

STATE OF SOUTH CAROLINA

COUNTY OF AIKEN

Ashana Odom, Individually and as Parent and
Natural Guardian of ML, a minor,

Plaintiff,

v.

The Sunshine House, Inc., D'Aja Brown, and
Jane Does 1-10,

Defendants.

IN THE COURT OF COMMON PLEAS

Civil Action No. 2021-CP-02-_____

SUMMONS

(Jury Trial Demanded)

YOU ARE HEREBY SUMMONED and required to answer the Complaint in this action, of which a copy is herewith served upon you, and to serve a copy of your answer to the said Complaint on the subscribers at their offices located at 104 Bridge Street, Bamberg, South Carolina 29003, within thirty (30) days after the service hereof, exclusive of the date of such service; and if you fail to answer the Complaint within the aforesaid time, the Plaintiff in this action will apply to the Court for the relief demanded in this Complaint, and a judgment by default will be rendered against you for the relief demanded in this Complaint.

BAMBERG LEGAL, LLC

/s/Justin T. Bamberg

Justin T. Bamberg, Esquire (SC Bar No. 100337)

Adam C. Ness, Esquire (SC Bar No. 100707)

BAMBERG LEGAL, LLC

104 Bridge Street

Bamberg, South Carolina 29003

Phone: (803) 956-5088

Fax: (803) 956-5094

December 1, 2021

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COMPLAINT
(Jury Trial Demanded)

Now comes the Plaintiffs complaining of the Defendants who would allege and state as follows:

1. Plaintiff Ashana Odom ("Odom") is a citizen and resident of Aiken County, State of South Carolina.
2. Plaintiff Ashana Odom as Parent and Natural Guardian of ML, a minor that is three years old ("Minor Child"), is a citizen and resident of Aiken County, State of South Carolina.
3. Defendant Sunshine House, Inc. ("Sunshine" or "Sunshine House") is a corporation organized and existing under the laws of the State of South Carolina and These United States, transacts business in Aiken County, South Carolina, and the acts complained of herein occurred in Aiken County at Sunshine's Aiken facility located at 109 Summerwood Way, Aiken, S.C. 29801.
4. Defendant D'Aja Brown ("Brown") is a citizen and resident of Aiken County, South Carolina. At all times relevant hereto, Brown was operating within the course and scope of her employment with Sunshine as a caregiver, and Sunshine is responsible for Brown's acts and omissions pursuant to the doctrine of *respondeat superior*.

5. Defendants Jane Does 1-10 are, on information and belief, citizens and residents of the State of South Carolina, were employed by Sunshine, and at all times relevant hereto were acting within the course and scope of their employment with Sunshine such that Sunshine is responsible for their acts and omissions pursuant to the doctrine of *respondeat superior*.

6. Defendant Jane Doe 1 was a teacher physically present in the classroom at the time of the incident and was the immediate supervisor of Defendant Brown. Defendant Jane Doe 1 was distracted, actively using her cell phone in the classroom, and was not paying attention at the time of the incident resulting in severe injuries to Minor Child. Defendant Jane Doe 1's inattention directly caused and contributed to the injuries sustained by Minor Child, and Defendant Sunshine House is responsible for her acts and omissions pursuant to the doctrine of *respondeat superior*.

7. That Sunshine House is one of the largest early education and childcare companies in the United States, operating more than 100 schools in 9 states, employing 2,500 "professional" educators and "caregivers," and serving more than 12,000 children each day.

8. Sunshine House has locations throughout South Carolina, North Carolina, Georgia, Florida, Tennessee, Texas, Colorado, Utah, and Ohio.

9. Sunshine House has approximately 38 locations in South Carolina, including three (3) in Aiken County, South Carolina.

10. That Sunshine House represented to the public and Odom that it knew "*that choosing the right childcare is one of the most important decisions your family will make.*"

11. That Sunshine represented to the public and Odom that it would "*make learning fun for your toddler while introducing structure and a routine.*"

12. That Sunshine represented to the public and Odom that:

Your toddler will participate in fun learning activities and creative playtime that encourages exploration – while also introducing structure and an established routine. These experiences help make learning fun!

