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6 **IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA**

7
8 Rachael Akey, an individual, and
9 N. D., a minor, by Rachel Akey
as Guardian ad litem, and
10 Ryan Cornacchioli, an individual,
11 Plaintiffs
12 v.
13 Placer County, California, a county
14 government, and
15 Scott Myers, in his official capacity as a
16 social worker supervisor and as an
17 individual, and
18 Gloria Sutton in her official capacity as a
19 social worker and as an individual, and
20 Does 1 through 10,
21 Defendants.

CASE NO. 2:14-CV-2402 KJM DB
**FOURTH AMENDED COMPLAINT FOR
VIOLATIONS OF 42 U.S.C. §1983;
VIOLATIONS OF CALIFORNIA CIVIL
CODE §52.1; NEGLIGENCE; AND
RESPONDEAT SUPERIOR LIABILITY**

JURY TRIAL DEMANDED

22 Pursuant to the Court's Order of May 8, 2017 (ECF 107), Plaintiffs hereby file this
23 Fourth Amended Complaint ("FAC"). Other than the amendment of the Monell claims,
24 (Counts 1-2, 7-8) and the omission of Count 13, the FAC is the same as the Third
25 Amended Complaint.
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3 **Attachments: Exhibits 1-6**

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**I.
PARTIES**

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3 1. Plaintiff Rachael Akey (“Akey”) is the natural mother of Plaintiff N.D. (“N.D.”), a
4 minor child, age 3 during the relevant time period for this Complaint (N.D. is now age 4).
5 Akey is the mother and custodian of two other minor children ages 1 and 2 during the
6 relevant time period for this Complaint.

7 2. Plaintiff Ryan Cornacchioli (“Cornacchioli”) has been married to Plaintiff Rachael
8 Akey since May 3, 2012, and is the father of the youngest child of Akey.

9 3. Plaintiff Linda Clayton (“Clayton”) is the mother of Akey and owns the residence at
10 2817 Lindbergh Lane, Lincoln, CA 95648. Plaintiffs Akey, Cornacchioli, and N.D.
11 resided with Plaintiff Clayton at this address during the relevant time period for this
12 Complaint.

13 4. Cameron Dupree (“Dupree”) is the father of N.D. and resides in Placer County,
14 California. Akey and Dupree were never married.

15 5. Defendant Placer County, California, operates the Placer County Family and
16 Children Services agency (“FCS”) which is responsible for implementing local, state and
17 federal laws and regulations concerning children’s welfare. The FCS employs social
18 workers to conduct investigations into children’s welfare and to recommend and/or take
19 action to ensure the safety of children residing in Placer County, California. Defendant
20 Placer County, California, also operates the Placer County Counsel’s Office which is
21 responsible for reviewing the development of the applicable constitutional law,
22 communicating to FCS about any important developments in applicable, and for
23 preparing training materials and giving training courses to FCS social workers on the
24 applicable law.

25 6. Defendant Gloria Sutton (“Sutton”) is a social worker employed by FCS.

26 7. Defendant Scott Myers (“Myers”) is a social worker employed by FCS and was
27 the supervisor for Defendant Gloria Sutton during the relevant time period for this
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1 Complaint.

2 8. The true names and capacities of defendants sued herein as Does 1-10,
3 inclusive, whether individual, corporate, or otherwise are unknown to Plaintiffs who,
4 therefore sue such defendants by such fictitious names. When their true names and
5 capacities are ascertained, Plaintiffs will amend this complaint by asserting their true
6 names and capacities herein. Plaintiffs are informed, believe and thereon allege, that at
7 all times herein mentioned, all defendants, including DOES 1 through 10, inclusive: (i)
8 are qualified to do business in California, and/or did, in fact, do business in California;
9 (ii) jointly perpetrated the acts herein with their co-defendants; (iii) were the successors
10 in interest to, or agents, alter egos, principals, co-tenants, partners, joint venturers, or
11 co-conspirators of their co-defendants in doing the things herein alleged; and/or (iv)
12 were acting within the scope of their authority or in furtherance of a common scheme or
13 design with the knowledge, permission, consent or ratification of their co-defendants in
14 doing the things herein alleged, and therefore are liable, jointly and severally, for all
15 damages and other relief or remedies sought by complainants in this action.

16 **II.**
JURISDICTION AND VENUE

17 9. Jurisdiction over the federal causes of action under Title 42 U.S.C. §1983 are
18 proper in this Court under 28 U.S.C. §1331. Pendant Jurisdiction over the state causes
19 of action is proper under Title 28 U.S.C. §1367(a) and Title 28 U.S.C. §1343(a)(3).

20 10. Venue is proper in this Court under 28 U.S.C. §1391(b) because all of the
21 defendants reside, and the acts complained of occurred, within the territorial boundaries
22 of this United States District Court.

23 **III.**
BACKGROUND ALLEGATIONS

24 11. At the time of the acts alleged in this Complaint, Akey and Dupree had recently
25 concluded a lengthy legal action, including a full evidentiary trial, over the custody of
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1 N.D. in Placer County Superior Court, case no. SDR-0035547 (“Original Custody
2 Action”). On or about July 9, 2013, Placer County Superior Court issued an order
3 regarding N.D.’s custody in the Original Custody Action (“July 9th Order”). According to
4 the July 9th Order, N.D. was to live with his mother, Rachael Akey. The father, Cameron
5 Dupree, was to have unsupervised visits every other weekend from Friday at 10:00 am
6 to Sunday at 7:00 pm and every Tuesday at 9:00 am to Wednesday at 9:00 am. The
7 July 9th Order was put into immediate effect. However, there was continuing rancor
8 between the parents.

9 **Placer County Family and Children Services**

10 12. FCS is obligated to adopt and follow the written policies and procedures
11 established by the California Department of Social Services (“CDSS”). The CDSS
12 mandates that a “Structured Decision Making” (“SDM”) process be followed in any
13 investigation of child neglect or abuse. The SDM policy and procedures applicable to
14 the incident in this action are set forth in detail in the CDSS “Structured Decision Making
15 System Policy and Procedures Manual”, dated May 2008 (as updated August 14, 2013)
16 (hereafter the “CDSS Manual”).

17 13. The FCS has adopted additional written policies and practices as set forth in a
18 series of policy and procedure documents, a true and correct copy of which are
19 attached hereto as Exhibit 1 (previously stamped nos. 190-204). Collectively, these
20 documents will be referred to herein as the “FCS Manual”.

21 14. The FCS Manual, in accordance with the CDSS Manual, requires that a social
22 worker must do the following things whenever a referral is investigated:

- 23 a. make a timely, thorough and complete investigation that includes all of the
24 safety and risk factors identified in the family (Exhibit 1, p. 190);
- 25 b. address any areas of risk identified during the course of the investigation
26 (Exhibit 1, p 190);

- 1 c. interview in person any parent who has been in regular contact with the
2 child (Exhibit 1, p. 190);
- 3 d. Complete in the field an SDM Safety Assessment (described in detail in
4 the CDSS Manual, Section II, including a prescribed assessment form)
5 (Exhibit 1, p. 191, 203-204);
- 6 e. Complete by the end of the investigation an SDM Risk Assessment
7 (described in detail in the CDSS Manual, Section III, including a prescribed
8 assessment form) (Exhibit 1, p. 191, 203-204);
- 9 f. If, after the SDM Safety and Risk Assessments are made, significant new
10 information has been revealed, subsequent assessments SDM Safety and
11 Risk Assessments should be made and entered into the SDM database
12 (Exhibit 1, p. 192);
- 13 g. obtain the prior consent of the custodial parent to conduct an interview of
14 the child whenever possible (Exhibit 1, p. 193);
- 15 h. if, during the interview of a child, a social worker comes to believe that the
16 child is in danger of “imminent” physical harm, then the social worker must
17 immediately consult with their supervisor and if they agree that “imminent”
18 risk of harm exists (Exhibit 1, p. 195);
- 19 i. In assessing if there is “imminent” risk, a social worker must identify the
20 facts that lead to the conclusion that the child suffer serious physical harm
21 if action is not taken for a few hours (Exhibit 1, p. 201);
- 22 j. If there is an “imminent” risk of serious harm, the social worker must
23 determine if the immediate risk can be eliminated by a Safety Plan that the
24 parents can follow;
- 25 k. after the social worker and supervisor determine that there is imminent
26 risk and removal of custody is necessary, then they have to call county
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1 counsel to receive a final determination as to whether the legal threshold
2 for immediate removal has been met (Exhibit 1, p. 202);

- 3 I. develop a safety plan in consultation with the parents and if the Safety
4 Plan will alleviate the risks, then allow the child to stay with the parent
5 (Exhibit 1, p. 203-204);

6 **The Unconstitutional Removal of N.D. BY FCS: No Exigent Circumstances**
7

8 15. On or about September 6, 2013, Cornacchioli was called away for military
9 reserve activity at Camp Roberts, California (near San Louis Obispo, CA).

10 Cornacchioli did not return to his home with Akey until September 10, 2013, at
11 approximately 4:30 am., at which time he went to bed.

12 16. On September 6, 2013, Akey, observed that Dupree was flushed and slurring his
13 words when she picked up N.D. earlier that day. Pursuant to the July 9th Order, Akey
14 requested a drug test for Dupree.

15 17. On September 7, 2013, Dupree requested a drug test for Akey. A mobile drug
16 tester came to Akey's residence and did a 10 panel drug test. No drugs were found.
17 Akey is informed and believes, and on that basis alleges, that this drug test was ordered
18 as retaliation for the drug test that she had requested of Dupree the day before.

19 18. N.D. was taken to school by Akey on Tuesday, September 10, 2013. In
20 accordance with the July 9th Order, N.D. was picked up from school about noon and
21 then stayed the night with his father, Dupree. N.D. was taken to school by Dupree the
22 next morning, Wednesday, September 11, 2013. N.D. then returned to his mother's
23 custody when Akey picked up N.D. from school at about 2:30 pm on September 11,
24 2013. All of this was in accordance with the July 9th Order.

25 19. On the morning of September 12, 2013, N.D. was taken to school by Akey and
26 Cornacchioli. Akey expected to pick N.D. up from school at 2:30 pm that day.

1 20. Unbeknown to Akey, FCS had received a report from N.D.'s school on
2 September 11, 2013, that N.D. had said that Cornacchioli had choked him and
3 threatened to kill him. Although there were no marks on N.D. and he was otherwise
4 behaving normally, the school reported this remark to FCS. Defendant Sutton was
5 assigned by FCS to investigate the alleged incident.

6 21. According to the written FCS report prepared by Defendants Sutton and Myers
7 ("FCS Report"), a true and correct copy of which is attached hereto as Exhibit 2
8 (previously stamped nos. 38-42), Sutton began the investigation on September 12,
9 2013, by going to the school and talking to N.D.'s teacher and then N.D.. After talking
10 to N.D., Sutton talked with Dupree by telephone. During this phone interview, Dupree
11 told Sutton that N.D. had mentioned the choking to Dupree on the evening of
12 September 10, 2013, but that Dupree never reported the allegations to anyone, not
13 even to Akey.

14 22. After talking with Dupree by telephone and before even informing Akey about
15 what N.D. had said at school, Sutton, with Myers approval, made the decision to
16 remove N.D. from Akey's custody and give full custody to Dupree. Sutton asked
17 Dupree to pick up N.D. from school on September 12, 2013. N.D. remained in the sole
18 custody of Cameron Dupree until March 20, 2014.

