

one million dollars.

3. PARTIES

3.01 Plaintiffs, Mr. & Mrs. Doe, parents of Jane Doe, (hereinafter "Mr. & Mrs. Doe") and their daughter Jane Doe (hereinafter "Doe" or "Jane Doe"), are identified in this lawsuit by pseudonyms to protect the identity of Jane Doe, a child victim of sexual assault. Doe is still a minor female who, at the time of the sexual assaults complained of herein, resided in the foster home of Defendants Mike and Brenda Whitfield, who were the agents of A World for Children, a child placement and foster care agency. The true identities of the Plaintiffs are being made known to the Defendants under separate cover. Mr. Doe's drivers license number last 3 digits are 029 and the last 3 of his social security number are 177. Mrs. Doe's drivers license number last 3 digits are 785, and the last 3 digits of her social security number are 698. Jane Doe does not have a drivers license due to her age, and the last 3 digits of her social security number are 128.

3.02 Defendant A World for Children is a domestic nonprofit corporation, child placement and foster care agency licensed by the Texas Department of Family and Protective Services. This Defendant can be served with process by serving its registered agent Paul R. Willis at 1516 Palm Valley Boulevard Building C, Round Rock, Texas 78664, per the Secretary of State.

3.03 Defendants Mike Whitfield and Brenda Whitfield (hereinafter "Whitfields") , are a married couple, who at the relevant time operated a foster home on behalf of A World for Children. Jane Doe, a minor, resided at the Whitfield's home in their foster care from approximately June 25, 2008 until September 16, 2011 (with the exception of approximately two months when she resided at another home that was going to adopt her) where she was sexually

abused, and committed sexual abuse. Mike Whitfield and Brenda Whitfield can be served with process at their residence at 1373 San Patricio, Goliad, Texas 77963.

3.04 Defendants are sued in all of their assumed, common or business names, pursuant to TEX. R. CIV. P. Rule 28 and notice is hereby given so that real parties in interest may appear and defend this action.

4. JURISDICTION AND VENUE

4.01 Venue is proper in this case in Williamson County, Texas pursuant to Texas Civil Practice and Remedies Code §15.002(a)(3) due to A World for Children has its principal offices located in Williamson County.

4.02 The court has jurisdiction of this case based on appropriate subject matter and based upon sufficient amount in controversy.

5. STATEMENT OF FACTS

5.01 Mr. & Mrs. Doe had considered for some time adopting children and finally decided they wanted to take the steps to pursue adopting several biological siblings from the foster care system. They contacted the Edna Gladney Center (hereinafter "Gladney"), an adoption agency, in approximately January 2011. They completed the interview process, including filling out papers in January 2011 stating what they were not willing to accept as characteristics in adoptive children. One of those characteristics that they were always very clear from the beginning that they were not willing consider was prior sexual abuse. Mr. & Mrs. Doe understood that Gladney communicated these parameters to the other adoption agencies from whom they were getting potential adoption candidates.

5.02 Gladney presented Mr. & Mrs. Doe with many profiles of children to consider for adoption. Finally in approximately June 2011 Mr. & Mrs. Doe chose 3 biological children to meet for potential adoption. Jane Doe was one of these 3 children. The other 2 children were the biological brother of Jane Doe (hereinafter "Q") and the biological younger sister of Jane Doe (hereinafter "D"). These 3 children were under the care and supervision of A World for Children. Jane Doe and her brother Q were residing at the Whitfield's foster home, which was run by A World for Children. D was also residing at another foster home, also run by A World for Children.

5.03 In approximately July 2011, Mr. & Mrs. Doe received from A World for Children the medical/psychological profiles of the 3 children, and on approximately July 29, 2011 Mr. & Mrs. Doe received a CD from CPS with the children's records. There was nothing indicating any sexual abuse complaints or outcries regarding the 3 children disclosed in these records. There was a reference in the medical/psychological records from A World for Children about Jane Doe in April 2011 flapping her legs open and closed while watching TV, and after refusing to stop being told to go to her room. The records report that she responded by looking at a boy suggestively and saying "I will go to my room and open my legs." When Mr. & Mrs. Doe saw this reference they immediately called Gladney and asked about if there was some underlying issue with sexual abuse related to Jane Doe. Gladney inquired of A World for Children, by contacting CPS, who contacted the Whitfields, and reported back to Mr. & Mrs. Doe that there was no concern, this was just child's play.

