

STATE OF NEW HAMPSHIRE

HILLSBOROUGH, SS
NORTHERN DISTRICT

SUPERIOR COURT

Crystal Sorey, both Individually
and as Administratrix of the Estate of
Harmony Montgomery,

Plaintiff,

v.

State of New Hampshire, Department of
Health and Human Services, Division of
Children, Youth, and Families ("DCYF"),

Defendant.

Civil Action No. _____

**COMPLAINT AND DEMAND
FOR JURY TRIAL**

NOW COMES the plaintiff, Crystal Sorey¹, both individually and as Administratrix of the Estate of Harmony Montgomery, by and through her attorneys, Rilee & Associates, P.L.L.C., and respectfully submits the following Complaint and Demand for Jury Trial, stating in support thereof as follows:

PARTIES

1. The plaintiff, Crystal Sorey (hereinafter "Crystal"), is an individual who resides in the Commonwealth of Massachusetts² and is the biological mother of the decedent minor child, Harmony Montgomery (hereinafter "Harmony") who, at all times relevant to the allegations

¹ Pursuant to In Re N.B., 169 N.H. 265 (2016) and T.C., et al. v. State of New Hampshire, et al., #216-2016-CV-00743 (Hillsborough North, April 12, 2017 (Abramson, J.)), Crystal hereby waives any applicable confidentiality provisions of RSA 169-C:25 and RSA 170-G:8-a for the express purpose of publicly exposing DCYF's failures that caused Harmony's death to prevent future tragedies by promoting systemic changes within DCYF.

² Plaintiff is a crime victim pursuant to the New Hampshire Victim Bill of Rights, RSA 21-M:8-k; and further, given the anticipated media coverage surrounding this case, she would like to maintain some level of privacy regarding her address, so she is filing a Motion to Supplement Complaint and Demand for Jury Trial contemporaneously herewith under seal with this Honorable Court.

contained herein, was a resident of Manchester, New Hampshire. Crystal has been appointed the Administratrix of the Estate of Harmony Montgomery, #316-2024-ET-00225 (9th Circuit, Probate Division - Nashua).

2. Defendant State of New Hampshire, Department of Health and Human Services, Division of Children, Youth, and Families is a New Hampshire state administrative agency with mailing address of 129 Pleasant Street, Concord, New Hampshire 03301 (hereinafter “DCYF”).

JURISDICTION AND VENUE

3. This Honorable Court may properly exercise personal jurisdiction over the defendant because, at all times relevant to the allegations contained herein, the defendant was an agency of the State of New Hampshire, committed tortious acts in the State of New Hampshire, and/or was otherwise transacting business within or receiving money from within the State of New Hampshire.

4. Pursuant to RSA 491:7, this Honorable Court has subject-matter jurisdiction over this action because this is a civil action arising out of acts that occurred in the State of New Hampshire.

5. Pursuant to RSA 507:9, this Honorable Court is a proper venue for this action because, at all times relevant to the specific allegations contained herein, the decedent and the defendant were both residents of the County of Hillsborough, State of New Hampshire.

FACTUAL ALLEGATIONS

6. Harmony was born on June 7, 2014 to Crystal and Adam Montgomery (hereinafter “Adam”).

7. On information and belief, at the time of Harmony’s birth, Adam was in prison in Massachusetts where he remained until September 2015, at which time he moved to New Hampshire.

8. Between her birth and February 2019, Harmony resided in Massachusetts with Crystal.

9. On information and belief, during the time that Harmony was living in Massachusetts, the Massachusetts Department of Children and Families (hereinafter “Mass DCF”) removed Harmony from the home due to allegations of neglect, and Harmony was placed in foster care.

10. On or about December 19, 2018, Mass DCF, pursuant to the Interstate Compact for the Placement of Children (hereinafter “ICPC”), requested that DCYF perform a Home Study on Adam. On information and belief, the Mass DCF was seeking the Home Study preparatory to placing Harmony with Adam and his wife Kayla Montgomery (hereinafter “Kayla”), who were living in Manchester, New Hampshire.

11. On information and belief, on or about December 20, 2018, DCYF sent an email to the Mass DCF seeking additional information prior to conducting a Home Study.

12. On information and belief, despite the fact that DCYF did not receive the requested information, DCYF failed to follow-up with Mass DCF to determine whether such additional information was forthcoming and/or to determine whether Mass DCF was continuing with its plans to place Harmony in Adam’s Manchester, New Hampshire home.

13. On or about February 22, 2019, a Massachusetts court awarded custody of Harmony to Adam.

14. On information and belief, shortly after Adam was awarded custody of Harmony, Harmony moved into Adam's home in Manchester, New Hampshire. At that time, Adam's household consisted of his wife, Kayla, and Adam and Kayla's two sons: two-year old S.M. and an infant, D.M.

15. On information and belief, the house in which Adam and his family were living was owned by his grandmother, Helen Montgomery (hereinafter "Helen").

16. On information and belief, when someone calls DCYF to report suspected abuse or neglect of a child, that call is made to "Central Intake."

17. Pursuant to DCYF Policy 1150, in effect at all relevant times, the Intake Unit "serves the critical role of determining whether reports meet DCYF criteria for child abuse and neglect assessment...It also establishes how these contacts are to be classified, documented, and referred for further action or services, if appropriate."

18. DCYF Policy 1150 also states, in relevant part: "DCYF is committed to the support of families to ensure the protection of children and the communities in which they live. The Intake Unit serves the critical role of determining whether reports meet DCYF criteria for child abuse and neglect assessment... 'Credible Report' means the reporter provides information that identifies a child or children by name or location and allegations, which if true, constitutes harm or a threat of harm to the life, health, or welfare of the victim of the report. The information needs only to be within the range of possibility or probability and to appear to be grounded in fact."

19. Pursuant to RSA 169-C:34,II, for each report it receives DCYF must perform a child protective investigation to, among other things, "...determine whether there is probable cause

to believe that any child in the family is abused or neglected, including a determination of harm or threatened harm to each child, the nature and extend of present or prior injuries, abuse or neglect, and any evidence thereof, and a determination of the person or persons apparently responsible for the abuse or neglect” as well as determine the immediate and long term risks to the child and any protective and ameliorative services “...that appear necessary to help prevent further child abuse or neglect and to improve the home environment and the parents’ ability to adequately care for the children.”

20. On or about July 29, 2019, DCYF received an anonymous report expressing concern for Harmony’s welfare.

21. This report was recorded in DCYF’s records as Assessment 826330.

22. According to Assessment 826330, the reporter stated that, On returning to New Hampshire from Florida on July 22, 2019, the reporter had observed that five-year-old Harmony had a “shiner.” According to the report, Adam had said that he had left Harmony alone with baby D.M. while he went to the bathroom. While there, D.M. began to cry and Harmony put her hand over D.M.’s mouth. In response, Adam had “beaten the dog shit out of her.”

