UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

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S.W., by and through his guardian, RENEE MARQUIS-ABRAMS; T.G., and J.L., by and through their next friend, MILDRED DEL GROSSO; S.B. and R.E. by and through their guardian, PATRICIA BALDWIN; L.J. and J.G., by and through their guardian, KEVIN HENDRICKSON; J.B., C.B., and T.L.,

Plaintiffs,

-against-

CITY OF NEW YORK, a municipal corporation; ADMINSTRATION FOR CHILDREN'S SERVICES, f/k/a CHILD WELFARE ADMINISTRATION; ST. JOSEPH SERVICES FOR CHILDREN, INC., f/k/a CATHOLIC CHILD CARE SOCIETY OF THE DIOCESE OF BROOKLYN, INC., a New York corporation; HEARTSHARE HUMAN SERVICES, f/k/a CATHOLIC GUARDIAN SOCIETY OF THE DIOCESE OF BROOKLYN, INC., a New York corporation; SCO FAMILY OF SERVICES, f/k/a ST. CHRISTOPHER-OTTILIE, a New York corporation,

Defendants.

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CV- 09 1777

COMPLAINT

VITALIANO, J.

PLAINTIFFS' DEMAND TRIAL BY JURY

GO, M.J.

Plaintiffs S.W., R.E., T.G., J.L., S.B., L.J., J.G., J.B., C.B., and T.L., appearing by their undersigned counsel, serve this, their complaint as to Defendants and allege as follows:

PRELIMINARY STATEMENT

1. This is a civil rights action in which Plaintiffs seek damages to redress the deprivation, under color of state law, of rights secured to them under the Fourth and Fourteenth Amendments to the United States Constitution. Plaintiffs also append state law claims.

2. From 1986 to 1994, Plaintiffs, who were all classified as special needs children, were placed in the foster home of Judith Leekin who used the following fictitious identifications: Judith Lee-Kin, a/k/a Judith S. Johnson, a/k/a Anne Marie Williams, a/k/a Cheryl Graham, a/k/a

Michelle Wells, and a/k/a Eastlyn Giraud ("Leekin"). Leekin both fostered and subsequently adopted all Plaintiffs using false identities for the sole purpose of collecting the special needs subsidies provided for their care. While in foster care and throughout the duration of their captivity with Leekin, Plaintiffs were repeatedly beaten, starved, humiliated, imprisoned in a basement and/or garage, handcuffed, and hidden from society with no education or medical treatment in gross disregard of their constitutional and common-law rights. Plaintiffs bring this action against the City of New York, Administration for Children's Services and the Defendant foster care agencies that unlawfully placed Plaintiffs in the abusive home and failed to ascertain her fictitious identifications, failed to adequately supervise, investigate, and monitor the foster mother and their placement in her home, caused their wrongful, void adoptions, and failed to protect them from being held captive by Judith Leekin for almost two decades and a lifetime of severe physical and emotional abuse and neglect.

JURISDICTION

3. Jurisdiction is conferred on this Court by 28 U.S.C. § 1343, which provides for original jurisdiction over all actions brought pursuant to 42 U.S.C. § 1983, and by 28 U.S.C. § 1331, which provides jurisdiction over all cases brought pursuant to the Constitution and the laws of the United States. The Court has pendent jurisdiction over Plaintiffs' state law claims arising under the laws of the State of New York.

PARTIES

4. S.B. was born on March 21, 1981 in New York, and currently resides in Florida.

5. S.B. was placed in Leekin's care on or about May 9, 1986.

6. On or about July 28, 1988, the Family Court of the State of New York entered an adoption decree finalizing the adoption of S.B. by Anne Marie Williams, a non-existent

individual.

7. The purported adoptive mother was actually Judith Leekin, who used the false identity of Anne Marie Williams to secure this void adoption decree.

8. L.J. was born on July 1, 1980 in New York and currently resides in Florida.

9. L.J. was placed in Leekin's care on or about March 17, 1988.

10. On or about May 31, 1993, the Family Court of the State of New York entered an adoption decree finalizing the adoption of L.J. by Cheryl Graham, a non-existent individual.

11. The purported adoptive mother was actually Judith Leekin, who used the false identity of Cheryl Graham to secure this void adoption decree.

12. J.G. was born on December 21, 1983 in New York and currently resides in Florida.

13. J.G. was placed in Leekin's care on or about September 30, 1988.

14. On or about May 31, 1993, the Family Court of the State of New York entered an adoption decree finalizing the adoption of J.G. by Cheryl Graham, a non-existent individual.

15. The purported adoptive mother was actually Judith Leekin, who used the false identity of Cheryl Graham to secure this void adoption decree.

16. S.W. was born on June 16, 1987 in New York and currently resides in Florida.

17. S.W. was placed in Leekin's care on or about June 28, 1989.

18. On or about December 13, 1994, the Family Court of the State of New York entered an adoption decree finalizing the adoption of S.W. by Michelle Wells, a non-existent individual.

19. The purported adoptive mother was actually Judith Leekin, who used the false identity of Michelle Wells to secure this void adoption decree.

20. R.E. was born on September 28, 1990 in New York and currently resides in

Florida.

21. R.E. was placed in Leekin's care on or about March 27, 1992.

22. On or about June 20, 1995, the Family Court of the State of New York entered an adoption decree finalizing the adoption of R.E. by Michelle Wells, a non-existent individual.

23. The purported adoptive mother was actually Judith Leekin, who used the false identity of Michelle Wells to secure this void adoption decree.

24. J.B. was born on May 18, 1987 in New York and currently resides in Florida.

25. J.B. was placed in Leekin's care on or about December 5, 1992.

26. On or about June 7, 1994, the Family Court of the State of New York entered an adoption decree finalizing the adoption of J.B. by Michelle Wells, a non-existent individual.

27. The purported adoptive mother was actually Judith Leekin, who used the false identity of Michelle Wells to secure this void adoption decree.

28. C.B. was born on January 22, 1989 in New York and currently resides in Florida.

29. C.B. was placed in Leekin's care on or about December 5, 1992.

30. On or about June 7, 1994, the Family Court of the State of New York entered an adoption decree finalizing the adoption of C.B. by Michelle Wells, a non-existent individual.

31. The purported adoptive mother was actually Judith Leekin, who used the false identity of Michelle Wells to secure this void adoption decree.

32. T.G. was born on June 19, 1991 in New York and currently resides in Florida.

33. T.G. was placed in the Leekin's care on or about December 5, 1992.

34. On or about June 7, 1994, the Family Court of the State of New York entered an adoption decree finalizing the adoption of T.G. by Michelle Wells, a non-existent individual.

35. The purported adoptive mother was actually Judith Leekin, who used the false

identity of Michelle Wells to secure this void adoption decree.

36. T.L. was born on September 15, 1989 in New York and currently resides in Florida.

37. T.L. was placed in the Leekin's care on or about July 15, 1994.

38. On or about April 16, 1996, the Family Court of the State of New York entered an adoption decree finalizing the adoption of T.L. by Eastlyn Giraud, a non-existent individual.

39. The purported adoptive mother was actually Judith Leekin, who used the false identity of Eastlyn Giraud to secure this void adoption decree.

40. J.L. was born on March 6, 1992 in New York and currently resides in Florida.

41. J.L. was placed in the Leekin's care on or about July 15, 1994.

42. On or about April 16, 1996, the Family Court of the State of New York entered an adoption decree finalizing the adoption of J.L. by Eastlyn Giraud, a non-existent individual.

43. The purported adoptive mother was actually Judith Leekin, who used the false identity of Eastlyn Giraud to secure this void adoption decree.

44. Defendant City of New York ("City") is a municipal corporation, incorporated pursuant to the laws of the State of New York.

45. Defendant City's Administration for Children's Services ("ACS"), f/k/a Child Welfare Administration ("CWA"), is authorized by New York State law to care for children in foster care. Children in foster care are in the legal custody of the Commissioner of ACS. Although CWA was the responsible agency during the relevant time period, ACS will be used throughout this complaint as the successor agency.

46. Upon information and belief, St. Joseph Services for Children, Inc. f/k/a Catholic Child Care Society of the Diocese of Brooklyn, Inc. ("SJSC"), is a not-for-profit corporation

organized under the laws of the State of New York and is an "authorized agency" as defined in New York Social Services Law § 371.

47. Upon information and belief, SJSC is in the business of providing foster care, under contract with Defendant City, to children who have been removed from their homes and placed in the custody of the City of New York.

48. Upon information and belief, HeartShare Human Services, f/k/a Catholic Guardian Society of the Diocese of Brooklyn, Inc. ("HHS"), is a not-for-profit corporation organized under the laws of the State of New York and is an "authorized agency" as defined in New York Social Services Law § 371.

