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*Attorneys for Plaintiffs*

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**IN THE SECOND JUDICIAL DISTRICT COURT  
WEBER COUNTY, STATE OF UTAH**

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JOHN DOE FATHER and JANE DOE  
MOTHER, individually, and on behalf of  
their MINOR CHILD, DOE,

Plaintiffs,

vs.

CARLOS PROPERTIES, INC., a domestic  
corporation, and/or JAMIE BITTON, and/or  
WAYNE A. CARLOS, an individual d/b/a  
PROGRESSIVE PRESCHOOL & CHILD  
CARE CENTER; DENISE CARLOS, an  
individual; TANNER DOBSON, an  
individual; ELITE GYMNASTICS  
ACADEMY, INC., a domestic corporation,  
d/b/a ELITE GYMNASTICS ACADEMY  
NEWGATE.

Defendants.

**FIRST AMENDED COMPLAINT**

(Tier 3)

Case No. 240906266

Judge Cristina Ortega

Plaintiffs John Doe Father (“Father Doe” or “F.D.”) and Jane Doe Mother (“Mother Doe” or “M.D.”), individually and on behalf of Doe Minor Child (“Child Doe” or “C.D.”), by and through counsel, Bronson D. Bills and Judson D. Burton, PARKER & MCCONKIE, pursuant to UTAH R. CIV. P 15(a)(1)(A), bring this First Amended Complaint against Defendants: (1) Carlos

Properties, Inc. (“Carlos Properties”) and/or Jamie Bitton and Wayne A. Carlos, d/b/a Progressive Preschool & Child Care Center (“Progressive Preschool”); (2) Denise Carlos; (3) Tanner Dobson, and; (4) Elite Gymnastics Academy, Inc., d/b/a Elite Gymnastics Academy Newgate (“Elite Gymnastics”), alleging, claiming, and seeking relief as follows:

### **PARTIES**

1. Father Doe and Mother Doe reside in Weber County, State of Utah with their minor child, Child Doe.

2. Upon information and belief, Progressive Preschool & Child Care Center is a Utah d/b/a for Carlos Properties, Inc., a domestic corporation, and/or Jamie Bitton, an individual, and Wayne M. Carlos, an individual.

3. Upon information and belief, Jamie Bitton resides in Weber County, State of Utah. She owns and manages Progressive Preschool.

4. Upon information and belief, Wayne M. Carlos resides in Weber County, State of Utah. He owns and manages Progressive Preschool. He also owns the property where Progressive Preschool operates.

5. Upon information and belief, Denise Carlos resides in Weber County, State of Utah, with her husband, Wayne M. Carlos. She owns the property where Progressive Preschool operates.

6. Tanner Dobson is the son of Jamie Bitton and the grandson of Wayne M. Carlos and Denise Carlos. At all times relevant to this lawsuit, Tanner was employed by Progressive Preschool. He is currently incarcerated in Weber County jail.

7. Elite Gymnastics Academy, Inc. d/b/a Elite Gymnastics Academy, Inc. is a Utah corporation with its principal place of business in Weber County, Utah.

### **JURISDICTION & VENUE**

8. Jurisdiction is proper pursuant to Utah Code § 78A-5-102.
9. Venue is proper pursuant to Utah Code § 78B-3-307.

### **TIER DESIGNATION**

10. Plaintiffs elect Tier III discovery under rule 26 of the Utah Rules of Civil Procedure.

### **FACTUAL ALLEGATIONS**

#### **Plaintiffs' Background**

11. F.D. and M.D. were married in 2017.
12. In 2018, they gave birth to C.D.
13. C.D. is their greatest joy in life, and C.D.'s health, happiness, and well-being is, and always has been, their highest priority.
14. Like so many parents, F.D. and M.D. are required to work full time to achieve financial stability and give C.D. important opportunities and advantages in life.
15. In 2019, their work schedules required them to find childcare for C.D.
16. C.D.'s safety and education was paramount, and so, they carefully and thoughtfully considered what childcare facility to entrust with the care of C.D.
17. They were aware of Progressive Preschool, which is located near their home, and decided to research its qualifications and suitability.