5.04 On September 8, 2011 there was a pre-placement meeting regarding the adoption. In attendance were: Mr. & Mrs. Doe, Brenda Whitfield, Denise Rangel (CASA), Stephanie Rauch (CPS), Nicole Green (CPS), Irene Gutierrez (foster parent of D), and Kimberly Craddock

(Gladney, attending by phone). During that meeting Mr. & Mrs. Doe repeatedly asked about any concerns or issues with the 3 children. Brenda Whitfield disclosed that Jane Doe suffered from trouble staying focused, irritable at times, and stealing. But at no time did she ever tell Mr. & Mrs. Doe that Jane Doe had outcried about being sexually abused while in their home, or that she had ever been caught sexually touching another child in their home, or that she had been caught touching the another child at a family's home that were going to adopt Jane Doe. In addition to Mr. & Mrs. Doe making inquiry at that meeting about any issues with Jane Doe and the other children, Kimberly Craddock of Gladney at the end of the meeting also asked of Brenda Whitfield if there were ANY other issues or concerns regarding the children that had not yet been discussed and Brenda Whitfield replied no.

5.05 Based on these representations from A World for Children, through the Whitfields, Mr. & Mrs. Doe decided to move forward with the adoption of Jane Doe, D, and Q. Mr. & Mrs. Doe met the children for the first time on September 8, 2011, and the 3 children came and stayed for several days at Mr. & Mrs. Doe's hotel starting on September 9, 2011. On September 9, 2011 Mr. & Mrs. Doe discovered that Jane Doe's brother Q, who was 7 years old, could not bath himself and that another boy at the Whitfields would bath him. The child acted excited and giggled as Mr. Doe when he bathed Q's private area. On September 11, 2011 Jane Doe seemed fearful that Mr. Doe was going to make her shower with him. Both of these incidents raised concerns to Mr. & Mrs. Doe so they text Stephanie Rauch, with CPS, who replied that she would ask the Whitfields about this, and she later responded that the Whitfields said there were no issues.

5.06 On September 14, 2011 CASA and CPS made a decision to move up the placement date of the adoption because things were "unraveling" with the Whitfields, and Mr. &

Mrs. Doe received a text from Stephanie Rauch with CPS on September 16, 2011 saying “things were not good.” Mr. & Mrs. Doe understood that the Whitfields were telling the children bad things to cause the children not to want to go live with the Does.

5.07 On approximately September 16, 2011, the 3 children moved into Mr. & Mrs. Doe’s home with everyone’s understanding this was going to be permanent and the adoption would be finalized after the required waiting period. Mr. & Mrs. Doe immediately loved and cared deeply for their children, considering them to be their own, and making permanent plans for their futures together.

5.08 On approximately November 27, 2011, Mr. & Mrs. Doe were made aware for the first time by Jane Doe that she had been sexually abused by another foster care boy (hereinafter “J”) that was 7 years old than her, who was residing with her at the Whitfields. Jane Doe had outcried at least twice about the sexual abuse to the Whitfields while she lived there. To Plaintiffs knowledge neither outcry were reported to law officials at the time. For one of those outcries, the Whitfields called the child abuse hotline and Licensing conducted an investigation. For the second outcry only A World for Children was called. Mr. & Mrs. Doe were never informed by A World for Children, or the Whitfields about either of these outcries. To Plaintiffs’ knowledge the second outcry by Jane Doe was never reported to Licensing or law officials by the Whitfields or A World for Children.

5.09 The perpetrator child (J) for both of these assaults was never removed from the Whitfield’s home by A World for Children, even after they were aware of the outcries. Mr. & Mrs. Doe later came to understand that this perpetrator child was known by the Whitfields to have been a sexual perpetrator previously, as well as having had psychiatric treatment as a young child.

5.10 Also on November 27, 2011 Jane Doe's biological brother Q who Mr. & Mrs. Doe were also adopting revealed that he too had been sexually molested at the Whitfields by the J. On November 28, the day after learning about the abuse, Mr. & Mrs. Doe reported it to the ad litem, CPS, and the Judge at a hearing regarding the adoption. The Judge ordered immediate removal of J from the Whitfields as well as charges filed and a report to the hotline.

5.11 On December 19, 2011 Q told Mr. & Mrs. Doe immediately after a therapy session, that he had constant thoughts about touching D's (Jane Doe's younger sister) pee-pee and bottom and he wanted her to touch his.

5.12 December 22, 2011 Q revealed to Mr. & Mrs. Doe that he had been touching a 4 year old girl (hereinafter "T") at the Whitfields since she arrived to live at the Whitfields. He said his punishment for such was being placed in the corner by Mike Whitfield. He said that he learned this behavior from J, who also was putting his hands down T's pants. He said that J's punishment for this by Mike Whitfield was also being put in the corner.

