

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF VIRGINIA
HARRISONBURG DIVISION

CLERK'S OFFICE U.S. DIST. COURT
AT HARRISONBURG, VA
FILED

JUL 24 2014

JULIA C. DUDLEY, CLERK
BY: [Signature]
DEPUTY CLERK

SUSAN VIRGINIA PARKER; :

LANE LAIRD FUNKHOUSER; :

J [REDACTED] F [REDACTED]; :
By his parent and next Friend, Susan :
Parker, :

K [REDACTED] F [REDACTED]; :
By her parent and next friend, Susan :
Parker, :

Plaintiffs, :

v. :

Case No: 5:14CV00035

MICHAEL "TOBY" AUSTIN, :
In his personal capacity, :

BRITTANY UTTERBACK, :
In her personal capacity, :

JURY TRIAL DEMANDED

JENNIFER WIMER, :
In her personal capacity, :

AMANDA JUDD, :
In her personal capacity, :

HENRY & WILLIAM EVANS HOME :
FOR CHILDREN, INC., :
Please Serve: Ann Wallinger, Chair, :

LAURA REGAN, :
In her personal capacity, :

MIKE POWERS, :
In his personal capacity, :

WINONA POWERS, :
In her personal capacity, :

BRENT RUDOLPH, :
In his personal capacity, :
: :
MISSY RUDOLPH, :
In her personal capacity, :
: :
Defendants. :
_____ :
: :

COMPLAINT

COME NOW Plaintiffs by and through counsel, and complain of the Defendants as follows:

INTRODUCTION

1. This action arises from the unconstitutional actions of the Defendants in removing Plaintiffs ~~Jessie Funkhouser~~ and ~~Kylee Funkhouser~~ from the home of their parents, Susan Virginia Parker and Lane Laird Funkhouser, on or about July 25, 2012, and the unconstitutional actions of the Defendants in improperly retaining custody of the children after that date. This action also raises pendent state-law tort claims against Defendants Henry & Williams Evans Home for Children, Inc., Laura Regan, Marc Powers, Winona Powers, Brent Rudolph, and Missy Rudolph concerning the improper medical treatment and the physical and emotional abuse and neglect of Plaintiffs ~~Jessie Funkhouser~~ and ~~Kylee Funkhouser~~ while they were improperly and unconstitutionally removed from their parent's home.

JURISDICTION

2. This Court has jurisdiction pursuant to 28 U.S.C. §1331 and U.S.C. Title 42 U.S.C. §§1983 and 1985.

PARTIES:

3. Plaintiff Susan Virginia Parker (Susan) is an adult individual and resident of the Commonwealth of Virginia. She is the mother of Plaintiffs J [REDACTED] F [REDACTED] and K [REDACTED] F [REDACTED], and the spouse of Plaintiff Lane Laird Funkhouser. Susan is currently in bankruptcy, and this case is filed at the direction of the Trustee in Bankruptcy, Donald King, and with his authority, as an asset of Susan's bankruptcy estate.

4. Plaintiff Lane Laird Funkhouser (Lane) is an adult individual and resident of the Commonwealth of Virginia. He is the father of Plaintiffs J [REDACTED] F [REDACTED] and K [REDACTED] F [REDACTED], and the spouse of Susan. Lane is currently in bankruptcy, and this case is filed at the direction of the Trustee in Bankruptcy, Donald King, and with his authority, as an asset of Lane's bankruptcy estate.

5. Plaintiff J [REDACTED] F [REDACTED] (J [REDACTED]) is a minor child and currently resides in the State of California. He is the son of Susan and Lane.

6. Plaintiff K [REDACTED] F [REDACTED] (K [REDACTED]) is a minor child and currently resides in the State of California. She is the daughter of Susan and Lane.

7. Defendant Michael "Toby" Austin (Austin) is an adult individual and employee of the Clarke County, Virginia, Department of Social Services, who, at all times pertinent hereto, was acting under color of state law.

