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Attorneys for Plaintiff

D.S.
c/o Eisenberg, Rothweiler, Winkler,
Eisenberg & Jeck, P.C.
1634 Spruce Street
Philadelphia, PA 19103

Plaintiff

v.

TABOR SERVICES, INC.
57 East Armat Street
Philadelphia, PA 19144

TABOR COMMUNITY PARTNERS
57 East Armat Street
Philadelphia, PA 19144

TABOR CHILDREN'S SERVICES, INC.,
also d/b/a TABOR CHILDREN'S
SERVICES
57 East Armat Street
Philadelphia, PA 19144

Defendants

COURT OF COMMON PLEAS
PHILADELPHIA COUNTY

FEBRUARY TERM, 2021
NO. 02642

JURY TRIAL DEMANDED

CIVIL ACTION COMPLAINT

NOTICE TO DEFEND

NOTICE	AVISO
<p>You have been sued in court. If you wish to defend against the claims set forth in the following pages, you must take action within twenty (20) days after this complaint and notice are served, by entering a written appearance personally or by attorney and filing in writing with the court your defenses or objections to the claims set forth against you. You are warned that if you fail to do so the case may proceed without you and a judgment may be entered against you by the court without further notice for any money claimed in the complaint or for any other claim or relief requested by the plaintiff. You may lose money or property or other rights important to you.</p> <p><i>You should take this paper to your lawyer at once. If you do not have a lawyer or cannot afford one, go to or telephone the office set forth below to find out where you can get legal help.</i></p> <p>Philadelphia Bar Association Lawyer Referral And Information Service One Reading Center Philadelphia, Pennsylvania 19107 (215) 238-6333 TTY (215) 451-6197</p>	<p>Le han demandado a usted en la corte. Si usted quiere defenderse de estas demandas expuestas en las paginas siguientes, usted tiene veinte (20) dias de plazo al partir de la fecha de la demanda y la notificacion. Hace falta ascender una comparencia escrita o en persona o con un abogado y entregar a la corte en forma escrita sus defensas o sus objeciones a las demandas en contra de su persona. Sea avisado que si usted no se defiende, la corte tomara medidas y puede continuar la demanda en contra suya sin previo aviso o notificacion. Ademas, la corte puede decidir a favor del demandante y requiere que usted cumpla con todas las provisiones de esta demanda. Usted puede perder dinero o sus propiedades u otros derechos importantes para usted.</p> <p>Lleve esta demanda a un abogado inmediatamente. Si no tiene abogado o si no tiene el dinero suficiente de pagar tal servicio. Vaya en persona o llame por telefono a la oficina cuya direccion se encuentra escrita abajo para averiguar donde se puede conseguir asistencia legal.</p> <p>Asociacion De Licenciados De Filadelfia Servicio De Referencia E Informacion Legal One Reading Center Filadelfia, Pennsylvania 19107 (215) 238-6333 TTY (215) 451-6197</p>

COMPLAINT – CIVIL ACTION

Parties

1. Plaintiff D.S., d.o.b. 8/5/2002, is an adult individual who is a citizen of and resides in the Commonwealth of Pennsylvania who, as a minor, was the victim of physical and sexual abuse described more fully herein. Plaintiff D.S. may be contacted through his counsel as outlined herein.

2. Defendant Tabor Services, Inc., is a non-profit corporation existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a principal place of business located at 57 East Armat Street, Philadelphia, Pennsylvania. Defendant Tabor Services, Inc. “is the parent company for both Tabor Children’s Services, Inc. [also d/b/a Tabor Children’s Services] and Tabor Community Partners.” See Tabor Services, Inc., “About us,” available at <https://www.linkedin.com/company/tabor-children%27s-services> (last accessed Dec. 17, 2021).

Defendant Tabor Services, Inc. regularly conducts business in Pennsylvania and Philadelphia County.

3. Defendant, Tabor Community Partners is a non-profit corporation existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a principal place of business located at 57 East Armat Street, Philadelphia, Pennsylvania 19144. Defendant Tabor Community Partners regularly conducts business in Pennsylvania and Philadelphia County.

4. Defendant, Tabor Children's Services, Inc., also d/b/a Tabor Children's Services, is a non-profit corporation existing under and by virtue of the laws of the Commonwealth of Pennsylvania with a principal place of business located at 57 East Armat Street, Philadelphia, Pennsylvania. Defendant Tabor Children's Services, Inc., also d/b/a Tabor Children's Services, regularly conducts business in Pennsylvania and Philadelphia County.

