

ELECTRONICALLY FILED

CASE NO. _____

JEFFERSON CIRCUIT COURT

DIVISION _____

JUDGE _____

**NINA COLVIN, AS PARENT AND STATUTORY
GUARDIAN ON BEHALF OF W.M.C., MINOR**

PLAINTIFF

v.

**OUTER LOOP CHILD CARE, INC.
7612 SHEPHERDSVILLE ROAD
LOUISVILLE, KY 40219**

DEFENDANTS

Serve: Ruth Ann Hornback
2326 Tyler Lane
Louisville, KY 40205

**RAMIAH BERRI DOUGLAS, INDIVIDUALLY
1780 WATHEN LANE
LOUISVILLE, KY 40216**

COMPLAINT

Comes the Plaintiff, by counsel, and states as follows:

PARTIES

1. Plaintiff Nina Colvin and W.M.C, a minor, are and at all relevant times were residents of 4906 W. Batalina Ct., Louisville, Kentucky 40219, and brings this action on behalf of said minor pursuant to Civil Rule 17.03(1).

2. Defendant Outer Loop Child Care, Inc. is incorporated in Kentucky and has its principal place of business at 7612 SHEPHERDSVILLE ROAD, LOUISVILLE, KENTUCKY, 40219. Outer Loop Child Care, Inc. is a Kentucky corporation active and in good standing and authorized to do business in the Commonwealth of Kentucky.

3. At all relevant times Outer Loop Child Care, Inc. operated a licensed (#L358785) child care center offering day care activities for children, onto which property the general public is invited to enter and remain for purposes directly or indirectly connected with the business of Defendant of operating the child care center during normal business hours.

4. Individual Defendant Ramiah Berri Douglas is a citizen of and resident of Louisville, Jefferson County, Kentucky and at all relevant times herein was employed as a child care worker by Defendant Outer Loop Child Care, Inc.

JURISDICTION

Jurisdiction is appropriate in Jefferson Circuit Court as (1) a substantial part of the events or omissions giving rise to Plaintiff's claims occurred Louisville, Jefferson County, Kentucky, and (2) money damages are sought which are in excess of the jurisdiction amount necessary to the jurisdiction of the Court.

STATEMENT OF FACTS

5. On or about April 1, 2021, on the premises of Defendant Outer Loop Child Care, Inc., W.M.C., Minor, was physically restrained and bound by Defendant Douglas with blue painter's tape around the child's wrists for approximately 40 minutes to force the child to take a nap.

6. The Louisville Metro Police Department (LMPD) Crimes Against Children Unit (CACU) was alerted and investigated.

7. Surveillance video at the Outer Loop Child Care, Inc., captured Defendant Douglas' negligent actions toward W.M.C., Minor

8. At all times relevant herein Defendant Douglas was acting within the scope of her employment in furtherance of the business of the Defendant Outer Loop Child Care, Inc.

9. Defendant Outer Loop Child Care, Inc., had a duty to properly train and supervise Defendant Douglas.

10. Defendant Douglas was not properly trained or supervised by Defendant Outer Loop Child Care, Inc.

COUNT ONE:

TORTIOUS ASSAULT AND BATTERY

11. Plaintiff incorporates all of the allegations made in the preceding paragraphs as if fully restated herein.

12. On or about April 1, 2021 during Defendant Outer Loop Child Care's normal business hours and at a time in which the general public was invited to enter and remain on the premises for purposes directly or indirectly connected with the business of the Defendant Outer Loop Child Care, Defendant Douglas while acting within the scope and course of her employment by Defendant Outer Loop Child Care, Inc., and in furtherance of the business of Defendant Outer Loop Child Care, Inc., and while under the direct supervision of Defendant Outer Loop Child Care, Inc., physically bound and restrained W.M.C., Minor, with blue painter's tape because W.M.C. would not take a nap.

13. As a result, W.M.C., Minor, suffered bodily injuries and bruises, and suffered legal injury to her right against unwanted touching and her right against fear and apprehension.

14. All of the injuries suffered by W.M.C., Minor, were directly and proximately caused by the Defendants' actions.

COUNT TWO:

PREMISES LIABILITY

15. Plaintiff incorporates all of the allegations made in the preceding paragraphs as if fully restated herein.

16. Plaintiff paid money to send W.M.C., Minor, to Defendant Outer Loop Child Care, Inc.

17. Defendant Outer Loop Child Care, Inc., assumed a legal duty to care for W.M.C., Minor, in exchange for money.

18. Defendant Outer Loop Child Care, Inc., breached that duty as evidenced by the tortious assault and battery of W.M.C., Minor, on the premises of the Defendant Outer Loop Child Care, Inc, during the ordinary course of business during normal operating hours when W.M.C, was a business invitee.

