

COMMONWEALTH OF KENTUCKY

FAYETTE CIRCUIT COURT

CASE NO. 10C1358 7th Div.

PAUL AND SARA FELICE, Individually :

And as natural parent of
minor child, I.F. (redacted)
956 Lily Dr.
Lexington KY 40504

Plaintiffs,

v.

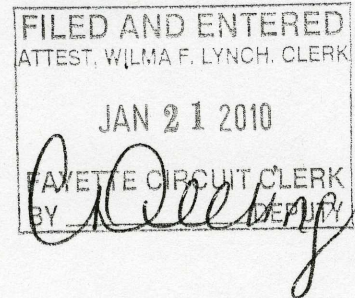
SOUTHERN HILLS UNITED
METHODIST CHURCH
INCORPORATED
2356 Harrodsburg Road
Lexington, Kentucky 40503

Agent:
Thomas K. Herren
2356 Harrodsburg Road
Lexington, Kentucky 40503

AND

INDIVIDUAL DAYCARE WORKERS
Currently Unknown

Defendants.



COMPLAINT WITH JURY DEMAND ENDORSED HEREON

Come now the Plaintiffs, Paul Felice and Sara Felice, individually and on behalf of their minor child referred to as I.F. and hereinafter jointly referred to as "Plaintiffs", and for their Complaint against Defendants Southern Hills United Methodist Church Incorporated ("Southern Hills") and individual daycare workers ("Individual Daycare Workers") (hereinafter collectively referred to as "Defendants") state as follows:

PARTIES

1. Plaintiffs are the natural parents of a minor child, referred hereto as I. F, entrusted their child to Defendants for purposes of child care.
2. The Southern Hills Early Childhood Program ("SHECP") is operated by Defendant Southern Hills as a full-time day school program for children ages six weeks to 12 years old, located in Fayette County, Kentucky.
3. At all times relevant herein, Southern Hills was and is a corporation in the business of providing child care.
4. The Individual Daycare Workers at Southern Hills, who are named as Defendants, will be substituted as defendants when their identities are discovered as allowed by the Kentucky Rules of Civil Procedure.

JURISDICTION AND VENUE

5. Plaintiffs reallege the foregoing paragraphs and incorporate by reference as if fully rewritten.
6. Kentucky has jurisdiction over all Defendants because, based upon information and belief, each is a corporation and/or entity and/or person organized under the laws of the Commonwealth of Kentucky, is a foreign corporation or association authorized to do business in Kentucky and registered with the Kentucky Secretary of State, or has sufficient minimum contacts in Kentucky, is a citizen of Kentucky, does sufficient

business in Kentucky, or otherwise intentionally avails itself of the Kentucky market so that the exercise of jurisdiction by Kentucky courts is consistent with traditional notions of fair play and substantive law.

7. Plaintiffs, including the minor child, are residents of Fayette County, Kentucky as of the date of this Complaint.
8. Venue is proper in Fayette County as the events complained of occurred in Fayette County, Kentucky.

FACTUAL ALLEGATIONS

9. Plaintiffs reallege the foregoing paragraphs and incorporate by reference as if fully rewritten.
10. Plaintiffs state that they entrusted their child, I.F., into the care of Defendant Southern Hills, their agents, servants and employees, for the purposes of supervised child care for their minor child, I.F. who at the time of the filing of this complaint is five months of age.
11. On or about January 13, 2009, Plaintiff, Sara Felice, made and unannounced visit Defendants' facility and noticed that the child, I.F. was in distress. When she picked the child up, Plaintiff Sara Felice noticed a medicine like smell and could taste medicine on the child. Plaintiff Sara Felice inquired as to the medication, and was advised by the Defendants that the minor child, I.F. was administered unauthorized, non-prescription medication, including but not limited to, Orajel and acetaminophen, while in the care, custody and control of the Defendants.

12. Upon information and belief, Plaintiffs believe that their minor child, while in the care, custody and control of Defendants, were given unauthorized, non-prescription medication, including but not limited to Orajel and acetaminophen, and such information was concealed by the Defendants.
13. Plaintiffs did not authorize Defendants to give their child Orajel. Upon further inquiry, Plaintiffs discovered that the Defendants had administered to the minor child, I.F., without consent, acetaminophen and that the entire 15ml bottle was empty which would have contained over 30 doses, without parental consent.
14. Upon information and belief, Orajel causes side effects including but not limited to, allergic reactions, problems breathing, dizziness, drowsiness, increased or decreased heartbeat, headaches, restlessness, nervousness, anxiety, seizures and tremors. The long term implications of Orajel are unknown at this time.
15. Upon information and belief, acetaminophen, if not administered properly, can cause liver toxicity or even requiring a liver transplant. Side effects of acetaminophen include but are not limited to, nausea, vomiting, poor appetite, and abdominal pain.
16. As a direct and proximate result of the intentional, reckless, grossly negligent, and negligent acts and/or commissions of the Defendants, the Plaintiffs' child has been exposed to these medications.

