

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

L. W. , a minor, by her parent and next friend
BRIDGETT J., and BRIDGETT J.,

Plaintiffs,

v.

ILLINOIS DEPARTMENT OF CHILD AND
FAMILY SERVICES; ACTING DIRECTOR
OF DCFS, DENISE GONZALES, in her
official capacity; BRENDA SIMPSON, DCFS
Investigator, in her official and individual
capacities; MURIELLE PIERRE-LOUIS,
DCFS Supervisor, in her official and individual
capacities, TANYA CARRIERE, DCFS
Supervisor, in her official and individual
capacities; MARIA MILLER, DCFS Area
Administrator, in her official and individual
capacities.

Defendants.

Case No. 1:13-cv-8463

Hon.

COMPLAINT

I. INTRODUCTORY STATEMENT

1. This six-count civil rights complaint, brought pursuant to 42 U.S.C. § 1983, arises from the actions of the Division of Child Protection of the Illinois Department of Children and Family Services (“DCFS”), whose investigators and supervisors tore a happy and healthy toddler, L.W., from her loving and caring mother, Bridgett J., without proper cause, without a court order and without affording any due process to either parent or child.

2. In the summer of 2012, acting on nothing more than a false claim that Bridgett J. suffered from paranoid schizophrenia and with no evidence of past or imminent abuse or neglect of L.W., Defendant Brenda Simpson, the DCFS investigator assigned to investigate the false

allegations against Bridgett J., and with the approval of her supervisors, illegally removed L.W. from her mother's custody. Defendants then were legally required to seek court approval for their actions within 48 hours of taking L.W., but in flagrant violation of the law, they simply failed to do so. In fact, Defendants kept L.W. in protective custody and away from her mother for nearly two weeks, and at no point during those nearly two weeks did Defendants seek the required judicial approval for their actions.

3. Following those two weeks, Defendants finally allowed Bridgett J. to see L.W., but only under the supervision of Bridgett J.'s sister. Before imposing these restrictions on Bridgett J.'s parental rights, Defendants needed to seek approval from a court. Again, in flagrant violation of the law, Defendants simply failed to do so.

4. In addition, as a condition for allowing Bridgett J. to see L.W., Defendants demanded that Bridgett J. place herself in inpatient psychiatric care, based on the completely unfounded assertion that Bridgett J. had the serious mental illness of paranoid schizophrenia. Believing that she had no choice but to meet Defendants' demands in order to see her daughter, Bridgett J. sought several evaluations over time in order to be reunited with her daughter, in compliance with Defendants' illegal demands, but was repeatedly and uniformly told by medical professionals that she did not require inpatient care. Bridgett J. and her physicians repeatedly informed Defendants that Bridgett J. did not need inpatient psychiatric care and did not have paranoid schizophrenia, but for the next eight months Defendants continued to restrict Bridgett J.'s parental rights. At no time was there credible evidence that Bridgett J. had abused or neglected L.W. or was imminently about to do so.

5. Defendants further required Bridgett J. to seek outpatient psychiatric and family counseling during this time as a condition for being allowed to see L.W., and vested in their

agent, One Hope United, the duty to administer the counseling and to enforce the restrictions on Bridgett J.'s parental rights. One Hope United acted under the control and supervision of Defendants with respect to their actions involving Bridgett J. and L.W. Finally, in April 2013, with the aid of counsel, Bridgett J. secured the return of L.W. to her custody.

6. In addition to illegally seizing L.W. from Bridgett J. and illegally restricting Bridgett J.'s parental rights, Defendants illegally sought and obtained the issuance of an indicated finding against Bridgett J. for Allegation 60, which is defined in the DCFS manual of Rules and Procedures as "Substantial Risk of Physical Injury/Environment Injurious to Health and Welfare by Neglect." At that time, Allegation 60 had been declared void *ab initio* by an Illinois appellate court (a decision that the Illinois Supreme Court later affirmed) and DCFS had no authority to pursue any action against Bridgett J. based on Allegation 60. Moreover, the indicated finding Defendants obtained against Bridgett J. was not based on any credible evidence of actual abuse or neglect, but was instead based on the wholly unfounded claim that Bridgett J.'s mental health posed a threat to L.W.'s safety. The indicated finding nonetheless meant that Bridgett J. would be unable to secure future employment in her career as a teacher or as a social worker, and for many months, Bridgett J. was forced to take a leave of absence from her job as a substitute teacher in her local school district.

7. As was her right, Bridgett J. appealed the indicated finding for Allegation 60, which should never have been sought in the first place. In June 2013, an administrative law judge granted Bridgett J.'s request to expunge the indicated finding from the State Central Register.

8. Defendants' actions constitute an illegal seizure of L.W. in violation of the United States Constitution as it concerns the taking of temporary emergency custody over a child,

including clear violations of L.W.'s Fourth Amendment rights and L.W.'s and Bridgett J.'s substantive and procedural due process rights to familial association.