#### **Progressive Preschool**

18. Progressive Preschool holds itself out as "a family run business since 1978."
19. In keeping with this representation, it is owned and managed by Carlos Properties, Jamie Bitton and her father, Wayne M. Carlos.

20. In addition, Carlos Properties, Jamie and Wayne hired Jamie's daughter (and Wayne's granddaughter), Tayla Dobson ("Tayla") as Program Director to work at Progressive Preschool.

21. Wayne and his wife, Denise, own the property where Progressive Preschool operates, and upon information and belief, Wayne and Denise have a lease agreement with Progressive Preschool and receive periodic rent pursuant to that agreement.

22. Carlos Properties, Jamie and Wayne advertise Progressive Preschool Progressive as a safe environment for children with competent, licensed professionals.

23. On Progressive Preschool's website, it makes a number of material representations, including that it

- a. has been "a family run business since 1978" with "very welcoming" staff who create a "very family-like" "experience for your child";
- b. has obtained "High Quality rating" through the Office of Childcare Quality System, and that it "want[s] to improve to the highest level of High Quality Plus";
- c. has hired "highly certified Childcare Professional[s]" to teach students;
- d. provides care for infants, toddlers, preschoolers, and school-age children;
- e. holds recurring staff meetings for infants, toddlers, preschoolers, and school age children;
- f. "support [s] working parents by protecting the health and safety of children in [a] regulated childcare program[]";
- g. supports parents and protects the health and safety of children by " (1) establishing and enforcing health and safety rules for childcare programs; (2) training and supporting providers in meeting the established health and safety rules; and (3) providing the public with accurate information about regulated childcare";
- h. utilizes the ProCare app to communicate with parents about their children while noting that "the health and safety needs of all children are priority to updates on this app";

- i. “offer[s] ample opportunities to foster success, inspire creativity, cultivate responsibility, and promote accountability”;
24. Progressive Preschool also advertised several programs and activities for children, including summer camp, music, yoga, gymnastics, and music.
25. F.D. and M.D. were impressed by these representations and reasonably relied upon them in deciding to entrust Progressive Preschool with the care of C.D.
26. The representations were, however, false; they also omitted material facts relating to the employment of Jamie’s son and Wayne’s grandson, Tanner, who was and is a sexual predator and a pedophile.

Tanner Dobson

27. Carlos Properties, Jamie, Wayne, and Progressive Preschool hired Tanner Dobson as a “floating” or “rotating” caretaker and supervisor of children in 2014, when he was around 20 years old.
28. In this position, he worked directly with children of all ages and had unfettered, unsupervised access to them both individually and as a group.
29. Tanner is a sexual predator and pedophile, and his mother, Jamie, and his grandfather, Wayne, knew, or should have known, it.
30. In 2017—which was two years before C.D. was enrolled at Progressive Preschool—Tanner was accused of sexually inappropriate conduct with two children.
31. Five years later, in 2022, Tanner was again accused of sexually inappropriate conduct with two additional children.
32. At the time of these accusations, Tanner was employed at Progressive Preschool and was, upon information and belief, living with his mother, Jamie.

33. Carlos Properties, Jamie, Wayne, and Progressive Preschool knew or should have known of both the 2017 and 2022 accusations and of the underlying conduct.

34. Despite the seriousness of these accusations, Carlos Properties, Jamie, Wayne, and Progressive Preschool continued to employ Tanner and allow him direct, unsupervised, and unfettered access to children, including C.D.

35. They also did not notify parents about the allegations against Tanner or of their decision to continue employing Tanner as a caretaker and supervisor.

36. Moreover, Wayne and his wife, Denise, own the real property where Progressive Preschool conducts its business operations.

37. Even so, they continued to permit Progressive Preschool to operate its business of caring for hundreds of minor children on their premises while knowing that Tanner was still employed and had access to children on the premises.

