

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

Y.A.L., INDIVIDUALLY )  
AND ON BEHALF OF MINOR J.M.L., )

D.C. KinCare Alliance )  
1101 Connecticut Avenue NW, Suite 450 )  
Washington, D.C. 20036 )

Plaintiffs, )

v. )

THE DISTRICT OF COLUMBIA )  
One Judiciary Square )  
441 Fourth Street, NW )  
Washington, D.C. 20001 )

SERVE: )

MURIEL BOWSER )  
Mayor of the District of Columbia )  
1350 Pennsylvania Avenue, NW, 4th Fl. )  
Washington, D.C. 20004 )

BRIAN SCHWALB )  
Attorney General for D.C. )  
441 4th Street NW, Suite 630 South )  
Washington, D.C. 20001 )

and )

D.C. CHILD AND FAMILY SERVICES )  
AGENCY )

TANYA TRICE, Interim Director )  
200 I Street, SE )  
Washington, D.C. 20003 )

Defendants. )

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Civil Action No.

JURY TRIAL DEMANDED

## **COMPLAINT**

### **I. PRELIMINARY STATEMENT**

1. The District of Columbia is obligated under federal and D.C. law to safeguard children's health and well-being, and to take necessary and appropriate steps to ensure that abused or neglected children who cannot be protected from harm in their home are placed in a safe environment and provided assistance, including financial support. Specifically, if the District of Columbia, through its agency, the Child and Family Services Agency ("CFSA") (collectively, the "Defendants"), determines that a child has been neglected or abused and cannot be protected in the home by the provision of services, CFSA must remove the child from the unsafe home. Unless a parent consents to removal, CFSA must petition the Family Division of the D.C. Superior Court ("D.C. Family Court") to initiate a neglect case and seek custody of the child so that the child can be placed in foster care.

2. CFSA must consider giving preference to an adult relative over a non-related caregiver when placing a child in foster care, regardless of whether the relative lives in D.C. or another state. When CFSA seeks to place a child in another state, CFSA is required to obtain approval for the placement from the local family services agency. To obtain such approval, CFSA must notify the local family services agency of the proposed placement, which will prompt such agency to conduct an assessment to ensure the placement is not contrary to the child's best interest. The local family services agency will notify CFSA if the placement has been approved, and only after receiving this approval can CFSA effect the out-of-state placement.

3. Once CFSA has placed a child with a relative caregiver in another state, the local family services agency is responsible for periodically monitoring the placement. CFSA, however, continues to be responsible for all matters related to the custody, supervision, care, treatment and disposition of the child. Pursuant to this responsibility, CFSA is required to provide services to

the child to help to ensure their continued health, safety, and overall well-being, as well as foster care maintenance payments to the child's caregiver to help alleviate the financial burden of caring for the child.<sup>1</sup>

4. Despite these requirements, Defendants, for at least the last 14 years, have consistently and repeatedly engaged in the custom and practice of kinship diversion,<sup>2</sup> whereby Defendants informally remove children from the custody of their parents and place them in the care of a relative caregiver, rather than placing the child in foster care with that same relative. Unlike foster children and foster parents, Defendants do not provide diverted children and their relative caregivers with any services or foster care maintenance payments. By ignoring the legally required removal and placement procedures, Defendants avoid the legal and financial responsibilities to support these children and their relative caregivers. Indeed, on information and belief, Defendants have adopted this custom and practice of kinship diversion to relative caregivers, and now use it routinely, *precisely to avoid those responsibilities*. The use of kinship diversion rather than kinship foster care placement deprives both child and caregiver of their rights to assistance, in violation of the United States Constitution, federal, and D.C. law.

5. Plaintiff J.M.L., a one-year-old girl with special health care needs,<sup>3</sup> is the biological child of her mother J.L., who is now deceased. Her biological father's identity is unknown. J.M.L. was

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<sup>1</sup> Plaintiffs recognize that certain similar claims were dismissed by the Court in *K.H. et al. v. District of Columbia et al.*, Order Granting in Part and Denying in Part Defendants' Motion to Dismiss, Case No. 1:19-cv-03124-ACR, Dkt. No. 70 (May 31, 2024), a ruling that was applied to the consolidated complaints. *Id.* Plaintiffs assert the corresponding claims here to preserve them for any appeal.

<sup>2</sup> Kinship diversion is also referred to as "hidden foster care." See Josh Gupta-Kagan, *America's Hidden Foster Care System*, 72 Stan. L. Rev. 841 (2020), [https://papers.ssrn.com/sol3/papers.cfm?abstract\\_id=3437849](https://papers.ssrn.com/sol3/papers.cfm?abstract_id=3437849).

<sup>3</sup> Pursuant to Rule 5.2(a) of the Federal Rules of Civil Procedure and Rule 5.4(f) of the Local Rules of the U.S. District Court for the District of Columbia, minor plaintiff J.M.L. is identified

born prematurely on January 8, 2023 with a positive toxicology screen for cocaine, and also sustained a birth injury resulting in Erb's palsy in her right arm, among other conditions diagnosed shortly after birth. J.L., who struggled with mental illness and addiction to marijuana, cocaine and PCP during her pregnancy, left J.M.L. in the hospital shortly after she was born, without completing the Mother's Worksheet required by the D.C. Vital Records Division to name the child and have a birth certificate issued. Defendants substantiated J.L. for neglect of J.M.L., removed J.M.L. from J.L.'s care, and informally and illegally placed her through kinship diversion in the care of J.L.'s former foster mother, Plaintiff Y.A.L., a resident of Maryland. Defendants did not inform Y.A.L. of her option to become a licensed foster parent for J.M.L., and instead encouraged Y.A.L. to file for legal custody of J.M.L. Further, Defendants failed to notify and obtain approval for the placement from the Maryland Department of Human Services. J.L. passed away on April 19, 2023.

6. Y.A.L. has cared for J.M.L. since January 18, 2023, and continues to care for her. During this time, Defendants have failed to provide the required supports and services to J.M.L. or Y.A.L. (collectively, the "Plaintiffs"), including development of a case plan, services to protect the health and safety of J.M.L., and foster care maintenance payments made on behalf of J.M.L. Because of these failures, Y.A.L. has struggled to care for J.M.L. In addition to the typical challenges facing relative caregivers, Y.A.L. was unable to obtain a birth certificate for J.M.L. for five months and, thus, was unable to access necessary medical, disability and other benefits and services for J.M.L.

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by her initials. Plaintiffs have filed a motion and accompanying memorandum requesting leave of the Court for Y.A.L. and J.M.L.'s biological mother to be identified anonymously and for Plaintiffs' residential addresses to be substituted with the address of their counsel, D.C. KinCare Alliance.

7. To date, Defendants' actions have resulted in withheld foster care support services and financial losses of approximately \$20,520 in foster care maintenance payments that otherwise would have been paid and other amounts to be determined at trial.

8. As a direct consequence of Defendants' conduct, Y.A.L. and J.M.L. have been and continue to be denied the full services, economic benefits and other rights to which they are entitled under federal and D.C. law.

9. Moreover, Defendants have violated federal and D.C. law for discriminating against Plaintiffs by treating the relative caregiver and child under her care differently and less supportively than Defendants treat children in licensed foster care and their foster parents.<sup>4</sup>

10. This action seeks declaratory and injunctive relief, as well as damages, to redress the violations of federal and D.C. law.

## II. JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. §§ 1331 and 1343(a)(3) and 42 U.S.C. § 1983 because this action arises under the Constitution and the laws of the United States, specifically, Title IV-E of the Social Security Act, 42 U.S.C. §§ 670–679c (“Social Security Act”), and the Fifth and Fourteenth Amendments to the United States Constitution.

12. Plaintiffs' claims for declaratory relief and damages are authorized by 28 U.S.C. §§ 2201–2202 and 42 U.S.C. § 1983, and by the inherent powers of this Court in law and in equity.

13. This Court also has supplemental jurisdiction over Plaintiffs' pendent state law claims under 28 U.S.C. § 1367.

14. Venue is proper under 28 U.S.C. § 1391(b)(2) because all of the events and omissions giving rise to Plaintiffs' claims occurred in D.C.