The foundation of our toddler curriculum is Creative Curriculum®, a nationally-recognized, state-approved program that supports your child in developing critical skills. We enhance this curriculum with the latest research into brain-based development, available only at The Sunshine House.

As your toddler develops, we create structures and routines to meet your little one's ever-increasing skills.

13. That Sunshine represented to the public and Odom that Minor Child would learn interactions, “including relationship building exercises, critical thinking, sensory and language experiences.” Sunshine further represented that Minor Child would learn “character development.”

14. That Sunshine House represented to the public and Odom that its goals for the Toddler Program toddlers, including Minor Child, including:

- a. Develop positive self-image;
- b. Encourage language development and analytical skills;
- c. Promote creativity;
- d. Begin increasing attention span;
- e. Encourage healthy potty training;
- f. Promote physical development and sound nutrition; and
- g. Show more complex emotions

15. That Sunshine House did not inform the public or Odom that the Toddler Program, in teaching toddlers, including Minor Child, to show complex emotions, included complex emotions of fear, pain, terror, trauma, emotional distress, anxiety, angst, despair, dismay, horror, panic,

worry, concern or the complex emotions associated with enduring physical pain, discomfort, intimidation, or pure fright – all of which Minor Child was exposed at the times relevant hereto.

16. That Sunshine House’s representations to the public and Odom included Toddler Program Developmental Milestones that include “[b]egin to recognize that other people have feelings” and “[u]se body to express emotions.” **Exhibit A.**

17. That Minor Child was just 3 year, 9 months, and 3 days old when Minor Child was caught on camera being abused and neglected by Defendants on October 21, 2021. Minor children at Defendant Sunshine House’s location have been subjected to neglect and abuse prior to October 21, 2021 as well.

18. Prior to October 21, 2021, Sunshine and its employees knew, should have known, and/or were made aware that Brown and/or other employees had physically and emotionally abused, mishandled, and otherwise provided improper care to toddlers, including Minor Child, in violation of the laws of the State of South Carolina and general daycare standards.

19. In fact, an employee of Sunshine had previously been criminally charged for child abuse and neglect at Sunshine. Sunshine failed to act on the previous reports in a reasonable manner, take appropriate steps to minimize or eliminate child abuse in its facility, and continued to operate out of ratio with regards to student-teacher ratio, continued to fail to adequately train new employees, and continued to fail to take reasonable steps necessary to protect minor children from harm in its facility.

20. On October 21, 2021, Defendant Brown, while operating within the course and scope of her employment with Sunshine House, grabbed ML by the arm and slung ML headfirst into a table, thereby causing severe physical injury and emotional harm to ML.

21. The incident was captured on surveillance video and clearly shows Defendant Brown's immediate supervisor standing right there with her back turned, distracted because she was using her cell phone at the time.

22. Brown's conduct had been ongoing leading up to the subject incident.

23. After the incident, ML's parent, Odom, was telephoned by Defendant Sunshine House and informed that there had been a minor incident with ML at the daycare but that it was nothing to worry about and ML was not injured. This was a lie.

24. On October 21, 2021, the same day as the incident, Defendant Sunshine House completed a "Child Injury Report" detailing its account of what happened to ML. **Exhibit B.**

25. In the "Child Injury Report," Defendant Sunshine House alleged that the "Cause of the injury" was ML's shoe.

26. Defendant Sunshine House further alleged, being "as specific as possible," the following with regards to the "injury circumstances" and "how did the injury occur":

Pulling away from teacher while turning around causing him to trip over his shoe and fall into the cubbies.

27. The "Child Injury Report" was also signed by the Director of the Sunshine House location. Prior to signing the report, the Director had the present ability and accessibility to review the then-existing in-classroom video of the incident.

28. When ML was picked up from daycare on October 21, 2021, an extremely large knot was visible on his forehead. Odom questioned the account that was given to her by Defendant Sunshine House.

29. Defendant Sunshine House never reported the abuse and neglect to law enforcement or any state agency as required by law until after Odom called the Aiken Department of Public Safety to report alleged abuse.

