

SUPREME COURT OF THE STATE OF NEW YORK  
COUNTY OF BRONX

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FELITA LEE, as Administratrix of the Estate of L.M.,  
FELITA LEE, as the parent and natural guardian  
of L.M. and FELITA LEE, individually,

Index No.:

Plaintiff,

-against-

KIDS N CULTURE, INC., EXPLORICA INC.,  
JAMES W.DOYLE, and JOHN and JANE DOES, said  
names being fictitious and intended to represent  
individual employees of KIDS N CULTURE, INC. and  
EXPLORICA INC.,

**VERIFIED COMPLAINT**

Defendants.

Filed on: \_\_\_\_\_

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Plaintiff FELITA LEE, as Administratrix of the Estate of L.M., FELITA LEE, as the parent and natural guardian of L.M. and FELITA LEE, individually, (hereinafter "infant decedent" or "L.M.") by and through her counsel, as and for her Verified Complaint against Defendants, respectfully set forth and allege that:

**NATURE OF THE CLAIMS**

1. This is a civil action for injunctive, compensatory, punitive, and exemplary damages for the negligence, recklessness and carelessness of Defendants, their agents, servants and/or employees, in both their individual and official capacities.
2. This case arises out of incident which occurred on February 19, 2016.
3. Defendants' conduct was knowing, malicious, willful and wanton and/or in reckless disregard of the rights of infant decedent L.M. and her mother and natural guardian, Plaintiff FELITA LEE. It has caused and continues to cause substantial economic and non-economic damages, physical injuries and emotional distress.

**PARTIES**

4. That on the 11<sup>th</sup> day of January, 2018, Letters of Administration for the Estate of L.M., decedent, were issued to the Plaintiff, FELITA LEE, by the Surrogate's Court, State of New York, which remains in full force and effect.

5. That at all relevant times, Plaintiff FELITA LEE was the mother and natural guardian of the infant decedent, L.M.

6. That at all relevant times, Plaintiff FELITA LEE, as Administratrix of the Estate of L.M., resided, and continues to reside at 2324 Beaumont Avenue in Bronx County, New York.

7. That at all relevant times, Plaintiff's infant decedent, L.M., resided in Bronx County, New York at the time of her death on February 19, 2018.

8. That upon information and belief, at all relevant times, and specifically on February 19, 2016, Defendant KIDS N CULTURE, INC. was a domestic corporation duly existing under and by virtue of the law of the State of New York and remains a New York organization with its principal place of business at 132 West 112<sup>th</sup> Street, Suite 4F, New York, New York.

9. That upon information and belief, at all relevant times, and specifically on February 19, 2016, Defendant KIDS N CULTURE, INC. was a domestic not-for-profit corporation duly existing under and by virtue of the law of the State of New York and remains a New York organization with its principal place of business at 132 West 112<sup>th</sup> Street, Suite 4F, New York, New York.

10. That upon information and belief, at all relevant times, and specifically on February 19, 2016, Defendant EXPLORICA INC., was a corporation duly existing under

and by virtue of the laws of the State of Massachusetts and remains a Massachusetts organization with its principal place of business located at 145 Tremont Street, Boston, MA 02111.

11. That upon information and belief, at all relevant times, and specifically on February 19, 2016, Defendant JAMES W. DOYLE was and remains a New York resident, residing at 132 West 112<sup>th</sup> Street, Apt. 4F, New York, NY 10026.

12. At all relevant times, Defendants "JOHN DOES" were individual executive officers, staff, personnel and/or employees of KIDS N CULTURE, INC. and/or EXPLORICA INC. and representatives of KIDS N CULTURE, INC. and/or EXPLORICA INC., and they directly participated in the unlawful activity that is the subject of this Complaint.

13. At all relevant times, Defendants "JANE DOES" were individual executive officers, staff, personnel and/or employees of KIDS N CULTURE, INC. and/or EXPLORICA INC. and representatives of KIDS N CULTURE, INC. and/or EXPLORICA INC., and they directly participated in the unlawful activity that is the subject of this Complaint.

#### **JURISDICTION & VENUE**

14. This Court has jurisdiction over this matter because at all relevant times Plaintiff and infant decedent resided in Bronx County.

15. This Court has jurisdiction over Defendant EXPLORICA INC. because Defendant EXPLORICA INC. had constant and systematic contacts with the State of New York, including regularly availing itself of the benefits of New York and regularly conducting business in New York at scores of New York schools and with hundreds of

New York families, including receiving payments for its travel programs from New York residents.

16. Venue is proper in this district pursuant to CPLR § 503 because Plaintiff resides in Bronx County.

### **FACTUAL ALLEGATIONS**

17. Prior to February 2016, infant decedent L.M. and Plaintiff FELITA LEE learned of a study abroad and cultural immersion opportunity to Tanzania through Defendant JAMES W. DOYLE, a teacher at infant decedent's school, Thurgood Marshall High School. At the time, infant decedent was fifteen years old.

