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Jack Woods as Limited Guardian ad Litem for J.W. The minor's claim is brought through Jack Woods.

II. DEFENDANTS STATE OF WASHINGTON, DEPARTMENT OF SOCIAL AND HEALTH SERVICES AND CHILD PROTECTIVE SERVICES

2.1 Defendant Department of Social & Health Services (Defendant DSHS) is an agency of the State of Washington (hereinafter "State" or "DSHS") which was, at all times material to this action, charged with the responsibility to appropriately assess, screen and reject unsuitable foster and/or adoptive home applicants, determine if it was appropriate to renew foster home licenses, provide competent case management services for its clients, respond to and adequately investigate allegations of abuse, neglect, exploitation or abandonment, comply with internal policies, administrative code provisions and legal standards, and otherwise ensure the protection and safety of children who are the alleged victims of child abuse.

III. VENUE AND JURISDICTION

- 3.1 The negligent acts alleged herein occurred in various counties in Washington State, including King County, Washington.
- 3.2 These claims are brought by Plaintiff and/or his legal representative under State law.
- 3.4 Plaintiff has filed a standard tort claim with the Office of Financial Management, pursuant to RCW 4.92. More than sixty (60) days have elapsed since the claim was filed. The notice of claim provisions required by RCW 4.92 have been satisfied.

IV. FACTS

- 4.1 Richard Jason Boothby ("Boothby") was born on or about September 7, 1973.
- 4. 2 On November 25, 1985, twelve-year-old Boothby admitted to DSHS employee, Jack Willis, that he had sexually abused at least five children.

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- 4.3 On January 24, 1986, Boothby pleaded guilty to two counts of Taking A Motor Vehicle Without Permission in Clark County Juvenile Court Case No. 144487 R040, R050.
- 4.4 On April 25, 1988, a then fourteen-year-old Boothby confessed to his Washington State CPS caseworker, Gayle Fielding, that he had recently sexually abused an eleven-year-old boy who was a past victim of his.
- 4.5 On April 26, 1988, CPS caseworker Gayle Fielding contacted Officer Deborah Pack-Patton with the Vancouver, WA Police Department in regards to the April 18, 1988 sexual assault committed by Boothby. As a result of the VPD investigation, Boothby was charged with a violation of RCW 9A.44.100(1)(b) Indecent Liberties.
- 4.6 On June 9, 1988, Boothby pleaded guilty to one count of Indecent Liberties in the Clark County Juvenile Court and was ordered to serve 65 weeks in custody.
- 4.7 Boothby's term of juvenile custody relating to the April 18, 1988 sexual assault was served, in large part, at Echo Glen Children's Center in Snoqualmie, Washington a DSHS institution.
 - 4.8 J.W. was born on December 6, 2004.
- 4.9 On November 9, 2007, J.W.'s biological mother's parental rights were terminated. J.W.'s biological father's parental rights had already been terminated by that point.
- 4.10 Upon Information and belief, the Boothby home was licensed as a foster home on June 6, 2008 by DSHS employee Lori Markovich. During the licensing process, Boothby disclosed that he had been the victim of sexual abuse and incest. Upon information and belief, DSHS did nothing to investigate the ramifications of this disclosure.
- 4.11 In May of 2009, four-year-old J.W. was placed in the Boothby home as a foster placement.

4.12 Less than one month after J.W. was placed in the Boothby home, a referral was made (#2056877) to Child Protective Services ("CPS") alleging that Boothby was seeking "alone time" with an eleven-year-old former foster daughter of Boothby's by leaving multiple phone messages for her and peeking in the windows of her home while she was at school.

- 4.13 During its investigation of referral no. 2056877, DSHS interviewed Boothby on July 9, 2009 who did not deny the factual allegations, stating that he "was hoping that he could spend some time with just (the eleven-year-old)." CPS failed to interview either the referring mother or the eleven-year-old girl. The case was closed as "not valid for Character" and no safety plan was put in place.
- 4.14 On or about January 4, 2010, DSHS employees created an intake (#2170628) when a social worker, bringing J.W. home from a family visit, found the Boothby home unlocked with Boothby nowhere to be found. Boothby was located in the back yard.
- 4.15 In CPS referral no. 2170628, it was noted that Boothby suffered a stroke in 2008 which caused hearing loss, cognitive problems, and resulted in Boothby taking medications. The Stroke left Boothby unable to work and thus, he stayed home and was the primary care giver for all of the foster children placed in the Boothby home.
- 4.16 In March of 2010, a referral was made to CPS (# 2208716) when J.W. was seen holding a doll in a sexually suggestive manner during a car ride. J.W. was placing the doll with its face on J.W.'s crotch. When asked what the figurine was doing, J.W. told Dan Hernon that the figurine was "cleaning him."
 - 4.17 Intake #2208716 was screened out due to "no alleged WAC violations."
- 4.18 Also in March, 2010, a referral was made to CPS (# 2209716) when Boothby was claimed to be seen hugging and kissing a nine-year-old foster daughter in an inappropriate

manner. This intake was screened out because the allegation was made by five-year-old J.W. and was thus deemed "sketchy" by DSHS employees.