8. Defendant Brittany Utterback (Utterback) is an adult individual and former employee of the Shenandoah County, Virginia, Department of Social Services, who, at all times pertinent hereto, was acting under color of state law.

9. Defendant Jennifer Wimer (Wimer) is an adult individual and a current or former employee of the Shenandoah County, Virginia, Department of Social Services, who, at all times pertinent hereto, was acting under color of state law.

10. Defendant Amanda Judd (Judd) is an adult individual and a current or former employee of the Shenandoah County, Virginia, Department of Social Services, who, at all times pertinent hereto, was acting under color of state law.

11. Defendant Henry & William Evans Home for Children, Inc. (Evans Home), is a nonprofit Virginia corporation with its principal place of business in Winchester, Virginia, which is engaged in the business of providing foster care for children.

12. Defendant Laura Regan (Regan) is an adult individual and, upon information and belief, is a resident of the Commonwealth of Virginia, who was at all times pertinent hereto, an employee of the Evans Home, and who was, at all times pertinent hereto, assisting the Clarke County and Shenandoah County Department of Social Services concerning the children, J[REDACTED] and K[REDACTED].

13. Defendants Mike and Winona Powers (the Powers) are adult individuals and, upon information and belief, are residents of the Commonwealth of Virginia, who were at all times pertinent hereto, employees of the Evans Home, and who were, at all times pertinent hereto, assisting the Clarke County and Shenandoah County Department of Social Services concerning the children, J[REDACTED] and K[REDACTED].

14. Defendants Brent and Missy Rudolph (the Rudolfs) are adult individuals and, upon information and belief, are residents of the Commonwealth of Virginia, who were at all times pertinent hereto, employees of the Evans Home, and who were, at all

times pertinent hereto, assisting the Clarke County and Shenandoah County Department of Social Services concerning the children, J. [REDACTED] and K. [REDACTED].

STATEMENT OF FACTS:

15. In or around Fall 2011, all four Plaintiffs began exhibiting symptoms of an illness that has been difficult for doctors to diagnose or to treat.

16. At this time and continuing until approximately February 2012, the Plaintiffs were residing in Clarke County, Virginia, and J. [REDACTED] and K. [REDACTED] were attending public school in said county.

17. Since the onset of this illness and up to July 2012, the Plaintiffs had each been clinically diagnosed and received positive laboratory diagnoses of a combination of strep infection, parasitic infection, and C. Difficile infection.

18. Between September 2011 and approximately June 2012, doctors had diagnosed Plaintiffs with strep and parasitic infection and were treating them as such.

19. In June 2012 to July 25, 2012, doctors had clinically diagnosed and made a laboratory diagnosis of the Plaintiffs as having C. Difficile infections.

20. Due to the illness, the Plaintiffs moved from their home in Clarke County in approximately March of 2012 and took up residence in Shenandoah County, Virginia, at another property owned by Susan and Lane.

21. Plaintiffs changed residences due to the fear that their home in Clarke County was unhealthful due to a septic system problem that had been previously undiscovered and because of an abandoned neighboring property that had rodents.

22. Due to the illness, J. [REDACTED] and K. [REDACTED] began missing extended periods of school in late December 2011 and continuing through March 2012.

23. Because of the absences of the children from school, truancy charges were brought against Susan.

24. These charges were dismissed, *nolle prosequi*, on or about April 13, 2012, due to the fact that Susan had submitted a notice of intent and received acknowledgment from Shenandoah County to homeschool J [REDACTED] and K [REDACTED].

25. At the time of the truancy case, Defendant Austin became involved in the matter and attended the initial hearing on the matter in March 2012.

26. Austin made a determination at that time that Susan was suffering from Munchausen Syndrome or Munchausen Syndrome by Proxy.