18. Plaintiff and infant decedent learned that the program and trip was organized and hosted by Defendants KIDS N CULTURE, INC. and EXPLORICA INC. for the participants to do missionary work, including rebuilding schools and providing supplies.

19. Plaintiff and infant decedent were informed by Defendants that infant decedent would be traveling to Tanzania with Defendant EXPLORICA INC. and Defendant KIDS N CULTURE, INC., and that she would be supervised at all times by their staff.

20. Plaintiff and infant decedent were informed by Defendants KIDS N CULTURE, INC. and JAMES W. DOYLE that Defendant EXPLORICA INC. was covered by a multi-million dollar insurance policy and that Defendant EXPLORICA INC. would be liable in ensuring the safety and security of infant decedent.

21. On February 19, 2016, infant decedent was at the Weru Weru River Lodge in Moshi-Kilimanjaro, Tanzania, under the supervision of Defendants KIDS N CULTURE, INC., EXPLORICA INC., and Defendants JOHN AND JANE DOES.

22. Defendants and their employees and agents, including Defendants JOHN and JANE DOES, failed to use ordinary and reasonable care in supervising the infant decedent under their care while in and around the Weru Weru River Lodge pool.

23. On February 19, 2016, infant decedent died by drowning in the pool.

24. After infant decedent died by drowning, Defendants failed to immediately inform Plaintiff that infant decedent had died and instead lied, either intentionally or due to gross negligence, stating that infant decedent would be delayed in returning home to the United States.

25. Defendants "JOHN DOES" and "JANE DOES" had a duty to ensure that their actions, activities and behavior conformed to a reasonable standard for the protection of others against unreasonable risk of harm, as well as to conduct themselves in a manner that would not intentionally, wantonly, and/or negligently cause injuries to others, including the Plaintiff and infant decedent herein.

26. Pursuant to CPLR § 1602(2)(iv), Defendants are jointly and severally liable for all of Plaintiff's damages including but not limited to Plaintiff's non-economic loss, irrespective of the provisions of CPLR § 1501, by reason of the fact that Defendants' owed the Plaintiff a non-delegable duty of care.

27. Pursuant to CPLR § 1602(7), Defendants are jointly and severally liable for all of Plaintiff's damages including but not limited to Plaintiff's non-economic loss, irrespective of the provision of CPLR § 1601, by reason of the fact that Defendants acted with reckless disregard of the safety of others.

28. Pursuant to CPLR § 1602(2), Defendants are jointly and severally liable for all of Plaintiff's damages including but not limited to Plaintiff's non-economic loss, irrespective of the provisions of CPLR § 1601, by reason of the fact that Defendants are

vicariously liable for the negligent acts and omissions of others who caused or contributed the Plaintiff's damages.

**FIRST CAUSE OF ACTION**  
**(Negligence and Gross Negligence)**

29. Plaintiff hereby repeats and realleges each and every allegation as contained in each of the preceding paragraphs as if fully set forth herein.

30. At all relevant times, Defendants failed in its non-delegable duty to supervise and ensure the safety and security of infant decedent who was in their care.

31. The drowning death that infant decedent suffered was directly and proximately caused by the negligence, carelessness and recklessness of Defendants including their failure to be aware and stay aware of the location and safety of the infant decedent at all times; their failure to provide reasonable supervision of infant decedent; their failure to have adequate safeguards; their failure to properly and adequately supervise the activities of infant decedent in and about the pool; their failure to take proper precautions to prevent drownings; their failure to provide infant decedent with a last clear chance of survival.

32. The drowning that killed the infant decedent was caused by the negligence of Defendants acting within the scope of their employment and their acts and omissions led to the infant decedent not being properly supervised while under their care.

33. Between the time when infant decedent realized that she was going to be gravely injured or killed and the moment when she sustained physical injury, the infant decedent experienced pre-drowning terror and fear of impending death and suffered emotional distress as a result of his awareness.

34. Between the time when infant decedent realized that she was going to be gravely injured or killed and the moment when she sustained physical injury, the infant decedent was conscious and aware of the nature of her injuries and impending death and/or suffered extreme conscious physical mental, and emotional pain and suffering.

35. As a direct and proximate result of Defendants, the infant decedent suffered extreme conscious physical pain, bodily injury, disfigurement, and/or deformity, physical and emotional suffering, inconvenience and discomfort, and mental anguish prior to her premature, untimely and horrific death.

**SECOND CAUSE OF ACTION**  
**(Wrongful Death)**

36. Plaintiff hereby repeats, reiterates and realleges each and every allegation as contained in each of the preceding paragraphs as if fully set forth herein.

