

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

JANE DOE, by and through C.B.,
as her parent and natural guardian,
and C.B. Individually

GENERAL JURISDICTION DIVISION

CASE NO.:

Plaintiff(s)

vs.

AROUND THE WORLD LEARNING CENTER, LLC

Defendant

COMPLAINT

Plaintiffs, C.B. on behalf of minor child S.W., and C.B. Individually, by and through the undersigned attorney hereby sues the Defendant, AROUND THE WORLD LEARNING CENTER, LLC and allege:

1. This is an action for damages in excess of Fifteen Thousand Dollars (\$15,000), exclusive of costs and interest, as well as pre-judgment interest and costs, where applicable, and is brought pursuant to §§§ 402.305, 402.3055, 46.031, Florida Statutes and other provisions of Florida law.

2. Plaintiff, C.B. (hereinafter referred to as "C.B.") is a natural person above the age of majority and is a citizen and resident of Osceola County, Florida.

3. Plaintiff, C.B., is the mother of S.W. Plaintiff, S.W., was injured on March 29, 2018, as more fully appears below.

4. Plaintiff Child S.W. is a natural person and is a citizen and resident of Osceola County, Florida. At the time of the acts alleged, she was two-and-a-half years old.

5. The Defendant, AROUND THE WORLD LEARNING CENTER, LLC (hereinafter referred to as “AROUND THE WORLD”), upon information and belief, is a limited liability company with its principal place of business in Osceola County, Florida.

6. AROUND THE WORLD is owned and operated by Joan Ryan, (“Director”).

7. Upon information and belief, at all times material hereto, AROUND THE WORLD was located at 2511 Trafalgar Center, Kissimmee, FL 34758, at which S.W.'s injury occurred.

8. Venue is proper in this forum pursuant to the express terms of §47.011, et seq., Florida Statutes as the cause of action accrued within Osceola County, Florida.

9. All conditions precedent to the initiation and maintenance of this cause of action have been fully performed.

FACTS GIVING RISE TO CAUSE OF ACTION

10. On or about March 29, 2018, Plaintiff, C.B. was enrolled at Defendant, AROUND THE WORLD’s child care facility pursuant to a contract for her regular ongoing care and supervision by Defendant, AROUND THE WORLD.

11. On July 24, 2016, S.W. was lawfully enrolled at Defendant, AROUND THE WORLD.

12. On July 24, 2016, Plaintiff, C.B. completed a Permission to Photograph form, in which she **declined** permission for the following:

- a) Give photographs possibly containing S.W. to current clients;
- b) Display in facility’s scrapbook or bulletin boards, shown to current and prospective clients;

- c) Display still photos on child care website;
- d) Post photos on child care's Facebook page;
- e) Give video to current parents; and
- f) Display on YouTube® promotional videos.

13. Prior to and at the time of execution of the contract and S.W.'s enrollment, Defendant, AROUND THE WORLD, through its Director, represented to Plaintiff, C.B., that Defendant's facility would provide a safe environment for S.W. with adequate supervision and that the facility maintained compliance with all relevant safety requirements.

14. Defendant, AROUND THE WORLD had a duty to provide reasonably safe facilities for S.W.

15. On March 29, 2018, Plaintiff, S.W., was escorted by Plaintiff, C.B., onto Defendant's premises and turned over to the care of Defendant's employees in S.W.'s usual day care classroom. At that time, S.W. was in good health.

16. Upon information and belief, S.W.'s injuries were sustained by the unannounced entrance of an adult sized Easter Bunny. There was no parent consultation prior to bringing this adult sized Easter Bunny into the classroom.

17. An Employee, of Defendant, AROUND THE WORLD, present in the classroom videotaped Plaintiff, S.W.'s, hysterical response that resulted from the adult sized Easter Bunny.

18. Defendant, AROUND THE WORLD's employee sent the video to a third party via text message without the Plaintiff's consent.

19. Said video then went "viral" and was aired on, "Jimmy Kimmel Live!" and subsequently aired around the world.

20. Defendant, AROUND THE WORLD is vicariously liable, under a respondeat superior theory, for Employee's breach of her duties to Plaintiff, S.W.

