

inability to speak or understand English, and lack of familiarity with the U.S. legal system in order to attempt to remove R.J.M.B. permanently from her mother.

2. Two days after Plaintiff Baltazar Cruz gave birth to her daughter, R.J.M.B., at Singing River in Pascagoula, Mississippi, MDHS Defendant Vicki Hayes (“Defendant Hayes”) removed R.J.M.B. from her mother’s custody and care on the basis of patently and facially unreliable and deliberately false information provided by Singing River “patient advocate” Defendant Abigail Medina (“Defendant Medina”) and Singing River social worker Jessie Bether (“Defendant Bether”). Defendant Hayes and her supervisor, Defendant Ralph (Matt) Mathews (“Defendant Mathews”), refused to conduct any independent investigation into these obviously flawed allegations before removing R.J.M.B. from her mother’s custody. In violation of Plaintiffs’ due process rights, Defendants Hayes and Mathews continued to forcibly separate R.J.M.B. from her mother despite their awareness that the original allegations against Plaintiff Baltazar Cruz were false. Defendants Hayes, Mathews, Bether, and Medina, together and in concert with the Youth Court judge and the foster parents, manipulated the child welfare system in an attempt to deny Plaintiffs equal protection of the laws and to effectuate a nonconsensual adoption. Defendants’ arbitrary and oppressive actions caused Ms. Baltazar Cruz and her daughter to be separated for over a year, resulting in significant trauma and damage to their familial relationship.

3. Plaintiffs seek redress for Defendants’ unconstitutional actions pursuant to 42 U.S.C. §§ 1981, 1983 and 1985, as well as 42 U.S.C. § 2000d and Mississippi common law.

JURISDICTION AND VENUE

4. Jurisdiction is conferred upon this Court by 28 U.S.C. § 1331 (federal question jurisdiction), 28 U.S.C. § 1343 (civil rights), and 42 U.S.C. § 1981a.

5. Declaratory and injunctive relief are sought under 28 U.S.C. §§ 2201 and 2202.
6. The Court has supplemental jurisdiction over related state law claims asserted herein pursuant to 28 U.S.C. § 1367. Supplemental jurisdiction is appropriate because Plaintiffs' state law tort claims form part of the same case or controversy as Plaintiffs' federal claims.
7. Venue is proper pursuant to 28 U.S.C. § 1391(b) because one or more Defendants reside or may be deemed to reside in this district.

THE PARTIES

Plaintiffs

9. Plaintiff Cirila Baltazar Cruz is a Latina woman of Mexican national origin and a member of the indigenous Chatino group. Plaintiff Baltazar Cruz resided in Jackson County, Mississippi, at the time of the events giving rise to this lawsuit.
10. Plaintiff R.J.M.B. is a United States citizen and the minor daughter of Plaintiff Baltazar Cruz. Plaintiff R.J.M.B. resided in Jackson County, Mississippi at the time of the events giving rise to the lawsuit.
11. Plaintiff Baltazar Cruz has the authority to act as Next Friend for Plaintiff R.J.M.B. pursuant to Rule 17(c) of the Federal Rules of Civil Procedure.

Defendants

The MDHS Defendants

12. The Mississippi Department of Human Services ("MDHS") is an agency of the state of Mississippi.
13. MDHS receives and uses federal funding in the administration of its programs and activities.

14. At all times relevant to this action, Vicki Hayes was a case worker employed by the Jackson County office of MDHS. Defendant Hayes is sued in her individual capacity.

15. At all times relevant to this action, Defendant Hayes was a “person” within the meaning of 42 U.S.C. §§ 1983 and 1985.

16. At all times relevant to this action, Defendants Hayes’ actions were taken under color of law.

17. At all times relevant to this action, Ralph (Matt) Mathews was an area social work supervisor employed by the Jackson County Department of Human Services. Defendant Mathews is sued in his individual capacity.

18. At all times relevant to this action, Defendant Mathews was a “person” within the meaning of 42 U.S.C. §§ 1983 and 1985.

19. At all times relevant to this action, Defendant Mathews’ actions were taken under color of law.

20. As Defendant Hayes’ supervisor, Defendant Mathews directly participated in the R.J.M.B. case from its earliest stages, by actively taking part in the decision to remove R.J.M.B. from her mother’s custody and in the later pretextual investigation of Ms. Baltazar Cruz, and by monitoring and directing Defendant Hayes’ work on the case.

The Singing River Defendants

21. Singing River Hospital (“Singing River”), a division of Singing River Health Systems, is a community-owned hospital as defined by MISS. CODE ANN. § 41-13-10 and is a political subdivision of the state of Mississippi.

22. Singing River receives and uses federal funding in the administration of its activities and programs.

23. At all times relevant to this action, Jessie Bether was an employee or agent of Singing River Hospital. Defendant Bether is sued in her individual capacity.

24. At all times relevant to this action, Defendant Bether was a “person” within the meaning of 42 U.S.C. §§ 1983 and 1985.

25. At all times relevant to this action, Defendant Bether’s actions were taken under color of law.

26. At all times relevant to this action, Abigail Medina was an employee or agent of Singing River Hospital. Defendant Medina is sued in her individual capacity.

27. At all times relevant to this action, Defendant Medina was a “person” within the meaning of 42 U.S.C. §§ 1983 and 1985.

28. At all times relevant to this action, Defendant Medina’s actions were taken under color of law.

STATEMENT OF FACTS

29. Plaintiff Cirila Baltazar Cruz is an indigenous Mexican immigrant from the state of Oaxaca. She is a member of the indigenous Chatino community and speaks Chatino as her primary language.

30. Ms. Baltazar Cruz has limited Spanish proficiency and virtually no understanding of English. She has completed the equivalent of a first-grade education and is unable to read or write in any language.

31. In November 2008, Ms. Baltazar Cruz was living and working in Pascagoula, Mississippi. She was pregnant and expecting the birth of her child later that month.

32. On the morning of November 16, 2008, Ms. Baltazar Cruz began to experience labor pains while she was at her residence in Pascagoula. As the pain intensified, she left her home

and summoned police assistance in getting to the hospital. Shortly after her arrival at Defendant Singing River, she gave birth to a healthy girl, R.J.M.B.

33. Ms. Baltazar Cruz remained at Singing River during the night of November 16, 2008.

34. At some point during the morning of November 17, 2008, a representative from the Singing River social services department visited Ms. Baltazar Cruz in her hospital room, accompanied by Defendant Abigail Medina, a Spanish-speaking “patient advocate” and an employee or agent of Singing River.

35. The social services department representative and Defendant Medina attempted to speak with Ms. Baltazar Cruz in Spanish and English. No Chatino-speaking individual assisted with interpretation. Ms. Baltazar Cruz did not fully understand what they were communicating to her. Ms. Baltazar Cruz told Defendant Medina that she did not understand what Defendant Medina was saying. Knowing that Ms. Baltazar Cruz’s comprehension was limited, Defendant Medina used hand gestures and repeated her statements to Ms. Baltazar Cruz multiple times.

36. Later in the day on November 17, 2008, Defendant Medina and the other Singing River employee returned to Ms. Baltazar Cruz’s room and questioned her about her living situation. Ms. Baltazar Cruz attempted to explain that she worked at a Chinese restaurant and lived in employer-provided housing. Defendant Medina asked Ms. Baltazar Cruz where she planned to live when she left the hospital. Ms. Baltazar Cruz stated that she would return to the apartment in which she had been living. Defendant Medina told Ms. Baltazar Cruz that she would not be permitted to leave the hospital with her daughter, even though no order of any kind had been entered that authorized R.J.M.B.’s detention at Singing River Hospital.

