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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY  
CAMDEN VICINAGE**

BRUCE JACKSON by his Guardian Ad  
Litem, WILLIAM TAMBUSI,

Plaintiffs,

v.

DIVISION OF YOUTH AND FAMILY  
SERVICES, DEPARTMENT OF HUMAN  
SERVICES, STATE OF NEW JERSEY,  
PATRIA BALASCO-BARR, MICHELE  
GUHL, CHARLES VENTI, DORIS JONES,  
MANAGERIAL DOES 1-10,  
SUPERVISORY DOES 1-10, and  
CASEWORK DOES 1-10,

Defendants.

Civil No.: 04-CV-3553

**COMPLAINT AND JURY DEMAND**

**NATURE OF THE ACTION**

1. Plaintiff, Bruce Jackson (hereinafter "Plaintiff" or "Bruce"), by and through his Guardian Ad Litem, William Tambussi,<sup>1</sup> and his counsel by way of Complaint against the Defendants hereby says:

2. This is an action to remedy federal and state civil rights violations and tortious conduct committed by the State of New Jersey and its employees against the Plaintiff who was

<sup>1</sup> A Motion to appoint William Tambussi as Guardian Ad Litem to prosecute Plaintiff's claims has been filed simultaneously with this Complaint.

conduct committed by the State of New Jersey and its employees against the Plaintiff who was placed by the Division of Youth and Family Services ("DYFS") of the Department of Human Services ("DHS") in a home where he was systematically starved. Defendants failed to adequately monitor Plaintiff's safety and well-being, or provide for his basic needs and treatment while in their care resulting in their maltreatment by the foster and adoptive parents Defendants approved for him.

3. In the early morning hours of October 10, 2003, a resident of Collingswood, New Jersey heard someone rooting through the trash outside his home. The resident approached and observed a boy he believed to be less than ten years old. The boy was emaciated. The resident summoned the Collingswood Police Department, which responded to the scene. The boy was subsequently identified as Bruce Jackson, the adopted son of DYFS foster parents Raymond and Vanessa Jackson. Plaintiff Bruce Jackson stood just 4 feet tall and weighed a mere 45 pounds. The responding officers were shocked to learn that Bruce Jackson was 19 years old.

4. When the police entered the Jackson home, they observed three other adopted boys B ages 14, 10 and 9 B all of whom were extraordinarily small in stature and emaciated in appearance. The 14-year-old boy, Plaintiff K.J., weighed 40 pounds. Plaintiff T.J., age 10, weighed 28 pounds. Plaintiff M.J., who was nine years old, weighed just 23 pounds. Their teeth were rotted, their stomachs were distended, and the outlines of their ribs and shoulders were readily visible. DYFS removed Plaintiffs from the home later that day.

5. Plaintiff was admitted to Our Lady of Lourdes Hospital due to malnourishment, severe anemia and growth retardation. He spent several weeks being fed first intravenously and later with solid food. By February 2004, less than four months after being removed from the Jackson home, Plaintiff Bruce Jackson had gained 37 pounds and had grown 6 inches.

6. Medical professionals have concluded that Plaintiff was systematically starved in the Jackson home over a period of many years. On May 5, 2004, Raymond and Vanessa Jackson were indicted on Aggravated Assault and Endangerment charges for "failing to provide proper and sufficient nutrition resulting in severe growth retardation and malnutrition" from the time of placement of Bruce and the minor Jackson brothers in the Jackson foster home as DYFS foster children through October 10, 2003.

7. Defendants who placed Bruce Jackson in the Jackson foster home in 1991 had been on notice for years that the Jacksons were not providing adequate care to the Plaintiff. Defendants were also on notice that training, supervision and communication at DYFS were inadequate to protect the Plaintiff from known risks of harm in inappropriate foster homes. As detailed below, from 1994 to October 10, 2003, Defendants acted and failed to act in reckless disregard and total indifference to the desperate plight of the Plaintiff, in violation of his federal and state constitutional rights, and numerous state statutory obligations.

8. Defendants failed to ensure that Plaintiff had his basic needs met during his time in foster care. Defendants failed to ensure that Plaintiff received adequate nourishment and medical and mental health care while in state custody, and failed to appropriately monitor and approve the Jacksons as a foster and ultimately an adoptive home for Plaintiff Bruce Jackson, resulting in significant injury. Defendants also failed to report, investigate and protect Plaintiff from ongoing maltreatment and starvation in the Jackson home.

#### **THE PARTIES**

9. Plaintiff Bruce Jackson, D.O.B.: September 9, 1984 is 21 years old.

10. Plaintiff Bruce Jackson is under the custody care of the New Jersey Department

of Human Services Division of Developmental Disabilities, Bureau of Guardianship Services.

11. Defendant Division of Youth and Family Services is a division of the Department of Human Services located at 50 East State Street, P.O. Box 717, Trenton, New Jersey, 08625.

12. Defendant Department of Human Services is a principal department of the Executive Branch of state government located at 222 South Warren Street, P.O. Box 700, Trenton, New Jersey, 08625.

13. Defendant State of New Jersey is the Executive Branch of state government located at the State House, P.O. Box 001, Trenton, New Jersey, 08625.

14. Defendant Patricia Balasco-Barr was the Director of DYFS from 1994 to 1997, and is a Managerial Defendant. She is sued in her personal capacity. Her address is 1001 West Franklin Street, P.O. Box 842027, Richmond, Virginia, 23284.

15. Defendant Michele Guhl was the Director of DYFS from 1997 to 1998, and is a Managerial Defendant. She is sued in her personal capacity. Her address is 50 West State Street, Suite 1012, Trenton, New Jersey, 08608.

16. Defendant Charles Venti was the Director of DYFS from 1998 to 2002, and is a Managerial Defendant. He is sued in his personal capacity. His address is 154 Lake Avenue, Red Bank, New Jersey, 07704.

17. Defendant Doris Jones was the (Acting) Director of DYFS from 2002 to 2003 and is a Managerial Defendant. She is sued in her personal capacity. Her address is 420 East Pine Street, Lawnside, New Jersey, 08045.

18. Defendant Managerial Docs, held managerial positions within DYFS and/or DHS with responsibilities to ensure adequate training and supervision of, and/or communication

among DYFS and DHS supervisory and casework staff responsible for the safety and well-being of the Plaintiffs. They are sued in their personal capacities.

19. Defendant Supervisory Does, held supervisory positions within DYFS and/or DHS with responsibilities to supervise the casework staff responsible for the safety and well-being of the Plaintiffs. They are sued in their personal capacities.

20. Defendant Casework Does, held caseworker, investigator, and/or inspector positions within DYFS and/or DHS with responsibilities for the safety and well-being of the Plaintiffs. They are sued in their personal capacities.

### **BACKGROUND**

21. The Division of Youth and Family Services is the agency within the Department of Human Services established by the State of New Jersey to investigate reports of suspected child abuse and neglect; provide necessary services to children and families to protect children who are the subject of such reports, including placing children into out-of-home custody; provide proper care to abused and neglected children in state custody; ensure the safety and well-being of such children in state custody; protect such children in state custody from further maltreatment; and secure permanent placements for such children in state custody.