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<sup>4</sup> See *supra* note 1.

### **III. PARTIES**

15. Plaintiff J.M.L. is a minor child who was removed from the custody of her biological mother and placed via kinship diversion in the care of her mother's former foster parent, Y.A.L. J.M.L. was born in D.C. and resided in D.C. until Defendants' unlawful kinship diversion.

16. As the legal custodian of J.M.L., Plaintiff Y.A.L. brings this action on her own behalf and on behalf of J.M.L. Plaintiff Y.A.L. has been a resident of Maryland at all relevant times.

17. Plaintiffs are citizens of the United States.

18. Defendant District of Columbia is the government of D.C. Defendant District of Columbia operates and has oversight over Defendant CFSA.

19. Defendant CFSA is a cabinet-level agency of the District of Columbia charged with administering the foster care system and ensuring the safety and well-being of children residing within D.C. CFSA is responsible both for responding to and investigating reports of child abuse and neglect and for removing and placing neglected or abused children who cannot be protected in their own home.

### **IV. FEDERAL AND STATE LAW GOVERNING DISTRICT OF COLUMBIA'S OBLIGATIONS TO ABUSED AND NEGLECTED CHILDREN AND THEIR CAREGIVERS**

20. By acting through CFSA to effect kinship diversions without following the legally required procedures for removal and foster care placement, Defendant District of Columbia has violated and continues to violate the Social Security Act, the D.C. Prevention of Child Abuse and Neglect Act of 1977 ("D.C. Child Abuse and Neglect Act"), the Interstate Compact on the Placement of Children ("Interstate Placement Compact"), the D.C. Human Rights Act of 1977 ("D.C. Human Rights Act"), and the Fifth and Fourteenth Amendment rights of the Plaintiffs.

21. By effecting kinship diversions without following the legally required procedures for removal and foster care placement, Defendant CFSA has violated and continues to violate the

Social Security Act, the D.C. Child Abuse and Neglect Act, the Interstate Placement Compact, the D.C. Human Rights Act, and the Fifth and Fourteenth Amendments of the United States Constitution.

**A. Obligations Under The Federal Social Security Act**

22. The Social Security Act establishes a federal-state grant program that is designed to ensure that abused and neglected children who cannot be protected from harm in their homes are placed in a safe and stable environment until those children are able to return home safely or are placed in another permanent living arrangement.

23. The Social Security Act requires any “State”<sup>5</sup> that opts to receive Title IV funds to have a plan approved by the Secretary of the U.S. Department of Health and Human Services, and to agree to administer its foster care program in accordance with the statutory requirements and implementing regulation, which, in pertinent part:

- (a) require that reasonable efforts be made to preserve and reunify families by seeking to prevent or eliminate the need for removing the child from their home prior to placement in foster care and to make it possible for the child to safely return to their home, and, if the family cannot safely be reunified, require that steps be taken to finalize a permanent placement for the child, 42 U.S.C. § 671(a)(15)(B)–(C);
- (b) require that the removal of a child from their home is in accordance with a judicial determination that continuation in the home would be contrary to the welfare of the child or with a voluntary placement agreement, and require that the child is placed in a foster family home or child care institution that meets the standards for foster

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<sup>5</sup> Under the Act, the term “State” includes the District of Columbia. 42 U.S.C. § 603(b)(7).

family homes or child care institutions and has been licensed or approved by the State, 42 U.S.C. §§ 671(a)(10), 672(a)(2), 672(c);

- (c) require that due diligence be exercised to provide notice to adult relatives within 30 days of effecting a removal, which, *inter alia*, must “explain[] the options the relative has under Federal, State, and local law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice” and “describe[] the requirements...to become a foster family home and the additional services and supports that are available for children placed in such a home,” 42 U.S.C. § 671(a)(29);
- (d) require that children in foster care receive quality services to protect their health and safety, 42 U.S.C. § 671(a)(22);
- (e) require that foster care maintenance payments<sup>6</sup> be made on behalf of each child who has been removed from their home, if the child “would have met the [TANF]<sup>7</sup> eligibility requirements” prior to being removed, 42 U.S.C. § 672(a)(1);
- (f) provide for the development of a “case plan” for each child in foster care that, *inter alia*, ensures that services are provided to the child, parents and caregivers in order to “facilitate return of the child to his own safe home or the permanent placement

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<sup>6</sup> Foster care maintenance payments are defined as payments which “cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, reasonable travel to the child’s home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement.” 42 U.S.C. § 675(4)(A).

<sup>7</sup> TANF, which stands for Temporary Assistance for Needy Families, is a federal program that provides assistance to families with children when the parents or other responsible relatives cannot provide for the family’s basic needs.



of the child, and address the needs of the child while in foster care” and includes the child’s health and education records, 42 U.S.C. §§ 671(a)(16), 675(1);

- (g) require that each case plan be reviewed at least every six months by a court or administrative body under the State’s “case review system” to assess, *inter alia*, the child’s safety, the continuing need for and appropriateness of the placement, and the likely date by which the child may be safely returned to their home or be placed for adoption or legal guardianship, 42 U.S.C. §§ 671(a)(16), 675(5);
- (h) require that a case plan set forth the reasons why a child’s placement in an out-of-state foster family home is in the best interests of the child, 42 U.S.C. § 675(5)(A)(i); and
- (i) require that a caseworker “periodically, but not less frequently than every 6 months” visit each child “placed in foster care outside the State in which the home of the parents of the child is located” and prepare a report of such visit. 42 U.S.C. §§ 671(a)(16), 675(5)(A)(ii).

24. District of Columbia has opted to receive Title IV-E funds and, accordingly, is bound by each of the foregoing requirements with respect to the provision of benefits and services to each abused and neglected child.

**B. Obligations Under D.C. Child Abuse and Neglect Act**

25. The D.C. Child Abuse and Neglect Act provides that CFSA shall, *inter alia*: (i) receive and respond to reports of child abuse and neglect;<sup>8</sup> (ii) when necessary, remove children from their

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<sup>8</sup> Under the D.C. Child Abuse and Neglect Act, child abuse includes the infliction of physical or mental injury upon a child, sexual abuse or exploitation of a child, and the negligent treatment or maltreatment of a child. D.C. Code § 16-2301(23)(A). The definition of neglected child includes a child:

homes; (iii) ensure that children who have been abused or neglected are protected from further experiences and conditions detrimental to their healthy growth and development; (iv) obtain substitute care for a child whose parents are unable to meet the child's minimum needs; (v) provide services and resources to abused and neglected children and their families, including services aimed at safely reuniting the family as quickly as possible; and (vi) ensure timely permanent placement of the child where reunification is not possible. D.C. Code § 4-1303.01a. *See also* § 4-1303.03 *et seq.*

26. Pursuant to its responsibility to receive and respond to reports of child abuse and neglect, CFSA is required to “conduct a thorough investigation of a report of suspected child abuse or neglect to protect the health and safety of the child or children when . . . [CFSA] suspects a child is at imminent risk of or has experienced abuse or neglect that [CFSA] determines to be severe.”

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(i) who has been abandoned or abused by his or her parent, guardian, or custodian, or whose parent, guardian, or custodian has failed to make reasonable efforts to prevent the infliction of abuse upon the child . . . (ii) who is without proper parental care or control, subsistence, education as required by law, or other care or control necessary for his or her physical, mental, or emotional health . . . (iii) whose parent, guardian, or custodian is unable to discharge his or her responsibilities to and for the child because of incarceration, hospitalization, or other physical or mental incapacity; (iv) whose parent, guardian, or custodian refuses or is unable to assume the responsibility for the child's care, control, or subsistence and the person or institution which is providing for the child states an intention to discontinue such care . . . (vii) who has resided in a hospital located in the District of Columbia for at least 10 calendar days following the birth of the child, despite a medical determination that the child is ready for discharge from the hospital, and the parent, guardian, or custodian of the child has not taken any action or made any effort to maintain a parental, guardianship, or custodial relationship or contact with the child; [or] (viii) who is born addicted or dependent on a controlled substance or has a significant presence of a controlled substance in his or her system at birth.

D.C. Code § 16-2301(9)(A).