19 23. Sutton then called Akey at home at approximately 1:02 pm on September 12,
20 2013. The conversation lasted for approximately six minutes. Akey put her telephone
21 on speaker mode because she was taking care of her two other children. Plaintiffs
22 Clayton and Cornacchioli were also at home with Akey at the time and could hear the
23 entire conversation.

24 24. Sutton began by telling Akey that there were allegations that Cornacchioli had
25 strangled and threatened to kill N.D.. Sutton informed Akey that she had gone to N.D.'s
26 school and interviewed N.D. that morning. Akey asked Sutton if she had seen any
27

1 marks on N.D. and Sutton said no. Akey told Sutton that Cornacchioli could not have
2 strangled N.D. because he had been away on military duty at Camp Roberts until
3 September 10, 2013, and N.D. had not come back into her custody until after school on
4 September 11, 2013. Akey further told Sutton that:

- 5 (a) Cornacchioli had never harmed or threatened N.D.;
- 6 (b) how Dupree had consistently made false allegations against her and
7 Cornacchioli to gain full custody of N.D.;
- 8 (c) that there had been a very recent and extensive family court litigation and
9 evidentiary trial over the custody of N.D. and the court had awarded Akey
10 full custody; and
- 11 (d) that Dupree had a serious drug problem and had prior drug arrests and
12 convictions.

13 Sutton, however, expressed no concern about Dupree's drug use and did not
14 care about the Court's existing custody order. Sutton told Akey that she had arranged
15 for N.D. to be picked up at school that day by his father, Dupree, and that the father
16 would be taking full custody of N.D. until the FCS investigation over the alleged
17 chocking of N.D. was concluded.

18 25. During this phone conversation, Sutton asked Akey for consent to the FCS order
19 giving immediate and full custody to Dupree. Akey refused, saying "there is no way I
20 can give my child to a drug addict." Sutton then said to Akey "if you don't comply, then I
21 am going to get a warrant and take custody of all of your children." Akey was stunned,
22 hurt, and confused by this attempt to coerce her to accept the change in N.D.'s custody.
23 However, Akey remained steadfast and refused to agree to any custody change for
24 N.D..

25 26. During the this phone conversation, Akey told Sutton about Dupree's criminal
26 record for drugs. In response, Sutton promised Akey that Dupree would be drug tested
27

1 every day.

2 27. At the end of the conversation between Akey and Sutton, Akey asked to speak to
3 Sutton's supervisor. Sutton gave Akey the number for Myers; however, before she
4 could call him, Myers called Akey and identified himself as Sutton's supervisor. Myers
5 repeated what Sutton had said about FSC deciding to give immediate and sole custody
6 to Dupree. Myers then told Akey that if she did not agree to the change in custody, they
7 would get a warrant and take all of her children away from her. Akey was even more
8 shocked, hurt, and angered by the repeated threat, but she again stood her ground and
9 refused to give consent. Plaintiffs Clayton and Cornacchioli were also at home with
10 Akey at the time of Myer's call and could hear the entire conversation.

11 28. At the end of her conversation with Myers, Akey asked if FCS would interview
12 her and when would the investigation be complete. Myers said Akey would be
13 interviewed in person, that the investigation would be over on September 17th, and that
14 there would be a reunification plan. Akey asked if any of her family members could take
15 custody and Myers said no.

16 **The Wrongful Reporting Of Cornacchioli To The DOJ Child Abuse Central Index**

17 29. Sutton did not interview Cornacchioli until September 17, 2013. At the interview,
18 Cornacchioli denied that he ever choked N.D. or threatened to kill him or had ever done
19 anything harmful to the child. Cornacchioli told Sutton that he would never harm N.D.
20 and that he has been involved with N.D.'s life longer and more deeply than his biological
21 father, Dupree. Cornacchioli told Sutton that Akey was the person to discipline N.D.,
22 except for an occasional "time out". Lastly, he explained to Sutton that he had been on
23 military duty from September 6, 2013, until September 10, 2013, and therefore, could
24 not have hurt N.D. as allegedly described. Sutton did not present Cornacchioli with any
25 additional facts that implicated him in the alleged choking of N.D..

26 30. Despite the lack of material evidence that N.D. was choked by anyone, let alone
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1 by Cornacchioli, Sutton and Myers wrote in the final FCS Report that the claims against
2 Cornacchioli were “substantiated”.

3 31. On or about September 25, 2013, Sutton and Myers prepared a “Child Abuse Or
4 Severe Neglect Indexing Form” and a “Notice of Child Abuse Central Indexing” that
5 reported that there was a “substantiated” claim of physical abuse against Cornacchioli.
6 Cornacchioli is informed and believes, and based thereon alleges, that these forms
7 were submitted to the State of California on or about September 25, 2013.

8 32. By law, Sutton, Myers and the FCS were obligated to promptly send these forms
9 to Cornacchioli. This would trigger a thirty day period for Cornacchioli to challenge the
10 filing of the forms with a grievance hearing. However, Cornacchioli is informed and
11 believes, and based thereon alleges, that Sutton, Myers and FCS failed to provide
12 Cornacchioli with a copy as required by law. Cornacchioli only learned about the filing
13 of these forms when unsigned copies were made available to Akey through discovery in
14 her subsequent family court proceeding to regain custody of N.D.. A true and correct
15 copy of the forms produced to Akey are attached hereto as Exhibit 3 (previously
16 stamped nos. 43-49).

17 33. Based upon the FCS Report, and with the assistance of Defendants FCS, Sutton
18 and Myers, Dupree initiated on or about September 20, 2013, a new family law
19 proceeding in Placer County Superior Court seeking to make permanent the full custody
20 given to Dupree by FCS on September 12, 2013 (“Second Custody Proceeding”).

21 34. During the Second Custody Proceeding, Sutton was asked at her deposition if
22 Dupree had been drug tested every day as Sutton had promised Akey on September
23 12th. Sutton answered under oath that Dupree had been tested. However, when asked
24 why the results of such drug tests were not in the FCS Report, Sutton said that “maybe I
25 forgot to put it in”. No test results for Dupree have ever been produced. Further, Sutton
26 admitted during her deposition that Dupree had told her on September 12, 2013, that he
27

1 had only been off “Norcos” for three months. Sutton also admitted that, contrary to the
2 FCS Report that states on page two that “Sutton was able to assess the home of
3 Cameron Dupree” and that the home was “neat and nicely furnished”, Sutton had never
4 conducted a home inspection of Dupree’s residence. Finally, Sutton admitted in the
5 deposition that she had not run a criminal history on Dupree prior to taking N.D. from
6 Akey’s custody. There is no report of Dupree’s criminal record in the FCS Report.

7 35. On or about March 20, 2014, there was an evidentiary hearing in the Second
8 Custody Proceeding. Following this hearing, the Placer County Superior Court issued a
9 written order, a true and correct copy of which is attached hereto as Exhibit 4, that
10 included the following factual findings and custody order:

- 11 a. “No evidence was presented of Mother’s general neglect or failure to
12 protect N.D.”; and
13 b. “No evidence was presented of stepfather, Ryan Cornacchioli’s physical
14 abuse in terms of having strangled/choked N.D.”.

15 **The Plaintiffs Timely Filed A Government Tort Claim That Was Denied**

16 36. On or about March 11, 2014, Plaintiffs Akey and Cornacchioli filed a claim
17 against Placer County, Sutton, and Myers under the California Tort Claims Act,
18 Government Code §810, et seq.. This claim was based upon the same incidents and
19 facts as set forth in this Complaint. The claims were rejected on April 16, 2014, by the
20 County of Placer and on or about April 25, 2014, by the Judicial Council of California.
21 Plaintiffs have timely filed this action within the six month time period under Government
22 Code §945.6.

IV
SPECIFIC FACTUAL ALLEGATIONS
Failure To Follow Proper Procedures

- 1
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- 3
- 4 37. Defendant Sutton failed to abide by the policies and procedures of FCS and as
- 5 set forth in the FCS Manual (see paragraph 14, supra) by failing to:
- 6
- 7 a. make a timely, thorough and complete investigation that includes all of the
- 8 safety and risk factors identified in the family and/or in the course of the
- 9 investigation;
- 10 b. have N.D. examined by a physician;
- 11 c. properly ascertain if N.D. could differentiate between the truth and a lie;
- 12 d. ask permission of Akey, who was the primary custodial parent at the time,
- 13 to interview N.D.;
- 14 e. interview Akey in person;
- 15 f. meet and/or interview other Akey children to assess if Akey was taking
- 16 good care of them;
- 17 g. complete an SDM Safety Assessment;
- 18 h. complete an SDM Risk Assessment;
- 19 i. find or establish facts that constitute or show that N.D. was in danger of
- 20 “imminent” physical harm;
- 21 j. devise a Safety Plan to address any safety concerns so that Akey would
- 22 enjoy joint custody of N.D.; and
- 23 k. call county counsel to receive a final determination as to whether the legal
- 24 threshold for immediate removal of N.D. was met.

25 In addition, Defendant Sutton acted outside the boundaries of the policies and

26 procedures of FCS and CDSS by:

- 27 a. attempting to coerce Akey to consent to the removal and giving of sole
- 28 custody to Dupree by threatening to take all of Akey’s children away; and

- b. preparing or otherwise assisted in the filing with the California DOJ of an unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical abuse on N.D.; and
- c. failing to ever present a reunification plan.

38. Defendant Myers failed to abide by the policies and procedures of FCS and as set forth in the FCS Manual (see paragraph 14, supra) by failing personally or through his supervision of Sutton to do the following things:

- a. make a timely, thorough and complete investigation that includes all of the safety and risk factors identified in the family and/or in the course of the investigation;
- b. have N.D. examined by a physician;
- c. properly ascertain if N.D. could differentiate between the truth and a lie;
- d. ask permission of Akey, who was the primary custodial parent at the time, to interview N.D.;
- e. interview Akey in person;
- f. meet and/or interview other Akey children to assess if Akey was taking good care of them;
- g. complete an SDM Safety Assessment;
- h. complete an SDM Risk Assessment;
- i. find or establish facts that constitute or show that N.D. was in danger of “imminent” physical harm;
- j. devise a Safety Plan to address any safety concerns so that Akey would enjoy joint custody of N.D.; and
- k. call county counsel to receive a final determination as to whether the legal threshold for immediate removal of N.D. was met.

In addition, Defendant Myers acted outside the boundaries of the policies and

1 procedures of FCS and CDSS by himself, or through his supervision of Sutton, by:

- 2 a. attempting to coerce Akey to consent to the removal and giving of sole
3 custody to Dupree by threatening to take all of Akey's children away; and
4 b. preparing or otherwise assisted in the filing with the California DOJ of an
5 unsubstantiated and/or false report about Cornacchioli as a perpetrator of
6 physical abuse on N.D.; and
7 c. failing to ever present a reunification plan.

8 **Failure To Make A Good Faith Investigation**

9 39. Sutton and Myers failed to interview Akey or Cornacchioli in person before
10 removing N.D. from Akey's custody. Plaintiffs are informed and believe, and on that
11 basis allege, that neither Sutton nor Myers investigated whether N.D., a mere three
12 years old, was prompted by Dupree to make a false allegation against Cornacchioli in
13 retaliation for Akey's prevailing in family law court and for the September 6, 2013, drug
14 testing ordered by Akey. Plaintiffs are further informed and believe, and on that basis
15 allege, that neither Sutton nor Myers checked with the family law court or reviewed the
16 July 9th Order to understand the custody situation prior to terminating Akey's custody on
17 September 12, 2013.