5. Defendants Tabor Services, Inc., Tabor Community Partners, and Tabor Children's Services, Inc. are hereinafter referred to collectively as "Tabor Defendants" or "Tabor."

6. At all times relevant hereto, Tabor Defendants were acting by and through their employees, agents, ostensible agents, apparent agents, case managers, case workers, social workers, supervisors, administrators, and/or directors as identified and/or described herein, who were acting within the scope of their employment or agency in providing services related to foster care to Plaintiff D.S.

7. At all times relevant hereto, Tabor Defendants were acting by and through their employees, agents, and/or servants to provide foster care services to Plaintiff D.S. Accordingly, Tabor Defendants are vicariously liable for the acts and/or omissions of their employees, agents, and/or servants which occurred in the course of providing foster care services to Plaintiff under theories of agency, master-servant, *respondeat superior*, and/or right of control.

8. At all times relevant hereto, the Defendants named herein collectively and/or individually owned, controlled, and/or managed each other and/or operated, controlled, or were agents of each other, and were acting within the course and scope of their agency, employment, and/or ostensible agency with each other, and all failed properly to protect Plaintiff from physical and sexual abuse as described herein.

Jurisdiction and Venue

9. Plaintiff is not asserting any medical professional liability claims or other professional negligence claims arising out of the furnishing of health care services in this civil lawsuit, and the facts and claims herein cannot be contorted into a claim for medical professional or other professional negligence as contemplated by the inapplicable Medical Care Availability and Reduction of Error (MCARE) Act, 231 Pa. Code § 501.1 and 231 Pa. Code § 1006(a.1).

10. At all times relevant hereto, Tabor Defendants engaged in substantial, continuous, and systematic business and regularly conducted business in Philadelphia County, Pennsylvania. Venue is proper in Philadelphia County pursuant to Pa. R.C.P. 2179 and 1006(a)(1).

Factual Background

11. The City of Philadelphia established the Department of Human Services, Children and Youth Division (“DHS”) to, *inter alia*, protect Philadelphia children from abuse, neglect, and delinquency; provide services in partnership with community organizations to strengthen the overall well-being of Philadelphia residents; and develop and implement policies and programs to provide services to children in Philadelphia.

12. Under the Child Protective Law, 23 Pa. C.S.A. § 6301, *et seq.*, DHS may purchase and utilize services of any public or private agency, such as the Tabor Defendants, to provide services to children. *See* 23 Pa. C.S.A. § 6364.

13. At all times relevant hereto, Tabor Defendants were retained by DHS to provide foster care services, including recruiting, approving, supervising, monitoring, and placing children with foster families.

14. At all times relevant hereto, the Tabor Defendants were required to comply with Title 55 Chapter 37 of the Pennsylvania Code and the Child Protective Services Law, 23 Pa. C.S. § 6301 *et seq.*

15. Specifically, 55 Pa. Code § 3700, *et seq.* applies to an agency, such as the Tabor Defendants, “operated by a person, organization, corporation or society, public or private, for profit or not-for-profit, which approves or supervises foster families or provides foster family care.” 55 Pa. Code § 3700.1(a)(1).

16. Under Chapter 3700, the term “foster family care agency or FFCA” means a “public or private agency which recruits, approves, supervises and places children with foster families.” 55 Pa. Code § 3700.4.

17. The goal of 55 Pa. Code § 3700, *et seq.* “is to reduce risk to children in placement; to protect their health, safety and human rights; to establish minimum requirements for the operation of a foster family care agency; and to establish minimum requirements to be applied by foster family care agencies when approving and supervising foster families.” 55 Pa. Code § 3700.2.

18. At all times relevant hereto, Tabor Defendants were Foster Care Family Agencies known as FFCA’s.¹

¹ Since 2014, Tabor has contracted “with the Philadelphia Department of Human Services (DHS) to serve as the Community Umbrella Agency (CUA) for the 5th and 14th police districts in the Northwest Section of Philadelphia.” As a CUA, Tabor manages cases in its assigned region to “provide community-based service delivery to children and families.” See Tabor Community Partners (TCP), “About,” *available at* <https://taborservicesinc.org/programs/tabor-community-partners-tcp> (last accessed Dec. 17, 2021).