§ 4-1301.04(a)(1). The investigation must determine “the nature, extent, and cause of the abuse or neglect, if any.” § 4-1301.06(a)-(b)(1).<sup>9</sup> If the suspected abuse or neglect is substantiated, CFSA shall determine whether there is any child in the home whose health, safety, or welfare is at risk and whether any child who is at risk should be removed from the home or can be protected by the provision of resources. § 4-1301.06(b)(3).

27. When a report of child abuse or neglect is substantiated and CFSA determines the child cannot be “adequately protected” while living in the parental home through the provision of services, CFSA is only authorized to: “(1) Remove the child with the consent of the parent, guardian, or person acting in loco parentis; (2) Request the Corporation Counsel of the District of Columbia to petition the [D.C. Family Court] for a finding of abuse or neglect and, where appropriate, the removal of the child; and (3) Request the police to remove the child when the consent of a parent, guardian or other custodian cannot be obtained and the need to protect the child does not allow sufficient time to obtain a court order.”<sup>10</sup> § 4-1303.04(c).

28. Further, when CFSA receives “written notification from the chief executive officer of a hospital located in the District of Columbia that a child has resided in the hospital for at least 10 days following the birth of the child, despite a medical determination that the child is ready for discharge” and “the parent, guardian, or custodian of the child, as established by the hospital admission records, has not taken any action nor made an effort to maintain a parental, guardianship,

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<sup>9</sup> While CFSA is permitted 30 days to complete a full investigation, oftentimes the abuse or neglect is readily apparent and is effectively substantiated when the CFSA hotline is called or the social worker arrives at the scene, as was the case here.

<sup>10</sup> A neglect case is distinct from a custody proceeding in D.C. Family Court under D.C. Code § 16-831.02, which does not afford the same processes or protections to the child being removed from their parent under D.C. Code § 16-2316.

or custodial relationship or contact with the child,” CFSA must take custody of the child and “remove the child from a hospital pending further custody proceedings.” § 4-1301.07(e).

29. Once CFSA has removed a child, CFSA is required to place the child with a licensed or approved foster parent, regardless of whether the foster parent lives in D.C. or another state. §§ 4-217.02, 16-2313. For each child who is removed to foster care, CFSA must provide monetary benefits to the foster parent on behalf of the child if the child is eligible for TANF and certain other criteria are satisfied. § 4-217.01. Although the statute prescribes certain eligibility requirements, CFSA’s policy is to make “resource payments” on behalf of all children in the foster care system. *See, e.g., CFSA, Resource Parent Handbook* 93–95 (2018).

30. In addition, CFSA must prepare a case plan for the child and family and must take such steps (including, but not limited to, providing or arranging for appropriate services to the child and family) as are needed for the protection of the child and the preservation, rehabilitation and, when safe and appropriate, reunification of the family. D.C. Code § 4-1301.09(b). *See also* § 4-1301.02(3) (defining “case plan”). The case plan must include the child’s health and education records, and CFSA is required to assist foster parents in obtaining personal records for foster children, including immunization records, birth certificate, Social Security card, or health insurance card. § 4–1301.02(3)(C); D.C. Mun. Reg. § 29-6003; CFSA, *Relationship with Resource Parents Policy* (effective Aug. 7, 2004).

31. CFSA must also ensure that the status of each child in foster care is reviewed periodically. D.C. Code § 4-1301.09(d). This review shall determine the safety of the child, the continuing necessity for and appropriateness of the placement, the extent of compliance with the case plan, the extent of progress towards alleviating or mitigating the causes necessitating foster care, and a

projected date for returning the child safely to the home or placing the child for adoption or other permanent placement. § 4-1301.09(e)(1).

32. CFSA is required to make reasonable efforts to make it possible for a child in foster care to return safely to their home. § 4-1301.09a(b). In making such reasonable efforts, “the child’s safety and health shall be the paramount concern.” § 4-1301.09a(a). *See also* § 4-1303.03(d). If such reasonable efforts “are determined to be inconsistent with the child’s permanency plan, [CFSA] shall make reasonable efforts to place the child in accordance with the child’s permanency plan and to complete whatever steps are necessary to finalize the child’s permanent placement.” § 4-1301.09a(c).

33. The requirements for placement and provision of benefits and services to children who have been removed from their homes apply regardless of whether the child is placed with a relative or non-relative caregiver and regardless of whether the child is placed in D.C. or another state.

**C. Obligations Under the Interstate Placement Compact**

34. The Interstate Compact on the Placement of Children is a uniform law that was enacted by all 50 states and D.C. to ensure the protection of, and provisions of services to, children who are placed across state lines. In particular, the Interstate Placement Compact ensures that children who are placed in a home in another state are afforded the same protections and benefits that they would have received if they had been placed within D.C. *See* CHILD AND FAMILY SERVICES AGENCY, POLICY TITLE: INTERSTATE COMPACT ON THE PLACEMENT OF CHILDREN (ICPC) (Rev. July 6, 2020) [“CFSA ICPC Policy”]. The Interstate Placement Compact applies anytime Defendants “send...or cause to be sent” a child for placement in another state, including placements in foster care, kinship homes, and placements with a relative authorized by the D.C. Superior Court. D.C. Code § 4-1422 (art. III). *See also* CFSA ICPC Policy.

35. When CFSA proposes to send or causes a child to be sent into another state for placement in foster care, CFSA is required to provide notice to the local family services agency. D.C. Code § 4–1422 (art. III). Such notice must include the identity of the child, the proposed foster parents, and a “full statement of the reason for the proposed action and evidence of the authority for the proposed placement.” *Id.* By providing this notice, CFSA triggers the local family services agency to conduct an assessment of the proposed placement to ensure the foster parents meet the applicable state standards for placement. *See* CFSA ICPC Policy. Following this assessment, the local family services agency will notify CFSA in writing that the “proposed placement does not appear to be contrary to the interests of the child” and receipt of this approval is a condition precedent for CFSA’s out-of-state placement of the child. D.C. Code § 4–1422 (art. III). CFSA ICPC Policy makes clear that CFSA cannot place a child in another state unless the placement is with a “resource provider [who] is fully licensed, certified or approved for the placement of that child.” CFSA ICPC Policy.

36. Once CFSA has placed a child in another state, CFSA retains legal and financial responsibility of the child. In particular, CFSA retains jurisdiction over “all matters that relate to the custody, supervision, care, treatment, and disposition of the child that it would have had if the child had remained in [D.C.]” and continues to bear “financial responsibility for the support and maintenance of the child during the period of the placement.” D.C. Code § 4–1422 (art. V).

37. If the out-of-state placement proves to no longer be in the child’s best interest, CFSA is required to “make arrangements to ensure the return of the child to [D.C.]” CFSA ICPC Policy.

38. CFSA is prohibited from sending or causing to be sent a child for placement in foster care in a manner that violates the requirements of the Interstate Placement Compact or applicable laws governing the placement of children in the state the child is being placed in. D.C. Code § 4–1422

(art. III). Any such violation constitutes either a violation of D.C. law or the laws of the state the child is placed in, in accordance with the laws of each. D.C. Code § 4-1422 (art. IV).

**D. Obligations Under D.C. Human Rights Act**

39. The D.C. Human Rights Act states that it is “an unlawful discriminatory practice for a District government agency or office to limit or refuse to provide any facility, service, program, or benefit to any individual on the basis of an individual’s actual or perceived: . . . familial status.”<sup>11</sup> § 2-1402.73.

40. Pursuant to the D.C. Human Rights Act, CFSA may not unlawfully discriminate against diverted children and their relative caregivers by refusing to provide them with foster care benefits and services on the basis of familial status. Instead, CFSA must provide diverted children placed with relative caregivers who are seeking, or who already have, legal custody of those children the same services and support as it provides to foster families.

**V. CUSTOM AND PRACTICE OF REMOVAL AND INFORMAL PLACEMENT THROUGH KINSHIP DIVERSION**

41. Because Defendants receive money under Title IV-E of the Social Security Act, Defendants must operate the D.C. foster care program in accordance with the requirements under the Act, as well as the requirements under the D.C. Child Abuse and Neglect Act and the Interstate Placement Compact. Although receipt of these funds requires such compliance, Defendants’ custom and practice of kinship diversions is in blatant violation of those statutes.

