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11 *and the Proposed Class*

12 UNITED STATES DISTRICT COURT
13 CENTRAL DISTRICT OF CALIFORNIA — RIVERSIDE DIVISION

14 **A.A.**, a minor, by and through her
15 guardian ad litem, and all others
16 similarly situated,

17 Plaintiffs,

18 v.

19 **County of Riverside**, a public
20 entity; **Karla Torres** and **Felicia**
21 **Butler**, individuals, together with
22 all others similarly situated,

23 Defendants.

Case No. 5:14-cv-2556

Complaint

Jury Trial Demanded
Class Action

24
25 In February 2013, when she was three days old, Plaintiff A.A. was snatched
26 by an employee of the Riverside County Department of Public Social Services
27 literally from the breast of her mother as they lay in the hospital recuperating
28 from a successful, safe delivery. Plaintiff was healthy and in no danger whatever;

1 her mother has no history of drug, alcohol, or tobacco use nor any history of
2 psychiatric treatment. Plaintiff was seized without a warrant by the same agency
3 that had unlawfully seized her four siblings months before and sent them into
4 foster care.

5 Tragically, this horrible violation of Plaintiff's most basic constitutional rights
6 is typical of the experiences of thousands of other children who have also been
7 seized by Riverside DPSS employees without any sort of warrant and without any
8 risk of serious injury. She now brings this class action to stop these violations
9 and obtain justice for herself and other children who were also seized without a
10 warrant.

11
12 Plaintiff makes the following allegations and claims against the County of
13 Riverside and Karla Torres, and all others similarly situated (collectively
14 "Defendants"), upon personal belief, investigation of her counsel, and on
15 information and belief:

16 1. This action is brought pursuant to 42 U.S.C. § 1983 to seek redress
17 for the actions of Defendants taken under color of law which deprived Plaintiff
18 and thousands of other children of their fundamental right to parental love,
19 affection, and custody secured to them under the United States Constitution,
20 including the First, Fourth, and Fourteenth Amendments, and under federal and
21 state law.

22 2. Jurisdiction is conferred on this Court by 28 U.S.C. §§ 1343(a)(3) and
23 1343(a)(4), which provide for original jurisdiction in this Court of all suits
24 brought pursuant to 42 U.S.C. § 1983. Jurisdiction is also conferred by 28 U.S.C.
25 § 1331 because the claims for relief derive from the United States Constitution
26 and the laws of the United States.

27 3. Because the acts and omissions complained of herein occurred in the
28 County of Riverside, and it is believed that all living Defendants currently reside

1 in the County of Riverside, venue is proper in the District Court for the Central
2 District of California, Eastern Division.

3
4 **Parties**

5 4. Plaintiff A.A. is a minor child born in the County of Riverside,
6 California, in February 2013. She resides in this District with her mother and
7 siblings.

8 5. Defendant County of Riverside was and is a public entity. At all
9 times relevant to the allegations set forth below, one of the administrative
10 subdivisions of the County of Riverside is the Department of Public Social
11 Services (“DPSS”).

12 6. Defendant Karla Torres is and was an individual residing in the
13 County of Riverside and employed by Defendant County of Riverside as a DPSS
14 Juvenile Dependency Investigator. As part of her job duties, she investigates
15 allegations of suspected child abuse and neglect.

16 7. Defendant Felicia Butler is and was an individual residing in the
17 County of Riverside and employed by Defendant County of Riverside as DPSS
18 supervisor and was Defendant Torres’ supervisor at all times relevant to the facts
19 and circumstances alleged herein. At each stage in the proceedings, from the
20 initial seizure of the children to the final report filed by her subordinate workers,
21 Defendant Butler is required to consult with, oversee, direct, and agree with
22 every step taken by her subordinate social workers and investigators, including
23 Defendant Torres, before the subordinate worker undertakes any task or action.
24 With respect to court reports of any kind, each such report is required to be
25 reviewed, approved of, and co-signed by Butler before it is filed. In addition,
26 Butler acted, at times, as a duty supervisor — meaning that when other
27 supervisors were not available for consultation, Butler would stand in and
28 perform supervisory duties.

1 Ms. Rogers was recovering normally from her surgery and delivery, required no
2 extraordinary medical care, and saw that neither Ms. Rogers nor her newborn
3 child were in the Intensive Care Unit. Torres further observed that Plaintiff was
4 healthy, and required no extraordinary medical care.

5 13. Despite these facts, and solely because there had been an earlier
6 dependency petition filed regarding Plaintiff's siblings, Torres seized the newborn
7 baby Plaintiff from her mother's care and custody.

8 14. There was no immediate threat to the child's health or safety at that
9 point in time, or at any point in time. Torres did not bother to seek a warrant, or
10 attempt to pursue some other less intrusive alternative means to "protect" the
11 child other than immediately seizing Plaintiff from her mother's care at the
12 hospital.