- 4.19 On April 12, 2010, an intake was made when J.W. was heard joking during a family visit about touching the testicles of a dinosaur toy. Later that day, while being transported, J.W. was seen by the visitation provider to be sucking the tail of the dinosaur. This intake (#2230466) was screened out due to no alleged WAC violations.
- 4.20 During the time J.W. resided with the Boothbys, he was repeatedly sexually molested by Jason Boothby from the ages of 4 to 5. He was orally sodomized by Boothby and made to orally sodomize Boothby on multiple occasions. J.W. was manually sodomized by Boothby and Boothby ejaculated upon J.W. on at least one occasion.
- 4.21 In May of 2010, after approximately one year in the Boothby home, J.W. was placed with relatives in California.
- 4.22 On or about November 29, 2010, J.W. disclosed to his uncle that Boothby had sexually abused him on multiple occasions.
- 4.23 On June 15, 2011, Boothby pleaded guilty of two counts of Rape of a Child in the First Degree. In his Statement on Plea of Guilty, Boothby admitted to sexual intercourse with J.W. on two separate and distinct occasions.

V. FIRST CAUSE OF ACTION – NEGLIGENCE

- 5.1 Plaintiff incorporates the preceding allegations by reference herein.
- 5.2 Defendants granted the Boothby home a foster license in the face of overwhelming information that should have prevented Boothby from ever being allowed to care for children, much less in the privacy of his own home.

- 5.3 After J.W. was placed in the Boothby home, DSHS learned of multiple alarming allegations involving Boothby and failed to properly investigate them. DSHS had a duty to adequately investigate any and all allegations made regarding the Boothbys.
- 5.4 Defendant DSHS had a duty to appropriately assess, screen and reject unsuitable foster home applicants, determine if it was appropriate to renew the foster home license, provide competent case management services for Plaintiff, respond to and adequately investigate allegations of abuse and/or neglect, comply with internal policies, administrative code provisions and legal standards, and otherwise ensure the protection and safety of children who are the alleged victims of abuse.
- 5.5 Defendant DSHS breached its duty, on various occasions, to appropriately assess, screen and reject unsuitable foster home applicants, provide competent case management services for Plaintiff, respond to and adequately investigate allegations of abuse and/or neglect, appropriately assess, screen and reject unsuitable adoption requests, provide appropriate mental health treatment, comply with internal policies, administrative code provisions and legal standards, and otherwise ensure the protection and safety of children who is the alleged victim of abuse.
- 5.7 As a direct and proximate cause of Defendant DSHS's acts or omissions, the Plaintiff has sustained damages in an amount to be proven at trial.
- 5.8 Defendant DSHS is vicariously liable for all acts and omissions of DSHS employees under the doctrine of Respondent Superior.

VI. INJURIES AND DAMAGES

6.1 Plaintiff incorporates the preceding allegations by reference herein.

- 6.2 As a direct and proximate cause of the aforesaid acts and omissions, the Plaintiff has sustained past, general and special damages and will sustain future general and special damages in an amount to be proven at trial.
- 6.3 Plaintiff is entitled to prejudgment interest on liquidated sums from the time the expenses were incurred to the time of trial at the appropriate and proper rate of interest.

VII. LIMITED PHYSICIAN/PATIENT WAIVER

- 7.1 Plaintiff incorporates the preceding allegations by reference herein.
- 7.2 Counsel asserts the physician/patient privilege on behalf of Plaintiff for 89 days following the filing of this complaint. On the 90th day following the filing of this complaint, Plaintiff hereby waives the physician/patient privilege. That waiver is conditioned and limited as follows:
 - a. Plaintiff does not waive his constitutional right of privacy;
 - b. Plaintiff does not authorize contact with his healthcare providers of any kind except by judicial proceeding authorized by the Rules of Civil Procedure;
 - c. Representatives of Defendants are specifically instructed not to attempt ex parte contacts with healthcare providers of Plaintiff; and
 - d. Representatives of the Defendants are specifically instructed not to contact, in writing or otherwise, Plaintiff's healthcare providers to tell them that they may mail copies of records to the Defendants.

VIII. RIGHT TO AMEND

8.1 Plaintiff incorporates the preceding allegations by reference herein.

- 8.2 The documents received by Plaintiff's counsel thus far have been heavily redacted and thus, facts, allegations, and theories may change as more information becomes available.
- 8.3 Plaintiff reserves the right to amend this Complaint either before or during trial, which amendments may include but are not limited to additional parties, additional claims, or legal theories for liability or damages incurred, or to conform the pleadings to the proof offered at the time of trial.

IX. PRAYER FOR RELIEF

WHEREFORE, having set forth their complaint, Plaintiff requests the Court to enter judgment, jointly and severally, against the Defendants as follows:

- 9.1 For special and general damages, including but not limited to past and future damages for mental anguish, pain and suffering, increased cost of living expenses, counseling fees, therapy fees, pharmaceutical fees, and other permanent and necessary damages resulting from the Defendants' acts and omissions in an amount to be proven at trial;
 - 9.2 For interest on all sums awarded calculated at the maximum allowable rate;
 - 9.3 For such other and further relief as the court deems just and equitable.

DATED this 14 tay of January, 2014.

Respectfully submitted,

RESSLER & TESH, PLLC

Allen Ressler, WSBA #5330 Timothy R. Tesh, WSBA #28249

Attorneys for Plaintiffs