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**SUPERIOR COURT OF THE STATE OF CALIFORNIA
FOR THE COUNTY OF SANTA CLARA**

JANE DOE, by and through her parents and)
natural guardians, MOTHER DOE and)
FATHER DOE,)

Plaintiff,)

vs.)

KINDERCARE EDUCATION LLC;)
KINDERCARE EDUCATION AT WORK,)
LLC; and DOES 1-100,)

Defendant.)

CASE NO:

17 CV 309830

**COMPLAINT FOR PERSONAL
INJURIES AND DAMAGES**

DEMAND FOR JURY TRIAL

Plaintiff Jane Doe, by and through her parents and natural guardians Mother Doe and
Father Doe, by and through their undersigned counsel, bring this Complaint against Defendants
Kindercare Education LLC, Kindercare Education at Work LLC, and Does 1-100, and state as
follows:

CASE SUMMARY

1. This complaint concerns the alleged sexual assault of Jane Doe by her preschool
teacher Willy Kwong when Jane Doe was approximately four years old. Upon information and
belief, the acts of sexual abuse alleged include digital and penial penetration, oral sex performed
on Jane Doe by Mr. Kwong, and oral sex performed on Mr. Kwong by Jane Doe.

2. The allegations of abuse all occurred at the Stanford Madera Grove Children's Center located on the Stanford University campus. Mr. Kwong was employed as a "Floater Specialist" by Madera Grove.

3. Stanford Madera Grove Children's Center is owned and operated by KinderCare Education LLC, the largest provider of early childhood education in the United States. KinderCare operates over 1,000 schools nationwide, with approximately 169,000 children enrolled in their programs.

PARTIES AND JURISDICTION

4. Jane Doe is a citizen and resident of Santa Clara, California and is not *sui juris* by virtue of her minority. Mother Doe and Father Doe bring this action on behalf of Jane Doe as her parents and natural guardians. In this action, Plaintiff and her parents are each identified by a pseudonym because this matter concerns the sexual assault of a minor. The identities of the Plaintiff and her parents are known to the Defendants.

5. Defendant Kindercare Education LLC is a Delaware limited liability company with its principal place of business in Portland, Oregon. It is registered to do business in California and engages in substantial business activities in California.

6. Defendant Kindercare Education at Work LLC is a California limited liability company with its principal place of business in Portland, Oregon. Upon information and belief, Kindercare Education at Work LLC is a partially or wholly owned subsidiary or affiliate of Kindercare Education LLC, operating under the authority and control of Kindercare Education LLC.

1 7. Defendants Does 1-100, which/who are individuals, corporations and/or other
2 forms of business organization that, at any relevant time, maintained ownership, management or
3 control over the Stanford Madera Grove Children's Center located at 751 Olmstead Road,
4 Stanford, California, 94305, or who otherwise undertook duties with regard to the protection of
5 Jane Doe or the supervision and/or control of Willy Kwong in providing daycare services to
6 children, or are otherwise legally responsible in some manner for the incidents and damages
described herein. Plaintiff is at this time ignorant of the names of these Defendants.

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8 **ALLEGATIONS OF FACT**

9 8. The allegations of sexual assault alleged in this Complaint occurred at the Stanford
10 Madera Grove Children's Center ("Madera Grove") when Jane Doe was approximately four years
11 old.

12 9. At all relevant times, Madera Grove operated under the authority and control of
13 Kindercare Education LLC and Kindercare Education at Work LLC (hereinafter referred to
14 collectively as "Kindercare"), which establish and implement the policies and procedures
15 regarding safety and other matters at Madera Grove.

16 10. At all relevant times, Jane Doe was a student at Madera Grove. Mother Doe and
17 Father Doe entrusted Defendants with the safety and well-being of Jane Doe while she was in
18 Defendants' care.

19 11. At all relevant times, Willy Kwong was an employee and/or agent of Kindercare
20 who was employed as a "Floater Specialist" preschool teacher at Madera Grove. Upon information
21 and belief, the role of a Floater Specialist is to provide support as needed to multiple teachers and
22 classrooms at Madera Grove.