13 15. Notably, as per DPSS reports authored by Torres and Butler, there
14 were no health concerns as to the infant and Plaintiff received regular prenatal
15 care.

16 16. During her hospital interview, Ms. Rogers denied having a history
17 of alcohol, drug, psychiatric, or tobacco use. Torres observed and Butler knew
18 that Ms. Rogers was in fact "bonding with the infant and breast/bottle feeding."
19 In addition, Ms. Rogers demonstrated that she was prepared to care for her
20 newborn in that she had prepared provisions for the infant Plaintiff at the
21 paternal grandmother's home in Moreno Valley. For example, she had a stroller,
22 diapers, clothes, wipes, a changing table and a pack-n-play for Plaintiff to sleep
23 in. Defendants Butler and Torres knew all of these facts at the time they seized
24 or directed the seizure of Plaintiff from her mother's loving and tender care.

25 17. At the time she was seized, Plaintiff was doing well and was healthy.
26 Her mother was nursing her because she did not believe in bottle feeding.
27 According to Butler and Torres, Ms. Rogers appeared to be attentive and bonding
28 well with the baby. In spite of this, Torres and Butler together agreed after

1 consulting with each other to seize and detain Plaintiff — then three days old —
2 without first obtaining a warrant and in the absence of any exigent circumstance.

3 18. There was no immediate danger to A.A, a three-day-old infant in the
4 loving care of her mother, while both were admitted as patients in a hospital.

5 19. Neither Defendant Butler nor Defendant Torres had any reasonable
6 basis to believe that Plaintiff was in imminent danger of sustaining serious
7 bodily injury or death within the time it would have taken Defendants Butler
8 and Torres, or some other agent or employee of DPSS, to obtain a warrant
9 authorizing Plaintiff's seizure.

10 20. Upon information and belief, Plaintiff alleges that during a working
11 day afternoon (Plaintiff was seized on a Wednesday), an employee of DPSS can
12 obtain a warrant from a judge of the Superior Court in approximately two hours.
13 Alternatively, when a social worker at DPSS believes that there exists probable
14 cause to seize and remove a child from a parent's care, but there is no imminent
15 threat to the child's safety, the social worker can petition *ex parte* for a non-
16 custodial removal — a procedure that is expressly authorized by California
17 statute.

18 21. Neither Defendant Torres nor Defendant Butler, nor any other
19 employee of DPSS, obtained a warrant to remove Plaintiff from her mother's
20 custody and care before seizing Plaintiff.

21 22. Neither Defendant Torres nor Defendant Butler, nor any other
22 employee of Defendant County of Riverside, filed or sought a non-custodial
23 removal petition from the Superior Court before seizing Plaintiff from her
24 mother's care and custody.

25 23. Despite having no specific, reasonable, or articulable evidence that
26 Plaintiff was in imminent danger of sustaining serious bodily injury or death
27 within the short amount of time it would have taken to obtain a warrant, the
28 individual Defendants, and each of them, seized and detained A.A.

1

2 **Tolling**

3 24. **Discovery Rule.** Plaintiff's claims accrued upon discovery that she
4 was removed from her mother's care and custody without a warrant. Plaintiff is
5 typical of other members of the class of children similarly seized in that they did
6 not discover and could not have discovered this fact through reasonable and
7 diligent investigation until well after they were removed.

8 25. **Age of Majority.** The statute of limitations has been tolled by the
9 failure of many members of the Removal Class, including Plaintiff, to reach the
10 age of majority. The statute of limitations for the deprivation of constitutional
11 rights does not even begin to run until the victim reaches the age of majority,
12 which in California is eighteen years of age.

13 26. **Active Concealment Tolling.** The statute of limitations has also
14 been tolled by Defendant County of Riverside's knowing and active concealment
15 of the fact that only a credible threat of immediate death or serious bodily injury
16 can support the seizure of a child from her parents' care and custody in the
17 absence of a warrant. Defendants Torres and Butler, together with other
18 members of the Social Worker Class, kept Plaintiff and other class members
19 ignorant of vital information essential to the pursuit of their claims, without any
20 fault or lack of diligence on the part of Plaintiff or other class members.
21 Plaintiffs could not reasonably have discovered the fact that they were removed
22 from their parents' care and custody without a warrant.

23

24 **Plaintiff Class Action Allegations**

25 27. Plaintiff brings this action on behalf of herself and all other persons
26 similarly situated, under Federal Rules of Civil Procedure 23(b)(2) and 23(b)(3).

