person and physical/mental well-being while at the Springbrook facility.

191. Minor Child was confined to the grounds and facilities of Springbrook during the relevant time periods outlined in this Complaint.

192. Defendants' exercise of control over Minor Child's physical environment is the type of control which creates a general duty to protect.

193. Minor Child suffered severe and permanent harm as described above as a result of Defendants' failure to exercise reasonableness in providing his living and non-medical behavioral health services.

194. Defendants' failure to exercise such care increased the risk of harm to Minor Child and/or Minor Child was harmed because of Father, Mother and Minor Child's reliance upon Defendants' to provide him with living and non-medical behavioral health services.

195. As a direct and proximate result of the violation of Restatement of Torts 323/324A as herein alleged on the part of Defendants, Minor Child suffered the following damages, including, but not limited to:

- a) Substantial medical expenses that are reasonably certain to occur for the remainder of his life;
- b) Substantial life care expenses that are reasonably certain to occur for the remainder of his life;
- c) Substantial loss of earnings and impairment of earning capacity that are reasonably certain to occur for the remainder of his life;
- d) Disability that is likely to occur for the remainder of his life, including the necessity of psychiatric care;
- e) Substantial injury to his psyche and emotional state; and,
- f) Substantial loss of enjoyment of life.

196. As a direct and proximate result of the violation of Restatement of Torts 323/324A as herein alleged on the part of Defendants, Plaintiffs suffered the following damages, including, but not limited to:

- a) Substantial medical expenses for their son that are reasonably certain to occur before he reaches the age of 18;
- b) Substantial life care expenses for their son that are reasonably certain to occur before the age 18;
- c) Care related to their son's disability that is likely to occur before the age 18, including the necessity of psychiatric care;
- d) Provision of extraordinary medical care for their son;
- e) Expenditure of economic resources to provide for their son before the age of 18, including, but not limited to, special education, assistance, or appropriate therapies such as art therapy, equine therapy, or any other type of treatment which may alleviate some of the Minor Child's suffering due to Defendants' actions and/or inactions;
- f) Substantial injury to their psyche and emotional state;
- g) Loss of society, companionship, and consortium with their son; and,
- h) Lost wages from having to take time off to manage their son, the investigation, and doctors' visits, among other things.

**FOR A FOURTH CAUSE OF ACTION**  
(Necessaries Claim)

197. Father and Mother hereby incorporate by reference and reallege every allegation of Paragraphs 1 through 196 of this Complaint as if fully set forth herein verbatim.

198. Plaintiffs are responsible for Minor Child's medical bills, medical care, and overall care until he turns eighteen (18). Since Minor Child is under a disability, the Father and Mother will be required to provide this care for an undetermined length of time after Minor Child reaches the age of eighteen (18).

199. Plaintiffs will suffer economic damages, including but not limited to, the provision of medical care, life care expense, psychiatric expenses, lost wages, counseling services, and special programs for abused children due to the actions and/or inactions of Defendants as delineated in all paragraphs above.

200. As a direct and proximate result of the multiple acts and/or omissions as herein alleged on the part of Defendants in all paragraphs above, the Minor Child has suffered the following damages, including, but not limited to:

- a) Substantial medical expenses that are reasonably certain to occur for the remainder of his life;
- b) Substantial life care expenses that are reasonably certain to occur for the remainder of his life;
- c) Substantial loss of earnings and impairment of earning capacity that are reasonably certain to occur for the remainder of his life;
- d) Disability that is likely to occur for the remainder of his life, including the necessity of psychiatric care;
- e) Substantial injury to his psyche and emotional state; and,
- f) Substantial loss of enjoyment of life.

201. As a direct and proximate result of the multiple acts and/or omissions as herein alleged on the part of Defendants in all paragraphs above, Plaintiffs suffered the following damages, including, but not limited to:

- a) Substantial medical expenses for their son that are reasonably certain to occur before he reaches the age of 18;
- b) Substantial life care expenses for their son that are reasonably certain to occur before the age of 18;
- c) Care related to their son's disability that is likely to occur before the age of 18, including the necessity of psychiatric care;
- d) Provision of extraordinary medical care for their son;
- e) Expenditure of economic resources to provide for their son before the age of 18, including, but not limited to, special education, assistance, or appropriate therapies such as art therapy, equine therapy, or any other type of treatment which may alleviate some of the Minor Child's suffering due to Defendants' actions and/or inactions;
- f) Substantial injury to their psyche and emotional state;
- g) Loss of society, companionship, and consortium with their son; and,
- h) Lost wages from having to take time off to manage their son, the investigation, and doctors' visits, among other things.

202. Father and Mother should be awarded any and all damages flowing from any necessities claim or any other damages they may suffer because of Defendants' (and their employees') multiple actions and/or inactions.

WHEREFORE, Plaintiffs respectfully pray for judgment against all Defendants for all actual damages and consequential damages, all punitive damages in an amount to be determined by the jury, for the costs and disbursements of this action, and for such other and further relief as this Court deems is just and proper.

By: s/S. Randall Hood

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