9. In addition to violating L.W.'s and Bridgett J.'s constitutional rights, Defendants' conduct also amounts to discrimination in violation of Bridgett J.'s rights under Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12132, and Section 504 of the Rehabilitation Act, 29 U.S.C. § 794. In particular, Defendants' illegal conduct was based on their incorrect perception that Bridgett J. suffered from paranoid schizophrenia, and Defendants used their unfounded assertion as a basis to unlawfully discriminate against Bridgett J. in severely and unnecessarily restricting her parental rights. Defendants' conduct in "indicating" Bridgett J. also unlawfully deprived her of her liberty interests in career opportunities, for which a cause of action arises under 42 U.S.C. §1983.

10. As relief for Defendants' actions, Bridgett J. and L.W. seek compensatory and punitive damages, declaratory relief, lost income, an award of attorneys' fees under 42 U.S.C. § 1988, and costs under 28 U.S.C. § 1920.

II. JURISDICTION AND VENUE

11. This Court has jurisdiction over Plaintiffs' claims brought pursuant to 42 U.S.C. § 1983 and pursuant to 28 U.S.C. §§ 1331 and 1343(3).

12. Venue is proper in this district because:

(a) The Northern District of Illinois is the judicial district in which substantially all of the events or omissions giving rise to Plaintiffs' claims occurred;

(b) Defendants are found or are employed, or at the time of the incidents giving rise to this suit were so employed, in the Northern District of Illinois.

III. PARTIES

13. Plaintiff L.W. is the infant daughter of Plaintiff Bridgett J. L.W. resides in Cook County, Illinois. Pursuant to Federal Rule of Civil Procedure 17(c), L.W. proceeds here by her mother, Bridgett J.

14. Plaintiff Bridgett J. is the mother of L.W., and resides in Cook County, Illinois. She holds a M.S.W. degree and has worked at various times as both a social worker and a teacher. Bridgett J. continues to work as a substitute teacher.

15. Defendant DCFS is a public agency run by the State of Illinois.

16. Defendant Acting Director of DCFS, Denise Gonzales, is sued for declaratory relief in her official capacity.

17. Defendant Brenda Simpson was, at the time of the incidents giving rise to this complaint, a DCFS investigator who was assigned to investigative duties involving L.W. and Bridgett J. She is sued in her official and individual capacities.

18. Defendant Murielle Pierre-Louis was, at the time of the incidents giving rise to this complaint, a DCFS supervisor who had supervisory responsibility as to Defendant Simpson. Defendant Pierre-Louis was responsible for reviewing and approving the actions of Defendant Simpson regarding Bridgett J. and L.W., and she reviewed and approved those actions. She is sued in her official and individual capacities.

19. Defendant Tanya Carriere was, at the time of the incidents giving rise to this complaint, a DCFS supervisor who had supervisory responsibility as to Defendant Simpson. Defendant Carriere was responsible for reviewing and approving the actions of Defendant Simpson regarding Bridgett J. and L.W., and she reviewed and approved those actions. She is sued in her official and individual capacities.

20. Defendant Maria Miller was, at the time of the incidents giving rise to this complaint, a DCFS Area Administrator who approved the illegal issuance of an indicated finding against Bridgett J. for Allegation 60. Defendant Miller is sued in her official and individual capacities.

21. At all times relevant to this complaint, each of the Defendants acted under color of state law.

IV. STATEMENT OF THE CASE

A. Illinois Law and State Policies Regarding the Taking of Children from Their Parents

22. Pursuant to the Illinois Abused and Neglected Child Reporting Act (“ANCRA”), DCFS receives Hotline calls when any person makes a call based upon “reasonable cause to believe a child may be an abused child or a neglected child.” 325 ILCS 5/4. ANCRA requires that DCFS promptly initiate an investigation of the merits of calls it accepts, *id.* at 5/7, sometimes working jointly with law enforcement authorities if the allegations give rise to a potential criminal complaint. *Id.* at 5/7.3.

23. Under Illinois law, only police officers, doctors, and DCFS investigative employees, have the legal authority to remove children from their parents against the will of the parents. 325 ILCS 5/5. This authority is limited to only those circumstances when “there is not time to apply for a court order” and when leaving the child in the custody of his or her parent(s) would “endanger[] the child’s health or safety.” *Id.*

24. Without definite and articulable evidence giving rise to a reasonable suspicion that a child has been abused or neglected by a parent or guardian and without exigent circumstances being present to justify such action absent a court order, a DCFS investigator may not take a child from his parent without the voluntary consent of the parent.

25. DCFS policies further require that the taking of protective custody be approved by a DCFS supervisor and child protection manager or area administrator.