37. Ms. Baltazar Cruz remained at Singing River Hospital during the night of November 17, 2008.

38. On the morning of November 18, 2008, Defendant Medina and Defendant Jessie Bether, a social worker employed by Singing River, visited Ms. Baltazar Cruz in her hospital room. When Defendants Medina and Bether arrived, Ms. Baltazar Cruz's second cousin, Esteban Mendez, was present in Ms. Baltazar Cruz's hospital room visiting with her.

39. Mr. Mendez, who speaks Spanish fluently, told Defendant Medina that Ms. Baltazar Cruz did not speak or understand Spanish well. Defendants Medina and Bether also heard Ms. Baltazar Cruz and Mr. Mendez speaking Chatino, and not Spanish, with each other. When Mr. Mendez attempted to interpret for Ms. Baltazar Cruz from Chatino into Spanish, Defendant Medina said that she was talking to Ms. Baltazar Cruz, and Mr. Mendez should keep his mouth shut. Upon information and belief, Defendant Bether witnessed this exchange.

40. Defendant Medina told Mr. Mendez to leave the room so that she and Defendant Bether could speak to Ms. Baltazar Cruz. Mr. Mendez offered to stay and assist with Chatino-Spanish interpretation, but eventually he followed Defendant Medina's instructions and stood outside in the hallway.

41. Once Mr. Mendez was outside, Defendants Medina and Bether continued to talk with Ms. Baltazar Cruz without the assistance of any Chatino-speaking individual and despite obvious communication difficulties.

42. Defendant Medina's statements and questions to Ms. Baltazar Cruz and Mr. Mendez in Ms. Baltazar Cruz's room on November 18 reflected understanding and agreements reached with Defendant Bether as to what to say to Ms. Baltazar Cruz and Mr. Mendez. On various occasions, Defendant Bether instructed Defendant Medina to ask certain questions and make particular statements to Ms. Baltazar Cruz and Mr. Mendez.

43. Following this conversation, Defendant Medina—outside the presence of Ms. Baltazar Cruz—told Mr. Mendez that Ms. Baltazar Cruz stated she was trading sex for housing and intended to give R.J.M.B. up for adoption. Mr. Mendez was incredulous and told Defendant Medina that he believed Ms. Baltazar Cruz had not understood what Defendant Medina was saying. Defendant Medina insisted that Ms. Baltazar Cruz had understood her completely.

44. Mr. Mendez then asked Ms. Baltazar Cruz whether she had ever made these statements. Ms. Baltazar Cruz vehemently denied ever having told Defendant Medina that she traded sex for housing or that she wished to give R.J.M.B. up for adoption. Mr. Mendez then told Defendant Medina that Ms. Baltazar Cruz stated that she never made such statements.

45. On the morning of November 18, 2008, Defendants Medina and Bether discussed Ms. Baltazar Cruz and R.J.M.B. and agreed to fill out a Jackson County MDHS “Report of Suspected Abuse and Neglect, otherwise known as a form 440, for the purposes of reporting allegations of child neglect against Ms. Baltazar Cruz. Defendants Medina and Bether jointly filled out and signed the form 440. Defendant Bether then contacted the Jackson County MDHS and faxed the completed and signed form 440 to the agency.

46. In the completed and signed form 440, Defendants Medina and Bether falsely alleged that Ms. Baltazar Cruz was trading sex for housing and that she intended to give up her child for adoption. Defendants stated in the report that Ms. Baltazar Cruz was an “illegal alien.”

47. On or about November 17 or 18, 2008, Defendant Bether contacted the office of the Mississippi Attorney General and spoke to an investigator about Ms. Baltazar Cruz. Defendant Bether reported to the Attorney General’s office that Ms. Baltazar Cruz was not a U.S. citizen.

48. Upon information and belief, on or about November 17 or 18, 2008, Defendant Bether also instructed Singing River social worker Nancy Fagan to report Baltazar Cruz to federal immigration authorities, which Fagan did.

49. Neither federal nor state law required Defendant Bether or anyone else at Singing River to report Baltazar Cruz to the Mississippi Attorney General's office.

50. Neither federal nor state law required Defendant Bether or anyone else at Singing River to report Baltazar Cruz to federal immigration authorities.

51. At around 12:00 p.m. on November 18, 2008, Defendants Bether, Medina and Hayes returned to Ms. Baltazar Cruz's room and reiterated that she could not leave the hospital with her newborn daughter, R.J.M.B. When Defendants Hayes, Medina, and Bether told Ms. Baltazar Cruz that she would not be permitted to take R.J.M.B. with her when she left the hospital, there was not any court order directing that R.J.M.B. be taken into MDHS custody or otherwise authorizing the detention of R.J.M.B. at Singing River.

52. Around this time, Defendants Medina, Hayes, and/or Bether ordered Mr. Mendez to leave the room again. When he declined, Defendants Hayes and/or Bether threatened to call the police. Defendants also requested to see Mr. Mendez's identification, and proceeded to make a copy of it.

53. A notation on R.J.M.B.'s physician orders from November 18, 2008 stated "mother is not to see infant."

54. Defendant Hayes contacted the Jackson County Youth Court in Pascagoula in the afternoon of November 18, 2008 to attempt to obtain a custody order for R.J.M.B.

55. Defendant Hayes went to the Jackson County Youth Court during the afternoon of November 18, 2008 and spoke with Marilyn Montgomery, the Youth Court “Designee.” Ms. Montgomery instructed Defendant Hayes to visit Ms. Baltazar Cruz’s residence.

56. During the afternoon of November 18, 2008, Defendants Bether and Medina, with Medina purportedly interpreting and in the absence of a court order authorizing R.J.M.B.’s detention at Singing River, reiterated to Ms. Baltazar Cruz that R.J.M.B. would remain at the hospital until further notice but that Ms. Baltazar Cruz would be discharged that day. Upon information and belief, Defendant Medina’s statements reflected understandings and agreement reached with Defendant Bether as to what to say to Ms. Baltazar Cruz and Mr. Mendez.

57. Defendants Medina and Bether instructed Ms. Baltazar Cruz and Mr. Mendez to sleep at the Salvation Army shelter in Pascagoula that night. Defendant Medina stated that if Ms. Baltazar Cruz and Mr. Mendez stayed at the Salvation Army, they would be able to see R.J.M.B. the next morning at Singing River. Defendant Medina told Ms. Baltazar Cruz and Mr. Mendez that they needed to hurry to get to the Salvation Army shelter because there was limited space remaining. Upon information and belief, Defendant Medina’s statements reflected understandings and agreement reached with Defendant Bether as to what to say to Ms. Baltazar Cruz and Mr. Mendez.

58. In the late afternoon of November 18, 2008, Defendant Hayes attempted to visit Ms. Baltazar Cruz’s residence but failed to determine the correct address. Neither Defendant Hayes nor any other MDHS employee inspected Ms. Baltazar Cruz’s home on November 18, 2008.

59. Upon information and belief, other than the failed attempt to visit Ms. Baltazar Cruz’s residence, no one from MDHS made any investigation into the allegations made by Defendant Medina on November 18, 2008.

60. During the afternoon of November 18, 2008, Ms. Baltazar Cruz was discharged from Singing River Hospital. Following Defendants Medina's and Bether's instructions, Ms. Baltazar Cruz and Mr. Mendez went to the Salvation Army shelter in Pascagoula in the hope that they would be able to see R.J.M.B. in the morning as Defendant Medina had promised.

61. During the afternoon of November 18, 2008, after Defendants Medina and Bether had told Ms. Baltazar Cruz that R.J.M.B. would not be discharged with her, the Youth Court of Jackson County issued an "Order to Take Child into Custody." The order was signed by Ms. Montgomery in her capacity as "Youth Court Designee" and placed R.J.M.B. in the legal custody of the Jackson County Department of Human Services, a division of MDHS.

