

STATE OF SOUTH CAROLINA	)	IN THE COURT OF COMMON PLEAS
	)	FOR THE TENTH JUDICIAL CIRCUIT
COUNTY OF ANDERSON	)	
	)	CIVIL ACTION NO.: 2024-CP-04_____
	)	
Mallory McCallum and Devin McCallum,	)	
both Individually and as Parents and	)	
Natural Guardians of their Minor Child,	)	
("C.M"),	)	
	)	
Plaintiffs,	)	SUMMONS
	)	(Jury Trial Demanded)
vs.	)	
	)	
First Presbyterian Church, d/b/a	)	
First Presbyterian Day School Program,	)	
And Director April Spears,	)	
	)	
Defendant(s).	)	

TO THE DEFENDANT(S) ABOVE NAMED:

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, a copy of which is herewith served upon you, which was filed in the Office of the Clerk of this Court on the below mentioned date; and to serve a copy of your answer to the Complaint upon the subscriber at their office, 514 S. McDuffie Street, Post Office Box 1965, Anderson, South Carolina, within thirty (30) days after the service hereof, exclusive of the day of such service. If you fail to answer the Complaint within that time, judgment by default will be rendered against you for the relief demanded in the Complaint.

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Anderson, South Carolina
 Dated: 05-01-2024

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Plaintiffs,	)	COMPLAINT
	)	(Jury Trial Demanded)
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First Presbyterian Church, d/b/a	)	
First Presbyterian Day School Program,	)	
And Director April Spears,	)	
	)	
Defendant(s).	)	
	)	

Plaintiffs, complaining of the conduct of the Defendant(s) herein, alleges as follows:

Parties and Jurisdiction

1. Plaintiffs Mallory and Devin McCallum (the "McCallum's") are the parents and natural guardians of their minor son, C.M. who is two (2) years old, all of whom are citizens and residents of Anderson County, South Carolina. This action is brought both individually by the McCallum's. As well as in a representative capacity on behalf of their minor child.

2. 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 the Defendants' reckless, grossly negligent, and negligent acts and omissions.

3. Upon information and belief, Defendant First Presbyterian Church and Day

School Program (hereinafter referred to as “First Pres”) is a not-for-profit corporation existing pursuant to the laws of the State of South Carolina, which operated a daycare and preschool program under the name First Presbyterian Day School.

4. Upon information and belief, Defendant April Spears (hereinafter referred to as “Defendant Spears”) is a resident and citizen of Anderson County, State of South Carolina and was acting within the course and scope of her employment as the Director of Defendant First Pres’s daycare program at the time of the complaints alleged herein and was responsible for the hiring and supervision of employees, among other duties.

5. The above-mentioned Defendants may hereinafter be collectively referred to as the “Defendants”.

6. This Court has jurisdiction over the parties to and the subject matter of this action.

7. Venue is proper in this Court.

Factual Background

8. In or around July of 2021, the McCallum’s were in search of a safe and reliable place to enroll their child into daycare.

9. The McCallum’s researched many facilities, including First Pres.

10. First Pres is a full-time daycare facility for children aged six weeks through four years old that routinely has a lengthy waiting list for enrollment of parents desiring of day care services for their children.

11. Prior to and at the time of execution of the contract and C.M.’s enrollment, Defendant First Pres, specifically through the day school Director, April Spears, promoted itself to the McCallum’s as a “loving, nurturing, and enriching environment where their child could grow.”

12. Pursuant to its policies and procedures, First Pres assured the McCallum's that it required both SLED and FBI background checks for all its staff members and employees.

13. In reliance upon these and other representations, the McCallum's made the decision to entrust C.M.'s care to First Pres and signed a contract evidencing that agreement.

14. The decision to place one's child or children into daycare is an emotionally taxing decision and a costly one.

15. The McCallum's committed to sending their child to the Defendant First Pres and Paid hundreds of dollars for their child to have full-time day care services; that during that time the infant Plaintiff was in the custody and control of the Defendant, its agents, employees and servants, and Defendant had a duty to exercise due care for the safety and security on the infant Plaintiff.

16. Minimally, because the day school facility was affiliated and sponsored by a religious institution, the McCallum's felt assured and confident that their child would be free from abuse and neglect and be in a safe and nurturing environment while in the care of First Pres, such that they could pursue their employment knowing that their child was safe.

17. In entrusting their child to First Pres, the McCallum's also believed and trusted that First Pres and its administration had properly investigated all its staff and that it was exercising sufficient and appropriate levels of supervision over its staff such that their child would be safe not only from threats outside of the facility, but also from threats within it.

18. At all times mentioned, Defendant was the owner of the premises where the abuse and neglect occurred.

19. Defendant First Pres touted its safety protocols for the children under its care such

as continuous video monitoring and adequate review of the videos by the Director(s) to ensure that there was proper compliance by the caregivers on a daily basis.

20. As mandatory reporters, First Pres' staff and caregivers are required by South Carolina law to report suspected or known allegations of child abuse and neglect to the Department of Social Services (DSS) and to do so even on the bare suspicion of the same.

21. In accordance with its policies, First Pres correctly recognizes that "Child abuse or neglect occurs when the parent, guardian, or other person responsible for the child's welfare, inflicts or allows to be inflicted upon the child physical or mental injury or engages in acts or omissions which present a substantial risk of physical or mental injury to the child."

22. As described herein, First Pres allowed physical and mental injury to be inflicted upon Minor Plaintiff C.M.

23. As described herein, First Pres engaged in acts and omissions that presented a substantial risk of physical and/or mental injury to the minor child.

24. As described herein, Defendant First Pres abused and neglected, or allowed the same of the minor child, C.M., among others.

25. In November 2021, First Pres hired Janice Ruinard as a daycare employee whose job was to have direct supervision over the "toddler" classroom.

26. At all times relevant hereto, First Pres owed a duty to the Plaintiffs to conduct a thorough and proper background check of Ruinard prior to hiring her and then to exercise appropriate supervision over her after her hire to ensure the safety of the minor children placed in her care.

27. Upon information and belief, First Pres placed up to twelve (12) minor children under Ruinard's care and supervision, including the minor child C.M. at issue in this action.

28. Upon further information and belief, around April of 2022, within the course and scope of her employment, Ruinard began a campaign of terror and abuse upon the children entrusted to her care, including Plaintiff's minor child.

29. Ruinard's abuse included grabbing the children violently by the head, neck, face and/or other body parts, sitting on them with her entire body weight during nap time, striking and/or throwing the children, yelling at them, verbally abusing them as well as shoving food into their faces during mealtimes.

30. Not only were the minor children physically abused and terrorized by Ruinard, the minor child C.M. was also forced to witness the abuse of other children in the classroom.

31. The classroom in which Ruinard supervised the children was at all times visible to the Director(s) by a camera monitoring and recording system that would record and save two (2) weeks of footage at a time.

32. While First Pres and the Director(s) had the ability to monitor the classroom and to observe the abuse and neglect being inflicted upon the children by its employee(s), no such monitoring occurred.

33. As a result of not viewing or reviewing the videos of Ruinard's classroom from at least April 2022 through late February 2023, no actions were taken to stop the violence and Ruinard was able to continue the daily abuse of the toddler children, including the minor child C.M., until she was finally arrested and charged with 9 felony counts (S.C. Code § 63-05-0070) of Unlawfully Placing a Child at Risk of or Cause Harm or Willfully Abandon the Child.

34. Upon information and belief, Ruinard abused at least fifteen (15) children between the ages of 12 months and 3 years old, including Plaintiff's minor child.

35. As a result of the abuse inflicted upon the minor children, as well as through the

abuse that minor children were forced to witness, the minor children have suffered severe physical injury, as well as profound emotional, psychological, and developmental harm.

36. In conjunction with the police investigation that followed, the McCallum's were allowed to watch surveillance video from the toddler room at First Presbyterian Day School which captured the abuse of their child, among the other minor children, in order to identify their child for purposes of both making and prosecuting the charges.

37. As a result of having seen videos showing the abuse of their child through which the Brocks observed the abuse of their child and Defendants outrageous conduct, they have suffered and will suffer extreme emotional distress that has manifested in physical symptoms of anxiety, stress, sleeplessness and worry, such symptoms being objectively diagnosable by medical experts.

38. All the aforementioned were directly and proximately caused by First Pres's failure to properly hire, train and supervise Defendant Spears and Ruinard, among others.

For a First Cause of Action by Minor Plaintiff C.M.
Negligence / Gross Negligence

39. The paragraphs above are incorporated herein as if realleged and restated in full verbatim.

40. At all times relevant hereto, First Pres was the operator of a children's daycare and owed duties to the Plaintiffs, and specifically to the minor children, which were entrusted into their care, to exercise reasonable care in providing for the safety of its children, including the duty to use care in the hiring, training, and supervision of its employees. The duties owed to the minor children by the Defendant were at all times commensurate with the risks involved, including the minor children's age and the foreseeability of the harm that was suffered.

41. Defendant First Pres' agents, servants and employees, acting in the course

and scope of their employment, failed to exercise ordinary and reasonable care.

42. First Presbyterian Day School breached its duties of care to the minor children, and otherwise acted in a negligent, grossly negligent, willful, wanton, and reckless manner in a number of particulars, including but not limited to some or all of the following:

- a. In entrusting the care of children, including the minor children, to an employee, which it knew or should have known, to be unfit to provide adequate care and supervision to the children entrusted to her care;
- b. In installing video surveillance equipment for the purposes of monitoring classrooms, including the room in which the minor children were abused, and then failing to use the monitoring equipment to discover and stop the abuse;
- c. In failing to properly supervise its toddlers and minor children;
- d. In failing to properly supervise its employees;
- e. In failing to properly train its employees;
- f. In permitting an unreasonable and foreseeable risk to exist in the absence of adequate safety precautions and proper supervision;
- g. In providing inadequate supervision by incompetent and inadequately trained Director(s) and employees;
- h. In failing and omitting to have in full force and effect adequate rules for employees to follow in their supervision of minor children;
- i. In failing and omitting to foresee the possible consequences of not taking precautions to safeguard the minor children under its care;
- j. In negligently entrusting the care of minor children to unqualified and violent employees;

- k. In violating the statutes, case law, and regulations for the State of South Carolina;
- l. In failing to use that degree of care that a reasonable and prudent employer and caregiver for children would have used under the same or similar circumstances then and there prevailing;
- m. In allowing Ruinard to continue abusing children, including Plaintiff's minor child, long after the time that first Pres reasonably should have discovered her behavior; and
- n. In such other particulars as the evidence in this case may demonstrate.

40. As a direct and proximate result of the conduct of the Defendants, minor children were abused on a repeated basis and were forced to endure the additional trauma of witnessing other children in the classroom being abused on a frequent, if not daily, basis.

41. Plaintiffs are entitled to a judgment against First Presbyterian Church and Day School Program for damages, both actual, in a sum sufficient to compensate fully for all losses here, and punitive, in an amount deemed by a jury to be sufficient to impress upon the Defendant(s) the seriousness of its conduct and to deter such similar conduct in the future.

42. As a direct and proximate result of the aforementioned acts and omissions by the Defendants, Plaintiffs were injured and suffered damages, including but not limited to:

- a. Loss of family services;
- b. Alteration of lifestyle;
- c. Psychological trauma;
- d. Mental anguish;
- e. Mental distress;
- f. Apprehension;

- g. Anxiety;
- h. Emotional injury;
- i. Psychological injury;
- j. Depression;
- k. Pain and suffering;
- l. Loss of enjoyment of life; and
- m. Any other damages that are proven at the trial of this matter.

For a Second Cause of Action by Minor Plaintiff C.M.
Battery

43. The paragraphs above are incorporated herein as if realleged and restated in full verbatim.

44. At all times relevant hereto, First Presbyterian Day School was the operator of a Daycare facility and owed duties to the Plaintiffs, and specifically to the minor children which were entrusted into their care, to exercise reasonable care in providing for the safety of its children, including the duty to use care in the hiring, training, and supervision of its employees. The duties owed to minor children by the Defendant were at all times commensurate with the risks involved, including the minor children's age and the foreseeability of the harm that was suffered.

45. Upon information and belief, Ruinard was an agent, servant and employee of Defendant First Pres and was acting within the course and scope of her employment at the time of Plaintiff's injuries.

46. As an employee of Defendant First Pres, Ruinard's violent touching of the Minor Plaintiff C.M. was not consensual and constituted a harmful and offensive touching upon Plaintiff's person.

47. As a direct and proximate cause of Defendant's conduct, Plaintiff is entitled to recover actual and punitive damages from Defendants as determined by a jury.

For a Third Cause of Action by Minor Plaintiff C.M.
Assault

48. Plaintiff realleges all previous allegations as if fully set forth herein.

49. Upon information and belief, Ruinard was an agent, servant and employee of Defendant First Pres and was acting within the course and scope of her employment at the time of Plaintiff's injuries.

50. As an employee of Defendant First Pres, Ruinard approached Minor Plaintiff C.M. and began severely shaking and throwing C.M., placing him in reasonable fear of immediate bodily injury and harm. Minor Plaintiff C.M. did not consent to Ruinard's conduct.

51. As a direct and proximate result of Ruinard's assault, as an employee of First Pres, Plaintiff is entitled to recover actual and punitive damages as determined by a jury.

52. As a toddler, Minor Plaintiff C.M. did not reasonably pose a threat to any of the Defendants so as to justify Ruinard's conduct as described above.

For a Fourth Cause of Action by Minor Plaintiff C.M.
False Imprisonment

53. Plaintiff realleges all previous allegations as if fully set forth herein.

54. Upon information and belief, Ruinard, as an agent, servant and employee of Defendant First Pres, acting within the course and scope of her employment, restrained Minor Plaintiff C.M. and such restraint was intentional and unlawful.

55. As a direct and proximate cause of Defendants action or inactions, Plaintiff was deprived of liberty, freedom of movement and suffered fright, humiliation, mental anguish, distress and is entitled to recover actual and punitive damages as determined by a jury.

**For a Fifth Cause of Action by Plaintiff Parents, The McCallum's
Outrage (Intentional Infliction of Emotional Distress)**

56. Plaintiff realleges all previous allegations as if fully set forth herein.

57. First Pres breached its duties of care to the minor children, and otherwise acted in a negligent, grossly negligent, willful, wanton and reckless manner in a number of particulars, including but not limited to, some or all of the following:

- a. In entrusting the care of children, including the minor children, to an employee, which it knew or should have known, to be unfit to provide adequate care and supervision to the children entrusted to her care;
- b. In installing video surveillance equipment for the purposes of monitoring classrooms, including the room in which the minor children were abused, and then failing to use the monitoring equipment to discover and stop the abuse;
- c. In failing to properly supervise its toddlers and minor children;
- d. In failing to properly supervise its employees;
- e. In failing to properly train its employees;
- f. In permitting an unreasonable and foreseeable risk to exist in the absence of adequate safety precautions and proper supervision;
- g. In providing inadequate supervision by incompetent and inadequately trained Director(s) and employees;
- h. In failing and omitting to have in full force and effect adequate rules for employees to follow in their supervision of minor children;
- i. In failing and omitting to foresee the possible consequences of not taking precautions to safeguard the minor children under its care;

- j. In negligently entrusting the care of minor children to unqualified and violent employees;
- k. In violating the statutes, case law, and regulations for the State of South Carolina;
- l. In failing to use that degree of care that a reasonable and prudent employer and caregiver for children would have used under the same or similar circumstances then and there prevailing;
- m. In allowing Ruinard to continue abusing children, including Plaintiff's minor child, long after the time that first Pres reasonably should have discovered her behavior; and
- n. In such other particulars as the evidence in this case may demonstrate.

58. The conduct of Defendant First Pres, Defendant Spears and Ruinard as aforesaid was so extreme and outrageous as to exceed all possible bounds of decency and must be regarded as atrocious and utterly intolerable in a civilized society and community.

59. The conduct of Defendants First Pres, Defendant Spears and Ruinard as aforesaid was intentional and/or reckless.

60. Defendant First Pres and Defendant Spears knew, or should have known, and/or should have been substantially certain that their conduct would result in severe emotional distress to the Plaintiff.

61. The conduct of Defendants First Pres, Defendant Spears and Ruinard as aforesaid directly and proximately caused Plaintiff to suffer emotional distress so severe that no reasonable person could be expected to endure it.

62. As a direct and proximate result of the conduct of the Defendant(s), minor

children were abused on a repeated basis and were forced to endure the additional trauma of witnessing other children in the classroom being abused on a frequent, if not daily, basis.

63. Defendants First Pres, Defendant Spears and Ruinard should be held liable to the Plaintiffs for actual and punitive damages given their intentional infliction of emotional distress.

For a Sixth Cause of Action by Plaintiff Parents, The McCallum's Breach of Contract

64. Plaintiff realleges all previous allegations as if fully set forth herein.

65. Plaintiff's Minor son C.M. matriculated to Defendant First Pres's Day School Program when he was eight (8) months old.

66. Plaintiff Parents have paid Defendant First Pres thousands of dollars in tuition and fees as of the date of this complaint, with monthly fees continuing to accrue.

67. Upon Plaintiff's enrollment in First Pres Day School, the Plaintiff Parents and Defendant First Pres mutually entered into a binding contractual relationship. The mutual understanding between the parties was that the Plaintiff would provide monthly payments and in return, would receive adequate daycare supervision for their child, on a monthly basis, in a nurturing and safe environment, without abuse. This did not happen.

68. As a direct and proximate result of the deprivations by Defendant First Pres of the Plaintiff's contractual rights to the specified procedural and substantive safeguards promised to each of them by First Pres, the Plaintiffs continue to suffer irreparable harm and have suffered damages in an amount to be determined by a jury.

For a Seventh Cause of Action by Plaintiff Parents, The McCallum's Negligent Supervision

69. Plaintiff realleges all previous allegations as if fully set forth herein.

70. South Carolina has mandatory reporting laws for abuse.

71. These reporting laws require someone who learns of any abuse or unlawful acts perpetrated against a minor that puts them in danger or potential danger, to report this act or persons committing the acts to the proper authorities.

72. Upon information and belief, there are scads of instances of abuse at First Pres.

73. Even if someone were to suggest that First Pres and its employees were not subject to mandatory reporting (and Plaintiff believes they are), when employees reported abuse to April Spears and Jean Zorn, they were obligated to contact law enforcement and/or the Department of Social Services (DSS).

74. That the injuries and damages suffered by the Plaintiffs were proximately caused by the negligent, reckless, careless, and grossly negligent acts of the Defendants, its agents, servants, employees, or representatives, all in violation of the statutes and common laws of the State of South Carolina, combining and concurring.

75. Upon information and belief, 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 abusers in environments in which they had contact with vulnerable children.

76. Furthermore, upon information and belief, 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 minor children at First Pres.

77. 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.

78. 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.

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

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

81. But for Defendants' actions or inactions, the Parents and Minor Child would not have sustained injuries and damages.

82. 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.

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

84. That the aforesaid injuries and damages were a direct and proximate result of the Defendant's breach of duty, failure to supervise, failure to employ an adequate number of agents on duty, and in the following particulars, to wit,

- a. in failing to properly supervise the Minor Plaintiff;
- b. in failing to properly train and supervise its employees;

- c. in permitting an unreasonable and foreseeable risk to exist in the absence of safety precautions and proper supervision;
- d. in failing and omitting to have in full force and effect adequate rules for employees to follow in their supervision on infant children;
- e. in failing to report abuse to DSS as mandated by SCDSS 114-501(b);
- f. in violating the statutes, case law, and regulations for the State of South Carolina;
- g. in otherwise acting in a careless, negligent, and reckless manner and;
- h. in failing to use that degree of care and caution that a reasonable and prudent employer and care giver for children would have used under the circumstances then and there prevailing.

85. All of which were the direct and proximate cause of the injuries and damages sustained by the Plaintiff's, said acts being in violation of the statutory laws of South Carolina and the dictates of ordinary prudence.

86. The McCallum's are entitled to a judgment against First Presbyterian Church, First Presbyterian Day School Program, and Defendant Spears for actual damages in a sum sufficient to compensate them fully for their losses herein and in an amount deemed by a jury to be sufficient to impress upon the Defendant(s) the seriousness of its conduct and to deter such similar conduct in the future, together with additional relief as this Court deems just and proper under the circumstances of this action.

WHEREFORE, Plaintiffs are entitled to and pray for a judgment against First Presbyterian Church, First Presbyterian Day School Program, and Defendant Spears, both actual, in a sum sufficient to compensate them fully for their losses herein, and punitive, in an amount deemed by a jury to be sufficient to impress upon the Defendant(s) the seriousness of its conduct and to deter such similar conduct in the future, together with additional relief as this Court deems just and proper under the circumstances of this action.

[SIGNATURE PAGE FOLLOWS]

Respectfully Submitted,

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Dated: 05-01-2024