18 40. Sutton and Myers removed N.D. from Akey's custody without a court order and
19 without N.D. being in "imminent" danger. There were no marks of any kind on N.D. and
20 he was in good health with no adverse indications. There was no emergency and no
21 circumstances that could not have been handled with a Safety Plan.

22 41. Sutton and Myers ignored the direct evidence given by N.D. himself: that he liked
23 Cornacchioli and "was not afraid of him" and that Cornacchioli had not hurt him.

24 42. Sutton and Myers ignored the admission by Dupree that he had failed to report to
25 anyone, not even Akey, that N.D. had purportedly told him about being choked on
26 September 10, 2013.

1 43. Sutton and Myers ignored the fact that Cornacchioli could not have choked N.D.
2 because he was gone for the five days before the allegation by N.D. and did not see
3 N.D. until after N.D. had purportedly told Dupree about the alleged choking.

4 44. Sutton and Myers failed to make an inspection of Dupree's home before giving
5 Dupree sole custody.

6 45. Sutton and Myers failed to include in the FCS Report the results of the daily drug
7 testing that Dupree was supposed to have undergone after September 12, 2013.

8 **Fabrication Of Evidence**

9 46. Sutton and Myers created and/or approved the FCS Report on or about
10 September 25, 2013. In this report it is stated that on or about September 12, 2013,
11 Akey gave her consent to the termination of her custody of N.D. and the giving of full
12 custody to Dupree. As alleged in ¶¶ 25 & 27, above, Akey never gave such consent.

13 47. Sutton and Myers wrote in the FCS Report that "Sutton was able to assess the
14 home of Cameron Dupree" and that the home was "neat and nicely furnished".
15 However, Sutton admitted in her subsequent deposition that she never conducted a
16 home inspection of Dupree's residence as alleged in ¶ 34.

17 **Suppression Of Exculpatory Evidence**

18 48. Defendants Sutton and Myers suppressed the results of the drug testing of
19 Cameron Dupree and never disclosed the results of the test and never entered the
20 results into the FCS records as alleged in ¶ 37.

21 49. Defendants Sutton and Myers suppressed the facts about Cameron Dupree's
22 history of drug abuse and felony convictions as alleged in ¶ 37.

23 50. FCS did not contact or obtain an order from the Placer County Superior Court
24 either before or after giving immediate and full custody of N.D. to Dupree on September
25 12, 2013. Instead, Sutton and Myers engaged in ex parte communications with Dupree
26 and his lawyer and provided them with copies of the FCS report and/or the findings
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1 without providing the FCS Report and/or information to Akey or Cornacchioli. Dupree
2 used FCS Report and other information provided to him by Sutton and Myers to file a
3 request for modification of the July 9th Order for exclusive custody. Plaintiffs did not
4 receive a copy of the FCS investigative report until October 30, 2013, when a copy was
5 provided as part of the family law court records.

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V
Claims For Violation of Federal Civil Rights Under 42 U.S.C. §1983

A. Plaintiff Rachael Akey

**FIRST CAUSE OF ACTION
Defendant Placer County
Violation Of Akey’s Procedural Due Process As A
Result Of Deficient Policies, Practices and Procedures, a Failure to Adequately
Train, and a Failure to Monitor and Review**

51. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as though set forth fully herein.

52. Placer County’s Established Policies, Practices, and Procedures Are Constitutionally Deficient

Placer County has established policies, practices, and procedures as alleged above (¶ 13, Exhibit 1) for conducting an investigation of alleged physical neglect or abuse of a child (“PPPs”). However, the PPPs are constitutionally inadequate because they do not: (a) contain a plain and concise statement of the constitutional law pertaining to the parent-child relationship; (b) explain how the PPPs are to be used to protect the parent-child relationship within the bounds of the constitutional law.

53. Placer County Failed To Adequately Train Its FCS Workers

A. The Failure To Train By Placer County FCS

Placer County FCS gave its social workers the power to remove a child from the custody of a parent without a court order: i.e., social workers have the power to supercede the constitutionally protected parent-child relationship. Consequently, Placer County FCS had the obligation to make sure that its social workers were properly trained in: (a) the constitutional law pertaining to the parent-child relationship; (b) what constitutes exigent circumstances (aka an imminent risk of harm) that would allow the removal of a child without a court order; and (c) how specific PPPs are to be implemented by social workers to balance the safety of the child against the parent-child relationship. In particular, Placer County FCS failed to:

- 1 (a) adequately train its social workers in using the Structured Decision Making
2 (“SDM”) Risk Assessment PPPs in a situation where there is a question
3 of imminent risk of harm;
- 4 (b) adequately train its social workers in using the *SDM Safety Assessment*
5 PPPs in a situation where there is a question of imminent risk of harm;
- 6 (c) adequately train its social workers in using the *SDM Safety Plan* PPPs in a
7 situation where there is a question of imminent risk of harm; or
- 8 (c) require its social workers to attend on a periodic basis (e.g., yearly) a
9 training course(s) on the constitutional law pertaining to the parent-child
10 relationship and the use of the SDM Risk Assessments, SDM Safety
11 Assessments, and SDM Safety Plans in situations that present a question
12 of imminent risk of harm.

13 **B. The Failure To Train By Placer County Counsel’s Office**

14 Placer County Counsel’s Office was responsible for reviewing the development of
15 the applicable constitutional law and then communicating to FCS about any
16 developments that should be conveyed to Placer County social workers. Placer County
17 Counsel was also responsible for preparing training materials on the applicable law and
18 then giving training courses to social workers. Placer County Counsel was further
19 responsible for analyzing and reporting to Placer County FCS if it observed any areas
20 that needed additional training.

21 Placer County Counsel did keep abreast of the applicable constitutional law and
22 developed training materials for years 2001 to 2008 and these training materials did
23 contain accurate legal summaries of relevant judicial decisions. However, the training
24 materials were inadequate in the following respects:

- 25 (a) they did not contain a plain and concise statement of the constitutional
26 protection afforded the parent-child relationship;
- 27

- 1 (b) they did not contain a plain and concise description of imminent risk of
2 harm (aka exigent circumstances); and
3 (c) they did not explain, conceptually or practically, the relationship between
4 imminent risk of harm and the SDM risk assessment and SDM safety plan
5 analysis and forms used by social workers.

6 **54. Placer County Failed to Monitor and Review Its Social Workers**

7 **A. The Failure to Monitor and Review by Placer County FCS**

8 Placer County FCS failed to adequately monitor or review (by audit or statistical
9 means) its child case referrals to identify those cases that involved an imminent risk of
10 harm determination and whether such cases were handled in a manner that was
11 consistent with the constitutional law pertaining to parent-child relationship and with the
12 PPPs. It was known and/or obvious to anyone in the field, including Placer County
13 FCS, that such a failure would lead to a situation where the constitutional violation by
14 FCS social workers would not be limited to a single, isolated incident, but would occur
15 more frequently. Such monitoring or review would have been of a nominal cost or
16 burden to Placer County and would have provided extremely useful feedback to Placer
17 County as to whether the constitutional law was being followed by its case workers.

18 **B. The Failure to Monitor and Review by Placer County Counsel's Office**

19 The PPPs explicitly require that Placer County FCS social workers contact Placer
20 County Counsel's office before making a decision in an imminent risk of harm situation.
21 However, Plaintiffs are informed and believe, and on that basis allege, that Placer
22 County Counsel did not periodically monitor or review imminent risk cases, or if it did
23 any such review or monitoring, it did not communicate the resulting analysis to Placer
24 County FCS.

25 **55. The Constitutionally Deficient PPPs, the Failure To Adequately Train, and
26 the Failure To Monitor and Review Constituted Deliberate Indifference**

27 **A. It Was Known or Obvious To Anyone in the Field**

1 It was known and/or obvious to anyone in the field, including Placer County FCS
2 and Placer County Counsel's Office, that the constitutional nature of the parent-child
3 relationship was undergoing significant development over the past decade and that
4 training of social workers in the applicable constitutional law was a necessity. It was
5 further known and/or obvious to anyone in the field that Placer County social workers
6 confronted constitutional decisions about parent-child relationships on a daily basis.
7 Finally, it was known and/or obvious to anyone in the field that the failures described in
8 paragraphs 52-54 would be likely to lead to serious violations of the constitutional rights
9 of parents and children.

10 **B. The Failures Were Done Under the Color of State Law,**
11 **Continued Over an Extended Period, and Harmed Others**

12 The failures in paragraphs 52-54 were actions and omissions under the color of
13 state law. These failures continued from approximately 2008 through June 2015. As a
14 result, other parties were harmed as evidenced by the similar wrongful conduct alleged
15 in Exhibit 5 hereto. Consequently, Placer County's failures in paragraphs 52-54
16 constituted deliberate indifference to, and a callous disregard for, the constitutional
17 rights of the parents and children living in Placer County.

18 56. As a direct and proximate result of the wrongful conduct of Placer County alleged
19 in paragraphs 52-55, the constitutional rights of Plaintiff Akey, including without
20 limitation, the violation of her procedural due process rights for proper notice and
21 hearing and a prior judicial determination before any changes were made in her custody
22 of N.D. under the Fourteenth Amendment to the United States Constitution, were
23 violated. Plaintiff Akey has sustained general damages of an estimated \$900,000,
24 according to proof, including, but not limited to: (a) the attorney's fees and costs
25 incurred by Akey in obtaining a court determination that the allegations against Akey
26 and Cornacchioli were unsubstantiated and a court order restoring Akey's custody of
27 N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount of

1 approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums
2 necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and
3 costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and
4 mental distress caused by the loss of familial relations with her son and feelings of
5 shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

6 57. As a direct and proximate result of the wrongful conduct of Placer County as set
7 forth above, Plaintiff Akey has been forced to file this action under 42 U.S.C. §1983, and
8 is entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

9 **SECOND CAUSE OF ACTION**
10 **Defendant Placer County**
11 **Unlawful Interference With Akey-N.D. Relationship As A**
12 **Result Of A Failure To Enforce Or Train**

13 58. Plaintiffs hereby incorporate by reference paragraphs 1 through 50 and 52
14 through 55, inclusive, as though set forth fully herein.

15 59. As a direct and proximate result of the wrongful conduct of Placer County as
16 alleged in paragraphs 52-55, the constitutional rights of Plaintiff Akey, including without
17 limitation, the violation of her constitutional right to a mother-son relationship under the
18 Fourth and/or Fourteenth Amendment to the United States Constitution, were violated.
19 Plaintiff Akey has sustained general damages of an estimated \$900,000, according to
20 proof, including, but not limited to: (a) the attorney's fees and costs incurred by Akey in
21 obtaining a court determination that the allegations against Akey and Cornacchioli were
22 unsubstantiated and a court order restoring Akey's custody of N.D. in an amount of at
23 least \$83,000; (b) the loss of earning capacity in an amount of approximately \$20,000;
24 (c) interest and reimbursable costs of borrowing the sums necessary to pay attorneys
25 fees in an approximate amount of \$10,000; (d) the fees and costs for therapy for N.D.;
26 (e) damage to reputation; and (f) severe emotional and mental distress caused by the
27 loss of familial relations with her son and feelings of shame, anxiety, humiliation, and
28 the loss of a sense of security, dignity, and pride.

1 60. As a direct and proximate result of the wrongful conduct of Placer County as set
2 forth above, Akey has been forced to file this action under 42 U.S.C. §1983, and is
3 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

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5 **THIRD CAUSE OF ACTION**
6 **Defendant Sutton**
7 **Violation Of Akey's Procedural Due Process**

8 61. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
9 though set forth fully herein.