26. Once taken into temporary protective custody, a child must either be brought before a judicial officer within 48 hours, exclusive of holidays and weekends, or released back to the custody of his parents or guardians. 705 ILCS 405/2-9. If the judicial officer does not determine that the child should be detained in custody or if the child is not brought before a judicial officer within the 48 hour period, the child must be released from temporary protective custody. *Id.*

27. Illinois law does not authorize DCFS investigative employees to issue directives to families concerning their living conditions or who a child is authorized to live with. To the extent DCFS determines that a family *should* live under restrictions (such as having “no unsupervised contact” with their children), DCFS may file a petition seeking such restrictions with a juvenile court. The juvenile court has the authority to issue such directives pursuant to the Juvenile Court Act, as to children for whom there is probable cause to believe they are abused or neglected, 705 ILCS 405/2-10 (requiring dismissal of petitions as to which there is no probable cause), and to enter orders of protection requiring families to abide by restrictive conditions on their family life. 705 ILCS 405/ 2-25.

28. In the event DCFS does secure the filing of a petition against a family after it takes protective custody of the child without a court order, if it seeks to maintain temporary custody thereafter, the Juvenile Court Act requires that the court must find that there is “immediate and urgent necessity” for the safety of the child that he or she be placed outside the custody of his parents. 705 ILCS 405/2-10. DCFS is also required by federal and state law to

make “reasonable efforts” to prevent the placement of children into foster care and to demonstrate those efforts to the juvenile court. 42 U.S.C. 671(a)(15)(B)(i); 705 ILCS 405/2-10.

29. Regardless of whether DCFS takes protective custody of a child following a Hotline call, and regardless of whether it seeks or secures the filing of a juvenile court petition alleging a child is abused or neglected, it is required to complete investigations of Hotline calls. DCFS investigators must determine if the allegations under investigation are “indicated,” meaning that DCFS finds credible evidence of abuse or neglect, or “unfounded,” meaning that DCFS found no such credible evidence. 325 ILCS 5/7.12.

30. Credible evidence of child abuse or neglect means that the available facts, when viewed in light of surrounding circumstance, would cause a reasonable person to believe that a child was abused or neglected. The determination of credible evidence must include consideration of all available exculpatory evidence. A final determination of “indicated” or “unfounded” resulting from that investigation must be reported forthwith to the Illinois State Central Register. 325 ILCS 7/7, 7/12.

31. If an individual is licensed to work with children or otherwise is engaged in employment involving the care of children, DCFS is not permitted to issue an indicated finding without first allowing the child care professional an opportunity to have the recommendation to “indicate” reviewed by an administrator by way of an Administrator’s Conference. The requirements for Administrator’s Conferences, based on the procedural due process requirement of pre-deprivation process before an individual’s liberty interest in career opportunity may be impaired by state action, are codified in DCFS rules and procedures. *See* 89 Ill. Admin. Code § 300.160.

32. Only if the Administrator, after reviewing the basis for the recommended finding as well as any information or evidence the child care professional presents at the conference, determines that there is sufficient evidence of abuse or neglect, upon consideration of all of the inculpatory as well as the exculpatory evidence, is DCFS authorized to issue an indicated report and register an individual's name identifying him as a perpetrator of child abuse or neglect in the State Central Register.

33. Once registered, indicated findings are registered for a period of between five and fifty years. 325 ILCS 5/7.14; DCFS Procedures 300.100(c). These findings are registered and maintained unless the person named as the perpetrator appeals the finding and, at the subsequent administrative hearing, DCFS fails to meet its burden of proof by a preponderance of the evidence that the finding should be maintained. 325 ILCS 5/7.16.

34. Any person who is indicated for child abuse or neglect has the right to appeal the finding and to have a hearing before a DCFS administrative law judge. 325 ILCS 5/7.16, 89 Ill. Admin. Code § 336. Ordinarily, such appeals must be decided within 90 days. However, for persons who work with children, DCFS is required to issue a final administrative hearing decision within 35 days of the filing of an administrative appeal request if the child care professional has requested an expedited appeal.

35. Indicated findings are based on investigations of specific allegations set forth in the DCFS allegation system. That allegation system is defined by rules set forth in the Illinois Administrative Code. *See* 89 Ill. Admin. Code § 300, App'x B. As relevant here, since 2001, DCFS has maintained an allegation of neglect, known as Allegation 60, due to a parent subjecting a child to an "injurious environment."

36. Allegation 60 has been determined by the Illinois Supreme Court to be void *ab initio*. See *Julie Q. v. Dep't of Child and Family Serv.*, 2013 IL 113783 (Ill. S. Ct. March 21, 2013). DCFS was on notice at the time of the investigation in this case that Allegation 60 was void, as the Appellate Court of Illinois for the Second District had so ruled on December 11, 2011. See *Julie Q. v. Dep't of Child and Family Serv.*, 963 N.E.2d 401 (2nd Dist. 2011).

