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22 **SUPERIOR COURT FOR THE STATE OF CALIFORNIA**
23 **FOR THE COUNTY OF TULARE**

24 J.G., a minor by and through his Guardian ad
25 Litem, PATRIZIA SANCHEZ,

26 Plaintiff,

27 v.

28 COUNTY OF TULARE, a governmental entity,
on its own behalf and on behalf of its departments,
including but not limited to Child Welfare
Services; MARIA ALCARAZ, an individual;
EVELYN RODRIQUEZ, and individual;
HERIBERTO MARTINEZ, an individual; and
DOES 1-50, Inclusive,

Defendants.

Case No. VCU286277

[Assigned for All Purposes to Hon. Bret Hillman, Dept. 7]

**FIRST AMENDED COMPLAINT;
DEMAND FOR JURY TRIAL**

1. Failure to perform mandatory duties (Gov. Code § 815.6)
2. Negligent hiring, supervision, and/or retention of employee (Gov. Code §§ 815.2 and 820)
3. Negligence/Negligence *per se* (Gov. Code § 820)

1 I. INTRODUCTION

2 1. Under California law, mandatory duties are imposed on each county’s child
3 protective services division. These public entities are part of a state-wide system intended to
4 prevent child abuse and neglect in California. Existing law provides for mandatory services for
5 abused and neglected children and their families. The stated goal of child protective services is to
6 keep the child in his/her own home when it is safe, and when the child is at risk, to develop an
7 alternate plan as quickly as possible. These goals are embodied in the Child Welfare Services
8 Program’s Division 31 Regulations, adopted by the California Department of Social Services.
9 These regulations set forth the requirements of the Child Welfare Services Division for Tulare
10 County (“CWS”), which is a department of Defendant COUNTY OF TULARE.

11 2. From October 2019 to August 2020, employees of CWS failed to abide by their
12 mandatory duties causing Plaintiff J.G. (“J.G.” or the “Child”) to suffer profound and permanent
13 brain damage.

14 3. Of particular importance, from March 7, 2020 to March 9, 2020, [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED] CWS did this only after learning the Child was brain
22 dead.

23 4. Employees of CWS failed to investigate a child endangerment referral concerning
24 J.G. despite determining an investigation within 10 days was necessary. California DSS Child
25 Welfare Services Manual section 31-101.3 requires the social worker to respond to such referrals
26 either immediately, or within 10 days, as appropriate. As such, CWS was under a mandatory duty
27 to respond by March 17, 2020. Tragically, they did not. Division 31-120 also requires that the
28 social worker conduct the investigation in person. Division 31-125 requires that a social worker

1 investigating a referral shall determine the potential for, or the existence of, any condition which
2 places the child at risk and in need of services, and which would cause the child to be a person
3 described by Welfare and Institutions Code Sections 300(a) through (j). CWS failed to comply
4 with these mandatory duties.

5 5. If CWS had discharged its mandatory duties, this tragedy could have been averted.
6 Indeed, merely looking at the Child during this time would have revealed a dire situation. From
7 March 2020 to August 1, 2020, J.G.'s health deteriorated. The Child's entire body was covered in
8 a rash, his extremities were swollen, and he was not growing. J.G.'s rash, swelling, and other
9 symptoms were a direct result of the lack of proper nutrition and inhumane treatment. For
10 example, J.G. was repeatedly and routinely subjected to ice baths, consisting of a tub outside,
11 with water and ice in it. The parents would keep heaters in his room at night, under the belief the
12 high temperatures would expel toxins from the Child. Likewise, the Child was given "sun baths",
13 exposing him to extreme heat for prolonged periods of time.

14 6. During this same time period, a conversation with the natural father would have
15 revealed that J.G.'s treatment was part of a premeditated experiment to demonstrate that it was
16 possible to raise an entirely plant-based baby. The natural father adhered to the belief that every
17 disease is related to a mucus-clogged system, which itself results from the accumulation of
18 undigested and unnatural food substances, commencing in childhood. He believed that vitality
19 depends on removing these obstructions, and that fruit was all that was required in order to attain
20 optimal health. The father believed that breast milk was toxic and full of carcinogens. The father
21 further believed that prolonged fasting was necessary for the release of toxins within the body,
22 which process he thought was capable of curing disease.

23 7. [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

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[REDACTED]

8. On October 10, 2019, [REDACTED]

[REDACTED]

9. CWS's response to the October 2019 referral was in violation of Division 31 Regulation 31-125.2 and 31-125.5. While CWS provided counselling and training to the mother, MARIA ALCARAZ did not include the father in the investigation. As such, CWS was in violation of Division 31 Regulation 31-125.2, which requires that MARIA ALCARAZ include the father in the investigation. MARIA ALCARAZ did not investigate the father at any time, despite the fact that he was the primary focus of the child abuse referral, had an extensive abuse history involving deprivation of food, and had regular contact with the Child. Moreover, Regulation 31-210 requires that a Case Plan be completed and signed by CWS within 30 days of the initial face-to-face contact. If MARIA ALCARAZ had kept the case open and investigated the father as she was required to do, CWS would have also been mandated to develop a Case Plan under Division 31 Regulation 31-201. Tragically, this was not done.