10 62. Sutton failed to follow the FCS policies, practice, and procedures regarding the
11 removal of a child from the custody of a parent without prior judicial approval, including
12 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
13 of the SDM procedures or forms, or to confirm with county counsel for Placer County
14 the alleged finding of exigent circumstances for the removal of N.D..

15 63. Sutton failed to conduct an investigation in good faith, including *inter alia*, failing
16 to investigate evidence that might have been exculpatory to Akey and Cornacchioli and
17 making a finding that there was imminent danger to N.D. when there was insufficient
18 evidence to demonstrate exigent circumstances.

19 64. Sutton fabricated evidence to support the conclusion that N.D. was in imminent
20 danger.

21 65. Sutton suppressed evidence to support the conclusion that N.D. was in imminent
22 danger.

23 66. Sutton attempted to coerce Akey to consent to the removal and giving of sole
24 custody to Dupree by threatening to take all of Akey's children away.

25 67. Sutton prepared or otherwise assisted in the filing with the California DOJ of an
26 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
27 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

28 68. The foregoing failures of Sutton were actions and omissions under the color of

1 state law that were the direct and proximate cause of the violation of the constitutional
2 rights of Plaintiff Akey, including without limitation, the violation of her procedural due
3 process rights for proper notice and hearing and a prior judicial determination before
4 any changes were made in her custody of N.D. under the Fourteenth Amendment to the
5 United States Constitution.

6 69. As a direct and proximate result of the wrongful conduct of FCS as set forth
7 above, Plaintiff Akey has sustained general damages of an estimated \$900,000,
8 according to proof, including, but not limited to: (a) the attorney's fees and costs
9 incurred by Akey in obtaining a court determination that the FCS allegations against
10 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
11 of N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount
12 of approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums
13 necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and
14 costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and
15 mental distress caused by the loss of familial relations with her son and feelings of
16 shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

17 70. As a direct and proximate result of the wrongful conduct of Sutton as set forth
18 above, Plaintiff Akey has been forced to file this action under 42 U.S.C. §1983, and is
19 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

20 71. The foregoing acts and omissions of Sutton were willful and in conscious
21 disregard of the constitutional rights of Akey and such conduct was knowing, intentional,
22 wrongful, despicable, and oppressive. As a result, punitive damages should be
23 awarded against Sutton.

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25 **FOURTH CAUSE OF ACTION**
26 **Defendant Sutton**
27 **Unlawful Interference With Akey-N.D. Relationship**

28 72. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as

1 though set forth fully herein.

2 73. Sutton failed to follow the FCS policies, practice, and procedures regarding the
3 removal of a child from the custody of a parent without prior judicial approval, including
4 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
5 of the SDM procedures or forms, or to confirm with county counsel for Placer County
6 the alleged finding of exigent circumstances for the removal of N.D..

7 74. Sutton failed to conduct an investigation in good faith, including *inter alia*, failing
8 to investigate evidence that might have been exculpatory to Akey and Cornacchioli and
9 making a finding that there was imminent danger to N.D. when there was insufficient
10 evidence to demonstrate exigent circumstances.

11 75. Sutton fabricated evidence to support the conclusion that N.D. was in imminent
12 danger.

13 76. Sutton suppressed evidence to support the conclusion that N.D. was in imminent
14 danger.

15 77. Sutton attempted to coerce Akey to consent to the removal and giving of sole
16 custody to Dupree by threatening to take all of Akey's children away.

17 78. Sutton prepared or otherwise assisted in the filing with the California DOJ of an
18 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
19 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

20 79. The foregoing failures of Sutton were actions and omissions under the color of
21 state law that were the direct and proximate cause of the violation of the constitutional
22 rights of Plaintiff Akey, including without limitation, the violation of her constitutional right
23 to a mother-son relationship under the Fourth and/or Fourteenth Amendment to the
24 United States Constitution.

25 80. As a direct and proximate result of the wrongful conduct of FCS as set forth
26 above, Plaintiff Akey has sustained general damages of an estimated \$900,000,

1 according to proof, including, but not limited to: (a) the attorney's fees and costs
2 incurred by Akey in obtaining a court determination that the FCS allegations against
3 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
4 of N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount
5 of approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums
6 necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and
7 costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and
8 mental distress caused by the loss of familial relations with her son and feelings of
9 shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

10 81. As a direct and proximate result of the wrongful conduct of Sutton as set forth
11 above, Plaintiff Akey has been forced to file this action under 42 U.S.C. §1983, and is
12 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

13 82. The foregoing acts and omissions of Sutton were willful and in conscious
14 disregard of the constitutional rights of Akey and such conduct was knowing, intentional,
15 wrongful, despicable, and oppressive. As a result, punitive damages should be
16 awarded against Sutton.

17 **FIFTH CAUSE OF ACTION**
18 **Defendant Myers**
Violation Of Akey's Procedural Due Process

19 83. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
20 though set forth fully herein.

21 84. Myers failed to follow the FCS policies, practice, and procedures regarding the
22 removal of a child from the custody of a parent without prior judicial approval, including
23 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
24 of the SDM procedures or forms, or to confirm with county counsel for Placer County
25 the alleged finding of exigent circumstances for the removal of N.D..

26 85. Myers failed to conduct an investigation in good faith, including *inter alia*, failing
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1 to investigate evidence that might have been exculpatory to Akey and Cornacchioli and
2 making a finding that there was imminent danger to N.D. when there was insufficient
3 evidence to demonstrate exigent circumstances.

4 86. Myers fabricated evidence to support the conclusion that N.D. was in imminent
5 danger.

6 87. Myers suppressed evidence to support the conclusion that N.D. was in imminent
7 danger.

8 88. Myers attempted to coerce Akey to consent to the removal and giving of sole
9 custody to Dupree by threatening to take all of Akey's children away.

10 89. Myers prepared or otherwise assisted in the filing with the California DOJ of an
11 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
12 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

13 90. The foregoing failures of Myers were actions and omissions under the color of
14 state law that were the direct and proximate cause of the violation of the constitutional
15 rights of Plaintiff Akey, including without limitation, the violation of her procedural due
16 process rights for proper notice and hearing and a prior judicial determination before
17 any changes were made in her custody of N.D. under the Fourteenth Amendment to the
18 United States Constitution.

19 91. As a direct and proximate result of the wrongful conduct of FCS as set forth
20 above, Plaintiff Akey has sustained general damages of an estimated \$900,000,
21 according to proof, including, but not limited to: (a) the attorney's fees and costs
22 incurred by Akey in obtaining a court determination that the FCS allegations against
23 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
24 of N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount
25 of approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums
26 necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and
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1 costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and
2 mental distress caused by the loss of familial relations with her son and feelings of
3 shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

4 92. As a direct and proximate result of the wrongful conduct of Myers as set forth
5 above, Plaintiff Akey has been forced to file this action under 42 U.S.C. §1983, and is
6 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

7 93. The foregoing acts and omissions of Myers were willful and in conscious
8 disregard of the constitutional rights of Akey and such conduct was knowing, intentional,
9 wrongful, despicable, and oppressive. As a result, punitive damages should be
10 awarded against Myers.

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12 **SIXTH CAUSE OF ACTION**
13 **Defendant Myers**
14 **Unlawful Interference With Akey-N.D. Relationship**

15 94. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
16 though set forth fully herein.

17 95. Myers failed to follow the FCS policies, practice, and procedures regarding the
18 removal of a child from the custody of a parent without prior judicial approval, including
19 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
20 of the SDM procedures or forms, or to confirm with county counsel for Placer County
21 the alleged finding of exigent circumstances for the removal of N.D..

22 96. Myers failed to conduct an investigation in good faith, including *inter alia*, failing
23 to investigate evidence that might have been exculpatory to Akey and Cornacchioli and
24 making a finding that there was imminent danger to N.D. when there was insufficient
25 evidence to demonstrate exigent circumstances.

26 97. Myers fabricated evidence to support the conclusion that N.D. was in imminent
27 danger.

28 98. Myers suppressed evidence to support the conclusion that N.D. was in imminent

1 danger.

2 99. Myers attempted to coerce Akey to consent to the removal and giving of sole
3 custody to Dupree by threatening to take all of Akey's children away.

4 100. Myers prepared or otherwise assisted in the filing with the California DOJ of an
5 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
6 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

7 101. The foregoing failures of Myers were actions and omissions under the color of
8 state law that were the direct and proximate cause of the violation of the constitutional
9 rights of Plaintiff Akey, including without limitation, the violation of her constitutional right
10 to a mother-son relationship under the Fourth and/or Fourteenth Amendment to the
11 United States Constitution.

12 102. As a direct and proximate result of the wrongful conduct of FCS as set forth
13 above, Plaintiff Akey has sustained general damages of an estimated \$900,000,
14 according to proof, including, but not limited to: (a) the attorney's fees and costs
15 incurred by Akey in obtaining a court determination that the FCS allegations against
16 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
17 of N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount
18 of approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums
19 necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and
20 costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and
21 mental distress caused by the loss of familial relations with her son and feelings of
22 shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

23 103. As a direct and proximate result of the wrongful conduct of Myers as set forth
24 above, Plaintiff Akey has been forced to file this action under 42 U.S.C. §1983, and is
25 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

26 104. The foregoing acts and omissions of Myers were willful and in conscious
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1 disregard of the constitutional rights of Akey and such conduct was knowing, intentional,
2 wrongful, despicable, and oppressive. As a result, punitive damages should be
3 awarded against Myers.

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B. Plaintiff N.D.

**SEVENTH CAUSE OF ACTION
Defendant Placer County
Violation Of N.D.'s Procedural Due Process As A
Result Of Deficient Policies, Practices and Procedures, a Failure to Adequately
Train, and a Failure to Monitor and Review**

105. Plaintiffs hereby incorporate by reference paragraphs 1 through 50 and 52-55, inclusive, as though set forth fully herein.

106. As a direct and proximate result of the wrongful conduct of Placer County as alleged in paragraphs 52-55, the constitutional rights of Plaintiff N.D, including without limitation, the violation of N.D.'s procedural due process rights for proper notice and hearing and a prior judicial determination before any changes were made in Akey's custody of Plaintiff N.D. under the Fourteenth Amendment to the United States Constitution, were violated. Plaintiff N.D. has sustained general damages of an estimated \$300,000, according to proof, including, but not limited to: (a) the attorney's fees and costs incurred by Akey in obtaining a court determination that the FCS allegations against Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody of N.D. in an amount of at least \$83,000; (b) interest and reimbursable costs of borrowing the sums necessary to pay attorneys fees in an approximate amount of \$10,000; (c) the fees and costs for therapy; and (d) severe emotional and mental distress caused by the loss of familial relations with his mother and siblings and feelings of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

107. As a direct and proximate result of the wrongful conduct of the Placer County as set forth above, Plaintiff N.D. has been forced to file this action under 42 U.S.C. §1983, and is entitled to recover his attorneys fees and costs under 42 U.S.C. §1988.

**EIGHTH CAUSE OF ACTION
Defendant Placer County
Unlawful Interference With Akey-N.D. Relationship As A
Result Deficient Policies, Practices and Procedures, a Failure to Adequately**

Train, and a Failure to Monitor and Review

108. Plaintiffs hereby incorporate by reference paragraphs 1 through 50 and 52 through 55, inclusive, as though set forth fully herein.