22. If a child is removed from her home and placed in DYFS custody, her case is assigned to a district office caseworker. A regional DYFS Foster Home Unit is responsible for matching the child to an appropriate placement. The district office from the county where the child was removed or in the county where the child is placed assumes case planning and case management responsibilities over the child and the placement. These responsibilities include making face-to-face and other regular contacts with the foster child and ensuring that the child and foster family are receiving necessary services.

23. Once adoption is identified as a child's case goal, her case is forwarded from the district office to one of DYFS's several regional Adoption Resource Centers ("ARCs"). An adoption caseworker then takes over case management responsibilities. Regional ARCs are responsible for finalizing adoptions by pursuing termination of parental rights or voluntary surrenders of custody and consents for adoption, and ensuring that the child is placed in an appropriate, safe and nurturing adoptive home.

24. DYFS was responsible for approving or certifying/licensing foster homes during most of the relevant times at issue through its District Office Foster Home Units, Regional Foster Home Units, and its Bureau of Licensing. This responsibility was transferred to DHS's Office of Licensing ("OOL") in 2003. Annual re-evaluations for DYFS foster homes are required. A regional Institutional Abuse Investigation Unit ("IAIU") is responsible for investigating reports of abuse and neglect in DYFS placements. The responsibility to train DYFS staff was shared at various times by DYFS and DHS.

**FACTS**  
**1991-1994**

25. Defendants approved Vanessa and Raymond Jackson as DYFS foster parents in August 1991.

26. In December 1991, Defendants placed Plaintiff Bruce Jackson ("Bruce") in the Jackson foster home. At that time, Bruce was seven years old, was 48.25 inches tall, and weighed 43.75 pounds. Thereafter, Defendants were repeatedly put on notice that the Jacksons were not meeting Bruce's medical and nutritional needs, but failed to take appropriate remedial steps to ensure that this foster home was safe.

27. In September 1992, for example, DYFS received a call indicating that another foster child in the Jackson household alleged that he and Bruce were being mistreated and that this other foster child was hungry. The caller also stated that the foster child had not grown in

height, had only gained half a pound while in the Jacksons' care, and was observed to have thin chest bones. DYFS conducted an investigation, but no medical examinations were conducted, nor did DYFS address the foster child's complaints of hunger in the Jackson home. Defendants did not substantiate the allegations or implement any further monitoring of the home.

28. In February 1993, Vanessa Jackson reported to the caseworker during a home visit that Plaintiff Bruce Jackson had been caught taking his classmates' lunches and looking for food in the trash. The caseworker noted that Bruce had compulsive eating. Bruce was eight and a half years old and weighed 51 pounds.

29. In July 1994, when the caseworker transported Plaintiff Bruce Jackson to an appointment, Plaintiff Bruce Jackson pleaded to be taken to eat at McDonald's or Dunkin Donuts, but the worker refused. On the ride home, Plaintiff Bruce Jackson opened the glove compartment, found half a cookie and ate that, and then pleaded with the caseworker not to tell Mrs. Jackson.

30. In December 1994, the caseworker noted that Plaintiff Bruce Jackson was thin for his size and that he stole food at school. The caseworker noted that Plaintiff Bruce Jackson had an "eating disorder" and "parasites in his body which [sic] will restrict his growth." There was no medical basis for these conclusions, nor did Defendants follow up to ensure medical or psychological treatment for these identified issues.

31. Defendants continued to approve the Jackson home as a DYFS foster home, but without addressing Plaintiff Bruce Jackson's starvation in the home or requiring medical documentation of his medical treatment. Re-evaluations of the home were conducted in 1992 and 1994.

32. Also within this time period, Managerial Defendants closed the DYFS Training Academy and cut back on the training made available to DYFS staff.

1995

33. Despite the Jacksons' known history of not meeting Plaintiff Bruce Jackson's nutritional and medical needs over a period of years, Defendants failed to conduct regular face-to-face visits with the Plaintiff, or re-evaluate the Jackson foster home.

34. In January 1995, Plaintiff Bruce Jackson's doctor contacted the caseworker, informing him that she terminated services due to Mrs. Jackson's failure to comply with her suggestions and inappropriate administration of Plaintiff Bruce Jackson's medication. Defendants took no action to investigate and protect Plaintiff Bruce Jackson who was starving in the Jackson home.

35. In May 1995, DYFS received a report from Plaintiff Bruce Jackson's school after he arrived to school with a bruise on his face. The caller expressed concern that Plaintiff Bruce Jackson had failed to gain weight, always appeared hungry, and that Plaintiff Bruce Jackson complained that the Jacksons did not give him enough to eat. The caller also advised that Vanessa Jackson had delayed taking Plaintiff Bruce Jackson to a medical appointment. DYFS placed the Jackson home on suspension pending the investigation.

36. Plaintiff Bruce Jackson told the DYFS investigator that he did not get enough to eat. When questioned, Mrs. Jackson told the investigator that Plaintiff Bruce Jackson had stomach problems that required her to control his diet. The investigator did not request a medical examination of Plaintiff Bruce Jackson or explore or recommend any further plan of treatment or monitoring as required by reasonable professional judgment. The allegations were apparently not substantiated.



37. Defendants left Plaintiff Bruce Jackson in the Jackson home where they knew, or should have known, that Plaintiff was at imminent risk of further harm, in deliberate indifference to Plaintiff Bruce Jackson's safety and well-being.

38. Both in July and August 1995, a caseworker noted that Plaintiff Bruce Jackson appeared underweight. Defendants took no action as a result.

39. In September 1995, Plaintiff Bruce Jackson was not sent to school by the Jacksons. When DYFS found out the next month that Plaintiff Bruce Jackson was not going to school, the Jacksons belatedly advised DYFS that they had begun home-schooling him. DYFS did not question the Jacksons' decision to home-school Plaintiff Bruce Jackson, despite the obvious implication that Vanessa Jackson had removed Plaintiff Bruce Jackson from school because the school had made allegations of abuse four months earlier. Plaintiff Bruce Jackson was 11 years old and weighed 48.84 pounds.

40. A December 1995 DYFS adoption assessment of Plaintiff Bruce Jackson noted that the Jacksons had an alarm system in place since 1992 that denied him access to the kitchen. It was noted that Plaintiff Bruce Jackson was surreptitiously finding and eating food at home. Defendants took no actions to have this alarm system removed or investigate whether Plaintiff Bruce Jackson was being adequately fed.

41. By the end of 1995, Plaintiff Bruce Jackson was 11 years old and weighed less than 47 pounds. He had lost almost 10 pounds in the Jackson home since March of that year and his weight had fallen off the low end of any pediatric growth chart. Instead of pursuing immediate hospitalization for Plaintiff Bruce Jackson who was being starved, Defendants processed the Jacksons' application for an adoption subsidy for Plaintiff Bruce Jackson.