27 28. The class of persons that Plaintiff seeks to represent is defined as
28 follows:

1
2 All natural persons who, as minors, were seized from the care
3 and custody of their parents by the County of Riverside
4 without prior judicial authorization and in the absence of an
5 immediate threat of grievous bodily injury.
6

7 29. Excluded from the Class are Defendants, as well as the employees,
8 officers, executives, or directors of Defendant County of Riverside or any of its
9 subdivisions, along with the judicial officers assigned to this case, court
10 employees, and the attorneys of record in this case. Plaintiff reserves the right to
11 amend the Class definition if discovery and further investigation reveal that the
12 Class should be expanded or otherwise modified.

13 30. **Numerosity and Impracticability of Joinder.** The members of the
14 class are so numerous that joinder of all members as individuals would be
15 impracticable. Plaintiff is informed and believes, based upon the experience and
16 investigation of her counsel, and therefore alleges, that the number of Class
17 members exceeds five thousand persons. The precise numbers and identities of
18 members of the Plaintiff Class can be ascertained through discovery, including
19 records of the Superior Court of California, in and for the County of Riverside,
20 as well as the records of the Riverside Department of Public Social Services.

21 31. **Commonality and Predominance.** There are common questions of
22 law and fact that predominate over any questions affecting only individual
23 members of the Class. These common legal and factual questions include but are
24 not limited to the following:

- 25 a. Whether prior judicial authorization is required to seize a child from
26 the care and custody of his or her parent(s)/guardian(s) in the absence
27 of an exigency involving an immediate threat of serious bodily injury;
28

- 1 b. Whether members of the Defendant Social Worker Class knew they
2 were required first to obtain judicial authorization to seize a child from
3 the care and custody of his or her parent(s)/guardian(s) in the absence
4 of an exigency involving an immediate threat of serious bodily injury;
- 5 c. Whether members of the Defendant Social Worker Class acted to
6 effectuate warrantless removals and seizures of minor children
7 notwithstanding their actual knowledge that prior judicial authorization
8 was required in the absence of an exigency involving an immediate
9 threat of serious bodily injury;
- 10 d. Whether members of the Defendant Social Worker Class acted with
11 conscious negligent disregard for the constitutional rights of children to
12 be free from warrantless seizures;
- 13 e. Whether members of the Defendant Social Worker Class counseled and
14 encouraged each other to disregard constitutional strictures and create a
15 culture of deliberate disregard for known legal obligations;
- 16 f. Whether the County of Riverside failed to enact a policy and procedure
17 requiring its employees to seek and obtain judicial authorization prior
18 to removing a child from the care and custody of his or her
19 parent(s)/guardian(s) in the absence of an exigency involving an
20 immediate threat of serious bodily injury;
- 21 g. Whether the County of Riverside failed to instruct, counsel, train,
22 supervise, and enforce a policy and procedure requiring its employees to
23 seek and obtain judicial authorization prior to removing a child from
24 the care and custody of his or her parent(s)/guardian(s) in the absence
25 of an exigency involving an immediate threat of serious bodily injury;
- 26 h. Whether Plaintiff and the Class have suffered damages resulting from
27 being removed from their parents/guardians without prior judicial
28

1 authorization in the absence of an exigency involving an immediate
2 threat of serious bodily injury; and

- 3 i. Whether as a result of Defendants' misconduct, Plaintiff and the Class
4 are entitled to equitable relief, and if so the nature of such relief.

5 32. **Typicality.** Plaintiff's claims are typical of the claims of the
6 members of the Class. Plaintiff and all class members have been injured by the
7 same wrongful customs, practices, policies, and standard operating procedures of
8 Defendant County of Riverside and the members of the Defendant Social Worker
9 Class. Plaintiff's claims arise from the same customs, practices, policies, and
10 procedures (or lack thereof) that give rise to the claims of the Class members and
11 are based on the same legal theories.

12 33. **Adequacy.** Plaintiff, together with her guardian-ad-litem, will fully
13 and adequately assert and protect the interests of the Class and have retained
14 class counsel who are experienced and qualified in prosecuting class actions, as
15 well as challenging warrantless removal procedures. Neither Plaintiff nor her
16 guardian-ad-litem, nor her attorneys, have any interests contrary to or conflicting
17 with the Class.

18 34. **Superiority.** A class action is superior to all other available methods
19 for the fair and efficient adjudication of this lawsuit, because individual litigation
20 of the claims of all Class members is economically unfeasible and procedurally
21 impracticable. The likelihood of individual Class members prosecuting their own
22 separate claims is remote, and even if every Class member could afford
23 individual litigation, the court system would be unduly burdened by individual
24 litigation of such cases. Further, individualized litigation would also result in
25 varying, inconsistent, or contradictory judgments and would magnify the delay
26 and expense to all of the parties and the court system because of multiple trials
27 of the same factual and legal issues. Plaintiff knows of no difficulty to be
28 encountered in the management of this action that would preclude its

1 maintenance as a class action. In addition, Defendants have acted or refused to
2 act on grounds generally applicable to the Class and, as such, final injunctive
3 relief or corresponding declaratory relief with regard to the members of the Class
4 as a whole is appropriate.