10. The actions taken by employees of Defendant COUNTY OF TULARE were contrary to specific mandatory duties under the CDSS Division 31 Regulations. These regulations were specifically implemented to protect children from severe abuse and neglect, including the willful, prolonged failure to provide adequate food. When the CWS clean-up crew was

1 confronted with these numerous failings, [REDACTED]

2 [REDACTED]

3
4 **II. PARTIES**

5 11. Plaintiff, J.G., a minor by and through his Guardian ad Litem, PATRIZIA
6 SANCHEZ (hereinafter referred to as “J.G.” and/or “the Child”) was, at all relevant times alleged
7 herein, a minor child who was born on September 7, 2019, and a resident of the County of Tulare.

8 12. Defendant COUNTY OF TULARE is a government agency in the State of
9 California. CWS is a department of Defendant COUNTY OF TULARE. The appropriate
10 governmental claim for J.G. was timely filed with the COUNTY OF TULARE on November 10,
11 2020, concerning the injuries suffered by J.G set forth herein. MARIA ALCARAZ, EVELYN
12 RODRIQUEZ, and HERIBERTO MARTINEZ are employees of Defendant COUNTY OF
13 TULARE and at all times herein were acting in the course and scope of their employment.

14 13. The true names and capacities, whether individual, corporate, associate or
15 otherwise, of defendants DOEs 1-50, inclusive, and each of them, are unknown to plaintiff, who
16 thereby sue these defendants by such fictitious names, and will ask leave of this court to amend
17 this complaint when the same shall have been ascertained. Plaintiff is informed and believe and
18 upon that basis alleges that each defendant named herein as a DOE is responsible in some manner
19 for the events and happenings referred to herein which proximately caused injury to plaintiff as
20 hereinafter alleged.

21 14. Plaintiff is informed and believe and on that basis allege that at all times
22 mentioned herein the Defendants, and each of them, were the agents, joint venturers, servants,
23 employees, assistants, and consultants of each other, and as such were acting within the course,
24 scope, and authority of said agency, joint venture, and employment, and that each and every
25 Defendant, when acting as a principal, was negligent and reckless in the selection, hiring,
26 entrustment, and supervision of each and every other defendant as an agent, servant, employee,
27 assistant, or consultant.

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1 **III. JURISDICTION & VENUE**

2 15. The Court has jurisdiction over this action by virtue of the fact that this proceeding
3 is based on activity conducted in the State of California, and in the County of Tulare.

4 16. Tulare County is where some, or all, of the Defendants reside and, therefore, venue
5 is properly in this judicial district pursuant to California Code of Civil Procedure § 395.

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7 **IV. FACTUAL ALLEGATIONS**

8 **A. Overview of the Statutory and Regulatory Framework for the Reporting,**
9 **Investigation, and Response to Allegations of Child Abuse and Neglect**

10 17. The Child Abuse and Neglect Reporting Act (CANRA) creates a comprehensive
11 reporting scheme aimed toward increasing the likelihood that child abuse victims will be
12 identified. Once an allegation of abuse or neglect has been reported, a social worker must be
13 assigned to conduct an investigation and to classify the referral as either “substantiated,”
14 “unfounded,” or “inconclusive.” (Pen. Code § 11165.12.) Penal Code section 11165.12 provides a
15 strict definition for each category.

16 18. An “unfounded report” is one “determined by the investigator who conducted the
17 investigation to be false, to be inherently improbable, to involve an accidental injury, or not to
18 constitute child abuse or neglect...” (Pen. Code, § 11165.12 (a).) A “substantiated report” is one
19 the investigator determines “based upon evidence that makes it more likely than not that child
20 abuse or neglect, as defined, occurred” (Pen. Code, § 11165.12(b).) And an “inconclusive
21 report” is one the investigator determines “not to be unfounded, but in which the findings are
22 inconclusive and there is insufficient evidence to determine whether child abuse or neglect ... has
23 occurred.” (Pen. Code, § 11165.12(c).)

24 19. Relatedly, Penal Code section 16500, *et seq.*, created a statewide system of “child
25 welfare services.” Section 16501(c) mandates each county to “provide child welfare services as
26 needed pursuant to an approved service plan and in accordance with the regulations
27 promulgated....” The system uses the child-abuse reports made under CANRA to identify
28 children who may need “child welfare services” so those services can be provided, in an effort to

1 prevent the child from ultimately coming within the juvenile court’s jurisdiction.

2 20. These services include “emergency response services” in response to CANRA
3 reports. (§ 16501(f).) Counties must respond to such reports immediately if the child is in
4 imminent danger, and to all other reports within 10 calendar days. (*Id.*) Section 16504 treats a
5 report made under CANRA as a request for child-welfare services, and requires the social worker
6 responding to the report “to consider providing appropriate social services to maintain the child
7 safely in his or her own home.” (§ 16504(a).)