27. Austin made this determination without ever having interviewed Susan, Lane, J [REDACTED], or K [REDACTED].

28. Austin made this determination despite having viewed fewer than twenty (20) pages of medical records for the children, which contained, importantly, positive laboratory strep test results.

29. Upon information and belief, Austin made this determination without any medical training or degree or license, psychology or psychiatry degree, training, or mental-health service experience.

30. Clarke County Department of Social Services took no action at that time.

31. After the truancy charges were dismissed, the Plaintiff took an extended trip to Arkansas due to an injury to Lane's sister and the need to care for Lane's grandfather. They continued to receive medical treatment in Arkansas, and returned to Virginia during May 2012.

32. In May 2012, upon their return from Arkansas, Lane and Susan discovered that an employee had embezzled large sums of money from their business, and had extensively utilized their credit for her own personal needs.

33. At this time and continuing through June 2012, the Plaintiffs' illnesses and symptoms continued, and they continued to receive medical treatment from local doctors who had difficulty curing Plaintiffs' illnesses.

34. Upon information and belief, in May, June and/or early and mid-July 2012, Austin was communicating with the employee who embezzled money from Plaintiffs.

35. On or about July 13, 2012, Plaintiffs were advised by their primary care physician that they should go to the hospital due to positive Clostridium Difficile (C. Diff.) test results for K██████ and J██████.

36. On that date the Plaintiffs picked up their positive C. Diff. test results and went to Rockingham Memorial Hospital (RMH), which treated to the Plaintiffs for C. Diff. at this time. Upon release, Plaintiffs were instructed to return to the hospital if symptoms worsened.

37. On the night of July 22, 2012, Plaintiffs returned to RMH for treatment due to worsening symptoms.

38. For unknown reasons, upon information and belief, a hospital employee, Dr. Kent Folsom, contacted Clarke County Department of Social Services and spoke to Austin.

39. Upon information and belief, Austin and a hospital employee and/or Doctor Folsom agreed to hold the Plaintiffs in the hospital so that Shenandoah County

Department of Social Services could be notified since the Plaintiffs resided in Shenandoah County, Virginia.

40. Upon information and belief, Austin communicated his wholly unsubstantiated and unwarranted belief that Susan was suffering from Munchausen Syndrome by Proxy to the hospital.

41. Upon information and belief, Austin immediately thereafter communicated his wholly unsubstantiated and unwarranted belief that Susan was suffering from Munchausen Syndrome by Proxy to the Shenandoah County Department of Social Services.

42. Munchausen Syndrome by Proxy is not actually a mental condition under which one "suffers."

43. Munchausen Syndrome by Proxy is an antiquated name for a behavior that results from a person suffering from Factitious Disorder.

44. Factitious Disorder and/or Factitious Disorder by Proxy is a complicated disorder that takes the expertise of a mental health professional to diagnose. It is a mental illness that sometimes results in a disordered behavior where the sufferer falsifies symptoms of themselves, their children, dependent loved ones and/or where the sufferer intentionally causes an illness to themselves or an illness to a loved one. These acts are committed for purposes of gaining sympathy or attention from third parties.

45. Upon information and belief, Austin did not even know the right name for the disorder he was alleging against Susan in such a reckless disregard for her rights and the rights of her family.

46. Upon information and belief, the emergency room doctor was not a mental health professional.

47. Austin is not a mental health professional; he is a non-clinical social worker.

48. Upon information and belief, Austin never consulted with, sought advice from, nor spoke with any mental health professional concerning Susan or her family prior to communicating with Shenandoah County Department of Social Services.

49. Upon information and belief, Austin communicated with Utterback, Wimer, and/or Judd on or about the late evening of July 22, 2012 and/or the morning of July 23, 2012.

50. Upon information and belief, Austin communicated his version of events and unqualified psychological opinion about Susan and her family without review of their extensive medical records showing clinical and laboratory diagnoses of actual illnesses, not falsified symptoms as in a "Munchausen" case.

