

**IN THE STATE COURT OF GWINNETT COUNTY
STATE OF GEORGIA**

STEPHANIE WATTS, individually, and as
the Parent and Natural Guardian of A.W., a
Minor,

Plaintiff,

v.

BIG BLUE MARBLE ACADEMY, LLC,
BIG BLUE MARBLE ACADEMY
HOLDINGS, LLC, and SAMANTHA
GRACE HERTZOG,

Defendants.

25-C-10012-S6

CIVIL ACTION NO. _____

JURY TRIAL DEMANDED

COMPLAINT

COMES NOW Stephanie Watts, individually, and as the Parent and Natural Guardian of A.W., a minor (hereafter, “Stephanie” or “Plaintiff”), and files this Complaint for damages against Big Blue Marble Academy, LLC (“BBMA”), Big Blue Marble Academy Holdings, LLC (“BBMAH”), and Samantha Grace Hertzog (“Hertzog”), further stating as follows:

NATURE OF ACTION

1. This Action seeks all damages permitted by law against Defendants for the injuries that A.W. sustained while in Defendants’ care at the Big Blue Marble Academy at 106 Bailey Station Circle, Sharpsburg, Coweta County, Georgia 30277 (the “Premises”).

PARTIES, JURISDICTION, AND VENUE

2. Plaintiff is an individual and a resident of Georgia.
3. BBMA is a Delaware limited liability company with a principal office address at 100 Hartsfield Centre Parkway, Suite 500, Atlanta, Georgia, 30354.

4. BBMA is subject to the jurisdiction of courts in Georgia because it is authorized to transact business in Georgia.
5. BBMA operates numerous daycare facilities throughout Georgia, including within Gwinnett County.
6. Venue is proper in Gwinnett County as to BBMA because BBMA maintains its registered office in Gwinnett County. O.C.G.A. §§ 14-11-1108(b); 14-2-510(b)(1).
7. Service on BBMA may be effectuated by serving the summons and complaint on its registered agent, Corporation Service Company, 2 Sun Court, Suite 400, Peachtree Corners, Georgia 30092.
8. BBMAH is subject to the jurisdiction of courts in Georgia because it transacts business in Georgia through its wholly-owned subsidiary—BBMA.
9. BBMAH owns, controls, and manages BBMA.
10. BBMAH—through BBMA—operates numerous daycare facilities in Georgia, including the Premises, and derives substantial revenue from those facilities.
11. BBMAH—through BBMA—managed the day-to-day operations at the Premises during the relevant time period.
12. Venue is proper in this Court as to BBMAH because it is a joint tortfeasor. O.C.G.A. § 9-10-31(b).
13. Both BBMAH and BBMA were negligent in hiring, training, retaining, and supervising Hertzog, which proximately caused the injuries giving rise to this Action.
14. Service on BBMAH may be effectuated by serving the summons and complaint on its registered agent, Corporation Service Company, 251 Little Falls Drive, Wilmington, Delaware, 19808.

15. Hertzog is an individual and a resident of the state of Georgia.
16. At all relevant times, Hertzog worked at the Premises as a full-time childcare teacher.
17. On March 21, 2025, Hertzog assaulted and battered A.W. at the Premises.
18. Venue is proper in this Court as to Hertzog because she is a joint tortfeasor. O.C.G.A. § 9-10-31(b).
19. Hertzog can be served with the summons and complaint at her residence at 10 Lakeside Way, Apt. 2801, Newnan, Georgia 30263.
20. Pursuant to O.C.G.A. § 15-7-4(a)(2), this Court has subject matter jurisdiction over the claims asserted herein because this is a civil action for money damages, and exclusive jurisdiction is not vested in the superior courts for these types of actions.

FACTS RELEVANT TO ALL COUNTS

21. BBMAH is a for-profit childcare company.
22. BBMA is a wholly-owned subsidiary of BBMAH.
23. BBMAH and BBMA (collectively “Big Blue Marble”) provide early childhood education and childcare services at various day care facilities nationwide, including at the Premises—the day care facility at 106 Bailey Station Circle, Sharpsburg, Coweta County, Georgia 30277.
24. Big Blue Marble managed the day-to-day operations at the Premises.
25. On September 5, 2024, Big Blue Marble hired Hertzog as a full-time teacher at the Premises.
26. In that role, Samantha had unsupervised access to young children (infants, toddlers, preschoolers, etc.).
27. Samantha’s job responsibilities included, amongst other things, discipline and behavior management of those children.