49. Upon information and belief, HHS is in the business of providing foster care, under contract with Defendant City, to children who have been removed from their homes and placed in the custody of the City of New York.

50. Upon information and belief, Defendant SCO Family of Services, f/k/a St. Christopher-Ottilie ("SCO"), is a not-for-profit corporation organized under the laws of the State of New York and is an "authorized agency" as defined in New York Social Services Law § 371.

51. Upon information and belief, SCO is in the business of providing foster care, under contract with Defendant City, to children who have been removed from their homes and placed in the custody of the City of New York.

SUMMARY OF THE CASE

52. This is a case about the City of New York's unconstitutional foster care system during the years of 1984 through 1996, which was a system that permanently ended the familial relationships of 10 special needs children only to permanently place them with Judith Leekin in a house of horrors, where they were atrociously abused, tortured, neglected, and held in captivity

for their entire childhoods until finally rescued by the State of Florida 23 years after this tragedy began.

53. During the relevant time period, Defendant City's child welfare system was a maze of dysfunctional bureaucracy operating under unconstitutional policies and practices that demonstrated its deliberate disregard for the safety and well-being of the children it is duty-bound to protect.

54. As a result of the City's grossly unconstitutional system, Defendants SJSC, HHS, and SCO (collectively, "Defendant Agencies") were permitted to operate and did operate in reckless disregard of Plaintiffs' safety and well-being, knowing that the City's own unconstitutional policies and practices prevented it from supervising the agencies, and more importantly, the children in its care and custody.

55. Upon information and belief, in the early 1980s, Leekin learned that the City would pay her significant subsidies, from approximately $800.00 to $1,300.00 per month per child, to foster and adopt special needs children, and that neither the City nor its foster care agencies would properly investigate her fitness, monitor the children, or otherwise care to learn whether children in their custody were safe in her home.

56. Over the course of a decade, from 1986 through 1996, and armed with this knowledge of the City's egregious child welfare system failures, Leekin managed to obtain custody of dozens of special needs children in foster care, including Plaintiffs, using at least four false identities through four different foster care and adoption agencies, all while simultaneously warehousing ten or more children in her basement, subjecting them to horrific abuse and neglect.

57. Until 1995, Leekin was not a naturalized citizen of the United States, but rather a permanent resident alien.

58. Leekin created her aliases, as well as the aliases for her purported live-in daughters, using fake names.

59. The social security numbers Leekin provided with her false identities either belonged to other individuals with different names, different genders, or were fictitious.

60. With respect to each of these aliases, Leekin also provided Defendants with nearly identical family history, educational background, and financial and employment information, with the exception of the specific names and false identities that she used.

61. Throughout the licensing process for foster care and the subsequent adoptions of Plaintiffs over the course of at least 12 years, Leekin repeatedly provided Defendants with false information as to the most basic facts, which were facts that all Defendants had an unquestionable duty to verify and failed to do so in gross disregard of Plaintiffs' constitutional rights, such as:

a. Identity/Name
b. Social Security number
c. Employment and income
d. Home ownership and address
e. Familial relationships and family history
f. Household composition, including false identities of alleged daughter
g. Religion
h. Education
i. Training
j. Citizenship status
k. References

62. Had Defendants performed their professional responsibilities and attempted to verify the foregoing information, they would have easily ascertained that Judith Leekin was using phony identities and the fraudulent adoptions of the children would not have occurred.

63. Defendants also failed to make appropriate collateral contacts with neighbors, employers, and community representatives to verify the information Leekin provided and make a

determination of her character and capacity to foster and adopt special needs children.

64. Had Defendants made appropriate collateral contacts with neighbors, employers, and community representatives to verify the information Leekin provided and make a determination of her character and capacity to foster and adopt special needs children, they would have easily ascertained that Judith Leekin was using phony aliases and the fraudulent adoptions of the children would not have occurred.

65. Defendants licensed Leekin to foster and ultimately adopt Plaintiffs and did not positively determine her identity, her relationships, her financial and employment information, or her ability to care for children without abusing or neglecting them.

66. Defendants failed to conduct the required assessments as to the suitability of each of Plaintiff's placements with Leekin, which was especially important in light of their special needs, and their contacts with Leekin were superficial in nature.

67. In addition to this total failure to identify Leekin's false identities at any time during the course of a decade, Defendants, each while allegedly supervising the care of the specific children they were duty-bound to protect, deliberately ignored repeated warnings and signs of abuse and deliberately failed to discover all of the other children that were imprisoned in Leekin's home.

68. At all times material, the City had an affirmative policy of prohibiting its caseworkers from making direct contact with the children in its care or with foster and/or adoptive parents in violation of the most basic child welfare policy and the constitutional rights of the Plaintiffs.

69. Leekin, using four false identities, ultimately obtained adoption decrees as to each of the Plaintiffs at various times, with the explicit written consent of the City, ACS and the

Defendant Agencies.

70. Upon information and belief, Leekin knew that with no investigations, isolated visitations, no supervision, no post-adoption services, or verifications of any kind by Defendants, she could continue to receive substantial subsidies until Plaintiffs reached the age of 21 years old and could escape having to spend the foster care payments and adoption subsidies to care for the children.

71. Because Defendants failed in their obligation to supervise the placement of Plaintiffs with Leekin, Plaintiffs spent nearly their entire childhoods being horrifically abused and neglected while the State of New York continued to send Leekin in excess of one million dollars in subsidy checks for their care.

72. Leekin caused Plaintiffs to be chronically beaten, handcuffed, zip-tied, humiliated, threatened, secreted from the public, locked up in a basement or garage, deprived of their educations, denied medical treatment of any kind, and near starvation until the State of Florida finally rescued the children on July 10, 2007, 23 years after this tragedy began.

73. Plaintiffs each suffer from unimaginable medical, physical, psychological, educational, and sociological conditions and have experienced the loss of their entire childhoods, their families, and their independence as a result of Defendants' gross disregard and deliberate indifference to Plaintiffs' constitutional rights.

THE STRUCTURE OF THE CITY'S FOSTER CARE SYSTEM

74. Whether by involuntary removal or voluntary surrender, children come into the City's foster care system to be protected from harm.

75. Children placed in the City's care are in the legal custody of the City's Commissioner of Social Services, who delegates that authority to ACS.

76. Most foster care children are placed with "voluntary" agencies that have contracted with the City to provider foster care and adoption services, such as Defendant Agencies.

77. The voluntary agencies are then responsible for the day-to-day direct care and supervision of the City's foster care children.

78. The City does provide its own foster care and adoption services to a small percentage of children not otherwise placed with voluntary agencies through its Division of Adoption and Foster Care Services ("DAFCS"), in which case the City is directly responsible for all aspects of the child's care.

79. Despite this arrangement, the City and ACS always maintain legal custody of and responsibility for its foster children, and remain legally obligated to protect those children from harm.

80. Defendant Agencies act as ACS's agent in executing some of those responsibilities.

81. Practically speaking, the voluntary agencies provide the day-to-day care for the City's foster children.

82. The voluntary agencies have case planning responsibility, which means completing a case plan, known as Uniform Case Records ("UCRs") that identifies the child's physical and mental health needs, his/her permanency goal (i.e. reunification with the biological family, adoption, or independent living), and the services necessary to achieve that goal.

83. The voluntary agencies are then responsible for ensuring all services identified in the case plan are provided.

84. The City, on the other hand, is responsible for case management, which means it

is the City's responsibility to review the UCRs to make sure they are properly completed, ensure that each child has an appropriate permanency goal, and ensure that progress is being made to achieve that permanency goal.

85. The City is legally obligated to supervise the voluntary agencies to ensure that all necessary services are being provided to the foster children, and that the agencies are complying with all applicable laws and regulations.

86. Foster children have a right, guaranteed by the United States Constitution, to be free from harm while in the custody of state or local government.

87. Various laws and regulations have been established to ensure this right is not violated.

88. Each Defendant has a fundamental duty to:

a. Know with whom a child is being placed;

b. Ensure that each foster child is in an appropriate placement; and,

c. Confirm that the children in its care are safe and healthy.

89. To fulfill these duties described in paragraph 88, the City and its Agencies are required to properly screen prospective foster care and adoptive parents for fitness and character to care for the City's children.

90. The voluntary agencies are responsible for evaluating the foster homes and those living there and to have monthly face-to-face contacts with the children and their caregivers.

91. Proper screening involves independent verification of identity, employment, housing, family history, criminal background, references, and qualifications to care for special needs children prior to certification as a foster parent or prospective adoptive parent.

92. The need to positively identify and know the person being considered for a license

to care for foster children is a fundamental duty of the City and its Agencies.