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<sup>11</sup> The term ‘familial status’ is defined as “one or more individuals under 18 years of age being domiciled with: (1) a parent or other person having legal custody of the individual; or (2) the designee, with written authorization of the parent, or other persons having legal custody of individuals under 18 years of age. The protection afforded against discrimination on the basis of familial status shall apply to any person who is pregnant or in the process of securing legal custody of any individual under 18 years of age.” § 2-1401.02(11A).

42. As discussed above, when CFSA determines a neglected or abused child must be removed from their home, CFSA is only authorized to do so if CFSA obtains a judicial determination or parental consent to effect the removal, or requests the police to remove the child because there is insufficient time for CFSA to petition for removal. § 4-1303.04(c). These removal requirements “protect[] the integrity of established family units” and apply regardless of whether the child is placed with a relative or non-relative foster parent. *Miller v. Youakim*, 440 U.S. 125, 139 (1979).

43. Once the child has been removed from their home, the child must be placed in a licensed foster family home or licensed child care institution. CFSA has a formal procedure for placing the child with a foster parent in another state which requires CFSA to obtain approval for the placement from the local family services agency, regardless of whether the placement is with a relative or non-relative caregiver. D.C. Code § 4-1422 (art. III). These approval requirements ensure “protection and services to children who are placed across state lines” and entitle both the foster parent and foster child to the same services and benefits afforded to children in foster care placements within D.C. CFSA ICPC Policy.

44. Despite the fact that there are legally established procedures and requirements for effecting an out-of-state placement with a relative caregiver, CFSA has instead adopted the custom and practice of informally and illegally placing abused and neglected children with relatives in another state through *kinship diversion*, without obtaining the required approvals for the placement. Specifically, after CFSA has substantiated<sup>12</sup> a report of child abuse or neglect and determined the

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<sup>12</sup> When CFSA engages in kinship diversion, the agency does not always accurately record that an allegation against a parent was substantiated, presumably because that would trigger legal requirements under federal and/or D.C. law for removal and placement of a child in licensed foster care if the child cannot remain safely at home. In this case, however, CFSA did substantiate a finding of neglect.



child cannot be protected in their home through the provision of services, CFSA will contact a relative to see if they are willing to care for the child. If CFSA identifies a willing relative that is available to care for the child, CFSA deliberately ignores its responsibility to inform the relative of their option to become a licensed foster parent through the Interstate Placement Compact procedures. Instead, CFSA typically directs or pressures the relative to file an emergency motion for legal and physical custody, including by threatening to place the child in foster care with a stranger if the relative does not agree to do so. Through such actions, CFSA informally and illegally removes and places the child with an out-of-state relative through kinship diversion, to avoid formally placing the child with that same relative in accordance with applicable law.

45. CFSA's use of kinship diversion constitutes a *flouting* of D.C. law because it subverts the formally established procedures for removal and placements and thereby denies diverted children and their relative caregivers the same benefits, services, and protections that foster children and foster parents receive. For example, prior to placing a child with a relative in another state, CFSA is required to, *inter alia*, obtain approval from the local family services agency to ensure the proposed relative caregiver meets the standards for foster parents and that the placement is not contrary to the child's best interest. However, when CFSA effects a kinship diversion, CFSA does not notify the local family services agency or obtain approval for the placement and accordingly, does not ensure the placement is safe or appropriate for the child.

46. Furthermore, once the child has been informally placed in a kinship diversion arrangement, CFSA is not required to monitor the child or provide even minimal post-diversion services or support to the child, birth parent, or relative caregiver. Without CFSA oversight and accountability, the urgent needs of the child (*e.g.*, mental health, medical, and educational services), the birth parent (*e.g.*, mental health or substance abuse treatment, parent education

classes), and the relative caregiver (*e.g.*, child care, peer support groups, respite) can go unmet, and there is no process for safely reunifying the child with their parents.<sup>13</sup> Moreover, neither the diverted children nor the relatives responsible for their care receive financial support, such as foster care maintenance payments and vouchers for camps, enrichment programs, or other programs available to foster children. When relative caregivers seek such services or support, CFSA also routinely denies their requests.

47. Upon information and belief, senior management of CFSA has long directed, knowingly acquiesced to and/or expressly endorsed this custom and practice, which allows CFSA to appear to meet certain statistical targets for reducing the number of children in foster care. These targets are not only arbitrary but provide CFSA with a perverse incentive to use kinship diversion, rather than attempt to obtain the required approvals and place children with out-of-state relatives through formal licensure procedures. The custom and practice of kinship diversion has saved District of Columbia millions of dollars over at least the past 14 years by depriving its most vulnerable residents of resources to which they are legally entitled.

## **VI. DEFENDANTS' KINSHIP DIVERSION OF CHILDREN VIOLATES FEDERAL AND D.C. LAW**

48. CFSA engaged in kinship diversion when it removed J.M.L. and informally and illegally placed her in the care of Y.A.L.

49. J.M.L.'s biological mother, J.L., struggled with several serious mental health disorders and drug addiction during her pregnancy. While pregnant, J.L. threatened to harm herself and the

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<sup>13</sup> The Supreme Court has recognized that parents have a fundamental constitutional liberty interest in “the care, custody, and control of their children.” *Troxell v. Granville*, 530 U.S. 57 (2000). Accordingly, when CFSA decides that a child should be removed from the parental home and cared for by a relative without parental consent or a court order, it also violates the parents’ constitutional rights.

child. J.L. told others that she did not want the baby and departed the hospital shortly after J.M.L. was born on January 8, 2023. She left the hospital—and J.M.L.—before completing paperwork essential to issuance of J.M.L.’s birth certificate, which itself is essential to obtaining other government documentation (such as a Social Security card) or benefits (like Medicaid). Because J.M.L. was born with drugs in her system, J.L. suffered from serious mental disorders, and J.L. had left the hospital without J.M.L., the hospital called the CFSA hotline. By January 11, 2023, CFSA social worker Sonia North had substantiated the allegation of neglect based on the positive toxicology screen. Despite making this determination, CFSA did not follow the legally required removal and placement procedures but instead, CFSA entered into an Intervention Plan with J.L. under which J.L. purportedly agreed to permit Y.A.L. to care for J.M.L.

50. On January 12, 2023, a CFSA social worker called Y.A.L., a retired federal employee who, in the past, served as a foster parent for nineteen different youths, including J.L. herself. Y.A.L. had been traveling internationally but returned to the United States on or after January 12, 2023. On January 16, 2023, CFSA contacted Y.A.L. and requested that she take physical custody of J.M.L. As directed by CFSA, on January 18, 2023, the hospital discharged J.M.L. to the physical custody of Y.A.L. J.M.L.’s discharge paperwork included follow-up neonatal and physical therapy appointments.

51. Defendants deliberately did not inform Y.A.L. of all her options to participate in J.M.L.’s care, including that CFSA could petition the D.C. Family Court for removal and placement of J.M.L. with Y.A.L., despite the fact that such notice is required by law. Instead, on January 23, 2023, when Y.A.L. asked what additional steps CFSA would be taking, Sonia North directed Y.A.L. to seek legal custody of J.M.L. from D.C. Superior Court.

52. Y.A.L. was granted temporary sole legal and physical custody of J.M.L. on April 14, 2023. J.L. passed away on April 19, 2023.

53. By implementing the Intervention Plan and directing the hospital to discharge J.M.L. to Y.A.L., CFSA caused J.M.L. to be placed with Y.A.L. in Maryland. In facilitating this custody arrangement, CFSA did not contact the Maryland Department of Human Services and obtain approval for the placement in violation of the terms of the Interstate Placement Compact. Further, CFSA failed to develop a case plan for J.M.L. and failed to provide her with the services provided to foster families. CFSA also failed to provide the required support and financial assistance to Y.A.L. At all relevant times, Y.A.L. met the eligibility requirements to be licensed as a foster parent. Similarly, at all relevant times, J.M.L. was eligible to receive benefits under the TANF program and, accordingly, Y.A.L. was entitled to receive foster care maintenance payments on behalf of J.M.L., which amounts to \$1,140 per child per 30-day period during the relevant period. Y.A.L. has not received any foster care payments on behalf of J.M.L. and has been forced to shoulder the costs of caring for J.M.L., which has created a substantial financial and emotional burden for her.