19. An FFCA must consider certain factors “when assessing the ability of applicants for approval as foster parents,” including but not limited to the “ability to provide care, nurturing and supervision to children. 55 Pa. Code § 3700.64(a)(1).

20. At all times relevant hereto, the agents, servants, and/or employees of Tabor Defendants were acting under the supervision, direction, and control of Tabor Defendants and were acting pursuant to policy, custom, and practice and within the course and scope of their employment and/or agency with Tabor Defendants.

21. There may be other employees or agents of Tabor Defendants with responsibilities for the care and safety of Plaintiff, whose actions and/or omissions contributed to the injuries and damages suffered by Plaintiff. The identities of such persons may be discerned through discovery and such persons may be joined as defendants, if and when appropriate.

22. This is a civil action seeking money damages against all defendants, jointly and severally, for their negligent, grossly negligent, and reckless failure to monitor, supervise, and protect children from abuse, specifically including Plaintiff, entrusted to their foster care services.

23. During the period from approximately July 2007 through approximately June 2008, Plaintiff, D.S., was temporarily placed in the care, custody, and control of DHS by an Order of Protective Custody due to safety concerns that arose while he resided in the home of his biological mother. D.S. was approximately five years of age in 2007.

24. At all times relevant hereto, DHS contracted and/or entered into an agreement with the Tabor Defendants to provide foster care services, including to Plaintiff D.S.

25. On or about September 5, 2007, the Tabor Defendants placed Plaintiff D.S. in the foster care home of Virginia James, who resided at 5143 Catherine Street, Philadelphia, Pennsylvania 19143.

26. At all times relevant hereto, the Tabor Defendants had the duty to protect Plaintiff from sexual abuse and/or assault by any of the residents in the foster care home in which the Tabor Defendants placed Plaintiff D.S.

27. While under the custody, care, and control of the Tabor Defendants and in the foster care home of Virginia James, Plaintiff D.S. was sexually abused by another minor resident in Virginia James' home, Kareem Richardson.

28. Upon information and belief, Kareem Richardson is the foster and/or adopted son of Virginia James and was approximately fourteen (14) years of age in 2007 when the abuse took place.

29. While Plaintiff D.S. was entrusted to the custody, care, and control of the Tabor Defendants and Virginia James, Kareem Richardson sexually abused Plaintiff, including by raping Plaintiff in the living room, upon information and belief in the presence of Virginia James, and repeatedly engaging in unwanted and unconsented touching of Plaintiff's genitals on multiple occasions.

30. Kareem Richardson also repeatedly physically abused Plaintiff D.S., including beating Plaintiff and taping Plaintiff to his bed.

31. Virginia James, who witnessed and knew or should have known about the abuse of Plaintiff D.S. while he was under Virginia James' custody, care, and control as a foster child, was complicit in Kareem Richardson's actions of sexually and physically abusing Plaintiff.

32. On or about November 27, 2007, during a supervised visit with his biological mother at Tabor, Plaintiff D.S. disclosed that he was sexually and physically abused by Kareem Richardson while living in Virginia James' foster care home.

33. On or about November 28, 2007, Plaintiff D.S. underwent a medical exam at St. Christopher Hospital and was interviewed by the Crime Victim unit.

34. Plaintiff, at all times relevant hereto, was only five (5) years of age and was legally incapable of consenting to any of the sexual acts perpetrated upon him.

35. Plaintiff could not, and did not, at any time, voluntarily consent to any of the sexual acts perpetrated on him.

36. In November 2007, Plaintiff D.S. was removed from Virginia James' foster care home and was transferred to the foster care services of Pennsylvania – Mentor until approximately June 2008.

37. Defendants' failure to properly and adequately investigate, monitor, and supervise Virginia James' foster care home substantially contributed to the sexual and physical assaults and injuries sustained by Plaintiff D.S.

38. Due to the Tabor Defendants negligent, grossly negligent, and reckless monitoring, supervision, investigation, and oversight of Virginia James' foster care home, Kareem Richardson was enabled and allowed to molest and sexually abuse Plaintiff while he resided in Virginia James' foster care home.

39. Upon information and belief, Kareem Richardson sexually and physically abused at least one (1) other minor—also a child placed in Virginia James' foster care home by the Tabor Defendants—in the same home during the same timeframe Plaintiff D.S. was abused.