5 35. Defendants have, or have access to, information for the Class
6 members which may be used for the purpose of providing notice of the pendency
7 of this action.

8 9 **Defendant Class Action Allegations**

10 36. The use of a representative action to litigate conclusively the
11 interests and liabilities of a defendant class has long been accepted in the United
12 States. See *Smith v. Swormstedt*, 57 U.S. (16 How.) 288, 302 (1853) (“[T]he rule is
13 well established that a . . . bill may be . . . maintained against a portion of a
14 numerous body of defendants, representing a common interest.”)

15 37. Defendant class actions are expressly authorized by Rule 23(a) of the
16 Federal Rules of Civil Procedure, which provides in pertinent part that “[o]ne or
17 more members of a class may sue **or be sued** as representative parties on behalf
18 of all members” so long as certain criteria are met. (Emphasis added).

19 38. Plaintiff and members of the Plaintiff Class assert common
20 allegations of fact and law against a class of persons defined as follows:

21
22 All natural persons who were employed by the County of
23 Riverside as a social worker, investigator, supervisor,
24 specialist, or similar function regardless of job title who
25 participated with, supervised, counseled, or advised other such
26 employees in seizing any member of the Plaintiff Class from
27 the custody of his or her parent or guardian.
28

1 39. This defendant class will be termed herein as the “Social Worker
2 Class” or “Defendant Class” for the purposes of clarity and comprehension.

3 40. Excluded from the Social Worker Class are Plaintiff, her guardian-
4 ad-litem, and any member of the Plaintiff Class, along with the judicial officers
5 assigned to this case, court employees, and the attorneys of record in this case.
6 Plaintiff reserves the right to amend the Defendant Class definition if discovery
7 and further investigation reveal that the Defendant Class should be expanded or
8 otherwise modified.

9 41. **Numerosity and Impracticability of Joinder.** The members of the
10 Social Worker Class are so numerous that joinder of all members as individuals
11 would be impracticable. Plaintiff is informed and believes, based upon the
12 experience and investigation of her counsel, and therefore alleges, that the
13 number of members of the Social Worker Class exceeds two hundred and fifty
14 persons. The precise numbers and identities of members of the Defendant Social
15 Worker Class can be ascertained through discovery, including records of the
16 Superior Court of California, in and for the County of Riverside, as well as
17 DPSS employee records.

18 42. **Commonality and Predominance.** There are common questions of
19 law and fact that predominate over any questions affecting only individual
20 members of the Social Worker Class. These common legal and factual questions
21 include but are not limited to the following:

- 22 a. Whether members of the Defendant Social Worker Class knew they
23 were required first to obtain judicial authorization to seize a child from
24 the care and custody of his or her parent(s) or guardian(s) in the
25 absence of an exigency involving an immediate threat of serious bodily
26 injury;
- 27 b. Whether members of the Defendant Social Worker Class acted to
28 effectuate warrantless removals and seizures of minor children

1 notwithstanding their actual knowledge that prior judicial authorization
2 was required in the absence of an exigency involving an immediate
3 threat of serious bodily injury;

- 4 c. Whether members of the Defendant Social Worker Class acted with
5 conscious negligent disregard for the constitutional rights of children to
6 be free from warrantless removals;
- 7 d. Whether members of the Defendant Social Worker Class counseled and
8 encouraged each other to disregard constitutional strictures and create a
9 culture of deliberate disregard for known legal obligations;
- 10 e. Whether the County of Riverside failed to enact a policy and procedure
11 requiring members of the Defendant Social Worker Class to seek and
12 obtain judicial authorization prior to removing a child from the care
13 and custody of his or her parent(s) or guardian(s) in the absence of an
14 exigency involving an immediate threat of serious bodily injury; and
- 15 f. Whether the County of Riverside failed to instruct, counsel, train,
16 supervise, and enforce a policy and procedure requiring members of the
17 Defendant Class to seek an obtain judicial authorization prior to
18 removing a child from the care and custody of his or her
19 parent(s)/guardian(s) in the absence of an exigency involving an
20 immediate threat of serious bodily injury;

21 43. **Typicality.** Named Defendants Torres and Butler are typical of the
22 members of the Defendant Class, having worked in the employ of Defendant
23 County of Riverside and its Department of Public Social Services for several
24 years. They participated in the same or similar training programs while working
25 for the DPSS which lacked any instruction on procedures or policies or
26 standards regarding when a child may be lawfully removed from his or her
27 parent's care without prior judicial authorization. Defendants Torres and Butler
28 participated in or supervised, counseled, consulted, or advised on removals of

1 children without prior judicial authorization in the absence of an immediate
2 threat of serious bodily injury. As such, their training, experience, actions,
3 inactions, and work duties are typical and representative of other members of the
4 Defendant Social Worker Class.