23. The reporter also stated that the electricity for the home had been shut off, there was a generator powering the air conditioner in the living room, and the premises were filthy.

24. The reporter had also seen a bent spoon in the house that he believed was drug paraphernalia and expressed concern that Adam, a former drug user, had relapsed.

25. Following this report, the Assessment was assigned to a child protection social worker (hereinafter “CPSW”), Demetrios Tsaros (hereinafter “Tsaros”).

26. DCYF Policy 1171 provides, in relevant part, that “the alleged victim will be interviewed in person by a CPSW according to the priority levels and timeframes listed below. A.

Level I assessments require face-to-face contact with the alleged victim within 24 hours, excluding weekends and holidays...” (emphasis added).

27. Assessment 826330 was categorized as a “Level 1.”

28. DCYF Policy 1201, in effect at all relevant times, states, in relevant part: “All children in the household must be met or observed by the CPSW to help assess the validity of the referral and to make a determination about whether they are in imminent danger...The CPSW must consider the following when interviewing a child victim: B. Questions and discussions are to be kept in simple language appropriate for the child's age and level of development. Be aware of what is considered normal childhood behavior for various ages and assess the child's overall understanding of the situation. C. Questions must be non-leading and open-ended. The child must not be pressed for answers or details. Non-verbal materials such as drawings or puppets may be used. D. Assess the child's speech and language skills, mental abilities, and motor skills...Information to be obtained from the child, if possible, includes A. Time, date, and place of occurrence. With young children, dates and times may be more easily related to television shows, holidays, or seasons. B. Who was involved, C. How the incident occurred; D. Frequency or duration; E. A description of the incident of abuse or neglect. Age-appropriate techniques, such as nonverbal materials, or anatomically correct drawings, may be used, and F. Whether other household members were present, and if not, where the child believes they were. Alleged injuries must be observed and documented.”

29. On information and belief, for each assessment there is a “Contact Log” recording contacts between DCYF personnel and others that occur during the course of the assessment.

30. On the morning of July 29, 2019, Tsaros made an unannounced visit to the Montgomery household.

31. Tsaros reported in the Contact Log for this assessment that he saw Adam and Harmony getting into a vehicle and leaving the premises. He noted that he “briefly” saw Harmony and did not “observe any concerns.”

32. On information and belief, Tsaros observed Harmony only from a distance as she was leaving the premises with her father, and therefore failed to see the injury to her eye.

33. Tsaros also noted that he recognized Adam from “prior contacts.” On information and belief, Tsaros had known Adam since he was 15 years old, when Adam was committed to the New Hampshire Youth Development Center (hereinafter “YDC”), where Tsaros was one of Adam’s youth counselors.

34. Notably, during a subsequent visit nine days later, on August 7, 2019, Tsaros documented in the Contact Log that he observed a red mark in Harmony’s eye and faded bruising under her lower eyelid.

35. According to the Contact Log, Tsaros spoke to Kayla, who stated that she had been expecting a report to DCYF because a friend of theirs, Alex Call (hereinafter “Alex”), was staying with them in the home.

36. As reported in the Contact Log, Kayla told Tsaros that Alex, a drug user, had recently relapsed, and that Adam’s uncle had discovered Alex’s drug paraphernalia. Tsaros asked Kayla where she and Adam go for their own continued drug treatment.

37. The Contact Log notes that Kayla also explained that the electricity had been turned off and Adam had gone to get fuel for the generator.

38. Tsaros noted in the Contact Log that the room was “a bit messy” and smelled of dog but was not “overpowering.”

39. Tsaros noted in the Contact Log that he asked if he could return later that day to speak to Adam, but was told by Kayla that they would not be home. Tsaros gave her his card and suggested that “maybe” they could meet within the next couple of days.

40. There is no indication in the Contact Log that Tsaros asked Kayla about the report that Adam had given Harmony a black eye.

41. Tsaros made no notation in the Contact Log of observing or speaking with Harmony beyond briefly seeing her leaving the home with Adam.

42. There is no notation in the Contact Log for this visit of Tsaros conducting any interview with Harmony or speaking to her in any way. On information and belief, Tsaros did not conduct the interview with Harmony as required by DCYF policies or otherwise speak with her in any way.

43. Following this visit, Tsaros noted in the Contact Log that he sent an email to the Manchester Police Department stating that ‘...I think you folks are all set. I saw the children and did not observe any bruises, marks, etc...’

44. As noted in the Contact Log, Tsaros called Adam later that afternoon. During that call, Tsaros and Adam discussed the drug paraphernalia found in the house, which Adam said belonged to Alex. Tsaros discussed his concerns about substance abuse and noted in the Contact Log that Adam reported that he and Kayla are “clean” and attend a clinic.

45. There is no indication in the Contact Log that Tsaros questioned Adam about the report that Harmony had a black eye, reportedly caused when Adam “beat the dog shit out of her.” Tsaros and Adam scheduled a meeting at the Montgomery home for August 1, 2019.

46. Later that same day, July 29, 2019, Kevin Montgomery (hereinafter “Kevin”), Adam’s uncle, contacted DCYF. This report was logged as Report Number 826420.

47. In this Report, Kevin stated that when he returned from a trip to Florida on July 22 he observed that Harmony had a “vibrant” black eye, with bruising on the bottom of her eyelid extending to the cheekbone, on the corner of her eye, on her nose and on her temple.

48. As noted in the Report, Kevin reported that he asked Adam what had happened, and Adam told him that he had left baby D.M. alone with Harmony while he went to the bathroom. D.M. began to cry; Harmony did not know what to do and “tried getting him to stop crying” by covering the baby’s mouth with her hand.

49. Kevin reported that Adam told him he had “bounced her off every fucking wall in this place, I explained to her why later.”

50. Kevin reported that Harmony was born legally blind.

51. Kevin also reported that at some point he had seen Adam and Kayla leaving the house with the two younger children. According to the Report, Kevin stated went inside and found Harmony and a man who identified himself as Alex Call who said that he was a recently-relapsed drug abuser; Adam was letting him stay in the house. Alex then left, leaving Harmony alone with Kevin.

52. According to the Report, Kevin, not wanting to leave Harmony alone in the house, took her along while he ran some errands, texting Adam to let him know that he had Harmony with him. Adam responded that Harmony was being punished and that “She is never to leave that fucking house under no circumstances.”

