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1 2 3 4	Ross Coker, Bar No. 306670 FENNEMORE DOWLING AARON 8080 N Palm Avenue Third Floor Fresno, California 93711 Tel: (559) 432-4500 / Fax: (559) 432-4590 rcoker@fennemorelaw.com	E-FILED 1/8/2021 11:49 AM Superior Court of California County of Fresno By: A. Rodriguez, Deputy	
5	Attorneys for Plaintiff KIDS KARE SCHOOLS, INC.		
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8	SUPERIOR COURT OF THI	E STATE OF CALIFORNIA	
9	COUNTY O	F FRESNO	
10 11			
12	KIDS KARE SCHOOLS, INC.,	Case No. 21CECG00077	
13	Plaintiff,	COMPLAINT FOR DAMAGES	
14	v.	DEMAND FOR JURY TRIAL	
15	DANA DAVIS, an individual, DOES 1 through 10, inclusive,	1. LIBEL (DEFAMATION PER SE)	
16	Defendants.	2. LIBEL (DEFAMATION PER QUOD)	
17	D CONTRACTOR OF THE PROPERTY O	3. NEGLIGENCE	
18		4. INTENTIONAL INTERFERENCE WITH PROSPECTIVE ECONOMIC ADVANTAGE	
20		5. NEGLIGENT INTERFERENCE	
21		WITH PROSPECTIVE ECONOMIC ADVANTAGE	
22			
23	Dising HIDS VADE SCHOOLS	S. DIC) alleges as to Defendants as follows:	
24	Plaintiff (KIDS KARE SCHOOLS, INC.) alleges as to Defendants as follows:		
25	PRELIMINARY ALLEGATIONS		
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.		
RE			

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	2.	Plaintiff KIDS KARE operates multiple educational and childcare facilities in the
Fresno,	CA are	ea, including the location(s) relevant to the matter hereunto.

- 3. Defendant DANA DAVIS (hereinafter "DAVIS") is an individual who at all times relevant hereto was and is a resident of Fresno County, California.
- 4. Defendant DAVIS is a relative (on good-faith belief, mother) of a child who was a student and at times relevant to the matter herein under the care and custody of KIDS KARE.
- 5. Plaintiff is unaware of the true names and capacities of the Defendants sued herein as Does 1 through 10, inclusive, and therefore sues these Defendants by such fictitious names. Plaintiff is informed and believes and on that basis alleges that each of the fictitiously named Defendants is liable in the manner set forth below for the acts, conduct and/or omissions concerning the events and happenings herein referred to, which proximately caused the damage and injuries to Plaintiff as alleged herein.

FACTUAL ALLEGATIONS

- 6. On or about January 1, 2021, DAVIS posted a review to the business page for KIDS KARE on the Yelp.com platform containing multiple false accusations about KIDS KARE relating to the care of the child referred to hereinabove. (Attached hereinafter as **EXHIBIT A**)
- 7. DAVIS edited or added to that review or post later after its initial authorship, most recently on January 4, 2021.
- 8. In an effort to amicably resolve the issue, counsel for Plaintiff reached out to DAVIS and attempted to discuss with her the untrue contents of the posting at some point soon after the initial January 1, 2021 date.
- 9. In response, DAVIS modified the posting to impermissibly contain contents of that communication, and further misstated the intent of said communication by construing it as an attempt to intimidate or silence her. (Depicted hereinafter in **EXHIBIT A**)
- 10. Both prior to and after the edits or additions to her initial posting on the Yelp.com platform, DAVIS falsely accused Plaintiff of allowing the child referred to hereinabove to be sexually assaulted at the KIDS KARE facility, or otherwise facilitating the same.

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- 11. DAVIS makes additional baseless and untrue accusations regarding the overall level of care at the KIDS KARE facilities.
- 12. DAVIS additionally discourages other potential customers from doing business with KIDS KARE on the same basis of the untrue accusations.
- 13. Defendant DAVIS' posts contained information that Defendant either knew, or should have known to be false and unprivileged. Defendant was grossly negligent in posting harmful accusations about Plaintiff without undertaking any steps to confirm whether the information was accurate. The nature of the posts exposed KIDS KARE to hatred, contempt, ridicule, or obloquy, and have a tendency to injure Plaintiff and its business.
- 14. The posts made by Defendant caused Plaintiff special damage, including harm to its business and reputation.

FIRST CAUSE OF ACTION (Libel - Defamation Per Se)

Plaintiff alleges as to Defendants, and each of them:

- 15. Plaintiff incorporates by reference each allegation in paragraphs 1 through 14 above as though fully set forth herein.
- 16. Plaintiff is informed, believes, and thereon alleges that Defendant DAVIS made the false statements as referenced hereinabove on a publicly-viewable platform, Yelp.com between January 1, 2021 and the present, and intended that they be viewed and understood by the public at large, and reasonably understood and intended that they referred to Plaintiff KIDS KARE.
- DAVIS made these statements with the reasonable understanding that they would be taken to mean that KIDS KARE had committed, either actively or by means of negligence, certain false acts constituting the accusations contained within DAVIS' writings on the Yelp.com platform.
- 18. These statements as made by DAVIS are without truth, and completely false, in their totality as described hereinabove.
- 19. In authoring such false statements, DAVIS failed to exercise any amount of reasonable care in determining the truth or falsity of the statements.

20. These false statements, as they stand, are believed to be actively injurious to Plaintiff's business, reducing potential business and discouraging potential customers or clientele, and it is the reasonable belief of Plaintiff that without action to remove and enjoin DAVIS from making such statements, further harm in the form of damage to Plaintiff's reputation, business, and clientele will continue to result.