23 12. Upon information and belief, Mr. Kwong was often left alone with children at
24 Madera Grove and was often the sole employee providing supervision over children.

1 13. In or about November, 2016, Jane Doe disclosed that Mr. Kwong sexually assaulted
2 her on multiple occasions at Madera Grove. Upon information and belief, the acts of sexual assault
3 committed by Mr. Kwong included multiple acts of digital penetration of Jane Doe's vagina, Mr.
4 Kwong putting his penis on and in Jane Doe's vagina, and multiple instances of Mr. Kwong
5 performing oral sex on Jane Doe and having Jane Doe perform oral sex on Mr. Kwong. Upon
6 information and belief, the acts of sexual abuse took place in the adult and child restrooms and
7 other locations in Madera Grove.

8 14. Upon information and belief, Kindercare's policies and procedures prohibit
9 Floaters such as Mr. Kwong from bringing children to the restroom alone. These policies and
10 procedures recognize that only certain persons may be authorized to escort a child to the restroom,
11 and that unauthorized persons may not do so given the risk of abuse and harm to the child. These
12 policies and procedures were intended to implement a safety rule to protect children in
13 Kindercare's domain from foreseeable harms, including sexual abuse.

14 15. Despite this safety rule, upon information and belief, Kindercare agents were aware
15 that Mr. Kwong brought children to the restrooms alone, yet failed to respond and prevent him
16 from doing so.

17 16. Additionally, prior to the sexual abuse of Jane Doe, Kindercare agents received
18 multiple reports that should have alerted them to dangerous propensities of Mr. Kwong. On one
19 such occasion, Father Doe reported to Jane Doe's teacher, Ms. Sara, that Jane Doe reported that
20 she wanted to, "put a screw in the hole in Mr. Willy's [Kwong's] penis." Despite this report, no
21 follow up investigation, interviews, or any other type of further action was taken by Kindercare
22 agents to determine the cause of these statements. Mother Doe requested to meet with Kindercare
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agents on two occasions to discuss her concerns, but such requests were ignored by Kindercare agents.

17. Additionally, prior to the sexual assault of Jane Doe, multiple children at Madera Grove made statements that they wanted to kill or harm Mr. Kwong. Such statements concerned Kindercare agents enough that they held a meeting with these children to instruct them to stop making these statements. However, no follow up investigation was conducted to determine the basis or cause of these statements.

COUNT I
(Negligence Against Kindercare Education LLC)

18. Plaintiff repeats and realleges the allegations in paragraphs 1 through 17 above.

19. Defendant Kindercare Education LLC had a special relationship with Jane Doe which gave Jane Doe a right to protection from Kindercare Education LLC.

20. Kindercare Education LLC had a special relationship with Willy Kwong which imposed a duty on Defendant to control the acts and conduct of Willy Kwong.

21. At all relevant times, Kindercare Education LLC owed a duty to Jane Doe to use reasonable care to ensure her safety, care, health and well-being, including protecting her from sexual and physical assault or abuse, while under its care and supervision.

22. At all relevant times, Kindercare Education LLC owed Jane Doe a duty to use reasonable care in hiring, retaining and/or supervising Willy Kwong.

23. At all relevant times, Kindercare Education LLC knew or in the exercise of reasonable care should have known that Willy Kwong posed a substantial risk of harm to the health, safety and welfare of Jane Doe.

1 24. At all relevant times, Kindercare Education LLC knew or in the exercise of
2 reasonable care should have known that hiring Willy Kwong to be a teacher of children would
3 foreseeably lead to potentially dangerous or harmful conduct, including the sexual abuse of a child
4 in his care such as Jane Doe.

5 25. At all relevant times, Kindercare Education LLC knew or in the exercise of
6 reasonable care should have known that retaining Willy Kwong as a teacher, or failing to
7 adequately supervise his interactions with children, would foreseeably lead to dangerous or
8 harmful conduct, including the sexual abuse of a child.

9 26. At all relevant times, Kindercare Education LLC knew or in the exercise of
10 reasonable care should have known that allowing an unauthorized person to bring a pre-school
11 child to the restroom would foreseeably lead to sexual abuse and needlessly endanger the health
12 and well being of the child.