53. Kevin further reported witnessing Harmony being punished by being made to scrub the bathroom with a toothbrush.

54. The Report noted that Kevin reported that Harmony is spanked on her bottom several times a week.

55. Kevin also reported that Kayla calls Harmony “disgusting” and other names.

56. Additionally, Kevin reported that the electricity to the home had been shut off for non-payment and that any electricity was being provided by a small generator that is not sufficient to provide power for all of the household needs. As noted in the Report, Kevin stated that there was no hot water and the house was filthy both inside and out.

57. Kevin went on to report finding what appeared to be drug paraphernalia in the home.

58. Kevin called DCYF again later that same afternoon. This report is designated as Report Number 826420.

59. The Report states that Kevin was seeking to know what was happening with his earlier report. According to the Report, Kevin became frustrated when informed that this information was confidential.

60. The Report notes that Kevin reiterated that he had returned home from Florida on July 22nd and stated that he had seen the bruise on Harmony on the 23rd.

61. As noted in the Report, the DCYF worker who took the call questioned Kevin “on the accuracy of his dates,” further frustrating Kevin, who said “...this is why children die” and that “this child was punched clear in the eye socket with full force.”

62. The report notes that Kevin questioned why the matters he was reporting were not “imminent danger” and asked why Harmony had not been interviewed. He ended the call by saying that he was going to call “every god damn day” until something was done.

63. Kevin called DCYF again the next day, July 30, 2019. This report was assigned number 826530.

64. As noted in the Report, during this call Kevin again reported his observations about Harmony's black eye, which he described as "like she was in a boxing match."

65. The Report notes that Kevin described how he had arrived at the home on July 24, 2019 to find that everyone but Harmony and Alex had left the home. Kevin stated that he had taken Harmony to Dunkin Donuts at approximately 4:00 p.m. to get something to eat, at which time Harmony told him that it was the first food she had had all day.

66. The Report notes that Kevin reported that, on one occasion, Adam had made Harmony stand in the corner for between five and eight hours and that Harmony had been made to stay in bed from the time she woke up until 4:00 p.m. Kevin also reported his concerns that the other two children in the house were being neglected.

67. Kevin mentioned in this Report that Kayla's son from a previous relationship would visit the home.

68. DCYF Policy 1205 states, in relevant part, "To help in the determination of whether neglect or abuse has occurred, the CPSW must make at least two collateral contacts during the course of the assessment. A collateral contact includes a contact with any individual within the community who can furnish information about the family. They may include schools, medical staff, social service agencies, hospitals, clinics, police, relatives and personal contacts such as friends, neighbors or landlords."

69. On information and belief, Tsaros never contacted Kayla's son from an earlier relationship.

70. Tsaros noted in the Contact Log that he spoke to Kevin on July 30, 2019.

71. According to the Contact Log, Kevin, who became emotional at times, informed Tsaros that the Montgomery home was under foreclosure. Kevin again recounted having seen

Harmony with a black eye, the messy condition of the home and the lack of electricity except for the generator.

72. In the Contact Log, Tsaros notes that he asked “specifically” about the “drug concerns.” Kevin responded that he believed Adam had relapsed.

73. In the Contact Log, Tsaros makes no mention of asking “specifically” about Harmony’s reported black eye.

74. The Contact Log notes that Kevin asked whether Tsaros thought that what he was telling Tsaros was serious, and Tsaros told him yes, and that he would be following up.

75. Later that day, according to the Contact Log, Tsaros spoke to Kevin’s ex-girlfriend, “Christina.” As noted in the Contact Log, she expressed many of the same concerns as Kevin.

76. DCYF received yet another report on July 30, 2019, from “Pamela.” This report was designated as Report Number 826606.

77. As noted in the Report, Pamela also expressed many of the same concerns as Kevin, adding that when she was visiting the house for a couple of days, Adam would not let Harmony leave her room for the whole time on the grounds that she was being punished. Pamela reported seeing no food in the refrigerator, seeing drug paraphernalia, and that the generator powered only the refrigerator and air conditioning.

78. On information and belief, Tsaros never contacted “Pamela.”

79. The Contact Log states that on August 1, 2019, Tsaros received a call from Adam cancelling their scheduled home visit for that day. Adam said he would call back to reschedule the visit. Tsaros called Adam back the next day but was unable to reach him or leave a voicemail. This is also noted in the Contact Log.

80. On August 2, 2019 “Christina” called DCYF again. This report was designated Report Number 826982.

81. According to the Report, in addition to reiterating the concerns previously raised about Harmony’s black eye, drug use in the home, the presence of Alex in the home and Adam’s having told Kevin that Harmony was not to leave the home and should have been left in the home alone, Christina reported that she did not believe that Harmony had been seen by a doctor since moving into Adam’s home.

82. On August 5, 2019, Tsaros recorded in the Contact Log that he had received information from the Manchester Police Department setting forth calls received by the police relating to the Montgomery home. Among that information was a report that on July 7, 2019 the police had “trespassed” Alex Call from the property, and that the Manchester Police Department had received a call from a neighbor, who reported Adam and Kayla yelling at each other.

83. According to the Manchester Police Department Calls for Service log, on or about July 10, 2019 the Manchester Police Department received a call from someone identifying themselves as a neighbor of the Montgomerys, in which the caller reported hearing a male and female fighting inside the house. The caller also reported hearing banging and screaming and children.

84. According to the Contact Log, on August 5, 2019, Tsaros spoke to Adam and scheduled a home visit to take place on August 7, 2019, nine days after Kevin’s initial report of Harmony’s black eye.

85. According to the Contact Log, on August 7, 2019, Tsaros conducted a second home visit.

86. On information and belief, between Kevin’s report of July 29, 2019 and August 7, 2019, Tsaros had no contact with Harmony other than the brief glimpse he had of her leaving the home with Adam on July 29th.

87. Pursuant to DCYF Policy 1171, “Level I assessments require face-to-face contact with the alleged victim within 24 hours, excluding weekends and holidays...”

88. According to the Contact Log, Tsaros paid a home visit to the Montgomery home on August 7, 2019.

89. Tsaros noted in the Contact Log that during the visit he raised his concerns about substance abuse and had Adam sign a release of information form for the methadone clinic he had been attending.

90. Additionally, Tsaros noted in the Contact Log that, with respect to Harmony’s eye injury, Adam claimed that her younger brother had hit her in the corner of her eye with a toy lightsaber.

91. Tsaros documented in the Contact Log that he spoke to Harmony “a bit, making small talk” while she was watching a movie.

92. DCYF Policy 1201 provided that “...Ideally, the child needs to be interviewed in a (neutral) uninfluenced, non-threatening, private, quiet place that is free from interruptions.”

93. On information and belief, Tsaros made no effort to speak with Harmony in a private, quiet place with no distractions or interruptions.