109. As a direct and proximate result of the wrongful conduct of Placer County as alleged in paragraphs 52-55, the constitutional rights of Plaintiff N.D., including without limitation, the violation of his constitutional right to a mother-son relationship under the Fourth and/or Fourteenth Amendment to the United States Constitution, were violated. Plaintiff N.D. has sustained general damages of an estimated \$300,000, according to proof, including, but not limited to: (a) the attorney's fees and costs incurred by Akey in obtaining a court determination that the FCS allegations against Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody of N.D. in an amount of at least \$83,000; (b) interest and reimbursable costs of borrowing the sums necessary to pay attorneys fees in an approximate amount of \$10,000; (c) the fees and costs for therapy; and (d) severe emotional and mental distress caused by the loss of familial relations with his mother and siblings and feelings of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

110. As a direct and proximate result of the wrongful conduct of the Placer County as set forth above, N.D. has been forced to file this action under 42 U.S.C. §1983, and is entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

**NINTH CAUSE OF ACTION
Defendant Sutton
Violation Of N.D.'s Procedural Due Process**

111. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as though set forth fully herein.

112. Sutton failed to follow the FCS policies, practice, and procedures regarding the removal of a child from the custody of a parent without prior judicial approval, including *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any

1 of the SDM procedures or forms, or to confirm with county counsel for Placer County
2 the alleged finding of exigent circumstances for the removal of N.D..

3 113. Sutton failed to conduct an investigation in good faith, including *inter alia*, failing
4 to investigate evidence that might have been exculpatory to Akey and Cornacchioli and
5 making a finding that there was imminent danger to N.D. when there was insufficient
6 evidence to demonstrate exigent circumstances.

7 114. Sutton fabricated evidence to support the conclusion that N.D. was in imminent
8 danger.

9 115. Sutton suppressed evidence to support the conclusion that N.D. was in imminent
10 danger.

11 116. Sutton attempted to coerce Akey to consent to the removal and giving of sole
12 custody to Dupree by threatening to take all of Akey's children away.

13 117. Sutton prepared or otherwise assisted in the filing with the California DOJ of an
14 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
15 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

16 118. The foregoing failures of Sutton were actions and omissions under the color of
17 state law that were the direct and proximate cause of the violation of the constitutional
18 rights of Plaintiff N.D., including without limitation, the violation of his procedural due
19 process rights for proper notice and hearing and a prior judicial determination before
20 any changes were made in Akey's custody of N.D. under the Fourteenth Amendment to
21 the United States Constitution.

22 119. As a direct and proximate result of the wrongful conduct of FCS as set forth
23 above, Plaintiff N.D. has sustained general damages of an estimated \$300,000,
24 according to proof, including, but not limited to: (a) the attorney's fees and costs
25 incurred by Akey in obtaining a court determination that the FCS allegations against
26 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
27

1 of N.D. in an amount of at least \$83,000; (b) interest and reimbursable costs of
2 borrowing the sums necessary to pay attorneys fees in an approximate amount of
3 \$10,000; (c) the fees and costs for therapy; and (d) severe emotional and mental
4 distress caused by the loss of familial relations with his mother and siblings and feelings
5 of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

6 120. As a direct and proximate result of the wrongful conduct of Sutton as set forth
7 above, Plaintiff N.D. has been forced to file this action under 42 U.S.C. §1983, and is
8 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

9 121. The foregoing acts and omissions of Sutton were willful and in conscious
10 disregard of the constitutional rights of N.D. and such conduct was knowing, intentional,
11 wrongful, despicable, and oppressive. As a result, punitive damages should be
12 awarded against Sutton.

13
14 **TENTH CAUSE OF ACTION**
15 **Defendant Sutton**
16 **Unlawful Interference With Akey-N.D. Relationship**

17 122. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
18 though set forth fully herein.

19 123. Sutton failed to follow the FCS policies, practice, and procedures regarding the
20 removal of a child from the custody of a parent without prior judicial approval, including
21 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
22 of the SDM procedures or forms, or to confirm with county counsel for Placer County
23 the alleged finding of exigent circumstances for the removal of N.D..

24 124. Sutton failed to conduct an investigation in good faith, including *inter alia*, failing
25 to investigate evidence that might have been exculpatory to Akey and Cornacchioli and
26 making a finding that there was imminent danger to N.D. when there was insufficient
27 evidence to demonstrate exigent circumstances.

28 125. Sutton fabricated evidence to support the conclusion that N.D. was in imminent

1 danger.

2 126. Sutton suppressed evidence to support the conclusion that N.D. was in imminent
3 danger.

4 127. Sutton attempted to coerce Akey to consent to the removal and giving of sole
5 custody to Dupree by threatening to take all of Akey's children away.

6 128. Sutton prepared or otherwise assisted in the filing with the California DOJ of an
7 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
8 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

9 129. The foregoing failures of Sutton were actions and omissions under the color of
10 state law that were the direct and proximate cause of the violation of the constitutional
11 rights of Plaintiff N.D., including without limitation, the violation of his constitutional right
12 to a mother-son relationship under the Fourth and/or Fourteenth Amendment to the
13 United States Constitution.

14 130. As a direct and proximate result of the wrongful conduct of FCS as set forth
15 above, Plaintiff N.D. has sustained general damages of an estimated \$300,000,
16 according to proof, including, but not limited to: (a) the attorney's fees and costs
17 incurred by Akey in obtaining a court determination that the FCS allegations against
18 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
19 of N.D. in an amount of at least \$83,000; (b) interest and reimbursable costs of
20 borrowing the sums necessary to pay attorneys fees in an approximate amount of
21 \$10,000; (c) the fees and costs for therapy; and (d) severe emotional and mental
22 distress caused by the loss of familial relations with his mother and siblings and feelings
23 of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

24 131. As a direct and proximate result of the wrongful conduct of Sutton as set forth
25 above, Plaintiff N.D. has been forced to file this action under 42 U.S.C. §1983, and is
26 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

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1 132. The foregoing acts and omissions of Sutton were willful and in conscious
2 disregard of the constitutional rights of N.D. and such conduct was knowing, intentional,
3 wrongful, despicable, and oppressive. As a result, punitive damages should be
4 awarded against Sutton.

5 **ELEVENTH CAUSE OF ACTION**
6 **Defendant Myers**
7 **Violation Of N.D.'s Procedural Due Process**

8 133. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
9 though set forth fully herein.

10 134. Myers failed to follow the FCS policies, practice, and procedures regarding the
11 removal of a child from the custody of a parent without prior judicial approval, including
12 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
13 of the SDM procedures or forms, or to confirm with county counsel for Placer County
14 the alleged finding of exigent circumstances for the removal of N.D..

15 135. Myers failed to conduct an investigation in good faith, including *inter alia*, failing
16 to investigate evidence that might have been exculpatory to Akey and Cornacchioli and
17 making a finding that there was imminent danger to N.D. when there was insufficient
18 evidence to demonstrate exigent circumstances.

19 136. Myers fabricated evidence to support the conclusion that N.D. was in imminent
20 danger.

21 137. Myers suppressed evidence to support the conclusion that N.D. was in imminent
22 danger.

23 138. Myers attempted to coerce Akey to consent to the removal and giving of sole
24 custody to Dupree by threatening to take all of Akey's children away.

25 139. Myers prepared or otherwise assisted in the filing with the California DOJ of an
26 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
27 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

1 140. The foregoing failures of Myers were actions and omissions under the color of
2 state law that were the direct and proximate cause of the violation of the constitutional
3 rights of Plaintiff N.D., including without limitation, the violation of his procedural due
4 process rights for proper notice and hearing and a prior judicial determination before
5 any changes were made in her custody of N.D. under the Fourteenth Amendment to the
6 United States Constitution.

7 141. As a direct and proximate result of the wrongful conduct of FCS as set forth
8 above, Plaintiff N.D. has sustained general damages of an estimated \$300,000,
9 according to proof, including, but not limited to: (a) the attorney's fees and costs
10 incurred by Akey in obtaining a court determination that the FCS allegations against
11 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
12 of N.D. in an amount of at least \$83,000; (b) interest and reimbursable costs of
13 borrowing the sums necessary to pay attorneys fees in an approximate amount of
14 \$10,000; (c) the fees and costs for therapy; and (d) severe emotional and mental
15 distress caused by the loss of familial relations with his mother and siblings and feelings
16 of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

17 142. As a direct and proximate result of the wrongful conduct of Myers as set forth
18 above, Plaintiff N.D. has been forced to file this action under 42 U.S.C. §1983, and is
19 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

20 143. The foregoing acts and omissions of Myers were willful and in conscious
21 disregard of the constitutional rights of N.D. and such conduct was knowing, intentional,
22 wrongful, despicable, and oppressive. As a result, punitive damages should be
23 awarded against Myers.

24 **TWELFTH CAUSE OF ACTION**
25 **Defendant Myers**
26 **Unlawful Interference With Akey-N.D. Relationship**

27 144. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
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1 though set forth fully herein.

2 145. Myers failed to follow the FCS policies, practice, and procedures regarding the
3 removal of a child from the custody of a parent without prior judicial approval, including
4 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
5 of the SDM procedures or forms, or to confirm with county counsel for Placer County
6 the alleged finding of exigent circumstances for the removal of N.D..

7 146. Myers failed to conduct an investigation in good faith, including *inter alia*, failing
8 to investigate evidence that might have been exculpatory to Akey and Cornacchioli and
9 making a finding that there was imminent danger to N.D. when there was insufficient
10 evidence to demonstrate exigent circumstances.

11 147. Myers fabricated evidence to support the conclusion that N.D. was in imminent
12 danger.

13 148. Myers suppressed evidence to support the conclusion that N.D. was in imminent
14 danger.

15 149. Myers attempted to coerce Akey to consent to the removal and giving of sole
16 custody to Dupree by threatening to take all of Akey's children away.

17 150. Myers prepared or otherwise assisted in the filing with the California DOJ of an
18 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
19 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

20 151. The foregoing failures of Myers were actions and omissions under the color of
21 state law that were the direct and proximate cause of the violation of the constitutional
22 rights of Plaintiff N.D., including without limitation, the violation of his constitutional right
23 to a mother-son relationship under the Fourth and/or Fourteenth Amendment to the
24 United States Constitution.

25 152. As a direct and proximate result of the wrongful conduct of FCS as set forth
26 above, Plaintiff N.D. has sustained general damages of an estimated \$300,000,

1 according to proof, including, but not limited to: (a) the attorney's fees and costs
2 incurred by Akey in obtaining a court determination that the FCS allegations against
3 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
4 of N.D. in an amount of at least \$83,000; (b) interest and reimbursable costs of
5 borrowing the sums necessary to pay attorneys fees in an approximate amount of
6 \$10,000; (c) the fees and costs for therapy; and (d) severe emotional and mental
7 distress caused by the loss of familial relations with his mother and siblings and feelings
8 of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

9 153. As a direct and proximate result of the wrongful conduct of Myers as set forth
10 above, Plaintiff N.D. has been forced to file this action under 42 U.S.C. §1983, and is
11 entitled to recover her attorneys fees and costs under 42 U.S.C. §1988.

12 154. The foregoing acts and omissions of Myers were willful and in conscious
13 disregard of the constitutional rights of N.D. and such conduct was knowing, intentional,
14 wrongful, despicable, and oppressive. As a result, punitive damages should be
15 awarded against Myers.

1 **C. Plaintiff Ryan Cornacchioli**

2 **[THIRTEENTH CAUSE OF ACTION –OMMITTED]**

3 **FOURTEENTH CAUSE OF ACTION**

4 **Defendant Sutton**

5 **Violation Of Cornacchioli’s Procedural Due Process**

6 155. Plaintiffs hereby incorporate by reference paragraphs 1 through 50 inclusive, as
7 though set forth fully herein.