93. The need to positively identify and know the person being considered to adopt a foster child is the City's and its Agencies' most fundamental duty prior to adoption.

94. Once a child is placed in a foster or adoptive home, the City or its agencies are required to maintain monthly face-to-face contact with the children and their caregivers, including at least one visit to the foster home during every three month period.

95. The purpose of these visits is to be sure the child is safe and healthy, that the home they are in is appropriate for them, and to address any continuing service needs or issues that might arise.

96. Face-to-face contacts, though required for all children in care, are even more important when dealing with children who have special needs, like Plaintiffs in this case.

UNCONSTITUTIONAL POLICIES AND PRACTICES

97. On a systemic scale, the City's pervasive pattern of indifference to Plaintiffs was a result of a highly fragmented and unconstitutional system, with a practice and policy of giving the appearance of compliance by focusing on procedures and the completion of legally required paperwork over and above actual compliance with substantive professional child welfare standards.

98. ACS delegated responsibilities as to foster children between various units and voluntary agencies with minimal supervision or accountability.

99. ACS had virtually no involvement with ensuring the safety of children in its care outside of the paperwork submitted by the voluntary agencies.

100. Although ACS delegated much of the day-to-day provision of child welfare services to voluntary agencies like Defendant Agencies, by law, ACS maintained legal custody

and responsibility for all foster children including Plaintiff.

101. Although ACS retained legal responsibility for the well-being of all children in the child welfare system, it had a practice and policy of unlawfully delegating virtually every facet of the child welfare system to these voluntary agencies with no supervision or accountability.

102. Licensing visits and certifications, home studies, case planning, foster care placement, coordinating family and sibling visits, ensuring the referral for and provision of services such as health care and education, and permanency planning were all duties delegated to the voluntary agencies.

103. Cases were processed in an assembly-line fashion, in that every possible phase of a child's case was handled by a separate unit, both within ACS and the voluntary agencies.

104. Cases were often handled by unqualified workers burdened with overwhelming caseloads and mountains of paperwork.

105. The voluntary agencies operated independently of each other and effectively independent of ACS.

106. The only connection ACS effectively held to children in its legal custody was the flow of paperwork between its caseworkers and those of the voluntary agencies.

107. In fact, ACS had a policy of prohibiting its caseworkers and supervisors from making direct contact with foster parents or the children for whom it was legally responsible.

108. Accordingly, ACS's supervision of its voluntary agencies and the children in its care consisted of nothing more than reviewing paperwork submitted by the agencies with no method for verifying the accuracy or legitimacy of the information provided.

109. These policies fostered the blatantly superficial execution of child welfare duties.

110. In some cases, these policies also resulted in fraudulent acts by caseworkers who

were conditioned to believe in the priority of completed paperwork.

111. The ease with which Leekin was able to take advantage of the City's child welfare system on such a grand scale epitomizes the unconstitutional policies and practices that served as the impetus for *Marisol A. v. Giuliani*, a federal class-action lawsuit filed in December 1995.

112. The City's unconstitutional policies and practices that served as the impetus for *Marisol A. v. Giuliani*, a federal class-action lawsuit filed in December 1995, allowed Judith Leekin to obtain custody of the Plaintiffs and to obtain fraudulent adoption decrees using four phony aliases.

113. The suit was brought on behalf of all children who were or would be in the custody of ACS and sought declaratory and injunctive relief to prevent the continuing federal and state constitutional and statutory violations.

114. As a result of the *Marisol A.* litigation, ACS entered in to a consent decree in federal court which created a Special Child Welfare Advisory Panel (the "Panel"), consisting of child welfare leaders from across the country to conduct an intensive review of the City's child welfare system and advise the City and ACS on how to correct, fix, and reform the system.

115. The *Marisol A.* litigation and the Panel's review revealed Defendants' deliberate disregard of its fundamental duties and a system that was failing children at every level of care including:

a. ACS failed to fulfill its legal obligations to monitor and supervise children in its care through accountability of its voluntary agencies;

b. ACS permitted children to remain under the supervision of voluntary agencies that it knew were completely failing to provide adequate care for the children;

c. The information system or lack thereof, was so poor that ACS and the voluntary agencies had conflicting data on how many children were under their care at any given time;

d. Thousands of children were effectively missing from care, because ACS did not have an accurate placement address;

e. ACS computer systems were virtually non-functional, providing no accurate and up-to-date information, and caseworkers spent fifty to sixty percent of their time completing paperwork;

f. Case files were incomplete and disorganized, and the physical transfer of paperwork from worker-to-worker or unit-to-unit could take months and frequently resulted in missing files;

g. Caseworkers received only twenty days of training prior to entering the field, the majority of which focused on filling out forms and completing paperwork rather than child development and how to make assessments, judgments, and provide services in accordance with professional child welfare standards of care;

h. Defendants not only continued to employ caseworkers who failed the pre-service training examination, but also sent them into the field with full caseloads despite not having demonstrated any level of competency in child welfare;

i. Children were frequently denied their right to remain or be reunited with their birth families, because of Defendants' failure to conduct adequate assessments, provide appropriate services, and assist families in complying with their case plan tasks;

j. Furthermore, Defendants failed to keep siblings together in foster care because of convenience of placements;

k. Licensing home studies, investigations, and monitoring of foster and preadoptive homes were wholly superficial in nature, and foster license recertification requirements were often disregarded;

l. Many individuals licensed as foster parents were at best, completely unqualified and sometimes, like Judith Leekin, were simply interested in the additional income;

m. Defendants tolerated and/or turned a blind eye to behavior from foster parents that would have otherwise been reported as abuse or neglect by birth parents;

n. When foster parents lost their certifications with one agency, they could easily become certified through another voluntary agency, because ACS had no information system in place to keep track of applicant and active foster families, their training, certification status, and capacity;

o. Defendants placed children in an emergency and *ad hoc* fashion, with no regard to the child's specific needs or whether the foster parent(s) had been appropriately screened and/or trained;

p. In addition, because of a lack of sufficient placements, especially for special needs children, such children, like Plaintiffs, were often placed inappropriately without regard for their safety or well-being;

q. Defendants had massive turnover rates of caseworkers and supervisors, which disrupted the continuity of care of foster children;

r. R.E., for example, had at least eight (8) different caseworkers during the three (3) years he was in Leekin's care prior to adoption finalization, and J.L and T.L. had at least seven (7) different case workers during the two (2) years they were in Leekin's care prior to adoption finalization;

s. In addition, missing and incomplete case files made it extraordinarily difficult for new caseworkers to familiarize themselves with a particular child and for existing caseworkers to adequately assess and monitor a child's care; and,

t. Children who came into care with physical or psychological conditions further deteriorated in Defendants' custody because of inadequately trained caseworkers and foster parents, failure to conduct required visitations, deliberate ignorance of abuse and neglect in foster homes, and failure to ensure provision of appropriate services.

116. The failures that prompted the *Marisol A.* class action were already known and disregarded by Defendants through a series of notices, studies and reports revealed in the *Marisol A.* litigation prior to and before the adoption of the Plaintiffs, including but not limited to:

a. In 1988, the year of S.B.'s adoption and L.J.'s and J.G.'s placement, the City's Human Resource Administration ("HRA") reported that legally mandated foster home visits only occurred in 49 percent of the cases, and that barely half of the caseworkers and case managers were formally trained;

b. In 1989, the year of S.W.'s placement, the City Comptroller's Office reported that ACS fraudulently altered dates and backdated forms in 22 percent of cases in order to document compliance with case planning requirements;

c. In 1993, the year after R.E.'s, J.B.'s, C.B.'s, and T.G.'s placements, and the year of L.J.'s and J.G.'s adoptions, another report authored by Carol W. Williams from the Center for the Study of Social Policy in Washington, D.C. concluded that communication and transfer of information between ACS and the voluntary agencies was "cumbersome and frequently never completed," critical information about children in care was often difficult if not impossible to find due to incomplete and disorganized case files, the City severely lacked appropriate special needs placements, the entire system suffered from staffing, training, and supervision problems, and that ACS's computer system did not support good social work practice;

d. The Court's Committee of the Mayor's Commission for the Foster Care of Children also reported in 1993 that caseloads were unacceptably high and unmanageable, precluding necessary face-to-face contacts; and,

e. In 1994, the year of S.W.'s, J.B.'s, C.B.'s, and T.G's adoptions and T.L.'s and J.L.'s placements, the State Comptroller found that ACS failed to properly monitor and supervise the care provided to children by voluntary agencies and failed to ensure that the services provided by those agencies were sufficient to meet children's needs and goals.

117. The current ACS Commissioner, John Mattingly, was a member of the Panel and therefore became aware no later than that time of the systemic failures throughout the applicable time period.