30. On November 4, 2021, Sunshine House issued a public statement to the media in which it said, among other things, *“the safety and well-being of all children in our care is our highest priority, and we cannot stress enough how seriously we take this incident.”* **Exhibit C.**

31. Much of the language in the November 4, 2021 public statement mirrors or is exactly the same as the April 23, 2019 statement Defendant Sunshine House issued in response to then employee Makita Rainey abusing and neglecting children at this exact same location. **Exhibit C.**

32. Brown was criminally charged as a result of the incident.

33. Odom relied to their detriment on the representations made by Sunshine House when selecting a daycare facility for Minor Child.

34. Defendants’ acts and omissions caused physical and emotional injury to Minor Child, including but not limited to pain and suffering, embarrassment, torment, and emotional distress; as well as financial and emotional injury to Odom. Defendants also caused other actual and consequential damages to Plaintiffs.

35. That Minor Child was a business invitee of Sunshine and in attendance at Sunshine’s business.

36. That all damages suffered by Plaintiffs were proximately and directly caused by Defendants acts and omissions. Plaintiffs are entitled to punitive damages against all Defendants.

37. Emergency Medical Services (“EMS”) was never called to the Sunshine facility, even after Sunshine saw the acts and omissions of its employees on video. Sunshine made no attempts to

have Minor Child medically evaluated even though Minor Child had been physically and visibly injured.

FOR A FIRST CAUSE OF ACTION
Negligence/Gross Negligence
(As to Defendant Sunshine House)

38. That each and every allegation of the Paragraphs above are hereby realleged and reiterated as if fully set out herein.

39. That as a result of Defendant's negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence in the operation its daycare, the Plaintiffs received injuries causing Minor Child Plaintiff to endure physical pain, suffering, mental anguish, severe emotional distress, and ultimately caused Odom Plaintiff to incur medical bills, emotional and mental anguish and such other damages to be presented at trial.

40. That Defendant was negligent, careless, reckless, grossly negligent, willful and wanton at the time and place above mentioned in the following particulars, to wit:

- a) In failing to properly observe and watch the daycare attendees, including Minor Child herein, at the Defendant's daycare facility;
- b) In failing to properly protect Minor Child herein;
- c) In failing to properly supervise its employees;
- d) In failing to get Minor Child proper, timely, medical treatment;
- e) In breaching the duty of care owed to Minor Child and parents herein;
- f) In failing to have in place proper protocols and procedures for employees to report improper conduct towards children by other employees;
- g) In failing to properly train, supervise, and evaluate Brown and Jane Does 1-10 given the employees' time employed with Defendant's company;

- h) In failing to exercise the degree of care that a reasonably prudent daycare facility would have exercised under the same or similar circumstances; and
- i) In such other and further particulars that the evidence in trial may show;

All of which combined and concurred as a direct and proximate cause of the injuries and damages sustained by the Plaintiffs herein, said acts being in violation of the statutes and laws of the State of South Carolina.

41. That as a direct and proximate cause of the aforementioned negligence of the Defendant, the Plaintiffs were injured in the following particulars; caused to suffer personal injuries, forced to incur doctor and medical bills, forced much mental anguish and physical pain, caused to lose enjoyment of life and that Plaintiffs' injuries are permanent in nature and pursuant to Section 19-1-150 of the Code of Laws of the State of South Carolina, Plaintiffs will continue to incur damages into the future all to the Plaintiffs' damages in an amount to be determined by the trier of fact. Plaintiffs are further entitled to punitive damages against all Defendants.

FOR A SECOND CAUSE OF ACTION
Negligence/Gross Negligence
(As to Defendants Brown and Jane Does 1-10)

42. That each and every allegation of the Paragraphs above are hereby realleged and reiterated as if fully set out herein.

43. That Defendants Brown and Jane Does 1-10 were all employees of Sunshine and operating within the course and scope of their employment with Sunshine. Defendants were responsible for the wellbeing of Minor Child while at Sunshine's business location.

44. That as a result of Defendants' negligence, recklessness, carelessness, willfulness, wantonness, and gross negligence in the operation its daycare, the Plaintiffs received injuries causing Minor Child Plaintiff to endure physical pain, suffering, mental anguish, severe emotional

distress, and ultimately caused Odom Plaintiff to incur medical bills, emotional and mental anguish and such other damages to be presented at trial.