40. In 2013, Kareem Richardson pled guilty to raping an 11-year-old girl in 2011 and was sentenced to 10 to 20 years in prison.

41. The aforementioned incidents were caused solely and exclusively by the negligence, gross negligence, and recklessness of the Tabor Defendants, individually, and by

and through its employees and/or agents and in no manner was it due to any act or failure to act on the part of the Plaintiff.

COUNT I – NEGLIGENCE, GROSS NEGLIGENCE, AND RECKLESSNESS
PLAINTIFF D.S. v. ALL DEFENDANTS

42. Plaintiff incorporates herein by reference thereto all preceding paragraphs of this complaint as if fully set forth herein.

43. The negligence, gross negligence, and recklessness of the Tabor Defendants, individually and by and through their employees, servants, and agents acting on their behalf, including as foster care social workers, therapists, and foster care parents, including Virginia James, consisted of the following:

- a. Failing to properly investigate the fitness of the foster home environment prior to placing Plaintiff in Virginia James' foster care home;
- b. Failing to properly ascertain and investigate the identities and character of all family members who resided in Virginia James' foster care home prior to placing Plaintiff in the foster care home;
- c. Failing to maintain appropriate and adequate supervision, inspection, and monitoring of Virginia James' foster care home during the period of Plaintiff's placement;
- d. Failing to properly train, manage, and supervise their employees as to the appropriate policies to be followed in their investigation, selection, and supervision of foster homes;
- e. Failing to properly monitor and/or supervise the actions of any subordinate employees or agents of the Tabor Defendants for whom they bear supervisory responsibilities and whose actions or inactions contributed to the harms suffered by Plaintiff;
- f. Placing Plaintiff D.S. in Virginia James' foster care home when Defendants knew or should have known that this was not an appropriate placement because the home did not conform with the requirements set forth under Title 55 Pa. Code § 3700, *et seq.*;
- g. Placing Plaintiff in Virginia James' foster care home without properly and adequately monitoring the interaction(s) between Plaintiff D.S. and any other

resident(s) of the home, despite knowing that Plaintiff was only the tender age of five (5) years old;

- h. Failing to properly and adequately visit, monitor, and inspect the home of Virginia James during Plaintiffs' placement;
- i. Negligently, grossly negligently, and recklessly approving Virginia James as a foster parent;
- j. Failing to prevent Plaintiff D.S. from suffering grievous and permanent physical, emotional, and psychological injuries;
- k. Negligently, grossly negligently, and recklessly placing Plaintiff in Virginia James' foster care home;
- l. Failing to remove Plaintiff D.S. from Virginia James' foster care home in a timely and emergent basis;
- m. Negligently, grossly negligently, and recklessly inspecting and approving Virginia James' home; and
- n. Failing to take reasonable steps to fully investigate those individuals who resided in Virginia James' home.

44. As a direct result of the Tabor Defendants negligent, grossly negligent, and reckless conduct, as set forth in this Complaint, Plaintiff D.S. suffered severe and painful physical and mental injuries, which he has and will endure for the rest of his life, including: severe emotional distress, anxiety, depression, intrusive thoughts, humiliation, embarrassment, self-blame, shame, anguish, fear, insomnia, nightmares, loss of enjoyment of life's pleasures and he will have to expend substantial monies for his medical and psychological care for an indefinite time into the future.

45. As a further direct and proximate result of the Tabor Defendants negligent, grossly negligent, and reckless conduct as set forth in this Complaint, Plaintiff D.S. has and will in the future continue to suffer an impairment of his earning capacity.

46. As a direct and proximate result of the negligence, gross negligence, and

recklessness of the Tabor Defendants, acting individually and/or by and through its agents, servants, and/or employees, including foster care social workers, therapists, and foster care parents, including Virginia James, Plaintiff D.S. has incurred and will continue to incur medical and psychological treatment and services.

WHEREFORE, Plaintiff demands judgment in his favor for compensatory and punitive damages against all defendants herein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00), as well as allowable taxable costs, interest, delay damages, and such other relief as this Honorable Court deems appropriate.

COUNT II – NEGLIGENCE *PER SE*
PLAINTIFF D.S. v. ALL DEFENDANTS

47. Plaintiff incorporates herein by reference thereto all preceding paragraphs of this complaint as if fully set forth herein.