118. Notwithstanding Commissioner Mattingly's and Defendants City's and ACS's knowledge of the systemic failures, they failed to take any action to determine if there were children who had been placed in unsafe foster care placements that were ultimately adopted by such parents, like Plaintiffs, even after John Mattingly became the ACS Commissioner.

119. Notwithstanding Commissioner Mattingly's and Defendants City's and ACS's knowledge of the systemic failures, they failed to take any action to determine if there were adoptive parents who were fraudulently receiving adoption assistance payments, like Leekin, even after John Mattingly became the ACS Commissioner. Such a determination would have resulted in the rescue of the children years prior to their actual rescue by the State of Florida.

120. Defendants' repeated failures to perform their duties and their pervasive pattern and practice of omissions reveals deliberate indifference to the specific duties imposed upon

them for the purpose of safeguarding Plaintiffs from abuse.

LEEKIN FOSTER HOMES

121. From approximately 1984 through 1988, Leekin, using four false identities, became a licensed foster parent with each of the Defendants—all at the same address of 137-48 226 Street, Laurelton, NY 11413 ("Laurelton home").

122. As early as November 1984, Leekin became a licensed foster parent with Defendant SCO, using the false identity of Anne Marie Williams.

123. From at least 1986 through 1988, ACS and SCO permitted Leekin to have up to six special needs children in her foster home at one time, including Plaintiff S.B.

124. Defendant SCO did not determine Leekin's false identity or ascertain her true identity by using the most basic of background checks, searches, collateral contacts, interviews of neighbors, review of utility bills or deeds, or following the minimum basic standard of care for child welfare practice.

125. While Leekin simultaneously continued to foster S.B. and other children as Anne Marie Williams, under the alleged supervision of SCO and ACS, Leekin became licensed, at the same Laurelton home, with the City's Division of Adoption and Foster Care Services ("DAFCS") using the false identity Cheryl Graham.

126. From March 1988 through February 1989, ACS and DAFCS placed three additional extraordinarily handicapped children, including Plaintiffs L.J. and J.G., in Leekin's care.

127. Defendant City, through DAFCS, did not determine Leekin's false identity or ascertain her true identity by using the most basic of background checks, searches, collateral contacts, interviews of neighbors, review of utility bills or deeds, or following the minimum

basic standard of care for child welfare practice.

128. Defendant HHS first met Leekin in 1987, when using the identity Eastlyn Giraud, she posed as the retired mother of Cheryl Jack ("Jack"). Jack became an HHS licensed foster parent in 1987, also using the same Laurelton home where Leekin lived, and posing as Leekin's daughter.

129. Leekin, as Eastlyn Giraud, acted as the caregiver while her alleged daughter worked and went to school.

130. From 1987 through 1996, HHS placed at least eight special needs children in Leekin's home, including Plaintiffs T.L. and J.L.

131. In or about 1987, while simultaneously fostering approximately 6 children with SCO and another 3 children with HHS, all in the Laurelton home, Leekin became a licensed foster parent with SJSC using the false identity, Michelle Wells.

132. As of the date of S.W.'s placement in 1989, Leekin had completed her first adoption and was actively fostering at least 9 special needs children of varying ages from newborn to 9 years of age—in the same home—through three different agencies, using three false identities.

133. From at least 1989 through 1992, SJSC permitted Leekin to have at least up to 5 special needs children in her foster home at one time, including Plaintiffs S.W., R.E., J.B., C.B., and T.G.

134. Defendant SJSC did not determine Leekin's false identity or ascertain her true identity by using the most basic of background checks, searches, collateral contacts, interviews of neighbors, review of utility bills or deeds, or following the minimum basic standard of care for child welfare practice.

135. Sometime in 1994, Leekin, as Eastlyn Giraud, finally applied with HHS to be "added to" the Jack foster home license.

136. In that capacity, HHS placed an additional and final sibling group, Plaintiffs T.L. and J.L. in the Leekin home.

137. By this time, Leekin had finalized the fraudulent adoptions of S.B., L.J., J.G., J.B., C.B., and T.G. and continued to foster S.W. and R.E. through SJSC.

138. Defendant HHS did not determine Leekin's false identity or ascertain her true identity by using the most basic of background checks, searches, collateral contacts, interviews of neighbors, review of utility bills or deeds, or following the minimum basic standard of care for child welfare practice.

LEEKIN PROFITED FROM DEFENDANTS' DELIBERATE INDIFFERENCE

139. Leekin's ability to carry out her scheme can be directly tied to the unconstitutional policies and practices and systemic failure described above.

140. Had a single system, agency, or individual operated in accordance with professional child welfare standards, this entire tragedy could have been averted.

Perfunctory Background Checks

141. Leekin's ability to ever become a licensed foster parent using blatantly false identities and background information underscores the unconstitutional "form over substance" policy described above.

142. As long as the applicant provided the minimum paperwork, all information contained therein was presumed to be accurate.

143. Leekin provided nothing but manufactured and fraudulent paperwork to support her alleged identities, employment, housing, and references.

144. Leekin utilized wholly concocted identities with each and every application to become a licensed foster parent with Defendant SCO (Plaintiff S.B.), she claimed to be Anne Marie Williams; with Defendant HHS (Plaintiffs T.L. and J.L), she claimed to be Eastlyn Giraud; with DAFCS (Plaintiffs L.J. and J.G.), she claimed to be Cheryl Graham; and, with Defendant SJSC (Plaintiffs S.W., R.E., J.B., C.B., and T.G.), she claimed to be Michelle Wells. None of these individuals actually existed, but for Leekin manufacturing them as aliases.

145. At least as to Defendants HHS and SJSC, Leekin provided stolen social security numbers.

146. Not only did these social security numbers belong to other individuals, but the number provided to SJSC actually belongs to a male.

147. Accordingly, Defendants failed to conduct even the simplest social security number verifications to confirm Leekin's identity.

148. Leekin presented each Defendant with an alleged daughter, for whom she also provided false identities—with DAFCS, her daughter was Ann Jackson, and with SJSC, her daughter was Nicole Cheryl Wells and then Nicole LeeSang.

149. Leekin's alleged daughter was always the back-up guardian for the children in her care in the event of death or incapacity.

150. In fact, Leekin has no daughter.

151. Upon information and belief, these identities were also manufactured and/or stolen in the same manner that Leekin created her own aliases and never verified.

152. Defendants failed to uncover the falsity of such identities, which could have easily been discovered with the most basic verifications.

153. Leekin not only claimed to have a daughter, but not a single Defendant ever

realized that Leekin had a biological son living in the home which would have affected the outcome of each application to foster and/or adopt Plaintiffs.

154. Had Defendants made any collateral contacts with neighbors, they would have discovered that she had a biological son, because he played with the neighbors' children.

155. The most incredible of these daughter identities, however, is Cheryl Jack.

156. Cheryl Jack is in fact a real person, who assisted Leekin by posing as the alleged daughter of one of her aliases, Eastlyn Giraud.

157. As discussed in paragraph 128, Jack was the original foster parent licensee with HHS in 1987. However, sometime between 1991 and 1992, while Jack was actively fostering a child not a plaintiff in this case, she entered the military and ultimately left the United States.

158. At this time, Leekin then recruited an unknown individual to assume Jack's identity, yet HHS inexplicably failed to identify that the face of their licensed foster mother had changed, and processed the adoption of this child.

159. Leekin also provided each agency with the same employer information. Although her length of alleged employment and income changed between Defendants and over time, under each alias, Leekin claimed to be employed by NY Life Insurance, working from home as either a secretary or a life insurance agent.

160. Defendants failed to uncover the falsity of such employment information, which could have easily been discovered with the most basic verifications.

161. Leekin claimed to have health and life insurance through her employer, and she provided each agency with the same policy information.

162. Defendants failed to uncover the falsity of such information, which could have easily been discovered with the most basic verifications.

163. As additional basis for income, Leekin provided each agency with nearly identical checking, savings, and money market account information.

164. Defendants failed to uncover the falsity of such accounts, which could have easily been discovered with the most basic verifications.

165. Upon information and belief, no persons named Anne Marie Williams, Eastlyn Giraud, Cheryl Graham, or Michelle Wells ever worked for NY Life Insurance or maintained any such insurance or accounts.

166. Leekin also changed her purported religion to suit each foster care agency and the children she sought to adopt.

167. During her 10 year history with HHS, every worker failed to notice that her purported religion changed based upon the religion of the children she sought to adopt.

168. With each new religion and identity, Leekin claimed to be actively involved with the corresponding local church. In some instances, her volunteer work with a particular church group was offered as a qualification for caring for special needs children.