21. Defendant AROUND THE WORLD is vicariously liable, under a respondeat superior theory for the damages sustained by Plaintiff, C.B.

22. As a direct and proximate result of Defendant, AROUND THE WORLD'S conduct by and through its Employees, Plaintiffs, C.B. and S.W., have sustained severe mental and emotional injuries.

CAUSES OF ACTION

COUNT I **NEGLIGENCE AS TO PLAINTIFF, S.W.**

23. This is an action to recover damages sustained as a result of the negligence of Defendant, AROUND THE WORLD.

24. Plaintiffs re-allege paragraphs 1-23 and further allege that:

25. By entering into a contract with Plaintiff and accepting S.W. into its care, AROUND THE WORLD owed Plaintiff, S.W. a reasonable duty of care.

26. Defendant, AROUND THE WORLD, LLC breached this duty in one of more of the following ways:

a. By negligently and carelessly failing to protect Plaintiff, S.W.;

b. By negligently and carelessly failing to provide reasonable care in protecting Plaintiff, S.W. while under their care;

c. By negligently and carelessly failing to facilitate the safe physical, intellectual, motor, and social development of Plaintiff, S.W.;

- d. By negligently and carelessly failing to protect the health and welfare of Plaintiff, S.W. in care;
- e. By negligently and carelessly failing to provide the child development needs of Plaintiff, S.W.;
- f. By negligently and carelessly failing to warn Plaintiff, S.W. that a six-foot Easter Bunny would be entering the classroom;
- g. By negligently and carelessly failing to acknowledge that the entrance of the Easter Bunny and videotaping of Plaintiff, S.W.'s hysterical response to the Easter Bunny presented a hazard to Plaintiff, S.W. especially at her a young and impressionable age;
- h. By negligently and carelessly failing to supervise Plaintiff, S.W. and to ensure her protection against any inhumane treatment such as that which resulted from the videotaping and disseminating of the hysterical response from Plaintiff, S.W.;
- i. By negligently and carelessly failing to meet licensing standards, which require giving parents a day plan;
- j. By negligently and carelessly failing to consult Plaintiff, C.B. about the day plans regarding the Easter Bunny;
- k. By negligently and carelessly failing to employ child care personnel of good moral character;
- l. By negligently and carelessly failing to meet reasonable requirements of civil conduct by not videotaping and sending such a hysterical response via text message;
- m. By negligently and carelessly failing to meet minimum requirements in hiring employees;

- n. By negligently and carelessly failing to conduct an adequate pre-employment investigation into the employee's background;
- o. By negligently failing to identify that Employee was unfit for employment at a childcare facility;
- p. By negligently failing to take further action such as investigation, discharge, or reassignment when defendant became aware or should have become aware of problems with an employee;
- q. By negligently and carelessly failing to react to employee's indication of unfitness;
- r. By negligently and carelessly failing to adequately train employees; and
- s. By negligently and carelessly failing to discourage employees from engaging in inappropriate activities.

27. As a direct and proximate result of Defendant's careless and negligent behavior, Plaintiff, S.W. suffered severe emotional trauma, and mental distress.

28. All of the above facts or omissions on the part of Defendant, AROUND THE WORLD, constituted negligence, and departed from and fell below the standard of care required of daycare facilities in similar situations.

COUNT II
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS AS TO PLAINTIFF, S.W.

29. Plaintiffs re-allege paragraphs 1-23 and further allege that:

30. Defendant, AROUND THE WORLD, by and through its employees intentionally and recklessly videotaped and transmitted said video to an outside third party of Plaintiff, S.W.'s hysterical response to an Easter Bunny character.

31. These actions were outrageous considering that the video was of a two-and-a-half-year-old child – already susceptible to trauma due to her young age– undergoing a traumatic experience that has had lasting effects.

32. Employee and Defendant, AROUND THE WORLD, LLC knew or should have known emotional distress of Plaintiff, S.W. would likely result from the dissemination of said video.