8 21. The term “child welfare services” is broadly defined to include any public social
9 services that are directed toward protecting and promoting child welfare and preventing or
10 assisting in the solution of problems that may result in child abuse or neglect. (§ 16501(a)(1)(A)
11 and (B).) Importantly, “the foundation and central unifying tool in child welfare services” is the
12 case plan. (§ 16501.1(a)(1).) “[A] case plan ensures that the child receives protection and safe and
13 proper care and case management, and that services are provided to the child and parents or other
14 caretakers, as appropriate.” (§ 16501.1(a)(2).)

15 22. The statewide regulations implementing these statutory provisions are contained in
16 Division 31 of the DSS Child Welfare Services Manual which describes the responsibilities of a
17 county’s child-welfare agency after it has received a report of potential child abuse or neglect.
18 The manual requires social workers who are investigating CANRA reports to determine either
19 “the potential for” or “the existence of” any conditions that place the child at risk and in need of
20 services and that would cause the child to fall within the juvenile court’s jurisdiction under
21 Welfare and Institutions Code section 300(a) through (j)¹. (§ 31-125.1.) Section 31-101.3 requires

22
23 ¹ Welf. & Inst. Code § 300: A child who comes within any of the following descriptions is within the jurisdiction of
the juvenile court . . . :

24 (a) The child **has suffered, or there is a substantial risk that the child will suffer, serious physical harm inflicted**
25 **nonaccidentally upon the child by the child’s parent** or guardian. For purposes of this subdivision, a court may
find there is **a substantial risk of serious future injury based on the manner in which a less serious injury was**
26 **inflicted, a history of repeated inflictions of injuries on the child or the child’s siblings . . .**

27 (b)(1) The child **has suffered, or there is a substantial risk that the child will suffer, serious physical harm or**
illness, as a result of the failure or inability of the child’s parent or guardian to adequately supervise or protect the
28 child, or the willful or negligent failure of the child’s parent or guardian to adequately supervise or protect the child
from the conduct of the custodian with whom the child has been left, or by **the willful or negligent failure of the**
parent or guardian to provide the child with adequate food, clothing, shelter, or medical treatment, or by the

1 the social worker to respond to such referrals either immediately or within 10 days, as
2 appropriate.

3 23. If the social worker determines that “child welfare services” are necessary to
4 address this risk, the social worker must open a case plan. (§§ 31-100.5 and 31-125.51.) A “case
5 plan” is defined as “a written document which is developed based upon an assessment of the
6 circumstances which required child welfare services intervention; and in which the social worker
7 identifies a case plan goal, the objectives to be achieved, the specific services to be provided, and
8 case management activities to be performed.” (§ 31-002 (c)(3).)

9 24. The manual also describes the procedure that social workers must follow when
10 undertaking an investigation of a CANRA report. Division 31 Regulation 31-125.2 requires the
11 social worker investigating a child endangerment referral to have in-person contact with all of the
12 children alleged to be abused, neglected or exploited, and at least one adult who has information
13 regarding the allegations. If, as a result of the investigation, the social worker does not find the
14 referral to be unfounded, the social worker must conduct an in-person investigation with all
15 parents who have access to the child alleged to be at risk of abuse, neglect or exploitation. And if,
16 as a result of the investigation, the social worker determines services are necessary, the social
17 worker shall perform the requirements specified in Chapter 31-200. (§ 31-125.5.)

18 25. Child Welfare Services Manual Chapter 31-200 sets forth the requirements
19 concerning a case plan. A case plan is a written document that identifies the plan’s goal,
20 objectives, and activities to be performed to achieve them. The case plan is to be provided to the

21 _____
22 **inability** of the parent or guardian to provide regular care for the child **due to the parent’s** or guardian’s **mental**
illness, developmental disability, or substance abuse . . .

23 [. . .]

24 (e) **The child is under five years of age and has suffered severe physical abuse by a parent**, or by any person
25 known by the parent, **if the parent knew or reasonably should have known that the person was physically**
abusing the child. . . “**severe physical abuse**” means any of the following . . . the **willful, prolonged failure to**
provide adequate food . . .

26 [. . .]

27 (i) The child has been subjected to **an act or acts of cruelty by the parent** . . .

28 (j) The **child’s sibling has been abused or neglected** . . . and there is a **substantial risk that the child will be**
abused or neglected . . . The court shall consider the circumstances surrounding the abuse or neglect of the sibling,
the age and gender of each child, the nature of the abuse or neglect of the sibling, **the mental condition of the**
parent . . .

1 parents with a discussion of the case progress, problems, and case plan status. Once a case plan
2 has been opened, the social worker must periodically evaluate whether it is working, no less
3 frequently than once every six months.