169. Defendants failed to uncover the falsity of such information, which could have easily been discovered with the most basic verifications of collateral contacts at each church.

170. Although Leekin's alleged daughter was always presented as the back-up guardian, Defendants also required emergency back-up contacts.

171. HHS licensing recertification reports indicate that the person who is to act as the emergency contact. This individual changes every year, despite listing the same address of the contact as 144-27 221st Street, Rosedale NY.

172. In 1988, the contact was Eastlyn Giraud; in 1990, the contact is Sonja LeeSang; in 1991, it is Judith S. Johnson; in 1992, it is Judith Lee-kin.

173. Leekin had become so emboldened by the system's utter failures that she actually used her own name as an emergency contact.

174. HHS did not confirm the existence of these contacts, who any of them were, or what their relationships were to the licensed caregiver, because all of the above listed names are Leekin identities.

ACS's Lack of Centralized System

175. ACS's lack of an information system designed to track foster families and foster children enabled Leekin to become separately licensed with and receive placements from four different agencies, all under the alleged supervision of ACS, while using the same Laurelton address, despite the law prohibiting multiple licenses to the same person and/or address.

176. In the span of just three years, Leekin became licensed with three different voluntary foster care agencies and DAFCS.

177. Although she utilized false identities that should have been discovered by appropriate background checks, she also used the same address for each license, which would have been revealed through the most basic of information systems designed to track foster care and licensees.

178. Defendants placed at least nine children at the same Laurelton address at any one time, and the City and ACS continued to process and mail foster care payments for those children to four different identities at the same address.

179. Defendants City and ACS continued to process and mail adoption assistance payments for Plaintiffs to four different identities at the same address both in the State of New York and after Leekin moved Plaintiffs to Florida in 1998.

180. Demonstrating deliberate indifference to Plaintiffs' constitutional rights,

Defendants City and ACS had no system in place to track such payments, thereby enabling Leekin to continue to collect subsidies at the same address under four false identities until Plaintiffs were rescued in 2007.

181. Whether through tracking foster licenses, locations of children in care, or payments to foster parents, any centralized system or basic computer checks would have uncovered Leekin's multiple licenses, false identities, or simply the volume of foster children living at one address.

Failure to Train, Massive Turnover Rates, and Deliberate Ignorance

182. Whether from a lack of training, massive turnover rates, failure to perform appropriate visitations, or a culture of deliberate ignorance, Defendants' caseworkers responsible for the safety and well-being of children in the City's custody either failed to identify or deliberately ignored evidence that Leekin was acting fraudulently and that Plaintiffs were being abused and/or neglected while in her care.

183. Defendants failed to conduct appropriate home visits in reckless disregard of Plaintiffs' safety.

184. Unannounced home visits are standard child welfare practice, yet every home visit was scheduled with Leekin in advance.

185. Leekin often changed the dates and times or brought Plaintiffs into the agency instead, and on several occasions, she failed to keep scheduled home visit appointments.

186. Even when there were face-to-face contacts, Defendants interviewed Plaintiffs in Leekin's presence, who are often noted in progress notes as only responding with Leekin's prompting.

187. The standard of care requires child interviews to be done outside of the presence

of the caregiver. Abused children are rarely, if ever, going to say something is wrong while their abuser is standing there.

188. With special needs children, the requirements are greater, because these children are often unable to express themselves, as was the case with several of the Plaintiffs.

189. Defendants' case workers ignored the most basic of warning signs and red flags when performing their visitations to the Plaintiffs.

190. The majority of the visits consisted of nothing more than a brief conversation with Leekin, who reported everything was fine, and an eyeball of the children who appeared to be dressed nicely and clean.

191. Defendants not only ignored repeated threats and doubts expressed by Leekin about adopting several of Plaintiffs because of their behavior problems, but continued to place and/or leave Plaintiffs and other special needs children in her care and ultimately recommended such adoptions.

192. As the first agency to license Leekin as a foster parent, Defendant SCO was uniquely positioned to prevent every subsequent license, placement, and adoption had it not acted with deliberate indifference to S.B.'s rights, and as such, is liable to each of the Plaintiffs in this lawsuit.

193. Leekin threatened SCO with surrender of the children in her care, and SCO deliberately ignored this substantial risk to S.B.'s safety.

194. When confronted about her failure to keep a home visit appointment with S.B.'s guardian ad litem, Leekin stated that if they did not like how she did things, then she would surrender all of the foster children in her care and simply go to another agency.

195. Leekin's threat to surrender S.B. to SCO was a "red flag" that should have resulted

in SCO removing S.B. for her custody.

196. As the second agency to place children in Leekin's care and the only agency who did so over the course of the entire ten-year period of Leekin's fostering and adoptions, HHS was also uniquely positioned to prevent every subsequent license, placement, and adoption.

197. Defendant HHS ignored substantial risks of harm to children in Leekin's care and deliberately ignored those risks when it placed Plaintiffs T.L. and J.L. in her home.

198. In 1988, HHS placed a newborn in Leekin's care (through the Jack license), who died within less than a month in the Leekin home from "crib death."

199. It is standard child welfare practice to investigate deaths occurring in a foster home, to ensure that other children in the home are not at risk of harm.

200. Upon information and belief, neither Defendants ACS nor HHS conducted an appropriate investigation into the infant's death.

201. An appropriate investigation into the infant's death would have revealed that Leekin had four (4) additional children, three of whom were Plaintiffs S.B., L.J., and J.G., in her home at that time through two other agencies.

202. Defendant City, through DAFCS, placed J.G. in Leekin's home just two days following the infant's death.

203. Beginning in 1990 and for the remaining six years of the Jack/Giraud foster home, Leekin claimed the living room was under construction due to remodeling.

204. Upon information and belief, Leekin sometimes used the living room as a place to keep children tied up and/or otherwise restrained.

205. There is no indication that Defendant HHS ever questioned the legitimacy of Leekin having a barren and allegedly under construction living room for six years, which was

another red flag.

206. HHS workers repeatedly noted that Jack seemed to be under the influence of her mother (Leekin), that both she and Leekin consistently caused difficulty in arranging the annual licensing visits, and that they both seemed willing to go along with whatever rules got them what they wanted.

207. HHS continued to recertify the home and place children in Leekin's care in gross disregard of Plaintiffs' rights.

208. On January 5, 1995, Jack notified HHS that she no longer wanted to adopt Plaintiffs T.L. and J.L. and gave HHS ten days to remove the children from her home.

209. Despite this surrender constituting a known substantial risk to Plaintiffs, HHS not only negotiated with Leekin to keep the children in her home, but recommended and processed their adoptions.

210. The foregoing letter of surrender of Plaintiffs T.L. and J.L. was another red flag that should have caused Plaintiffs to be removed from the Leekin home.

211. As the third agency to license Leekin as a foster parent, Defendant City, through DAFCS, was uniquely positioned to prevent every subsequent license, placement, and adoption had it not acted with deliberate indifference to J.G.'s and L.J.'s rights, and as such, is liable to each of the Plaintiffs in this lawsuit.

212. As the fourth agency to license Leekin as a foster parent, Defendant SJSC was uniquely positioned to prevent every subsequent placement and adoption had it not acted with deliberate indifference to S.W.'s, R.E.'s, J.B.'s, C.B's, and T.G.'s rights, and as such, is liable to each of the Plaintiffs in this lawsuit.

Lack of Appropriate Placements

213. Defendants City and ACS knew that it had insufficient placements available for special needs children.

214. ACS knew that it was dangerous to place multiple special needs children in one home and in some instances, such as Plaintiffs S.W. and R.E., used this as its justification for dividing sibling groups.

215. ACS specifically found that because S.W. and his two natural siblings were all special needs children and required additional supervision that it would be difficult for one foster mother to care for these three children.

216. As a result of this finding, ACS concluded that S.W. and his two natural siblings should not be reunited.

217. With this knowledge and with deliberate and reckless disregard for the known substantial risk of harm to all of the children, Defendant SJSC, with ACS's approval, placed four additional special needs children, Plaintiffs R.E., J.B., C.B., and T.G., in the Leekin home with S.W., and processed the adoptions of all five children.

218. As the agency that placed the second group of Plaintiffs in Leekin's care, L.J. and J.G., DAFCS was also uniquely positioned to prevent every subsequent license, placement, and adoption had it not acted with deliberate indifference to their rights.

219. Plaintiffs L.J. and J.G., and an additional child who has been missing since 2001 and is believed to be dead, were all profoundly handicapped children.

220. In reckless disregard and deliberate indifference to the known substantial risk to Plaintiffs' safety, DAFCS, with ACS's approval, knowingly placed all three of these children in Leekin's home and processed their adoptions.