5 44. **Adequacy.** Defendants Torres and Butler will fully and adequately
6 assert and protect the interests of the Defendant Class and will likely retain
7 counsel for their defense who are experienced and qualified in defending class
8 actions, as well as litigating warrantless removal procedures. Plaintiff knows of
9 no interests of Defendants Torres or Butler which are contrary to or conflicting
10 with other members of the Defendant Social Worker Class. In the event
11 Defendants Torres and Butler are found to be inadequate representatives,
12 Plaintiff will seek to identify other individual members of the Defendant Class
13 and name them as representative defendants.

14 45. **Superiority.** A defendant class action is superior to all other
15 available methods for the fair and efficient adjudication of this lawsuit because
16 individual litigation of the claims of all Defendant Social Worker Class members
17 is economically unfeasible and procedurally impracticable. The court system
18 would be unduly burdened by individual litigation of such cases, creating as
19 many independent class actions as there are former and present employees of
20 DPSS. Further, individualized litigation would also result in varying,
21 inconsistent, or contradictory judgments and would magnify the delay and
22 expense to all of the parties and the court system because of multiple trials of the
23 same factual and legal issues. Plaintiff knows of no difficulty to be encountered
24 in the management of this action that would preclude its maintenance as a
25 defendant class action. In addition, named Defendants and other members of the
26 Defendant Social Worker Class have acted or refused to act on grounds generally
27 applicable to the Plaintiff Class and, as such, final injunctive relief or
28

1 corresponding declaratory relief with regard to the members of the Defendant
2 Class as a whole is appropriate.

3 46. Defendants have, or have access to, information for the Defendant
4 Class members which may be used for the purpose of providing notice of the
5 pendency of this action.

6
7 **First Cause of Action**

8 **Deprivation of Constitutional Rights -- Against Individual Defendants**

9
10 47. Plaintiff incorporates the above allegations of fact and law as though
11 fully set forth herein.

12 48. Plaintiff is an individual and citizen of the United States, possessed
13 of rights secured to her by the United States Constitution and protected from
14 deprivation by federal statute, including but not limited to 42 U.S.C. § 1983.

15 49. At all times relevant to the allegations of this Complaint, the right
16 to familial association guaranteed under the First and Fourteenth Amendments
17 to the United States Constitution was “clearly established” such that any
18 reasonable social services agent or other employee of Defendant County of
19 Riverside would know it is unlawful to seize a child from the care, custody, and
20 control of its parents in the absence of exigent circumstances without first
21 obtaining a warrant.

22 50. Second, any such reasonable social worker would know that to do so
23 would constitute a violation of the parents’, and children’s, well-elaborated
24 constitutional right to live together without governmental interference — a
25 fundamental right protected under the First and Fourteenth Amendments to the
26 United States Constitution.

27 51. Third, any such reasonable social worker would know that to do so
28 would constitute a violation of the child’s long-established constitutional right to

1 be free from seizure by a governmental actor without prior judicial authorization
2 — a fundamental right protected under the Fourth and Fourteenth Amendments
3 to the United States Constitution.

4 52. Defendant Social Workers, and each of them, had, at all times
5 relevant herein, an affirmative duty and obligation to recognize, acknowledge,
6 and respect the Plaintiff's rights, and to conduct themselves in a manner that
7 confirms, provides for the preservation of, and does not violate the rights
8 guaranteed Plaintiff under the United States Constitution, including, without
9 limitation, the right to privacy, family integrity and the right to familial
10 relations.

11 53. Defendant Social Workers, including named Defendants Torres and
12 Butler, were acting under color of state law when they jointly acted, or knew and
13 agreed and thereby conspired, to violate Plaintiff's constitutional rights by, but
14 not limited to, snatching Plaintiff from the care, custody, and control of her
15 mother, without proper or just cause or authority, in the absence of any exigency,
16 and without first obtaining a warrant or other court order. This warrantless
17 seizure without exigent circumstances violated Plaintiff's rights under the First,
18 Fourth, and Fourteenth Amendments to the United States Constitution.

19 54. None of the Defendants sought, or obtained, a protective custody
20 warrant prior to seizing Plaintiff by taking physical custody over her, seizing her,
21 and carting her away from her loving mother while her mother rested in the
22 hospital after delivery of her newborn child.

23 55. Defendants jointly acted or conspired to seize Plaintiff, knowing that
24 no protective custody warrant for the child's seizure had issued and that exigent
25 circumstances did not exist. Plaintiff's mother did not consent at any time to the
26 seizure described above and clearly, repeatedly, and unmistakably instructed
27 Defendant Torres that the removal of Plaintiff was over her strenuous objection
28 and without her consent.