4 **B. The Natural Parent’s Radical Beliefs and History of Abuse**

5 26. Plaintiff J.G.’s natural parents do not believe in modern medicine but rather
6 subscribe to naturopathic medicine, or reliance on natural remedies. These beliefs include
7 iridology, the practice of studying the iris of the eye—such as patterns and colors—to determine
8 information about a patient’s health, as well as raw food diets. The parents believe claims that
9 diseases are not real and that the body can heal itself. More specifically, the natural father adhered
10 to the radical belief that every disease is related to a mucus-clogged system that is the result of the
11 accumulation of undigested and unnatural food substances, commencing in childhood. He
12 believed that vitality depends on removing these obstructions, and that fruit was all that was
13 required in order to attain optimal health. The father believed cancer is caused by eating cooked
14 or processed foods, which mothers pass on to their children through breastmilk. The father further
15 believed that prolonged fasting is necessary for the release of toxins within the body, and that this
16 can cure disease.

17 27. In or around the spring of 2018, [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 28. Specifically, [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
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[REDACTED]³
29. That same day, [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

30. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

31. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

32. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

33. [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

34. [REDACTED]

³ Division 31 of the Child Welfare Services Manual allows as an outcome option for CWS child endangerment investigations for the referral to be evaluated out to a community agency in lieu of an in-person investigation based on seven factors. When the decision is to evaluate out, CWS must document the rationale for the decision. (§ 31-105.115-.117.)

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[REDACTED]

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[REDACTED]

35. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

36. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

37. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

38. [REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

1 **C. The First Referral Concerning J.G.**

2 39. In early 2019, the natural father devised a plan to raise an entirely plant-based
3 child. He sought out a willing partner on whom he could impose a particular diet and lifestyle
4 during pregnancy that conformed to his beliefs, anticipating this would benefit the child.

5 40. On September 7, 2019, J.G. was born at home via what is known as a lotus birth,
6 which involves leaving the umbilical cord and placenta attached to the newborn until it falls away
7 on its own. J.G. was forced to feed off the placenta for approximately a week after his birth.

8 41. Within a week of being born, the natural parents began subjecting J.G. to
9 prolonged “sun baths” in high temperatures immediately followed by ice baths. The father posted
10 photos of this conduct on his public social media accounts.

11 42. On October 9, 2019, photos of J.G. posted online showed him looking very small,
12 wrinkled, and malnourished. [REDACTED]

13 [REDACTED]
14 [REDACTED]
15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 43. On October 10, 2019, [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]

25 44. Ultimately, [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 **D. The Second Referral Concerning J.G.**

2 45. On March 7, 2020, J.G.'s grandmother, PATRIZIA SANCHEZ called CWS ten
3 times to report J.G.'s malnourishment and neglect. None of these calls were documented.

4 46. The morning of March 9, 2020, Ms. Sanchez again called CWS to report J.G.'s
5 malnourishment and neglect. During this 17-minute call PATRIZIA SANCHEZ detailed J.G.'s
6 being taken into a "hot yoga" sauna and subjected to ice baths, as well as his malnourishment and
7 inhumane treatment, to CWS Social Services Worker EVELYN RODRIGUEZ. [REDACTED]

8 [REDACTED]
9 [REDACTED]
10 47. This child endangerment referral was ignored. CWS did nothing about this report,
11 and conducted no investigation, despite being legally mandated to do so.

12 48. The child abuse/neglect report opened March 9, 2020 was originally assigned to
13 CWS Social Worker HERIBERTO MARTINEZ. The referral lay dormant without investigation
14 on HERIBERTO MARTINEZ's desk. On June 23, 2020, potentially in response to another
15 undocumented call concerning J.G.'s neglect, the referral was reassigned to CWS Social Worker
16 Yolanda Gomez. Just her colleague Mr. Martinez, she ignored it.

17 49. CWS uses a standardized assessment methodology called Structured Decision-
18 Making ("SDM"). SDM is an approach to child protective services that uses clearly defined and
19 consistently applied decision-making criteria for screening for investigation, determining
20 response priority, identifying immediate threatened harm, and estimating the risk of future abuse
21 and neglect. Child and family needs and strengths are identified and considered in developing and
22 monitoring progress toward a case plan. Given the father's prior history of neglecting his older
23 siblings, and J.G.'s documented malnourishment in October 2019, the SDM Safety Assessment
24 and Risk Assessment placed CWS on notice of the future serious risk of permanent injury to J.G.

25 50. From March 2020 to July 31, 2020, J.G.'s health deteriorated. His body was
26 covered in a rash, his extremities were swelling, and he was not gaining weight. The natural
27 parents were primarily feeding J.G. blended bananas and dates with honey. They were not
28 breastfeeding him nor were they giving him formula.

1 51. On July 31, 2020, J.G.’s parents took him, along with A.B. and B.C., to Costa
2 Mesa, California, for a vacation. A.B. later told police that, on that day, J.G. was fed only a single
3 fig. When J.G.’s parents attempted to awaken him the next day (August 1, 2020), he was
4 unresponsive. J.G. was eventually found to have profound brain damage due to severe
5 malnourishment. Life support was discontinued but he did not die.