62. Also on November 18, 2008, Judge Sharon Sigalas of the Jackson County Youth Court signed an order permitting Singing River Hospital to release R.J.M.B. into the physical custody of Douglas L. Tynes, Jr. and Wendy Tynes. Mr. and Mrs. Tynes, a white couple, are local lawyers who regularly practice in front of Judge Sigalas.

63. At the time that custody of R.J.M.B. was placed with Mr. and Mrs. Tynes, their home was not licensed as a foster care facility, in violation of MISS. CODE ANN. § 43-15-107. Violation of this statute is subject to criminal penalty for illegal placement of children in unlicensed foster homes. MISS. CODE ANN. § 43-15-123.

64. The summary removal of R.J.M.B. from her mother occurred without notice or opportunity for a hearing and was based solely on unfounded and deliberately false allegations willfully or recklessly provided to the Jackson County Youth Court by Defendants Hayes, Medina, and Bether. At no time was Ms. Baltazar Cruz advised of the administrative and court proceedings which removed R.J.M.B. from her legal custody and placed her in the Tynes' unlicensed foster home.

65. During the night of November 18, 2008, Ms. Baltazar Cruz and Mr. Mendez slept at the Salvation Army Shelter in Pascagoula as Defendants Medina and Bether had instructed. Ms. Baltazar Cruz suffered great anguish during the night at the Salvation Army shelter, as she experienced post-partum bleeding, was unable to breastfeed her newborn daughter, and was distraught about her separation from R.J.M.B.

66. During the evening at the Salvation Army shelter, Mr. Mendez called Defendant Medina several times on the cell phone number she had given him, but she did not answer. He left a message asking Defendant Medina to call him back. She never returned the call.

67. On the morning of November 19, 2008, Ms. Baltazar Cruz and Mr. Mendez went to Singing River to seek information about R.J.M.B. When Ms. Baltazar Cruz and Mr. Mendez arrived at Singing River, they were told that R.J.M.B. was no longer there.

68. Unbeknownst to Ms. Baltazar Cruz, Douglas L. Tynes, Jr. and Wendy Tynes had picked up R.J.M.B. from Singing River that morning and taken her to their home.

69. At Singing River, Ms. Baltazar Cruz and Mr. Mendez tried unsuccessfully to obtain information about R.J.M.B.'s whereabouts. They looked for Defendant Medina but were initially unable to find her. Instead, a Singing River employee handed them contact information for Defendant Hayes. Later, they encountered Defendant Medina, who denied knowledge of R.J.M.B.'s whereabouts and told Mr. Mendez to contact Defendant Hayes.

70. None of the Defendants informed Ms. Baltazar Cruz about the court hearing regarding R.J.M.B.'s custody scheduled for the afternoon of November 19, 2008.

71. In their frantic attempts to get information about R.J.M.B.'s whereabouts, Ms. Baltazar Cruz and Mr. Mendez sought assistance from a Spanish and English speaking individual who worked at a clinic where Ms. Baltazar Cruz had received prenatal care. On behalf of Ms.

Baltazar Cruz, a woman who worked at the clinic spoke to Defendant Hayes over the telephone. Defendant Hayes informed the clinic worker that a hearing would take place at the Jackson County Youth Court that afternoon. The clinic worker located Elizabeth Bjork, an individual who spoke both English and Spanish, to accompany Ms. Baltazar Cruz and Mr. Mendez to the hearing.

72. Ms. Baltazar Cruz attended the hearing at the Jackson County Youth Court during the afternoon of November 19, 2008. At the hearing, Ms. Montgomery, who had signed the original custody order on behalf of the court, testified and made recommendations to Judge Sigalas. Specifically, Ms. Montgomery recommended that custody of R.J.M.B. remain with MDHS.

73. During the Youth Court hearing, Ms. Baltazar Cruz was not asked what language she spoke nor offered any assistance with language interpretation. The proceedings took place entirely in English. Ms. Bjork, who spoke Spanish and English, and Mr. Mendez, who spoke Spanish and Chatino, attempted to interpret some of the hearing to Ms. Baltazar Cruz, who understood very little of the proceedings.

74. Also during the hearing, Ms. Bjork, speaking on behalf of Ms. Baltazar Cruz, testified to the court that Ms. Baltazar Cruz denied the charges leveled against her in the MDHS referral.

75. Ms. Bjork also testified that Ms. Baltazar Cruz did not understand significant portions of the conversation with Defendant Medina.

76. At the hearing, Ms. Montgomery acknowledged that Ms. Baltazar Cruz spoke a different “dialect” of Spanish that had led to interpretation problems at Singing River Hospital.

77. Despite Ms. Baltazar Cruz’s denial of the charges that formed the basis for the MDHS referral, and Ms. Montgomery’s acknowledgment that faulty interpretation placed the accuracy of the original accusations in doubt, MDHS and Ms. Montgomery continued to

recommend that R.J.M.B. remain in MDHS custody. The court agreed to continue to withhold custody of R.J.M.B. from Ms. Baltazar Cruz.

78. Through Ms. Bjork, Ms. Baltazar Cruz asked the court if she could see her three-day old child. The court denied her request.

79. Upon instruction from Judge Sigalas, after the hearing at the Jackson County Youth Court, Defendant Hayes, Defendant Mathews, and guardian ad litem Terry Holtz went to Ms. Baltazar Cruz's home to conduct a "home study." Defendant Mathews also directly supervised and reviewed the work of Defendant Hayes during this "investigatory" phase of the case. Several Pascagoula police officers followed Ms. Baltazar Cruz, Mr. Mendez, and the above-listed individuals to Ms. Baltazar Cruz's residence. At least one Pascagoula police detective accompanied them inside the apartment.

80. Defendant Hayes' notes from the visit fail to document any conversation with Ms. Baltazar Cruz and instead contain a cursory physical description of the apartment, noting such details as "[Ms. Baltazar Cruz's] mattress is not completely covered."

81. Defendants Hayes and Mathews encountered a 16-year old Chinese girl who also lived in the apartment where Ms. Baltazar Cruz maintained her residence. The girl and her mother shared a room separate from that of Ms. Baltazar Cruz. Defendant Hayes recorded in her notes of the visit that the girl stated that she and her mother "found the apartments through the owner of the restaurant where she works." This statement was consistent with Ms. Baltazar Cruz's description of her living arrangement.

82. Upon investigation of Ms. Baltazar Cruz's residence, Defendants Hayes and Mathews failed to substantiate any of the allegations that formed the basis of the referral. MDHS nonetheless continued to recommend that R.J.M.B. remain in MDHS custody.

83. On November 25, 2008, Defendant Hayes, another MDHS worker, and a Spanish-speaking Pascagoula police officer returned to Ms. Baltazar Cruz's home. With the assistance of the police officer, Defendant Hayes spoke to Mr. Mendez, who explained that the other residents of the apartment were the girl, her mother, and two men who shared a separate bedroom and also worked at the Chinese restaurant.

84. Defendant Hayes spoke to Ms. Baltazar Cruz with the assistance of the police officer and Mr. Mendez. In her case notes, Defendant Hayes recorded that she spoke to Ms. Baltazar Cruz regarding the food in the apartment and the stomach pains that Ms. Baltazar Cruz was suffering. Defendant Hayes had no other conversation with Ms. Baltazar Cruz.

85. Defendant Hayes also noted that the police officer stated that Ms. Baltazar Cruz spoke a language other than Spanish and that Mr. Mendez assisted Ms. Baltazar Cruz with interpretation. Despite this additional awareness of Ms. Baltazar Cruz's limited Spanish ability, MDHS Defendants did nothing to correct or amend the initial statements to the Youth Court that had resulted in MDHS taking custody of R.J.M.B.