38. Instead of doing the right thing, Carlos Properties, Jamie, Carlos, Denise, and Progressive Preschool continued giving Tanner access to children and private spaces where he could separate individual children from their classmates and sexually assault them.

#### Progressive Preschool's Partnership with Elite Gymnastics

39. One such space was Elite Gymnastics.

40. Progressive Preschool's website stated that it partnered with Elite Gymnastics in Ogden, Utah, to provide students with gymnastics lessons.

41. Elite Gymnastics was established in 1988.

42. According to its website, Elite Gymnastics seeks to provide a safe, fun learning environment for all-around gymnastics, tumbling, trampoline, physical education, and other related sports.

43. Progressive Preschool discusses its relationship with Elite Gymnastics, stating that its students would have weekly lessons with a gymnastics coach from Elite Gymnastics.

44. Upon reason and belief, Elite Gymnastics and Progressive Preschool still have a business relationship at the time of the filing of this First Amended Complaint.

45. F.D. and M.D. relied on these representations from Progressive Preschool and Elite Gymnastics when they enrolled C.D. in the gymnastics program in October 2021.

46. C.D. attended gymnastics classes at Elite Gymnastics each Monday morning.

47. F.D. and M.D. would drop C.D. off at Progressive Preschool, and employees from Progressive Preschool, including Tanner, would drive C.D. and other students from the preschool to Elite Gymnastics.

48. Upon information and belief, Tanner groomed C.D. while she was at Progressive Preschool's campus and would continue to groom C.D. during the drive from Progressive Preschool to Elite Gymnastics and after they arrived at Elite Gymnastics.

49. Upon information and belief, employees from Progressive Preschool, including Tanner, would assist Elite Gymnastics' employees with the gymnastic lessons for Progressive Preschool's students, including C.D.

#### Tanner Sexually Assaults C.D.

50. On the morning of Monday, January 8, 2024, F.D. and M.D. dropped C.D. off at Progressive Preschool.

51. Soon thereafter, Tanner transported C.D. and other students to Elite Gymnastics in a vehicle owned by Progressive Preschool.

52. For some time, Tanner had been targeting and grooming C.D. while C.D. was at Progressive Preschool and at Elite Gymnastics.

53. Sometime after arriving at Elite Gymnastics on January 8, 2024, Tanner separated C.D. from the other students and adults and took C.D. alone to an upstairs room, telling C.D. that they were going upstairs to “play.”

54. Once inside the room, Tanner took off C.D.’s clothes and touched and fondled C.D.’s genitals, buttock, and chest area.

55. He then took photographs and video recordings of C.D. and of him touching and fondling C.D.

56. After sexually assaulting, photographing, and video recording C.D., Tanner told C.D. not to tell anyone about “playing” together because it was their “secret.”

57. Tanner then brought C.D. back downstairs to rejoin the group of children.

58. After gymnastic lessons were complete, all of the children, including C.D., were transported back to Progressive Preschool by Tanner.

59. After returning to Progressive Preschool, an employee, Shamika Roskelley (“Shamika”) overheard C.D. telling another student that C.D. had a “secret” with Tanner.

60. Upon information and belief, this concerned Shamika, and so, she asked C.D. about the secret.

61. C.D. eventually disclosed to Shamika that Tanner had taken C.D. upstairs, removed C.D.’s clothes so they could “play.”

62. After receiving this information, Shamika discussed it with another Progressive Preschool employee, Lori Whitaker (“Lori”).

63. Shamika then filed a complaint with Utah’s Department of Child and Family Services (“DCFS”).



64. When Jamie learned about the accusations against her son, she fired him from his position at Progressive Preschool.

65. The next day, on January 9, 2024, Jamie called C.D.'s mother, M.D., and told her that Progressive Preschool had fired Tanner, and that M.D. would be receiving a call from DCFS regarding some difficult information.