6 52. The specialists treating J.G. determined his brain damage was likely secondary to
7 the lack of essential nutrition. J.G.’s diet was devoid of essential elements and, as a result, his
8 brain was deprived of oxygen. The injury to J.G.’s brain is considered permanent, and he will
9 likely have the cognitive function of an infant for the rest of his life.

10 53. Because J.G. was initially hospitalized in Orange County, the child protective
11 services agency for that county opened an investigation on August 2, 2020. CWS was notified of
12 J.G.’s condition on or about August 4, 2020. CWS Manager Erica Soto and Supervisor Lydia
13 Suarez assigned the case to CWS Social Worker Jennie Perez on August 25, 2020. Ms. Perez
14 announced herself as part of a “clean-up crew,” with the responsibility of cleaning up neglected
15 cases. The CWS “clean-up crew” re-opened the March 2020 referral in August to make it appear
16 that an investigation had taken place.

17 54. [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]

21 55. [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]

27 56. [REDACTED]
28 [REDACTED]

1 62. Once an allegation of abuse or neglect has been reported, a social worker must be
2 assigned to conduct an investigation and to classify the referral as either “substantiated,”
3 “unfounded,” or “inconclusive.” (Pen. Code § 11165.12.)

4 63. Welfare and Institutions Code section 16501(f) and Division 31-120 also require
5 that CWS conduct the investigation in person. Section 16501(f) and Division 31-125 further
6 require the social worker investigating a referral to determine the potential for or the existence of
7 any condition which places the child at risk and in need of services and which would cause the
8 child to be a person described by Welfare and Institutions Code Sections 300(a) through (j).

9 64. The manual also describes the procedure that social workers must follow when
10 undertaking an investigation of a child endangerment referral. Division 31 Regulation 31-125.2
11 requires the social worker investigating a child endangerment referral to have in-person contact
12 with all of the children alleged to be abused, neglected or exploited, and at least one adult who
13 has information regarding the allegations. If, as a result of the investigation, the social worker
14 does not find the referral to be unfounded, the social worker must conduct an in-person
15 investigation with all parents who have access to the child alleged to be at risk of abuse, neglect
16 or exploitation. And if, as a result of the investigation, the social worker determines services are
17 necessary, the social worker shall perform the requirements specified in Chapter 31-200. (§ 31-
18 125.5.)

19 65. Chapter 31-200 sets forth the requirements concerning a case plan. A case plan is a
20 written document that identifies the plan’s goal, objectives, and activities to be performed to
21 achieve them. The case plan is to be provided to the parents with a discussion of the case
22 progress, problems, and case plan status. Once a case plan has been opened, the social worker
23 must periodically evaluate whether it is working, but no less frequently than once each six
24 months.

25 66. With respect to the March 9, 2020, child endangerment referral, Plaintiff J.G. was
26 harmed because Defendant EVELYN RODRIQUEZ, Defendant HERIBERTO MARTINEZ, and
27 other unknown employees of Defendant COUNTY OF TULARE failed to comply with their
28 mandatory duties as follows:

- 1 a. Failing to document and record referrals alleging that J.G. was endangered by
- 2 abuse, neglect, or exploitation;
- 3 b. Failing to respond to the March 9, 2020, child endangerment referral concerning
- 4 J.G.;
- 5 c. Failing to determine whether the March 9, 2020, child endangerment referral
- 6 concerning J.G. was either “substantiated,” “unfounded,” or “inconclusive”;
- 7 d. Failing to conduct an in-person investigation in response to the March 9, 2020,
- 8 child endangerment referral; and
- 9 e. Failing to determine the potential for or the existence of any condition which
- 10 placed J.G. at risk and in need of services and which would cause the child to be a
- 11 person described by Welfare and Institutions Code Sections 300(a) through (j).

12 67. With respect to the October 9, 2019, child endangerment referral, Plaintiff J.G.

13 was harmed because Defendant MARIA ALCARAZ and other unknown employees of Defendant

14 COUNTY OF TULARE failed to comply with their mandatory duties as follows:

- 15 a. Failing to include J.G.’s father in the investigation despite determining the referral
- 16 was “inconclusive”;
- 17 b. Closing the referral despite having failed to include J.G.’s father in the
- 18 investigation; and
- 19 c. Failing to open a case plan despite determining child welfare services were
- 20 necessary.

21 68. The failure of employees of Defendant COUNTY OF TULARE and DOES 1-25

22 to perform these mandatory duties as proscribed by the California Welfare and Institutions Code,

23 Penal Code, and Division 31 Regulations were a substantial factor in causing Plaintiff's harm.

24 Each of these statutes/regulations were enacted to protect children at risk of abuse, neglect, and/or

25 exploitation.

26 69. Had the provisions of the California Welfare and Institutions Code, Penal Code,

27 and Division 31 Regulations been complied with as Defendant COUNTY OF TULARE and

28 DOES 1-25 were required to do, J.G. would have received the necessary intervention and he

would not have suffered profound and permanent brain damage.

70. The actions of the employees of Defendant COUNTY OF TULARE and DOES 1-25

in failing to comply with their mandatory duties were a direct and proximate cause of the

damages as alleged herein to Plaintiff.