28. Hertzog was not suitable for that role—she has a propensity to engage in assaultive behavior.
29. Big Blue Marble knew or should have known about this propensity *before* Samantha assaulted and battered A.W. on March 21, 2025, based on (1) Samantha’s criminal history, and (2) complaints from staff and parents about Samantha’s assaultive behavior at the Premises.
30. In 2020, Hertzog was arrested and charged with assault.
31. Hertzog’s 2020 arrest for assault has been publicly available on the Internet since February 17, 2020. See <https://mugshots.com/US-States/Washington/Pierce-County-WA/Samantha-Grace-Hertzog.183137733.html> (last accessed on July 24, 2025), attached as **Exhibit “A”**.
32. That incident prompted Hertzog’s then-husband to seek a restraining order against her on behalf of him and their two young children.
33. Soon after Hertzog started working at the Premises, another Big Blue Marble teacher complained to Big Blue Marble Director Amanda (“Jenny”) Woods that “Samantha was aggressive and mean with the kids” and that she “did not want Samantha in [her] classroom anymore.”
34. Around February 20, 2025, Hertzog “grabbed and scratched” a three-year-old boy because he was not being a “good listener.”
35. The boy’s parents reported the physical assault to Big Blue Marble the same day.
36. Big Blue Marble apologized and subsequently “moved [the boy] out of Samantha’s classroom.”
37. Big Blue Marble did not report that incident to the Georgia Department of Early Care and Learning (“DECAL”).
38. Big Blue Marble did not create an incident report documenting that incident.

39. Big Blue Marble did not reprimand Hertzog for that incident.
40. Big Blue Marble did not suspend Hertzog for that incident.
41. Big Blue Marble did not terminate Hertzog for that incident.
42. Big Blue Marble did not require Hertzog to undertake additional training—including training involving appropriate methods of discipline and behavior management—because of that incident.
43. Big Blue Marble continued to allow Hertzog to have unsupervised access to the other kids at the Premises, including A.W.
44. On March 21, 2025—about one month after the February 20th incident—Hertzog violently assaulted and battered A.W. at the Premises.
45. Big Blue Marble has surveillance cameras in its classrooms.
46. Hertzog’s March 21, 2025 assault and battery against A.W. was captured on Big Blue Marble’s surveillance cameras.
47. The surveillance cameras in Hertzog’s classroom were not being monitored by anyone at Big Blue Marble when Hertzog assaulted and battered A.W. on March 21, 2025.
48. On March 21, 2025, A.W. was restless during nap time and “kept taking her shoes off.” Hertzog responded by forcefully kicking A.W.’s cot, causing A.W. to flip over onto her face and tummy. Hertzog berated A.W. for “not following directions.” Hertzog then lifted A.W. by the torso and forcefully body-slammed A.W. face-down on the “hard” cot frame. A.W. started screaming and crying, to which Hertzog said, “That’s why you don’t play!”
49. That assault and battery occurred while Hertzog was working at the Premises.
50. That assault and battery occurred while Hertzog was the only adult in the classroom with A.W.

51. About two hours after the assault and battery, Hertzog completed a “Child Accident Form.”
52. A director at Big Blue Marble reviewed and signed off on the “Child Accident Form” the same day (March 21, 2025) without first reviewing the surveillance footage.
53. The “Child Accident Form” did not disclose that Hertzog had physically assaulted A.W.
54. Big Blue Marble gave the “Child Accident Form” to A.W.’s parents.
55. Later that evening, A.W. used her baby doll to show her parents how Hertzog had hurt her. A.W.’s parents immediately notified Big Blue Marble.
56. On March 22, 2025, Big Blue Marble confirmed that the surveillance footage showed that Hertzog had physically assaulted A.W.
57. A.W.’s parents subsequently notified the authorities.
58. On March 26, 2025, Hertzog was arrested and charged with first-degree cruelty to children.
59. As a result of Hertzog’s assault and battery, A.W. sustained a cut on her nostril, swelling and bruising across the bridge of her nose and left eye area, and emotional trauma—A.W. was clinically diagnosed with Post Traumatic Stress Disorder (“PTSD”).

COUNT I
NEGLIGENCE PER SE
(As to the Big Blue Marble Defendants)

60. Plaintiff restates and incorporates by reference Paragraphs 21-59 of this Complaint as if fully set forth and restated herein.
61. At all relevant times, Big Blue Marble owned, occupied, maintained, controlled, and/or managed the day-to-day operations at the Premises.
62. Big Blue Marble was responsible for the hiring, training, and supervision of the staff, including Hertzog, at the Premises.

63. At all relevant times, Big Blue Marble was required to adhere to certain laws, rules, and regulations in the operation of the Premises.

64. At all relevant times, Big Blue Marble was required to adhere to the rules and regulations set forth by the Georgia Department of Early Care and Learning (“DECAL”) (aka Bright from the Start).

65. Big Blue Marble, by and through its employees and agents, violated Georgia laws, rules, and regulations (including, but not limited to, DECAL’s rules and regulations governing licensed childcare centers) that are specifically designed to protect young children like A.W. from the type of harm A.W. suffered—physical abuse, corporal/physical punishment, rough handling, etc.

66. As the proximate result of Big Blue Marble’s failure to adhere to Georgia laws, rules, and regulations, A.W. has suffered harm.

67. Plaintiff is entitled to recover for all damages suffered, including physical, emotional, and all other noneconomic and economic damages compensable by law.

COUNT II
NEGLIGENT HIRING
(As to the Big Blue Marble Defendants)

68. Plaintiff restates and incorporates by reference Paragraphs 21-59 of this Complaint as if fully set forth and restate herein.

69. When Big Blue Marble hired Hertzog, it reasonably knew or should have known of Hertzog’s tendency to engage in assaultive behavior.

70. Hertzog had previously been arrested and charged with assault.

71. The fact that Hertzog had previously been arrested and charged with assault was publicly available on the Internet at the time Big Blue Marble hired Hertzog. See (Exhibit “A”).

72. Hertzog engaged in the same type of assaultive behavior at the Premises—she physically assaulted at least two children, including A.W.

73. As the proximate result of Big Blue Marble’s decision to hire Hertzog, A.W. has suffered harm.

74. Plaintiff is entitled to recover for all damages suffered, including physical, emotional, and all other noneconomic and economic damages compensable by law.

COUNT III
NEGLIGENT RETENTION
(As to the Big Blue Marble Defendants)

75. Plaintiff restates and incorporates by reference Paragraphs 21-59 of this Complaint as if fully set forth and restated herein.

76. Big Blue Marble reasonably knew or should have known of Hertzog’s tendency to engage in assaultive behavior *before* Hertzog physically assaulted A.W. at the Premises on March 21, 2025.

77. Hertzog had previously been arrested and charged with assault—information that was publicly available on the Internet.

78. Soon after Hertzog started working at the Premises, another teacher had complained to management that “Samantha was aggressive and mean with the kids” and that she “did not want Samantha in [her] classroom anymore.”

79. In February 2025—the month before Hertzog physically attacked A.W.—the parents of another child at the Premises notified management that Hertzog had physically assaulted their three-year-old son because he was not “listening” to Hertzog.

80. Despite Hertzog’s criminal history and these complaints, Big Blue Marble retained Hertzog and allowed Hertzog to have unsupervised access to the children at the Premises, including A.W.

81. As the proximate result of Big Blue Marble's decision to retain Hertzog, A.W. has suffered harm.

82. Plaintiff is entitled to recover for all damages suffered, including physical, emotional, and all other noneconomic and economic damages compensable by law.

COUNT IV
NEGLIGENT TRAINING
(As to the Big Blue Marble Defendants)

83. Plaintiff restates and incorporates by reference Paragraphs 21-59 of this Complaint as if fully set forth and restated herein.

84. Big Blue Marble failed to properly train employees to ensure the safety and well-being of the children at the Premises.

85. Big Blue Marble failed to adequately train Hertzog on appropriate discipline and behavioral management techniques.

86. Big Blue Marble failed to adequately train employees on how to comply with and enforce its discipline and corporal punishment policies.

87. Big Blue Marble failed to adequately train management (and other employees charged with receiving and investigating complaints) on how to properly conduct investigations and take corrective action to stop misconduct.

88. As the proximate result of Big Blue Marble's failure to adequately train employees, A.W. has suffered harm.

89. Plaintiff is entitled to recover for all damages suffered, including physical, emotional, and all other noneconomic and economic damages compensable by law.

COUNT V
NEGLIGENT SUPERVISION
(As to the Big Blue Marble Defendants)

90. Plaintiff restates and incorporates by reference Paragraphs 21-59 of this Complaint as if fully set forth and restated herein.

91. Big Blue Marble owed A.W. a duty to properly supervise Hertzog—who had a propensity to engage in assaultive behavior—and to exercise reasonable care to protect A.W. from Hertzog.

92. Defendants failed to properly supervise Hertzog.

93. Defendants failed to exercise reasonable care to protect A.W. from Hertzog.

94. Despite complaints about Hertzog’s assaultive behavior towards the kids at the Premises, Big Blue Marble allowed Hertzog to remain in the classroom unsupervised.

95. On March 21, 2025—the day Hertzog physically attacked A.W. in the classroom—Hertzog was the lone adult in the classroom and nobody was monitoring the surveillance cameras in the classroom.

96. As the proximate result of Defendants’ negligent supervision of Hertzog, A.W. has suffered harm.

97. Plaintiff is entitled to recover for all damages suffered, including physical, emotional, and all other noneconomic and economic damages compensable by law.

COUNT VI
IMPUTED LIABILITY
(As to the Big Blue Marble Defendants)

98. Plaintiff restates and incorporates by reference Paragraphs 21-59 of this Complaint as if fully set forth and restated herein.

99. Big Blue Marble is vicariously liable for Hertzog’s tortious conduct.

100. At all relevant times, Hertzog was a Big Blue Marble employee.

101. At all relevant times, Hertzog acted within the scope of her employment at Big Blue Marble.

102. Hertzog's job duties included disciplining and managing the behavior of the children she supervised at the Premises.

103. During the performance of those duties, Hertzog assaulted and battered A.W. and intentionally inflicted severe emotional distress on A.W.

104. Big Blue Marble is thereby responsible for Hertzog's actions under the theory of *respondeat superior*, agency, or apparent agency.

105. As the proximate result of Hertzog's tortious conduct, for which Big Blue Marble is vicariously liable, A.W. has suffered harm.

106. Plaintiff is entitled to recover for all damages suffered, including physical, emotional, and all other noneconomic and economic damages compensable by law.

COUNT VII
ASSAULT AND BATTERY
(As to Hertzog)

107. Plaintiff restates and incorporates by reference Paragraphs 21-59 of this Complaint as if fully set forth and restated herein.

108. On March 21, 2025, Hertzog committed a tortious assault and battery on A.W.

109. On March 21, 2025, Hertzog forcefully kicked A.W's cot, causing A.W. to flip over onto her face and tummy. Hertzog then lifted A.W. by the torso and forcefully body-slammed A.W. face-down on the "hard" cot frame.

110. As the proximate result of Hertzog's tortious conduct, A.W. suffered harm.

111. Plaintiff is entitled to recover for all damages suffered, including physical, emotional, and all other noneconomic and economic damages compensable by law.

COUNT VIII
INTENTIONAL INFLICTION OF EMOTIONAL DISTRESS
(As to all Defendants)

112. Plaintiff restates and incorporates by reference Paragraphs 21-59 of this Complaint as if fully set forth and restated herein.

113. Hertzog intentionally engaged in extreme and outrageous conduct.

114. Hertzog violently assaulted a three-year-old entrusted to her care.

115. Big Blue Marble intentionally engaged in extreme and outrageous conduct.

116. Big Blue Marble knew that Hertzog had a propensity to engage in assaultive behavior and that Hertzog had engaged in such behavior at the Premises but did nothing.

117. As the proximate result of Defendants' extreme and outrageous conduct, A.W. has suffered severe emotional distress—she was clinically diagnosed with PTSD.

118. Plaintiff is entitled to recover all damages suffered, including physical, emotional, and all other noneconomic and economic damages compensable by law.

PUNITIVE DAMAGES UNDER O.C.G.A. § 51-12-5.1

119. Defendants' actions, inactions, and omissions demonstrate willful misconduct, malice, wantonness, recklessness, oppression, and an entire want of care giving rise to the presumption of Defendants' conscious indifference to the consequences of their actions.

120. Big Blue Marble acted with a conscious indifference to the consequences of retaining Hertzog.

121. After February 20, 2025, Big Blue Marble knew that the risk of injury to children by Hertzog was substantially certain.

122. Big Blue Marble knew that Hertzog had a propensity to engage in assaultive behavior and had, in fact, engaged in such behavior towards kids at the Premises. Nevertheless, Big Blue Marble retained Hertzog and allowed her to continue to have unsupervised access to the kids at the Premises, including A.W.

123. Thus, Big Blue Marble foresaw the harm that its acts and omissions would cause A.W., and it intended the results that were foreseeable to it.

124. What is foreseeable can be avoided.

125. The refusal by Big Blue Marble to avoid the foreseeable makes the conduct irrefutably intentional.

126. For these reasons, Plaintiff may be entitled to uncapped punitive damages against Big Blue Marble.

127. Likewise, Hertzog acted with a conscious indifference to the consequences of her actions, and she intended to harm A.W. by her actions.

128. Thus, Plaintiff is entitled to uncapped punitive damages against Hertzog.

LITIGATION EXPENSES UNDER O.C.G.A. § 13-6-11

129. Defendants' conduct as set forth herein, and other conduct to be revealed in discovery, was not in good faith, demonstrates stubborn litigiousness, and has caused Plaintiff unnecessary trouble and expense. Thus, Plaintiff is entitled to recover her litigation expenses (including reasonable attorneys' fees) from Defendants pursuant to O.C.G.A. § 13-6-11.

DEMAND FOR JURY TRIAL

130. Plaintiff demands a trial by jury as to all issues so triable.

WHEREFORE, Plaintiff prays for relief as follows:

- (1) For a trial by jury;
- (2) For a verdict and judgment in favor of Plaintiff for all compensatory damages permitted by law, whether special, general, economic, or noneconomic;
- (3) For a verdict and judgment in favor of Plaintiff for punitive damages up to \$250,000.00;

- (4) For a verdict and judgment in favor of Plaintiff for punitive damages in excess of \$250,000.00;
- (5) For a verdict and judgment awarding reasonable litigation expenses (including, without limitation, reasonable attorneys' fees) under O.C.G.A. § 13-6-11 and any other applicable statute or controlling decision; and
- (6) For such other and further relief as the Court deems just and proper.

Date: September 2, 2025.

Respectfully submitted,

SMITH LAW, LLC

By: /s/ Louise N. Smith
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CERTIFICATE OF SERVICE

I hereby certify that on September 2, 2025, I have caused or will cause service of this COMPLAINT to issue upon the Defendants as required by law.

Respectfully submitted,

By: /s/ Louise N. Smith
Louise N. Smith
Georgia Bar No. 131876
Attorney for Plaintiff

EXHIBIT “A”

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Samantha Grace Hertzog - ASSAULT 4 /DV - Washington

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Who is Samantha Grace Hertzog? Was Samantha Grace Hertzog arrested? When was Samantha Grace Hertzog arrested? What was Samantha Grace Hertzog arrested for? Is this a mugshot of Samantha Grace Hertzog? Are there more Mugshots of Samantha Grace Hertzog? Is this the Samantha Grace Hertzog you know? Who decides which Mugshots are Indexed online? Who decides what public records the American public sees? Why should Mugshots remain public record and available to all citizens? Are Mugshot laws unconstitutional?

Samantha Grace Hertzog was booked in Pierce County, WA for ASSAULT 4 /DV

Mugshots.com : 183137733
Name : HERTZOG, SAMANTHA GRACE
Race : WHITE
Ethnicity : NON-HISPANIC
Gender : FEMALE
Book Date : 2/16/2020 at 17:19
Arresting Agency : PIERCE COUNTY SHERIFF
Future Release Date : 5/20/2003 at 20:00
PCN Number : N/A

Charges:

Counts	1
Charge	ASSAULT 4 /DV
Warrant Type	
Charging Agency	PIERCE COUNTY SHERIFF
Incident #	542427400
Jurisdiction	DISTRICT CT - PIERCE COUNTY
Cause #	
Court Date	02/18/20
Sentence Date	
Bail	
Sentence	
Fine	
Rls Date/ Time	02/17/20 01:00