

Trial By Jury Demanded

2. Sarah Ford and Blair Young are the guardians ad litem of minor Plaintiff J.Y. and they reside in Delaware. They file suit in their individual capacity only to the extent they have had to or will have to pay for medical bills associated with the abuse for J.Y. before she turns eighteen years old and for breach of contract/unjust enrichment.
3. Telamon Corporation is a foreign corporation. It is authorized to do business and is doing business in the state of Delaware. Its registered agent is Cogency Global Inc. in Dover, DE. At all relevant times hereto it employed Timothy McCrary as a bus aide and certified aide at Telamon's head start preschool at 112 East Street, Harrington, DE.
4. Plaintiff demands that the Telamon deny the allegations contained in paragraph 3 if untrue, by Affidavit in accordance with the provisions of 10 Del.C. §§ 3914 and 3915.
5. Defendant Timothy McCrary is a resident of Kent County, DE.

II. FACTS GIVING RISE TO THE ACTION

A. Agency

6. At all times relevant hereto, McCrary was employed by the Defendant Telamon as a bus aide and classroom aide who would watch the Telamon daycare students when teachers took a break. Without the organization's authorization and approval, he could not operate as an employee within the organization.
7. At all times and in all matters relevant hereto, Telamon was the principal of its agent McCrary. The organization manifested an intention that McCrary become its agent

and act on its behalf. McCrary was empowered by Telamon to perform duties and functions undertaken on its behalf. McCrary accepted and consented to serve and act on its behalf as its agent. McCrary consented to be subject to the organization's control.

8. All acts, if any, initially done outside the scope of that consent were ratified, affirmed, adopted, acquiesced in, and not repudiated by defendants. Such acts were enabled by the agency relationship.
9. McCrary's actions were of the kind defendants expected him to perform. His conduct was not unexpected by defendants. His actions occurred substantially within the authorized time and space limits placed upon him by defendants. McCrary was actuated at least in part by a purpose to serve defendants.
10. All of McCrary's contacts with plaintiff were made pursuant to his routine and regular job duties.
11. McCrary was able to have coercive power to abuse Plaintiffs as a result of his agency and employment with Telamon.
12. Telamon had a non-delegable duty to protect Plaintiff from sexual abuse by its employees while in its care.

B. Causation

13. The reckless, gross negligent, and negligent actions of defendants were the proximate cause of separate and distinct immediate and long term injuries and conditions which plaintiffs suffered and continues to suffer. The actions of each defendant played a determinative role in these injuries. The recklessness, gross negligence, and

negligence of the defendants was a substantial or motivating factor in causing plaintiff's injuries.

C. Actions of and Notice to Defendants including Sexual Abuse

14. J.Y. started as a student at Telamon in the Fall of 2018.
15. Mr. Tim McCrary was the bus aide and classroom aide at Telamon.
16. J.Y. told her mother and grandmother in May 2019 that McCrary rubbed lotion on her vagina every day during nap time at school.
17. Subsequently, she told the CAC interviewer that McCrary did this multiple times, and that it hurt.
18. During the 2018-2019 school year, McCrary sexually abused at least three other students on a regular basis in both the classroom and on the school bus.
19. At all times relevant hereto, Defendant Telamon was responsible for the management and control of its employees/agents, including Timothy McCrary and was responsible for screening, supervising, training and/or hiring employees/agents to work at Telamon
20. At all times relevant hereto, Defendant Telamon was responsible for providing childcare services consistent with and compliant with Office of Child Care Licensing regulations and generally in a reasonable manner according to the standard of care.
21. Upon information and belief, months prior to the sexual abuse of Plaintiff, Telamon had actual and/or constructive notice that McCrary had inappropriately sexually solicited a young male student, and thus was a danger to other students. His parents

- complained about the sexual solicitation to agents of Telamon, yet McCrary was not removed from his position.
22. At the least, prior to the sexual abuse of Plaintiff, Telamon had actual notice that Mr. McCrary needed to have increased supervision and should not be left alone with children, yet permitted him to do so, allowing and enabling him to sexually abuse Plaintiff. It violated the standard of care by employing him without adequate supervision in this context.
23. Telamon maintained inadequate policies and procedures for the protection of children in the daycare, including but not limited to: failure to adequately monitor video surveillance of McCrary prior to the sexual abuse of Plaintiff, which would have revealed his inappropriate actions towards children prior to the abuse, and failure to implement appropriate written policies and procedures for the protection of children in its daycare.
24. Telamon failed to ensure that its agents and employees who were providing care to the minor Plaintiff were qualified and/or adequately trained to perform their responsibilities.
25. Telamon failed to maintain an organized system of business management and sufficient staff to fulfill childcare and supervisory functions, in violation of Office of Child Care Licensing Requirement 14(C).
26. Telamon failed to maintain adequate written policies for handling suspected instances of child sexual abuse in violation of Office of Child Care Licensing Requirement 24.

27. Telamon failed to maintain adequate written policies for prevention and detection of child sexual abuse on its premises or during activities it supervised/controlled.

D. Injuries

28. Plaintiff's separate and distinct immediate and long-term injuries and conditions, which are the result of sexual abuse, include, but are not limited to, physical and emotional sexual abuse, physical and emotional pain and distress, fear, fright, shame, humiliation, anger, loss of enjoyment of life, embarrassment, upon information and belief, anxiety and/or depression, and other temporary or permanent personal injuries.

COUNT I (Assault and Battery – McCrary and Telamon)

29. Plaintiffs repeats and realleges the allegations in the foregoing paragraphs as set forth above.

30. The acts of McCrary toward plaintiff are crimes in Delaware. They also constitute civil assault and battery.

31. McCrary and Telamon, pursuant to respondeat superior and vicarious liability, are legally responsible for these torts.