71. As a legal, direct and proximate result of the aforementioned conduct of

1 Defendants COUNTY OF TULARE and DOES 1-25, inclusive, and each of them, Plaintiff J.G.
2 suffered profound and permanent brain damage, and caused cortical visual impairment, seizure
3 disorder, cerebral palsy-movement disorder, and dysphagia, amongst numerous other orthopedic,
4 neurologic, and metabolic disabilities, all of which said injuries have caused and continue to
5 cause Plaintiff great physical and mental pain and suffering. Plaintiff is further informed and
6 believes, and thereon alleges, that said injuries will result in permanent disability to him, all to his
7 general damage in an amount which will be stated according to proof, pursuant to California
8 Code of Civil Procedure section 425.10.

9 72. As a legal, direct and proximate result of the aforementioned conduct of
10 Defendants COUNTY OF TULARE and DOES 1-25, inclusive, and each of them, Plaintiff J.G.
11 was prevented from attending his usual or potential occupation and/or Plaintiff is informed and
12 believes, and thereon alleges, that he may be prevented from attending his occupation in the
13 future, and thereby will also sustain a loss of earning capacity and loss of opportunity, in addition
14 to lost earnings, past, present and future according to proof, pursuant to California Code of Civil
15 Procedure Section 425.10.

16 73. As a legal, direct, and proximate result of the aforementioned conduct of
17 Defendants COUNTY OF TULARE and DOES 1-25, inclusive, and each of them, Plaintiff J.G.
18 was compelled to and did employ the services of hospitals, physicians, surgeons, nurses and the
19 like, to care for and treat him, and did incur hospital, medical, professional and incidental
20 expenses. Plaintiff is further informed and believes, and thereon alleges, that by reason of his
21 injuries, he will necessarily incur additional like expenses for an indefinite period of time in the
22 future, the exact amount of which expenses will be stated according to proof, pursuant to
23 California of Civil Procedure Section 425.10.

1 SECOND CAUSE OF ACTION

2 **Negligent Hiring, Supervision, or Retention (Gov. Code §§ 815.2 and 820)**

3 **FOR A SECOND CAUSE OF ACTION AGAINST DEFENDANTS COUNTY OF**
4 **TULARE AND DOES 1-25 FOR NEGLIGENT HIRING, SUPERVISION, OR**
5 **RETENTION OF EMPLOYEE, PURSUANT TO GOVERNMENT CODE SECTIONS**
6 **815.2 AND 820, PLAINTIFF ALLEGES:**

7 74. Plaintiff refers to each and every one of the above paragraphs, and incorporates
8 those paragraphs as though set forth in full in this cause of action.

9 75. Plaintiff alleges this cause of action pursuant to Government Code sections 815.2
10 and 820. Government Code section 815.2, subsection (a) states that a "public entity is liable for
11 injury proximately caused by an act or omission of an employee of the public entity within the
12 scope of his employment if the act or omission would, apart from this section, have given rise to a
13 cause of action against that employee or personal representative." Government Code section 820,
14 subsection (a) provides that "a public employee is liable for injury caused by his act or omission
15 to the same extent as a private person."

16 76. Plaintiff was harmed because Defendants COUNTY OF TULARE and DOES 1-
17 25, inclusive, violated the California Welfare and Institutions Code, Penal Code, and Division 31
18 Regulations. Defendant COUNTY OF TULARE is responsible for that harm because it
19 negligently hired, supervised, and retained its employees, including EVELYN RODRIQUEZ,
20 HERIBERTO MARTINEZ, MARIA ALCARAZ, and DOES 26-50.

21 77. Defendants COUNTY OF TULARE and DOES 1-25, inclusive, failed to properly
22 supervise and train their employees, including EVELYN RODRIQUEZ, HERIBERTO
23 MARTINEZ, MARIA ALCARAZ, and DOES 26-50, in their aforementioned mandated duties
24 pursuant to California Welfare and Institutions Code, Penal Code, and Division 31 Regulations
25 and performing these mandated duties.

26 78. Defendants COUNTY OF TULARE and Does 1-25, inclusive, hired their
27 employees, including EVELYN RODRIQUEZ, HERIBERTO MARTINEZ, MARIA
28 ALCARAZ, and DOES 26-50, while these employees were unfit and incompetent, or became

1 unfit or incompetent, to perform the work for which they were hired. Defendant COUNTY OF
2 TULARE knew or should have known that their employees were unfit or incompetent, or became
3 unfit or incompetent, and that this unfitness or incompetence created a particular risk to others.

4 79. The unfitness or incompetence of the COUNTY OF TULARE's and DOES 1-25's
5 employees, including EVELYN RODRIQUEZ, HERIBERTO MARTINEZ, MARIA ALCARAZ,
6 and DOES 26-50, harmed Plaintiff in that it led to J.G. to suffer profound and permanent brain
7 damage and Defendant COUNTY OF TULARE's negligence in hiring, supervising, or retaining its
8 aforementioned employees was a substantial factor in causing Plaintiff's harm.