54. Moreover, CFSA's failure to remove J.M.L. resulted in significant delays and hurdles in obtaining J.M.L.'s birth certificate because Y.A.L. did not have the right to name the child or get a birth certificate issued. Y.A.L. was forced to go back and forth between the courts, CFSA, and D.C.'s Vital Records Division for five months to try to get the issue resolved. Without a birth certificate, Y.A.L. could not obtain a Social Security card for J.M.L., or any supports or services for her.

55. On June 16, 2023, Y.A.L., for herself and on behalf of J.M.L., submitted a Notice of Claim against District of Columbia to the D.C. Office of Risk Management.

## VII. CLAIMS

### **COUNT I: VIOLATION OF TITLE IV-E OF THE SOCIAL SECURITY ACT, 42 U.S.C. §§ 670-679c**

56. Plaintiffs incorporate herein the allegations set forth in the preceding paragraphs of this complaint.

57. The foregoing actions and inactions of Defendants District of Columbia and CFSA, constitute a deprivation of rights conferred on J.M.L. by Title IV-E of the Social Security Act, to:

- (a) removal pursuant to a voluntary placement agreement or judicial determination that continuation in the home would be contrary to the welfare of the child, 42 U.S.C. § 672(a)(2);
- (b) placement in a home that meets the standards for foster family homes, and has been licensed or approved by the State, 42 U.S.C. §§ 671(a)(10), 672(c);<sup>14</sup>
- (c) the provision of quality services to protect the child's safety and health, 42 U.S.C. § 671(a)(22);<sup>15</sup>
- (d) a written case plan that describes the type of home in which the child is to be placed, including the safety and appropriateness of the placement, 42 U.S.C. §§ 671(a)(16), 675(1)(A);
- (e) a written case plan that ensures that the child receives safe and proper care while in foster care and implementation of that plan, 42 U.S.C. §§ 671(a)(16), 675(1)(B);
- (f) a written case plan that ensures provision of services to the child, parents and foster parents in order to facilitate reunification or where that is not possible, the

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<sup>14</sup> See *supra* note 1.

<sup>15</sup> See *supra* note 1.

- permanent placement of the child, and to address the needs of the child while in foster care and implementation of that plan, 42 U.S.C. §§ 671(a)(16), 675(1)(B);
- (g) a written case plan that ensures the educational stability of the child while in foster care and implementation of that plan, 42 U.S.C. §§ 671(a)(16), 675(1)(G);
  - (h) a written case plan that sets forth the reasons why a child's placement in an out-of-state foster family home is in the best interests of the child, 42 U.S.C. § 675(5)(A)(i);
  - (i) a case review system that ensures the child has a case plan designed to achieve placement in a safe and appropriate setting, 42 U.S.C. §§ 671(a)(16), 675(5)(A);
  - (j) a case review system in which the status of the child is reviewed no less frequently than every six months by a court, or person responsible for case management, for purposes of determining the safety of the child, the continuing necessity for and appropriateness of the placement, extent of compliance with the case plan and projected date of permanency, 42 U.S.C. §§ 671(a)(16), 675(5)(B), 675(5)(C);
  - (k) a case review system in which a caseworker periodically, but not less frequently than every six months, visits the children's out-of-state placement and prepares a report of such visit, 42 U.S.C. §§ 671(a)(16), 675(5)(A)(ii); and
  - (l) foster care maintenance payments to cover the cost of food, clothing, shelter, daily supervision, school supplies, the child's personal incidentals, liability insurance with respect to the child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement, 42 U.S.C. §§ 671(a)(1), 672(a)(1), 675(4)(A).

58. Further, the foregoing actions and inactions of Defendants District of Columbia and CFSA, constitute a deprivation of rights conferred on Y.A.L. by Title IV-E of the Social Security Act, to:

- (a) receive notice that explains the options the relative has under federal and D.C. law to participate in the care and placement of the child, including any options that may be lost by failing to respond to the notice, 42 U.S.C. § 671(a)(29);
- (b) receive notice that describes the requirements to become a foster family home and the additional services and support that are available for children placed in such a home, 42 U.S.C. § 671(a)(29); and
- (c) receive foster care maintenance payments on behalf of each child who has been removed from their home and placed in the relative's care to cover the cost of providing food, clothing, shelter, daily supervision, school supplies, the child's personal incidentals, liability insurance with respect to the child, reasonable travel to the child's home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement, 42 U.S.C. §§ 671(a)(1), 672(a)(1), 675(4)(A).

59. By its acts and omissions, in particular its custom and practice of kinship diversion, Defendants have deprived Plaintiffs of their rights under Title IV-E of the Social Security Act, and thereby caused injury to Plaintiffs, including financial and emotional harm.

60. Plaintiffs' claim for violation of Title IV-E of the Social Security Act is brought pursuant to 42 U.S.C. § 1983, which affords Plaintiffs a private right of action. Pursuant to 42 U.S.C. § 1983, Plaintiffs are entitled to compensation for such injuries and for the payment of reasonable attorneys' fees, costs, and interest in an amount to be proven at trial.

**COUNT II: VIOLATION OF THE EQUAL PROTECTION CLAUSE  
OF THE FOURTEENTH AMENDMENT AS APPLIED TO D.C. THROUGH THE DUE  
PROCESS CLAUSE OF THE FIFTH AMENDMENT**<sup>16</sup>

61. Plaintiffs incorporate herein the allegations set forth in the preceding paragraphs of this complaint.

62. As averred in Par. 51–53, Defendants, through their custom and practice of kinship diversion, have intentionally deprived Plaintiffs of their rights under the Social Security Act.

63. Further, through the custom and practice of kinship diversion, Defendants have deprived and continue to deprive J.M.L. of certain entitlements conferred by the D.C. Child Abuse and Neglect Act and the Interstate Placement Compact to which J.M.L. has a constitutionally protected interest. These entitlements include the right to:

- (a) be removed from her home once CFSA had determined that the child could not be adequately protected there through the provision of services, and to have such removal be made pursuant to a D.C. Family Court finding of abuse or neglect and removal or the consent of her parents, or by requesting the police to remove if there was insufficient time for CFSA to file a petition, § 4-1303.04(c);
- (b) be placed in a licensed or approved foster care home or facility, regardless of whether such placement was in D.C. or another state, § 4–217.02;
- (c) receive appropriate services, §§ 4-1301.09(b), 4-1301.02(3);
- (d) receive a case plan and have her status reviewed periodically, §§ 4-1301.09(b), 4-1301.09(d), 4-1301.02(3);
- (e) conduct or arrange for periodic visits of her placement to ensure such placement continued to be in her best interest, 42 U.S.C. §§ 671(a)(16), 675(5)(A)(ii); and

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<sup>16</sup> See *supra* note 1.



- (f) have monetary support provided by CFSA on her behalf, § 4-217.01, CFSA, *Resource Parent Handbook* 93–95 (2018).

64. In depriving J.M.L. of her rights under the Social Security Act, the D.C. Child Abuse and Neglect Act, and the Interstate Placement Compact, Defendants have failed to provide the same procedures, services, and support as Defendants provide to other children who have experienced a similar type and severity of mistreatment. Defendants' discriminatory treatment is not rationally related to advancing any legitimate governmental interest and therefore violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution as applied to D.C. through the Due Process Clause of the Fifth Amendment.

65. In depriving Y.A.L. of her rights under the Social Security Act, Defendants have failed to provide the same procedures, services, and support as Defendants provide to foster parents caring for children who experienced a similar type and severity of mistreatment. Defendants' discriminatory treatment is not rationally related to advancing any legitimate governmental interest and therefore violates the Equal Protection Clause of the Fourteenth Amendment to the U.S. Constitution as applied to D.C. through the Due Process Clause of the Fifth Amendment.

66. Defendants' acts and omissions complained of herein have caused the violation of Plaintiffs' constitutional rights and caused injury to Plaintiffs, including financial and emotional harm.