66. Deeply concerned, M.D. drove to Progressive Preschool to meet with Jamie in person.

67. During that meeting, Jamie reiterated the fact that Progressive Preschool had fired Tanner from his employment.

68. She then repeatedly apologized to M.D. that Tanner had sexually assaulted and harmed C.D.

69. Later in the day on January 9, 2024, Jamie learned that police were on their way to her home to question Tanner.

70. She then, upon information and belief, told Tanner what she had learned.

71. In response, Tanner deleted the photographs and video recordings he had taken of C.D. on his phone before police arrived.

72. When the police arrived, they questioned Tanner, and during that questioning, Tanner admitted to having sexually assaulted C.D.

73. He also admitted to photographing and filming C.D. but told police he had erased the photographs and videos of the incident from his phone and performed a factory reset of the phone, permanently disposing of evidence.

74. Upon information and belief, Tanner used a phone, computer, wi-fi, and/or other devices owned by Progressive Preschool to take the photographs and video recordings of C.D. and then to store and/or transmit them.

75. Since the incident and Tanner's arrest, C.D. has told several professionals that Tanner had sexually assaulted, photographed, and filmed C.D. on other occasions in the upstairs room at Elite Gymnastics.

76. Upon information and belief, and consistent with C.D.'s statements, Tanner has sexually assaulted, photographed, and filmed C.D. on other occasions in the upstairs room at Elite Gymnastics.

77. Upon information and belief, on these other occasions, Tanner used a phone, computer, wireless router, and/or other devices owned by Progressive Preschool to take the photographs and video recordings of C.D. and then to store and/or transmit them.

78. Tanner has been criminally charged in the Second Judicial District, Case No. 241900099, with Aggravated Sexual Abuse of a Child and Aggravated Sexual Exploitation of a Minor, both first degree felonies.

79. Tanner has also been criminally charged with obstruction of justice—also a first-degree felony—for erasing videos and photographs from his phone, as well as for performing a factory reset to wipe his phone clean and dispose of evidence.

80. Tanner awaits trial and now faces fifteen years to life in prison.

81. C.D. and C.D.'s parents, F.D. and M.D., have suffered and will continue to suffer substantial economic and non-economic damages as a result of Defendants' acts and omissions.

**FIRST CAUSE OF ACTION**  
NEGLIGENT HIRING, TRAINING, RETENTION, SUPERVISION  
(Defendants Carlos Properties, Jamie Bitton, and Wayne Carlos)

82. Plaintiffs incorporate by reference all prior paragraphs as if set forth fully herein.

83. Defendants owed Plaintiffs a duty to act reasonably in the hiring, training, supervising, and retaining of Tanner.

84. Defendants breached that duty in at least the following ways:

- a) negligently hiring employees unfit/unqualified/unsafe for employment with children and posed safety hazards to children;
- b) failing to perform adequate background checks or to otherwise adequately vet the safety and suitability of their employees;
- c) failing to train and/or negligently training employees rendering employees as unfit/unqualified/unsafe for employment with children and posing safety hazards to children;
- d) negligently retaining employees who were unfit/unqualified/unsafe for employment with children and posed safety hazards to children;
- e) failing to supervise employees and/or negligently supervising employees, who were unfit/unqualified/unsafe for employment with children and posed safety hazards to children; and
- f) any and all other breaches hereafter discovered.

85. In breaching this duty that they owed to Plaintiffs, Defendants directly and proximately caused Plaintiffs damages.

86. Plaintiffs have suffered and will continue to suffer substantial economic and non-economic damages as a result of Defendants' breach.

**SECOND CAUSE OF ACTION**  
NEGLIGENT INFLICTION OF EMOTIONAL DISTRESS  
(All Defendants)

87. Plaintiffs incorporate by reference all prior paragraphs as if set forth fully herein.

88. Defendants owed Plaintiffs a legal duty of reasonable care.

89. Defendants breached that duty by failing to exercise reasonable care to ensure Plaintiffs were safe and protected.

90. Plaintiffs were injured and sustained damages as a result of Defendants breach.

91. Plaintiffs suffered severe injuries and severe emotional distress as a result of Defendants negligence.

92. Defendants should have realized their conduct involved an unreasonable risk of causing distress, otherwise than by knowledge of the harm or peril of a third person.