37. The ANCRA was later amended on July 13, 2012, to provide that an environment is so injurious to a child as to constitute neglect “only insofar as (i) the child’s environment creates a likelihood of harm to the child’s health, physical well-being, or welfare and (ii) the likely harm to the child is the result of blatant disregard of parent or caretaker responsibilities.” 325 ILCS 5/3 (West 2013).

38. As of the date of this complaint, DCFS has not amended its 2001 version of Allegation 60 to reflect the 2012 change in the law. Instead, DCFS continues to act pursuant to the 2001 version of Allegation 60, as it did in this case and which has been declared void *ab initio*.

B. Statement of Facts Giving Rise to Claims for Relief

39. Bridgett J. is the loving and caring mother of L.W.

40. On or about July 17, 2012, on information and belief, DCFS received a call on the DCFS Hotline that falsely stated Bridgett J. suffered from paranoid schizophrenia, was not taking prescribed medication or seeking counseling, and was putting her child L.W. at risk of harm as a result. In fact, Bridgett J. has never been diagnosed with schizophrenia or paranoid schizophrenia. Bridgett J. did have a past history of depression, which first manifested itself during her pregnancy with L.W. and for which she sought and received counseling and medication.

41. On or about July 30, 2012, Defendant Simpson met with Bridgett J., L.W., and Bridgett J.'s parents and sister at the home Bridgett J. shares with her parents. According to her report, Defendant Simpson did not observe any visible signs of abuse or neglect on L.W.

42. During the July 30, 2012 meeting, Bridgett J. informed Defendant Simpson that, contrary to the Hotline report, she has *never* been diagnosed with paranoid schizophrenia.

43. Based on the meeting and other allegations of purportedly "bizarre" behavior made by Bridgett J.'s family members—though with no actual evidence of past or imminent abuse or neglect of L.W.—Defendant Simpson nevertheless ordered Bridgett J. to relinquish custody of L.W., leave the home, and obtain an inpatient psychiatric evaluation. Defendant Simpson gave those orders without affording Bridgett J. any process by which she could challenge the orders and maintain her custodial rights.

44. Or about July 31, 2012, Bridgett J. returned to her family home after having received a psychiatric evaluation at an area hospital. The healthcare professionals at the hospital concluded that Bridgett J. did not need inpatient care.

45. At the time Bridgett J. returned to the family home on July 31, L.W. had been placed under the care of Bridgett J.'s sister per Defendant Simpson's directives. Consistent with the directives that Defendant Simpson had also given, Bridgett J.'s sister prevented Bridgett J. from leaving the home with L.W.

46. Later on July 31, 2012, Defendant Simpson returned to the family home and directed Bridgett J. to "make four bottles and pack diapers and clothes," because Defendant Simpson was placing L.W. in DCFS's temporary protective custody. Defendant Simpson also directed Bridgett J. to return to the hospital for inpatient psychiatric treatment, despite the hospital having already found that she did not need inpatient care.

47. On information and belief, with the approval of Defendants Pierre-Louis and Carriere, Defendant Simpson initially took L.W. to the local DCFS office, but soon thereafter placed L.W. in the temporary care of Bridgett J.'s sister, subject to DCFS's supervision.

48. Upon information and belief, when Defendant Simpson took L.W. away from Bridgett J. on July 31, 2012, her only grounds were the false allegations of paranoid schizophrenia, allegations of related "bizarre" behavior, and Bridgett J.'s past history of mental health treatment for depression.

49. There was no credible evidence that Bridgett J. had abused or neglected L.W. or was imminently about to do so.

50. Defendant Simpson was required to seek judicial approval for taking L.W. from Bridgett J. However, neither she nor any of the Defendants sought or obtained judicial approval to remove L.W. from Bridgett J.'s care and custody.

51. Later on that same day, July 31, 2012, Bridgett J. returned to the hospital pursuant to Defendant Simpson's demand. Again hospital personnel there informed Bridgett J. that she was not eligible for inpatient psychiatric care and to not return for any emergency psychiatric treatment. Bridgett J. immediately informed Defendant Simpson that the hospital would not admit her.

52. In response, Defendant Simpson directed Bridgett J. to make an appointment with Bridgett J.'s psychiatrist, and informed her that she would be able to regain custody of L.W. within 72 hours if Bridgett J.'s psychiatrist approved.

53. On or about August 3, 2012, Bridgett J. visited her psychiatrist pursuant to Defendant Simpson's demand. Her psychiatrist gave Bridgett J. his notes, which Bridgett J. then forwarded to Defendant Simpson. Despite Defendant Simpson's earlier representation that

Bridgett J. would be able to regain custody of L.W. within 72 hours upon her psychiatrist's approval, Defendant Simpson told Bridgett J. that the psychiatrist's notes were insufficient. She again demanded that Bridgett J. receive inpatient psychiatric treatment as a condition of regaining custody of her daughter.