42. Defendants failed to communicate, report and investigate the known systematic deprivation of food by the Jacksons from Plaintiff Bruce Jackson, and the obvious malnourishment and documented failure to thrive of Plaintiff Bruce Jackson. Defendants recklessly left Plaintiff in the Jackson home even though they knew or should have known of Plaintiff's ongoing maltreatment by the Jacksons.

1996

43. In 1996, despite further evidence that Plaintiff Bruce Jackson was being starved and continued to deteriorate in the Jackson home, Defendants took no action to protect him in reckless disregard for his health and well-being. Defendants also failed to conduct regular face-to-face visits with the Plaintiff, and re-evaluated the Jackson foster home without interviewing Plaintiff Bruce Jackson or reviewing his medical information. Moreover, Defendants approved Plaintiff Bruce Jackson to be adopted in the Jackson foster home without meeting similar requirements that would have revealed the ongoing maltreatment in the home.

44. In February 1996, Mrs. Jackson reported that Plaintiff Bruce Jackson's physician had referred him to an endocrinologist in order to evaluate whether he had a growth problem. This referral was never acted upon by either the Jacksons or Defendants, and Plaintiff Bruce Jackson was never seen by an endocrinologist. From 1996 until October 2003, Plaintiff Bruce Jackson received no medical care. The worker also documented in Plaintiff Bruce Jackson's record at this time that Plaintiff Bruce Jackson's school was concerned that he was not receiving occupational therapy.

45. In March 1996, Mrs. Jackson reported to the caseworker that Plaintiff Bruce Jackson had recently gone into a neighbor's trashcan looking for food. The worker observed that

Plaintiff Bruce Jackson's growth appeared "slow or delayed," but Defendants did not pursue medical treatment for him or ensure that he was being adequately fed.

46. In June, a therapist who had been seeing Plaintiff Bruce Jackson noted in her summary progress report to DYFS that he had climbed out of a second story window to get access to a neighbor's garbage can. The therapist also noted that Vanessa Jackson informed her that the Jackson family kept their food locked away. Defendants failed to investigate whether Plaintiff Bruce Jackson was being adequately fed in the Jackson home.

47. That same month, Defendants submitted a final report to the Family Court supporting Plaintiff Bruce Jackson's adoption by the Jacksons, falsely stating "Bruce Jackson's physical, emotional, and social development has been very good since placement in the home. He has an eating disorder, which is being attended to by a specialist."

**Plaintiff Bruce Jackson is Adopted by the Jacksons**

48. Plaintiff Bruce Jackson's adoption by Raymond and Vanessa Jackson was finalized with Defendants' concurrence on July 8, 1996, at which point the Jacksons began to receive a monthly adoption subsidy.

49. Defendants failed to monitor Plaintiff Bruce Jackson immediately post-adoption for at least six months as required.

50. Defendants failed to interview and get medical information for all members of the Jackson household as required, including Plaintiff Bruce Jackson who was dramatically deteriorating in the home.

51. Defendants failed to investigate why the Plaintiff was deteriorating or evaluate the quality of care they were receiving in the Jackson home.

1997

52. In 1997, despite the fact that Plaintiff Bruce Jackson was being starved in the Jackson home and he was no longer receiving any medical care, Defendants approved Plaintiff Bruce Jackson for adoption by the Jacksons in reckless disregard for his health and well-being. Defendants failed to conduct regular face-to-face visits with the Plaintiff Bruce Jackson and reevaluate the Jackson foster home without interviewing Plaintiff or reviewing his medical information.

1998-2003

53. Between 1998 and the October 2003 hospitalization of Plaintiff Bruce Jackson, Defendants continued to use and approve the Jackson home as a foster home and adoptive placement for additional children. Foster child J.J. was adopted by the Jacksons in 2000, and foster child B.P.'s adoption by the Jacksons had been approved by DYFS and was pending in October 2003.

54. As a result, DYFS employees were in the home at least 38 times during these years, and documented seeing all or some of the adopted children, including Plaintiff Bruce Jackson, multiple times without taking any action to rescue them from ongoing starvation.

55. Defendants who had contact with Plaintiff Bruce Jackson failed to report and investigate suspected abuse and neglect of the Plaintiff as required by law.

56. The Jackson home was reevaluated and approved by DYFS and/or DHS in 1999 and twice in 2002, despite the Jacksons' documented history of not meeting the medical and basic nutritional needs of children placed in their care by DYFS. Defendants failed to interview household members including Plaintiff Bruce Jackson, nor was his medical information reviewed, as required for continued foster home approval.

### CONCLUSION

57. Defendants failed to protect Plaintiff Bruce Jackson due to a decade of repeated acts and omissions at all levels of DYFS and/or DHS. As a result, Plaintiff suffered grievous harm and permanent physical, emotional, developmental, psychological and psychiatric injuries.

58. Managerial Defendants failed to ensure that DYFS and DHS staff was adequately trained and supervised to track and understand information relevant to the screening and approval of the Jackson foster home in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to adequately supervise DYFS and DHS staff responsible for screening and approving the Jackson home in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Casework Defendants failed to screen and approve the Jackson home in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

59. Managerial Defendants failed to ensure that DYFS staff was adequately trained and supervised to screen and monitor the Jackson foster home in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to adequately supervise DYFS staff responsible for screening and monitoring the Jackson home in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Casework Defendants failed to adequately screen and monitor the Jackson home in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

60. Managerial Defendants failed to ensure that DYFS staff was adequately trained and supervised to conduct required regular face-to-face visits with Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to adequately supervise DYFS staff responsible for conducting required regular face-to-face visits with Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Casework Defendants failed to conduct required regular face-to-face visits with Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

61. Managerial Defendants failed to ensure that DYFS and DHS staff was adequately trained to report and investigate suspected abuse and neglect in the Jackson home or of Plaintiff as required by law in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to ensure that DYFS and DHS staff report and investigate suspected abuse and neglect in the Jackson home or of Plaintiff as required by law in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Defendants who had contact with Plaintiff failed to report and investigate suspected abuse and neglect in the Jackson home or of Plaintiff as required by law in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

62. Managerial Defendants failed to ensure that DYFS staff was adequately trained and supervised to track, understand, and protect the medical and mental health of Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in

deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to adequately supervise DYFS staff responsible for tracking, understanding, and protecting the medical and mental health of Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Casework Defendants failed to adequately track, understand, and protect the medical and mental health of Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

63. Managerial Defendants failed to ensure that DYFS staff was adequately trained and supervised to ensure the regular and necessary medical and mental health treatment of Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to adequately supervise DYFS staff responsible for the regular and necessary medical and mental health treatment of Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Casework Defendants failed to adequately ensure the regular and necessary medical and mental health treatment of Plaintiff in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

64. Managerial Defendants failed to ensure that DYFS staff was adequately trained and supervised to avoid the unjustified labeling of Plaintiff as handicapped and unlawful discrimination against them as a result. Supervisory Defendants failed to adequately supervise DYFS staff to avoid the unjustified labeling of the Plaintiff as handicapped and unlawful discrimination against him as a result. Casework and Supervisory Defendants' unjustified perception and labeling of Plaintiff as having an "eating disorder" and "growth deficiency"

handicap caused Defendants to discriminate against him by failing to address his physical deterioration and failure to grow while in a DYFS foster home.