5.13 Mr. & Mrs. Doe upon learning this immediately talked to counselor Vanessa Sanford who determined that Q's behavior was long term ingrained sexual abuse of 3 plus years, which would have been at the Whitfields, and that he was a danger to his sisters. Within the week there was a conference call with the Judge who ordered that Q be placed somewhere away from his siblings. But before that occurred, Q on the way home from a therapy appointment with Vanessa Sanford asked Jane Doe to "touch his twinkie" and pointed to his penis. Later that night he admitted to be sexually abused basically nightly by the boy at the Whitfields that bathed him (hereinafter "Tb") and said that the Whitfields were aware of this. Mr. Doe called the hotline and reported the abuse by Tb to Q and Q's abuse of T. Per the Judge's order Q was removed from

Mr. & Mrs. Doe's home. Mr. & Mrs. Doe were later told, through Stephanie Rauch at CPS, that Tb had a past history of sex abuse that the Defendants were aware of.

5.14 Mr. & Mrs. Doe on approximately December 20, 2011 were made aware by Detective Barton with the Dallas Police, by way of Jane Doe's forensic interview, that Jane Doe admitted that J had sexually abused her at the Whitfields on numerous occasions throughout the period while she resided at the Whitfields.

5.15 Mr. & Mrs. Doe also were made aware in approximately November 2012 by Jane Doe that the Whitfields had caught Jane Doe sexually touching another young child (hereinafter "R") while Jane Doe was residing at the Whitfields. When the Whitfields learned of this at that time, A World for Children contacted CPS, and Stephanie Rauch with CPS, came to the Whitfields home and scolded Jane Doe severely for sexually touching this child, but to Plaintiffs knowledge there was never a report to Licensing or law officials regarding this. A World for Children nor the Whitfields ever told Mr. & Mrs. Doe about this.

5.16 Mr. & Mrs. Doe also found out by Jane Doe, in approximately November 2012 that while Jane Doe was living with another family that was going to adopt her from approximately January through March 2011 that she was caught sexually touching the family's young child. Shortly thereafter, that adoption process was terminated by that family and Jane Doe and her siblings were returned to the Whitfields. Neither A World for Children nor the Whitfields disclosed this abuse to Mr. & Mrs. Doe.

5.17 In approximately March 2012 it was decided that Jane Doe could no longer reside in Mr. & Mrs. Doe's home because she was acting out sexually with her younger sister D. The Defendants knew or should have known that Jane Doe was a threat to D, prior to Jane Doe and D moving into Mr. & Mrs. Doe's home together. Jane Doe was placed in residential treatment

facility. While she has been receiving therapy there, she has made little progress. Her future looks very bleak at this point.

5.18 Ultimately J pled no contest to sexually abusing Jane Doe, Q, and T, all while residing at the Whitfields. He was charged and convicted of 5 felonies related to the sexual assault of these 3 children.

6.

**CAUSES OF ACTION AGAINST DEFENDANTS: A WORLD FOR CHILDREN
AND MIKE AND BRENDA WHITFIELD**

6.01 **AGENCY:** Plaintiffs incorporate by reference all allegations as stated in paragraphs 1 - 5 above. A World for Children operates many foster homes, such as the Whitfields. The Whitfields take in children for foster care that are placed there by A World for Children. Whitfields operate their foster home at the direction of and for the benefit of A World for Children. A World for Children has responsibility for supervising and training the Whitfields. A World for Children has the responsibility of ensuring the welfare and safety of all foster children that reside under their care at the Whitfields. Plaintiffs plead agency, apparent agency, and agency by estoppel; Whitfields were at all relevant times the agent of the A World for Children. Any knowledge that the Whitfields as agents for A World for Children knew was imputed to the principal, A World for Children.

6.02 **NEGLIGENCE:** Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Defendants, acting by and through its officers, members, agents, employees, and/or representatives, failed to exercise the ordinary care of a reasonably prudent foster home under the same or similar circumstances, particularly with regard to the following acts and/or omissions:

- (a) Failure to implement and enforce reasonable policies and procedures to detect and prevent abuse though Defendants knew or should have known that abuse was a predictable risk in this foster home
- (b) Failure to properly investigate reports of abuse;
- (c) Failure to take prompt action against perpetrators;
- (d) Failure to report to law enforcement and/or CPS as required by Chapter 261 of the Texas Family Code;
- (e) Failure to educate and train about abuse and reporting
- (f) Failure to create a safe environment and
- (g) Failure to properly supervise multiple children of various ages.