86. Despite being on notice of Ms. Baltazar Cruz's limited ability to communicate in Spanish within days of taking custody of R.J.M.B., no one at MDHS made any effort to locate an interpreter in Ms. Baltazar Cruz's native language during this "investigatory" phase of the case.

87. Upon information and belief, Defendants Hayes and Mathews failed to ask Ms. Baltazar Cruz any questions regarding her plans to care for R.J.M.B.

88. Upon information and belief, despite noting no concerns about the safety of Ms. Baltazar Cruz's living arrangement after these two visits, MDHS Defendants did nothing to attempt to return R.J.M.B. to the custody of her mother.

89. Upon information and belief, Defendants Hayes and Mathews conducted no additional investigation of Ms. Baltazar Cruz's living situation.

90. On December 17, 2008, the Jackson County Youth Court adjudicated R.J.M.B. neglected. The basis for the neglect petition was that Ms. Baltazar Cruz "neglected to provide adequate care and supervision" for her child. No Chatino interpreter assisted Ms. Baltazar Cruz during the court proceedings. The court record reflects that Ms. Baltazar Cruz, via attorney John Foxworth, pleaded no contest to the neglect petition. Because of the language barrier, however, Ms. Baltazar Cruz did not understand the proceedings in which she was embroiled, including the charges against her, what her attorney was pleading to on her behalf, or the consequences of this plea.

91. The petition specifically alleged that Ms. Baltazar Cruz "resides in an apartment which is not leased in her name, which she shares with multiple males to which [sic] she is not related," that her lack of fluency in English "placed her unborn child in danger and will place the baby in danger in the future," that she had not "purchased or obtained any supplies needed to care for said child except a car seat," and that there was "no bed, crib or alternative sleeping arrangement other than a mattress in the mother's room and thier [sic] was no clothing, diapers or formula."

92. Ms. Baltazar Cruz did not purchase formula because she intended to breastfeed R.J.M.B., as was the practice common to her culture.

93. In Chatino culture, mothers co-sleep with their children; thus, Ms. Baltazar Cruz had no need for a crib.

94. Ms. Baltazar Cruz had purchased other supplies for R.J.M.B., including clothing. These items were in the closet of her room when Defendants Hayes and Mathews visited.

Defendants Hayes and Mathews did not inquire as to whether Ms. Baltazar Cruz had purchased any of these items for her child, nor did any of the other individuals present for the visit make these inquiries.

95. Upon information and belief, MDHS made no attempt to contact Ms. Baltazar Cruz during December 2008 to ask her about the allegations and purported factual findings which formed the basis for the removal or the neglect petition. R.J.M.B. continued to live with the Tynes, whose residence remained unlicensed as a foster care home.

96. When MDHS takes custody of a child, it is required to give first priority in placement to the child's relatives before placing her with non-relative foster parents. See Miss. Code Ann. § 43-15-13(7). Upon information and belief, MDHS made no attempt to identify or contact any relatives of R.J.M.B. to determine whether they could care for R.J.M.B.

97. MDHS internal policy requires caseworkers to develop a visitation plan allowing a child in foster care to visit with her parent(s) and for contact between a parent and a child in foster care to occur within the first week after the agency places a child in foster care. See Child and Family Services Review, Statewide Assessment 2010, at 75 (Miss. Department of Human Services, Division of Family and Children's Services), available at http://www.mdhs.state.ms.us/pdfs/fcs_cfspreview.pdf ("MDHS Statewide Assessment").

98. While custody of R.J.M.B. remained with MDHS in December 2008, Ms. Baltazar Cruz was unable to see her daughter, in spite of her efforts to do so. Through her attorney, Ms. Baltazar Cruz renewed her request to see R.J.M.B. during the December 17, 2008 court hearing. Judge Sigalas denied the request, citing a lack of relatives in the area and refusing to allow visitation to take place at the MDHS office. Defendants Hayes and Mathews, who were present

during the hearing, did not offer any additional locations to permit visitation between Ms. Baltazar Cruz and R.J.M.B.

99. Upon information and belief, MDHS made no attempt to contact Ms. Baltazar Cruz during January 2009. R.J.M.B. continued to live with the Tynes, whose residence remained unlicensed as a foster care home.

100. During January 2009, while custody of R.J.M.B. remained with MDHS, Defendants Hayes and Mathews made no effort to allow Ms. Baltazar Cruz to see her child.

101. During a hearing on January 28, 2009, Judge Sigalas and guardian ad litem Terry Holtz recommended that Ms. Baltazar Cruz learn English should she wish to be reunited with R.J.M.B.

102. During the January 28, 2009 hearing, unlicensed foster mother Wendy Tynes expressed her opposition to reunification between Ms. Baltazar Cruz and her daughter, claiming, among other things, that returning 10-week old R.J.M.B. to her mother would cause “developmental” problems because Ms. Baltazar Cruz could not communicate with her daughter in English. Judge Sigalas agreed and reiterated Mr. Holtz’s recommendation that Ms. Baltazar Cruz learn English as part of her “service agreement” with MDHS. Following the hearing, MDHS continued its placement of R.J.M.B. with the Tynes.

103. During February 2009, R.J.M.B. continued to live with the Tynes, whose residence remained unlicensed as a foster care home.

104. On or about February 25, 2009, Ms. Baltazar Cruz saw R.J.M.B. for the first time since MDHS separated them at the hospital over three months earlier, in a visit held at the Youth Court visitation room.

105. Following Ms. Baltazar Cruz's first visit with her daughter, Defendant Hayes handed her an order from Judge Sigalas stating that any photographs taken of R.J.M.B. during the visitation "shall not be disseminated [sic] to anyone by any means."

106. Between November 18, 2008 and on or about May 5, 2009, Ms. Baltazar Cruz saw R.J.M.B. just four times, for approximately one hour each visit. Ms. Baltazar Cruz, through her attorney, had requested twice-weekly visitation, for two hours each visit, in a home setting. But Defendant Hayes notified Ms. Baltazar Cruz's attorney that Judge Sigalas would permit the visits to take place only once a week, for an hour each visit, at the Jackson County Youth Court. Ms. Baltazar Cruz was permitted to visit with her daughter only in a small room at the Jackson County Youth Court or at a nearby building. Ms. Baltazar Cruz was not permitted to conduct these visits without the presence of Douglas L. Tynes, Jr. and Wendy Tynes, who attended each visit between Ms. Baltazar Cruz and her daughter. None of the visits took place in a home or home-like setting.

107. Upon information and belief, MDHS established "termination of parental rights" and "adoption" as a concurrent goal for R.J.M.B.'s case within the first few months of separating R.J.M.B. from her mother.

108. Upon information and belief, when MDHS belatedly licensed the Tynes' residence as a foster home in March 2009, it also formally approved the Tynes as adoptive parents for R.J.M.B.

109. MDHS internal regulations require the case worker assigned to a child's case to develop an Individual Service Plan (ISP), which it describes as a "formal mechanism to assess all needs of children and families, to develop plans to meet the identified needs and to monitor provision of services and success of plans," within 30 days of opening a case. MDHS Statewide

Assessment, at 76-77. MDHS must also conduct a “Family Team Meeting,” which the agency describes as required during “critical decision making points in the case, especially prior to entering custody . . . ,” within 30 days of child entering agency custody. Id. at 80, 146.

110. MDHS Defendants failed to develop an Individual Service Plan or conduct a Family Team Meeting in R.J.M.B.’s case until late April 2009—approximately 5 months after they took R.J.M.B. into custody.