13 27. At all relevant times, Defendant Kindercare Education LLC had a duty to adopt and
14 implement policies and to train staff for the purpose of protecting children from sexual abuse or
15 assault.

16 28. Kindercare Education LLC breached its duties by failing to use reasonable care to
17 provide a safe environment for Jane Doe where she would be free from sexual harassment and
18 sexual abuse. This breach includes (i) hiring, retaining and/or failing to supervise Willy Kwong,
19 when Defendant knew or should have known that he posed a substantial risk of harm to children;
20 (ii) failing to control the harmful acts and conduct of Willy Kwong; (iii) failing to adequately
21 protect Jane Doe from harm in providing her with services; (iv) failing to have adequate policies
22 and training to prevent sexual abuse by an employee; and/or (v) allowing Mr. Kwong to bring
23 children, including Jane Doe, into the restroom alone.

1 29. As a direct and proximate result of these breaches of duty, Jane Doe was physically
2 and sexually abused while Jane Doe was under Kindercare Education LLC's care and control.

3 30. The sexual and physical abuse of Jane Doe has caused her to suffer continuing,
4 severe and permanent psychological and emotional injuries, and the loss of enjoyment of life.

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6 **COUNT II**
(Negligence Against Kindercare Education at Work LLC)

7 31. Plaintiff repeats and realleges the allegations in paragraphs 1 through 17 above.

8 32. Defendant Kindercare Education at Work LLC had a special relationship with Jane
9 Doe which gave Jane Doe a right to protection from Kindercare Education at Work LLC.

10 33. Kindercare Education at Work LLC had a special relationship with Willy Kwong
11 which imposed a duty on Defendant to control the acts and conduct of Willy Kwong.

12 34. At all relevant times, Kindercare Education at Work LLC owed a duty to Jane Doe
13 to use reasonable care to ensure her safety, care, health and well-being, including protecting her
14 from sexual and physical assault or abuse, while under its care and supervision.

15 35. At all relevant times, Kindercare Education at Work LLC owed Jane Doe a duty to
16 use reasonable care in hiring, retaining and/or supervising Willy Kwong.

17 36. At all relevant times, Kindercare Education at Work LLC knew or in the exercise
18 of reasonable care should have known that Willy Kwong posed a substantial risk of harm to the
19 health, safety and welfare of Jane Doe.

20 37. At all relevant times, Kindercare Education at Work LLC knew or in the exercise
21 of reasonable care should have known that hiring Willy Kwong to be a teacher of children would
22 foreseeably lead to potentially dangerous or harmful conduct, including the sexual abuse of a child
23 in his care such as Jane Doe.

1 38. At all relevant times, Kindercare Education at Work LLC knew or in the exercise
2 of reasonable care should have known that retaining Willy Kwong as a teacher, or failing to
3 adequately supervise his interactions with children, would foreseeably lead to dangerous or
4 harmful conduct, including the sexual abuse of a child.

5 39. At all relevant times, Kindercare Education at Work LLC knew or in the exercise
6 of reasonable care should have known that allowing an unauthorized person to bring a pre-school
7 child to the restroom would foreseeably lead to sexual abuse and needlessly endanger the health
8 and well being of the child.

9 40. At all relevant times, Defendant Kindercare Education at Work LLC had a duty to
10 adopt and implement policies and to train staff for the purpose of protecting children from sexual
11 abuse or assault.

12 41. Kindercare Education at Work LLC breached its duties by failing to use reasonable
13 care to provide a safe environment for Jane Doe where he would be free from corruption of his
14 morals, sexual harassment and sexual abuse. This breach includes (i) hiring, retaining and/or
15 failing to supervise Willy Kwong, when Defendant knew or should have known that he posed a
16 substantial risk of harm to children; (ii) failing to control the harmful acts and conduct of Willy
17 Kwong; (iii) failing to adequately protect Jane Doe from harm in providing her with services; (iv)
18 failing to have adequate policies and training to prevent sexual abuse by an employee; and/or (v)
19 allowing Mr. Kwong to bring children, including Jane Doe, into the restroom alone.