221. At one time, Plaintiff R.E.'s goal included reunification with some of his six natural siblings.

222. When Leekin was informed of this goal and the possibility of R.E. being removed from her home and placed with the other voluntary agency responsible for R.E.'s siblings, Leekin demanded that SJSC do something to prevent R.E.'s reunification.

223. Based upon Leekin's demands, SJSC requested and received ACS's approval to leave R.E. in the Leekin home and processed his adoption.

224. SJSC and ACS acted in direct violation of R.E.'s constitutional right to maintain his sibling relationships and with deliberate and reckless disregard of the risk of substantial harm resulting from placement in a home with four other special needs children.

225. Plaintiffs T.L. and J.L. were originally placed in the kinship home of their paternal aunt, who repeatedly expressed desire to adopt T.L. and J.L.

226. Defendants HHS and ACS negotiated mere visitation between Plaintiffs and their aunt, failed to act when those visitations did not occur, and ultimately processed their adoptions by Leekin who promptly cut them off from their birth families.

227. Plaintiffs had no means by which to protect their rights so long as they remained in the custody of their abuser, which did not cease until they were rescued by the State of Florida on July 10, 2007.

228. Until Plaintiffs were rescued and the truth as to Leekin's fraud and their own histories were uncovered and revealed to them, Plaintiffs could not and should not have known of the injuries that are the subject of this action.

229. At the time of removal, and as a result of a lifetime of abuse, neglect, being secreted from society with no education, and their respective psychological and physical

disabilities, Plaintiffs did not have the ability or the mental capacity to comprehend the nature of their circumstances.

230. Additionally, at the time of their rescue, Plaintiffs R.E. and T.L. were minors, and T.G. and J.L. are still minors as of the date of this Complaint. Plaintiffs J.G., L.J., S.B., and S.W. were declared incompetent adults and did not have guardians appointed until May 2008.

COUNT I – 42 U.S.C. § 1983 AGAINST DEFENDANTS CITY AND ACS

231. Plaintiffs hereby reaver and reallege paragraphs 1 through 230 as if fully set forth herein.

232. At all times relevant hereto, it was clearly established that children in the physical custody of the state had the right to be safe and free from unreasonable risks of harm.

233. At all times relevant hereto, Defendants City and ACS created the opportunity for Plaintiffs to be permanently placed and adopted by fictitious persons and threw Plaintiffs into the Leekin snake-pit as a result of their unconstitutional practices and policies.

234. At all times relevant hereto, Defendants City and ACS had no system in place to track foster children or parents, and thereby no means with which to ensure that they were not issuing and/or approving multiple licenses to one person at one address or to determine and/or verify how many foster children were residing at one address.

235. At all times relevant hereto, Defendants City and ACS had an unconstitutional practice and policy of unlawfully delegating its legal duties to ensure the safety and well-being of children in its care and to protect Plaintiffs from harm to the Defendant Agencies.

236. At all times relevant hereto, Defendants City and ACS had an unconstitutional practice and policy of relying solely on the information provided in the UCRs and other paperwork by the Defendant Agencies, with no procedure in place to verify that the information

being reported was accurate and/or complete.

237. At all times relevant hereto, Defendants City and ACS had an unconstitutional practice and policy of prohibiting its caseworkers from making direct contact with foster children and foster parents in deliberate disregard of Plaintiffs' safety and well-being.

238. At all time relevant hereto, Defendants City and ACS operated an unconstitutional child welfare system in the City and were aware of the dysfunctional bureaucracy, operating under unconstitutional policies and practices that demonstrated their deliberate disregard for the safety and well-being of Plaintiffs, whom they were duty-bound to protect.

239. Defendants City and ACS had actual knowledge of the following:

a. Actual knowledge based upon the 1988 report of the City's Human Resource Administration that caseworkers were not conducting mandatory home visits in fifty-one percent of the cases;

b. Actual knowledge based upon the 1988 report of the City's Human Resource Administration that nearly half of the City's caseworkers and case managers were not formally trained;

c. Actual knowledge based upon the City Comptroller's Office in 1989 that twenty-two percent of the paperwork submitted to ACS was inaccurate or fraudulent;

d. Actual knowledge again in 1993 regarding the failure to conduct necessary face-to-face contacts as a result of unacceptably high and unmanageable caseloads from the Court's Committee of the Mayor's Commission for the Foster Care of Children;

e. Actual knowledge no later than 1993 that ACS often did not receive critical information regarding children in its custody, because communications from its voluntary agencies was often incomplete or impossible to find;

f. Actual knowledge no later than 1993 that the City severely lacked appropriate special needs placements;

g. Actual knowledge that the ACS computer system did not support good social work practice; and,

h. Actual knowledge no later than 1994, when the State Comptroller found that ACS failed to properly monitor and supervise the care provided to children by the City's voluntary agencies.

240. Despite actual knowledge of the substantial risk of serious harm resulting from the lack of face-to-face contacts over half of the time, Defendants City and ACS failed to change its policies and practices with deliberate disregard for Plaintiffs' safety and well-being.

241. Despite actual knowledge of the substantial risk of serious harm posed by incomplete, grossly inaccurate, or fraudulent UCRs and other mandatory paperwork from Defendant Agencies, and with deliberate disregard for Plaintiffs' safety and well-being, Defendants City and ACS failed to change its policy of prohibiting direct contact with foster children or any other policy or practice that would enable ACS to check the accuracy of the information being provided.

242. Despite actual knowledge of the substantial risk of serious harm resulting from a lack of appropriate special needs placements, Defendants City and ACS failed to ensure the availability of such placements.

243. Despite the failure to ensure the availability of special needs placements, Defendants City and ACS simultaneously pressured its caseworkers and Defendant Agencies to place and adopt special needs children, which resulted in a substantial risk of serious harm from inappropriate placements.

244. Despite actual knowledge of the substantial risk of harm caused by untrained caseworkers and case managers, and with deliberate disregard of Plaintiffs' safety and well-being, Defendants City and ACS continued place and/or permit Defendant Agencies to place untrained workers in the field and assign them massive caseloads.

245. Despite actual knowledge of the substantial risk of harm posed by the City's voluntary agencies who were not meeting minimum child welfare standards and with deliberate disregard for Plaintiffs' safety and well-being, Defendants City and ACS failed to change its policies regarding supervision of children in the City's custody and continued to place children with Defendant Agencies.

246. Over the course of a decade, Leekin fostered at least 22 special needs children, including Plaintiffs, with up to 9 such children in her home at any one time.

247. Defendants City and ACS, through their unconstitutional policies, practices, deliberate indifference, and repeated acts of negligence, facilitated Leekin's ability to foster and adopt Plaintiffs and to collect substantial subsidies.

248. Defendants City and ACS, through their unconstitutional policies, practices, deliberate indifference, and repeated acts of negligence, failed to uncover Leekin's scheme, which was so easily discoverable at every turn had they discharged their most basic constitutional and statutory duties.

249. At all times relevant hereto, Defendants' unconstitutional practices and policies caused Plaintiffs to suffer in Leekin's custody and be robbed of their right to family.

250. The Circuit Court of the Nineteenth Judicial Circuit, in and for Port Saint Lucie County, Florida, which has jurisdiction over Plaintiffs R.E., T.G., T.L. and J.L. by virtue of their dependency case, found the adoptions *void ab initio*.

251. The court held that:

> Under New York law, the adoption of children under fraudulent conditions makes the adoptions not merely voidable but void. If an adoption is premised upon underlying facts which have since been rejected, there is no reason to treat an adoption order any differently than any other order. By using false names to adopt the children, Ms. Leekin did commit a fraud upon the court in New York. As a result, the adoptions entered by that court are void ab initio. Adoption law in New York is purely statutory. If any essential requirement of the statute is not complied with, the court's power to decree an adoption fails. The identity of the adopting parent is a prerequisite to the court securing jurisdiction. As a result of the fraud, the court lacked the necessary elements required to enter an adoption decree, rendering those decrees that were entered void...the result of this is that the children were at all times wards of the City of New York. They now find themselves without caretakers, essentially abandoned in the state of Florida and therefore dependent.

252. The adoptions of the six Plaintiffs who were adults at the time of rescue in July 2007, namely, S.B., L.J., J.G., S.W., J.B., and C.B., are also *void ab initio* on the same grounds. Specifically, because Leekin utilized false identities to adopt Plaintiffs and the identity of the adopting parent is a prerequisite under New York law to the court securing jurisdiction, the Family Court of the State of New York lacked jurisdiction to enter Plaintiffs' adoption decrees.

253. Because all of the purported adoptions were *void ab initio*, Plaintiffs, as a matter of law, were never adopted and remained legally the wards of the City of New York and the foster care agencies, entitling them to all of the constitutional, statutory, and common law rights of foster children until no earlier than July 10, 2007.