94. Tsaros noted in the Contact Log that he had observed a red mark in Harmony’s right eye and some faded bruising under her eyelid. These observations were made nine days after the first report to DCYF of Harmony’s black eye.

95. According to the Contact Log, Harmony told Tsaros that her brother had hit her in the eye with a light saber.

96. DCYF policy 1152, then in force and effect, states, in part: "Bruises are usually classified by size, and some information can be determined by their appearance...One way to determine the approximate age of a bruise is by the color....

97. On information and belief, Tsaros did not account for the passage of time between the first report of Harmony's black eye on July 29, 2019 and his observation of her eye nine days later on August 7, 2019.

98. On information and belief, when Tsaros observed the remaining injuries to Harmony's eye, he took no steps to determine whether bruising of this nature was consistent with Adam's explanation that she had been hit in the eye by a toy light saber approximately two weeks earlier.

99. Tsaros documented in the Contact Log that he asked Harmony whether her eye still hurt, and she said no; whether she felt safe at home, and she said yes; whether anything had happened that made her feel scared or sad, and she said no; and whether her mom, dad or anyone else hurt her recently or ever, and she said no.

100. On information and belief, Tsaros conducted this interview in a public part of the home with others present, in violation of DCYF Policy 1201.

101. On information and belief, Tsaros did not ask Harmony any questions related to the reports that she had been punished by being make to stand in the corner for hours, that she had been punished by being made to stay in her room for most of the day, or that she had been punished by being made to scrub the bathroom with a toothbrush.

102. On information and belief, Tsaros did not ask non-leading and open-ended questions as required by DCYF Policy 1201.

103. On August 8, 2019, Tsaros documented in the Contact Log that he spoke to someone at Adam's drug treatment clinic.

104. On August 8, 2019, according to the Contact Log, Kevin and Christina again called DCYF and spoke to a supervisor, expressing their concern that Adam had relapsed and was using heroin.

105. On August 8, 2019, Tsaros documented in the Contact Log that he had spoken to a Dr. Morrison and had been told that "...the children are up to date medically with no concerns for a/n [abuse/neglect]."

106. However, the Contact Log notes that subsequently, on March 3, 2021, Dr. Morrison stated that she had never seen Harmony, although she had seen D.M. and S.M.

107. On information and belief, when Tsaros spoke to Dr. Morrison on August 8, 2019, he inquired about "the children," without using their names or specifying to which children he was referring, Tsaros then assumed that when Dr. Morrison was referring to all three children when she said that "the children" were up to date medically and that there were no concerns for abuse or neglect.

108. On information and belief, Tsaros never specifically inquired about whether Harmony was up to date medically and whether there were any concerns for abuse or neglect.

109. On information and belief, Tsaros never inquired whether Harmony had received medical treatment for the bruising around her eye.

110. On August 9, 2019, Tsaros recorded in the Contact Log that he had a “contentious” call with Kevin, in which Kevin expressed his continued concerns about Adam’s drug use and said that he believed the children should be removed from the home.

111. On August 15, 2019, a family friend called DCYF on behalf of Harmony’s grandmother, Helen, to report her concerns for Harmony. This report was designated Report Number 828370.

112. As noted in the Report, the caller reiterated the concerns reported earlier regarding Harmony’s black eye, reporting that Harmony is blind in one eye and is supposed to wear glasses. Helen also reported her concerns about Adam’s drug use and Harmony being punished by having to clean the toilet with a toothbrush. The reporter went on to state that she was worried that Harmony would “...end up like Bella, the little girl that was found dead on Dear Island...because she was beaten by a [sic] Mom’s boyfriend.”

113. This report was noted by Tsaros in the Contact Log. Tsaros wrote that he was aware of these concerns, had spoken with Adam’s drug counselor and had seen the injury to Harmony’s eye, which she said had been caused when her brother hit her in the eye with his toy lightsaber.

114. On August 16, 2019, DCYF received a report from “Thelma.” This report was designated as Report Number 828484.

115. As noted in the Report, “Thelma” reported that she was concerned because the Montgomery house has no electricity and is instead using a small generator. She also reported that the yard was “deplorable” and the driveway was full of trash, leading her to wonder whether the inside of the home was safe for children.

116. Tsaros noted in his Contact Log that he was aware of the additional information reported, that he had visited the home and knew that a generator was in use because the electricity had been turned off. He stated that he had spoken with “collaterals” and had no present concerns.

117. On August 22, 2019 a neighbor, “Karryn,” contacted DCYF. Her report was designated as Report Number 829198.

118. According to the Report, Karryn reported that there are extension cords running into the house and that a generator was in use. She also reported that the fire department had been to the house over concerns the generator was too close to the home.

119. On August 23, 2019 “Thelma” called again. This report was designated as Report Number 829296.

120. According to the Report, Thelma reported her continuing concerns about the generator being the source of electricity in the home. She also reported hearing that two days earlier there had been a fight in the home and something was thrown out of a window, breaking it. She reported worrying that where the outside of the home was in an unkempt state the inside must be unclean as well.

121. The Report noted that Thelma said she wondered whether DCYF was waiting for children to die.

122. On information and belief, Tsaros never spoke directly to either Thelma or Karryn, in violation of DCYF policy 1157.

123. DCYF policy 1157 requires that, when additional information is received during an open assessment, “...The CPSW is to contact the reporter and discuss with their Supervisor what action needs to be taken to address the additional information. This could include but is not limited to re-interviewing the child; meeting with the child/parent and/or contacting collaterals.”

124. On September 11, 2019 Kevin called DCYF yet again. This report was assigned Report Number 832006.

125. The Report noted that Kevin stated that he had called earlier to report suspected child abuse. He now reported that the Montgomery home had been foreclosed on and that the eviction process had commenced. He also reported that there is no electricity in the home so that there was no heat or hot water and that it is starting to get cold at night. Kevin expressed his concerns that there was insufficient food in the house. He reported that there was an unplugged refrigerator blocking the back door because the lock for the door was broken.

126. The intake worker made a notation in the Report that that according to Contact 3, Tsaros had met with the family and had seen the generator “which actually runs the stove, fridge and electricity in the home.”

127. On information and belief, “Contact 3” as referenced in the Report dates to a Contact Log entry that was made more than a month and a half earlier on July 29, 2019.

128. Also on September 11, 2019, DCYF received a report from Helen. This report was designated Report Number 832022.

129. As noted in the Report, Helen reported that she owned the Montgomery home and had returned to the home that day but that Adam would not let her in. Helen reported that the house is “in shambles.” She reported that there is no hot water, the refrigerator was barricading the back door because there was no lock ,and that the home was filthy with a smell of urine.