111. On April 24, 2009—over five months after MDHS Defendants had removed R.J.M.B. from Ms. Baltazar Cruz’s custody—they presented for the first time an English language “service agreement” document to Ms. Baltazar Cruz. A service agreement, which is a type of Individual Service Plan, is a written document between MDHS and the parent that seeks to address any identified problems and set goals and timelines for the completion of certain tasks. See MDHS Statewide Assessment, at 138.

112. MDHS Defendants made no attempt to translate the service agreement into Ms. Baltazar Cruz’s native language, Chatino.

113. Upon information and belief, MDHS made no attempt to locate a Chatino interpreter to assist with its interactions with Ms. Baltazar Cruz from November 18, 2008 through at least September 2009.

114. On May 13, 2009, the Jackson County Youth Court held a Permanency Review Hearing. On a court form for this hearing, under “Efforts Made by DHS to Reunify,” Defendant Hayes wrote: “Due to language barrier, DHS has not been able to communicate with Ms. Cruz on a regular basis.”

115. During the May 13, 2009 hearing, Defendant Hayes recommended that Ms. Baltazar Cruz be required to learn English if she were permitted to reunify with her daughter.

116. At the conclusion of the May 13, 2009 hearing, Judge Sigalas ordered MDHS to prepare a package to terminate Ms. Baltazar Cruz's parental rights. Judge Sigalas also ordered visitation between Ms. Baltazar Cruz and her daughter to cease.

117. Ms. Baltazar Cruz's attorney appealed the order from the May 13, 2009 hearing to the Mississippi Supreme Court.

118. Upon information and belief, from November 2008 through at least May 2009, Defendants Hayes and Mathews, Judge Sigalas, the Tynes, and/or guardian ad litem Terry Holtz, engaged in multiple discussions outside the presence and without the knowledge of Ms. Baltazar Cruz and her attorney about, inter alia, the custody proceedings involving Ms. Baltazar Cruz and R.J.M.B., the terms of any visitation permitted for Ms. Baltazar Cruz and her daughter, and Ms. Baltazar Cruz's appeal of the Youth Court's May 13, 2009 order.

119. On or about June 22, 2009, MDHS submitted a termination of parental rights package to the Mississippi Attorney General's Office, setting in motion the formal legal process to sever permanently Ms. Baltazar Cruz's legal rights to her then six-month old daughter, R.J.M.B.

120. Ms. Baltazar Cruz was prohibited from seeing her daughter during the remainder of May, as well as for the entirety of June, July, August, and September of 2009. During this time, R.J.M.B. remained in the legal custody of MDHS and in the physical custody of Douglas L. Tynes, Jr. and Wendy Tynes.

121. In August 2009, the United States Department of Health and Human Services (HHS) Office for Civil Rights (OCR) and the HHS Administration for Children and Families (ACF) began investigations into MDHS' handling of R.J.M.B.'s case. OCR also opened an investigation into Defendant Singing River's actions in the matter.

122. On September 23, 2009, after the commencement of federal investigations into the Baltazar Cruz case, Judge Sigalas recused herself from the case, citing the fact that foster parents Douglas L. Tynes, Jr. and Wendy Tynes “regularly practice law” before her court. The same day, Prosecutor Michael Breland also moved to withdraw from the case, noting that the Tynes were members of the legal community of Jackson County, Mississippi. Mr. Holtz later moved to withdraw as guardian ad litem to R.J.M.B., also citing his acquaintance with the foster parents.

123. Until federal authorities began investigating MDHS’ handling of the R.J.M.B. case, Defendant Hayes remained the primary case worker on the case.

124. Until federal authorities began investigating MDHS for possible civil rights violations as well as violations of federal law governing foster care subsidies, MDHS made no efforts to reunify Ms. Baltazar Cruz and R.J.M.B.

125. On November 19, 2009, Ms. Baltazar Cruz regained physical custody of R.J.M.B.

126. On February 19, 2010, Ms. Baltazar Cruz was granted permanent legal custody of R.J.M.B. and MDHS was ordered to close R.J.M.B.’s case.

127. Due to Defendants Hayes’, Mathews’, Bether’s and Medina’s unconstitutional actions, Ms. Baltazar Cruz lost custody of R.J.M.B. during the first year of her daughter’s life and was only able to see R.J.M.B. four times from November 18, 2008 through October 2009.

128. Defendants Hayes, Mathews, and Medina conspired with one another and Judge Sigalas, guardian ad litem Holtz, and the Tynes to deny Ms. Baltazar Cruz and R.J.M.B. their constitutional rights to family integrity because of Ms. Baltazar Cruz’s race and/or national origin by unlawfully removing R.J.M.B. from her mother’s custody just two days after birth. Defendants’ arbitrary and egregious conduct substantially interfered with Plaintiffs’ constitutionally-protected right to family integrity.

129. As a direct result of Defendants' unconstitutional actions which separated her from her daughter for over a year, Plaintiff Baltazar Cruz suffered tremendous mental anguish and serious physical problems.

130. As a direct result of Defendants' unconstitutional actions which separated her from her mother during the first year of her life, Plaintiff R.J.M.B. suffered substantial damages.

131. Due to state actors' unconstitutional interference into Plaintiffs' family relationship, Ms. Baltazar Cruz and her daughter R.J.M.B. had no opportunity to bond during the formative first year of R.J.M.B.'s life. Plaintiff Baltazar Cruz was deprived of the chance to see her daughter grow her first tooth, learn to crawl, and utter her first words. For the first year of her life, Plaintiff R.J.M.B. was denied the chance to know her real family and their language and culture, to be soothed and fed by her mother, and to recognize her mother's voice and touch. Plaintiff Baltazar Cruz was unable to breastfeed R.J.M.B., to comfort her when she was sick or distressed, to sing her to sleep, and to watch her grow from an infant to a toddler. Because the foster parents who sought to adopt R.J.M.B. called her by a different name, as R.J.M.B. began to gain recognition of and respond to words during the first year of her life, she did not even know her real name. Plaintiff Baltazar Cruz and Plaintiff R.J.M.B. experienced the profound psychological harm of separation as a result of Defendants' unconstitutional actions.

CLAIMS FOR RELIEF

COUNT I

42 U.S.C. § 1983 CLAIMS ARISING FROM VIOLATIONS OF AND CONSPIRACY TO VIOLATE PLAINTIFFS' FOURTEENTH AMENDMENT SUBSTANTIVE DUE PROCESS RIGHTS (DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

132. Plaintiffs re-allege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

133. Plaintiffs assert these claims pursuant to 42 U.S.C. § 1983 against Defendants Hayes, Mathews, Bether, and Medina according to the specific parameters detailed below.

134. Defendants Hayes', Mathews', Bether's, and Medina's actions occurred under color of state law for the purposes of 42 U.S.C. § 1983.

135. Plaintiff Baltazar Cruz has a constitutionally-protected liberty interest in the care, companionship, upbringing and nurture of her child. Plaintiff R.J.M.B. enjoys a parallel liberty interest in being raised and nurtured by her biological mother.

136. Defendants Hayes, Mathews, Bether, and Medina willfully, deliberately, and without justification, violated Plaintiffs' clearly established Fourteenth Amendment substantive due process right to family integrity. Defendants' actions subjected Plaintiffs to egregious, arbitrary, and oppressive governmental interference with their most basic constitutional right to remain together as a family without coercive intrusion by state actors. Defendants' actions in forcibly separating Ms. Baltazar Cruz and R.J.M.B. for over a year shock the conscience.

137. As set forth in the preceding paragraphs, Defendants Hayes, Mathews, Bether, and Medina deprived Plaintiffs of their constitutional right to family integrity by, *inter alia*, separating Ms. Baltazar Cruz and her daughter or causing them to be separated on the basis of obviously unreliable and deliberately false information.