254. At all times relevant hereto, Defendants City and ACS knew that their practices and policies created a substantial risk of serious harm to children in its care and deliberately failed to choose reasonable alternatives to those practices and policies in deliberate disregard of Plaintiffs' constitutional right to be free from harm.

255. At all times relevant hereto, Defendants City and ACS knew that children in

overcrowded foster homes were at a substantial risk of serious harm because of their failure to appropriately establish a minimally adequate system of placements and adoptions for special needs children in the City of New York, where it could place, monitor, and protect these children, including Plaintiffs.

256. The failures of Defendants' unconstitutional system continued from foster placements, to the purported adoptions, through to the present.

257. Plaintiffs' foster care files contain substantial information that should have immediately set off the alarms, but for the unconstitutional practice and policy of failing to supervise Plaintiffs and their respective Defendant Agencies:

a. Leekin threatened Defendant SCO with surrender all of the children and that she would go find another agency if they did not like the way she did things;

b. Leekin often rescheduled home visit appointments or simply was not at home when the caseworker arrived;

c. School staff complained that Leekin was never involved and failed to return phone calls; and,

d. Several of the children in her care went into the home being sweet, kind, and well behaved despite their disabilities, and suddenly after one year or more in her care, they became violent, aggressive, and displayed severe behavioral problems, and she often indicated she may not want to adopt the children because of these problems. These are clear signs of deterioration that were ignored.

258. However, Defendants deliberately failed to learn this information by virtue of its failure to verify that the information the Defendant Agencies provided was accurate and its prohibition against direct contact with foster children or parents.

259. At all times relevant hereto, Defendants City and ACS acted with deliberate indifference to Plaintiffs' safety by approving their placement in the Leekin home knowing the substantial risks of serious harm of placing multiple special needs children together in one home. Defendants were deliberately indifferent to said conditions and knowingly and recklessly failed to take action which would ensure Plaintiffs' safety.

260. At all times relevant hereto, Defendants City and ACS knew or deliberately failed to learn through their unconstitutional policies and practices and repeated acts of negligence that any child, including Plaintiffs, that was placed in the Leekin foster home was at a substantial risk of serious harm.

261. At all times relevant hereto, Defendants City and ACS acted with deliberate indifference to Plaintiffs' rights to maintain relationships with their natural siblings and birth families as a result of their unconstitutional practice and policy of basing placements on convenience rather than the child's best interest.

262. Plaintiffs would not have been placed in Leekin's care, been permitted to remain in Leekin's care, or been adopted by Leekin but for Defendants City's and ACS's deliberate indifference to their constitutional rights.

263. As a direct and proximate result of Defendants' deliberate indifference while Plaintiffs were in the City's custody, Plaintiffs have suffered a lifetime of abuse—they have horrific physical injuries, scarring, psychological trauma from their imprisonment and inhumane treatment, pain and suffering, discomfort, deterioration, loss of the ability to enjoy life, loss of their entire education, loss of ability to work, loss of the ability of to have a permanent family, and suffered other reasonably foreseeable compensatory damages.

264. Plaintiffs will require services and treatment for the rest of their lives due to the

severe psychological trauma and other harms they have endured in Leekin's custody.

265. Plaintiffs are obligated to the undersigned firms for the payment of attorney's fees and seek recovery of reasonable attorney's fees pursuant to the provisions of 42 U.S.C. § 1988.

COUNT II – 42 U.S.C. § 1983 AGAINST DEFENDANTS SCO, HHS, & SJSC

266. Plaintiffs hereby reaver and reallege paragraphs 1 through 230 as if fully set forth herein.

267. At all times relevant hereto, Defendants SCO, HHS, & SJSC (collectively, "Defendant Agencies") acted under color of state law as agents of Defendants City and ACS, by operating in the traditionally public function of providing foster care services.

268. Defendant Agencies, through repeated acts of negligence and reckless indifference to Plaintiffs' safety and well-being, created the opportunity for Plaintiffs to be permanently placed and adopted by fictitious persons and threw Plaintiffs into the Leekin snake-pit by:

a. Failing to investigate and do minimum background checks, which would have revealed Leekin's four fictitious identities;

b. Failing to appropriately monitor Plaintiffs in their placement to ensure their safety and well-being; and,

c. Failing to acknowledge and act upon numerous red flags and warnings about Leekin, her intentions, and her ability and/or desire to care for Plaintiffs.

269. Defendant Agencies knew that failing to perform background checks on potential foster parents posed a substantial risk of serious harm to Plaintiffs, and they failed to conduct such checks with deliberate indifference to that known substantial risk.

270. Defendant Agencies knew that failing to appropriately monitor Plaintiffs while in Leekin's care posed a substantial risk of serious harm and failed to do so in deliberate disregard

of Plaintiffs' constitutional rights.

271. Defendants SCO and HHS knew that a foster parent's threat of surrender constitutes a substantial risk of serious harm, yet failed to act to protect the safety of Plaintiffs S.B., T.L., and J.L. in deliberate disregard of their constitutional right to be free from harm.

272. Defendant Agencies acted with deliberate indifference to Plaintiffs' safety by approving their placements in the Leekin home knowing the substantial risks of serious harm of placing multiple special needs children together in one home. Defendants were deliberately indifferent to said conditions and knowingly and recklessly failed to take action, which would ensure Plaintiffs' safety.

273. Defendant SJSC acted with deliberate indifference to Plaintiffs R.E's. and S.W.'s right to maintain relationships with their natural siblings when it opted to base placement and adoption by Leekin on her demands and convenience rather than the Plaintiffs' best interest.

274. Plaintiffs are obligated to the undersigned firms for the payment of attorney's fees and seek recovery of reasonable attorney's fees pursuant to the provisions of 42 U.S.C. § 1988.

COUNT III – NEGLIGENCE AGAINST DEFENDANT SCO

275. Plaintiff S.B. hereby reavers and realleges paragraphs 1 through 230 as if fully set forth herein.

276. Plaintiff had no means by which to protect his rights so long as he remained in the custody of his abuser, which did not cease until he was rescued on July 10, 2007.

277. Additionally, at all times relevant hereto, Plaintiff S.B. was unable to protect his legal rights because of an overall inability to function in society as a result of mental affliction. He was adjudicated incompetent in the State of Florida and not appointed a guardian until May 2008.

278. At all times relevant hereto, Defendant SCO owed a duty of reasonable care to S.B., both under the laws of the State of New York and the common-law by their special relationship.

279. Defendant SCO had the following duties:

a. New York state law required SCO to establish an appropriate procedure to review and evaluate an applicant's background;

b. To positively identify each person who was to foster and/or adopt a child;

c. To independently verify and substantiate that the information Leekin provided was true. Independent verification means going behind the information and documents provided and making collateral contacts to verify the following information:

i. Identity;

ii. Employment and income;

iii. Home ownership, address, loans, rental agreements;

iv. Familial relationships and family history;

v. Household composition;

vi. Religion;

vii. Education;

viii. References;

d. Both New York state law and the standard of care require monthly face-to-face contact with children to:

i. Evaluate any foster parent or prospective adoptive parent based upon prevailing standards; and,

ii. Investigate neglect and abuse in foster homes and prospective adoptive homes.

280. Defendant SCO breached its duties to S.B. by:

a. Failing to act in accordance with statutory requirements and professional child welfare standards of care;

b. Failing to conduct appropriate background investigation of Leekin prior to issuing her a foster care license and/or allowing her to adopt S.B.;

c. Failing to uncover Leekin's true identity, and that she lied on her applications;

d. Failing to contact and visit S.B. in accordance with the requirements for face-to-face visits and contacts, including failing to interview S.B. outside of Leekin's presence;

e. Placing S.B. in Leekin's home with five (5) other special needs foster children;

f. Repeatedly ignoring red flags and obvious signs that Leekin's motives for fostering and adopting were less than sincere:

i. Leekin often rescheduled home visit appointments or simply failed to keep already scheduled appointments.

ii. When confronted about why she failed to keep a home visit appointment, Leekin advised that if SCO did not like the way she did things, then she would surrender of all six children in her care, including S.B., and go to another agency.

iii. Staff members at S.B.'s school complained that Leekin was not involved at school and repeatedly failed to return phone calls;

iv. S.B. began to show signs of aggression and violence and deteriorating conditions while in Leekin's care, and Leekin often indicated her doubt about adopting S.B. as a result of his behavioral problems.

g. Ignoring significant behavioral changes that were reflective that S.B. was being abused; and,

h. Proceeding with adoption finalization, despite all indications that Leekin was not an appropriate candidate for adopting S.B.