9 80. As a legal, direct and proximate result of Defendants COUNTY OF TULARE's
10 and DOES 1-25's negligent hiring, supervision and retention as set forth above, Plaintiff J.G.
11 suffered profound and permanent brain damage, and caused cortical visual impairment, seizure
12 disorder, cerebral palsy-movement disorder, and dysphagia, amongst numerous other orthopedic,
13 neurologic, and metabolic disabilities, all of which said injuries have caused and continue to
14 cause Plaintiff great physical and mental pain and suffering. Plaintiff is further informed and
15 believes, and thereon alleges, that said injuries will result in permanent disability to him, all to his
16 general damage in an amount which will be stated according to proof, pursuant to California
17 Code of Civil Procedure section 425.10.

18 81. As a legal, direct and proximate result of Defendants COUNTY OF TULARE's
19 and DOES 1-25's negligent hiring, supervision and retention as set forth above, Plaintiff J.G. was
20 prevented from attending his usual or potential occupation and/or Plaintiff is informed and
21 believes, and thereon alleges, that he may be prevented from attending his occupation in the
22 future, and thereby will also sustain a loss of earning capacity and loss of opportunity, in addition
23 to lost earnings, past, present and future according to proof, pursuant to California Code of Civil
24 Procedure Section 425.10.

25 82. As a legal, direct, and proximate result of Defendants COUNTY OF TULARE's
26 and DOES 1-25's negligent hiring, supervision and retention as set forth above, Plaintiff J.G. was
27 compelled to and did employ the services of hospitals, physicians, surgeons, nurses and the like,
28 to care for and treat him, and did incur hospital, medical, professional and incidental expenses.

1 Plaintiff is further informed and believes, and thereon alleges, that by reason of his injuries, he
2 will necessarily incur additional like expenses for an indefinite period of time in the future, the
3 exact amount of which expenses will be stated according to proof, pursuant to California of Civil
4 Procedure Section 425.10.

5
6 **THIRD CAUSE OF ACTION**

7 **Negligence/Negligence *Per Se* (Gov. Code § 820)**

8 **FOR A THIRD CAUSE OF ACTION AGAINST DEFENDANTS EVELYN**
9 **RODRIQUEZ, HERIBERTO MARTINEZ, MARIA ALCARAZ, AND DOES 26-50 FOR**
10 **NEGLIGENCE, PURSUANT GOVERNMENT CODE SECTION 820, PLAINTIFF**
11 **ALLEGES:**

12 83. Plaintiff refers to each and every one of the above paragraphs, and incorporates
13 those paragraphs as though set forth in full in this cause of action.

14 84. Plaintiff alleges this cause of action pursuant to Government Code section 820.
15 Government Code section 820, subsection (a) provides that "a public employee is liable for injury
16 caused by his act or omission to the same extent as a private person."

17 85. Plaintiff alleges, that at all times mentioned herein, Defendants EVELYN
18 RODRIQUEZ, HERIBERTO MARTINEZ, MARIA ALCARAZ, and DOES 26-50, inclusive,
19 owed a duty of care to all reasonably foreseeable people, including Plaintiff to provide mandatory
20 services in accordance with the California Welfare and Institutions Code, Penal Code, and
21 Division 31 Regulations in a reasonable manner. Additionally, and in doing so, Defendants
22 EVELYN RODRIQUEZ, HERIBERTO MARTINEZ, MARIA ALCARAZ, and DOES 26-50,
23 inclusive, owed a duty of care to all reasonably foreseeable people, including Plaintiff to properly
24 administer said services to protect at-risk minors from abuse, neglect, and exploitation.

25 86. Plaintiff is informed and believes, and thereon alleges, that at all times mentioned
26 herein, Defendants EVELYN RODRIQUEZ, HERIBERTO MARTINEZ, MARIA ALCARAZ,
27 and DOES 26-50, inclusive, carelessly, negligently, grossly negligently, and recklessly failed to
28 discharge their duties set forth in the California Welfare and Institutions Code, Penal Code, and

1 Division 31 Regulations in a reasonable manner with respect Plaintiff J.G., causing him to suffer
2 profound and permanent brain damage due to severe malnutrition.

3 87. Specifically, with respect to the March 9, 2020, child endangerment referral,
4 Plaintiff J.G. was harmed because Defendants EVELYN RODRIQUEZ, HERIBERTO
5 MARTINEZ, and DOES 26-50 failed to discharge their duties in a reasonable manner as follows:

- 6 a. Failing to document and record referrals alleging that J.G. was endangered by
7 abuse, neglect, or exploitation;
- 8 b. Failing to respond to the March 9, 2020, child endangerment referral concerning
9 J.G.;
- 10 c. Failing to determine whether the March 9, 2020, child endangerment referral
11 concerning J.G. was either “substantiated,” “unfounded,” or “inconclusive”;
- 12 d. Failing to conduct an in-person investigation in response to the March 9, 2020,
13 child endangerment referral; and
- 14 e. Failing to determine the potential for or the existence of any condition which
15 placed J.G. at risk and in need of services and which would cause the child to be a
16 person described by Welfare and Institutions Code Sections 300(a) through (j).