67. Plaintiffs' claim for violation of the Equal Protection Clause of the Fourteenth Amendment is brought pursuant to 42 U.S.C. § 1983, which affords Plaintiffs a private right of action. Pursuant to 42 U.S.C. § 1983, Plaintiffs are entitled to compensation for such injuries and for the payment of reasonable attorneys' fees, costs, and interest in an amount to be proven at trial.

**COUNT III: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH  
AMENDMENT**<sup>17</sup>

68. Plaintiffs incorporate herein the allegations set forth in the preceding paragraphs of this complaint.

69. As averred in Par. 57 and 63, Defendants, through their custom and practice of kinship diversion, have intentionally deprived J.M.L. of her rights under the Social Security Act, the D.C. Child Abuse and Neglect Act, and the Interstate Placement Compact to which J.M.L. has a constitutionally protected interest, without providing an adequate or meaningful opportunity to be heard.

70. Moreover, through its custom and practice of kinship diversion, Defendants have deprived J.M.L. of her constitutional right to familial integrity and have done so without respecting the required procedural safeguards. In particular, to protect the integrity of established family units, District of Columbia has implemented procedural safeguards which require that CFSA either obtain parental consent or obtain a court finding of abuse or neglect and removal, prior to removing a child from their home, or request the police remove the child if there is insufficient time to petition for removal. By circumventing the mandated removal procedures, Defendants have deprived J.M.L. of her constitutionally protected right to familial integrity without providing an adequate or meaningful opportunity to be heard.

71. As averred in Par. 58, Defendants, through their custom and practice of kinship diversion, have intentionally deprived Y.A.L. of her rights under the Social Security Act, including the right to receive foster care maintenance payments, without providing an adequate or meaningful opportunity to be heard.

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<sup>17</sup> See *supra* note 1.

72. In each instance, Defendants deprived Plaintiffs of the rights and entitlements afforded to them under the Social Security Act, D.C. Child Abuse and Neglect Act, and the Interstate Placement Compact without providing an opportunity for a fair hearing, thereby denying Plaintiffs of their right to due process of law.

73. Defendants' acts and omissions complained of herein have violated the Plaintiffs' rights under the Due Process Clause of the Fifth Amendment to the U.S. Constitution and caused injury to Plaintiffs, including financial and emotional harm.

74. Plaintiffs' claim for violation of the Due Process Clause of the Fifth Amendment is brought pursuant to 42 U.S.C. § 1983, which affords Plaintiffs a private right of action. Pursuant to 42 U.S.C. § 1983, Plaintiffs are entitled to compensation for such injuries and for the payment of reasonable attorneys' fees, costs, and interest in an amount to be proven at trial.

**COUNT IV: VIOLATION OF D.C. HUMAN RIGHTS ACT**<sup>18</sup>

75. Plaintiffs incorporate herein the allegations set forth in the preceding paragraphs of this complaint.

76. Under the D.C. Human Rights Act, it is "an unlawful discriminatory practice for a District government agency or office to limit or refuse to provide any facility, service, program, or benefit to any individual on the basis of an individual's actual or perceived . . . familial status. . . ." D.C. Code § 2-1402.73.

77. CFSA's practice of kinship diversion intentionally discriminates on the basis of familial status. As averred in Par. 44–46, if, following a determination that a child has been abused or neglected and should be removed from their home, CFSA identifies a relative willing to care for the child, CFSA has a custom of placing the child with the relative informally, rather than

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<sup>18</sup> See *supra* note 1.

following the legally required removal and placement procedures. CFSA routinely directs or pressures the relative to file an emergency motion for legal and physical custody of the child (which creates “familial status” under D.C. Code § 2-1401.02(11A)), including by threatening to place the child in foster care with a stranger if the relative does not agree to do so. Thereafter, CFSA refuses to provide the relative caregiver and the diverted child the benefits and services that CFSA provides to other foster families.

78. CFSA removed J.M.L. and informally placed her in the care of Y.A.L. through kinship diversion. In the course of effecting the kinship diversion, CFSA caused Y.A.L. to file for legal custody of J.M.L. Further, while CFSA provided Y.A.L. with formula and diapers on one occasion, CFSA failed to provide the required benefits and services to J.M.L. or Y.A.L., which has caused them significant financial and emotional harm.

79. CFSA has intentionally discriminated against Plaintiffs based on familial status by refusing to provide the same benefits and services, including the tangible benefit of foster care maintenance payments, it provides to foster families. CFSA’s decision to selectively deny Plaintiffs the opportunity to receive these services and support is based solely on familial status. Accordingly, Defendants discriminated against Plaintiffs by denying them the tangible benefit of foster care maintenance payments based on the Plaintiffs’ status in a protected class.

80. As a consequence of Defendants’ acts or omissions, Plaintiffs have sustained damages and will sustain future damages in an amount to be proven at trial.

#### **COUNT V: NEGLIGENCE**

81. Plaintiffs incorporate herein the allegations set forth in the preceding paragraphs of this complaint.

82. The D.C. Child Abuse and Neglect Act creates a special relationship between Defendants and D.C.’s abused and neglected children, imposing on Defendants statutorily defined duties and

responsibilities to, *inter alia*, “safeguard[] the rights and protect[] the welfare” of those children. D.C. Code § 4-1303.01a. At all times Defendants owed J.M.L. the duty to act with due care.

83. Once Defendants identified J.M.L. as a child who had been abused or neglected and who could not be adequately protected in the parental home through the provision of services, Defendants owed a legal duty to J.M.L. to act with due care in fulfilling their duties and responsibilities under the D.C. Child Abuse and Neglect Act and the Interstate Placement Compact to:

- (a) remove J.M.L. in compliance with statutorily mandated safeguards, § 4-1303.04(c);
- (b) ensure that J.M.L. was placed in a licensed or approved foster family home, §§ 4-217.02, 16-2313;
- (c) provide or arrange for appropriate services for J.M.L., §§ 4-1301.09(b), 4-1301.02(3);
- (d) prepare a case plan for J.M.L. and her relative caregiver and ensure their status was reviewed periodically, §§ 4-1301.09(b)-(d), 4-1301.02(3);
- (e) conduct or arrange for periodic visits of J.M.L.’s placement to ensure such placement continued to be in the child’s best interest, 42 U.S.C. §§ 671(a)(16), 675(5)(A)(ii); and
- (f) provide monetary support on behalf of J.M.L., § 4-217.01, CFSA, *Resource Parent Handbook* 93–95 (2018).

84. Defendants’ failure and refusal to properly discharge these responsibilities constitutes a breach of Defendants’ duty of care.

85. Defendants’ breach of duty proximately caused injury to J.M.L. in the form of emotional and financial harm, which injury was reasonably foreseeable.

**COUNT VI: FRAUDULENT MISREPRESENTATION**

86. Plaintiffs incorporate herein the allegations set forth in the preceding paragraphs of this complaint.

87. CFSA, through its agents, made false representations to Y.A.L. about her rights and responsibilities regarding J.M.L., or willfully omitted material facts about those rights and responsibilities. Pursuant to 42 U.S.C. § 671(a)(29), Defendants had a statutory duty to explain to Y.A.L. the options to participate in J.M.L.'s care and placement, and Defendants' failure to provide such explanation constitutes a breach of this duty to disclose. CFSA's agents knowingly made these false statements or willful omissions, or concealed the truth knowingly and with the intent to induce reliance on their misrepresentations or willful omissions. Y.A.L. reasonably and justifiably relied on the incomplete information and, as a result, took action that led to an egregiously unfair result for all Plaintiffs.

88. On January 17, 2023, CFSA discussed the Intervention Plan under which Y.A.L. would take J.M.L. home from the hospital. On January 23, 2023, Sonia North directed Y.A.L. to go to court to file for custody of J.M.L. and that CFSA could only make recommendations under the family plan. CFSA concealed from Y.A.L. her options to participate in the child's care and placement, including that CFSA could petition the D.C. Family Court for removal of the child and place her with Y.A.L. in a foster care placement following approval from the Maryland Department of Human Services. CFSA deliberately concealed this material fact from Y.A.L., which deceived Y.A.L. into believing she needed to file for legal custody of J.M.L. in order to be able to care for her and obtain documents such as J.M.L.'s birth certificate. Y.A.L. reasonably relied on the incomplete representations of CFSA, filed the motion for custody, and has suffered emotional and financial harm as a result, in an amount of damages to be determined at trial.