21. DAVIS' conduct was intentional, willful, wanton, with malice, and in reckless disregard of the rights of Plaintiff, and Plaintiff has suffered damages in addition to the harm described hereinabove, to be shown in the course of trial. Defendants' conduct also entitles Plaintiff to recover exemplary and punitive damages, subject to proof at trial.

SECOND CAUSE OF ACTION (Libel - Defamation Per Quod)

Plaintiff alleges as to Defendants, and each of them:

- 22. Plaintiff incorporates by reference each allegation in paragraphs 1 through 21 above as though fully set forth herein.
- 23. Plaintiff is informed, believes, and thereon alleges that DAVIS made false statements about Plaintiff to persons other than Plaintiff. Those statements included accusations that Plaintiff allowed, facilitated, or somehow caused sexual assault of a minor child in Plaintiff's care, among other harmful or defamatory statements to be proven at trial.
- 24. DAVIS knew these statements to be false, but made them to cause Plaintiff financial harm and to harm Plaintiff's reputation.
- 25. As a result of DAVIS' postings and statements, Plaintiff has suffered harm to its business and reputation. Plaintiff has been damaged in a sum to be proven at trial.
- 26. The conduct of DAVIS and the DOE Defendants was a substantial factor in causing Plaintiff's harm.
- 27. Defendants acted with malice, oppression or fraud in knowingly posting the false, negative information about Plaintiff on the public Yelp.com platform, entitling Plaintiff to recover exemplary and punitive damages, subject to proof at trial.

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THIRD CAUSE OF ACTION (Negligence)

Plaintiff alleges as to Defendants, and each of them:

- 28. Plaintiff incorporates by reference each allegation in paragraphs 1 through 27 above as though fully set forth herein.
- 29. In communicating to other persons, including posting on social media, DAVIS and the DOE Defendants owed a reasonable duty of care to Plaintiff to not communicate false information with the intent of tarnishing Plaintiff's reputation, and to not misrepresent Plaintiff's actions.
- 30. By misrepresenting that Plaintiff had allowed sexual assault of a child under Plaintiff's care, Defendants breached their duty of care to not tarnish Plaintiff's reputation or misrepresent its actions.
- 31. As a direct and proximate result of Defendants' breach, Plaintiff has been damaged in an amount subject to proof at trial.
- 32. Defendants acted with oppression, fraud, or malice by their grossly negligent actions of communicating information Defendants knew to be false and posting those defamatory statements in an online public forum.

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

Plaintiff alleges as to Defendants, and each of them:

- 33. Plaintiff incorporates by reference each allegation in paragraphs 1 through 32 above as though fully set forth herein.
- 34. DAVIS and the DOE Defendants intentionally interfered with an economic relationship between Plaintiff and Plaintiff's customers (and potential customers) that likely would have resulted in an economic benefit to Plaintiff.
- 35. Defendants knew of the economic relationship between Plaintiff and Plaintiff's customers (and potential customers), and knowingly posted false information in a public online forum with the intention of disrupting Plaintiff's relationships.

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- Defendants knew that it was certain or substantially certain that their 36. communications with third parties would cause disruption of Plaintiff's relationships.
 - Defendants' conduct was a substantial factor in causing Plaintiff economic harm. 37.
- Defendants acted with oppression, fraud, or malice in intentionally communicating 38. information Defendants knew to be false and posting those defamatory statements in an online public forum.

FIFTH CAUSE OF ACTION (Negligent Interference with Prospective Economic Advantage)

Plaintiff alleges as to Defendants, and each of them:

- 39. Plaintiff incorporates by reference each allegation in paragraphs 1 through 38 above as though fully set forth herein.
- DAVIS and the DOE Defendants negligently interfered with an economic 40. relationship between Plaintiff and Plaintiff's customers (and potential customers) that probably would have resulted in an economic benefit to Plaintiff.
- Defendants knew of the economic relationship between Plaintiff and Plaintiff's 41. customers (and potential customers), and knowingly posted false information in a public online forum with the intention of disrupting Plaintiff's relationships.
- Defendants knew that disruption of Plaintiff's relationships was certain or 42. substantially certain as a result of Defendants' actions.
 - Defendants' conduct was a substantial factor in causing Plaintiff economic harm. 43.
- Defendants acted with oppression, fraud, or malice by their grossly negligent actions 44. of communicating information Defendants knew to be false and posting those defamatory statements in an online public forum.

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PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays for judgement as follows:

- For interlocutory and permanent injunctive relief prohibiting Defendants from making false and damaging statements about Plaintiff KIDS KARE as described hereinabove;
- For general damages, including but not limited to damages arising from Plaintiff's loss of reputation, shame mortification, and emotional distress, according to proof;
- 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;
- 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.

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EXHIBIT A



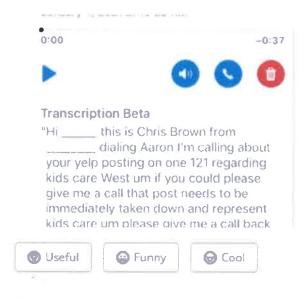
Dana D.
Fresno, CA

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🚺 1/4/2021 - 🗲 Updated review

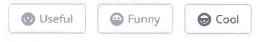
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Now I'm being harassed by their attorney (Chris Alan Brown). He's stating that if I don't remove my Yelp review, they will pursue legal action. Well guess what!!!! I want ALL the smoke behind my child. I'm Just getting started and I won't stop until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





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!!



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