130. As noted in the Report, Helen also reported having seen Harmony put in the corner for hours at a time. She reported that Harmony is blind in one eye and is supposed to wear glasses.

131. Notably, at the bottom of this Report is the notation: “** CPSW Tsaros told family he has known father since father was 15 years old and should not have been assigned.**”

132. On September 12, 2019 Detective Sergeant Mike Bergeron (“Bergeron”) called DCYF. This report was designated Report Number 882124.

133. The Report notes that Bergeron reported that he had been called to the Montgomery home because there was an altercation regarding Kevin and Helen attempting to enter the home to retrieve personal items. While there, Bergeron noted there was “clutter in every room consisting of clothing and empty food containers.”

134. On September 16, 2019, Kevin called DCYF. This report was designated as Report Number 832644.

135. According to the Report, Kevin again reported his belief that Adam had resumed using drugs. He again reported that the generator is insufficient to run the hot water heater. Kevin also reported having spoken to Tsaros and feeling as though Tsaros was turning a blind eye to the situation. Kevin reported that Tsaros told him that he had known Adam since Adam was 15 and that Tsaros knew he was “not like this.”

136. On September 16, 2019, there is a note in the Contact Log that Rosemarie Boylan (hereinafter “Boylan”) spoke with Helen in response to her request for a call back. Helen voiced her concerns about Tsaros having known Adam for fifteen years. Boylan responded that “it was not on a personal level.”

137. According to the Contact Log, Helen reported that Harmony was supposed to have eye surgery and voiced her ongoing concerns about Harmony and about the children living in those conditions.

138. According to the Contact Log, Boylan also spoke to Kevin during her call with Helen, who voiced his concern that there is no heat or hot water in the home. Boylan informed him that those issues had been addressed and that “...right now you do not need heat in a home.”

139. On information and belief, on September 16, 2019, the temperatures in Manchester, New Hampshire dropped to 48 degrees overnight.

140. DCYF Policy 1151, effective at all relevant times, states in part that “(a) "Inadequate Shelter" means failure by the caregiver to provide or seek to provide shelter that is safe, healthy, and sanitary, and which protects a child from the weather (1) Housing conditions, lack of heat or lack of shelter, are hazardous to the safety of a child...”

141. On September 24, 2019, Crystal called DCYF. This report was designated as Report Number 834118.

142. As noted in the Report, Crystal reported that Kevin had called her with his concerns for Harmony. She stated that Adam does not allow her to videochat with Harmony and does not permit contact between her and Harmony.

143. According to the Contact Log, on October 1, 2019, Tsaros made an unannounced visit to the Montgomery home. Adam and Kayla told him that the house had been foreclosed on and they were being evicted. While there, Tsaros observed Harmony watching television and said “hi,” to which she responded “hi.” According to the Contact Log, this was the extent of Tsaros’ interaction with Harmony.

144. On information and belief, Tsaros never inquired about Harmony’s blindness in one eye or about the report that she was supposed to have surgery.

145. According to the Contact Log, later that day, Tsaros called Adam. Tsaros apologized for bothering him and asked why Harmony was not at school. Adam said he had tried to enroll her in kindergarten and was told could not enroll her without proof that she was a New Hampshire resident.

146. On information and belief, Tsaros did not question Adam's claim that he could not prove Harmony's residence in New Hampshire. On information and belief, had Tsaros inquired further, he would have realized that Adam would at the very least have legal documents regarding his award of Harmony's custody.

147. On October 5, 2019, Kevin called DCYF. This report was designated as Report Number 836102.

148. As noted in the Report, Kevin reported that he had been making reports to DCYF since July, and that was calling again now because there is still no heat or hot water in the house and it has gotten colder.

149. According to the Contact Log, on October 8, 2019, Tsaros spoke to Crystal.

150. On information and belief, this is the first time Tsaros had any contact with Crystal.

151. During that call, Crystal told Tsaros that she had not been able to see or speak with Harmony because Adam makes it impossible to co-parent.

152. According to the Contact Log, Tsaros asked Crystal whether she received all of her information from Kevin. When she replied that she receives her information from Kevin, Kevin's girlfriend and from Helen, Tsaros reassured her that he had conducted a thorough investigation and was attempting to close the report "soon."

153. On information and belief, Tsaros did not inquire about Adam's reported refusal to co-parent with Crystal.

154. On October 17, 2019, Tsaros sent a letter to Adam informing him that the Assessment had been closed as "Unfounded."

155. DCYF Policy 1192, in effect at all relevant times, provides in part: "I. The immediate safety of the victim is of paramount importance. The Safety Assessment must be

completed on all assessments assigned a response priority level within 24 hours of face-to-face contact with the alleged victim to guide decisions such as the following: A. Whether or not the child(ren) may safely remain in the home, B. The need for interventions to eliminate the threat of immediate harm, and C. Whether the child(ren) must be removed from the home II. Safety assessments look at the child's present danger and the interventions currently needed to protect the child. Throughout the assessment period, and for open cases, whenever new information becomes available that threatens the safety of the child(ren), a Safety Assessment is completed immediately On receipt of the new information.”

156. On information and belief, a Safety Assessment was never completed for Assessment 826330.

157. DCYF Policy 1172 requires that for every report, “The assigned CPSW must review all available prior Founded, Unfounded, and Unfounded but with Reasonable Concerns reports on the child/youth and family to evaluate their significance to the current assessment. 2. If there have been two or more prior "Unfounded" or "Unfounded but with Reasonable Concerns" reports involving any family or household member, the Division will conduct an administrative review of all identified reports as noted in II below...An administrative review of all identified reports will be conducted when there have been two or more prior "Unfounded" or "Unfounded but with Reasonable Concerns" reports involving any family or household member. These will be conducted through: A. A review by a Rapid Safety Feedback Program Specialist; B. An internal case consultation; C. A review by a Supervisor completed through supervision pursuant to policy 1050 section II:B, 4(b); or D. Other: another process identified in consultation with the supervisor.”

158. On information and belief, no administrative review was performed even though the various reports note multiple prior reports above the words “Administrative Review Required.”

159. On information and belief, the Montgomery family was evicted from their home on the day before Thanksgiving, 2019.

160. On January 7, 2020 an anonymous caller made a report to DCYF. This report was designated Report Number 850020.

161. According to the Report, the anonymous reporter stated that they were calling to report that Adam and Kayla were using drugs in front of their children.

162. On information and belief, the family was residing at a shelter, Families in Transition.

163. According to the Report, DCYF asked the Manchester Police Department to perform a welfare check.

164. According to the Contact Log, on January 8, 2020, Tsaros spoke to Adam by telephone. As noted in the Contact Log, Adam recounted that the police had been there.