93. Defendants, from the facts known to them, should have realized that the distress, if it were caused, might result in illness or bodily harm.

94. There is an especially likely risk that Defendants negligence would have resulted in severe emotional distress.

**THIRD CAUSE OF ACTION**  
**PREMISES LIABILITY**

(Defendants Wayne M. Carlos & Denise M. Carlos)

95. Plaintiffs incorporate by reference all prior paragraphs as if fully set forth herein.

96. Wayne and Denise owned the premises where C.D. attended school and participated in school activities.

97. Wayne and Denise also had the authority to control who were permitted to access the property and could take the means necessary, including terminating the lease, to ensure that only individuals who were safe and did not pose an unreasonable risk to the health and welfare of students could access the premises.

98. Wayne and Denise knew, or should have known, that their premises were open to the public for entry and being used for teaching young children.

99. They also knew, or should have known, of Tanner's deviant behavior and the accusations against him of improper conduct against children.

100. They had a duty to exercise reasonable care to keep and maintain the premises in a safe condition for others, and to warn of any unreasonable dangers.

101. They breached this duty when they failed to exercise reasonable care to discover or to remedy the unsafe conditions or otherwise protect against them.

102. If they had exercised reasonable care, they would have discovered the dangers posed by Tanner being on the premises with direct access to children, including C.D., where he groomed them.

103. It was, moreover, foreseeable that failing to maintain the premises in a safe condition and/or to warn parents about the dangers posed by Tanner could result in harm to children.

104. As a direct and proximate result of Wayne and Denise's breaches, F.D., M.D., and C.D. have been damaged and have incurred and will continue to incur damages, both economic and non-economic.

**FOURTH CAUSE OF ACTION**  
**GROSS NEGLIGENCE**  
(All Defendants)

105. Plaintiffs incorporate by reference all prior paragraphs as if set forth fully herein.

106. Defendants owed Plaintiffs a legal duty of reasonable care.

107. Defendants breached that duty of care by one or several of the following failures:

- a. negligently hiring employees unfit/unqualified/unsafe for employment with children and/or;
- b. failing to supervise employees, or negligently supervising employees, to ensure safety of children and/or;

- c. failing to train employees, or negligently training employees, and thereby rendering employees as unfit/unqualified/unsafe for employment with children and posing safety hazards to children and/or;
- d. negligently retaining employees who were unfit/unqualified/unsafe for employment with children and/or;
- e. failing to exercise reasonable care to ensure C.D. was safe and not injured by the accidental, negligent, or harmful conduct of others and/or;
- f. failing to discover accidental, negligent, or harmful conduct was being done or was likely be done and/or;
- g. failing to adequately warn other of accidental, negligent, or harmful conduct to enable Plaintiffs to avoid the harm, or otherwise protect Plaintiffs against it and/or;
- h. failing to exercise reasonable care to discover harmful or dangerous conditions that involve an unreasonable risk of harm to Plaintiffs and/or;
- i. failing to exercise reasonable care to cure dangerous conditions that involve an unreasonable risk of harm to Plaintiff and/or;
- j. allowing continued use of premises despite knowing, or should of known, that unfit/unqualified/unsafe employees, guests, individuals were present;
- k. retaining an employee whom they knew or should have known posed a unreasonable risk to the safety and well-being of children and placing that employee in a position of trust in relation to those children; and
- l. Any and all other breaches hereafter discovered.

108. Defendants failed to observe even slight care, and/or demonstrated carelessness or recklessness to a degree that shows utter indifference and/or a conscious disregard for the consequences.

109. In breaching this duty that they owed to Plaintiffs, Defendants directly and proximately caused Plaintiffs damages.

110. Plaintiffs have suffered and will continue to suffer substantial economic and non-economic damages as a result of Defendants' breach.

**FIFTH CAUSE OF ACTION**  
**LOSS OF FILIAL CONSORTIUM**  
(All Defendants)

111. Plaintiffs incorporate by reference all prior paragraphs as if set forth fully herein.

112. At all times complained of in the above-entitled Complaint, John Doe Father and Jane Doe Mother were, and are, the father and mother of Doe Minor Child.