54. Over the next week, Bridgett J. spoke with two other area hospitals about being admitted for inpatient psychiatric treatment. These other hospitals likewise concluded that Bridgett J. did not need inpatient psychiatric treatment.

55. From July 31, 2012 to August 14, 2012, Defendants prevented Bridgett J. from having any contact with L.W.

56. On or about August 14, 2012, Bridgett J. went to Defendants' office so as to inquire about regaining custody of L.W. Defendant Pierre-Louis informed Bridgett J. that she could once again see L.W. but only as long as Bridgett J.'s contact was supervised by Bridgett J.'s sister.

57. On or about September 7, 2012, Defendants Simpson, Pierre-Louis and Carriere met with Bridgett J. and her family, and Bridgett J. was told that her contact with L.W. would be supervised by Bridgett J.'s parents at all times going forward.

58. Before imposing such conditions restricting Bridgett J.'s access to her daughter, Defendants needed to seek approval from a juvenile court judge, but failed to do so.

59. Despite the prior repeated psychiatric clearances, Defendant Simpson again demanded that Bridgett J. receive an inpatient psychiatric evaluation before she could ever have unsupervised contact with L.W.

60. On information and belief, Defendants Simpson, Pierre-Louis, and Carriere are not psychiatrists nor have they received psychiatric training that would allow them to properly evaluate Bridgett J.'s mental health.

61. Defendant Simpson further required Bridgett J. to seek individual outpatient psychiatric counseling and family counseling as a condition for seeing L.W. On or about November 9, 2012, Defendant Simpson, with the approval of Defendants Pierre-Louis and Carriere, delegated to One Hope United responsibility for providing this outpatient counseling, as well as to enforce the restrictive terms under which Bridgett J. was allowed to have contact with L.W.

62. One Hope United is a non-profit organization that provides counseling and other services under contract with DCFS. At the time of the incidents giving rise to this complaint, One Hope United was given responsibility by Defendants for maintaining the illegal restrictions on the parental and familial rights of Bridgett J. and L.W. pursuant to Defendants' directives.

63. On information and belief, One Hope United provided regular reports to Defendant Simpson regarding Bridgett J.

64. In April 2013, Bridgett J., with the assistance of counsel, regained custody of L.W.

65. Starting in mid-October, and in the midst of the nearly eight months during which Defendants imposed their severe and groundless restrictions on Bridgett J.'s parental rights, Defendant Simpson informed Bridgett J. that Bridgett would be entitled to have a hearing to determine whether Bridgett J. would be "indicated" in the State Central Register for having been found to have committed child neglect by virtue of L.W. being subject to an "injurious environment" pursuant Allegation 60.

66. Allegation 60 is defined in the DCFS manual of Rules and Procedures 300, Appendix B, as “Substantial Risk of Physical Injury/Environment Injurious to Health and Welfare by Neglect.” *See* 89 Ill. Admin Code § 300, App’x B.

67. Allegation 60 has been and is being maintained at all times relevant to this complaint by DCFS and the DCFS Director despite determinations by the appellate reviewing courts of Illinois that it is void *ab initio*, because the language authorizing “environment injurious” investigations was removed from the Abused and Neglected Child Reporting Act. Despite the lack of legislative authority for such investigations, Allegation 60 sweepingly permits DCFS investigators to investigate persons for perceived mental illnesses irrespective of evidence of impact of such claimed mental illnesses upon their children and without regard to the opinions of expert treating psychiatrists, psychologists or other mental health professionals.

68. The decision to “indicate” a person who works with children for abuse or neglect, under DCFS policy must be approved by the investigator, the supervisor and the child protection manager or area administrator. Defendants Simpson, Pierre Louis and Carriere approved the recommendation to indicate Bridgett J. for Allegation 60. Bridgett J. is without knowledge as to whether a person denominated child protection manager or area administrator approved the recommendation prior to the review described below.

69. As a licensed social worker and substitute teacher, Bridgett J. was entitled to an Administrator’s Conference with a neutral DCFS administrator prior to an “indicated” finding issuing against her. At the Administrator’s Conference, DCFS is required to consider all inculpatory and exculpatory evidence.

70. On or about October 30, 2012, an Administrator's Conference was held to review the recommendation that Bridgett J. be "indicated" for Allegation 60.

71. Defendant Maria Miller presided over the Administrator's Conference.

72. At the time of the Administrator's Conference on October 30, 2012, an Illinois Appellate Court had already determined that Allegation 60 was void *ab initio*. By that time, Illinois law had also been amended to require a showing of "blatant disregard" of parental duty of care causing harm to the child, but DCFS had failed to adopt rules or procedures in conformity with the law as amended.