165. As noted in the Contact Log, Tsaros asked if he could stop by to see the family, at which point Adam told him that Harmony was now living with her mother.

166. The Contact Log notes that Adam stated that the family had been evicted the day before Thanksgiving, and because they were going to be homeless, it made sense for Harmony to stay with her mother, whom she was going to visit anyway.

167. According to the Contact Log, it was not until 12 days later, on January 20, 2020 that Tsaros left a voicemail for Crystal, seeking to know whether Harmony was there.

168. On information and belief, Tsaros never followed up on the voicemail he had left or took any other action to confirm Harmony's whereabouts.

169. According to the Contact Log for January 21, 2020, Tsaros spoke to the Division of Family Assistance and learned that Adam and Kayla had submitted applications listing only S.M. and D.M. as children living with them.

170. On information and belief, in reality, Kayla was continuing to collect benefits for Harmony.

171. On information and belief, it appears that either Tsaros did not, in fact, contact the Division of Family Assistance, or the Division of Family Assistance provided him with incorrect information.

172. On information and belief, on March 23, 2020, Assessment number 850020 was closed as unfounded.

173. On September 7, 2021, DCYF received a report from someone identifying herself as a counselor/therapist. This report was designated as Report Number 930234.

174. According to this Report, the counselor/therapist had called to report that Crystal had not seen Harmony in two years because she was unable to locate Adam. Crystal was supposed to have visits with Harmony.

175. A notation in the Contact Log states that on September 16, 2021, Crystal received a telephone call from a caseworker named Bailey Pischke (hereinafter "Pischke"). According to the Contact Log, Crystal reported that she did not know where Harmony was and believed that Harmony was living with Adam somewhere in Manchester, New Hampshire.

176. As noted in the Contact Log, Crystal reported that there is a parenting plan in place pursuant to which she is supposed to have visits with Harmony, however she does not have any contact information for Adam and Adam has blocked her from all of his social media accounts.

177. According to the Contact Log, Crystal stated that when she would have telephone conversations with Harmony, Adam would be in the background coaching her and would hang up if Harmony said anything “out of the ordinary.”

178. It was only after being contacted by DCYF on September 16, 2021, that Crystal began to believe that DCYF did not know the whereabouts of either Harmony or Adam or whether Harmony was safe. Prior to that date, Crystal reasonably believed that Harmony was safely living with Adam under DCYF’s observation, supervision and care.

179. At this point, Crystal began an immediate and frantic search for Harmony and Adam³.

180. On or about November 18, 2021, Crystal called the Manchester Police Department, telling them that she hadn’t seen Harmony since a Facetime call on Easter, 2019. On information and belief, Crystal told the Manchester Police that while she had been a drug abuser in 2018 when she lost custody of Harmony, she had since regained her sobriety.

181. On information and belief, and according to the Contact Log, DCYF employees soon determined that Harmony was not registered in the Manchester school system.

182. On or about December 29, 2021, Crystal sent an email to Manchester Mayor Joyce Craig, begging her for help in finding Harmony.

183. On or about December 31, 2021, the Manchester Police Department held a press conference and announced the search for Harmony.

184. On or about January 7, 2022, Crystal received a copy of “discovery materials,” including some portion (still unknown) of DCYF’s case record for Harmony. It was only after

³ Between Easter, 2019 and September 16, 2021, Crystal repeatedly called Central Intake of DCYF to try to arrange for contact with Harmony, but she was told every single time that DCYF could not share any information with Crystal because it was confidential.

receiving those records that Crystal began the process of understanding DCYF's role in failing to protect Harmony.

185. Crystal was unaware, and could not reasonably have known, that DCYF had been negligent in carrying out its statutory, regulatory and common-law duties towards Harmony, leading to Harmony's abuse and neglect and, ultimately, to her death, until reading the records she received on or about January 7, 2022.

186. On information and belief, on December 31, 2021, the Manchester Police located both Adam and Kayla.

187. On information and belief, Adam was uncooperative and refused to provide information regarding Harmony's whereabouts.

188. On information and belief, after questioning, Kayla reported that after they were evicted on November 27, 2019 the family was living in their car.

189. On information and belief, Kayla recounted that between November 27, 2019 and December 7, 2019 Adam would grow upset with Harmony because she was not saying that she needed the bathroom and consequently was having accidents.

190. On information and belief, on each occasion that Harmony had an accident, Adam would strike Harmony in the face and/or head with a closed fist.

191. On information and belief, on or about December 7, 2019, Adam struck Harmony three separate times over the course of a few minutes because she had had a bathroom accident.

192. On information and belief, after the final blow, Adam heard or saw something that caused him to believe that he had caused Harmony serious injury.

193. On information and belief, Kayla recounted that Harmony moaned for approximately five minutes.

194. On information and belief, sometime later, Adam and Kayla realized that Harmony was not breathing and had died.

195. On information and belief, Kayla informed the police that she and Adam had concealed Harmony's body in a number of locations before Adam finally dumped the body in an undisclosed location.

196. On information and belief, there is forensic evidence in various locations corroborating Kayla's account that Harmony's body had been kept in those places.

197. Harmony's body has not yet been found.

198. On or about May 9, 2024 Adam was sentenced to forty five years to life for the murder of Harmony, and he was sentenced to an additional eleven years, to be served consecutively, for falsifying evidence, tampering with a witness and second-degree assault.

199. In November, 2022, Kayla Montgomery pleaded guilty on two charges of perjury after reaching a fully negotiated plea agreement with the Attorney General's Office, and she was sentenced to eighteen months in prison.

200. On or about February 25, 2022, a report titled "Comprehensive Update on the Ongoing Case Involving Harmony Montgomery and Recommended Systematic Improvements" (hereinafter "The Governor's Report") was issued by the New Hampshire Governor's office in consultation with the Attorney General.

201. The stated purpose of The Governor's Report is to facilitate locating Harmony and "...making recommendations for systemic improvements."

202. Unfortunately, not only does The Governor's report contain inaccuracies and omissions in its recitation of the facts which collude to downplay DCYF's negligence and to

mislead the public, but they also raise questions about the effectiveness of the “systemic improvements.”

203. For example, The Governor’s Report recounts that on December 20, 2018, DCYF requested additional information from Mass DCF so that it could perform a home study, and goes on to state that “Prior to receiving the requested additional information, NH DCYF was informed that the Massachusetts court had awarded custody to Adam Montgomery.” The Governor’s Report glosses over the fact that the award of custody to Adam occurred two months after DCYF requested additional information, during which time DCYF never followed up on its request or otherwise contacted Mass DCF.