17 88. With respect to the October 9, 2019, child endangerment referral, Plaintiff J.G.
18 was harmed because Defendant MARIA ALCARAZ and and DOES 26-50 failed to discharge
19 their duties in a reasonable manner as follows:

- 20 a. Failing to include J.G.’s father in the investigation despite determining the referral
21 was “inconclusive”;
- 22 b. Closing the referral despite having failed to include J.G.’s father in the
23 investigation; and
- 24 c. Failing to open a case plan despite determining child welfare services were
25 necessary.

26 89. The provisions of the California Welfare and Institutions Code, Penal Code, and
27 Division 31 Regulations were implemented to protect children from severe abuse and neglect,
28 including explicitly the willful, prolonged failure to provide adequate food, and the Defendants
are presumed negligent for violating these laws.

90. The actions of the employees of Defendants EVELYN RODRIQUEZ,
HERIBERTO MARTINEZ, MARIA ALCARAZ, and DOES 26-50, inclusive, in failing to
provide mandatory services in accordance with the California Welfare and Institutions Code,

1 Penal Code, and Division 31 Regulations in a reasonable manner were a direct and proximate
2 cause of the damages as alleged herein to Plaintiff.

3 91. As a legal, direct and proximate result of the aforementioned conduct of
4 Defendants EVELYN RODRIQUEZ, HERIBERTO MARTINEZ, MARIA ALCARAZ, and
5 DOES 26-50, inclusive, and each of them, Plaintiff J.G. suffered profound and permanent brain
6 damage, and caused cortical visual impairment, seizure disorder, cerebral palsy-movement
7 disorder, and dysphagia, amongst numerous other orthopedic, neurologic, and metabolic
8 disabilities, all of which said injuries have caused and continue to cause Plaintiff great physical
9 and mental pain and suffering. Plaintiff is further informed and believes, and thereon alleges, that
10 said injuries will result in permanent disability to him, all to his general damage in an amount
11 which will be stated according to proof, pursuant to California Code of Civil Procedure section
12 425.10.

13 92. As a legal, direct and proximate result of the aforementioned conduct of
14 Defendants EVELYN RODRIQUEZ, HERIBERTO MARTINEZ, MARIA ALCARAZ, and
15 DOES 26-50, inclusive, and each of them, Plaintiff J.G. was prevented from attending his usual
16 or potential occupation and/or Plaintiff is informed and believes, and thereon alleges, that he may
17 be prevented from attending his occupation in the future, and thereby will also sustain a loss of
18 earning capacity and loss of opportunity, in addition to lost earnings, past, present and future
19 according to proof, pursuant to California Code of Civil Procedure Section 425.10.

20 93. As a legal, direct, and proximate result of the aforementioned conduct of
21 Defendants EVELYN RODRIQUEZ, HERIBERTO MARTINEZ, MARIA ALCARAZ, and
22 DOES 26-50, inclusive, and each of them, Plaintiff J.G. was compelled to and did employ the
23 services of hospitals, physicians, surgeons, nurses and the like, to care for and treat him, and did
24 incur hospital, medical, professional and incidental expenses. Plaintiff is further informed and
25 believes, and thereon alleges, that by reason of his injuries, he will necessarily incur additional
26 like expenses for an indefinite period of time in the future, the exact amount of which expenses
27 will be stated according to proof, pursuant to California of Civil Procedure Section 425.10.
28

1 **PRAYER FOR DAMAGES**

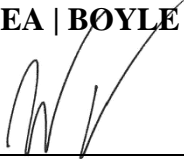
2 WHEREFORE, Plaintiff prays for judgment against all Defendants as follows:

- 3 1. For general damages (also known as non-economic damages), including but not
4 limited to, past and future physical, mental and emotional pain and suffering and disfigurement
5 according to proof;
- 6 2. For special damages (also known as economic damages), including but not limited
7 to, past and future medical expenses, past and future professional expenses, past and future loss of
8 wages and wage earning capacity, past and future medical and rehabilitative expenses, and
9 incidental expenses according to proof;
- 10 3. For prejudgment interest and pre-trial interest, according to proof;
- 11 4. For cost of suit incurred herein, according to proof;
- 12 5. For damages for Plaintiff's other losses, according to proof;
- 13 6. For all statutorily allowed damages; and
- 14 7. For such other and further relief as the Court may deem just and proper.

15
16 Dated: February 7, 2022

PANISH | SHEA | BOYLE | RAVIPUDI LLP

17
18 By: _____

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20 Wyatt A. Vespermann
21 Attorney for Plaintiff
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DEMAND FOR JURY TRIAL

Plaintiff requests a jury trial on all causes of action as to all Defendants.

Dated: February 7, 2022

PANISH | SHEA | BOYLE | RAVIPUDI LLP

By: 

Wyatt A. Vespermann
Attorney for Plaintiff