138. Defendants Bether's and Medina's fabricated allegations and willful and reckless misrepresentations to MDHS set in motion a chain of events that they knew or reasonably should have known would lead to the deprivation of Plaintiffs' substantive due process rights to family integrity. Defendants Bether's and Medina's reporting of known falsehoods to MDHS, which initiated unjustified intervention into Plaintiffs' family life, was arbitrary and egregious.

139. Defendants Hayes and Mathews deprived Plaintiffs of their constitutional right to family integrity by failing to conduct any independent investigation of the basis for the Singing River referral to MDHS before they sought a custody order removing R.J.M.B. from her mother's custody.

140. Defendants Hayes and Mathews further deprived Plaintiffs of their constitutional right to family integrity by willfully or recklessly misrepresenting to the Jackson County Youth Court the facts as reported by Defendants Medina and Bether in seeking a custody order. Defendants Hayes' and Mathews' decision not to conduct any independent investigation into Defendants Medina's and Bether's allegations was objectively unreasonable.

141. Defendants Hayes and Mathews continued to deprive Plaintiffs of their substantive due process right to family integrity by failing to take any action to restore custody of R.J.M.B. to her mother despite their awareness that the initial removal of R.J.M.B. from Ms. Baltazar Cruz's custody was based on information known to be false.

142. Rather than taking corrective action to remedy their initial errors in separating newborn R.J.M.B. from her mother, Defendants Hayes and Mathews continued to violate Plaintiffs' substantive due process rights through, *inter alia*, their willful disregard of Ms. Baltazar Cruz's compelling and constitutionally-protected interest in raising her daughter in accordance with her personal and cultural beliefs and practices and in her native language, their

utter refusal to make efforts to reunite mother and child, and their failure to follow applicable MDHS statutes, regulations, and internal policies.

143. Defendants Hayes and Mathews further violated Plaintiffs' substantive due process rights to family integrity by seeking to terminate Plaintiff Baltazar Cruz's parental rights to R.J.M.B. permanently and to ensure that the Tynes could adopt R.J.M.B.

144. Defendants Hayes, Mathews, Bether, and Medina willfully and maliciously conspired with one another and Judge Sharon Sigalas, Douglas L. Tynes, Jr. and Wendy Tynes, and/or guardian ad litem Terry Holtz to deprive Plaintiffs of their Fourteenth Amendment substantive due process rights. Defendants Hayes and Mathews conspired with Judge Sigalas to transfer custody of R.J.M.B. to the Tynes directly upon the child's discharge from Singing River, knowing that the Tynes sought to adopt and intending to facilitate their potential adoption by depriving Plaintiffs of their substantive due process rights. Defendants Hayes, Mathews, Bether, and Medina conspired with one another and Judge Sigalas, the Tynes, and guardian ad litem Holtz to cause and perpetuate the separation of R.J.M.B. from her mother despite their knowledge that the allegations against Plaintiff Baltazar Cruz were false.

145. Defendants Hayes and Mathews, along with Judge Sigalas, the Tynes, and guardian ad litem Terry Holtz conspired to frustrate Plaintiff Baltazar Cruz's attempts to regain custody of her baby daughter and thus to deprive her of her constitutional rights by, inter alia, severely restricting Plaintiff Baltazar Cruz's ability to have any contact with her daughter during the first months of the child's life, refusing to provide access to language interpretation in Ms. Baltazar Cruz's interactions with MDHS or the court, exchanging multiple communications regarding Ms. Baltazar Cruz and her parental rights outside of her presence and without her knowledge, and seeking to terminate Plaintiff Baltazar Cruz's parental rights permanently to free R.J.M.B.

for adoption by the Tynes, a white family. These actions were motivated by an impermissible bias against Ms. Baltazar Cruz due to her status as a Mexican woman of indigenous descent. Defendants furthered the goals of Judge Sigalas and the Tynes to effectuate a forced, permanent transfer of custody of R.J.M.B. from Ms. Baltazar Cruz to the Tynes.

146. Defendants Hayes', Mathews', Bether's, and Medina's actions severely subverted the integrity of Plaintiffs' family relationship and caused Plaintiff R.J.M.B. to be separated from her natural mother from the time she was two days old until after her first birthday, and caused Plaintiff Baltazar Cruz to miss the first year of her daughter's life.

COUNT II

42 U.S.C. § 1983 CLAIMS ARISING FROM VIOLATIONS OF AND CONSPIRACY TO VIOLATE PLAINTIFFS' FOURTEENTH AMENDMENT PROCEDURAL DUE PROCESS RIGHTS
(DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

147. Plaintiffs re-allege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

148. Defendants Hayes, Mathews, Bether, and Medina deprived Plaintiffs of their rights to procedural due process by subjecting Ms. Baltazar Cruz to patently unfair procedures—or by failing to provide any procedural protections whatsoever—before removing R.J.M.B. from her mother's custody.

149. Plaintiffs' constitutionally-protected liberty interest in maintaining their family relationship requires that the state provide fundamentally fair procedures when it seeks to disrupt this relationship by taking custody of a child and placing her in the custody of strangers.

150. By deliberately submitting false information to MDHS and by maliciously and recklessly initiating an unfounded child welfare investigation, Defendants Medina and Bether deprived Plaintiffs of their Fourteenth Amendment procedural due process rights. Defendants

Medina and Bether acted knowingly and maliciously to separate Ms. Baltazar Cruz and her newborn daughter by intentionally and recklessly reporting fabricated allegations to MDHS.

151. Defendants Bether's and Medina's deliberate reporting of known falsehoods to MDHS set in motion a chain of events that they knew or reasonably should have known would lead to the deprivation of Plaintiffs' Fourteenth Amendment procedural due process rights.

152. Defendants Hayes and Mathews deprived Plaintiffs of their Fourteenth Amendment rights to procedural due process by, inter alia, failing to investigate any of the allegations that Defendant Medina leveled against Ms. Baltazar Cruz and by deliberately or recklessly reporting false statements of neglect when seeking an ex parte custody order from the Jackson County Youth Court. Defendants Hayes and Mathews knew that no exigent circumstances existed that would have justified their efforts to initiate court intervention to remove R.J.M.B. from her mother's custody without a pre-deprivation adversarial hearing, yet they maliciously denied Plaintiff Baltazar Cruz her right to be heard to contest the false accusations leveled against her.

153. Defendants Hayes and Mathews further deprived Plaintiffs of their Fourteenth Amendment procedural due process rights by refusing to provide adequate language interpretation during the investigatory stages of the case. Upon information and belief, Defendants Hayes and Mathews also deliberately failed to inform Ms. Baltazar Cruz of the November 19, 2008 hearing, with the intent of causing the hearing to proceed without Ms. Baltazar Cruz's presence.

154. Defendants Hayes and Mathews continued to violate Plaintiffs' procedural due process rights after taking custody of R.J.M.B. by failing to provide adequate language interpretation to communicate with Ms. Baltazar Cruz and by failing almost entirely to communicate with Ms. Baltazar Cruz during a period of approximately ten months after they

took custody of her newborn daughter, thus depriving Ms. Baltazar Cruz of her right to be heard to challenge her continued separation from R.J.M.B.

155. Defendants Hayes, Mathews, Bether, and Medina willfully and maliciously conspired with one another and Judge Sharon Sigalas, Douglas L. Tynes, Jr. and Wendy Tynes, and/or guardian ad litem Terry Holtz to deprive Plaintiffs of their Fourteenth Amendment procedural due process rights when faced with the state-initiated destruction of their family by commencing and pursuing an unfounded child welfare investigation, forcibly separating Plaintiff Baltazar Cruz from her newborn daughter on the basis of fabricated allegations, refusing to investigate the allegations against Plaintiff Baltazar Cruz before removing R.J.M.B. from her custody, and ignoring evidence that the triggering allegations were false and unfounded.

156. Defendants' actions resulted in substantial damage to Plaintiffs' constitutionally-protected family relationship.

COUNT III

42 U.S.C. § 1983 CLAIMS ARISING FROM VIOLATIONS OF AND CONSPIRACY TO VIOLATE PLAINTIFF R.,J.M.B.'s FOURTH AMENDMENT RIGHTS (DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

157. Plaintiffs re-allege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

158. Defendants Hayes, Mathews, Bether, and Medina deprived Plaintiff R.J.M.B. of her clearly-established Fourth Amendment right to be free from unreasonable seizure when they prevented Plaintiff Baltazar Cruz from taking her newborn daughter home from the hospital without having first secured a court order and in the absence of emergency circumstances warranting removal of R.J.M.B. from her mother's custody.

159. Defendants Medina and Bether deprived Plaintiff R.J.M.B. of her Fourth Amendment right to be free from unreasonable seizure by reporting fabricated allegations regarding Ms. Baltazar Cruz to MDHS and by intentionally and recklessly misrepresenting and omitting material facts when they reported “neglect” of two-day old R.J.M.B to MDHS.

160. Defendants Bether’s and Medina’s deliberate reporting of known falsehoods to MDHS set in motion a chain of events that they knew or reasonably should have known would lead to the unconstitutional seizure of Plaintiff R.J.M.B. by the state. Deliberately manipulating Ms. Baltazar Cruz’s lack of familiarity with the U.S. legal system, illiteracy, and lack of English language proficiency, Defendants Bether and Medina maliciously initiated MDHS interference into Plaintiffs’ constitutionally-protected private family life and violated Plaintiff R.J.M.B.’s Fourth Amendment rights.

161. Defendants Hayes and Mathews had no reasonable cause to believe that R.J.M.B. was in imminent danger but nonetheless sought and received a custody order from the Jackson County Youth Court by deliberately or recklessly misrepresenting and omitting pertinent information regarding Ms. Baltazar Cruz’s home life. Defendants Hayes’ and Mathews’ deliberate reporting of falsehoods or reckless disregard for the truth violated Plaintiff R.J.M.B.’s right to be free from unreasonable seizure.

162. Defendants Hayes, Mathews, Bether, and Medina willfully and maliciously conspired to deprive Plaintiff R.J.M.B. of her Fourth Amendment right to be free from unreasonable seizure.

163. The unconstitutional seizure of Plaintiff R.J.M.B. unreasonably interfered with and caused substantial damage to Plaintiffs’ constitutionally-protected family relationship.

COUNT IV

42 U.S.C. § 1983 CLAIMS ARISING FROM VIOLATIONS OF PLAINTIFFS' FOURTEENTH AMENDMENT RIGHT TO EQUAL PROTECTION OF THE LAWS (DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

164. Plaintiffs re-allege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

165. On the basis of Plaintiffs' Latino, Hispanic, and/or indigenous racial background and Ms. Baltazar Cruz's non-American national origin and immigrant status, Defendants Hayes, Mathews, Bether, and Medina deprived Plaintiffs of their clearly-established right to equal protection of the laws. Defendants Hayes, Mathews, Bether, and Medina subjected Plaintiffs to different treatment than that received by similarly situated individuals. The different and inferior treatment, included, *inter alia*, forcibly separating Ms. Baltazar Cruz and her daughter two days after birth for reasons related to Ms. Baltazar Cruz's race, color, national origin, and immigrant status, and Defendants Hayes and Mathews' efforts to terminate Ms. Baltazar Cruz's parental rights permanently and hastily so that R.J.M.B. could be raised with the white American couple with whom she had been placed.

166. Based on animus against and stereotypical perceptions of Ms. Baltazar Cruz based on her race, color, and/or national origin, Defendants Bether and Medina willfully or recklessly initiated MDHS interference into Ms. Baltazar Cruz and R.J.M.B.'s protected family relationship in a discriminatory manner. Defendants Bether and Medina discriminatorily fabricated and reported false allegations against Plaintiff Baltazar Cruz to MDHS with the intent and effect of triggering destructive state interference into Plaintiff Baltazar Cruz's family life. In so doing, Defendant Bether emphasized her belief in Defendant Baltazar Cruz's status as an undocumented Mexican immigrant as a key reason for initiating MDHS intervention and attempted to turn

Baltazar Cruz in to immigration authorities. Defendants Bether and Medina selected their courses of action at least in part for the purpose of causing an adverse effect on Plaintiff Baltazar Cruz because of her status as a Mexican woman of indigenous descent.

167. Defendants Hayes and Mathews deprived Plaintiffs of their right to equal protection of the laws by denying Ms. Baltazar Cruz custody of her daughter for reasons grounded in discriminatory perceptions of her language and cultural practices. Rather than seeking less drastic alternatives to abrupt state custody, Defendants Hayes and Mathews removed R.J.M.B. immediately from her mother's custody and care. Defendants Hayes and Mathews further refused to seek placement of R.J.M.B. with a relative, preferring instead to allow a white couple unrelated to R.J.M.B. to maintain custody of her. Defendants Hayes' and Mathews' actions were motivated by discriminatory animus against Ms. Baltazar Cruz as a Mexican woman of indigenous descent.

168. Defendants Hayes and Mathews further deprived Plaintiffs of their equal protection rights by failing to take any steps or provide services to facilitate reunification that would have been provided to non-Latina and/or non-Mexican mothers.

169. Defendants Hayes and Mathews further deprived Plaintiffs of their equal protection rights by seeking to terminate Ms. Baltazar Cruz's parental rights permanently and make R.J.M.B. available for adoption, actions that would not have been taken against non-Latina and/or non-Mexican mothers in like circumstances.

170. Defendants Hayes' and Mathews' failure to take any action to return R.J.M.B. to the constitutionally-protected custody of her natural mother was grounded in part in their desire to see R.J.M.B. adopted by a white American family, whom they viewed as superior guardians compared to R.J.M.B.'s natural mother. This unequal treatment stemmed from a discriminatory

intent evidenced by, inter alia, Defendants Hayes' and Mathews' insistence that Ms. Baltazar Cruz learn English and forego her constitutionally-protected rights to raise her daughter to speak Chatino and in accordance with her cultural practices.

COUNT V

42 U.S.C. § 1983 CLAIMS ARISING FROM VIOLATIONS OF AND CONSPIRACY TO VIOLATE 42 U.S.C. § 1981 UNDER COLOR OF LAW (DEFENDANTS HAYES AND MATHEWS)

171. Plaintiffs re-allege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

172. As set forth supra, Defendants Hayes and Mathews willfully and maliciously conspired with one another and Judge Sharon Sigalas, Douglas L. Tynes, Jr. and Wendy Tynes, and/or guardian ad litem Terry Holtz to deprive Plaintiff Cirila Baltazar Cruz of her right to attend and to meaningfully participate in the proceedings through which she was separated from R.J.M.B.

173. Defendants Hayes and Mathews were motivated by animus against Plaintiffs based on Plaintiffs' race and/or national origin when they conspired to deprive Plaintiffs of their rights.

174. In conspiring and taking the actions described supra, Defendants Hayes and Mathews acted to deprive Plaintiff Baltazar Cruz of her rights under 42 U.S.C. § 1981 to be a party, to give evidence, and to the full and equal benefit of all laws and proceedings for the security of persons and property as is enjoyed by white citizens.

175. Defendants Hayes and Mathews knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs of their rights.

176. As a direct result of Defendants Hayes and Mathews' actions, Plaintiffs were deprived of their right to a familial relationship for over a year and suffered substantial damages.

COUNT VI

VIOLATIONS OF 42 U.S.C. § 1985(3)
(DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

177. Plaintiffs re-allege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

178. Defendants Hayes, Mathews, Bether, and Medina, in collaboration with one another and Judge Sigalas, Douglas L. Tynes, Jr., and Wendy Tynes, and/or guardian ad litem/ Terry Holtz conspired, agreed, planned, coordinated, and acted for the purpose of depriving Plaintiffs of their equal protection rights including, inter alia, their right to be free from arbitrary, egregious, and oppressive interference with their protected family relationship, their right to be provided with fundamentally fair procedures when faced with the disruption of their family relationships, and Plaintiff R.J.M.B.'s right under the Fourth Amendment to the United States Constitution to be free from unreasonable seizures.

179. Defendants Hayes, Mathews, Bether, and Medina were motivated by animus against Plaintiffs based on Plaintiffs' race and/or national origin when they conspired to deprive Plaintiffs of their rights.

180. Defendants Hayes, Mathews, Bether, and Medina knowingly, willfully, maliciously, intentionally, and without justification acted to deprive Plaintiffs of their rights.

181. As a direct result of Defendants Hayes', Mathews', Bether's and Medina's actions, Plaintiffs were deprived of their right to a familial relationship for over a year and suffered substantial damages.

COUNT VII

VIOLATIONS OF 42 U.S.C. § 2000d et seq.
(DEFENDANTS MISSISSIPPI DEPARTMENT OF HUMAN SERVICES AND SINGING RIVER HOSPITAL)

182. Plaintiffs re-allege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

183. Defendants MDHS and Singing River, at all times relevant to this Complaint, received federal funding in the administration of their activities, services, and programs.

184. As recipients of federal financial assistance, Defendants MDHS and Singing River were at all relevant times bound by the requirements of Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, which prohibits excluding, denying, or subjecting any person to discrimination in activities or programs based on such person's race, color, or national origin.

185. As set forth supra, Defendant MDHS violated Title VI by intentionally excluding Plaintiffs from—and denying and discriminating against Plaintiffs with respect to—MDHS procedures, services, and activities based on Plaintiffs' Latino, Hispanic, and/or indigenous racial background and non-American national origin.

186. MDHS violated Title VI by, inter alia: securing the summary removal of Plaintiff R.J.M.B. from Plaintiff Baltazar Cruz based on animus against non-Americans and indigenous Latinos like Plaintiff; refusing to notify Plaintiff Baltazar Cruz and denying Ms. Baltazar Cruz access to critical hearings and other available processes and procedures which might allow her to regain custody of her daughter; reporting Ms. Baltazar Cruz to immigration authorities in an attempt to separate her from R.J.M.B.; denying Ms. Baltazar Cruz access to interpretation services which would have enabled her to understand and participate in the processes to which

she and her daughter were subjected; denying Ms. Baltazar Cruz access to the visitation and reunification processes and programs afforded to American-born, non-indigenous, and non-Latino parents under MDHS supervision; and moving to terminate Ms. Baltazar Cruz's parental rights based on animus against non-Americans and indigenous Latinos like Plaintiff.

187. As set forth supra, Defendant Singing River violated Title VI by intentionally excluding Plaintiffs from—and denying, and discriminating against Plaintiffs with respect to—Singing River procedures, services, and activities based on Plaintiffs' Latino, Hispanic, and/or indigenous racial background and non-American national origin. Specifically, Singing River violated Title VI by, inter alia: conspiring with MDHS to effectuate the discriminatory removal of R.J.M.B. from Ms. Baltazar Cruz; reporting Ms. Baltazar Cruz to immigration authorities in an attempt to separate her from R.J.M.B.; denying Ms. Baltazar Cruz access to interpretation services which would have enabled her to understand and participate in the processes to which she and her daughter were subjected; and denying Ms. Baltazar Cruz and R.J.M.B. access to services typically provided American-born, non-indigenous, and non-Latino maternity ward patients and infants.

188. As a direct result of Defendants' actions, Plaintiffs were deprived of family relationship for a period of over a year and suffered substantial damages.

COUNT VIII
MALICIOUS PROSECUTION OF PLAINTIFF BALTAZAR CRUZ
(DEFENDANTS MEDINA, HAYES, AND MATHEWS)

189. Plaintiffs re-allege and incorporate by reference all allegations set forth in the preceding paragraphs as if set forth herein.

190. Defendants Medina, Hayes, and Mathews acted maliciously and in the absence of probable cause to commence a Youth Court proceeding involving R.J.M.B. and against Plaintiff Baltazar Cruz.

191. The proceeding terminated with a ruling in Plaintiff Baltazar Cruz's favor, resulting in the custody of R.J.M.B. being returned to Plaintiff Baltazar Cruz.

192. As a result of the maliciously-instituted proceedings, Plaintiffs Baltazar Cruz and R.J.M.B. were separated by the state for over a year and suffered substantial damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that there be judgment rendered herein in favor of Plaintiffs and against Defendants to the fullest extent permitted by law, including:

- a. Reasonable damages to compensate Plaintiffs for the emotional distress suffered as a result of Defendants' unconstitutional activities;
- b. Punitive damages in an amount to be determined at trial;
- c. Appropriate injunctive and declaratory relief;
- d. Court costs, including discretionary costs;
- e. An award of reasonable attorneys' fees;
- f. Such other relief as the Court may deem appropriate.

Respectfully submitted,

/s/ Corrie Cockrell_____

Corrie Cockrell
Southern Poverty Law Center
921 N. President St., Suite B
Jackson, MS 39202
Telephone: (601) 948-8882
Facsimile: (601) 948-8885
corrie.cockrell@splcenter.org

___/s/ Kristi Graunke_____

Kristi L. Graunke
Georgia Bar No. 305653 (*Pro Hac Vice*)
Michelle R. Lapointe
Georgia Bar No. 007080 (*Pro Hac Vice*)
Daniel Werner
Georgia Bar No. 422070 (*Pro Hac Vice*)
Immigrant Justice Project, Southern Poverty Law
233 Peachtree St. NE, Suite 2150
Atlanta, GA 30303
Telephone: (404) 521-6700
Facsimile: (404) 221-5857
michelle.lapointe@splcenter.org
kristi.graunke@splcenter.org
daniel.werner@splcenter.org

Morris Dees
Alabama Bar No. ASB-7003-E50M (*Pro Hac Vice*)
Mary C. Bauer
Alabama Bar No. ASB-1181-R76B (*Pro Hac Vice*)
Southern Poverty Law Center
400 Washington Ave.
Montgomery, AL 36104
Telephone: (334) 856-8200
Facsimile: (334) 956-8481
jbruno@splcenter.org
mary.bauer@splcenter.org

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date electronically filed the foregoing with the Clerk of Court using the CM/ECF system, which will automatically send e-mail notification to the following attorneys for the Defendants:

Harold Edward Pizzetta, III
Wilson D. Minor
Office of the Attorney General
Civil Litigation Division
Post Office Box 220
Jackson, Mississippi 39205
hpizz@ago.state.ms.us
wmino@ago.state.ms.us

Attorneys for Mississippi Department of Human Services, Vicki Hayes, and Ralph Matt Mathews

Roy C. Williams
Kevin Melchi
Wilkinson, Williams, Kinard, Smith & Edwards
Pascagoula Office of Dogan & Wilkinson, PLLC
734 Delmas Avenue
P.O. Box 1618
Pascagoula, MS 39568-1618
rwilliams@doganwilkinson.com

Attorney for Singing River Health System and Abigail Medina

/s/ Kristi L. Graunke

this 21st day of August, 2012.