204. More egregiously, The Governor’s Report states that on July 29, 2019 “The CPSW visited the home, and observed the children, including Harmony Montgomery...This Assessment was conducted as Adam Montgomery and Harmony were entering their vehicle.” The Governor’s Report does not state that this “assessment” was done “briefly” and from a distance, and that the CPSW did not ask either Harmony or Adam about the reported black eye, in violation of DCYF policies.

205. The Governor’s Report also states that the CPSW sent an email to the Manchester Police Department on July 29, 2019 stating that he “...did not observe an injury on the child *consistent with a black eye.*” (emphasis added). In fact, Tsaros’ email to the Manchester Police stated that the CPSW “did not observe *any* bruises, marks, etc.” The Governor’s Report thus downplays the paucity of the CPSW’s “assessment” of Harmony’s condition and safety, in violation of DCYF policies.

206. In the course of outlining the assessment, The Governor’s Report states that “The CPSW spoke with Harmony Montgomery’s biological mother, Crystal Sorey, who asserted that

she lost custody in Massachusetts and that Adam Montgomery obtained full custody...” What The Governor’s Report does not state is that this call took place on October 8, 2019 and was made only in response to a call made by Crystal to DCYF fourteen days earlier. This was only nine days before the Closing Letter was sent, closing the Assessment.

207. The Governor’s Report states that there is no record of Crystal calling DCYF between October 19, 2019 and September 2021. This is demonstrably false (as will be proven during discovery) and fails to note that Crystal had also been making her own efforts to locate Harmony and Adam during this time period.

208. Finally, The Governor’s Report states that “On January 8, 2020, a referral was received by NH DCYF regarding the Montgomery household but did not reference Harmony Montgomery.” However, the report, dated January 7, 2020 (Report No. 850020), states “*Concern for Harmony, 5 yo, [S.M.], 2 yo, and [D.M.], less than a year old who reside with their parents, Adam, and Kayla Montgomery.*” (*emphasis added*).

209. On January 14, 2022, undersigned counsel emailed Attorney General John Formella, requesting from then DHHS Commissioner Lori Shabinette and then DCYF Director Joe Ribsam a complete, unredacted copy of Harmony’s DCYF case record. Then Associate Attorney General Anne Edwards responded that the records would be “provided in the regular course.” As of the date of this lawsuit, no one from DHHS, DCYF, or the AG’s office has communicated with undersigned counsel about this matter in any way or provided him with Harmony’s complete, unredacted DCYF case record.

COUNT I
(Negligence)

210. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

211. At all times relevant to the allegations contained herein, DCYF and its employees and agents owed the plaintiff a duty to exercise reasonable care to protect Harmony from unreasonable and foreseeable risks of harm, to provide for her physical and emotional well-being, to promptly and thoroughly investigate allegations, instances, and indications of physical and emotional abuse and neglect of not only Harmony but of other children as well, to follow, adhere to, and abide by the laws of the State of New Hampshire and by its own policies, practices and procedures to protect children from foreseeable risks of harm, a duty to conduct a thorough and competent investigation upon receiving a report of suspected abuse, and the duty to otherwise comport with basic notions of due care to avoid exposing Harmony to foreseeable risks of harm.

212. Despite and in breach of the aforesaid duties, DCYF's actions, by and through its agents, were negligent and breached minimum standards of care when it knew of allegations of concerning behavior of Harmony's caretakers, including, but not limited to, her father, Adam, including but not limited to instances of physical and emotional abuse and neglect relating to Harmony and not only failed to conduct a thorough and competent investigation upon receiving a report of suspected abuse, but also specifically exposed Harmony to foreseeable harm, when it failed to appreciate the danger faced by Harmony and failed to follow its own policies and procedures regarding, *inter alia*, without limitation, the performance of safety assessments, the performance of risk assessments, the review of prior assessments regarding reports of abuse

and/or neglect, the investigation of open assessments regarding reports of abuse and/or neglect, the handling of subsequent reports of abuse and/or neglect, the conducting of interviews, the cooperation with law enforcement agencies, the referral and recommendation of intervention(s) for Harmony in order to protect her from abuse and/or neglect.

213. As a direct and proximate cause and result of the above negligence and breaches of care by DCYF and its employees and agents, during her lifetime Harmony was the subject of multiple separate single incidents of serious physical and emotional abuse and neglect, including, but not limited to, corporal punishment, verbal and mental abuse, beatings that caused serious injury, and death.

214. As a direct and proximate cause and result of the above negligence and breaches of care by DCYF and its employees and agents, DCYF is liable to Estate of Harmony Montgomery for damages to compensate it for Harmony's pain and suffering during her life as a consequence of each one of the single incidents of physical and emotional abuse and neglect that she suffered during her lifetime, including, but not limited to, substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, lost income and earning capacity, and enhanced compensatory damages for DCYF's willful, wanton, and oppressive conduct, all within the minimum and maximum jurisdictional limits of the Superior Court, plus interest and costs.

COUNT II
(Negligent Supervision and Training—DCYF)

215. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

216. At all times relevant to the allegations contained herein, DCYF owed the plaintiff a duty to exercise reasonable care in the training and supervision of its employees and agents including, *inter alia*, the duty to properly supervise, train, and control its employees and agents to promptly and thoroughly conduct competent investigations upon receiving a report of suspected abuse, instances, and indications of physical and emotional abuse of not only Harmony but of other children as well, the duty to follow, adhere to, comply with and implement its own policies, practices, and procedures relative to proper training and supervision of its employees and agents to ensure that its employees and agents were trained to identify, report, and take appropriate action so that the children under its care would not be exposed to physical or emotional harm or neglect and to take appropriate action to remove them from reasonably foreseeable physical or emotional harm or neglect, to ensure that its employees and agents did not have the opportunity to commit acts or omissions that would cause harm to children in its custody, the duty to properly train its employees to avoid conflicts of interest and the duty to otherwise comport with basic notions of due care in its training and supervision of its employees and agents.

217. Despite and in breach of the aforesaid duties, DCYF, as an organization and agency charged by statute with the protection of abused and neglected children in New Hampshire, was negligent and breached minimum standards of care in failing to properly train and supervise its workers to promptly and effectively respond to reports of suspected child abuse and neglect and in failing to effectively use the resources of its own and other allied organizations in responding promptly and effectively to reports of suspected child abuse and/or neglect, thereby resulting in multiple separate incidents of serious physical and emotional abuse and neglect of Harmony during her lifetime.

218. As a direct and proximate cause and result of the above negligence and breaches of care by DCYF and its employees and agents, during her lifetime Harmony was the subject of multiple separate single incidents of serious physical and emotional abuse and neglect, including, but not limited to, corporal punishment, verbal and mental abuse, beatings that caused serious injury, and death.