6.03 **NEGLIGENCE PER SE:** Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Plaintiffs plead that Defendants violated Texas Penal Code 22.04 and therefore they are negligent per se. The Defendants assumed care, custody or control of Jane Doe, who was a child under the age of 14 years who was, by reason of age, physical or mental disease and/or defect substantially unable to protect herself from harm. The Defendants intentionally, knowingly, recklessly, or with criminal negligence, by act or intentionally, knowingly, or recklessly by omission, caused Doe bodily injury and serious mental injury.

6.04 **PREMISES LIABILITY:** Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Jane Doe was an invitee to the Whitfields' home, which was owned, operated, and maintained by Defendants. Defendants owed a duty of care to those who might be harmed by criminal acts on its premises when the risk of criminal conduct was so great that it was both unreasonable and foreseeable. In fact, Defendants were aware and/or should have been aware of criminal acts of assault against Jane Doe and/or other minors in the

Whitfield home. Defendants are therefore liable under a theory of premises liability for this negligent activity.

6.05 RESTATEMENT (SECOND) OF TORTS SECTION 302B: Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Plaintiffs allege that the actions of Defendants have inflicted emotional distress upon Plaintiffs. Defendants and its officers, agents are liable for acts and/or omissions pursuant to the Restatement (Second) of Torts, Section 302B, which states:

An act or omission may be negligent if the actor realizes or should realize that it involves an unreasonable risk of harm to another through the conduct of the actor or a third person which is intended to cause harm, even though such harm is criminal.

Restatement (Second) of Torts, Section 302B.

Defendants realized or should have realized that not removing J from the children at the Whitfields could result in continuous harm to multiple children, including Jane Doe and Q.

6.06 NEGLIGENT MISREPRESENTATION UNDER SECTION 311: Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Plaintiffs assert that Defendants are liable for acts and/or omissions pursuant to the Restatement (Second) of Torts, Section 311, under the legal doctrine of negligent misrepresentation involving risk of physical harm:

- (1) One who negligently gives false information to another is subject to liability for physical harm caused by action taken by the other in reasonable reliance upon such information, where such harm results
 - (a) to the other, or
 - (b) to such third persons as the actor should expect to be put in peril by the action taken.
- (2) Such negligence may consist of failure to exercise reasonable care

- (a) In ascertaining the accuracy of the information, or
- (b) In the manner in which it is communicated.

Restatement (Second) of Torts, Section 311.

Defendants made repeated false representations that there were no issues with Jane Doe and Q, when they knew to the contrary.

6.07 NEGLIGENT MISREPRESENTATION UNDER SECTION 552(1):

Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Plaintiffs assert that Defendants are liable for acts and/or omissions pursuant to the Restatement (Second) of Torts, Section 552(1) under the legal doctrine of negligent misrepresentation. At the relevant time, Defendants were in the course of business dealings with Mr. & Mrs. Doe. Defendants had a pecuniary interest in the business dealings of adoption with Mr. & Mrs. Doe. Defendants supplied false information to Mr. & Mrs. Doe as stated above and they justifiably relied on these representations to their harm. Defendants are therefore liable to Plaintiffs for all pecuniary harm that has resulted.

6.08 CONCERT OF ACTION: Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Plaintiffs asserts that Defendants are liable for acts and/or omissions pursuant to the Restatement (Second) of Torts, Section 876, under the legal doctrine of concert of action, as agents, joint venturers, shareholders, of this entity, under which theories Plaintiffs seek damages from all Defendants jointly and severally. In the alternative, the Plaintiffs plead that Defendants are a single business entity, a joint enterprise, alter egos, and/or agents of each other, and therefore are jointly and severely liable.

6.09 BREACH OF FIDUCIARY AND *IN LOCO PARENTIS* DUTIES: Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Defendants breached their fiduciary duty and duty of care to act *in loco parentis* to Jane Doe. Defendants had care,

custody and control of Jane Doe and the assailants as children living full time in its foster facility. They had responsibility for the children's education, health, safety, food, and medical care while they resided full time at the Whitfields. As such, Defendants were placed in the highest position of trust and confidence as to their relationship with the residents since, per the law, they were serving *in loco parentis*. Defendants breached this trust and confidence when they failed to protect Jane Doe and thereby violated the common law duty of *in loco parentis* and their fiduciary duty.