48. At all times relevant hereto, the Tabor Defendants violated the Pennsylvania Child Protective Services Law that establishes the minimum standard of care to be followed by an FFCA when assessing the ability of applicants for approval as foster care parents, including:

- (i) The ability to provide care, nurturing and supervision to children.
- (ii) Mental and emotional well-being. If there is a question regarding the mental or emotional stability of a family member which might have a negative effect on a foster child, the foster family care agency shall require a psychological evaluation of that person before approving the foster family home.
- (iii) Supportive community ties with family, friends, neighbors.
- (iv) Existing family relationships, attitudes, and expectations regarding the applicant's own children and parent/child relationships, especially as they might affect a foster child.
- (v) Ability of the applicant to accept a foster child's relationship with his own parents.

- (vi) The applicant's ability to care for children with special needs.
- (vii) Number and characteristics of foster children best suited to the foster family.
- (viii) Ability of the applicant to work in partnership with a foster family care agency.

23 Pa. C.S. § 6344.

49. At all times relevant hereto, the Tabor Defendants also violated Foster Family Care Agency Regulations at 55 Pa. Code § 3700, *et seq.*, including but not limited to:

- (i) 55 Pa. Code § 3700.62(a)-(c) foster parent requirements;
- (ii) 55 Pa. Code § 3700.63(a)-(c) foster child discipline, punishment and control policy;
- (iii) 55 Pa. Code § 3700.64(a)-(b) Assessment of foster parent capability;
- (iv) 55 Pa. Code § 3700.65 Foster parent training; and
- (v) 55 Pa. Code § 3700.69(a)-(c) Annual reevaluation.

50. At all times relevant hereto, Plaintiff D.S. fell within the class of persons the statutory rules, regulations, and laws were intended to protect by virtue of Pennsylvania's Child Protective Services Law and the Pennsylvania Foster Care Agency Regulations, thus entitling Plaintiff to adopt such laws as the standard of care for measuring the Tabor Defendants' conduct. Plaintiff D.S. therefore asserts a claim for negligence *per se*, asserting that, as a matter of law, the conduct of the Tabor Defendants amounted to negligence and negligence *per se*.

51. As a direct result of the Tabor Defendants negligent, grossly negligent, and reckless conduct, as set forth in this Complaint, Plaintiff D.S. suffered severe and painful physical and mental injuries, which he has and will endure for the rest of his life, including: severe emotional distress, anxiety, depression, intrusive thoughts, humiliation,

embarrassment, self-blame, shame, anguish, fear, insomnia, nightmares, loss of enjoyment of life's pleasures and he will have to expend substantial monies for his medical and psychological care for an indefinite time into the future.

52. As a further direct and proximate result of the Tabor Defendants negligent, grossly negligent, and reckless conduct as set forth in this Complaint, Plaintiff D.S. has and will in the future continue to suffer an impairment of his earning capacity.

53. As a direct and proximate result of the negligence, gross negligence, and recklessness of the Tabor Defendants, acting individually and/or by and through its agents, servants, and/or employees, including foster care social workers, therapists, and foster care parents, including Virginia James, Plaintiff D.S. has incurred and will continue to incur medical and psychological treatment and services.

WHEREFORE, Plaintiff demands judgment in his favor for compensatory and punitive damages against all defendants herein, jointly and severally, in a sum in excess of Fifty Thousand Dollars (\$50,000.00), as well as allowable taxable costs, interest, delay damages, and such other relief as this Honorable Court deems appropriate.

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BY: s/ Nancy J. Winkler
NANCY J. WINKLER, ESQUIRE
TODD A. SCHOENHAUS, ESQUIRE
JESSICA A. COLLIVER, ESQUIRE
Attorneys for Plaintiff

Date: January 3, 2022

VERIFICATION

The undersigned, having read the attached pleading verifies that the within pleading is based on information furnished to counsel, which information has been gathered by counsel in the course of this lawsuit. Signer verifies that she has read the within pleading and that it is true and correct to the best of the signer's knowledge, information and belief. This verification is made subject to the penalties of 18 Pa. C.S. 4904 relating to unsworn falsification to authorities.

s/ Nancy J. Winkler
NANCY J. WINKLER, ESQUIRE

DATE: January 3, 2022