51. Upon information and belief, Austin communicated his version of events and unqualified psychological opinion about Susan and her family without review of even basic materials concerning C. Difficile, such as those freely available on the Internet, which would show that it is impossible without a biohazard laboratory to intentionally handle C. Difficile for purposes of making another person ill.

52. As an experienced social services investigator, Austin knew or should have known that accusing a parent of Munchausen Syndrome by Proxy would set in motion a series of events that would cause the other Defendants to take action against Plaintiffs.

53. On July 25, 2012, Utterback and/or Judd prepared an affidavit based on Austin's assertions and agreed with Austin to remove J [REDACTED] and K [REDACTED] from the home of their parents.

54. Utterback, Wimer, and/or Judd knew or should have known that Munchausen Syndrome by Proxy, or Factitious Disorder, is a complicated medical diagnosis that Austin was unqualified to make.

55. Upon information and belief, the affidavit was prepared without any input from any mental health professional.

56. Upon information and belief, Defendants Utterback, Wimer, and/or Judd, like Austin, did not conduct even a cursory review of the Plaintiffs' medical records, or any research into C. Difficile, to determine if this was even possibly a "Munchausen" case.

57. On July 25, 2012, Utterback, Wimer, and, upon information and belief, Judd had the children removed from Lane and Susan's house in Shenandoah County, Virginia without prior judicial review.

58. On July 25, 2012, Utterback, Wimer, and, upon information and belief, Judd, had the children taken to the emergency room at Shenandoah Memorial Hospital (SMH). SMH confirmed a C. Diff infection and prescribed Vancomycin for the children. Upon information and belief, doctors from SMH advised Utterback, Wimer, and, upon information and belief, Judd that the children should be seen by an infectious disease specialist.

59. Upon information and belief, Utterback, Wimer and Judd never had the children seen by an infectious disease specialist.

60. Despite the fact that said Defendants had been directly informed that the children had a confirmed medical condition which precluded any notion that they were suffering from Munchausen Syndrome by Proxy, the children were not returned to Lane and Susan on July 25, 2012, and Lane and Susan were advised that the children were being removed from the home.

61. Wimer, Utterback, and, upon information and belief, Judd, then had an emergency removal order entered on July 27, 2012 by an *ex parte* petition before the Shenandoah County Juvenile and Domestic Relations District Court (JDR Court). The affidavit for the removal petition was based primarily on accusations against Susan and Lane related to Munchausen Syndrome by Proxy.

62. At the time of removal, Susan and Lane were cooperative and gave the Shenandoah County, Virginia, Department of Social Services access to the children's medical records, and provided some of the children's medical records themselves.

63. After having such records for more than a week, as well as their own diagnosis from SMH confirming that the children were, in fact, ill with an infection, Utterback, Judd, and Austin appeared in court on August 1, 2012, to defend the decision to remove the children from the home.

64. At a brief hearing on August 1, 2012, the Court refused to make a finding of abuse and neglect against Susan and Lane, but also did not return the children due to the testimony of Utterback. Instead the JDR Court continued the matter to August 29, 2012, for a full hearing.

65. During this entire time, Austin was communicating with and celebrating the removal of the children from the Plaintiffs' home with the former employee who had embezzled funds from Lane's and Susan's business.

66. On July 25, 2012, the children were taken by police to a foster home outside of Woodstock, Virginia. On July 26, 2012, the children were taken from the foster home to the Evans Home.

67. For the time between July 26, 2012, and August 29, 2012, the children were placed in the care of the Evans Home, under the supervision of Regan and the Powers and the Rudolphs.

68. Upon information and belief, Utterback, Judd, and Austin were in communication with and entered into agreements with the staff of the Evans Home, including Defendants Regan, the Powers, and the Rudolphs concerning J [REDACTED] and K [REDACTED] removal from Lane's and Susan's home and continued detention.