219. As a direct and proximate cause and result of the above negligence and breaches of care by DCYF and its employees and agents, DCYF is liable to Estate of Harmony Montgomery for damages to compensate it for Harmony's pain and suffering during her life as a consequence of each one of the single incidents of physical and emotional abuse and neglect that she suffered during her lifetime, including, but not limited to, substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, lost income and earning capacity, and enhanced compensatory damages for DCYF's willful, wanton, and oppressive conduct, all within the minimum and maximum jurisdictional limits of the Superior Court, plus interest and costs.

COUNT III
(Breach of Fiduciary Duty)

220. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

221. At all times relevant to the allegations contained herein, the New Hampshire Legislature and the citizens of the State of New Hampshire reposed confidence in DCYF, its agents and employees to fully investigate all reports of abuse in accordance with its policies and procedures.

222. At all times relevant to the allegations contained herein, DCYF, its agents and employees undertook to protect Harmony and owed her a fiduciary duty to do so.

223. At all times relevant to the allegations contained herein, DCYF, by virtue of its having notice of the alleged abuse and neglect of Harmony, took on a special confidence binding it and its employees to act in good faith and with due regard to Harmony's interests and undertook a fiduciary duty to protect and care for Harmony, and they were required by common law to act at all times in Harmony's best interest.

224. At all times relevant to the allegations contained herein, DCYF, by virtue of its having notice of the alleged abuse and neglect of Harmony, took on a special confidence binding it and its employees to conduct a thorough and competent investigation upon receiving a report of suspected abuse to ensure that the reported abuse was addressed with consideration and due care.

225. This relationship gave rise to a fiduciary duty on behalf of DCYF, its employees and agents to ensure an environment in which Harmony, at the very least, would be safe from neglect and/or abuse at the hands of her father, who was suspected of neglecting and abusing her.

226. Despite and in breach of the aforesaid duty, DCYF failed in its fiduciary duty when it knew of allegations of concerning behavior and emotional and physical neglect and abuse by Adam and Kayla of Harmony, and further failed to properly investigate these allegations, and specifically exposed Harmony to foreseeable harm by failing to identify, report, and take appropriate action so that Harmony would not be exposed to physical or emotional harm or neglect and to recommend intervention(s) and/or to take appropriate action to remove Harmony from reasonably foreseeable physical or emotional harm or neglect.

227. As a direct and proximate cause and result of the above negligence and breaches of care by DCYF and its employees and agents, during her lifetime Harmony was the subject of

multiple separate single incidents of serious physical and emotional abuse and neglect, including, but not limited to, corporal punishment, verbal and mental abuse, beatings that caused serious injury, and death.

228. As a direct and proximate cause and result of the above breaches of its fiduciary duties by DCYF and its employees and agents, DCYF is liable to Estate of Harmony Montgomery for damages to compensate it for Harmony's pain and suffering during her life as a consequence of each one of the single incidents of physical and emotional abuse and neglect that she suffered during her lifetime, including, but not limited to, substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, lost income and earning capacity, and enhanced compensatory damages for DCYF's willful, wanton, and oppressive conduct, all within the minimum and maximum jurisdictional limits of the Superior Court, plus interest and costs.

COUNT IV
(Loss of Consortium)

229. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

230. At all times relevant to the allegations contained herein, DCYF and its employees and agents owed the plaintiffs a duty to exercise reasonable care to protect Harmony from unreasonable and foreseeable risks of harm, to provide for her physical and emotional well-being, to conduct a thorough and competent investigation upon receiving a report of suspected abuse, to promptly and thoroughly investigate allegations, instances, and indications of physical and emotional abuse and neglect of not only Harmony but of other children as well, to follow, adhere

to, and abide by the laws of the State of New Hampshire and by its own policies, practices and procedures to protect children from foreseeable risks of harm, and the duty to otherwise comport with basic notions of due care to avoid exposing Harmony to foreseeable risks of harm.

231. Despite and in breach of the aforesaid duties, DCYF's actions, by and through its agents, were negligent and breached minimum standards of care when it knew of allegations of concerning behavior of Harmony's caretakers, including, but not limited to, her father, Adam, including but not limited to instances of physical and emotional abuse and neglect relating to Harmony and not only failed to properly investigate these allegations, but also specifically exposed Harmony to foreseeable harm, when, following multiple separate incidents of physical and emotional abuse and neglect suffered by Harmony it continued to fail to appreciate the danger faced by Harmony and failed to follow its own policies and procedures regarding, *inter alia*, the performance of safety assessments, the performance of risk assessments, the review of prior assessments regarding reports of abuse and/or neglect, the investigation of open assessments regarding reports of abuse and/or neglect, the handling of subsequent reports of abuse and/or neglect, the cooperation with law enforcement agencies, the referral and recommendation of intervention(s) for Harmony in order to protect her from abuse and/or neglect, resulting in a final incident of physical abuse so severe that it caused Harmony's death.

232. As a direct and proximate cause and result of the above negligence and breaches of care by DCYF and its employees and agents, during her lifetime Harmony was the subject of multiple separate single incidents of serious physical and emotional abuse and neglect, including, but not limited to, corporal punishment, verbal and mental abuse, beatings that caused serious injury, and death.

233. As a direct and proximate cause and result of the above negligence and breaches of care by DCYF and its employees and agents, Crystal has suffered the loss of consortium and her familial relationship with his minor daughter, Harmony, including the loss of her comfort, society, affection, guidance and companionship, all within the minimum and maximum jurisdictional limits of the Superior Court, plus interest and costs.

WHEREFORE, the plaintiff respectfully seeks the following relief:

- A. Judgment for the Estate against the defendant for monetary damages including, but not limited to, compensation to the Estate of Harmony Montgomery pursuant to RSA 556:9 and 11;
- B. Judgment for the Estate against the defendant for monetary damages including, but not limited to, compensation to the Estate of Harmony Montgomery pursuant to RSA 556:12,I;
- C. Judgment for the plaintiff against the defendant for monetary damages including, but not limited to, compensation to Crystal Sorey pursuant to RSA 556:12,III; and
- D. Such other and further relief as the Court deems equitable and just.

DEMAND FOR JURY TRIAL

The plaintiff hereby demands a trial by jury.

As discovery is ongoing, the plaintiff expressly reserves the right to amend and/or supplement this Complaint and Demand for Jury Trial and does not waive any other or further claims available to her.

Respectfully Submitted,

**CRYSTAL SOREY, BOTH INDIVIDUALLY
AND AS ADMINISTRATRIX OF THE ESTATE
OF HARMONY MONTGOMERY,**

By Her Attorneys,

RILEE & ASSOCIATES, P.L.L.C.

Date: September 13, 2024

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