COUNT I

(Negligence)

17. Plaintiffs reallege the foregoing paragraphs and incorporate by reference as if fully rewritten.
18. The Defendants knew or should have known that exposing and providing unauthorized medication to a minor child would create a hazard to the health and welfare of the child, including but not limited to, short and long term health hazards.
19. Defendants owed Plaintiffs and their minor child a duty of reasonable care when providing child care to protect the Plaintiffs and their child from injuries, including exposure to drugs, and to comply with all applicable state and/or federal laws and to provide the child with reasonable day care including following any and all policies for distributing any type of medication. Further, Defendants had a duty to obtain parental consent before administering any and all types of medications.
20. As a direct and proximate result of the negligence of Defendants, the Plaintiffs and their child suffered injury, including but not limited to, exposure to unauthorized medication causing great physical and mental pain and anguish. It is anticipated that Plaintiffs' child will in the future continue to suffer great physical and mental pain and anguish due to the negligence of Defendants. In addition, Plaintiffs have incurred additional expenses for hospitals, physicians, and other related medical expenses and they will in the future be obligated to expend large sums of money for hospitals, physicians and other related medical expenses in treating said injuries in an amount in excess of the minimal jurisdictional limits of this Court. Plaintiffs further believe these injuries are permanent in nature and Plaintiffs and their child are likely to have future pain and suffering.

COUNT II

(Battery)

21. Plaintiffs reallege the foregoing paragraphs and incorporate by reference as if fully rewritten.
22. At all times relevant herein, Defendants were involved in the business of supervised child care.
23. The Defendants, without the consent of Plaintiffs, drugged Plaintiffs' minor child, I.F. by administering medication to the minor child and then concealed the drug exposure, directly and proximately causing harm to Plaintiffs' child. The unauthorized administration of medication is a battery as described herein.
24. As a direct and proximate result of the battery of Defendants, the Plaintiffs and their child suffered injury including but not limited to exposure to unauthorized medication and excessive medication, causing great physical and mental pain and anguish. It is anticipated that Plaintiffs' child will in the future continue to suffer great physical and mental pain and anguish due to the negligence of Defendants. In addition, Plaintiffs have incurred additional expenses for hospitals, physicians, and other related medical expenses and they will in the future be obligated to expend large sums of money for hospitals, physicians and other related medical expenses in treating said injuries in an amount in excess of the minimal jurisdictional limits of this Court. Plaintiffs further believe these injuries are permanent in nature and Plaintiffs and their child are likely to have future pain and suffering.

COUNT III

(Malice/Gross Negligence)

25. Plaintiffs reallege the foregoing paragraphs and incorporate by reference as if fully rewritten.
26. The acts and omissions of Defendants, over the course of many months, constitute gross negligence and malice in light of Defendants' actual conscious indifference to the health, safety and welfare of Plaintiffs and their minor child, I.F.
27. As a direct and proximate result of the actual malice and conscious indifference of Defendants, Plaintiffs are entitled to recover, and hereby request, punitive damages in an amount appropriate to punish and deter said Defendants from similar acts of misconduct in the future.

COUNT IV

(Negligent Supervision)

28. Plaintiffs reallege the foregoing paragraphs and incorporate by reference as if fully rewritten.
29. The Defendants knew or should have known that exposing and administering unauthorized, non-prescription medication to a minor child would create a hazard to the health and welfare of the child, including but not limited to, short and long term health hazards.
30. Defendants owed a duty to the Plaintiffs and their minor child, I.F., to hire and supervise staff to provide safe child care to protect the Plaintiffs and their child from injuries,

including exposure to medication, including but not limited to excessive and unauthorized medication, and to comply with all applicable state and/or federal laws.

This includes supervising the staff in the administration of their duties.

31. The Defendants have failed to hire, supervise, control and administer the SHECP staff of Southern Hills in their care of children and thereby, directly and proximately have caused injury to the Plaintiffs and their minor child as described herein.
32. As a direct and proximate cause of the failure of Defendants to supervise, hire and administer the SHECP staff of Southern Hills, Plaintiffs and their child have suffered injury including but not limited to, exposure to unauthorized medication and/or excessive medication causing great physical and mental pain and anguish. It is anticipated that Plaintiffs' child will in the future continue to suffer great physical and mental pain and anguish due to the negligence of Defendants. In addition, Plaintiffs have incurred additional expenses for hospitals, physicians, and other related medical expenses and they will in the future be obligated to expend large sums of money for hospitals, physicians and other related medical expenses in treating said injuries in an amount in excess of the minimal jurisdictional limits of this Court. Plaintiffs further believe these injuries are permanent in nature and Plaintiffs and their child are likely to have future pain and suffering.
33. In addition, Plaintiff should be compensated for the monetary expenditure provided to the Defendants for adequate childcare that was not received.

DEMAND FOR RELIEF

WHEREFORE, Plaintiffs, Paul and Sara Felice, demand for judgment against Defendants, Southern Hills United Methodist Church Incorporated and Individual Daycare Workers, in a sum in excess of \$25,000.00, to include:

- A. Damages in a sum which will fully and completely compensate Plaintiffs;
- B. Punitive damages for Defendants for willful, wanton, malicious, and/or despicable conduct;
- C. Attorney's fees;
- D. Court costs and appropriate expenses; and
- E. Interest and such other and further relief as may be just and proper.

Respectfully submitted,

Statman, Harris & Eyrich, LLC



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Trial Attorneys for Plaintiffs

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury.



Colleen M. Hegge (KBA 82403)