73. In early December 2012, Bridgett J. received a notice that she had been indicated by DCFS for Allegation 60.

74. Defendant Miller approved the issuance of the indicated finding against Bridgett J.

75. This indicated finding was brought pursuant to the void Allegation 60 and made with no credible evidence of actual abuse or neglect or substantial risk thereof. Rather, it was predicated on an unfounded assertion that Bridgett J.'s mental health posed a threat to L.W.'s safety, despite the reality that Bridgett J. had never been diagnosed with any form of schizophrenia and was uniformly and repeatedly told by various health care professionals that she did not require inpatient treatment.

76. The indicated finding nonetheless meant that Bridgett J. would be unable to secure future employment in her career as a teacher or as a social worker while the indicated finding remained registered. This reckless and unfounded decision severely limited both Bridgett J.'s income and future work prospects. In fact, as a result, Bridgett J. was forced to take a leave of absence from her job as a substitute teacher in her local school district.

77. As was her right, Bridgett J. immediately appealed the finding to a neutral administrative law judge.

78. On June 26, 2013, following an administrative hearing held on June 13, 2013, the administrative law judge granted Bridgett J.'s request to expunge the indicated finding of Allegation 60 from the State Central Register.

79. Bridgett J. has since successfully sought employment as a substitute teacher in her local school district. Nevertheless, by indicating Bridgett J. for a void allegation without considering the available exculpatory evidence and without meeting the statutory requirements necessary to indicate any person for child neglect, Defendants Simpson, Pierre-Louis, Carriere and Miller violated Bridgett J.'s liberty interest in pursuing her career.

80. In subjecting Bridgett J. to the severe and groundless restrictions on her parental rights based on the perception of paranoid schizophrenia, and in investigating Bridgett J. for Allegation 60 that sanctioned the use of unfounded mental health information as a basis for finding child neglect, Defendants also violated Bridgett J.'s statutory rights to be free from discrimination due to a perceived mental health impairment.

81. In allowing its employees to continue to investigate Bridgett J. based on the void Allegation 60, despite being on notice both of a decision by an Illinois Appellate Court invalidating the allegation as well as amended statutory language limiting the scope of an environment "injurious" to a child, Defendant DCFS violated Bridgett J.'s rights, giving rise to her claims for relief set forth below.

CLAIMS FOR RELIEF

COUNT I: L.W.'s 42 U.S.C. § 1983 Claim for Violation of the Fourth Amendment Right Not to Be Subject to an Unreasonable Seizure

82. The Plaintiff in Count I is L.W.

83. L.W. incorporates paragraphs 1-82 as if fully set forth herein.

84. The Count I Defendants are Defendants Brenda Simpson, Murielle Pierre-Louis and Tanya Carriere, sued in their respective individual capacities.

85. The Count I Defendants, acting individually and in concert with one another, violated the rights of L.W. under the Fourth Amendment to the United States Constitution (as applicable to the States under the Fourteenth Amendment to the United States Constitution), by directing or engaging in her seizure from the care and custody of her mother, Bridgett J.: (1) without definite and articulable evidence giving rise to a reasonable suspicion that she had been abused or neglected by her mother; and (2) without exigent circumstances being present to justify such action absent a court order.

86. The actions and conduct of the Count I Defendants caused injury to L.W.

87. As relief, L.W. seeks a declaratory judgment that the Count I Defendants' actions violated her rights under the Fourth Amendment, and she seeks compensatory damages against the Count I Defendants in an amount not less than \$50,000, reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, and any other relief, including, but not limited to, an award of costs, as this Court deems appropriate.

88. Given that the Count I Defendants acted intentionally, recklessly and/or with deliberate indifference to the consequences of their actions as set forth above, L.W. seeks an award of punitive damages against the Count I Defendants.

COUNT II: Bridgett J.'s and L.W.'s 42 U.S.C. § 1983 Claim for Violation of the Substantive Due Process Rights to Familial Association

89. The Plaintiffs in Count II are Bridgett J. and L.W.

90. Bridgett J. and L.W. incorporate paragraphs 1-89 as if fully set forth herein.

91. The Count II Defendants are Defendants Brenda Simpson, Murielle Pierre-Louis and Tanya Carriere, sued in their respective individual capacities.

92. The Count II Defendants, acting individually and in concert with one another, violated Bridgett J.'s and L.W.'s substantive due process rights to familial association, familial autonomy, familial integrity, and family privacy by arbitrarily separating Bridgett J. and L.W. from each other and taking L.W. into State protective custody without possessing the requisite definite and articulable evidence giving rise to a reasonable suspicion that L.W. had been or would be abused or neglected by Bridgett J. and without exigent circumstances justifying such action absent a court order.

93. Moreover, by restricting Bridgett J.'s parental rights, and by falsely representing the facts and legal basis upon which these conditions were imposed, the Count II Defendants, acting individually and in concert with one another, further violated Bridgett J.'s and L.W.'s substantive due process rights to familial association, familial autonomy, familial integrity, and family privacy without the constitutionally requisite evidence required to impose such restrictions.

