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Superior Court of California
County of Fresno
By: A. Rodriguez, Deputy

5 Attorneys for Plaintiff
6 KIDS KARE SCHOOLS, INC.

8 SUPERIOR COURT OF THE STATE OF CALIFORNIA
9 COUNTY OF FRESNO

11 KIDS KARE SCHOOLS, INC.,
12 Plaintiff,

13 v.

14 DANA DAVIS, an individual, DOES 1 through
15 10, inclusive,
16 Defendants.

Case No. [21CECG00077](#)

COMPLAINT FOR DAMAGES

DEMAND FOR JURY TRIAL

1. **LIBEL (DEFAMATION *PER SE*)**
2. **LIBEL (DEFAMATION *PER QUOD*)**
3. **NEGLIGENCE**
4. **INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**
5. **NEGLIGENT INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE**

23 Plaintiff (KIDS KARE SCHOOLS, INC.) alleges as to Defendants as follows:

24 **PRELIMINARY ALLEGATIONS**

25
26 1. Plaintiff KIDS KARE SCHOOLS INC. (hereinafter, "KIDS KARE") is a California
27 corporation registered and licensed to do business in the state of California at all times relevant
28 hereto.

1 11. DAVIS makes additional baseless and untrue accusations regarding the overall level
2 of care at the KIDS KARE facilities.

3 12. DAVIS additionally discourages other potential customers from doing business with
4 KIDS KARE on the same basis of the untrue accusations.

5 13. Defendant DAVIS' posts contained information that Defendant either knew, or
6 should have known to be false and unprivileged. Defendant was grossly negligent in posting
7 harmful accusations about Plaintiff without undertaking any steps to confirm whether the
8 information was accurate. The nature of the posts exposed KIDS KARE to hatred, contempt,
9 ridicule, or obloquy, and have a tendency to injure Plaintiff and its business.

10 14. The posts made by Defendant caused Plaintiff special damage, including harm to its
11 business and reputation.

12 **FIRST CAUSE OF ACTION**
13 **(Libel - Defamation Per Se)**

14 Plaintiff alleges as to Defendants, and each of them:

15 15. Plaintiff incorporates by reference each allegation in paragraphs 1 through 14 above
16 as though fully set forth herein.

17 16. Plaintiff is informed, believes, and thereon alleges that Defendant DAVIS made the
18 false statements as referenced hereinabove on a publicly-viewable platform, Yelp.com between
19 January 1, 2021 and the present, and intended that they be viewed and understood by the public at
20 large, and reasonably understood and intended that they referred to Plaintiff KIDS KARE.

21 17. DAVIS made these statements with the reasonable understanding that they would
22 be taken to mean that KIDS KARE had committed, either actively or by means of negligence,
23 certain false acts constituting the accusations contained within DAVIS' writings on the Yelp.com
24 platform.

25 18. These statements as made by DAVIS are without truth, and completely false, in their
26 totality as described hereinabove.

27 19. In authoring such false statements, DAVIS failed to exercise any amount of
28 reasonable care in determining the truth or falsity of the statements.

1 **THIRD CAUSE OF ACTION**
2 **(Negligence)**

3 Plaintiff alleges as to Defendants, and each of them:

4 28. Plaintiff incorporates by reference each allegation in paragraphs 1 through 27 above
5 as though fully set forth herein.

6 29. In communicating to other persons, including posting on social media, DAVIS and
7 the DOE Defendants owed a reasonable duty of care to Plaintiff to not communicate false
8 information with the intent of tarnishing Plaintiff's reputation, and to not misrepresent Plaintiff's
9 actions.

10 30. By misrepresenting that Plaintiff had allowed sexual assault of a child under
11 Plaintiff's care, Defendants breached their duty of care to not tarnish Plaintiff's reputation or
12 misrepresent its actions.

13 31. As a direct and proximate result of Defendants' breach, Plaintiff has been damaged
14 in an amount subject to proof at trial.

15 32. Defendants acted with oppression, fraud, or malice by their grossly negligent actions
16 of communicating information Defendants knew to be false and posting those defamatory
17 statements in an online public forum.

18 **FOURTH CAUSE OF ACTION**
19 **(Intentional Interference with Prospective Economic Advantage)**

20 Plaintiff alleges as to Defendants, and each of them:

21 33. Plaintiff incorporates by reference each allegation in paragraphs 1 through 32 above
22 as though fully set forth herein.

23 34. DAVIS and the DOE Defendants intentionally interfered with an economic
24 relationship between Plaintiff and Plaintiff's customers (and potential customers) that likely would
25 have resulted in an economic benefit to Plaintiff.

26 35. Defendants knew of the economic relationship between Plaintiff and Plaintiff's
27 customers (and potential customers), and knowingly posted false information in a public online
28 forum with the intention of disrupting Plaintiff's relationships.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgement as follows:

1. For interlocutory and permanent injunctive relief prohibiting Defendants from making false and damaging statements about Plaintiff KIDS KARE as described hereinabove;
2. For general damages, including but not limited to damages arising from Plaintiff's loss of reputation, shame mortification, and emotional distress, according to proof;
3. For special damages according to proof, including but not limited to, damages arising from harm to Plaintiff's reputation, industry standing, and goodwill within the community and industry, and harm to Plaintiff's business, profession, and occupation;
4. For exemplary damages, because Defendants acted with oppression, fraud, or malice in making the intentional or grossly negligent defamatory statements, according to proof;
5. For costs and expenses, and expert witness fees; and
6. For any additional or further relief as the Court deems proper.

Dated: January 8, 2021

FENNEMORE DOWLING AARON

By: 

Ross Coker
Attorneys for Defendant
KIDS KARE SCHOOLS, INC.

EXHIBIT A



Dana D.
Fresno, CA

0 2 1



1/4/2021 - Updated review

1 photo

Now I'm being harassed by their attorney (Chris Alan Brown) .He's stating that if I don't remove my Yelp review, they will pursue legal action. Well guess what!!!! I want ALL the smoke behind my child. I'm just getting started and I won't stop until my child gets justice for being sexually assaulted while in the care of this horrible daycare center.

0:00 -0:37

Transcription Beta

"Hi _____ this is Chris Brown from _____ dialing Aaron I'm calling about your yelp posting on one 121 regarding kids care West um if you could please give me a call that post needs to be immediately taken down and represent kids care um please give me a call back

Useful

Funny

Cool



1/1/2021 - Previous review

I would NOT enroll your children at any of the kids Kare locations. Corporate does not do thorough investigations. I requested for the camera footage to be pulled, as my child had a very serious incident that occurred at this location and the corporate office claimed the video footage deletes at the end of the day. If you care about your child's safety. PLEASE DO NOT ENROLL YOUR CHILD AT ANY OF THE KIDS KARE LOCATIONS!!

Useful

Funny

Cool

Read less