1 56. At no time ever did any of the Defendants have any specific,
2 reasonable, articulable evidence to support any reasonable basis to believe that
3 Plaintiff was in immediate danger of sustaining serious bodily injury or death
4 within the time it would have taken the Defendants to seek and obtain a custody
5 warrant. Indeed, Plaintiff is informed and believes and thereon alleges that
6 Defendant Social Workers, including Defendants Torres and Butler, purposefully
7 or recklessly failed to seek a protective custody warrant in derogation of
8 Plaintiff's clearly established constitutional rights.

9 57. At the time of seizure, other more reasonable and less intrusive
10 alternative means existed to secure Plaintiff's civil rights and security yet these
11 defendants intentionally, or with a conscious, reckless, wanton, or malicious
12 disregard for Plaintiff's rights, failed to pursue or investigate such less intrusive
13 alternative means of keeping the family together.

14 58. Plaintiff's experience at the hands of DPSS agents and employees is
15 not an aberration. All other members of the Plaintiff Class were similarly seized
16 without prior judicial authorization.

17 59. Individual members of the Social Worker Class committed these
18 clearly unconstitutional acts without proper justification or authority, and
19 without probable cause, exigency, or court order. Individual Defendants, and
20 each of them, maliciously violated and/or conspired to violate the civil rights of
21 the members of the Plaintiff Class, including violation of rights protected by the
22 Fourteenth Amendment of the United States Constitution, by, but not limited to,
23 removing, detaining, and continuing to detain Plaintiff Class Members from the
24 care, custody, and control of their parents, without proper or just cause and/or
25 authority. These acts were taken deliberately, with callous or reckless
26 indifference to the substantial rights of Plaintiff Class Members, or fueled by an
27 evil motive or intent.
28

1 protection of the right to familial relations; the right to privacy; the right to be
2 free of governmental seizure without due process of law including the necessity
3 of obtaining a warrant in the absence of immediate threat of death or great
4 bodily harm.

5 65. Defendant County of Riverside also had a duty to use reasonable
6 care to select, assign, supervise, train, control and review the activities of all its
7 agents, officers, employees and those acting under them, including within DPSS,
8 so as to protect these constitutional rights; and to refrain from acting with
9 deliberate indifference to the constitutional rights of Plaintiff Class Members in
10 order to avoid causing the injuries and damages alleged herein.

11 66. Moreover, based on the duties charged to Defendant County of
12 Riverside, including the powers to seize children from their parents' care, the
13 County of Riverside, and its policymaking officials, knew or should have known
14 of the need to establish customs, policies, and practices required to protect the
15 aforementioned civil rights of parents and their children with whom their DPSS
16 agents regularly came into contact.

17 67. Defendant County of Riverside established, adopted, followed, and
18 implemented or turned a blind eye to customs and practices which were followed,
19 complied with, and carried out by the Social Worker Defendants when the rights
20 of the members of the Plaintiff Class were violated by being seized without a
21 warrant or other court order in the absence of any exigency or parental consent.

22 68. At the time of the underlying events, the regularly established
23 customs and practices of the County of Riverside's DPSS agency that were
24 followed, adhered to, complied with, and carried out by Defendants, were the
25 moving force, that is, the actual, direct, and proximate cause of the violations of
26 Plaintiff Class Members' constitutional rights include, but are not limited to:
27
28

- 1 a. the custom and practice of detaining and removing children from their
2 family and homes without imminent danger of serious bodily injury,
3 prior court order, or consent;
- 4 b. the custom and/or practice of removing and detaining children, and
5 continuing to detain them for an unreasonable period long after any
6 alleged basis for detention is negated;
- 7 c. The unwritten policy of acting with deliberate indifference to the rights
8 of children and parents with whom DPSS agents can regularly be
9 expected to come into contact by failing and/or refusing to implement a
10 practice of regular and adequate training and/or supervision, and/or by
11 failing to train and/or supervise its officers, agents, employees and state
12 actors, in providing and ensuring compliance with the constitutional
13 protections guaranteed to individuals, including those under the First,
14 Fourth, and Fourteenth Amendments, when performing actions related
15 to child abuse and dependency type investigations and court
16 proceedings; and
- 17 d. the consistent failure by the County of Riverside to investigate
18 violations of constitutional rights by social workers, and consistent
19 failure to discipline social workers and their supervisors involved in
20 constitutional violations so that violations of children's constitutional
21 rights were not only accepted, but were customary.

22 69. The above list is not exhaustive because of the privileged and
23 protected records of investigations relating to juvenile dependency proceedings.
24 Plaintiff may seek leave to amend this Complaint as additional information
25 becomes available during the court of discovery.

26 70. On information and belief, County of Riverside DPSS has engaged
27 in each of the customs and/or practices identified above on an ongoing and
28

1 continuous basis at least since 2010, if not earlier, and continues to engage in
2 said practices on an ongoing and daily basis.