113. That as a result of the wrongful and negligent acts of Defendants, Plaintiffs were caused to suffer, and will continue to suffer loss of consortium, loss of society, affection, assistance, and fellowship, all to the detriment of their parent-child relationships.

114. That all the above-described injuries, harm and damages were caused by the negligence of Defendants.

**SIXTH CAUSE OF ACTION**  
**ASSAULT AND BATTERY**  
(Defendant Tanner Dobson only)

115. Plaintiffs incorporate by reference all prior paragraphs as if set forth fully herein.

116. Tanner intended to bring about harmful and offensive contact with C.D.

117. He also intentionally caused an imminent apprehension of such contact.

118. Harmful and offensive contact directly and/or indirectly resulted.

119. C.D. was incapable of consenting to the contact.

120. Moreover, the contact was of such a nature that no reasonable person would have consented to it.

121. As a direct and proximate result of Tanner's intentional acts, Plaintiffs have suffered and will continue to suffer economic and non-economic damages.

**SEVENTH CAUSE OF ACTION**  
**INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS**  
(Defendant Tanner Dobson only)

122. Plaintiffs incorporate by reference all prior paragraphs as if set forth fully herein.

123. Tanner groomed, sexually assaulted, photographed, and filmed C.D.

124. This egregious, criminal conduct was outrageous and intolerable in that it offends generally accepted standards of decency and morality and is so extreme as to exceed all bounds of what is tolerated in a civilized community.

125. Tanner intended to cause emotional distress or acted with reckless disregard of the probability of causing emotional distress.

126. Plaintiffs have suffered and will continue to suffer severe or extreme emotional distress that was caused by Tanner's conduct.

### **DAMAGES**

127. Plaintiffs hereby incorporate all previous paragraphs as if set forth fully herein.

128. As a direct and proximate result of the acts and omissions of Defendants, Plaintiffs have, among other things, suffered serious and permanent injuries.

129. As a direct and proximate result of these injuries, Plaintiffs have suffered substantial pain and anguish, as well as severe emotional distress.

130. As a further direct and proximate result of the acts and omissions of Defendants, it was and is necessary for Plaintiffs to seek medical care and treatment.

131. As a further direct and proximate result of the acts and omissions of Defendants, Plaintiffs have been injured. Plaintiffs have suffered and will suffer the following additional damages:

- a. Past and future damages for costs of medical treatment and health care due to said injuries.



- b. Past and future damages, if any, for lost wages/impaired earnings; and past and future damages for disfigurement, impairment of bodily functions, and pain and severe mental anguish suffered.
- c. Past and future damages, if any, for compensated and gratuitous care and services, including attendant care, nursing care, medical care, psychological care, therapy, and other care and assistance, and for the payment of medical expenses, rendered to and/or paid on behalf of Plaintiff by other persons and entities. The amount of said special damages shall be the subject of proof at trial.
- d. Past and future damages for suffering loss of consortium, loss of society, affection, assistance, and fellowship, all to the detriment of their parent-child relationships
- e. General damages for Plaintiffs pain and suffering (both mental and physical), severe emotional distress and alterations in Plaintiffs lifestyle.

132. Plaintiffs also pray for punitive damages for Defendants willful and malicious conduct, and/or Defendants conduct that manifested a knowing and reckless indifference toward, and a disregard of, the rights of others.

#### **PRAYER FOR RELIEF**

BASED UPON THE FOREGOING, Plaintiff prays for judgment against Defendants as follows:

- 1. For special damages alleged above;
- 2. For general damages alleged above;
- 3. For punitive damages alleged above;
- 3. For costs of court;
- 4. For pre and post judgment interest and costs provided by law; and

5. For such other and further relief as may be justified and required by law.

DATED this 10<sup>th</sup> day of October 2024.

PARKER & McCONKIE

/s/ Bronson D. Bills  
Bronson D. Bills  
*Attorney for Plaintiff*

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