**COUNT VII: NEGLIGENT MISREPRESENTATION**

89. Plaintiffs incorporate herein the allegations set forth in the preceding paragraphs of this complaint.

90. Alternatively, even if CFSA did not know their representations to Y.A.L. were false and did not intend to deceive her, their misrepresentations were negligent.

91. As averred in Par. 88, the statements CFSA agents made to Y.A.L. were false or omitted material facts, as CFSA failed to inform Y.A.L. of her options to participate in the care of J.M.L. CFSA agents had a legal duty to disclose such information pursuant to 42 U.S.C. § 671(a)(29). Those statements or concealments concerned the material issue of the actions Y.A.L. needed to take in order to participate in the care of J.M.L. and receive benefits, services, and support for providing such care. Y.A.L. reasonably relied on the advice of the CFSA agents to her detriment and suffered emotional and financial harm as a result, in an amount of damages to be determined at trial.

**VIII. PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray for the following relief:

- (a) Issuance of a declaratory judgment that Defendants' custom and practice of kinship diversion, in particular the informal removal and placement through kinship diversion of J.M.L. to Y.A.L., violates Title IV-E of the Social Security Act, 42 U.S.C. §§ 670–679c, the Equal Protection Clause of the Fourteenth Amendment, the Due Process Clause of the Fifth Amendment, the D.C. Child Abuse and Neglect Act, the Interstate Placement Compact, and the D.C. Human Rights Act;
- (b) Entry of a permanent injunction preventing Defendants from retaliating against Y.A.L. for seeking foster care maintenance payments;

- (c) Entry of a permanent injunction preventing Defendants from continuing the custom and practice of kinship diversion;
- (d) Award Plaintiffs compensatory damages in an amount equal to the total foster care maintenance payments that Plaintiffs would have received since the kinship diversion was effected, applying the current payment rate of \$1,140 per child per 30-day period, plus interest, and other damages attributable to Defendants' violation of federal and D.C. law;
- (e) Issuance of an order that, for so long as J.M.L. remains in the sole or primary physical custody of Y.A.L., Defendants continue to pay to Plaintiffs an amount equal to foster care maintenance payments and other damages attributable to Defendants' violation of federal and D.C. law;
- (f) Award costs, and expenses for this action, including attorneys' fees; and
- (g) Award such further relief as this Court deems necessary, proper, and just.

A JURY TRIAL IS HEREBY DEMANDED.

Respectfully submitted,

/s/ Rebecca Williams

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*Attorneys for Plaintiffs*

Dated: July 26, 2024

**CIVIL COVER SHEET**

JS-44 (Rev. 11/2020 DC)

<b>I. (a) PLAINTIFFS</b>  (b) COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF _____ (EXCEPT IN U.S. PLAINTIFF CASES)	<b>DEFENDANTS</b>  COUNTY OF RESIDENCE OF FIRST LISTED DEFENDANT _____ (IN U.S. PLAINTIFF CASES ONLY) <small>NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED</small>
(c) ATTORNEYS (FIRMNAME, ADDRESS, AND TELEPHONE NUMBER)  <p style="text-align: center;">LLP</p>	ATTORNEYS (IF KNOWN)

<b>II. BASIS OF JURISDICTION</b> (PLACE AN x IN ONE BOX ONLY)	<b>III. CITIZENSHIP OF PRINCIPAL PARTIES</b> (PLACE AN x IN ONE BOX FOR PLAINTIFF AND ONE BOX FOR DEFENDANT) <b>FOR DIVERSITY CASES ONLY!</b>												
<input type="radio"/> 1 U.S. Government Plaintiff  <input type="radio"/> 2 U.S. Government Defendant	<input type="radio"/> 3 Federal Question (U.S. Government Not a Party)  <input type="radio"/> 4 Diversity (Indicate Citizenship of Parties in item III)												
<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;"><b>PTF</b></td> <td style="width:50%; padding: 2px;"><b>DFT</b></td> </tr> <tr> <td style="padding: 2px;">Citizen of this State</td> <td style="padding: 2px;">Citizen of Another State</td> </tr> <tr> <td style="padding: 2px;">Citizen or Subject of a Foreign Country</td> <td style="padding: 2px;">Foreign Nation</td> </tr> </table>	<b>PTF</b>	<b>DFT</b>	Citizen of this State	Citizen of Another State	Citizen or Subject of a Foreign Country	Foreign Nation	<table style="width:100%; border-collapse: collapse;"> <tr> <td style="width:50%; padding: 2px;"><b>PTF</b></td> <td style="width:50%; padding: 2px;"><b>DFT</b></td> </tr> <tr> <td style="padding: 2px;">Incorporated or Principal Place of Business in This State</td> <td style="padding: 2px;">Incorporated and Principal Place of Business in Another State</td> </tr> <tr> <td style="padding: 2px;">Incorporated or Principal Place of Business in This State</td> <td style="padding: 2px;">Foreign Nation</td> </tr> </table>	<b>PTF</b>	<b>DFT</b>	Incorporated or Principal Place of Business in This State	Incorporated and Principal Place of Business in Another State	Incorporated or Principal Place of Business in This State	Foreign Nation
<b>PTF</b>	<b>DFT</b>												
Citizen of this State	Citizen of Another State												
Citizen or Subject of a Foreign Country	Foreign Nation												
<b>PTF</b>	<b>DFT</b>												
Incorporated or Principal Place of Business in This State	Incorporated and Principal Place of Business in Another State												
Incorporated or Principal Place of Business in This State	Foreign Nation												

**IV. CASE ASSIGNMENT AND NATURE OF SUIT**

(Place an X in one category, A-N, that best represents your Cause of Action and one in a corresponding Nature of Suit)

<input type="radio"/> <b>A. Antitrust</b>  410 Antitrust	<input type="radio"/> <b>B. Personal Injury/Malpractice</b>  310 Airplane 315 Airplane Product Liability 320 Assault, Libel & Slander 330 Federal Employers Liability 340 Marine 345 Marine Product Liability 350 Motor Vehicle 355 Motor Vehicle Product Liability 360 Other Personal Injury 362 Medical Malpractice 365 Product Liability 367 Health Care/Pharmaceutical Personal Injury Product Liability 368 Asbestos Product Liability	<input type="radio"/> <b>C. Administrative Agency Review</b>  151 Medicare Act  <u>Social Security</u> 861 HIA (1395ff) 862 Black Lung (923) 863 DIWC/DIWW (405(g)) 864 SSID Title XVI 865 RSI (405(g))  <u>Other Statutes</u> 891 Agricultural Acts 893 Environmental Matters 890 Other Statutory Actions (If Administrative Agency is Involved)	<input type="radio"/> <b>D. Temporary Restraining Order/Preliminary Injunction</b>  Any nature of suit from any category may be selected for this category of case assignment.  *(If Antitrust, then A governs)*
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<input type="radio"/> <b>E. General Civil (Other)</b>		<b>OR</b>	<input type="radio"/> <b>F. Pro Se General Civil</b>	
<u>Real Property</u> 210 Land Condemnation 220 Foreclosure 230 Rent, Lease & Ejectment 240 Torts to Land 245 Tort Product Liability 290 All Other Real Property  <u>Personal Property</u> 370 Other Fraud 371 Truth in Lending 380 Other Personal Property Damage 385 Property Damage Product Liability	<u>Bankruptcy</u> 422 Appeal 28 USC 158 423 Withdrawal 28 USC 157  <u>Prisoner Petitions</u> 535 Death Penalty 540 Mandamus & Other 550 Civil Rights 555 Prison Conditions 560 Civil Detainee – Conditions of Confinement  <u>Property Rights</u> 820 Copyrights 830 Patent 835 Patent – Abbreviated New Drug Application 840 Trademark 880 Defend Trade Secrets Act of 2016 (DTSA)	<u>Federal Tax Suits</u> 870 Taxes (US plaintiff or defendant) 871 IRS-Third Party 26 USC 7609  <u>Forfeiture/Penalty</u> 625 Drug Related Seizure of Property 21 USC 881 690 Other  <u>Other Statutes</u> 375 False Claims Act 376 Qui Tam (31 USC 3729(a)) 400 State Reapportionment 430 Banks & Banking 450 Commerce/ICC Rates/etc 460 Deportation 462 Naturalization Application	465 Other Immigration Actions 470 Racketeer Influenced & Corrupt Organization 480 Consumer Credit 485 Telephone Consumer Protection Act (TCPA) 490 Cable/Satellite TV 850 Securities/Commodities/Exchange 896 Arbitration 899 Administrative Procedure Act/Review or Appeal of Agency Decision 950 Constitutionality of State Statutes 890 Other Statutory Actions (if not administrative agency review or Privacy Act)	