19. Plaintiff's injuries were directly and proximately caused by the actions of Defendant Outer Loop Child Care, Inc.

20. As a proximate result of negligence of Defendant Outer Loop Child Care, Inc., Plaintiff was damaged emotionally, mentally and physically as described elsewhere herein.

COUNT THREE:

NEGLIGENCE/GROSS NEGLIGENCE

21. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

22. Defendant Outer Loop Child Care, Inc., is fully liable pursuant to the doctrine of *respondeat superior*, agency, express or implied, and ostensible agency for all injuries to Plaintiff caused by the negligent acts and omissions of its employee Defendant Douglas.

23. Defendant Outer Loop Child Care owed a duty of care toward the Plaintiff.
24. Defendant Douglas owed a duty of care toward the Plaintiff.
25. Defendant Outer Loop Child Care breached that duty directly by failing to properly care for the safety and well-being of Plaintiff and vicariously through the negligent acts and omissions of its employee Defendant Douglas.
26. Defendant Douglas breached that duty by improperly touching, restraining, and scaring, *inter alia*, the Plaintiff.
27. As a direct and proximate result of the conduct of the above-named Defendants the Plaintiff suffered legal and physical injury to her rights and body, respectively, and damage as set forth above in amounts in excess of the jurisdictional limits of this Court.

COUNT FOUR:

FAILURE TO TRAIN AND SUPERVISE

28. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.
29. Defendant Outer Loop Child Care, Inc., had a duty to properly train and supervise daycare personnel, managers, directors, assistants, supervisors, cooks and any other agents such as Defendant Douglas acting on its behalf, to provide the care promised by and expected of a licensed daycare operator.
30. Defendant Outer Loop Child Care, Inc., breached said duty by failing to properly train and supervise Defendant Ramiah Berri Douglas concerning improper restraint of children using blue painter's tape to force a four-year old child in the care and custody of the daycare to take a nap which lack of training and supervision is plainly visible on surveillance video from inside the daycare.

31. Defendant Outer Loop Child Care, Inc., knew or through the exercise of reasonable care should have known that its employee Defendant Douglas was improperly trained and supervised especially considering its ability to watch in real-time and review surveillance video.

32. The acts and omissions of Defendant Outer Loop Child Care, Inc., in failing to properly train and supervise its daycare personnel, managers, directors, assistants, supervisors, cooks and any other agents acting on its behalf to provide the care promised by and expected of a licensed daycare operator was negligent, reckless, grossly negligent and done with malice, oppression, and wanton disregard for the safety of W.M.C., Minor,, and was a substantial factor in causing Plaintiff's injuries and damages.

33. As a result of the foregoing, Defendant Outer Loop Child Care., Inc., is liable to W.M.C., Minor, for her compensatory damages and for punitive damages in an amount to be determined by the jury.

COUNT FIVE:

FALSE IMPRISONMENT

34. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

35. Defendant Douglas detained and falsely imprisoned W.M.C., Minor, with blue painter's tape binding the child's wrists for 40 minutes because the child would not take a nap.

36. Said false imprisonment was a substantial factor in causing the child's injuries.

37. As a result of the foregoing, Defendant Douglas, individually, and Defendant Outer Loop Child Care., Inc. vicariously, are liable to W.M.C., Minor, for her compensatory damages and for punitive damages in an amount to be determined by the jury.

COUNT SIX:**PUNITIVE DAMAGES**

38. Plaintiff incorporates by reference all other paragraphs of this Complaint as if fully set forth herein.

39. Defendants' conduct, individually and collectively, as set forth herein constitutes gross negligence, oppression, fraud, malice or common law bad faith, with willful and wanton disregard for the life, health and rights of the Plaintiffs and was such an extreme departure from ordinary care, as to entitle the Plaintiffs to an award of punitive damages pursuant to KRS 411.184, KRS 411.186 and Kentucky's common law and the counts hereinabove.

WHEREFORE, Plaintiff demands for her relief as follows:

1. Judgment against Defendants, individually and collectively, in an amount the proof will demonstrate as compensatory damages for her permanent and irreparable harm, injury and damage, including physical, mental and emotional pain and suffering; past, present and future medical expenses;
2. Judgment against Defendants, individually and collectively, in an amount the proof will demonstrate as punitive damages, sufficient to punish and deter such conduct in the future;
3. Plaintiff's costs herein expended, including a reasonable attorney's fee;
4. Jury trial on all issues so triable; and,
5. Any and all other relief to which Plaintiff may be entitled.

Respectfully submitted,

/s/ Jeffrey A. Sexton _____

Jeffrey A. Sexton, Attorney
John Byrnes, Attorney
325 West Main Street, Suite 150
Louisville, KY 40202
(502) 893-3784 Voice
(800) 524-3139 Fax
Attorneys for Plaintiff

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11/22/2021

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Presiding Judge: HON. AUDRA J. ECKERLE (630291)

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