8 156. Sutton failed to follow the FCS policies, practice, and procedures regarding the
9 investigation of allegations of physical child abuse, including without limitation, what
10 amount and quality of evidence is sufficient to make a finding of “substantiated” in an
11 investigative report.

12 157. Sutton failed to conduct an investigation in good faith, including *inter alia*, failing
13 to investigate evidence that might have been exculpatory to Cornacchioli.

14 158. Sutton fabricated evidence to support her finding that the allegations of physical
15 abuse by Cornacchioli were “substantiated”.

16 159. Sutton suppressed evidence to support her finding that the allegations of
17 physical abuse by Cornacchioli were “substantiated”.

18 160. Sutton prepared or otherwise assisted in the filing with the California DOJ of an
19 unsubstantiated and/or false report about Cornacchioli as a substantiated physical
20 abuser of N.D..

21 161. The foregoing failures of Sutton were actions and omissions under the color of
22 state law that were the direct and proximate cause of the violation of the constitutional
23 rights of Plaintiff Cornacchioli, including without limitation, the violation of his procedural
24 due process rights for proper notice and hearing (administrative or judicial) under the
25 Fourteenth Amendment to the United States Constitution.

26 162. As a direct and proximate result of the wrongful conduct of FCS as set forth
27 above, Plaintiff Cornacchioli has sustained general damages of an estimated \$300,000,
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1 according to proof, including, but not limited to: (a) the attorney's fees and costs
2 incurred by Cornacchioli in obtaining a court determination that the FCS allegations
3 against Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's
4 custody of N.D. in an amount of at least \$25,000; (b) the loss of earning capacity in an
5 amount of approximately \$65,000; (c) damage to reputation; and (d) severe emotional
6 and mental distress caused by feelings of shame, anxiety, humiliation, and the loss of a
7 sense of security, dignity, and pride.

8 163. As a direct and proximate result of the wrongful conduct of Sutton as set forth
9 above, Plaintiff Cornacchioli has been forced to file this action under 42 U.S.C. §1983,
10 and is entitled to recover his attorneys fees and costs under 42 U.S.C. §1988.

11 164. The foregoing acts and omissions of Sutton were willful and in conscious
12 disregard of the constitutional rights of Cornacchioli and such conduct was knowing,
13 intentional, wrongful, despicable, and oppressive. As a result, punitive damages should
14 be awarded against Sutton.

15 165. Plaintiff Cornacchioli is informed and believes, and on that basis alleges, that the
16 California DOJ data base still has him listed as a "substantiated" child abuser, despite
17 the factual findings of the Placer County Superior Court exonerating Plaintiff
18 Cornacchioli as set forth in ¶ 34. Plaintiff Cornacchioli requests this Court to grant
19 injunctive relief to remove his name from the California DOJ data base and such
20 ancillary measures as necessary to enable him to pursue gainful employment as if he
21 had never been falsely charged.

22 **FIFTEENTH CAUSE OF ACTION**
23 **Defendant Myers**
Violation Of Cornacchioli's Procedural Due Process

24 166. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
25 though set forth fully herein.

26 167. Myers failed to follow the FCS policies, practice, and procedures regarding the
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1 investigation of allegations of physical child abuse, including without limitation, what
2 amount and quality of evidence is sufficient to make a finding of “substantiated” in an
3 investigative report.

4 168. Myers failed to conduct an investigation in good faith, including *inter alia*, failing
5 to investigate evidence that might have been exculpatory to Cornacchioli.

6 169. Myers fabricated evidence to support her finding that the allegations of physical
7 abuse by Cornacchioli were “substantiated”.

8 170. Myers suppressed evidence to support her finding that the allegations of
9 physical abuse by Cornacchioli were “substantiated”.

10 171. Myers prepared or otherwise assisted in the filing with the California DOJ of an
11 unsubstantiated and/or false report about Cornacchioli as a substantiated physical
12 abuser of N.D..

13 172. The foregoing failures of Myers were actions and omissions under the color of
14 state law that were the direct and proximate cause of the violation of the constitutional
15 rights of Plaintiff Cornacchioli, including without limitation, the violation of his procedural
16 due process rights for proper notice and hearing (administrative or judicial) under the
17 Fourteenth Amendment to the United States Constitution.

18 173. As a direct and proximate result of the wrongful conduct of FCS as set forth
19 above, Plaintiff Cornacchioli has sustained general damages of an estimated \$300,000,
20 according to proof, including, but not limited to: (a) the attorney's fees and costs
21 incurred by Cornacchioli in obtaining a court determination that the FCS allegations
22 against Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's
23 custody of N.D. in an amount of at least \$25,000; (b) the loss of earning capacity in an
24 amount of approximately \$65,000; (c) damage to reputation; and (d) severe emotional
25 and mental distress caused by feelings of shame, anxiety, humiliation, and the loss of a
26 sense of security, dignity, and pride.

1 174. As a direct and proximate result of the wrongful conduct of Myers as set forth
2 above, Plaintiff Cornacchioli has been forced to file this action under 42 U.S.C. §1983,
3 and is entitled to recover his attorneys fees and costs under 42 U.S.C. §1988.

4 175. The foregoing acts and omissions of Myers were willful and in conscious
5 disregard of the constitutional rights of Cornacchioli and such conduct was knowing,
6 intentional, wrongful, despicable, and oppressive. As a result, punitive damages should
7 be awarded against Myers.

8 176. Plaintiff Cornacchioli is informed and believes, and on that basis alleges, that the
9 California DOJ data base still has him listed as a “substantiated” child abuser, despite
10 the factual findings of the Placer County Superior Court exonerating Plaintiff
11 Cornacchioli as set forth in ¶ 34. Plaintiff Cornacchioli requests this Court to grant
12 injunctive relief to remove his name from the California DOJ data base and such
13 ancillary measures as necessary to enable him to pursue gainful employment as if he
14 had never been falsely charged.

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VI.
STATE LAW CLAIMS
A. Plaintiff Rachael Akey

SIXTEENTH CAUSE OF ACTION
Defendant Sutton
Violation of California Civil Code §52.1(a)

177. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as though set forth fully herein.

178. Sutton's attempt, under color of California law, to coerce Akey to consent to the removal and giving of sole custody of N.D. to Dupree by threatening to take all of Akey's children away, interfered with the exercise and enjoyment of the Akey's procedural due process rights and her substantive right to a mother-son relationship under the Constitution of the State of California and the Constitution of the United States.

179. As a direct and proximate result of the wrongful conduct of Sutton as set forth above, Plaintiff Akey has sustained general damages of an estimated \$900,000, according to proof, including, but not limited to: (a) the attorney's fees and costs incurred by Akey in obtaining a court determination that the FCS allegations against Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody of N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount of approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and mental distress caused by the loss of familial relations with her son and feelings of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride. Additionally, pursuant to California Civil Code §52(a) and §52.1(b), Plaintiff Akey is entitled to treble the amount of consequential damages that are proven.

180. As the direct and proximate result of the wrongful conduct of Sutton as set forth above, Plaintiff Akey is entitled to recover her attorneys fees and costs under Civil Code

1 §52.1(h).

2 **SEVENTEENTH CAUSE OF ACTION**
3 **Defendant Myers**
4 **Violation of California Civil Code §52.1(a)**

5 181. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
6 though set forth fully herein.

7 182. Myer's attempt, under color of California law, to coerce Akey to consent to the
8 removal and giving of sole custody of N.D. to Dupree by threatening to take all of Akey's
9 children away, interfered with the exercise and enjoyment of the Akey's procedural due
10 process rights and her substantive right to a mother-son relationship under the
11 Constitution of the State of California and the Constitution of the United States.

12 183. As a direct and proximate result of the wrongful conduct of Myers as set forth
13 above, Plaintiff Akey has sustained general damages of an estimated \$900,000,
14 according to proof, including, but not limited to: (a) the attorney's fees and costs
15 incurred by Akey in obtaining a court determination that the FCS allegations against
16 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
17 of N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount
18 of approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums
19 necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and
20 costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and
21 mental distress caused by the loss of familial relations with her son and feelings of
22 shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.
23 Additionally, pursuant to California Civil Code §52(a) and §52.1(b), Plaintiff Akey is
24 entitled to treble the amount of consequential damages that are proven.

25 184. As the direct and proximate result of the wrongful conduct of Myers as set forth
26 above, Plaintiff Akey is entitled to recover her attorneys fees and costs under Civil Code
27 §52.1(h).

1 **EIGHTEENTH CAUSE OF ACTION**
2 **Defendant Sutton**
3 **Interference With Akey's Mother-Son Relationship**

4 185. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
5 though set forth fully herein.

6 186. Sutton owed Akey a duty to not interfere with her custody of N.D. or her mother-
7 son relationship with N.D..

8 187. Sutton breached this duty with a willful and conscious disregard of Akey (i.e., with
9 malice) by:

10 (a) failing to follow the FCS policies, practice, and procedures regarding the
11 removal of a child from the custody of a parent without prior judicial approval, including
12 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
13 of the SDM procedures or forms, or to confirm with county counsel for Placer County
14 the alleged finding of exigent circumstances for the removal of N.D.;

15 (b) failing to investigate evidence that might have been exculpatory to Akey
16 and Cornacchioli;

17 (c) fabricating evidence to support the conclusion that N.D. was in imminent
18 danger;

19 (d) suppressing evidence to support the conclusion that N.D. was in
20 imminent danger;

21 (e) preparing or otherwise assisting in the filing with the California DOJ of an
22 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
23 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

24 188. As a direct and proximate result of the wrongful conduct of Sutton as set forth
25 above, Plaintiff Akey has sustained general damages of an estimated \$900,000,
26 according to proof, including, but not limited to: (a) the attorney's fees and costs
27 incurred by Akey in obtaining a court determination that the FCS allegations against
28

1 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
2 of N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount
3 of approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums
4 necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and
5 costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and
6 mental distress caused by the loss of familial relations with her son and feelings of
7 shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

8 189. The foregoing acts and omissions of Sutton were willful and in conscious
9 disregard of the constitutional rights of Akey and such conduct was knowing, intentional,
10 wrongful, despicable, and oppressive. As a result, punitive damages should be
11 awarded against Sutton.

12 190. Under California Government Code §820.21, Sutton is not immune under State
13 Law for the foregoing acts and omissions because Sutton: (a) suppressed the results of
14 the drug testing of Cameron Dupree and never disclosed the results of the test and
15 never entered the results into the FCS records (§§ 37); (b) suppressed the facts about
16 Cameron Dupree's history of drug abuse and felony convictions (§§ 37); (c) fabricated
17 the portion of the FCS Report that stated that Akey gave her consent to the termination
18 of her custody of N.D. (§§ 25 & 27); (d) fabricated the portion of the FCS Report that
19 stated "Sutton was able to assess the home of Cameron Dupree" and that the home
20 was "neat and nicely furnished" (§ 34); (e) filed a false report with the California DOJ
21 stating that Cornacchioli as a perpetrator of physical abuse on N.D. (§§ 31-32); and (f)
22 suppressed/prevented the FCS investigative report from being given to Plaintiff (§ 50).

1 **NINETEENTH CAUSE OF ACTION**
2 **Defendant Myers**
3 **Interference With Akey's Mother-Son Relationship**

4 191. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
5 though set forth fully herein.

6 192. Myers owed Akey a duty to not interfere with her custody of N.D. or her mother-
7 son relationship with N.D..