94. The actions and conduct of the Count II Defendants caused injury to Bridgett J. and L.W.

95. As relief, Bridgett J. and L.W. seek a declaratory judgment that the actions of the Count II Defendants violated their rights to substantive due process and they seek compensatory damages against the Count II Defendants in an amount not less than \$50,000 for each Plaintiff, reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, and any other relief, including, but not limited to, an award of costs, as this Court deems appropriate.

96. Given that the Count II Defendants acted intentionally, recklessly and/or with deliberate indifference to the consequences of their actions as set forth above, Bridgett J. and L.W. seek an award of punitive damages against the Count II Defendants.

COUNT III: Bridgett J.'s and L.W.'s 42 U.S.C. § 1983 Claim for Violation of Procedural Due Process Rights Related to Deprivation of Family Associational Rights

97. Plaintiffs in Count III are Bridgett J. and L.W.

98. Bridgett J. and L.W. incorporate paragraphs 1-97 as if fully set forth herein.

99. The Count III Defendants are Defendants Brenda Simpson, Murielle Pierre-Louis, and Tanya Carriere, sued in their respective individual capacities.

100. The Count III Defendants, acting individually and in concert with one another, violated Bridgett J.'s and L.W.'s procedural due process rights by taking custody of L.W. even though there were no grounds to believe that L.W. was in imminent danger of abuse or neglect and even though there was ample time to secure a court order prior to taking such action, had a court determined that such action was warranted.

101. Moreover, the Count III Defendants, by restricting Bridgett J.'s and L.W.'s rights to familial association, familial autonomy, familial integrity, and family privacy, further violated Bridgett J.'s and L.W.'s procedural due process rights by failing to afford any procedure by which the restrictions could be challenged.

102. The actions and conduct of the Count III Defendants caused injury to Bridgett J. and L.W.

103. As relief, Bridgett J. and L.W. seek a declaratory judgment that the Count III Defendants' actions violated their rights to procedural due process and they seek compensatory damages in an amount of at least \$50,000 for each Plaintiff against the Count III Defendants,

reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, and any other relief including, but not limited to, an award of costs as the Court deems appropriate.

104. Given that the Count III Defendants acted intentionally, recklessly and/or with deliberate indifference to the consequences of their actions as set forth above, Bridgett J. and L.W. seek an award of punitive damages against the Count III Defendants.

COUNT IV: Bridgett J.'s 42 U.S.C. § 1983 Claim for Violation of Procedural Due Process Rights Related to Deprivation of Liberty Interest in Career Opportunity

105. Plaintiff in Count IV is Bridgett J.

106. Bridgett J. incorporates paragraphs 1-105 as if fully set forth herein.

107. The Count IV Defendants are the Acting DCFS Director, Denise Gonzales, Brenda Simpson, Murielle Pierre-Louis, Tanya Carriere and Maria Miller. Defendants Simpson, Pierre-Louis, Carriere and Miller are sued in their respective individual capacities. Declaratory relief only is sought as to Defendant Acting DCFS Director, Denise Gonzales, who is sued in her official capacity.

108. The Count IV Defendants, acting individually and in concert with one another, violated Bridgett J.'s procedural due process right to pursue her career working with children by indicating her for child neglect without considering all available exculpatory evidence and by relying upon an allegation that was void *ab initio*.

109. The actions and conduct of the Count IV Defendants caused injury to Bridgett J.

110. By maintaining Allegation 60 despite it being an allegation that was and is void *ab initio*, the DCFS Director unlawfully caused the harm described herein to Bridgett J.

111. As relief, Bridgett J. seeks a declaratory judgment against all of the Count IV Defendants that the actions of the Count IV Defendants violated her procedural due process rights to pursue her interests in career opportunity. Bridgett J. further seeks compensatory

damages in an amount of at least \$50,000 against the Count IV Defendants (excluding Acting DCFS Director, Denise Gonzales, who is sued in her official capacity), reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, and any other relief including, but not limited to, an award of costs as the Court deems appropriate.

112. Given that the Count IV Defendants (excluding Acting DCFS Director, Denise Gonzales, who is sued in her official capacity) acted intentionally, recklessly and/or with deliberate indifference to the consequences of their actions as set forth above, and operated without legal authority insofar as the allegation they made against Bridgett J. was void *ab initio*, Bridgett J. seeks an award of punitive damages against the Count IV Defendants (excluding Acting DCFS Director, Denise Gonzales, who is sued in her official capacity).

COUNT V: Bridgett J.'s Claim for Discrimination Based on Perceived Disability in Violation of Title II of the Americans with Disabilities Act

113. The Plaintiff in Count V is Bridgett J.

114. Bridgett J. incorporates paragraphs 1-113 as if fully set forth herein.

115. The Count V Defendants are DCFS, Acting DCFS Director, Denise Gonzales, Brenda Simpson, Murielle Pierre-Louis, Tanya Carriere and Maria Miller, sued in their respective official capacities.

