

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MISSOURI

HANNAH ROMER)
and RUTH ROMER,)
)
Plaintiffs,)

v.)

Case No. 5:09-CV06019 DW)

THAYER LEARNING CENTER, LLC)
Serve: Registered Agent)
Secretary of State)
600 West Main)
Jefferson City, MO 65702)

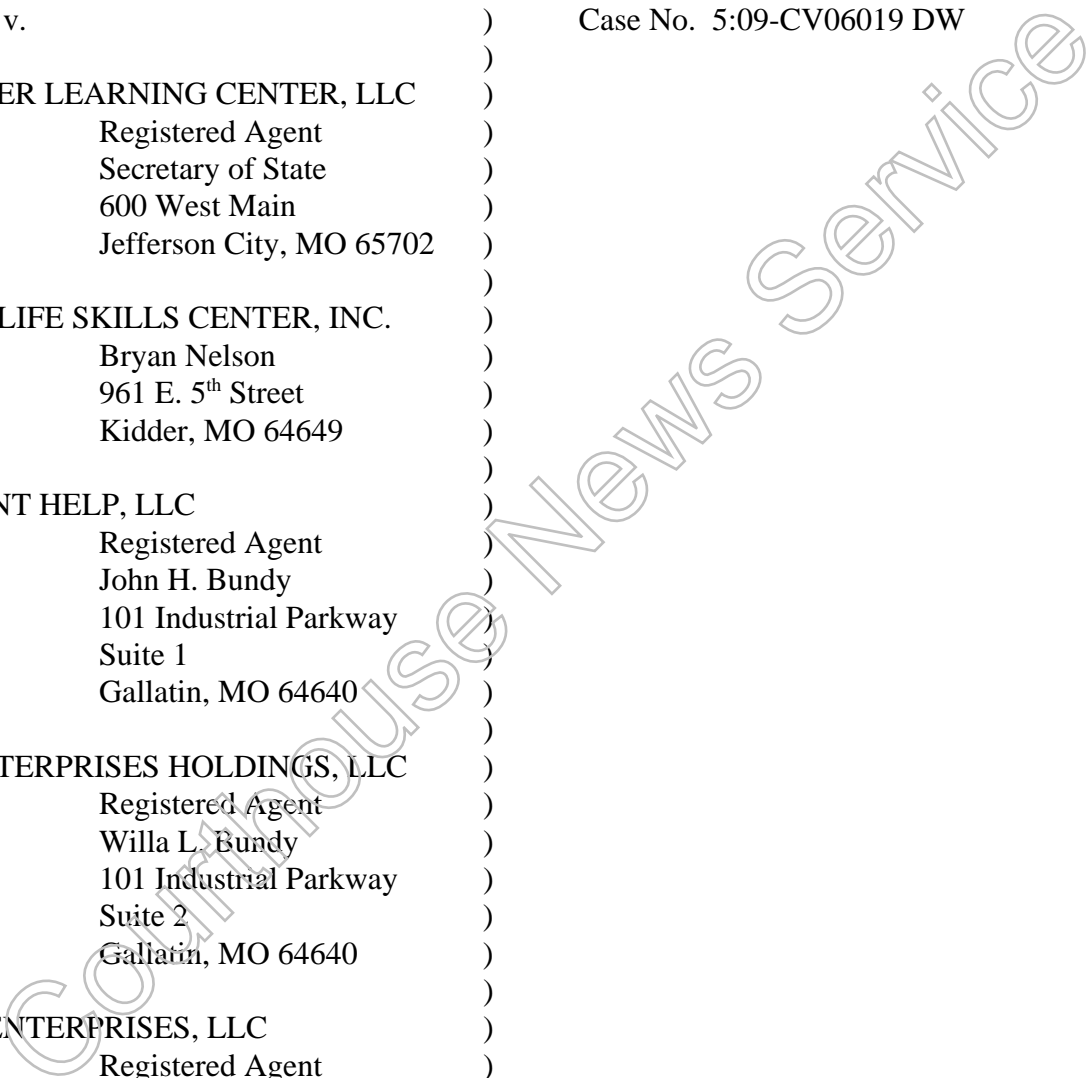
TEEN LIFE SKILLS CENTER, INC.)
Serve: Bryan Nelson)
961 E. 5th Street)
Kidder, MO 64649)