8 193. Myer breached this duty with a willful and conscious disregard of Akey (i.e., with
9 malice) by:

10 (a) failing to follow the FCS policies, practice, and procedures regarding the
11 removal of a child from the custody of a parent without prior judicial approval, including
12 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
13 of the SDM procedures or forms, or to confirm with county counsel for Placer County
14 the alleged finding of exigent circumstances for the removal of N.D.;

15 (b) failing to investigate evidence that might have been exculpatory to Akey
16 and Cornacchioli;

17 (c) fabricating evidence to support the conclusion that N.D. was in imminent
18 danger;

19 (d) suppressing evidence to support the conclusion that N.D. was in
20 imminent danger;

21 (e) preparing or otherwise assisting in the filing with the California DOJ of an
22 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
23 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

24 194. As a direct and proximate result of the wrongful conduct of Myers as set forth
25 above, Plaintiff Akey has sustained general damages of an estimated \$900,000,
26 according to proof, including, but not limited to: (a) the attorney's fees and costs
27 incurred by Akey in obtaining a court determination that the FCS allegations against
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1 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
2 of N.D. in an amount of at least \$83,000; (b) the loss of earning capacity in an amount
3 of approximately \$20,000; (c) interest and reimbursable costs of borrowing the sums
4 necessary to pay attorneys fees in an approximate amount of \$10,000; (d) the fees and
5 costs for therapy for N.D.; (e) damage to reputation; and (f) severe emotional and
6 mental distress caused by the loss of familial relations with her son and feelings of
7 shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

8 195. The foregoing acts and omissions of Myers were willful and in conscious
9 disregard of the constitutional rights of Akey and such conduct was knowing, intentional,
10 wrongful, despicable, and oppressive. As a result, punitive damages should be
11 awarded against Myers.

12 196. Under California Government Code §820.21, Myers is not immune under State
13 Law for the foregoing acts and omissions because Myers: (a) suppressed the results of
14 the drug testing of Cameron Dupree and never disclosed the results of the test and
15 never entered the results into the FCS records (§ 37); (b) suppressed the facts about
16 Cameron Dupree's history of drug abuse and felony convictions (§ 37); (c) fabricated
17 the portion of the FCS Report that stated that Akey gave her consent to the termination
18 of her custody of N.D. (§§ 25 & 27); (d) fabricated the portion of the FCS Report that
19 stated "Sutton was able to assess the home of Cameron Dupree" and that the home
20 was "neat and nicely furnished" (§ 34); (e) filed a false report with the California DOJ
21 stating that Cornacchioli as a perpetrator of physical abuse on N.D. (§§ 31-32); and (f)
22 suppressed/prevented the FCS investigative report from being given to Plaintiff (§ 50).

23
24 **TWENTIETH CAUSE OF ACTION**
25 **Defendant Placer County**
26 **Respondeat Superior Liability Under California**
27 **Government Code §815.2(a) And/Or 815.6**

28 197. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as

1 though set forth fully herein.

2 198. Defendant Placer County as the employer of Sutton and Myers, has full authority
3 to train, supervise, and direct all of the actions of Sutton and Myers while working for
4 FCS. Sutton and Myers, in their capacity and in the performance of their duties as
5 social workers for FCS, engaged in the acts and omissions alleged in the Sixteenth
6 through Nineteenth Causes of Action, specifically paragraphs 198, 202, 206-207, and
7 212-213, which acts and omissions are hereby incorporated by reference.

8 199. California Civil Code §52.1(a) also imposes a mandatory duty upon Placer
9 County to protect against the risk of violation of a individual's rights under the
10 Constitution of the State of California and the Constitution of the United States.

11 200. As a direct and proximate result of the wrongful conduct of Sutton and Myers, for
12 which Defendant Placer County is liable under the doctrine of respondeat superior
13 and/or California Government Code §815.6, Plaintiff Akey has sustained general
14 damages of an estimated \$900,000, according to proof, including, but not limited to: (a)
15 the attorney's fees and costs incurred by Akey in obtaining a court determination that
16 the FCS allegations against Akey and Cornacchioli were unsubstantiated and a court
17 order restoring Akey's custody of N.D. in an amount of at least \$83,000; (b) the loss of
18 earning capacity in an amount of approximately \$20,000; (c) interest and reimbursable
19 costs of borrowing the sums necessary to pay attorneys fees in an approximate amount
20 of \$10,000; (d) the fees and costs for therapy for N.D.; (e) damage to reputation; and (f)
21 severe emotional and mental distress caused by the loss of familial relations with her
22 son and feelings of shame, anxiety, humiliation, and the loss of a sense of security,
23 dignity, and pride. Additionally, pursuant to California Civil Code §52(a) and §52.1(b),
24 Plaintiff Akey is entitled to treble the amount of consequential damages that are proven.

25 201. As the direct and proximate result of the wrongful conduct of Sutton and Myers
26 as set forth above, for which Defendant Placer County is liable under the doctrine of
27

1 respondeat superior and/or California Government Code §815.6, Plaintiff Akey is
2 entitled to recover her attorneys fees and costs under Civil Code §52.1(h).

3 **B. Plaintiff N.D.**

4 **TWENTY FIRST CAUSE OF ACTION**

5 **Defendant Sutton**
6 **Interference With N.D.'s Son-Mother Relationship**

7 202. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
8 though set forth fully herein.

9 203. Sutton owed N.D. a duty to not interfere with Akey's custody of N.D. or his son-
10 mother relationship with Akey.

11 204. Sutton breached this duty with a willful and conscious disregard of N.D. (i.e., with
12 malice) by:

13 (a) failing to follow the FCS policies, practice, and procedures regarding the
14 removal of a child from the custody of a parent without prior judicial approval, including
15 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
16 of the SDM procedures or forms, or to confirm with county counsel for Placer County
17 the alleged finding of exigent circumstances for the removal of N.D.;

18 (b) failing to investigate evidence that might have been exculpatory to Akey
19 and Cornacchioli;

20 (c) fabricating evidence to support the conclusion that N.D. was in imminent
21 danger;

22 (d) suppressing evidence to support the conclusion that N.D. was in
23 imminent danger;

24 (e) preparing or otherwise assisting in the filing with the California DOJ of an
25 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
26 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

27 205. As a direct and proximate result of the wrongful conduct of Sutton as set forth
28

1 above, Plaintiff N.D. has sustained general damages of an estimated \$300,000,
2 according to proof, including, but not limited to: (a) the attorney's fees and costs
3 incurred by Akey in obtaining a court determination that the FCS allegations against
4 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
5 of N.D. in an amount of at least \$83,000; (b) interest and reimbursable costs of
6 borrowing the sums necessary to pay attorneys fees in an approximate amount of
7 \$10,000; (c) the fees and costs for therapy; and (d) severe emotional and mental
8 distress caused by the loss of familial relations with his mother and siblings and feelings
9 of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

10 206. The foregoing acts and omissions of Sutton were willful and in conscious
11 disregard of the constitutional rights of N.D. and such conduct was knowing, intentional,
12 wrongful, despicable, and oppressive. As a result, punitive damages should be
13 awarded against Sutton.

14 207. Under California Government Code §820.21, Sutton is not immune under State
15 Law for the foregoing acts and omissions because Sutton: (a) suppressed the results of
16 the drug testing of Cameron Dupree and never disclosed the results of the test and
17 never entered the results into the FCS records (§§ 37); (b) suppressed the facts about
18 Cameron Dupree's history of drug abuse and felony convictions (§§ 37); (c) fabricated
19 the portion of the FCS Report that stated that Akey gave her consent to the termination
20 of her custody of N.D. (§§ 25 & 27); (d) fabricated the portion of the FCS Report that
21 stated "Sutton was able to assess the home of Cameron Dupree" and that the home
22 was "neat and nicely furnished" (§ 34); (e) filed a false report with the California DOJ
23 stating that Cornacchioli as a perpetrator of physical abuse on N.D. (§§ 31-32); and (f)
24 suppressed/prevented the FCS investigative report from being given to Plaintiff (§ 50).

1 **TWENTY SECOND CAUSE OF ACTION**
2 **Defendant Myers**
3 **Interference With N.D.'s Son-Mother Relationship**

4 208. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
5 though set forth fully herein.

6 209. Myers owed N.D. a duty to not interfere with Akey's custody of N.D. or his son-
7 mother relationship with Akey.

8 210. Myer breached this duty with a willful and conscious disregard of N.D. (i.e., with
9 malice) by:

10 (a) failing to follow the FCS policies, practice, and procedures regarding the
11 removal of a child from the custody of a parent without prior judicial approval, including
12 *inter alia*, failing to interview in person either Akey or Cornacchioli, failing to employ any
13 of the SDM procedures or forms, or to confirm with county counsel for Placer County
14 the alleged finding of exigent circumstances for the removal of N.D.;

15 (b) failing to investigate evidence that might have been exculpatory to Akey
16 and Cornacchioli;

17 (c) fabricating evidence to support the conclusion that N.D. was in imminent
18 danger;

19 (d) suppressing evidence to support the conclusion that N.D. was in
20 imminent danger;

21 (e) preparing or otherwise assisting in the filing with the California DOJ of an
22 unsubstantiated and/or false report about Cornacchioli as a perpetrator of physical
23 abuse on N.D. to intimidate, suppress, and discredit Cornacchioli.

24 211. As a direct and proximate result of the wrongful conduct of Myers as set forth
25 above, Plaintiff N.D. has sustained general damages of an estimated \$300,000,
26 according to proof, including, but not limited to: (a) the attorney's fees and costs
27 incurred by Akey in obtaining a court determination that the FCS allegations against
28

1 Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's custody
2 of N.D. in an amount of at least \$83,000; (b) interest and reimbursable costs of
3 borrowing the sums necessary to pay attorneys fees in an approximate amount of
4 \$10,000; (c) the fees and costs for therapy; and (d) severe emotional and mental
5 distress caused by the loss of familial relations with his mother and siblings and feelings
6 of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and pride.

7 212. The foregoing acts and omissions of Myers were willful and in conscious
8 disregard of the constitutional rights of N.D. and such conduct was knowing, intentional,
9 wrongful, despicable, and oppressive. As a result, punitive damages should be
10 awarded against Myers.

11 213. Under California Government Code §820.21, Myers is not immune under State
12 Law for the foregoing acts and omissions because Myers: (a) suppressed the results of
13 the drug testing of Cameron Dupree and never disclosed the results of the test and
14 never entered the results into the FCS records (§§ 37); (b) suppressed the facts about
15 Cameron Dupree's history of drug abuse and felony convictions (§§ 37); (c) fabricated
16 the portion of the FCS Report that stated that Akey gave her consent to the termination
17 of her custody of N.D. (§§ 25 & 27); (d) fabricated the portion of the FCS Report that
18 stated "Sutton was able to assess the home of Cameron Dupree" and that the home
19 was "neat and nicely furnished" (§ 34); (e) filed a false report with the California DOJ
20 stating that Cornacchioli as a perpetrator of physical abuse on N.D. (§§ 31-32); and (f)
21 suppressed/prevented the FCS investigative report from being given to Plaintiff (§ 50).

22
23 **TWENTY THIRD CAUSE OF ACTION**
24 **Defendant Placer County**
25 **Respondeat Superior Liability Under California**
26 **Government Code §815.2(a) And/Or 815.6**

27 214. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
28 though set forth fully herein.