33. The taking and sending of the video was utterly intolerable to civilized society.

34. As a direct and proximate result of Defendant’s careless and negligent behavior, Plaintiff, S.W. suffered severe emotional trauma, mental distress.

35. All of the above acts or omissions on the part of the Defendant, AROUND THE WORLD constituted intentional infliction of emotional distress.

COUNT III
INVASION OF PRIVACY BY INTRUSION AS TO PLAINTIFF, S.W.

36. Plaintiffs re-allege paragraphs 1-23 and further allege that:

37. Defendant, AROUND THE WORLD invaded the privacy of S.W. in one or more of the following ways:

- a. By intentionally disregarding the Plaintiff, C.B.’s signed document stating she did not wish Plaintiff, S.W. to be photographed or for photographs to be published;
- b. By intentionally intruding upon the solitude and seclusion of Plaintiff, S.W.;
- c. By intentionally intruding into Plaintiff, S.W.’s privacy in such a manner as to outrage or cause mental suffering, shame, and humiliation; and
- d. By publishing said video and personal matter to a third person.

38. As a direct and proximate result of Defendant's careless and negligent behavior, Plaintiff S.W. suffered severe emotional trauma, and mental distress.

39. All of the above acts or omissions on the part of the Defendant, AROUND THE WORLD, constituted invasion of privacy by intrusion.

COUNT IV
INVASION OF PRIVACY BY PUBLIC DISCLOSURE OF PRIVATE FACTS AS TO
PLAINTIFF, S.W.

40. Plaintiffs re-allege paragraphs 1-23 and further allege that:

41. Defendant AROUND THE WORLD, by and through its employee, disseminated private information regarding Plaintiff, S.W.'s personal fears to the public at large by publishing them to a third party.

42. The publication to a single third party was sufficient under this claim because Defendant knew or should have known that it would be published to the public at large.

43. A reasonable person would find such a publication objectionable.

44. As a direct and proximate result of Defendant's careless and negligent behavior, Plaintiff, S.W. suffered severe emotional trauma, and mental distress.

45. All of the above acts or omissions on the part of the Defendant AROUND THE WORLD, constituted invasion of privacy by public disclosure of private facts.

COUNT V
INVASION OF PRIVACY BY INTRUSION AS TO
PLAINTIFF, C.B., INDIVIDUALLY

46. Plaintiff, C.B. re-alleges paragraphs 1-23 listed above and further alleges that:

47. Pursuant to § 46.031, Fla. Stat. Ann., in any action brought by parent and child for an injury done to the child, in which the child is necessarily joined as co-plaintiff, the parent may join claims of any nature in her own right.

48. Plaintiff, C.B. has a claim of invasion of privacy by intrusion in her own right because her privacy was invaded along with Plaintiff S.W.

49. Due to the harsh publicity received by Plaintiff S.W., Plaintiff C.B. was also forced into the spotlight. She was further required to protect her child from such continued trauma by speaking against the proliferation of the video to the public at large.

50. As a direct and proximate result of Defendant's careless and negligent behavior, Plaintiff C.B. suffered severe emotional anguish, and psychological damages.

51. As a result of Defendant, AROUND THE WORLD's acts and omissions, Plaintiff, C.B., has incurred and will incur medical expenses associated with providing necessary medical and psychological treatment to S.W.

WHEREFORE PLAINTIFFS, S.W. by and through C.B., as her parent and natural guardian and C.B. individually, hereby demand judgment against the Defendant, AROUND THE WORLD LEARNING CENTER, LLC for the full value of the damages sustained by Plaintiffs, an amount which is well in excess of this Court's minimal jurisdictional limit of Fifteen Thousand Dollars and 00/100 (\$15,000.00), together with costs of suit and prejudgment interest to the extent allowable by law.

DEMAND FOR JURY TRIAL

The Plaintiffs further demand trial by jury of all issues so triable as of right by a jury.

Dated this **12th** day of **November, 2018**.

THE COCHRAN FIRM SOUTH FLORIDA

Attorneys for Plaintiff

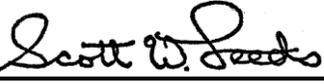
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