PARENT HELP, LLC)
Serve: Registered Agent)
John H. Bundy)
101 Industrial Parkway)
Suite 1)
Gallatin, MO 64640)

2B ENTERPRISES HOLDINGS, LLC)
Serve: Registered Agent)
Willa L. Bundy)
101 Industrial Parkway)
Suite 2)
Gallatin, MO 64640)

A 2B ENTERPRISES, LLC)
Serve: Registered Agent)
Willa L. Bundy)
101 Industrial Parkway)
Suite 2)
Gallatin, MO 64640)

DOROTHY V. STEELE)



Serve at: 983 N. 700)
 E. Springville, Utah 84663)
)
 WILLA BUNDY)
Serve at: 30 E. 750 South)
 St. George, Utah 84770)
)
 JOHN BUNDY)
Serve at: 30 E. 750 South)
 St. George, Utah 84770)
)
 Defendants.)

PETITION FOR DAMAGES

COME NOW Plaintiffs, HANNAH ROMER and RUTH ROMER, and for their cause of action against Defendants Thayer Learning Center LLC, Teen Life Skills Center, Inc., Parent Help, LLC, 2B Enterprises Holdings, LLC and A 2B Enterprises, LLC (hereinafter collectively referred to as “Defendants”) and individual Defendants Willa Bundy, John Bundy and Dorothy Steele (hereinafter referred to by specific individual name), set forth, state and aver the following:

ALLEGATIONS COMMON TO ALL COUNTS

PARTIES

1. Plaintiff Hannah Romer is a resident of the state of Illinois residing at 705 West Broadway Street, Bradley, Illinois 60915.
2. Plaintiff Ruth Romer is a resident of the state of Illinois residing at 705 West Broadway Street, Bradley, Illinois 60915.
3. That Defendant Thayer Learning Center, LLC, Charter #FL0687600, (hereinafter referred to as “Defendant Thayer”) is a Delaware limited liability company registered and authorized

to conduct business in the State of Missouri and may be served with process through the Secretary of State, 600 West Main Street, Jefferson City, MO 65707.

4. That Defendant Teen Life Skills Center, Inc. Is a Utah corporation with its principle place of business in Kidder, Missouri and may be served through its registered agent, Bryan Nelson at 961 E. 5th Street, Kidder, MO 64649.

5. That Defendant Teen Life Skills Center, Inc. (hereinafter referred to as Defendant Teen Life Skills Center) is a “successor in interest” to Defendant Thayer Learning Center, LLC in that Teen Life Skills Center, Inc. is a mere continuation of the predecessor Thayer Learning Center and that the creation of the successor for in whole or in part for the purpose of escaping liability for the tortious acts of Thayer Learning Center, LLC.

6. That Defendant 2B Enterprises Holdings, LLC is a Delaware limited liability company and may be served through its registered agent, Willa Bundy at 101 S. Industrial Parkway, Suite 2, Gallatin, MO 64640.

7. That Defendant A 2B Enterprises, LLC is a Delaware limited liability company and may be served through its registered agent, Willa Bundy at 101 S. Industrial Parkway, Suite 2, Gallatin, MO 64640.

8. That Defendant Parent Help, LLC (hereinafter referred to as Defendant Parent Help) is a Delaware Limited Liability Company with its principal place of business at 101 Industrial Parkway, Suite 1, Gallatin, Missouri 64640 which conducts substantial business in the State of Missouri and may be served through its agent, John Bundy, at 101 Industrial Parkway, Suite 1, Gallatin, MO 64640.