37. As a result of the injuries sustained by infant decedent as a result of the negligence by Defendants, the infant decedent was caused to suffer a wrongful death on February 19, 2016.

38. As a result of the wrongful death of the infant decedent, the distributees of the infant decedent have been permanently and totally deprived of the usual, anticipated and potential services, support, aid, maintenance and contribution of the said infant decedent, and were obliged to incur pecuniary and other losses, funeral and other expenses, and were severely damaged.

39. By reason of the foregoing, Plaintiff, individually and as Administratrix of the Estate of Laniece Moore, infant decedent and on behalf of the distributees of the said infant decedent, have suffered severe damages in an amount which exceeds the

monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction herein, in an amount to be determined upon the trial of this action.

**THIRD CAUSE OF ACTION**  
**(Negligent Retention, Training and/or Supervision)**

40. Plaintiff hereby repeats, reiterates and realleges each and every allegation as contained in each of the preceding paragraphs as if fully set forth herein

41. At all relevant times, it was the duty of the Defendants to hire, furnish and provide competent, qualified, skilled, experienced, trained and diligent persons to control, plan, direct, supervise, safeguard, and care for the students, including infant decedent, in their care.

42. At all relevant times, it was the duty of the Defendants to train, discipline, supervise, promulgate and put into effect appropriate rules applicable to the duties, activities and responsibilities of their servants, agents, employees and/or personnel to control, plan, direct, supervise, safeguard, and care for the students, including infant decedent, in their care.

43. At all relevant times, the Defendants, acting with willful and wanton disregard of the high degree of risk of serious bodily harm and death, failed to hire, furnish and provide competent, qualified, skilled, experienced, trained and diligent persons to control, plan, direct, supervise, safeguard, and care for the students, including infant decedent, in their care.

44. At all relevant times, the Defendants, acting with willful and wanton disregard of the high degree of risk of serious bodily harm and death, failed to train, discipline, supervise, promulgate and put into effect appropriate rules applicable to the duties, activities and responsibilities of their servants, agents, employees and/or



personnel to control, plan, direct, supervise, safeguard, and care for the students, including infant decedent, in their care.

45. By reason of the foregoing, Plaintiff has been damaged in an amount that exceeds the monetary jurisdictional limits of any and all lower Courts which would otherwise have jurisdiction herein, in an amount to be determined upon the trial of this action.

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiff prays that the Court enter judgment in their favor and against the Defendants, containing the following relief:

A. An award of damages in an amount to be determined at trial, but in any event in excess of the jurisdictional limit of any other court which might otherwise have jurisdiction over this matter, plus prejudgment interest, to compensate Plaintiff for his monetary and/or economic damages;

B. An award of damages in an amount to be determined at trial, but in any event in excess of the jurisdictional limit of any other court which might otherwise have jurisdiction over this matter, plus prejudgment interest, to compensate Plaintiff for all her non-monetary and/or compensatory damages, including but not limited to, compensation for severe mental anguish and emotional distress, stress and anxiety, emotional pain and suffering and other physical and mental injuries;

C. An award of punitive damages, in an amount to be determined at trial, but in any event in excess of the jurisdictional limit of any other Court which might have jurisdiction over this matter against KIDS N CULTURE, INC., EXPLORICA INC., JAMES W. DOYLE, and JOHN and JANE DOES for gross negligence and intentional misconduct.

D. An award of costs that Plaintiff has incurred in this action as well as Plaintiff's reasonable attorneys' fees to the fullest extent permitted by law; and

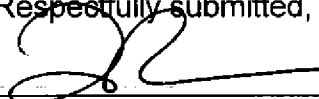
E. Such other and further relief as this Court may deem just and proper.

**JURY DEMAND**

Plaintiff demands a trial by jury on all issues of fact and damages.

Dated: New York, New York  
January 26, 2018

Respectfully submitted,



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ATTORNEY'S VERIFICATION

STATE OF NEW YORK )  
 )SS:  
COUNTY OF NEW YORK)

The undersigned, an attorney, duly admitted to practice law in the Courts of the State of New York, and hereby deposes and states that:

I am the Managing Partner with THE COCHRAN FIRM, attorneys for the plaintiff in the above action. I have read the annexed **COMPLAINT** and know the contents thereof and the same are true to my knowledge, except those matters therein which are stated to be alleged upon information and belief, and as to those matters I believe them to be true.

My belief, as to those matters therein not stated upon knowledge, is based upon the following: investigation, interviews with client, records, reports, documents, correspondence, data, memoranda, etc., contained in the file. The reason I make this verification instead of plaintiff, is that the plaintiff resides out of the County of New York, wherein I maintain my offices.

I affirm that the foregoing statements are true under the penalties of perjury.

Dated: New York, New York  
January 26, 2018

  
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TRACEY L. BROWN