69. Upon information and belief, Utterback, Judd, and Austin agreed with and told Regan and the Powers and the Rudolphs to attempt to elicit statements from the children during their confinement in the Evans Home.

70. Upon information and belief, Utterback, Judd, and Austin agreed with and told Regan and the Powers and the Rudolphs to obtain statements from the children that the children were being abused by Lane and Susan, and that they were never ill. Meanwhile the Evans Home was giving the children Vancomycin for C. Diff. infection as prescribed by SMH.

71. Upon information and belief, J [REDACTED] and K [REDACTED] never made statements that were damaging to their parents.

72. Upon information and belief, J [REDACTED] and K [REDACTED] were confined in the Evans Home and rarely allowed to go off its grounds except for school, medical appointments, and visits to psychologists.

73. Upon information and belief, J [REDACTED] and K [REDACTED] were confined in the Evans Home with children who had violent criminal and drug histories.

74. While confined in the Evans Home, J [REDACTED] and K [REDACTED] were never interviewed by Utterback, Judd, or Austin.

75. While confined in the Evans Home, Regan and the Powers and the Rudolphs repeatedly interrogated J [REDACTED] and K [REDACTED]

76. While confined in the Evans Home, J [REDACTED] and K [REDACTED] were exposed to Tuberculosis (TB). The children were required to take TB medication known as Isonaid, which is notorious for its side effects, for a year.

77. While confined in the Evans Home, J [REDACTED] injured his ankle while playing and suffered severe pain and discomfort which he reported to Regan, the Powers, the Rudolphs, and the Evans Home staff.

78. Regan, the Powers, the Rudolphs, and the Evans Home Staff refused to take J [REDACTED] to the doctor for the injury, claiming it was only a mild sprain.

79. Upon information and belief, Regan, the Powers, and the Rudolphs are not qualified medical professionals competent to make medical determinations.

80. While J [REDACTED] and K [REDACTED] were confined in the Evans Home, Regan, the Powers and the Rudolphs told Justis and Kayleigh that they would not go home again and that they would not live with their parents again, that their parents had not done activities with them or cared about them, causing the children severe anguish and disturbance.

81. While J [REDACTED] and K [REDACTED] were confined in the Evans Home, the Powers and the Rudolchs, particularly Brent Rudolph, who was most insistent upon it, would require J [REDACTED] and K [REDACTED] to say that J [REDACTED] and K [REDACTED] "loved" them.

82. J [REDACTED] and K [REDACTED] had never met the Powers or the Rudolchs before their confinement, and knew them for approximately five (5) weeks. The Powers' and the Rudolchs' (particularly Brent Rudolph's) insistence that the children tell them they "loved" them was very confusing and disturbing to the children.

83. On August 29, 2012, the Court again made no finding of abuse or neglect, and returned J [REDACTED] and K [REDACTED] to the custody of Susan and Lane. The Court scheduled a final dispositional hearing for November 7, 2012.

84. After release from the Evans Home, it was determined by J [REDACTED] doctor that he had suffered a fractured ankle, not just a sprain, and that the fracture had been left untreated for at least three weeks.

85. Since release from their confinement in the Evans Home, J [REDACTED] and K [REDACTED] have required psychological counseling and therapy concerning their treatment.

86. On November 7, 2012, the Court dismissed all petitions concerning the removal of the children, determining that there was no evidence of abuse or neglect.

87. Between August 29, 2012 and November 7, 2012, the Shenandoah County Department of Social Services issued its own administrative finding that the accusations of abuse and neglect against Lane and Susan were "unfounded." This means that there was not sufficient evidence that abuse or neglect had occurred. See Va. Code Ann. §63.2-1505.

88. Between August 29, 2012, and November 7, 2012, Utterback's employment with Shenandoah County Department of Social Services ended for unknown reasons.