3 71. The County of Riverside is aware that its social workers seize
4 children from the care of their parents without first obtaining judicial
5 authorization when there is no emergency circumstance and in contravention of
6 the rights of both parents and children.

7 72. Nevertheless, the County of Riverside has made a knowing and
8 conscious decision to refrain from promulgating policies to prevent such
9 misconduct, and has consistently and knowingly failed to provide any training to
10 members of the Defendant Social Worker Class to the effect that they must first
11 obtain a warrant before seizing children from their parents when no exigency
12 exists.

13 73. The County of Riverside's decision to disregard these constitutional
14 protections in the face of a known need for such policies to prevent the specific
15 misconduct alleged herein above — the known need for a specific policy
16 prohibiting its social workers from seizing children from their parents without a
17 warrant or emergency — is itself a “policy” decision which constitutes a policy of
18 deliberate indifference.

19 74. This policy of deliberate indifference, and the lack of prophylactic
20 policies and training in the face of a known need for such policies and training
21 was a substantial factor in causing the Plaintiff's harm, in that the members of
22 the Defendant Social Worker Class both followed and acted pursuant to the
23 regularly established customs, practices, and well known and accepted standard
24 operating procedures when they literally seized Plaintiff from her mother's breast
25 while she lay in the hospital recovering from childbirth, without first obtaining
26 judicial authorization or parental consent and in the absence of any threat of
27 immediate risk of serious bodily injury.
28

1 75. None of the constitutional violations complained of and set forth
2 above would have happened if Defendant County of Riverside had honored its
3 obligation to promulgate policies and train its social workers of the crucial
4 constitutional prescriptions which govern their daily work.

5 76. At all times relevant to the allegations herein, up to and including
6 the time of filing, Plaintiff is informed and believes and on that basis alleges
7 that:

- 8 a. The County of Riverside has no written policy, procedure, custom,
9 practice and/or training regarding the circumstances under which a
10 county social worker must obtain judicial authorization prior to
11 removing a child from the custody of its parent(s);
- 12 b. The County of Riverside has no written policy, procedure, custom,
13 practice and/or training requiring a county social worker to obtain
14 judicial authorization prior to removing a child from the custody of its
15 parent(s), when there was no evidence that the child was in immediate
16 risk of suffering serious bodily injury;
- 17 c. The County of Riverside has no written policy, procedure, custom,
18 practice and/or training delineating the constitutional protections
19 afforded to a parent and child by the First and Fourteenth
20 Amendments; and
- 21 d. The County of Riverside has no written policy, procedure, custom,
22 practice and/or training instructing that a county social worker must
23 possess “specific, articulable evidence” that a child would be placed at
24 imminent risk of suffering serious harm at the hands of the parent(s),
25 prior to removing the child from its parent’s custody without judicial
26 authorization.

27 77. By deliberately refraining from promulgating any of the
28 aforementioned policies, procedures, customs, practices and/or training, the

1 County of Riverside permitted the aforementioned basic policy decisions to be
2 made by the lower level social workers. As a result, the County of Riverside's
3 policy, custom, and/or practice — as established, adopted, and implemented by
4 the members of the Defendant Social Worker class — was and is to seize children
5 from their parents without judicial authorization or parental consent, and
6 without specific, reasonable, and articulable evidence to suggest that the children
7 are in immediate risk of suffering serious bodily injury.

8 78. These policies, customs, and practices that disregard the
9 constitutional protections afforded to the most vulnerable citizens was a
10 substantial factor in causing harm to the Plaintiff, as well as similar harm caused
11 to thousands of other children.

12 79. Thus, as a matter of law, because there was no formal policy
13 preventing the misconduct described herein, even though one was obviously
14 needed, the social workers on the line acted on behalf of the County in making
15 final policy decisions — which is exactly what they did when they seized Plaintiff
16 without a warrant and in the absence of any exigency.

17 80. The state of the law regarding the constitutional protections afforded
18 to a parent and child by the First, Fourth, and Fourteenth Amendments was
19 clearly established well before the time Plaintiff was unconstitutionally seized in
20 February 2013. As such, the County of Riverside knew before 2013 that its county
21 social workers required training on the constitutional protections afforded to a
22 parent and child.

23 81. On information and belief, despite this knowledge, the County of
24 Riverside deliberately failed to train its employees including members of the
25 Defendant Social Worker Class regarding the circumstances under which judicial
26 authorization must be obtained prior to removing a child from the custody of its
27 parent(s).

1 82. Additionally, the County of Riverside deliberately failed to train its
2 employees including members of the Defendant Social Worker Class regarding
3 the fact that judicial authorization must be obtained prior to removing a child
4 from the custody of its parent(s), when there was no evidence that the child was
5 in immediate risk of suffering serious bodily injury.