116. Due to her past depression and Count V Defendants' perception that she suffered from paranoid schizophrenia, Bridgett J. is a "qualified individual with a disability" as defined in 42 U.S.C. § 12132.

117. The ADA and its implementing regulations require that no qualified individual be subjected to discrimination by any public entity. 29 C.F.R. § 1630.2(h).

118. The Count V Defendants intentionally discriminated against Bridgett J. by using her history of depression as well as a perceived mental health impairment of paranoid

schizophrenia, as grounds to deny and then severely and unnecessarily restrict Bridgett J.'s parental rights and her liberty interest in pursuing her career working with children.

119. By maintaining and implementing a void allegation that authorizes discrimination against persons with any mental health condition, the Count V Defendants intentionally discriminated against Bridgett J.

120. The actions and conduct of the Count V Defendants are the direct and proximate cause of injury to Bridgett J. This injury includes, but is not limited to, lost contact with her daughter, lost income and impaired employment prospects.

121. As relief, Bridgett J. seeks a declaratory judgment as to the Count V Defendants that their actions violated Bridgett J.'s rights under the Americans with Disabilities Act, compensatory damages in an amount of at least \$50,000, reasonable attorneys' fees pursuant to 42 U.S.C. § 12132 and 29 U.S.C. § 794a(b), and any other relief including, but not limited to compensation for lost contact with her daughter, lost income resulting from the Count V Defendants' actions causing impaired employment prospects, and an award of costs as the Court deems appropriate.

COUNT VI: Bridgett J.'s Claim for Discrimination Based on Disability in Violation of Section 504 of the Rehabilitation Act

122. The Plaintiff in Count VI is Bridgett J.

123. Bridgett J. incorporates paragraphs 1-122 as if fully set forth herein.

124. The Count VI Defendants are DCFS, the Acting DCFS Director, Denise Gonzales, Brenda Simpson, Murielle Pierre-Louis, Tanya Carriere and Maria Miller, sued in their respective official capacities.

125. Due to her past depression and Count VI Defendants' perception that she suffered from paranoid schizophrenia, Bridgett J. is a "qualified individual with a disability" as defined in 29 U.S.C. § 794.

126. The Rehabilitation Act and its implementing regulations require that no qualified individual, solely by reason of her actual or perceived disability, be subjected to discrimination under any program or activity receiving Federal financial assistance. 41 C.F.R. § 60-741.2(o)(1); 45 C.F.R. § 84.3(j)(2)(i).

127. The Count VI Defendant DCFS, which receives such Federal financial assistance, and its agents, Defendants Acting DCFS Director, Denise Gonzales, Simpson, Pierre-Louis, Carriere and Miller, intentionally discriminated against Bridgett J. by using her history of depression, as well as a perceived mental health impairment, as grounds to deny and then severely and unnecessarily restrict her parental rights and her interests in career opportunity.

128. The Count VI Defendants violated Bridgett J.'s rights under the Rehabilitation Act by maintaining and enforcing a void allegation that authorized discrimination against persons with disabilities by declaring them to be neglectful *per se* based on a disability alone, absent evidence demonstrating any neglect of their children in fact.

129. The actions and conduct of the Count VI Defendants are the direct and proximate cause of injury to Bridgett J. This injury includes, but is not limited to, lost income and impaired employment prospects.

130. As relief, Bridgett J. seeks a declaratory judgment that the actions of the Count VI Defendants violated her rights under the Rehabilitation Act and she seeks compensatory damages in an amount of at least \$50,000 against the Count VI Defendants, reasonable attorneys' fees pursuant to 29 U.S.C. § 794a(b), and any other relief including, but not limited to lost income

resulting from Count VI Defendants' actions causing impaired employment prospects, and an award of costs as the Court deems appropriate.

WHEREFORE, Plaintiffs Bridgett J. and L.W. respectfully requests that this Court enter judgment in their favor on all counts and award the following relief against Defendants:

- (a) Declaratory judgment that Defendants violated Bridgett J.'s and L.W.'s constitutional rights and Bridgett J.'s statutory rights;
- (b) Compensatory damages, exclusive of costs and interest, to which Plaintiffs are found to be entitled;
- (c) Lost income resulting from Defendants' actions causing impaired employment prospects for Bridgett J.;
- (d) Punitive damages against Defendants, exclusive of costs and interest, to which Plaintiffs are found to be entitled;
- (e) An award of interest, costs, and reasonable attorneys' fees pursuant to 42 U.S.C. § 1988, 28 U.S.C. § 1920, and 29 U.S.C. § 794a; and
- (f) Such other relief as this Court deems just and equitable.

Dated: November 22, 2013

Respectfully submitted,

By: /s/ Ronald S. Betman

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