89. At the November 7, 2012 hearing, Judd still attempted to argue, by counsel, that the children should be removed from the home or that Lane and Susan should be placed under Child in Need of Services (CHINS) supervision. She did this after her own department had already determined that there was not even sufficient evidence for a simple administrative finding of abuse and neglect.

90. Since the November 7, 2012 hearing, Lane and Susan have suffered a loss of reputation and have had difficulty obtaining medical treatment and have run into doubt and ridicule at the hands of their doctors as a result of the accusations of Munchausen by Proxy and the accusation's appearance in their medical history.

COUNT ONE

Violation of Fourth Amendment – Initial Seizure Without Justification (By all Plaintiffs against Defendants Utterback, Wimer, Judd, and Austin)

91. Plaintiffs repeat and re-allege each and every foregoing paragraph as if fully set forth herein.

92. Defendants Utterback, Wimer, and Judd violated the Fourth Amendment rights of the Plaintiffs by wrongfully seizing J████ and K████ without probable cause or any other constitutional justification. Defendant Austin violated the Fourth Amendment rights of the Plaintiffs by setting in motion a series of events that would cause the other defendants to take action against Plaintiffs.

93. Plaintiffs were injured when Utterback, Wimer, and Judd entered the Plaintiffs' home and physically removed J [REDACTED] and K [REDACTED] and proceeded to confine them from July 25, 2012 to August 29, 2012.

COUNT TWO

Violation of Fourteenth Amendment – Initial Seizure Without Justification (By Lane and Susan against Defendants Utterback, Wimer, Judd, and Austin)

94. Plaintiffs repeat and re-allege each and every foregoing paragraph as if fully set forth herein.

95. Defendants Utterback, Wimer, and Judd violated the Fourteenth Amendment rights to family integrity and privacy of Plaintiffs Lane and Susan by wrongfully seizing their children without probable cause or any other constitutional justification. Defendant Austin also violated the Fourteenth Amendment rights of Plaintiffs Lane and Susan by setting in motion a series of events that would cause the other defendants to take action against Plaintiffs.

96. Plaintiffs were injured when Utterback, Wimer, and Judd and entered the Plaintiffs' home and physically removed J [REDACTED] and K [REDACTED] and proceeded to confine them from July 25, 2012 to August 29, 2012.

COUNT THREE

Violation of Fourth Amendment – Continued Detention Without Justification (By all Plaintiffs against Defendants Utterback, Judd, Austin, the Evans Home, Regan, the Powers and the Rudolphs)

97. Plaintiffs repeat and re-allege each and every foregoing paragraph as if fully set forth herein.

98. Defendants Austin, Utterback, and Judd, with the assistance of the Evans Home, Regan, the Powers and the Rudolphs, who were acting under the direction of

Utterback, Judd, and Austin, violated the Fourth Amendment rights of the Plaintiffs by wrongfully holding J [REDACTED] and K [REDACTED] separate from their parents without probable cause or any other constitutional justification after they knew that the children were ill and not victims of Munchausen Syndrome by Proxy (Factitious Disorder).

99. As a direct and proximate result of the actions of Austin, Utterback, and Judd, with the assistance of the Evans Home, Regan, the Powers and the Rudolphs, who were acting under the direction of Utterback, Judd, and Austin, and their failure to turn from a wrongful course once it was discovered, Plaintiffs all suffered great pain of mind from having their family torn away from one another for over a month, and with great uncertainty and fear as to their reunification.

100. Furthermore, as a direct and proximate result of the actions of Austin, Utterback, and Judd, with the assistance of the Evans Home, Regan, the Powers and the Rudolphs, who were acting under the direction of Utterback, Judd and Austin, J [REDACTED] suffered great pain of body and mind while in foster care due to inappropriate medical treatment, and Kayleigh suffered great pain of mind while in foster care, and both children were exposed to TB.