6 83. The County of Riverside's deliberate failure to train its county social
7 workers on these established constitutional protections was a substantial factor in
8 causing the Plaintiff's harm, in that DPSS agents working for the County of
9 Riverside were unfamiliar with and oblivious to the Plaintiff's constitutional
10 rights, when Defendant Torres seized Plaintiff from her mother's care and
11 custody without judicial authorization, parental consent, and in the absence of
12 exigent circumstances.

13 84. Plaintiff is informed and believes that, the County of Riverside
14 failed to investigate and failed to discipline Defendant Torres for
15 unconstitutionally seizing her from her mother's custody without judicial
16 authorization, parental consent, and without specific, reasonable, and articulable
17 evidence to suggest that she was in immediate risk of suffering serious bodily
18 injury.

19 85. Plaintiff is further informed and believes that, the County of
20 Riverside never investigates or disciplines its social workers, including members
21 of the Defendant Social Worker Class, who seize children from their parents'
22 custody without judicial authorization, parental consent, and without specific,
23 reasonable, and articulable evidence to suggest that the child is in immediate risk
24 of suffering serious bodily injury.

25 86. Plaintiff is informed and believes that her warrantless seizure by
26 Defendant Torres was not an isolated incident specific to her circumstances. On
27 the contrary, such warrantless and unlawful seizures are regular and recurring
28

1 and are daily perpetrated by members of the Defendant Social Worker Class in
2 the same or similar circumstances.

3 87. Defendant County of Riverside, including by and through its entity
4 DPSS and its policymaking officials, breached its duties and obligations to
5 Plaintiff by, but not limited to, failing to establish, implement and follow the
6 correct and proper Constitutional policies, procedures, customs and practices; by
7 failing to properly select, supervise, train, control, and review its agents and
8 employees as to their compliance with Constitutional safeguards; and by
9 deliberately permitting the members of the Defendant Social Worker Class,
10 including Defendant Torres, to engage in the unlawful and unconstitutional
11 conduct as herein alleged with at total and deliberate indifference to the rights of
12 affected children, including Plaintiff.

13 88. County of Riverside knew, or should have known, that by breaching
14 the above-mentioned duties and obligations that it was reasonably foreseeable
15 that its agency policies, practices, customs, and usages would, and did, directly
16 cause Plaintiff Class members to be injured and damaged by County of
17 Riverside's wrongful practices, or deliberate lack of official policies to prevent the
18 known practices from occurring.

19 89. In fact, the County of Riverside has been aware, since at least 2010,
20 that its DPSS agents regularly and customarily seize and detain children from
21 their families, parents, and homes in the manner described herein — i.e, in the
22 absence of any exigency without first obtaining a warrant — on a regular and
23 continuous basis. Yet, despite such foreknowledge, Riverside County has
24 deliberately refrained and refused to promulgate any form of prophylactic policy
25 to define acceptable conduct of the Defendant Social Worker Class in such a
26 manner as to protect the children with whom they regularly come into contact.

27 90. The conduct described herein is so pervasive that it has become
28 common knowledge that the type of misconduct alleged herein is rampant within

1 DPSS to such an extent that Riverside County can be said to be deliberately
2 indifferent to the need to promulgate policies and provide training to rein in its
3 DPSS agents, and prevent the type of misconduct alleged herein.

4 91. These actions and inactions of Defendant County of Riverside were
5 the moving force behind, and direct and proximate cause of Plaintiff Class
6 Members' injuries and as a result that have sustained general and special
7 damages, to an extent and in an amount to be proven separately.

8
9 **Jury Trial Demand**

10 92. Plaintiff demands a jury trial on each cause of action set forth above.

11 ///

Prayer for Relief

1
2 Plaintiff for herself and for all others similarly situated, prays for
3 judgment against the County of Riverside, Felicia Butler, Karla Torres, and each
4 member of the Social Worker Class for the following:

5 1. An order certifying the Plaintiff Class and the Defendant Social
6 Worker Class under Federal Rule of Civil Procedure 23(b)(2) and 23(b)(3);
7 appointing Plaintiff as a representative of the Class; appointing Defendants
8 Torres and/or Butler as representatives of the Social Worker Class; and
9 appointing the lawyers and firms representing Plaintiff as counsel for the
10 Plaintiff Class;

11 2. An award of all recoverable compensatory, statutory, and other
12 damages sustained by Plaintiff and members of the Plaintiff Class in such
13 amounts as may be separately determined for each such individual;

14 3. Appropriate injunctive relief;

15 4. Attorneys' fees and expert fees, together with costs of suit, pursuant
16 applicable law; and

17 5. For such other and further relief as the Court may deem proper.
18

19 Dated: December 12, 2014

ANKCORN LAW FIRM, PC

/s/ Mark Ankcorn

21
22 The Law Offices of Shawn A. McMillan, APC

23 *Attorneys for Plaintiff A.A. and the Proposed Class*
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