20 42. As a direct and proximate result of these breaches of duty, Jane Doe was physically
21 and sexually abused while Jane Doe was under Kindercare Education at Work LLC's care and
22 control.
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1 43. The sexual and physical abuse of Jane Doe has caused her to suffer continuing,
2 severe and permanent psychological and emotional issues, and the loss of enjoyment of life.

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4 **COUNT III**
(Negligence Against Does 1-100)

5 44. Plaintiff repeats and realleges the allegations in paragraphs 1 through 17 above.

6 45. Defendant Does 1-100 had a special relationship with Jane Doe which gave Jane
7 Doe a right to protection from Does 1-100.

8 46. Does 1-100 had a special relationship with Willy Kwong which imposed a duty on
9 Defendant to control the acts and conduct of Willy Kwong.

10 47. At all relevant times, Does 1-100 owed a duty to Jane Doe to use reasonable care
11 to ensure her safety, care, health and well-being, including protecting her from sexual and physical
12 assault or abuse, while under its care and supervision.

13 48. At all relevant times, Does 1-100 owed Jane Doe a duty to use reasonable care in
14 hiring, retaining and/or supervising Willy Kwong.

15 49. At all relevant times, Does 1-100 knew or in the exercise of reasonable care should
16 have known that Willy Kwong posed a substantial risk of harm to the health, safety and welfare
17 of Jane Doe.

18 50. At all relevant times, Does 1-100 knew or in the exercise of reasonable care should
19 have known that hiring Willy Kwong to be a teacher of children would foreseeably lead to
20 potentially dangerous or harmful conduct, including the sexual abuse of a child in his care such as
21 Jane Doe.

22 51. At all relevant times, Does 1-100 knew or in the exercise of reasonable care should
23 have known that retaining Willy Kwong as a teacher, or failing to adequately supervise his
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1 interactions with children, would foreseeably lead to dangerous or harmful conduct, including the
2 sexual abuse of a child.

3 52. At all relevant times, Does 1-100 knew or in the exercise of reasonable care should
4 have known that allowing an unauthorized person to bring a pre-school child to the restroom would
5 foreseeably lead to sexual abuse and needlessly endanger the health and well being of the child.

6 53. At all relevant times, Defendant Does 1-100 had a duty to adopt and implement
7 policies and to train staff for the purpose of protecting children from sexual abuse or assault.

8 54. Does 1-100 breached its duties by failing to use reasonable care to provide a safe
9 environment for Jane Doe where he would be free from corruption of his morals, sexual harassment
10 and sexual abuse. This breach includes (i) hiring, retaining and/or failing to supervise Willy
11 Kwong, when Defendant knew or should have known that he posed a substantial risk of harm to
12 children; (ii) failing to control the harmful acts and conduct of Willy Kwong; (iii) failing to
13 adequately protect Jane Doe from harm in providing her with services; (iv) failing to have adequate
14 policies and training to prevent sexual abuse by an employee; and/or (v) allowing Mr. Kwong to
15 bring children, including Jane Doe, into the restroom alone.

16 55. As a direct and proximate result of these breaches of duty, Jane Doe was physically
17 and sexually abused while Jane Doe was under Does 1-100's care and control.

18 56. The sexual and physical abuse of Jane Doe has caused her to suffer continuing,
19 severe and permanent psychological and emotional issues, and the loss of enjoyment of life.

20 **PRAYER FOR RELIEF**

21 WHEREFORE, Plaintiff respectfully requests the following relief:

- 22 1. General damages in an amount to be shown according to proof at the time of trial.
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1 2. Special damages including medical and psychological care expenses in an amount
2 to be shown according to proof at the time of trial.

3 3. Attorney's fees.

4 4. Costs of suit.

5 5. Such other and further relief as this Court deems just and proper.

6 **DEMAND FOR JURY TRIAL**

7 Plaintiff hereby demands a jury trial in this action.

8 Dated: May 1, 2017

9 By: 

 Daniel G. Ellis, Esq. (Calf. Bar No. 298639)

 Arick Fudali, Esq. (Calf. Bar No. 296364)

 Herman Law

 Attorneys for Plaintiff