281. S.B. would not have been placed in Leekin's care, been permitted to remain in Leekin's care, or been adopted by Leekin but for SCO's repeated breaches of its duties.

282. As a direct and proximate result of SCO's negligence while S.B. was in its care, S.B. has suffered a lifetime of abuse—he has suffered horrific physical injuries, scarring, psychological trauma from his imprisonment and inhumane treatment, pain and suffering, discomfort, deterioration, loss of the ability to enjoy life, loss of his entire education, loss of his ability to work, loss of the ability to have a permanent family, and suffered other reasonably foreseeable compensatory damages. S.B. will require services and treatment for the rest of his life due to severe psychological trauma and other harms that he endured in Leekin's custody.

COUNT IV – NEGLIGENCE AGAINST DEFENDANT SJSC

283. Plaintiffs S.W., R.E., J.B., C.B., and T.G hereby reaver and reallege paragraphs 1 through 230 as if fully set forth herein.

284. Plaintiffs S.W., R.E., J.B., C.B., and T.G had no means by which to protect their rights so long as they remained in the custody of their abuser, which did not cease until they were rescued on July 10, 2007.

285. Additionally, at the time of rescue, S.W. was unable to protect his legal rights because of an overall inability to function in society as a result of mental affliction. He was adjudicated incompetent in the State of Florida and not appointed a guardian until May 2008.

286. Additionally, at the time of rescue, J.B. and C.B. were unable to protect their legal rights because of an overall inability to function in society as a result of mental affliction.

287. Plaintiff T.G. is a minor as of the date of this complaint, and R.E. was a minor at the time of rescue.

288. At all times relevant hereto, Defendant SJSC owed a duty of reasonable care to Plaintiffs, both under the laws of the State of New York and the common-law by their special relationship.

289. Defendant SJSC had the following duties:

a. New York state law required SJSC to establish an appropriate procedure to review and evaluate an applicant's background;

b. To positively identify each person who was to foster and/or adopt a child;

c. To independently verify and substantiate that the information Leekin provided was true. Independent verification means going behind the information and documents provided and making collateral contacts to verify the following information:

i. Identity;

ii. Employment and income;

iii. Home ownership, address, loans, rental agreements;

iv. Familial relationships and family history;

v. Household composition;

vi. Religion;

vii. Education;

viii. References;

d. Both New York state law and the standard of care require monthly face-to-face contact with children to:

i. Evaluate any foster parent or prospective adoptive parent based upon prevailing standards; and,

ii. Investigate neglect and abuse in foster homes and prospective adoptive homes.

290. Defendant SJSC breached its duties to S.W., R.E., J.B., C.B., and T.G. by:

a. Failing to act in accordance with statutory requirements and professional child welfare standards of care;

b. Failing to conduct appropriate background investigation of Leekin prior to issuing her a foster care license and/or allowing her to adopt them;

c. Failing to uncover Leekin's true identity, and that she lied on her applications;

d. Failing to contact and visit Plaintiffs in accordance with the requirements for face-to-face visits and contacts, including failing to interview them outside of Leekin's presence;

e. Depriving S.W. of his right to be placed with his two natural siblings, also special needs children, because of the recognition that it would be too difficult for one foster parent to care for all three children, and then placing him in the Leekin home, where SJSC later placed Plaintiffs R.E., J.B., C.B., and T.G.;

f. Depriving R.E. of his right to be reunited with some of his natural siblings, who were placed with a different voluntary agency, because Leekin demanded SJSC do something to prevent that, and that is exactly what they did without regard to R.E.'s best interests;

g. Placing these five (5) special needs foster children together in Leekin's home despite known dangers;

h. Repeatedly ignoring red flags and obvious signs that Leekin's motives for fostering and adopting were less than sincere:

i. Leekin often rescheduled home visit appointments or simply failed to keep already scheduled appointments.

ii. Plaintiffs began to show signs of aggression and violence and deteriorating conditions while in Leekin's care, and Leekin often indicated her doubt about adopting S.W., R.E., and J.B. as a result of those behavioral problems;

i. Ignoring significant behavioral changes that were reflective that Plaintiffs were being abused; and,

j. Proceeding with adoption finalization, despite all indications that Leekin was not an appropriate candidate for adopting them.

291. S.W., R.E., J.B., C.B., and T.G would not have been placed in Leekin's care, been permitted to remain in Leekin's care, or been adopted by Leekin but for SJSC's repeated breaches of its duties.

292. Plaintiffs would not have been placed in Leekin's care, been permitted to remain in Leekin's care, or been adopted by Leekin but for SJSC's repeated breaches of its duties.

293. As a direct and proximate result of SJSC's negligence while Plaintiffs were in its care, Plaintiffs have suffered a lifetime of abuse—they have suffered horrific physical injuries, scarring, psychological trauma from their imprisonment and inhumane treatment, pain and suffering, discomfort, deterioration, loss of the ability to enjoy life, loss of their entire education, loss of their ability to work, loss of the ability to have a permanent family, and suffered other

reasonably foreseeable compensatory damages. Plaintiffs will require services and treatment for the rest of their lives due to severe psychological trauma and other harms that they endured in Leekin's custody.

COUNT V – NEGLIGENCE AGAINST DEFENDANT HHS

294. Plaintiffs T.L. and J.L. hereby reaver and reallege paragraphs 1 through 230 as if fully set forth herein.

295. Plaintiffs T.L. and J.L. had no means by which to protect their rights so long as they remained in the custody of their abuser, which did not cease until they were rescued on July 10, 2007.

296. Additionally, at the time of rescue, T.L. and J.L. were minors. J.L. remains a minor as of the date of this complaint.

297. At all times relevant hereto, Defendant HHS owed a duty of reasonable care to Plaintiffs, both under the laws of the State of New York and the common-law by their special relationship.

298. Defendant HHS had the following duties:

a. New York state law required HHS to establish an appropriate procedure to review and evaluate an applicant's background;

b. To positively identify each person who was to foster and/or adopt a child;

c. To independently verify and substantiate that the information Leekin provided was true. Independent verification means going behind the information and documents provided and making collateral contacts to verify the following information:

i. Identity;

ii. Employment and income;

iii. Home ownership, address, loans, rental agreements;

iv. Familial relationships and family history;

v. Household composition;

vi. Religion;

vii. Education;

viii. References;

d. Both New York state law and the standard of care require monthly face-to-face contact with children to:

i. Evaluate any foster parent or prospective adoptive parent based upon prevailing standards; and,

ii. Investigate neglect and abuse in foster homes and prospective adoptive homes.

299. Defendant HHS breached its duties to T.L. and J.L. by:

a. Failing to act in accordance with statutory requirements and professional child welfare standards of care;

b. Failing to conduct appropriate background investigation of Leekin prior to issuing her a foster care license and/or allowing her to adopt them;

c. Failing to uncover Leekin's true identity, and that she lied on her applications;

d. Failing to contact and visit Plaintiffs in accordance with the requirements for face-to-face visits and contacts, including failing to interview them outside of Leekin's presence;

e. Failing to review Leekin's foster parent file before issuing a new annual license. Had Defendants done this, they would have seen that Leekin went from being Baptist to being Catholic; she went from being retired to being employed for the past 17 years; she owned her home, but she rented it; and, she claimed her living room was being remodeled for 6 years straight, yet Defendants just kept on licensing her. If they did review her information, then they just ignored the obvious;

f. Repeatedly ignoring red flags and obvious signs that Leekin's motives for fostering and adopting were less than sincere;

g. Leekin often rescheduled home visit appointments or simply failed to keep already scheduled appointments;

h. Ignoring significant behavioral changes that were reflective that Plaintiffs were being abused; and,

i. Proceeding with adoption finalization, despite all indications that Leekin was not an appropriate candidate for adopting them.

300. Plaintiffs would not have been placed in Leekin's care, been permitted to remain in Leekin's care, or been adopted by Leekin but for HHS's repeated breaches of its duties.

301. As a direct and proximate result of HHS's negligence while Plaintiffs were in its care, Plaintiffs have suffered a lifetime of abuse—they have suffered horrific physical injuries, scarring, psychological trauma from their imprisonment and inhumane treatment, pain and suffering, discomfort, deterioration, loss of the ability to enjoy life, loss of their entire education, loss of their ability to work, loss of the ability to have a permanent family, and suffered other reasonably foreseeable compensatory damages. Plaintiffs will require services and treatment for the rest of their lives due to severe psychological trauma and other harms that they endured in Leekin's custody.

WHEREFORE Plaintiffs pray that this Honorable Court enter a judgment in Plaintiffs' favor against Defendants for all recoverable damages, attorneys' fees and costs and such other relief as the Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury of all issues so triable in this case.

DATED this 29 day of April, 2009.

Respectfully submitted,

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