9. That the unlawful actions of Defendants Thayer, Teen Life Skills Center, A 2B Enterprises, LLC, 2B Enterprises Holding LLC, and Parent Help, as referenced in more detail below, was the result of an agreement and understanding between them to engage in a common scheme and plan to maximize financial gain and their actions constituted a civil conspiracy, the furtherance of which resulted in damage to Plaintiffs and as such, they are joint tort feasons.

10. That Defendant, Dorothy Steele (hereinafter referred to as Defendant Steele), is an individual and resident of Utah and may be served with process at 983 N. 700, East Springville, Utah 84663-3159.

11. That Defendant Willa Bundy (hereinafter referred to as Defendant W. Bundy) is an individual and resident of Utah and can be served with process at 983 N. 700, East Springville, Utah 84663-3159.

12. That Defendant John Bundy (hereinafter referred to as Defendant J. Bundy) is an individual and resident of Utah and can be served with process at 983 N. 700, East Springville, Utah 84663-3159.

JURISDICTION AND VENUE

13. That jurisdiction in the United States District Court for the Western District of Missouri is proper in that the amount in controversy exceeds seventy-five thousand dollars exclusive of interest and costs and is between citizens of different states pursuant to 28 U.S.C. § 1332.

14. That venue is proper in the United States District Court for the Western District of Missouri pursuant to 28 U.S.C. § 1391(a) in that a substantial part of the events and/or omissions giving rise to the claim occurred and jurisdiction is based upon 28 U.S.C. § 1332.

GENERAL FACTUAL BACKGROUND

15. That in the spring and summer and of 2006, Plaintiffs' concerns for their teenage daughter Hannah's well-being grew significantly.

16. That during this period Plaintiffs began to consider interventions, including sending Hannah away to a "Christian" school or boot camp as a possible option to bring positive change in her attitude and life in general.

17. That in July 2006, after looking for resources on the internet, Plaintiffs made contact with Defendant Parent Help by telephone.

18. That Defendant Parent Help recommended Thayer Learning Center in Kidder, Missouri and suggested that Plaintiff "check them out" on line.

19. That during the above-described contact, and in combination with representations made on Defendant Thayer's website including testimonials, Plaintiffs were told by Parent Help that Thayer would be an appropriate choice.

20. That through these contacts, Plaintiffs were left with the belief that Defendant Thayer was a safe, positive, and structured environment for their daughter Hannah where they (Thayer) were used to dealing with adolescents in a structured but positive manner, and furthermore, able to make real changes to children's behavior and motivation.

21. That during the above-described contact, Defendant Parent Help recommended that Plaintiff Ruth Romer send Hannah to Defendant Thayer.

22. That as a result of the above-described contact and representations made orally and in written word, Plaintiff Ruth Romer made the decision to send Hannah, her then minor child, to Defendant Thayer.

23. That Defendant Parent Help and Defendant Thayer have de facto commonality of ownership and interest and are/or were owned by John and Willa Bundy or their immediate family, a fact that was never disclosed to Plaintiffs.

24. That upon arrival at Thayer, Plaintiff Hannah Romer was subjected to grossly excessive physical exercise and abuse despite having no adequate medical screening.

25. That during the course of her first days at Thayer, Hannah Romer's physical condition quickly deteriorated under the abusive physical treatment she endured.

26. That prior to July of 2006, Defendants had actual notice of the extreme danger abusive physical exercise can cause in teenagers.

27. That Defendants also had actual knowledge of the dangers of Rhabdomyolysis in teenagers subjected to extreme and abusive physical exercise in that a student had died of complications of Rhabdomyolysis less than two (2) years earlier while in the care, custody and control of Defendants.

28. That the signs and symptoms of Hannah Romer's deteriorating health condition would have been present for a significant period of time and that a reasonable and prudent person would have provided competent medical intervention.

29. That Defendant Steele failed to provide proper directives to proper medical care or properly see that Ms. Romer had an adequate medical screening prior to the commencement of extreme physical exercise

30. That Defendant Steele failed to direct or obtain proper health care once it became apparent Hannah Romer's health was deteriorating.