<input type="radio"/> <b>G. Habeas Corpus/ 2255</b>  530 Habeas Corpus – General 510 Motion/Vacate Sentence 463 Habeas Corpus – Alien Detainee	<input type="radio"/> <b>H. Employment Discrimination</b>  442 Civil Rights – Employment (criteria: race, gender/sex, national origin, discrimination, disability, age, religion, retaliation)  *(If pro se, select this deck)*	<input type="radio"/> <b>I. FOIA/Privacy Act</b>  895 Freedom of Information Act 890 Other Statutory Actions (if Privacy Act)  *(If pro se, select this deck)*	<input type="radio"/> <b>J. Student Loan</b>  152 Recovery of Defaulted Student Loan (excluding veterans)
<input type="radio"/> <b>K. Labor/ERISA (non-employment)</b>  710 Fair Labor Standards Act 720 Labor/Mgmt. Relations 740 Labor Railway Act 751 Family and Medical Leave Act 790 Other Labor Litigation 791 Empl. Ret. Inc. Security Act	<input type="radio"/> <b>L. Other Civil Rights (non-employment)</b>  441 Voting (if not Voting Rights Act) 443 Housing/Accommodations 440 Other Civil Rights 445 Americans w/Disabilities – Employment 446 Americans w/Disabilities – Other 448 Education	<input type="radio"/> <b>M. Contract</b>  110 Insurance 120 Marine 130 Miller Act 140 Negotiable Instrument 150 Recovery of Overpayment & Enforcement of Judgment 153 Recovery of Overpayment of Veteran’s Benefits 160 Stockholder’s Suits 190 Other Contracts 195 Contract Product Liability 196 Franchise	<input type="radio"/> <b>N. Three-Judge Court</b>  441 Civil Rights – Voting (if Voting Rights Act)

**V. ORIGIN**  
 1 Original Proceeding  
  2 Removed from State Court  
  3 Remanded from Appellate Court  
  4 Reinstated or Reopened  
  5 Transferred from another district (specify)  
  6 Multi-district Litigation  
  7 Appeal to District Judge from Mag. Judge  
  8 Multi-district Litigation – Direct File

**VI. CAUSE OF ACTION (CITE THE U.S. CIVIL STATUTE UNDER WHICH YOU ARE FILING AND WRITE A BRIEF STATEMENT OF CAUSE.)**

<b>VII. REQUESTED IN COMPLAINT</b>	CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23 <input type="checkbox"/>	DEMAND \$ _____	JURY DEMAND: <input type="checkbox"/> YES <input type="checkbox"/> NO
<b>VIII. RELATED CASE(S) IF ANY</b>	(See instruction)	YES <input type="checkbox"/> NO <input type="checkbox"/>	If yes, please complete related case form

DATE: _____	SIGNATURE OF ATTORNEY OF RECORD
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**INSTRUCTIONS FOR COMPLETING CIVIL COVER SHEET JS-44**  
 Authority for Civil Cover Sheet

The JS-44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and services of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. Listed below are tips for completing the civil coversheet. These tips coincide with the Roman Numerals on the cover sheet.

- I.** COUNTY OF RESIDENCE OF FIRST LISTED PLAINTIFF/DEFENDANT (b) County of residence: Use 11001 to indicate plaintiff if resident of Washington, DC, 88888 if plaintiff is resident of United States but not Washington, DC, and 99999 if plaintiff is outside the United States.
- III.** CITIZENSHIP OF PRINCIPAL PARTIES: This section is completed only if diversity of citizenship was selected as the Basis of Jurisdiction under Section II.
- IV.** CASE ASSIGNMENT AND NATURE OF SUIT: The assignment of a judge to your case will depend on the category you select that best represents the primary cause of action found in your complaint. You may select only one category. You must also select one corresponding nature of suit found under the category of the case.
- VI.** CAUSE OF ACTION: Cite the U.S. Civil Statute under which you are filing and write a brief statement of the primary cause.
- VIII.** RELATED CASE(S), IF ANY: If you indicated that there is a related case, you must complete a related case form, which may be obtained from the Clerk’s Office.

Because of the need for accurate and complete information, you should ensure the accuracy of the information provided prior to signing the form.

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

\_\_\_\_\_  
*Plaintiff(s)*

v.

\_\_\_\_\_  
*Defendant(s)*

)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)  
)

Civil Action No.

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*: \_\_\_\_\_.

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

# UNITED STATES DISTRICT COURT

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
	)	
	)	
	)	
<i>Plaintiff(s)</i>	)	
v.	)	Civil Action No.
	)	
	)	
	)	
_____	)	
<i>Defendant(s)</i>	)	

## SUMMONS IN A CIVIL ACTION

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff’s attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*

Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_; or

I returned the summons unexecuted because \_\_\_\_\_; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc:

AO 440 (Rev. 06/12; DC 3/15) Summons in a Civil Action

**UNITED STATES DISTRICT COURT**

for the

\_\_\_\_\_ District of \_\_\_\_\_

_____	)	
	)	
	)	
	)	
<i>Plaintiff(s)</i>	)	
v.	)	Civil Action No.
	)	
	)	
_____	)	
<i>Defendant(s)</i>	)	

**SUMMONS IN A CIVIL ACTION**

To: *(Defendant's name and address)*

A lawsuit has been filed against you.

Within 21 days after service of this summons on you (not counting the day you received it) — or 60 days if you are the United States or a United States agency, or an officer or employee of the United States described in Fed. R. Civ. P. 12 (a)(2) or (3) — you must serve on the plaintiff an answer to the attached complaint or a motion under Rule 12 of the Federal Rules of Civil Procedure. The answer or motion must be served on the plaintiff or plaintiff's attorney, whose name and address are:

If you fail to respond, judgment by default will be entered against you for the relief demanded in the complaint. You also must file your answer or motion with the court.

*ANGELA D. CAESAR, CLERK OF COURT*

Date: \_\_\_\_\_

\_\_\_\_\_  
*Signature of Clerk or Deputy Clerk*



Civil Action No. \_\_\_\_\_

**PROOF OF SERVICE**

*(This section should not be filed with the court unless required by Fed. R. Civ. P. 4 (l))*

This summons for *(name of individual and title, if any)* \_\_\_\_\_  
was received by me on *(date)* \_\_\_\_\_.

I personally served the summons on the individual at *(place)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I left the summons at the individual's residence or usual place of abode with *(name)* \_\_\_\_\_  
\_\_\_\_\_, a person of suitable age and discretion who resides there,  
on *(date)* \_\_\_\_\_, and mailed a copy to the individual's last known address; or

I served the summons on *(name of individual)* \_\_\_\_\_, who is  
designated by law to accept service of process on behalf of *(name of organization)* \_\_\_\_\_  
\_\_\_\_\_ on *(date)* \_\_\_\_\_ ; or

I returned the summons unexecuted because \_\_\_\_\_ ; or

Other *(specify)*: \_\_\_\_\_

My fees are \$ \_\_\_\_\_ for travel and \$ \_\_\_\_\_ for services, for a total of \$ \_\_\_\_\_.

I declare under penalty of perjury that this information is true.

Date: \_\_\_\_\_

\_\_\_\_\_  
*Server's signature*

\_\_\_\_\_  
*Printed name and title*

\_\_\_\_\_  
*Server's address*

Additional information regarding attempted service, etc: