

STATE OF INDIANA
COUNTY OF MARION
MARION COUNTY SUPERIOR COURT

_____)	
Laura Wilkerson)	
4255 Clarendon Rd)	
Indianapolis, Indiana 46208)	
)	
Plaintiff,)	
)	CAUSE NO.:
v.)	
)	
Fairview Presbyterian Church)	
4609 N Capitol Ave)	
Indianapolis, IN 46208)	
)	
Defendant,)	
_____)	

COMPLAINT FOR DAMAGES AND REQUEST FOR TRIAL BY JURY

COME NOW Plaintiff, by counsel, alleges and states the following:

Jurisdiction and Venue

1. Plaintiff Laura Wilkerson (“Ms. Wilkerson”) is a resident of Marion County, Indiana residing at 4255 Clarendon Rd, Indianapolis, Indiana 46208.
2. Defendant Fairview Presbyterian Church is the operator of a childcare center where its principal place of business is located in Marion County at 4609 N Capitol Ave, Indianapolis, IN 46208.

3. The contract between Fairview and Ms. Wilkerson was signed in Marion County, Indiana for services to be rendered in Marion County, Indiana. The Defendant is in sole possession of the contract for childcare services.

Summary of Facts

4. Ms. Wilkerson, the mother of twins (N.W. and L.W.), enrolled her children at Fairview Presbyterian Early Childhood Daycare Center, owned and operated by Fairview Presbyterian Church ("Fairview"), located at 4609 N Capitol Ave, Indianapolis, IN 46208.
5. A contract for childcare services was executed between Ms. Wilkerson and Fairview on January 31, 2022. (Exhibit A).
6. Ms. Wilkerson is white and her children are biracial African-American children.
7. Ms. Wilkerson, when touring the school prior to enrollment, was pregnant.
8. Ms. Wilkerson, when enrolling her children, enrolled them alone and her children were not present.
9. On September 1, 2022, when the children were eight (8) months old, they began attending Fairview.
10. On September 19, 2022, after seeing the children for weeks and providing care, Fairview's staff determined that a Mongolian birthmark, predominantly found in African-American children, was indicative of abuse and a reasonable cause to report child abuse to Child Protective Services ("CPS").

11. The reporting to CPS was not immediate as this birthmark existed on the child since birth and should have been noticed by Fairview on the first day the children attended the daycare center.
12. As trained childcare professionals who have been with the children from September 1, 2022, to September 19, 2022, Monday through Friday, Fairview knew or should have known that the marks on the children were birthmarks and not a sign of abuse.
13. Services rendered by Fairview included the changing of diapers and clothes, which would have exposed the Mongolian birthmarks on the backs and buttocks of the twin child at each changing.
14. In the course of building a case for the improper report of abuse, Fairview staff made inquiries as to the race of the children, the race of the mother, and the race of the father.
15. The reporting to CPS was not done in good faith but was done to create a hostile environment to force Ms. Wilkerson to withdraw her biracial children.
16. Ms. Wilkerson concludes that, but for the children's race, Fairview would not have filed a report with CPS.
17. Various Fairview employees, including the director, inquired about Ms. Wilkerson's race, the race of the children, and the homelife of Ms. Wilkerson just prior to the call to CPS.
18. On or around Friday, Sept. 16th Ms. Wilkerson and her mother were questioned by Fairview about the ethnicity of her children.
19. On another date, Ms. Wilkerson's mother was questioned about Ms. Wilkerson's ethnicity and the ethnicity of the children's father.
20. Based upon Fairview's reporting CPS conducted an impromptu visit to the home of Ms. Wilkerson.

21. During the visit, Ms. Wilkerson asked the CPS investigator who reported the alleged abuse, to which she was told it (the alleged abuse) was a concern from Fairview Early Childhood Center.
22. On September 20, 2022, following the visit from CPS, Fairview administrators contacted Ms. Wilkerson stating that CPS confirmed that the marks were Mongolian birthmarks, claiming that they wanted to talk to her about “the situation,” but Ms. Wilkerson was not provided a time to meet with staff.
23. The visit from CPS invaded the privacy of, and disrupted Ms. Wilkerson’s home, adversely affecting the bond with her children.
24. The caseworker from CPS, upon the allegation of abuse, entered the home of Ms. Wilkerson taking photos of her home looking for evidence of abuse.
25. The photos taken of Ms. Wilkerson’s home have now become a part of a record that has sullied her reputation as a mother and will follow her for the rest of her life.
26. Ms. Wilkerson now faces the ongoing risk of having her children removed because of the false and malicious allegation made by Fairview that led to the CPS investigation.
27. Ms. Wilkerson experienced significant stress and embarrassment because of the visit from CPS.
28. Ms. Wilkerson believes the malicious CPS report to be extreme and outrageous.
29. Fairview used the presence of a known birthmark for which they had been aware for several days as the justification for calling CPS to pry into the home life of Ms. Wilkerson.
30. Ms. Wilkerson was mentally distressed due to the report by Fairview and the subsequent investigation into allegations of abuse by CPS. The heightened stress triggered seizures

which had been well-managed prior to this investigation, an assessment that Ms. Wilkerson's doctor correlated to the stress of the CPS report and investigation.

31. Prior to the call to CPS and during the time at Fairview, the children's dark complexion was likely noticeable in a facility where most of the children are white.
32. On Friday, September 23, 2022, Fairview sent a message that the children would be disenrolled from the school if Fairview did not hear from Ms. Wilkerson by the start of the daycare schedule on Monday, September 26, 2022. Fairview further advised that the children's slots would be given away to other students.
33. At Fairview, the dropoff time for the children starts at 8:30 A.M. and Ms. Wilkerson typically dropped them off around 9:30 A.M.
34. However, on Monday, September 26, 2022, at 8:07 A.M. Ms. Wilkerson received a notification that the money she paid in advance for the children's October tuition was refunded back to her, and at 9:01 A.M. she received an email from Fairview that her children were no longer enrolled.
35. Plaintiff Wilkerson paid for child care for September in full and was denied services for the remainder of the month.
36. Ms. Wilkerson was not refunded money for the services she did not receive in September.
37. Ms. Wilkerson believes that, but for the children's race, they would not have been withdrawn by Fairview.
38. Ms. Wilkerson recognized that she and her children were being treated differently following questions concerning the children's race.

39. Ms. Wilkerson's assessment was further confirmed when she logged into the parent/student portal for Fairview and found that communications sent from Fairview were deleted and were no longer accessible to her.
40. Fairview also intentionally removed Ms. Wilkerson's ability to access the student portal to view the contract for childcare.
41. Fairview breached its contract with Ms. Wilkerson when Fairview withdrew the children on September 24, 2022, without cause.

Count I - Breach of Contract

42. The Plaintiff incorporates by reference the above paragraphs:
43. Fairview entered into a contract with Ms. Wilkerson to provide childcare services to begin on September 1, 2022.
44. The terms of the contract were listed in the Parent Handbook provided by Fairview.
45. Ms. Wilkerson paid in advance for services and did not commit an act in violation of the Parent Handbook.
46. Fairview unilaterally disenrolled from Fairview Early Childcare the minor children of Ms. Wilkerson.
47. Ms. Wilkerson was not refunded the money she paid for the full month of childcare for the month of September 2022.
48. Ms. Wilkerson was not compensated for the economic harm and inconvenience of having to find alternative means of childcare, to include lost wages/use of leave, and additional costs for care after having prepaid for care through October with Fairview.
49. Ms. Wilkerson missed work and lost income due to Fairview's breach of contract.

50. *WHEREFORE*, Plaintiff, by counsel, prays and demands judgment against Defendant for such a sum of money as will fully and fairly compensate her for all of her injuries, losses, and damages, the costs of this action, and for all other just and proper relief.

Count II - False Light

51. The Plaintiff incorporates by reference the above paragraphs:

52. Fairview's reporting of child abuse to CPS caused Ms. Wilkerson significant reputational harm and distress.

53. Fairview knew or should have known, that the Mongolian birthmarks on the child were not bruises or any other sign of abuse. Rather they were naturally occurring skin pigment changes that often are found in African American children.

54. The children had been in the care of Fairview for weeks and the marks were on the child on the first day of care and were in the same condition on the day the report of alleged abuse was made to CPS, a public agency.

55. Fairview represents itself as a staff of trained childcare professionals; however, Fairview did not act reasonably in its decision to call CPS, which led to an invasion of the home and privacy of Ms. Wilkerson, causing significant distress for Ms. Wilkerson.

56. As a result of the reporting by Fairview, CPS entered the home of Ms. Wilkerson and took photos of intimate areas of the home that are not accessible to public view or entry.

57. Ms. Wilkerson as a direct result of her interaction with CPS experienced mental distress and concern that she would lose her children because of Fairview's reporting.

58. Fairview's unjustified and malicious reporting caused negative emotional and psychological effects requiring her to seek medical attention.

59. Ms. Wilkerson and her minor children now have a file with CPS and are now in “the system.” Being in the CPS system imposes a false reputational light on Ms. Wilkerson as a result of Fairview’s malicious actions.

60. *WHEREFORE*, Plaintiff, by counsel, pray and demand judgment against Defendant for such a sum of money as will fully and fairly compensate her for all of her injuries, losses, and damages, the costs of this action, and for all other just and proper relief.

Count III -

Racial Discrimination in violation of §1981 of the Civil Rights Act of 1866

61. The Plaintiff incorporates by reference the above paragraphs:

62. Fairview breached the contract with Ms. Wilkerson by denying child care services to the Wilkerson children after the CPS report, and solely because the children were African-American.

63. Fairview, on accepting applications for the children, only saw Ms. Wilkerson who is white, and did not see the children’s African-American father.

64. Prior to the breach of contract, employees of Fairview asked Ms. Wilkerson’s mother about the race of the children and whether they were white.

65. Fairview upon determining that the children were African-American (biracial) reported to CPS the malicious allegations of abuse.

66. Fairview’s improper racial inquiry and its swift disenrolling of the children after the malicious CPS report all confirm that Fairview’s breach of Ms. Wilkerson’s contract was based on the race of the children.

67. Fairview used CPS reporting as a tool to expel these African-American babies from their childcare program.

68. *WHEREFORE*, Plaintiff, by counsel, pray and demand judgment against Defendant for such a sum of money as will fully and fairly compensate her for all of her injuries, losses, and damages, the costs of this action, and for all other just and proper relief.

Count IV - Negligent Reporting

69. The Plaintiff incorporates by reference the above paragraphs:

70. Fairview owed a duty to Ms. Wilkerson to operate as a reasonable childcare facility in its reporting of child abuse.

71. Fairview was not reasonable in its reporting of suspected child abuse, as the marks were Mongolian birthmarks and not bruises on the child of Ms. Wilkerson.

72. Fairview knew or should have known that the Mongolian birthmarks were not bruises because the children had been in the care of Fairview from September 1, 2022, to September 19, 2022.

73. Fairview had seen the children's backs and buttocks that bore the Mongolian birthmarks the entire time the children were in the care of Fairview.

74. Fairview maliciously and negligently reported Ms. Wilkerson to CPS, causing a hostile and disrupted home environment for Ms. Wilkerson.

75. As a result of Fairview's negligent reporting, Ms. Wilkerson's privacy was invaded by CPS agents.

76. As a result of Fairview's negligent reporting, Ms. Wilkerson and her children now have a case file with CPS.

77. As a result of Fairview's negligent reporting, Ms. Wilkerson has experienced emotional distress that led to her hospitalization. The distress continues as of the date of this complaint.

78. Ms. Wilkerson is emotionally distressed because of the actions of Fairview as a direct result of their malicious and negligent reporting to CPS.

79. *WHEREFORE*, Plaintiff, by counsel, pray and demand judgment against Defendant for such a sum of money as will fully and fairly compensate for all of her injuries, losses, and damages, the costs of this action, and for all other just and proper relief.

Count V - Negligent Infliction of Emotional Distress (NIED)

80. The Plaintiff incorporates by reference the above paragraphs:

81. Fairview's negligent reporting to CPS inflicted emotional distress on Ms. Wilkerson, and adversely impacted her regular functioning and interactions with her children and others due to the report of the alleged abuse.

82. Fairview's reporting caused Ms. Wilkerson to have adverse physical medical issues which forced her to receive medical treatment.

83. Fairview's malicious reporting and subsequent CPS intrusion on Ms. Wilkerson's home were substantial factors in causing/contributing to the physical injuries suffered by Ms. Wilkerson. Additionally, the stress of having CPS visiting her home and a file being created on her and her children has left her emotionally distressed with physical manifestations.

84. These physical injuries have resulted in Ms. Wilkerson's restricted driving privileges because of her medical condition.

85. *WHEREFORE*, Plaintiff, by counsel, pray and demand judgment against Defendant for such a sum of money as will fully and fairly compensate for all of her injuries, losses, and damages, the costs of this action, and for all other just and proper relief.

Respectfully submitted,

Hamid Saahir & Associates, PLLC

/s/ Hamid Saahir

Hamid Saahir, #36700-49

120 E. Market St, Ste. 470

Indianapolis, IN 46204

Phone: 888-487-8317

Fax: 317-972-9995

Email: Hamid@hurt317.com

Attorney for Plaintiff

REQUEST FOR TRIAL BY JURY

COME NOW Plaintiffs, by counsel, and request a trial by jury of all issues in this cause of action.

Hamid Saahir & Associates, PLLC

/s/ Hamid Saahir

Hamid Saahir, #36700-49

1505 4th Street NW, Lower Level

Washington, DC 20001

Phone: 888-487-8317

Fax: 317-972-9995

Email: Hamid@hurt317.com

Attorney for Plaintiff