45. That Defendant was negligent, careless, reckless, grossly negligent, willful and wanton at the time and place above mentioned in the following particulars, to wit:

- a. In failing to properly observe and watch the daycare attendees, including Minor Child;
- b. In failing to properly protect Minor Child herein;
- c. In being distracted while minor children were under their care;
- d. In using a cell phone inside the classroom in violation of Defendant Sunshine's policies and procedures, if any it had;
- e. In failing to properly supervise coworkers and subordinates such that improper conduct and child abuse was immediately stopped when occurring in Jane Does 1-10's presence;
- f. In allowing neglect to occur in their presence without intervening;
- g. In failing to get Minor Child proper, timely, medical treatment;
- h. In failing to report abuse and mishandling of Minor Child by other employees;
- i. In allowing misconduct to occur without timely bringing it to the attention of supervisors such that Minor Child was not subjected to continued mistreatment, abuse and neglect;
- j. In failing to exercise the degree of care that a reasonably prudent daycare facility would have exercised under the same or similar circumstances; and
- k. In such other and further particulars that the evidence in trial may show

All of which combined and concurred as a direct and proximate cause of the injuries and damages sustained by the Plaintiffs herein, said acts being in violation of the statutes and laws of the State of South Carolina.

46. That as a direct and proximate cause of the aforementioned negligence of the Defendant, the Plaintiffs were injured in the following particulars; caused to suffer personal injuries, forced to incur doctor and medical bills, forced much mental anguish and physical pain, caused to lose enjoyment of life and that Plaintiffs' injuries are permanent in nature and pursuant to Section 19-1-150 of the Code of Laws of the State of South Carolina, Plaintiffs will continue to incur damages into the future all to the Plaintiffs' damages in an amount to be determined by the trier of fact. Plaintiffs are further entitled to punitive damages against all Defendants.

FOR A THIRD CAUSE OF ACTION
Breach of Contract
(As to Defendant Sunshine)

47. That each and every allegation of the Paragraphs above are hereby realleged and reiterated as if fully set out herein.

48. Sunshine's conduct as described above was in violation of the valid, binding, and implied contract for childcare services entered into when Sunshine offered childcare services to Odom and Odom accepted by making payments to Sunshine for said services.

49. The parties agreed to a mutually beneficial, arms-length exchange whereby Odom paid certain amounts due to Sunshine in exchange for Sunshine providing a certain level of childcare services to Minor Child, the same having been inexplicably breached by Sunshine through its own acts and omissions and the acts and omissions of its employees operating within the course and scope of their employment with Sunshine.

50. That as a direct and proximate cause of the aforementioned breach of contract by the Defendant, the Plaintiffs were injured in the following particulars; caused to suffer personal injuries, forced to incur doctor and medical bills, forced much mental anguish and physical pain, caused to lose enjoyment of life, incur attorneys fees and costs, and that Plaintiffs' injuries are

permanent in nature and pursuant to Section 19-1-150 of the Code of Laws of the State of South Carolina, Plaintiffs will continue to incur damages into the future all to the Plaintiffs' damages in an amount to be determined by the trier of fact. Plaintiffs are further entitled to punitive damages against Defendant.

FOR A FOURTH CAUSE OF ACTION
Restitution/Unjust Enrichment/Quantum Meruit
(As to Defendant Sunshine)

51. That each and every allegation of the Paragraphs above are hereby realleged and reiterated as if fully set out herein.

52. Odom purchased childcare services from Sunshine by paying required amounts to Sunshine and thereby conferred a benefit on Sunshine of which Sunshine was aware.

53. Sunshine accepted and retained the benefit of Odom's payments without extending the value of the benefit to Odom by failing to provide quality, safe, and reliable childcare services to Odom as described above and herein.

54. As a direct and proximate result of Sunshine's acts and omissions as well as the acts and omissions of its employees, Odom incurred actual and consequential damages that would otherwise not have been incurred but for said acts and omissions.

55. Sunshine has thereby been unjustly enriched at the expense of Odom and equity requires Sunshine make restitution in the amount of the payments made by Odom to Sunshine plus interest and consequential damages in order to place Odom in the same position they would have been in had Sunshine not engaged in the wrongful conduct described herein.