31. That Plaintiff Hannah Romer complained of extreme muscle soreness, fatigue and dark urine, all signs or symptoms of the onset of Rhabdomyolysis.

32. That the actions of Defendant Steele were done in the course and scope of her employment with Defendant Thayer.

33. That had Hannah Romer received competent medical intervention in a timely manner, she would not have suffered serious permanent and debilitating injury.

INADEQUATE MEDICAL CARE

34. That Plaintiffs executed a Medical Care Release authorizing Defendants to provide all necessary medical and hospital treatment for the care and well being of Hannah Romer while in the care and custody of Defendants, accepting financial responsibility for the same.

35. That Defendant Thayer states, advertises, and represents to the public, and to those making specific inquiry, that proper medical care, treatment, and evaluation are available and provided to its students.

36. That Defendant Thayer states, advertises, and represents to the public, and to those making specific inquiry, that students have access to proper medical care, evaluation, and treatment upon request for such care.

37. That Defendant Thayer, by and through its agents, servants and employees, engages in a pattern and practice of failing to provide proper medical care and treatment to those students under its care and supervision.

38. That the actions and/or inactions of Defendants, their, agents, servants, and employees in failing to provide proper medical screening, care, and intervention to Hannah Romer was consistent the with above-described pattern and practice.

39. That in response to legitimate requests by students for medical care and treatment, Defendant Thayer's policy and practice was to respond to the student by saying "suck up your drama" and denied such students the appropriate medical care.

40. That Defendant Steele's actions, as set forth in more detail below, were actions of a management level employee of Defendant Thayer in that Defendant Steele was vested with management responsibility for determining the medical status and well-being of students at Defendant Thayer and was responsible, in whole or in part, for making decisions on when students would be transported for medical care and treatment.

41. That the actions of Defendant Steele, as more fully set forth below, constituted reckless indifference to the life and well-being of Plaintiff Hannah Romer and constituted wanton and willful neglect of Hannah Romer in the face of clear and convincing evidence that her health and life were at substantial risk of imminent bodily harm.

ACTIONS CONTRARY TO PUBLIC POLICY

42. That Defendant Thayer, by and through its agents, servants and employees, engages in a pattern and practice of inflicting physical and emotional harm to children under its care and supervision as more fully set forth below.

43. That Defendant Thayer, by and through its agents, servants and employees, engages in a pattern and practice of activity which is contrary to public policy all in an effort to keep its activities secret and out of the scrutiny of the public eye and state agencies.

44. That Defendants seek to gag employees, parents, and others, all in violation of public policy, from reporting abuse and mistreatment of children at Defendant Thayer in Kidder, Missouri, by demanding employees and parents to sign "contracts" that are void as a matter of public policy,

and retaliate against employees who bring matters of physical and emotional abuse to proper and legitimate state and local agencies.

45. That in furtherance of the common scheme to keep matters relating to physical and emotional abuse from parents and the public, Defendant Thayer terminates employees who report abuse to public agencies and law enforcement.

46. That in furtherance of the common scheme to keep matters relating to physical and emotional abuse from parents and the public, Defendants misrepresent to parents the true reasons for “no contact” with their children, and further misrepresent the rationale and justification for censoring and screening mail to and from children under Defendant Thayer’s care.

47. That in furtherance of the above-described common scheme, the agents, servants and employees of Defendant Thayer routinely misrepresent the physical and emotional status of children in their care when speaking to the parents of said children.

48. That Defendants, in furtherance of the above-described common scheme, misrepresent to parents the level, or lack thereof, of qualified medical training for staff at Defendant Thayer.

49. That in furtherance of the common scheme, Defendants prey on the emotional suffering and duress of parents and children in situations involving “behaviorally disabled” or “problem teens” to coerce parents into actions which enure to the sole benefit of Defendants.

DISREGARD OF CORPORATE FORM AND INDEPENDENCE

50. That Defendants John Bundy, Willa Bundy, Thayer Learning Center, LLC, Parent Help, Inc., 2B Enterprises Holdings, LLC and A 2B Enterprises, LLC act in concert, disregarding

corporate and legal formalities, by engaging in business practices which enure to the benefit of a common scheme.

51. That Defendants' common plan includes the removal of assets from Defendant Thayer Learning Center, LLC so as to create a virtual shell which is undercapitalized and lacking sufficient insurance coverage.

52. That employees of Defendant Parent Help would receive a \$250.00 bonus for placing a student in schools other than Defendant Thayer and would receive a \$500.00 bonus for placing students at Defendant Thayer.

53. That despite a belief by employees of Defendant Parent Help, certain inquiries from parents did not warrant placement at Thayer, and employees of Defendant Parent Help were told by the director of Defendant Thayer that "all children would benefit from their time at Thayer Learning Center."

54. That employees of Defendant Parent Help were told not to mention that John and Willa Bundy owned by Parent Help, Inc. and Thayer Learning Center, LLC.

55. That despite other schools being more cost effective and/or appropriate, employees of Defendant Parent Help were told to nevertheless do all they could to direct families to Thayer Learning Center for placement of their child.

56. That employees of Defendant Parent Help were instructed to place children at Thayer Learning Center.

57. That employees, officers, directors, and agents of Defendant Parent Help knew of a prior death and physical mistreatment of students at Thayer but failed to provide such information to prospective students and their families.

58. That Defendants Thayer Learning Center, LLC, Parent Help, Inc., John Bundy and Willa Bundy share, in whole or in part, common officers and/or directors and/or registered agents and/or employees and/or capital resources.

PHYSICAL ABUSE OF CHILDREN

59. That Defendant Thayer, in furtherance of the above-described common scheme, force children in their care to engage in extreme physical exercise and exertion without providing proper medical screening to determine the fitness of said children for such extreme activity.

60. That extreme physical exertion and/or physical injury and abuse caused or contributed to cause the physical conditions leading to the serious injury sustained by Hannah Romer.

61. That extreme physical exercise and abuse is pathogenic of Rhabdomyolysis in adolescents and teenagers.

62. That extreme physical exercise and abuse would exacerbate Rhabdomyolysis.

63. That trauma and/or crush injuries are pathogenic of Rhabdomyolysis.

64. That many of the actions of Defendants against the children under their care cause physical and emotional injury.

65. That children at Defendant Thayer were routinely “taken down,” meaning physically incapacitated and taken to the ground through “choke holds” and other means.

66. That when a child was “taken down” the “drill instructor” or staff involved, would yell “grenade” meaning all other “cadets” must get on the ground face down with their hands over their eyes and head, so as not to be witnesses to the event.

67. That children at Defendant Thayer were routinely “smoked” meaning that they were forced to perform physical exercise and exertion until they collapsed from physical exhaustion.

68. That Plaintiff Hannah Romer was subjected to cruel and physically harmful acts by some or all of the Defendants in a manner consistent with past and present customs and practices of Defendants.

MISSTATEMENT OF MATERIAL FACTS

69. That despite the numerous representations, both direct and indirect, provided by Defendant Parent Help and the representations made by Defendant Parent Help to Plaintiffs and their agents, Defendant Parent Help is not an objective third party evaluating appropriate school options for troubled teenagers but, rather, inextricably intertwined for common schemes and goals with Defendants Thayer, Teen Life Skills Center, 2B Enterprises Holding LLC, A 2B Enterprises, LLC, Willa Bundy and John Bundy.

70. That Defendant Parent Help’s Directors include or have included John Bundy and Willa Bundy and its agent for service of process is John H. Bundy.

71. That Defendant Parent Help made material misrepresentations to Plaintiffs with respect to the independent and objective nature of Defendant Parent Help when, in fact, a financial incentive existed between both Defendants and, more specifically, financial incentives to direct parents to Defendant Thayer.