32. McCrary clearly used his position with Telamon, which was to supervise minor Plaintiff in Delaware when their teachers needed a break, to perpetrate his sexual abuse of the minor. Without his employment he would not have had access to the minor alone when he abused them. Because of his authority at Telamon, he had coercive power over the minor.

33. Further Telamon had a non-delegable duty to safeguard its students from harm while in its care.

34. Therefore, Pursuant to Restatement (Second) of Agency, § 219(c) and (d) Telamon is therefore responsible for his actions towards minors plaintiffs.

35. The actions of McCrary were willful, wanton or oppressive and merit an award of punitive damages.

36. Plaintiff's right to be free of assault and battery under the common law of the State of Delaware has been denied by McCrary and Telamon

COUNT II (Negligence – McCrary and Telamon)

37. Plaintiffs repeat and reallege the foregoing paragraphs as set forth above.

38. Telamon had actual or constructive knowledge and notice of prior misconduct which endangered students and subjected them to sexual abuse.

39. Defendants owed a duty of care to plaintiff under the circumstances then existing, to both properly supervise McCrary, properly run its daycare, as well as to protect the minor Plaintiff.

40. Defendants breached their duties as set forth above.

41. As a direct and proximate result of Defendants' negligence, plaintiff has been injured.

42. The actions of Defendants were willful, wanton or oppressive and merit an award of punitive damages.

43. Plaintiff's right to be free of negligence under the common law of the State of Delaware has been denied by each defendant.

COUNT III (Gross Negligence – McCrary and Telamon)

44. Plaintiff repeats and realleges the foregoing paragraphs as set forth above.

45. Telamon had actual or constructive knowledge and actual notice of prior misconduct by McCrary which endangered students and subjected them to sexual abuse.
46. Defendants owed a duty of care to plaintiff under the circumstances then existing to both properly supervise McCrary, to properly run its daycare, as well as to protect Plaintiff.
47. Defendants intentionally, willfully, wantonly, recklessly and with gross negligence breached their duties as set forth above.
48. Defendants' breach of this duty constituted an intentional failure to perform a manifest duty in reckless disregard of the consequences to all foreseeable victims of McCrary, including plaintiff.
49. As a direct and proximate result of defendants' gross negligence and intentional, willful, wanton and reckless acts, plaintiff has been injured.
50. The actions of defendants were willful, wanton or oppressive and merit an award of punitive damages.
51. Plaintiff's right to be free of gross negligence under the common law of the State of Delaware has been denied by each defendant.

COUNT IV – (Intentional Infliction of Emotional Distress- McCrary and Telamon)

52. Plaintiffs repeat and reallege the foregoing paragraphs.
53. The conduct of Defendant McCrary towards Plaintiff, as described herein, was outrageous and extreme.
54. A reasonable person would not expect or tolerate the sexual abuse of the Plaintiff by Defendants.

55. Defendants' conduct was intentional and/or malicious and was done for the purpose of causing or with substantial certainty that Plaintiff would suffer humiliation, mental anguish, and emotional or physical distress.
56. As a result of the above-described conduct, Plaintiff has suffered and continues to suffer pain and suffering, including, but not limited, to anxiety, depression, embarrassment, and emotional distress.
57. The Plaintiff's right to be free of the emotional distress intentionally inflicted by Defendant has been denied in violation of the common law of the State of Delaware and the Act.
58. The actions of Defendants were intentional and/or malicious and merit an award of punitive damages.
59. Defendant Telamon is responsible for the conduct of McCrary through respondeat superior and/or vicarious liability.

**COUNT V (NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS-
McCrary and Telamon)**

60. Plaintiffs repeat and reallege the foregoing paragraphs.
61. Defendant McCrary acted negligently in that he knew or should have known that his conduct toward Plaintiff would be offensive to him, and that he would suffer emotional distress thereby.
62. As a direct and proximate result of the conduct of Defendant, Plaintiff suffered the injuries and losses set forth above.

63. The Plaintiff's right to be free of the emotional distress negligently inflicted by Defendant has been denied in violation of the common law of the State of Delaware and the Act.
64. Defendant Telamon is responsible for the conduct of McCrary through respondeat superior and/or vicarious liability.

COUNT VI
CLAIMS OF PARENTS FOR MINOR PLAINTIFF

65. Plaintiffs repeat and reallege the foregoing paragraphs.
66. Plaintiff's parents have been compelled to expend and become liable for sums of monies for health care services necessary for the treatment of Plaintiff when she was under 18 years old and in their care.

WHEREFORE, Plaintiffs demand judgment against the Defendant for such sums, including, but not limited to prejudgment interest, as would be necessary to compensate the Plaintiff for the injuries they suffered and Plaintiff's parents for the injuries she suffered associated with payment of their daughter's medical bills.

Wherefore, Plaintiffs pray that the Court:

- (a) Enter judgment against the Defendants, jointly and severally.
- (b) Enter a judgment against the Defendants jointly and severally for compensatory and punitive damages.
- (c) Enter a judgment against the Defendants for costs and pre and post judgment interest.
- (d) Require such other and further relief as the Court deems just and proper under the circumstances.

JACOBS & CRUMPLAR, P.A.

/s/ Raeann Warner

RAEANN WARNER, ESQ. (#4931)

750 Shipyard Dr., Suite 200

Wilmington, DE 19801

(302) 656-5445

Raeann@jcdelaw.com

Dated: January 29, 2021

Attorney for the Plaintiffs