FOR A FIFTH CAUSE OF ACTION
Violation of the South Carolina Unfair Trade Practices Act
(As to Defendant Sunshine)

56. That each and every allegation of the Paragraphs above are hereby realleged and reiterated as if fully set out herein.

57. Plaintiffs and Defendant are “persons” within the meaning of Section 39-5-10(a), Code of Laws of South Carolina, 1976, as amended.

58. Defendant Sunshine, by conducting business in the State of South Carolina, is engaged in commerce within the meaning of Code Section 39-5-10(b).

59. Defendant Sunshine’s actions and inactions described in this Complaint constitute unfair and deceptive practices within the meaning of Code Section 39-5-20(a), including but not limited to:

- a. Representing to the general public, the State of South Carolina, and Plaintiffs: that The Sunshine House would comply on a continuing basis with those licensure requirements, regulations, laws and standards designed to ensure Plaintiff Minor would receive safe and adequate care and treatment while enrolled in its Toddler Program; that The Sunshine House would adequately and appropriately staff its facility and Plaintiff Minor would enjoy confident and adequately trained and supervised employees; that The Sunshine House would provide high quality professional care and treatment and would accurately and truthfully document Plaintiff Minors treatment while enrolled in its Toddler Program; and such other particulars as are set forth above in this Complaint or may be shown through discovery or trial, including but not limited to an utter failure to implement or abide by the degree of specialized, nationally-recognized care Defendant represented to Plaintiffs;
- b. Further, at the time of Plaintiff Minor’s enrollment in Defendant’s daycare program, Defendant Sunshine promoted and disseminated the above and within representations and information which would lead Plaintiffs, other similarly situated parents and minors, including citizens of South Carolina to believe the above and within representations were true. Defendant Sunshine purposefully disseminated such representations and promotions in order to induce Plaintiffs, other similarly situated parents and minors, and citizens of South Carolina into contracting with, placing minors in, or attending its daycare facility and thereby in

the exclusive custody and control of Defendant Sunshine, and once there during the day, allowing such minors to remain;

- c. The representations made and concealments done by Defendant Sunshine, including the denial of the existence of video of the incident to parents who only found out after being called by law enforcement, were material to Plaintiffs, other similarly situated parents and minors, and citizens of South Carolina;
- d. At the time Defendant Sunshine made such representations, it knew such affirmative claims of service were false;
- e. Plaintiffs were unaware of the falsity of the representations made by Defendant Sunshine;
- f. Plaintiffs had a right to rely on the representations and concealments made by Defendant Sunshine;
- g. As a result of Defendant Sunshine's fraud, misrepresentations, concealments, and deceptive and unfair representations, Plaintiffs subsequently suffered damages, injuries, and permanent emotional harm while enrolled in Defendant Sunshine's Toddler Program.

60. Defendant Sunshine's acts are capable of repetition, and, upon information and belief, have been repeated with other citizens of South Carolina, parents and minors.

61. Defendant Sunshine's conduct adversely affects the public interest of South Carolina, particularly given the never-ending need of working parents in South Carolina to have childcare.

62. Defendant Sunshine knew or reasonably should have known its conduct violated the Unfair Trade Practices Act.

63. As a direct, foreseeable, and proximate result of Defendant Sunshine's unfair and deceptive practices, Plaintiffs have suffered an ascertainable loss of money, physical injury, pain and suffering, and permanent emotional harm as previously alleged collectively herein.

64. Plaintiffs are entitled to recover their actual damages, which amount should be trebled, pursuant to South Carolina law, together with interest and attorneys' fees.

WHEREFORE, the Plaintiffs pray for judgment against Defendants, jointly and severally, for actual and consequential damages and for punitive damages as may be determined by the trier of fact, the cost of this action and for such other and further relief as this Court may deem just and proper.

BAMBERG LEGAL, LLC

/s/Justin T. Bamberg

Justin T. Bamberg, Esquire (SC Bar No. 100337)

Adam C. Ness, Esquire (SC Bar No. 100707)

BAMBERG LEGAL, LLC

104 Bridge Street

Bamberg, South Carolina 29003

Phone: (803) 956-5088

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