72. That Defendant Parent Help’s website and the employees of Defendant Parent Help, while holding themselves out as objective evaluators of proper treatment plans and processes for children, made many material misrepresentations including their level of experience, knowledge base, factual comparisons with alternative programs, all intended to further perpetuate their own

economic interests and to perpetuate a common scheme and plan to maximize financial gain by preying upon unsuspecting and ill-informed members of the public who are in an extremely vulnerable position in light of problems with teenagers and adolescents.

73. That Defendant Parent Help conspired with Defendant Thayer to misrepresent to Plaintiffs the nature of the experience at Defendant Thayer and the serious physical risks to their child, Hannah Romer, all for the furtherance of a common plan and scheme designed to maximize financial gain to Defendants.

DEFENDANT THAYER LEARNING CENTER, LLC

74. That Defendant Thayer held itself out as a competent, alternative education program for troubled teenagers in which positive changes in a teenager's outlook and behavior could be obtained through a safe environment.

75. That Defendant Thayer failed to provide Plaintiffs an accurate, true, and complete picture of Defendant Thayer's qualifications as well as failing to tell the parents about Defendant Thayer's abusive "behavior modification" strategies and inadequate medical care available to students, such as Plaintiff Hannah Romer.

76. That Defendant Thayer failed to inform the Plaintiffs of the following:

- Some children have spent thirty days or more in solitary confinement during which time they are forced to hear "motivational" tapes over and over.
- Children have been restrained with zip ties around their ankles and wrists.
- Children have been restrained and attached to furniture.
- Male children have been stripped to their underwear, "hog tied" and sprayed with a hose.

- Children have been forced to re-write letters to parents until letters contain nothing negative about the program or Defendant Thayer.
- Defendant Thayer denies proper medical care and historically downplays serious medical conditions and treats them as “ploys” to go home.
- Children have been “smoked” and forced to engage in physical activity of an abusive nature.
- A child was thrown into a barbed-wire bundle and told to get himself out.
- Children were chased by a golf cart and told to run or they will be “run over.”
- During the summer, for punishment, children have been placed in a “hot box” which is an outside, rubber-sealed tent.
- For punishment, children have been duct taped and/or belted together for an entire day and sometimes overnight.
- For punishment, a child has been forced to brush her teeth for a four-hour, non-stop time period.

77. That in May 2004, three employees of Defendant Thayer went to Caldwell County

Sheriff’s Office with the following complaints:

- Students were stripped down to their underwear, tied up, and laid on a concrete floor and ice cold water was poured on them every hour.
- Restroom breaks were so limited that students regularly soiled themselves.
- The restricted bathroom breaks led to various urinary tract infections and bladder infections.
- One girl was forced to sit in a plastic tub containing urine for at least two and one-half hours.
- One student was tethered to a four wheeler and “dragged around....on the sand track.”

- A female student vegetarian was forced to eat meatballs. The student got sick and vomited in her hands. “The girl was then forced to eat the vomit.”

78. That in response to the employees’ complaints and in retaliation for making the same, the employees were fired.

79. That Defendant Thayer has a pattern of practice of limiting children access to medical care and treatment and continually and historically asserted that children’s physical complaints were malingering or attempts to go home or avoid physical activity, despite repeated incidents of actual sickness and illness.

80. That Defendants were consistent in the above-referenced practice with respect to Hannah Romer, treating her complaints as games and ploys, despite a deteriorating physical status, and diminishing mental and cognitive function.

81. That the manner in which Defendant Thayer responded to the deteriorating medical condition of Plaintiff Hannah Romer was consistent with the Thayer’s pattern and practice of turning a deaf ear on the physical, medical, and emotional needs of adolescent teenagers.

82. That with respect to Hannah Romer, the continued compliance with the reckless and outrageous policy of Defendant Thayer in failing to respond to reasonable requests for medical care and treatment and failing to make reasonable determinations for the need for medical care , caused or directly contributed to cause serious and permanent injury to Hannah Romer.