65. The Managerial Defendants failed to ensure that DYFS staff shared, reported and investigated evidence of abuse and neglect of foster children in the Jackson home managed by different caseworkers in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to adequately supervise DYFS staff to ensure that evidence of abuse and neglect of the foster children in the Jackson home was shared, reported and investigated in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Casework Defendants failed to share, report or investigate evidence of abuse and neglect of the foster children in the Jackson home in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

66. Managerial Defendants failed to ensure that DYFS staff was adequately trained and supervised to ensure that required pre-adoption protections were understood and met before approving the Plaintiff's adoption in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to ensure that all the necessary requirements to protect Plaintiff had been met before his adoptions in the Jackson home were approved in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Casework Defendants failed to interview and obtain medical information for all members of the Jackson household as required before the Plaintiff's adoptions was approved in a



manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

67. Managerial Defendants failed to ensure that DYFS staff was adequately trained and supervised to ensure the required monitoring of Plaintiff immediately post-adoption in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Supervisory Defendants failed to adequately supervise DYFS staff responsible for the required monitoring of Plaintiff in the Jackson home immediately post-adoption in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff. Casework Defendants failed to adequately monitor Plaintiff in the Jackson home immediately post-adoption consistent with professional judgment in a manner that was consistent with the exercise of reasonable professional judgment, and in deliberate indifference to the risk of harm to Plaintiff.

#### **FIRST CAUSE OF ACTION**

##### **42 U.S.C. § 1983 Substantive Due Process: Special Relationship (Against the Managerial Does, the Supervisory Does, and the Casework Does, in their personal capacities)**

68. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

69. At all times when Defendants had Plaintiff in their foster care custody, Defendants had a special relationship with Plaintiff, which imposed upon Defendants an affirmative duty to care for and protect Plaintiff from harm under the Fourteenth Amendment to the United States Constitution.

70. Defendants breached that duty. Defendants' actions and omissions were a substantial departure from the exercise of reasonable professional judgment, practice, and standards, and amounted to deliberate indifference to Plaintiff's welfare.

71. Defendants acted with deliberate indifference to and callous disregard of repeated indications and signs that Plaintiff was not receiving adequate care, nourishment, and services while in foster care, and that he was severely under-developed.

72. Defendants failed to ensure the safety and well-being of Plaintiff while they were in foster care and in the custody of the State, thus proximately causing him substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm.

73. The actions and inactions that resulted in this harm include but are not limited to: the failure to ensure that Plaintiff received basic necessities while in foster care, including adequate food and nourishment; the failure to ensure that Plaintiff received adequate medical care, treatment, and services while in foster care; the failure to adequately monitor Plaintiff's safety and well-being while the children were in foster care; the failure to provide Plaintiff with a safe and appropriate foster care placement; and the failure to adequately screen, approve, license and monitor the Jacksons as suitable foster parents.

74. In addition, the Managerial Does failed to assure the adequate training of the Supervisory and Casework Does concerning the provision of adequate care and services to foster children and the adequate screening, approval, licensure, and monitoring of foster homes, and failed to ensure that DYFS policies and procedures were interpreted and implemented in a consistent manner. The Managerial Does were aware for years of the inadequate training and other systemic deficiencies in the State's foster care system that contributed to the harm suffered by the Plaintiff but failed to take reasonable steps to remedy these deficiencies. The failure to

adequately train the Supervisory and Casework Does was so obvious, and so obviously likely to result in a constitutional violation, that it amounted to deliberate indifference to Plaintiff's welfare. The failure to provide adequate training to the Supervisory and Casework Does directly resulted in the harms suffered by Plaintiff.

75. In addition, the Supervisory Does failed to adequately supervise the Casework Does with respect to the provision of adequate care and services to foster children and the adequate screening, approval, licensure, and monitoring of foster homes, and failed to ensure that DYFS policies and procedures were interpreted and implemented in a consistent manner. The Supervisory Does were aware for years of the inadequate supervision and other systemic deficiencies in the State's foster care system that contributed to the harm suffered by the Plaintiff but failed to take reasonable steps to remedy these deficiencies. The Supervisory Does were deliberately indifferent to Plaintiff's welfare by failing to take action that was obviously necessary to prevent or stop the deprivation of Plaintiff's constitutional rights. The failure to adequately supervise the Casework Does directly resulted in the harms suffered by Plaintiff.

76. By virtue of the foregoing, Defendants deprived Plaintiff of various rights protected by the Due Process Clause of the Fourteenth Amendment, including but not limited to: the right to personal security and reasonably safe living conditions; the right to protection from harm; the right not to be harmed physically, emotionally, developmentally or otherwise; the right to basic life necessities, such as adequate food and nourishment; the right not to deteriorate in state custody; and the right to adequate medical care, treatment, and services consistent with the exercise of reasonable professional judgment.

77. Defendants arbitrarily and capriciously deprived Plaintiff of his due process rights in the absence of any countervailing state interest.

78. Plaintiff's substantive due process rights were clearly established constitutional rights at the time of Defendants' acts and omissions, and a reasonable individual would have known that their acts and omissions would violate these clearly established constitutional rights.

### **SECOND CAUSE OF ACTION**

#### **42 U.S.C. § 1983 Substantive Due Process: State-Created Danger (Against the Managerial Does, the Supervisory Does, and the Casework Does in their personal capacities)**

79. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

80. The Fourteenth Amendment to the United States Constitution guarantees Plaintiff the substantive due process right to be free from state-created dangers.

81. Defendants violated this right by taking affirmative steps to approve Plaintiff Bruce Jackson's adoption in the Jackson home and having the adoption finalized, which placed Plaintiff at imminent and foreseeable risk of danger and harm.

82. The physical, emotional, developmental, psychological, and psychiatric harm that Plaintiff suffered after being adopted by the Jacksons was foreseeable, and directly, and proximately caused by Defendants' unconstitutional acts and omissions.

83. At the time of Plaintiff's adoption, Defendants and Plaintiff had a special relationship, given that Plaintiff was in foster care and in State custody.

84. Defendants' exercise of their authority to pursue and ask the Family Court to finalize the adoption of Plaintiff by individuals who had a known history of failing to provide basic care and nourishment to Plaintiff created a risk of danger that would not have otherwise existed if Defendants had adequately screened and monitored the Jacksons as potential adoptive parents or identified an alternative appropriate adoptive placement.

85. Defendants arbitrarily and capriciously deprived Plaintiff of his due process rights in the absence of any countervailing state interest.

86. Plaintiff's substantive due process rights to be free from state-created dangers were clearly established constitutional rights at the time of Defendants' acts and omissions, and a reasonable individual would have known that their acts and omissions would violate these clearly established constitutional rights.