COUNT FOUR

Violation of Fourteenth Amendment -- Ongoing Holding Without Justification (By Lane and Susan against Defendants Utterback, Judd, Austin, the Evans Home, Regan, the Powers and the Rudolphs)

101. Plaintiffs repeat and re-allege each and every foregoing paragraph as if fully set forth herein.

102. Defendants Austin, Utterback, and Judd, with the assistance of the Evans Home, Regan, the Powers and the Rudolphs, who were acting under the direction of

Utterback, Judd, and Austin, violated the Fourteenth Amendment rights to family integrity and privacy of Plaintiffs Lane and Susan by wrongfully holding their children separate from them without probable cause or any other constitutional justification after Defendants knew that the children were ill and not victims of Munchausen Syndrome by Proxy (Factitious Disorder).

103. As a direct and proximate result of the actions of Austin, Utterback, and Judd, with the assistance of the Evans Home, Regan, the Powers and the Rudolphs, who were acting under the direction of Utterback, Judd, and Austin, and their failure to turn from a wrongful course once it was discovered, Plaintiffs all suffered great pain of mind from having their family torn away from one another for over a month, and with great uncertainty and fear as to their reunification. Furthermore, Susan and Lane have suffered a loss of reputation due to the accusations of Munchausen by Proxy and Defendants' actions in wrongfully removing their children.

COUNT FIVE
Wrongful Imprisonment
(By J [REDACTED] and K [REDACTED] against all Defendants)

104. Plaintiffs repeat and re-allege each and every foregoing paragraph as if fully set forth herein.

105. Without cause or justification, K [REDACTED] and J [REDACTED] were wrongfully confined and their freedom of movement restricted within the Evans Home by the actions of all Defendants.

106. As a direct and proximate result of the actions of the Defendants, J [REDACTED] and K [REDACTED] suffered great pain of mind by having their family torn away from them for over a month, and with great uncertainty and fear as to their reunification.

107. Furthermore, as a direct and proximate result of the actions of the Defendants, J. [REDACTED] suffered great pain of body and mind while in foster care due to inappropriate medical treatment, and K. [REDACTED] suffered great pain of mind while in foster care, and both children were exposed to TB.

COUNT SIX

Negligence

**(By J. [REDACTED] against Defendants Regan, the Powers, the Rudolphs,
and the Evans Home)**

108. Plaintiffs repeat and re-allege each and every foregoing paragraph as if fully set forth herein.

109. J. [REDACTED] suffered an ankle injury that was not properly treated by the Evans Home. He was not seen by a doctor and he was not allowed to see a doctor.

110. The Evans Home staff, including but not limited to Regan and the Powers and the Rudolphs, have a duty of care to their foster children to provide proper medical treatment for injuries.

111. The Evans Home staff, including but not limited to Regan and the Powers and the Rudolphs, breached this duty by not providing medical treatment for J. [REDACTED]

112. As a direct and proximate result of the Evans Home's breach of duty, J. [REDACTED] suffered with a fractured ankle and lack of medical treatment for at least three weeks, and great mental and emotional anguish, pain and suffering resulting therefrom.

PRAYER FOR RELIEF

WHEREFORE, the Plaintiffs respectfully request that this court:

- 1) Find that the Defendants intentionally and illegally violated the Plaintiffs' constitutional rights;

- 2) Award compensatory damages in favor of the Plaintiffs in the sum of One Million dollars each;
- 3) Award additional compensatory damages for negligence in favor of J. [REDACTED] in the sum of One Hundred Fifty Thousand Dollars;
- 4) Award punitive damages for Defendants' conduct in willful and wanton disregard for the rights of the Plaintiffs in the sum of One Million dollars each;
- 5) Award Plaintiffs costs of suit and attorney's fees pursuant to 42 U.S.C. § 1988; and
- 6) Grant the Plaintiffs such other relief as may be deemed just and proper.

Filed: July 24, 2014

Respectfully Submitted,

Susan Virginia Parker
Lane Laird Funkhouser, et al.

By Counsel



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