6.10 **RATIFICATION:** Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Plaintiffs allege that Defendants ratified the acts, omissions and customs of assailants described above by failing to stop the abuse and by failing to report and remove the assailants. As a result, Defendants are responsible for the acts and/or omissions of the assailants as if they were their own acts.

6.11 **PROXIMATE CAUSE:** The acts or omissions of Defendants pled herein proximately caused injuries to Plaintiffs.

6.12 **GROSS NEGLIGENCE:** Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Plaintiffs also assert that both Defendants were grossly negligent and seek punitive and exemplary damages in order to punish and deter the outrageous conduct of Defendants. Facts as alleged above will be proven by clear and convincing evidence from Plaintiffs and others that Defendants had an actual custom and practice of looking the other way and disregarding complaints made to them. These were acts of gross negligent in that, either by act or omission, they exposed Jane Doe to an extreme degree of risk of harm, considering the probability, magnitude and extent of the harm that would likely impact her and that ultimately did. Further, Defendants had real, subjective awareness of the risks involved, but nevertheless

preceded with callous indifference to the rights, safety, and welfare of Jane Doe, physically and psychologically. Furthermore, Defendants' acts of fraud rise to the level to support a claim of gross negligence.

6.13 **FRAUD:** Plaintiffs incorporate by reference all allegations as stated in paragraphs 1-5 above. Plaintiffs alleges fraud against Defendants in that (1) Defendants made material representations and/or omissions to Mr. & Mrs. Doe about Jane Doe and Q, as stated above (2) these representations and/or omissions were false, as stated above (3) Defendants knew these statements were false when they made them or made them recklessly, as stated above (4) Defendants intended that the Plaintiffs rely on their misrepresentations and/or omissions in adopting these children (5) Mr. & Mrs. Doe relied on the misrepresentations and/or omissions in moving forward with the adoption (6) Mr. & Mrs. Doe suffered injuries as a consequence of the Defendants' fraud.

7.

DAMAGES

7.01 As a result of the conduct and incidents described herein by all Defendants, Mr. & Mrs. Doe have incurred and continue to incur medical, counseling, and other expenses on behalf of themselves and for Jane Doe in the past which were reasonable and necessary. In all reasonable probability, they will continue to incur such expenses in the future.

7.02 As a result of the conduct, incidents and injuries described herein by all Defendants, Jane Doe has experienced physical pain and suffering and bodily injury.

7.03 As a result of the conduct, incidents and injuries described herein by all Defendants, Mr. & Mrs. Doe and Jane Doe have experienced severe emotional and psychological pain and suffering and mental anguish in the past and in all reasonable probability

will continue to sustain severe psychological and emotional pain and suffering and mental anguish in the future.

7.04 As a result of the conduct and incidents described herein by all Defendants, Doe has suffered many other damages, including loss of self-esteem, loss of trust, and depression. In all reasonable probability, her educational, social and professional adjustment in the past has been affected and in all probability her future educational social and professional life will be adversely impacted as well.

7.05 As a result of the conduct and incidents described herein by all Defendants Doe will likely suffer a diminished wage-earning capacity in the future.

7.06 As a result of the conduct and incidents described herein by all Defendants Mr. & Mrs. Doe and Jane Doe have suffered physical impairment damages.

7.07 As a result of the conduct and incidents described herein by all Defendants Mr. & Mrs. Doe and Jane Doe plead for exemplary damages.

7.08 As a result of the above, Plaintiffs seeks damages in excess of the jurisdictional limits of the Court.

8.

CLAIM FOR PRE-JUDGMENT AND POST-JUDGMENT INTEREST

8.01 Plaintiffs claim interest in accordance with §304.104, et seq., Texas Finance Code and any other applicable law.

9.

JURY DEMAND

9.01 Plaintiffs request a jury to hear the evidence in this case.

10.

REQUEST FOR DISCLOSURES

10.01 Plaintiffs hereby make Requests for Disclosures pursuant to the Texas Rules to Defendants A World for Children and the Whitfields, responses to such are to be provided to Plaintiff's counsel at the address below no later than 50 days after the Defendants have been served.

11.
PRAYER

11.01 FOR THE REASONS STATED ABOVE, Plaintiffs, Mr. & Mrs. Doe, Parents of Jane Doe, individually and as next friend of Jane Doe, a minor, pray that upon final hearing of this cause, they have judgment against Defendants, jointly and severally, for all damages described herein, including actual damages, punitive damages, costs of suit, interest allowable by law, and for all other relief to which they may be entitled.

RESPECTFULLY SUBMITTED,



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