### **THIRD CAUSE OF ACTION**

#### **42 U.S.C. § 1983 Procedural Due Process (Against the Managerial Does, the Supervisory Does, and the Casework Does in their personal capacities)**

87. Each and every allegation of the Complaint is incorporated herein as if fully set forth.

88. The foregoing actions and inactions of Defendants resulted in Plaintiff being deprived of constitutionally protected liberty interests without due process of law, which was a substantial factor leading to, and proximate cause of, the physical, emotional, developmental, psychological, and psychiatric harm Plaintiff has suffered.

89. Plaintiff was vested by virtue of the New Jersey Child Placement Bill of Rights Act with certain state-created liberty interests protected by the federal Due Process Clause, including the right to be free from physical or psychological abuse; the right to receive adequate, safe, and appropriate food, clothing, and housing; the right to receive adequate and appropriate medical care; the right to have regular contact with case workers assigned to their case; the right to receive services of a high quality that are designed to maintain and advance their mental and physical well-being; the right to receive an educational program which maximized their

potential; and the right to be free from unwarranted physical restraint and isolation. N.J.S.A. 9:6B-4(h)-(i), (k), (m)-(p).

90. Plaintiff was vested by virtue of N.J.S.A. 30:4C-25 with certain state-created liberty interest protected by the federal Due Process Clause, including the right to regular visits from Defendants while Plaintiff was in foster care to ensure that they were receiving adequate services and care.

91. Plaintiff was vested by virtue of various statutory and regulatory obligations imposed upon Defendants to adequately screen, approve, and monitor Plaintiff's foster homes, with certain state-created liberty interest protected by the federal Due Process Clause, including the right to a detailed home study of the Jackson home prior to Plaintiff's placement there, N.J.A.C. 10:122C-2.8(a); a right to have Defendants ensure that Raymond and Vanessa Jackson were able to care effectively for Plaintiff as foster parents, N.J.A.C. 10:122C-1.5(a); a right to have Defendants ensure that the Jacksons were providing the necessities of life to their family, N.J.A.C. 10:122C-1.5(i); a right to have Defendants ensure that the Jacksons had income or other means of financial support that made them economically independent of Plaintiff's foster care maintenance payments, N.J.A.C. 10:122C-1.5(j); a right to have Defendants ensure that the Jacksons used all of the money received in the name of each Plaintiff to provide for that child's care, N.J.C.A. 10:122C-1.5(k); a right to have Defendants ensure that the Jacksons had the ability to provide for Plaintiff's basic nutritional, developmental, educational, and health needs, and to provide Raymond and Vanessa Jackson with information on nutrition and child health needs, N.J.A.C. 10:122C-1.10(a), 10:122B-4.1(b); a right to have Defendants ensure that Plaintiff received appropriate and necessary health care while in the custody of Raymond and Vanessa Jackson, and that Plaintiff received medical and dental examinations at least annually,

N.J.A.C. 10:122D-2.5; a right to have Defendants ensure that Vanessa and Raymond Jackson were properly trained to fulfill their obligations as foster parents, N.J.A.C. 10:122D-2.7; a right to have Defendants visit the foster home to assess compliance with sleeping space and life safety standards, to interview each household member not participating in pre-service training, and to verify information about each household member, N.J.A.C. 10:122B-5.3; a right to have Defendants obtain medical references for each member of the Jackson household, and for each new household member, N.J.A.C. 10:122C-2.3(a), (b); N.J.A.C. 10:122C-1.5(b); a right to have Defendants support the Jacksons in fulfilling their roles with respect to Plaintiff's case goals, N.J.A.C. 10:122B-4.1(h); a right to have Defendants conduct annual inspections of the foster homes, which shall include interviews with all foster children and other household members, N.J.A.C. 10:122C-2.8(b), N.J.A.C. 10:122C-2.9(b); a right to have Defendants promptly and thoroughly investigate any complaints or reports questioning Raymond and Vanessa Jackson's compliance with applicable statutes and/or regulations, N.J.A.C. 10:122C-2.12(a); and a right to have Defendants ensure remove Plaintiff (*makes no sense*) from foster care with the Jacksons upon a determination that Plaintiff was not safe in the Jacksons' home, N.J.A.C. 10:122E-2.1; N.J.A.C. 10:122E-2.5.

92. Plaintiff was vested, by virtue of various statutory and regulatory obligations imposed upon Defendants to adequately screen and approve the Jackson home as an appropriate adoptive home for the Plaintiff and to ensure Plaintiff's post-adoption safety and welfare, with certain state-created liberty interest protected by the federal Due Process Clause, including the right to have Defendants select Plaintiff's adoptive home based on an informed, objective judgment, after a full and careful assessment of each factor which could have affected Plaintiff's ability to benefit physically, socially, and emotionally from the adoptive placement, N.J.A.C.

10:121C-4.1; the right to have Defendants perform a detailed pre-adoptive home study of the Jackson home, including ensuring that Raymond and Vanessa Jackson had the capacity to meet Plaintiff's physical and emotional needs and had disclosed any history or child abuse or neglect or any criminal record, N.J.S.A. 9:3-54.2; N.J.A.C. 10:121C-3.1(b); N.J.A.C. 10:121C-4.2; N.J.A.C. 10:121A-5.7; N.J.A.C. 10:121A-5.6(c)(2), (d); the right to have Defendants ensure that such home study included at least three in-person contacts with Raymond and Vanessa Jackson and at least one in-person contact with all members of the household, at least one visit to the Jackson home, a review of the Jacksons' job references, a review of their personal references, the procurement of various specific categories of information, and completion of background checks regarding criminal records and/or records of prior child abuse or neglect, N.J.A.C. 10:121A-5.6(e)-(j); the right to have Defendants refrain from placing Plaintiff in the Jackson home for the purpose of adoption without a properly completed home study, N.J.A.C. 10:121A-5.6(m); and the right to have Defendants provide post-placement services to Plaintiff and to Raymond and Vanessa Jackson, including face-to-face communication, to assist with issues relevant to Plaintiffs' adoption, to assess the need for counseling, to refer the adoptive family to medical, therapeutic, educational, self-help, or other services as needed, to assist the family to function autonomously, and to assess the family's readiness and suitability for final adoption, N.J.A.C. 10:121C-5.1.

93. Plaintiff was vested, by virtue of various statutory and regulatory obligations imposed upon Defendants to report any suspected abuse of Plaintiff in order to ensure this ongoing safety and welfare, with certain state-created liberty interest protected by the federal Due Process Clause, including the right to have Defendants report any suspicion that Plaintiff was being subjected to acts of child abuse, N.J.S.A. § 9:6-8.10; N.J.A.C. 10:121A-3.5; the right



to have Defendants investigate such suspected child abuse, N.J.S.A. ' 30:4C-12; and the right to have Defendants immediately report all instances of suspected child abuse and neglect to the county prosecutor in the county in which Plaintiff resided, N.J.S.A. 9:6-8.36a.

94. Defendants' actions and inactions were inconsistent with the exercise of reasonable professional judgment and amount to deliberate indifference to the procedural due process rights of Plaintiff. Defendants acted with deliberate indifference and callous disregard to repeated indications and signs that the Plaintiff was not receiving adequate care, nourishment, and services while in foster care, and were under-developed. As a result, Plaintiff was deprived of the procedural due process rights conferred upon them by the Fourteenth Amendment to the United States Constitution.

95. Defendants arbitrarily and capriciously deprived Plaintiff of his due process rights in the absence of any countervailing state interest.

96. Plaintiff's procedural due process rights and state law entitlements were clearly established at the time of the alleged acts and omissions, and a reasonable individual would have known that the alleged acts and omissions would violate these clearly established rights.

#### **FOURTH CAUSE OF ACTION**

##### **New Jersey Constitution Substantive Due Process: Special Relationship (Against all Defendants)**

97. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

98. At all times when Defendants had Plaintiff in their foster care custody, Defendants had a special relationship with Plaintiff, which imposed upon Defendants an affirmative duty to care for and protect Plaintiff from harm under the Fourteenth Amendment to the United States Constitution.

99. Defendants breached that duty. Defendants' actions and omissions were a substantial departure from the exercise of reasonable professional judgment, practice, and standards, and amounted to deliberate indifference to Plaintiff's welfare.

100. Defendants acted with deliberate indifference to and callous disregard of repeated indications and signs that Plaintiff was not receiving adequate care, nourishment, and services while in foster care, and that they were severely under-developed.

101. Defendants failed to ensure the safety and well-being of Plaintiff while he was were in foster care and in the custody of the State, thus proximately causing them substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm.

102. The actions and inactions that resulted in this harm include but are not limited to: the failure to ensure that Plaintiff received basic necessities while in foster care, including adequate food and nourishment; the failure to ensure that Plaintiff received adequate medical care, treatment, and services while in foster care; the failure to adequately monitor Plaintiff's safety and well-being while he was in foster care; the failure to provide Plaintiff with a safe and appropriate foster care placement; the failure to ensure that Plaintiff did not deteriorate while in state custody; and the failure to adequately screen, approve, license and monitor the Jacksons as suitable foster parents.

103. In addition, the Managerial Does failed to assure the adequate training of the Casework Does concerning the provision of adequate care and services to foster children and the adequate screening, approval, licensure, and monitoring of foster homes, and failed to ensure that DYFS policies and procedures were interpreted and implemented in a consistent manner. The Managerial Does were aware for years of the inadequate training and other systemic deficiencies in the State's foster care system that contributed to the harm suffered by the Plaintiff but failed to

take reasonable steps to remedy these deficiencies. The failure to adequately train the Casework Does was so obvious, and so obviously likely to result in a constitutional violation, that it amounted to deliberate indifference to Plaintiff's welfare.

104. In addition, the Supervisory Does failed to adequately supervise the Casework Does with respect to the provision of adequate care and services to foster children and the adequate screening, approval, licensure, and monitoring of foster homes, and failed to ensure that DYFS policies and procedures were interpreted and implemented in a consistent manner. The Supervisory Does were aware for years of the inadequate supervision and other systemic deficiencies in the State's foster care system that contributed to the harm suffered by the Plaintiff but failed to take reasonable steps to remedy these deficiencies. The Supervisory Does were deliberately indifferent to Plaintiff's welfare by failing to take action that was obviously necessary to prevent or stop the deprivation of Plaintiff's constitutional rights.

105. By virtue of the foregoing, Defendants deprived Plaintiff of various rights protected by the New Jersey State Constitution, Article 1, ¶ 1, including but not limited to: the right to personal security and reasonably safe living conditions; the right to protection from harm; the right not to be harmed physically, emotionally, developmentally or otherwise; the right to basic life necessities, such as adequate food and nourishment; and the right to adequate medical care, treatment, and services consistent with the exercise of reasonable professional judgment.

106. Defendants arbitrarily and capriciously deprived Plaintiff of his due process rights in the absence of any countervailing state interest.

107. Plaintiff's substantive due process rights were clearly established constitutional rights at the time of Defendants' acts and omissions, and a reasonable individual would have known that their acts and omissions would violate these clearly established constitutional rights.

**FIFTH CAUSE OF ACTION**

**New Jersey Constitution Substantive Due Process: State-Created Danger  
(Against all Defendants)**

108. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

109. The New Jersey State Constitution, Article 1, ¶ 1, guarantees Plaintiff the substantive due process right to be free from state-created dangers.

110. Defendants violated this right by taking affirmative steps to approve Plaintiff Bruce Jackson's adoption in the Jackson home and having the adoption finalized, which placed Plaintiff at imminent and foreseeable risk of danger and harm.

111. The physical, emotional, developmental, psychological, and psychiatric harm that Plaintiff suffered after being adopted by the Jacksons was foreseeable, and directly, and proximately caused by Defendants' unconstitutional acts and omissions.

112. Defendants acted with callous and willful disregard for Plaintiff's safety by approving Plaintiff Bruce Jackson's adoption by the Jacksons, despite Defendants' knowledge of repeated indications and signs that Plaintiff was not receiving adequate care, nourishment, or services from the Jacksons while in foster care, and repeated indications and signs of under-development while in the Jackson home.

113. At the time of Plaintiff's adoption, Defendants and Plaintiff had a special relationship, given that Plaintiff was in foster care and in State custody.

114. Defendants' exercise of their authority to pursue and ask the Family Court to finalize the adoption of Plaintiff by individuals who had a known history of failing to provide

basic care and nourishment to the children in their care created a risk of danger that would not have otherwise existed if Defendants had adequately screened and monitored the Jacksons as potential adoptive parents or identified an alternative appropriate adoptive placement.

115. Defendants arbitrarily and capriciously deprived Plaintiff of his due process rights in the absence of any countervailing state interest, and caused Plaintiff substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm as a result.

116. Plaintiff's substantive due process rights to be free of state-created dangers were clearly established constitutional rights at the time of Defendants' acts and omissions, and a reasonable individual would have known that their acts and omissions would violate these clearly established constitutional rights.

#### **SIXTH CAUSE OF ACTION**

#### **N.J.S.A. 9:6B-1 *et seq.* Violation of Child Placement Bill of Rights Act (Against all Defendants)**

117. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

118. Under the New Jersey Child Placement Bill of Rights Act, Plaintiff possessed the following rights while placed outside of his biological home: a right to be free from physical or psychological abuse; a right to receive adequate, safe, and appropriate food, clothing, and housing; a right to receive adequate and appropriate medical care; a right to have regular contact with case workers assigned to his case; a right to receive services of a high quality that are designed to maintain and advance his mental and physical well-being; a right to receive an educational program which maximized his potential; and a right to be free from unwarranted physical restraint and isolation. N.J.S.A. 9:6B-4(h)-(i), (k), (m)-(p).

119. Defendants had a duty to provide Plaintiff services and care to ensure that these statutory rights were protected.

120. Defendants violated Plaintiff's statutory rights by failing to meet their duties to the Plaintiff while Plaintiff Bruce Jackson was in out-of-home placement, causing substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm to Plaintiff, as well as pain and suffering, anxiety, social disruption, and other grievous harm.

**SEVENTH CAUSE OF ACTION**  
**N.J.S.A. 30:4C-25 - Failure to Visit**  
**(Against all Defendants)**

121. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

122. Under N.J.S.A. 30:4C-25, Defendants had a duty to regularly visit Plaintiff while he was in foster care to ensure that they were receiving adequate services and care.

123. Defendants breached this duty.

124. As a direct and proximate cause of Defendants' failure to fulfill these duty, Plaintiff sustained substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm to Plaintiff, as well as pain and suffering, anxiety, social disruption, and other grievous harm.

**EIGHTH CAUSE OF ACTION**  
**Regulations Promulgated Pursuant to Articles 9 and 30 of the**  
**New Jersey Statutory Code: Failure to Adequately Screen, Approve, and Monitor the**  
**Jackson Home as an Appropriate Foster Home**  
**(Against all Defendants)**

125. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

126. Defendants were under various statutory and regulatory obligations to Plaintiff to adequately screen, approve, and monitor the Jackson foster home in order to ensure Plaintiff's safety and welfare. These obligations included but were not limited to: a duty to conduct a detailed home study of the Jackson home prior to placing Plaintiff with the Jacksons, N.J.A.C.

10:122C-2.8(a); a duty to ensure that Raymond and Vanessa Jackson were able to care effectively for Plaintiff as foster parents, N.J.A.C. 10:122C-1.5(a); a duty to ensure that the Jacksons were providing the necessities of life to their family, N.J.A.C. 10:122C-1.5(i); a duty to ensure that the Jacksons had income or other means of financial support that made them economically independent of Plaintiff's foster care maintenance payments, N.J.A.C. 10:122C-1.5(j); a duty to ensure that the Jacksons used all of the money received in the name of Plaintiff to provide for his care, N.J.C.A. 10:122C-1.5(k); a duty to ensure that the Jacksons had the ability to provide for Plaintiff's basic nutritional, developmental, educational, and health needs, and to provide Raymond and Vanessa Jackson with information on nutrition and child health needs, N.J.A.C. 10:122C-1.10(a), 10:122B-4.1(b); a duty to ensure that Plaintiff received appropriate and necessary health care while in the custody of Raymond and Vanessa Jackson, and that Plaintiff received medical and dental examinations at least annually, N.J.A.C. 10:122D-2.5; a duty to ensure that Vanessa and Raymond Jackson were properly trained to fulfill their obligations as foster parents, N.J.A.C. 10:122D-2.7; a duty to visit the foster home to assess compliance with sleeping space and life safety standards, to interview each household member not participating in pre-service training, and to verify information about each household member, N.J.A.C. 10:122 B-5.3; a duty to obtain medical references for each member of the Jackson household, and for each new household member, N.J.A.C. 10:122C-2.3(a), (b); N.J.A.C. 10:122C-1.5(b); a duty to support the Jacksons in fulfilling their roles with respect to Plaintiff's case goals, N.J.A.C. 10:122B-4.1(h); a duty to conduct annual inspections of the foster homes, which shall include interviews with all foster children and other household members, N.J.A.C. 10:122C-2.8(b), N.J.A.C. 10:122C-2.9(b); a duty to promptly and thoroughly investigate any complaints or reports questioning Raymond and Vanessa Jackson's compliance with applicable

statutes and/or regulations, N.J.A.C. 10:122C-2.12(a); and a duty to remove Plaintiff from foster care with the Jacksons upon a determination that Plaintiff was not safe in the Jacksons' home, N.J.A.C. 10:122E-2.1; N.J.A.C. 10:122E-2.5.

127. Defendants breached these statutory and regulatory obligations to Plaintiff.

128. As a direct and proximate result of Defendants' failure to fulfill these duties, Plaintiff sustained substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm to Plaintiff, as well as pain and suffering, anxiety, social disruption, and other grievous harm.

#### **NINTH CAUSE OF ACTION**

#### **Regulations Promulgated Pursuant to Articles 9 and 30 of the New Jersey Statutory Code: Failure to Adequately Screen and Approve the Jackson Home as an Appropriate Adoptive Home and to Provide Post-Adoptive Services (Against all Defendants)**

129. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

130. Defendants were under various statutory and regulatory obligations to Plaintiff to adequately screen and approve the Jackson home as an appropriate adoptive home for the Plaintiff and to ensure Plaintiff's post-adoption safety and welfare. These obligations included but were not limited to: a duty to select Plaintiff's adoptive home based on an informed, objective judgment, after a full and careful assessment of each factor which could have affected Plaintiffs' ability to benefit physically, socially, and emotionally from the adoptive placement, N.J.A.C. 10:121C-4.1; a duty to perform a detailed pre-adoptive home study of the Jackson home, including ensuring that Raymond and Vanessa Jackson had the capacity to meet Plaintiff's physical and emotional needs and had disclosed any history of child abuse or neglect or any criminal record, N.J.S.A. 9:3-54.2; N.J.A.C. 10:121C-3.1(b); N.J.A.C. 10:121C-4.2; N.J.A.C. 10:121A-5.7; N.J.A.C. 10:121A-5.6(c)(2), (d); a duty to ensure that such home study included at



least three in-person contacts with Raymond and Vanessa Jackson and at least one in-person contact with all members of the household, at least one visit to the Jackson home, a review of the Jackson's job references, a review of their personal references, the procurement of various specific categories of information, and completion of background checks regarding criminal records and/or records of prior child abuse or neglect, N.J.A.C. 10:121A-5.6(e)-(j); a duty not to place Plaintiff in the Jackson home for the purpose of adoption without a properly completed home study, N.J.A.C. 10:121A-5.6(m); and a duty to provide post-placement services to Plaintiff and to Raymond and Vanessa Jackson, including face-to-face communication, to assist with issues relevant to Plaintiff's adoption, to assess the need for counseling, to refer the adoptive family to medical, therapeutic, educational, self-help, or other services as needed, to assist the family to function autonomously, and to assess the family's readiness and suitability for final adoption, N.J.A.C. 10:121C-5.1. To perform these post-placement services, Defendants had a duty to visit Plaintiff within 14 days of his adoptive placement and on a monthly or bi-monthly basis for at least six months thereafter. N.J.A.C. 10:121A-5.8.

131. Defendants breached these statutory and regulatory obligations to Plaintiff.

132. As a direct and proximate result of Defendant's failure to fulfill these duties, Plaintiff sustained substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm, as well as pain and suffering, anxiety, social disruption, and other grievous harm.

**TENTH CAUSE OF ACTION**  
**Violation of New Jersey Statutory and Regulatory Duties**  
**Duty to Report and Investigate Abuse**  
**(Against all Defendants)**

133. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

134. Defendants were under various statutory and regulatory obligations to Plaintiff to report any suspected abuse of Plaintiff in order to ensure their ongoing safety and welfare.

135. All Defendants who had any contact with Plaintiff while he was residing with the Jacksons had cause to believe that Plaintiff had been subjected to child abuse or acts of child abuse and thus had a duty to immediately report this information. N.J.S.A. § 9:6-8.10; N.J.A.C. 10:121A-3.5.

136. Defendants had a duty to investigate such suspected child abuse. N.J.S.A. 30:4C-12.

137. DYFS also had a duty to immediately report all instances of suspected child abuse and neglect to the county prosecutor in the county in which Plaintiff resided. N.J.S.A. 9:6-8.36a.

138. Defendants breached these statutory and regulatory obligations to Plaintiff.

139. As a direct and proximate cause of Defendants' failure to fulfill these duties, Plaintiff sustained substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm, as well as pain and suffering, anxiety, social disruption, and other grievous harm.

**ELEVENTH CAUSE OF ACTION**  
**New Jersey Tort Claims Act B Negligence**  
**(Against all Defendants)**

140. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

141. Plaintiff has complied with the notice requirements of the Tort Claims Act.  
N.J.S.A. 59:1-1 et seq.

142. Defendants owed numerous duties to the Plaintiff. DYFS and Managerial Does had a duty to train their employees to ensure that any suspected abuse and neglect of the Plaintiff

be recognized, reported and investigated as legally required. DYFS and Supervisory Does had a duty to supervise the Casework Does to assure that they recognize, report and investigate any suspected abuse and neglect of the Plaintiff as legally required. DYFS and Casework Does had a duty to recognize, report and investigate suspected abuse and neglect of the Plaintiff as legally required.

143. Defendants had a general duty to ensure that Plaintiff received adequate nourishment, care, and services.

144. Defendants also had a duty to screen, approve, license and monitor the Jackson home to ensure that Plaintiff received reasonable nourishment and medical care and remained reasonably safe.

145. Defendants had a duty to take reasonable steps to investigate suspected abuse or neglect and remove Plaintiff from an abusive and/or neglectful home.

146. By their acts and omissions, Defendants violated the care of duty owed to Plaintiff. Defendants acted with gross negligence and/or recklessly. Defendants' acts and omissions were outside of their scope of employment, and did not involve the mere exercise of professional judgment or discretion.

147. By their acts and omissions, Defendants proximately caused permanent injuries to the Plaintiff, including substantial physical, emotional, developmental, psychological, and psychiatric harm. Defendants' acts and omissions were a material element and/or a substantial factor in bringing the harm about to the Plaintiff. The harm sustained by the Plaintiff was a reasonably foreseeable result of Defendants' acts and omissions.

148. By the foregoing, Defendants are liable for Plaintiff's injuries pursuant to N.J.S.A. 59:1-1 et seq. Defendants are jointly and severally liable for the injuries sustained by Plaintiff.

146. By their acts and omissions, Defendants violated the care of duty owed to Plaintiff. Defendants acted with gross negligence and/or recklessly. Defendants' acts and omissions were outside of their scope of employment, and did not involve the mere exercise of professional judgment or discretion.

147. By their acts and omissions, Defendants proximately caused permanent injuries to the Plaintiff, including substantial physical, emotional, developmental, psychological, and psychiatric harm. Defendants' acts and omissions were a material element and/or a substantial factor in bringing the harm about to the Plaintiff. The harm sustained by the Plaintiff was a reasonably foreseeable result of Defendants' acts and omissions.

148. By the foregoing, Defendants are liable for Plaintiff's injuries pursuant to N.J.S.A. 59:1-1 et seq. Defendants are jointly and severally liable for the injuries sustained by Plaintiff.

**TWELFTH CAUSE OF ACTION**  
**Violation of New Jersey Law Against Discrimination**  
**(Against all Defendants)**

149. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

150. DYFS is a place of public accommodations under N.J.S.A. 10:5-1 et seq.

151. Plaintiff was perceived and labeled by Defendants as a handicapped individual (having an "eating disorder," "growth deficiency," and/or "food issues" handicap), within the meaning of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

152. Defendants denied Plaintiff basic services in an approved and licensed DYFS foster home, including but not limited to the provision of food and basic medical care, because of his perceived handicaps.

153. By their acts and omissions, Defendants discriminated against Plaintiff on the basis of his perceived handicaps.

154. Defendants acted with wanton recklessness and/or reckless indifference.

155. Defendants' conduct was intentional and motivated by actual malice.

156. Defendants acted in bad faith.

157. Defendants acted with willful indifference and reckless disregard toward the discrimination against Plaintiff.

158. Defendants either approved or acted with willful indifference or reckless disregard to the discrimination against Plaintiff, so as to warrant punitive damages against them.

159. As a result of Defendants' unlawful conduct, Defendants have caused Plaintiff to suffer personal hardships, including substantial and unnecessary physical, emotional, developmental, psychological, and psychiatric harm, as well as pain and suffering, anxiety, social disruption, and other grievous harm.

### **THIRTEENTH CAUSE OF ACTION**

#### **Violation of New Jersey Law Against Discrimination Aiding and Abetting (Against all Individual Defendants)**

160. Each of the foregoing paragraphs is incorporated as if fully set forth herein.

161. DYFS is a place of public accommodations under N.J.S.A. 10:5-1 et seq.

162. The Plaintiff was perceived and labeled by Defendants as a handicapped individual (having an "eating disorder," "growth deficiency," and/or "food issues" handicap), within the meaning of the New Jersey Law Against Discrimination, N.J.S.A. 10:5-1 et seq.

163. Defendants aided and abetted the denial to Plaintiff of basic services in an approved and licensed DYFS foster home, including but not limited to the provision of food and basic medical care, because of their perceived handicaps.

164. By their acts and omissions, Defendants have aided and abetted in the discrimination against Plaintiff on the basis of their perceived handicaps.

174. DYFS placed Plaintiff in the Jackson foster home, caused his adoption in that home, and were on notice at all times of the risk of harm to Plaintiff. As such, DYFS and the State of New Jersey are vicariously liable for Raymond and Vanessa Jackson's aforementioned tortious conduct.

**RELIEF**

**WHEREFORE**, Plaintiff demands judgment be awarded in his favor as follows:

1. An order awarding compensatory damages in an amount to be determined at trial;
2. An order awarding punitive damages in an amount to be determined at trial;
3. An order awarding reasonable attorneys' fees;
4. An order awarding prejudgment interest; and
5. An order directing such other and further relief as the Court may deem equitable and just, including but not limited to appropriate costs and disbursements.


**JURY DEMAND**

Plaintiff hereby demands a trial by jury on all issues raised in the foregoing Complaint.

  
MICHAEL CRITCHLEY, ESQ.

**CERTIFICATION PURSUANT TO R.4:5-1**

I hereby certify pursuant to R.4:5-1, that the matter in controversy is not the subject of any other action pending in any court or of a pending arbitration proceeding, nor is any other action or arbitration proceeding contemplated.

  
MICHAEL CRITCHLEY, ESQ.

**DESIGNATION OF TRIAL COUNSEL**

Pursuant to Rule 4:25-4, Michael Critchley, Esq. is hereby designated as trial counsel.

  
MICHAEL CRITCHLEY, ESQ.

Dated: October 31, 2005