1 215. Defendant Placer County as the employer of Sutton and Myers, has full authority
2 to train, supervise, and direct all of the actions of Sutton and Myers while working for
3 FCS. Sutton and Myers, in their capacity and in the performance of their duties as
4 social workers for FCS, engaged in the acts and omissions alleged in the Twenty First
5 through the Twenty Fourth Causes of Action, specifically paragraphs 223-224, 229-230,
6 which acts and omissions are hereby incorporated by reference.

7 216. California Civil Code §52.1(a) also imposes a mandatory duty upon Placer
8 County to protect against the risk of violation of a individual's rights under the
9 Constitution of the State of California and the Constitution of the United States.

10 217. As a direct and proximate result of the wrongful conduct of Sutton and Myers, for
11 which Defendant Placer County is liable under the doctrine of respondeat superior
12 and/or California Government Code §815.6, Plaintiff N.D. has sustained general
13 damages of an estimated \$300,000, according to proof, including, but not limited to: (a)
14 the attorney's fees and costs incurred by Akey in obtaining a court determination that
15 the FCS allegations against Akey and Cornacchioli were unsubstantiated and a court
16 order restoring Akey's custody of N.D. in an amount of at least \$83,000; (b) the loss of
17 earning capacity in an amount of approximately \$20,000; (c) interest and reimbursable
18 costs of borrowing the sums necessary to pay attorneys fees in an approximate amount
19 of \$10,000; (d) the fees and costs for therapy for N.D.; (e) damage to reputation; and (f)
20 severe emotional and mental distress caused by the loss of familial relations with his
21 mother and siblings and feelings of shame, anxiety, humiliation, and the loss of a sense
22 of security, dignity, and pride. Additionally, pursuant to California Civil Code §52(a) and
23 §52.1(b), Plaintiff Akey is entitled to treble the amount of consequential damages that
24 are proven.

25 218. As the direct and proximate result of the wrongful conduct of Sutton and Myers
26 as set forth above, for which Defendant Placer County is liable under the doctrine of
27

1 respondeat superior and/or California Government Code §815.6, Plaintiff N.D. is entitled
2 to recover her attorneys fees and costs under Civil Code §52.1(h).

3 **C. Plaintiff Ryan Cornacchioli**

4 **TWENTY FOURTH CAUSE OF ACTION**
5 **Defendant Sutton**
6 **Interference With Cornacchioli's Constitutional Rights**

7 219. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
8 though set forth fully herein.

9 220. Sutton owed Cornacchioli a duty to not violate his constitutional rights, including
10 without limitation, his procedural due process rights for proper notice and hearing
11 (administrative or judicial) under the Fourteenth Amendment to the United States
12 Constitution.

13 221. Sutton breached this duty with a willful and conscious disregard of Cornacchioli
14 (i.e., with malice) by:

15 (a) failing to follow the FCS policies, practice, and procedures regarding the
16 investigation of allegations of physical child abuse, including without limitation, what
17 amount and quality of evidence is sufficient to make a finding of "substantiated" in an
18 investigative report;

19 (b) failing to conduct an investigation in good faith, including *inter alia*, failing
20 to investigate evidence that might have been exculpatory to Cornacchioli;

21 (c) fabricating evidence to support her finding that the allegations of physical
22 abuse by Cornacchioli were "substantiated";

23 (d) suppressing evidence to support her finding that the allegations of
24 physical abuse by Cornacchioli were "substantiated";

25 (e) preparing or otherwise assisting in the filing with the California DOJ of an
26 unsubstantiated and/or false report about Cornacchioli as a substantiated physical
27 abuser of N.D..

1 222. As a direct and proximate result of the wrongful conduct of Sutton as set forth
2 above, Plaintiff Cornacchioli has sustained general damages of an estimated \$300,000,
3 according to proof, including, but not limited to: (a) the attorney's fees and costs
4 incurred by Cornacchioli in obtaining a court determination that the FCS allegations
5 against Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's
6 custody of N.D. in an amount of at least \$25,000; (b) the loss of earning capacity in an
7 amount of approximately \$65,000; (c) damage to reputation; and (d) severe emotional
8 and mental distress caused by feelings of shame, anxiety, humiliation, and the loss of a
9 sense of security, dignity, and pride.

10 223. The foregoing acts and omissions of Sutton were willful and in conscious
11 disregard of the constitutional rights of Cornacchioli and such conduct was knowing,
12 intentional, wrongful, despicable, and oppressive. As a result, punitive damages should
13 be awarded against Sutton.

14 224. Under California Government Code §820.21, Sutton is not immune under State
15 Law for the foregoing acts and omissions because Sutton: (a) suppressed the results of
16 the drug testing of Cameron Dupree and never disclosed the results of the test and
17 never entered the results into the FCS records (§§ 37); (b) suppressed the facts about
18 Cameron Dupree's history of drug abuse and felony convictions (§§ 37); (c) fabricated
19 the portion of the FCS Report that stated that Akey gave her consent to the termination
20 of her custody of N.D. (§§ 25 & 27); (d) fabricated the portion of the FCS Report that
21 stated "Sutton was able to assess the home of Cameron Dupree" and that the home
22 was "neat and nicely furnished" (§ 34); (e) filed a false report with the California DOJ
23 stating that Cornacchioli as a perpetrator of physical abuse on N.D. (§§ 31-32); and (f)
24 suppressed/prevented the FCS investigative report from being given to Plaintiff (§ 50).

1 **TWENTY FIFTH CAUSE OF ACTION**
2 **Defendant Myers**
3 **Interference With Cornacchioli's Constitutional Rights**

4 225. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
5 though set forth fully herein.

6 226. Myers owed Cornacchioli a duty to not violate his constitutional rights, including
7 without limitation, his procedural due process rights for proper notice and hearing
8 (administrative or judicial) under the Fourteenth Amendment to the United States
9 Constitution.

10 227. Myers breached this duty with a willful and conscious disregard of Cornacchioli
11 (i.e., with malice) by:

12 (a) failing to follow the FCS policies, practice, and procedures regarding the
13 investigation of allegations of physical child abuse, including without limitation, what
14 amount and quality of evidence is sufficient to make a finding of "substantiated" in an
15 investigative report;

16 (b) failing to conduct an investigation in good faith, including *inter alia*, failing
17 to investigate evidence that might have been exculpatory to Cornacchioli;

18 (c) fabricating evidence to support her finding that the allegations of physical
19 abuse by Cornacchioli were "substantiated";

20 (d) suppressing evidence to support her finding that the allegations of
21 physical abuse by Cornacchioli were "substantiated";

22 (e) preparing or otherwise assisting in the filing with the California DOJ of an
23 unsubstantiated and/or false report about Cornacchioli as a substantiated physical
24 abuser of N.D..

25 228. As a direct and proximate result of the wrongful conduct of Myers as set forth
26 above, Plaintiff Cornacchioli has sustained general damages of an estimated \$300,000,
27 according to proof, including, but not limited to: (a) the attorney's fees and costs

1 incurred by Cornacchioli in obtaining a court determination that the FCS allegations
2 against Akey and Cornacchioli were unsubstantiated and a court order restoring Akey's
3 custody of N.D. in an amount of at least \$25,000; (b) the loss of earning capacity in an
4 amount of approximately \$65,000; (c) damage to reputation; and (d) severe emotional
5 and mental distress caused by feelings of shame, anxiety, humiliation, and the loss of a
6 sense of security, dignity, and pride.

7 229. The foregoing acts and omissions of Myers were willful and in conscious
8 disregard of the constitutional rights of Cornacchioli and such conduct was knowing,
9 intentional, wrongful, despicable, and oppressive. As a result, punitive damages should
10 be awarded against Myers.

11 230. Under California Government Code §820.21, Myers is not immune under State
12 Law for the foregoing acts and omissions because Myers: (a) suppressed the results of
13 the drug testing of Cameron Dupree and never disclosed the results of the test and
14 never entered the results into the FCS records (§§ 37); (b) suppressed the facts about
15 Cameron Dupree's history of drug abuse and felony convictions (§§ 37); (c) fabricated
16 the portion of the FCS Report that stated that Akey gave her consent to the termination
17 of her custody of N.D. (§§ 25 & 27); (d) fabricated the portion of the FCS Report that
18 stated "Sutton was able to assess the home of Cameron Dupree" and that the home
19 was "neat and nicely furnished" (§ 34); (e) filed a false report with the California DOJ
20 stating that Cornacchioli as a perpetrator of physical abuse on N.D. (§§ 31-32); and (f)
21 suppressed/prevented the FCS investigative report from being given to Plaintiff (§ 50).

22
23 **TWENTY SIXTH CAUSE OF ACTION**
24 **Defendant Placer County**
25 **Respondeat Superior Liability Under California**
26 **Government Code §815.2(a) And/Or 815.6**

27 231. Plaintiffs hereby incorporate by reference paragraphs 1 through 50, inclusive, as
28 though set forth fully herein.

1 232. Defendant Placer County as the employer of Sutton and Myers, has full authority
2 to train, supervise, and direct all of the actions of Sutton and Myers while working for
3 FCS. Sutton and Myers, in their capacity and in the performance of their duties as
4 social workers for FCS, engaged in the acts and omissions alleged in the Twenty Sixth
5 and Twenty Seventh Causes of Action, specifically paragraphs 250-251 and 256-257,
6 which paragraphs are hereby incorporated by reference.

7 233. California Civil Code §52.1(a) also imposes a mandatory duty upon Placer
8 County to protect against the risk of violation of a individual's rights under the
9 Constitution of the State of California and the Constitution of the United States.

10 234. As a direct and proximate result of the wrongful conduct of Sutton and Myers, for
11 which Defendant Placer County is liable under the doctrine of respondeat superior
12 and/or California Government Code §815.6, Plaintiff Cornacchioli has sustained
13 general damages of an estimated \$300,000, according to proof, including, but not
14 limited to: (a) the attorney's fees and costs incurred by Akey in obtaining a court
15 determination that the FCS allegations against Akey and Cornacchioli were
16 unsubstantiated and a court order restoring Akey's custody of N.D. in an amount of at
17 least \$25,000; (b) the loss of earning capacity in an amount of approximately \$65,000;
18 (d) damage to reputation; and (e) severe emotional and mental distress caused by
19 feelings of shame, anxiety, humiliation, and the loss of a sense of security, dignity, and
20 pride.

21 235. As the direct and proximate result of the wrongful conduct of Sutton and Myers
22 as set forth above, for which Defendant Placer County is liable under the doctrine of
23 respondeat superior and/or California Government Code §815.6, Plaintiff Cornacchioli is
24 entitled to recover her attorneys fees and costs under Civil Code §52.1(h).

VII. PRAYER

Wherefore, Plaintiffs pray for judgment against Defendants as follows:

1. For general, consequential, and special damages in the sum set forth in each count according to proof;
2. For punitive and exemplary damages in a sum according to proof in counts 3-6, 9-12, 14-15, 18-19, 21-22, and 24-25;
3. For reasonable attorney's fees and costs pursuant to 42 U.S.C. Section 1988 in counts 1-15;
4. For reasonable attorney's fees and costs pursuant to California Civil Code §52.1(h) in counts 16-17, 20-22, and 25;
5. For the maximum civil penalties under California Civil Code §52.1(a)(2) in Counts 16-17;
6. For treble damages (3x consequential) in counts 16-17, 20, and 23;
7. For cost of suit herein incurred for all counts; and
8. For injunctive relief for Plaintiff Cornacchioli under Counts 13-15 to remove his name from the California Department of Justice data base;
9. For such other and further relief as the Court deems just and proper.

\\

Dated: May 20, 2017

Respectfully,

By: /s/ Patrick H. Dwyer
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