

22nd JUDICIAL DISTRICT COURT FOR THE PARISH OF ST. TAMMANY

STATE OF LOUISIANA

NO. 2019-12577

DIVISION "F"

JENNIFER HULIN AND EDWARD LAMPARSKI, INDIVIDUALLY AND ON BEHALF
OF THEIR MINOR CHILD, NOAH LAMPARSKI

v.

KYLE SNOW, PATRICIA SNOW, AND THE STATE OF LOUISIANA, DEPARTMENT
OF CHILDREN AND FAMILY SERVICES

FILED: _____

DEPUTY CLERK

PLAINTIFFS' FIRST AMENDED & RESTATED PETITION FOR DAMAGES

NOW INTO COURT, through undersigned counsel, come and appear JENNIFER HULIN and EDWARD LAMPARSKI, individually and on behalf of their minor child, NOAH LAMPARSKI (formerly NOAH HULIN), both petitioners being of the age of majority and residents of Washington Parish, Louisiana, respectfully representing to the court:

1.

Made defendants in this petition are the following:

1. KYLE SNOW, a person of the age of majority residing in the State of Texas;
2. PATRICIA SNOW, a person of the age of majority residing in the State of Texas; and
3. STATE OF LOUISIANA, DEPARTMENT OF CHILDREN AND FAMILY SERVICES (hereinafter "DCFS"), an agency of the State of Louisiana.

2.

The parties hereto, the subject matter hereof, and all matters and things contained herein are within the jurisdiction of this Honorable Court.

3.

Defendants are joint tortfeasors for the reasons set forth in the above and foregoing paragraphs.

4.

The wrongful act which injured the Plaintiffs' minor child, NOAH LAMPARSKI, occurred on or about September 11, 2018, in Abita Springs, St. Tammany Parish, Louisiana.

CLAIMS BROUGHT ON BEHALF OF MINOR, NOAH LAMPARSKI

5.

Plaintiff, JENNIFER HULIN, is the biological mother and natural tutor of minor, NOAH LAMPARSKI, born on July 22, 2018. Plaintiff, EDWARD LAMPARSKI, is the biological father and natural tutor of minor, NOAH LAMPARSKI.

6.

Plaintiffs, JENNIFER HULIN and EDWARD LAMPARSKI, are therefore authorized to pursue claims on behalf of their minor son as set forth below.

FACTS AND DAMAGES

7.

Prior to September 11, 2018, NOAH LAMPARSKI was determined to be in need of care under the Louisiana Children's Code and placed into the custody of DCFS. Custody of NOAH LAMPARSKI has since been vacated back to JENNIFER HULIN and EDWARD LAMPARSKI.

8.

While in the custody of DCFS, NOAH LAMPARSKI was placed in the foster care of KYLE SNOW and PATRICIA SNOW. At all relevant times, as foster parents, KYLE SNOW and PATRICIA SNOW, were officials, agent, officers and/or employees of DCFS and are entitled to indemnification as memorialized in the document entitled *Agreement Between The State of Louisiana, Department of Children and Family Services and Kyle & Patricia Snow For Foster Home Care For Children*.

9.

Defendants, KYLE SNOW, PATRICIA SNOW, and DCFS, and their staff members and/or employees were entrusted to care for NOAH LAMPARSKI in their custody and control at the time of his injuries on or about September 11, 2018.

10.

On or about September 11, 2018, NOAH LAMPARSKI, then seven weeks old, incurred serious head and brain trauma when he was left unattended on a couch and allowed to fall head-first onto a concrete floor at the home of KYLE SNOW and PATRICIA SNOW, located at 22073 7th Street, Abita Springs, Louisiana. NOAH LAMPARSKI was left unattended by virtue of PATRICIA SNOW walking into a different room away from the couch or alternatively falling asleep.

11.

PATRICIA SNOW left NOAH LAMPARSKI unattended on the couch, despite receiving numerous written warnings from Noah's pediatrician cautioning her not to do that very thing because it was unsafe. Mrs. Snow admitted under oath that she received such written warnings from Noah's pediatrician at well checks on July 30, 2018, August 6, 2018, and August 22, 2018 before she left him unattended on the couch on September 11, 2018.

12.

Following the incident, upon discharge from the hospital on September 12, 2018, Defendants, KYLE SNOW and PATRICIA SNOW were instructed to follow up with NOAH LAMPARSKI's pediatrician within three (3) days.

13.

Despite this instruction, it was not until September 18, 2018 that Defendants, KYLE SNOW and PATRICIA SNOW brought NOAH LAMPARSKI to his pediatrician for evaluation.

14.

Thereafter, NOAH LAMPARSKI was diagnosed with a large left parietal skull fracture and brain herniation.

15.

On October 25, 2018, NOAH LAMPARSKI underwent surgery at Children's Hospital in New Orleans to repair his skull fracture and brain herniation.

16.

Further medical testing subsequently revealed that NOAH LAMPARSKI suffered severe and irreversible brain damage as a result of trauma to his brain.

LIABILITY OF DEFENDANTS

17.

Defendants, KYLE SNOW, PATRICIA SNOW, and DFCS failed to provide adequate care to NOAH LAMPARSKI while he was in their custody, resulting in serious injuries to NOAH LAMPARSKI.

18.

At all times material to this petition, DCFS is liable for its own acts and/or omissions as well as the actions of its employees, agents, workers, certified foster parents, and/or staff, including, but not limited to KYLE SNOW and PATRICIA SNOW, pursuant to the theories of

agency, *respondeat superior*, and vicarious liability for all causes and claims stated herein arising under the laws of the State of Louisiana.