COUNT I

NEGLIGENT AND FRAUDULENT MISREPRESENTATION
(DEFENDANTS THAYER AND PARENT HELP)

COME NOW Plaintiffs and, for Count I of their Petition for Damages, incorporate by reference as though fully set forth herein Paragraphs 1 through 82 above; and further state and aver the following:

83. That, in addition to the representations of Defendant Parent Help, as set forth above, Defendant Thayer has made the following representations:

- That discipline is limited to Time Out, loss of privileges, and physical fitness activities
- That “We try our best to keep parents informed of all activities.” (No components of the program are secretive.)
- That T.L.C. is clean, safe, and adequate.
- That T.L.C. provides adequate food, shelter and necessities.
- That a major portion of staff are college graduates.
- That the staff has been trained to help students in every type of situation.
- That drill sergeants are EMT certified.
- That students are taken to medical providers whenever it is requested by the students and parents are informed.
- That medical decisions are made in a “good faith” manner.
- That a high level of supervision is provided.

84. That the above-referenced representations were, in whole or in part, false.

85. That some of the above-referenced representations were material to the decision on the part of Plaintiffs to place their child, Hannah Romer, in the care, custody and control of Defendant Thayer.

86. That Defendants knew that the above-referenced representations were false or were otherwise ignorant of their truth.

87. That the agents, servants, and employees of Defendants intended that the representations set forth above would be acted upon by Plaintiffs in a manner reasonably contemplated.

88. That Plaintiffs were ignorant of the falsity of the above-referenced representations.

89. That Plaintiffs relied on the above-referenced representations as being true with respect to the important decision to trust the care, custody, control, and well-being of their child, Hannah Romer, into the care of Defendant Thayer, and in so relying Plaintiffs used that degree of care that would have been reasonable in Plaintiffs' situation.

90. That Plaintiffs had a right to rely on the above-referenced representations.

91. That as a direct and proximate result of relying upon the representations set forth above, Plaintiffs placed their daughter in the care, custody and control of Defendant Thayer which led to great injury and damage to be inflicted upon Plaintiff Hannah Romer from the time she entered Defendant Thayer until she was hospitalized and thereafter.

WHEREFORE, Plaintiffs pray for judgment against Defendants in Count I of their First Amended Petition for Damages in an amount that the trier of the facts may deem fair and just for the death and loss thus occasioned, having regard to the pecuniary losses suffered, together with an

amount which will serve to punish Defendants for the willful and wanton disregard of Plaintiff's safety, as well as their costs incurred herein, and all other relief the Court deems just and proper.

COUNT II

NEGLIGENCE AND GROSS NEGLIGENCE OF DEFENDANTS
(DEFENDANTS THAYER, TEEN LIFE SKILLS CENTER,
PARENT HELP, 2B ENTERPRISES HOLDINGS, LLC,
A 2B ENTERPRISES, LLC, AND STEELE)

COME NOW Plaintiffs and, for Count II of their First Amended Petition for Damages, incorporate by reference as though fully set forth herein Paragraphs 1 through 91 above; and further state and aver the following:

92. That Defendants (including individual Defendant Steele) had a duty arising in both common law and contract to exercise reasonable care with respect to the care, treatment, supervision, counsel and safety of Hannah Romer.

93. That Defendants breached the above described duty by failing to act in a reasonable and prudent manner in the following manner:

- Failure to provide necessary medical care.
- Failure to properly train/supervise staff and employees with the respect to the proper care and treatment, (both physical and emotional) of adolescents.
- Failure to properly supervise staff and employees.
- Failure to properly provide basic food, water, and shelter.
- Failure to screen students prior to forcing them to engage in extremely strenuous physical activity to determine the medical appropriateness of the same.
- Failure to provide true and accurate information regarding the physical and mental well being of Plaintiffs Hannah Romer.