19.

The negligence, fault, and breach of duty of KYLE SNOW, PATRICIA SNOW, and DCFS, directly or through employees or staff members, consists of the following non-exclusive particulars:

1. DCFS entrusting NOAH LAMPARSKI to the care of KYLE SNOW and PATRICIA SNOW;
2. DCFS entrusting NOAH LAMPARSKI to the care of KYLE SNOW and PATRICIA SNOW with a second foster child when the SNOWS' home was only certified for one foster child and the SNOWS already had two young biological children they were caring for in the home;
3. DCFS entrusting NOAH LAMPARSKI to the care of KYLE SNOW and PATRICIA SNOW on or around July 25, 2018 when the SNOWS were only first certified to foster children on July 24, 2018 and had no experience fostering children;
4. DCFS entrusting NOAH LAMPARSKI to the care of KYLE SNOW and PATRICIA SNOW on or around July 25, 2018 when the SNOWS had no experience caring for drug exposed infants;
5. DCFS entrusting NOAH LAMPARSKI to the care of KYLE SNOW and PATRICIA SNOW when the SNOWS already had two young biological children they were caring for in the home and KYLE SNOW's employment required him to be gone from the home for an average of 4-7 nights per month;
6. DCFS failing to properly train KYLE SNOW and PATRICIA SNOW to be competent foster parents, including, but not limited to:
 - a) Failing to train said individuals on how to properly care for drug exposed infants; and
 - b) Failing to train said individuals not to leave infants unattended on a couch or other high surface while the foster parents were awake or sleeping;
7. DCFS placing NOAH LAMPARSKI in an "unsafe" environment in the home of KYLE SNOW and PATRICIA SNOW, as confirmed and documented in DCFS' post-accident investigation;
8. DCFS' failure to provide KYLE SNOW and PATRICIA SNOW with additional support upon receiving reports that PATRICIA SNOW was tired and not getting enough sleep;
9. DCFS' failure to properly supervise employees or staff including, but not limited to, KYLE SNOW, PATRICIA SNOW, and Arianna Lyons;
10. DCFS' failure to have appropriate policies and procedures in place;
11. DCFS' failure to adequately investigate the accident that injured NOAH LAMPARSKI;
12. PATRICIA SNOW leaving NOAH LAMPARSKI unattended on a couch and allowing him to fall off;

13. PATRICIA SNOW falling asleep while holding NOAH LAMPARSKI and/or allowing him to lay on a couch unattended while she slept;
14. PATRICIA SNOW's failure to properly secure NOAH LAMPARSKI while holding and/or picking him up;
15. KYLE SNOW and PATRICA SNOW's failure to disclose to DCFS that KYLE SNOW's employment required him to be gone from the home for an average of 4-7 nights per month, leaving PATRICIA SNOW to care for all of the young children alone;
16. KYLE SNOW's failure to provide PATRICIA SNOW with additional parenting support due to her fatigue so as to maintain the safety of NOAH LAMPARSKI;
17. All Defendants' failure to properly monitor and supervise NOAH LAMPARSKI;
18. All Defendants' failure to properly care for NOAH LAMPARSKI;
19. All Defendants' failure to exercise reasonable care;
20. All Defendants' failure to follow appropriate policies and procedures;
21. Disregard for the rights and safety of others, particularly that of NOAH LAMPARSKI; and
22. Any other acts and/or omissions constituting negligence that my been uncovered through discovery and presented at trial.

21.

Defendants are solidarily liable to Petitioners for the reasons set forth in the above and foregoing paragraphs. *Vonner v. State through Dept. of Public Welfare*, 273 So.2d 252, 257 (La. 1973).

PLAINTIFFS' DAMAGES

22.

As a result of the foregoing, NOAH LAMPARSKI suffered personal injuries including but not limited to severe injuries to his head and brain, as set forth above.

23.

As a result of the foregoing, NOAH LAMPARSKI suffered damages including past, present, and future medical expenses, past, present, and future physical pain and suffering, past, present, and future mental anguish and anxiety, past, present, and future loss of enjoyment of life, disfigurement, permanent disability, loss of earnings capacity, and past and future lost wages.

24.

As a result of the foregoing, Plaintiffs, JENNIFER HULIN and EDWARD LAMPARSKI, suffered and/or will suffer damages including past, present, and future medical expenses incurred for NOAH LAMPARSKI until he reaches the age of majority. Plaintiffs, JENNIFER HULIN and

EDWARD LAMPARSKI, specifically DO NOT seek any general damages associated with a loss of love, affection, companionship, consortium, service, society stemming from the injury to their son.

WHEREFORE, Petitioners pray that:

1. KYLE SNOW, PATRICIA SNOW, and the STATE OF LOUISIANA, DEPARTMENT OF CHILDREN AND FAMILY SERVICES be served with a copy of this amended petition and cited to appear and answer same;
3. After all legal delays and due proceedings had, that there be judgment herein in favor of JENNIFER HULIN and EDWARD LAMPARSKI, individually and on behalf of their minor child, NOAH LAMPARSKI and against KYLE SNOW, PATRICIA SNOW, and the STATE OF LOUISIANA, DEPARTMENT OF CHILDREN AND FAMILY SERVICES for relief for such damages; general, special and exemplary, as may be reasonable, together with legal interest thereon from the date of judicial demand until paid, and all costs of these proceedings; and
4. For all other relief, both general and equitable, as may be necessary in the premises.

Respectfully submitted,



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