

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

ELIZABETH MORT and ALEX RODRIGUEZ,

Plaintiffs,

vs.

LAWRENCE COUNTY CHILDREN
AND YOUTH SERVICES; LAWRENCE
COUNTY; CHRISSY MONTAGUE,
Lawrence County Children and Youth
Services Caseworker; and
JAMESON HEALTH SYSTEM, INC.

Defendants.

Civil Action No. 2:10-cv-01438-DSC

JUDGE DAVID S. CERCONE

Electronically Filed

JURY TRIAL DEMANDED

ANSWER TO AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES

AND NOW, come these defendants, Lawrence County Children and Youth Services, Lawrence County, and Chrissy Montague, Lawrence County Children and Youth Services Caseworker, by and through their counsel, JonesPassodelis, PLLC, and file their Answer to the plaintiffs' Amended Complaint and Affirmative Defenses, as follows:

1. Paragraph 1 of the Amended Complaint fails to comply with Rule 8(a)(2) or Rule 10(b) in that it is neither a plain statement of the plaintiffs' claim nor is it limited as far as practicable to a single set of circumstances. Rather, paragraph 1 contains multiple statements neither limited to a single set of circumstances nor, for that matter, statements of fact. Paragraph 1 is instead a statement of the plaintiffs' emotions relative to their claims and because of such does not require a response. To the extent that a response is deemed required to paragraph 1 and paragraph 1 constitutes an allegation of liability against these defendants, the averments set forth therein are denied.

2. Paragraph 2 of the Amended Complaint fails to comply with Rule 8(a)(2) or Rule 10(b) in that it is neither a plain statement of the plaintiffs' claim nor is it limited as far as practicable to a single set of circumstances. Rather, paragraph 2 contains multiple statements neither limited to a single set of circumstances nor, for that matter, statements of fact. Paragraph 2 is instead a statement of the plaintiffs' emotions relative to their claims and because of such, precludes an appropriate response impossible. To the extent that a response is deemed required to paragraph 2 and paragraph 2 constitutes an allegation of liability against these defendants, the averments set forth therein are denied.

3. The averments set forth at paragraph 3 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 3 and paragraph 3 constitutes an allegation of liability against these defendants, the averments set forth therein are denied.

4. The averments set forth at paragraph 4 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 4 and paragraph 4 constitutes an allegation of liability against these defendants, the averments set forth therein are denied.

5. The averments set forth at paragraph 5 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 5 and paragraph 5 constitutes an allegation of liability against these defendants, the averments set forth therein are denied.

PARTIES

6. Upon information and belief, the averments set forth at paragraph 6 of the plaintiffs' Amended Complaint are admitted.

7. Upon information and belief, the averments set forth at paragraph 7 of the plaintiffs' Amended Complaint are admitted.

8. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 8 of the plaintiffs' Amended Complaint.

9. The averments set forth at paragraph 9 of the plaintiffs' Amended Complaint are admitted.

10. The averments set forth at paragraph 10 of the plaintiffs' Amended Complaint are admitted insofar as defendant, Lawrence County Children and Youth Services, is an agency of the defendant, Lawrence County.

11. The averments set forth at paragraph 11 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, and specifically to the extent that paragraph 11 constitutes an allegation that these defendants in any way violated any right of the plaintiffs, the averments set forth therein are denied.

12. The averments set forth at paragraph 12 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, and specifically to the extent that paragraph 12 constitutes an allegation that

Ms. Montague in any way violated any right of the plaintiffs, the averments set forth therein are denied.

13. Upon information and belief, the averments set forth at paragraph 13 of the plaintiffs' Amended Complaint are admitted.

JURISDICTION AND VENUE

14. The averments set forth at paragraph 14 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 14, it is admitted that this Honorable Court has jurisdiction over the plaintiffs' claims brought under relevant federal and constitutional law. It is denied that this Court has supplemental jurisdiction over any state law cause of action in that the defendant denies that any cognizable claims exist under federal law, which would deprive this Court of jurisdiction over any state law claims.

15. The averments set forth at paragraph 15 of the plaintiffs' Amended Complaint are admitted.

16. The averments set forth at paragraph 16 of the plaintiffs' Amended Complaint are admitted.

FACTS

JAMESON'S OBSTETRICAL DRUG TESTING POLICY

17. The averments set forth at paragraph 17 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

18. The averments set forth at paragraph 18 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required.

19. The averments set forth at paragraph 19 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

20. The averments set forth at paragraph 20 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

21. The averments set forth at paragraph 21 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required. By way of further response, after reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 21.

22. The averments set forth at paragraph 22 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required. By way of further response, after reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 22.

23. The averments set forth at paragraph 23 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

24. The averments set forth at paragraph 24 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

25. The averments set forth at paragraph 25 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

26. The averments set forth at paragraph 26 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

27. The averments set forth at paragraph 27 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 27 and the averments set forth therein constitute allegations of liability against these defendants, the averments set forth therein are denied.

28. The averments set forth at paragraph 28 are denied as stated. While it is admitted that Jameson Hospital will, at times, contact LCCYS relative to a positive UDA, to the extent that paragraph 28 constitutes an allegation of liability against these defendants, specifically to the extent that paragraph 28 constitutes an allegation that these defendants in any way violated any right of the plaintiffs, the averments set forth therein are denied.

29. The averments set forth at paragraph 29 of the plaintiffs' Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

30. The averments set forth at paragraph 30 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 30 and paragraph 30 constitutes allegations of liability against these defendants, the averments set forth therein are denied.

THE BIRTH OF BABY RODRIGUEZ

31. The averments set forth in paragraph 31 as to the date of the birth of baby Rodriguez are admitted. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the remaining averments set forth at paragraph 31 of the plaintiffs' Amended Complaint.

32. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments set forth at paragraph 32 of the plaintiffs' Amended Complaint. By way of further response, there is information indicating prenatal care was delayed.

33. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments set forth at paragraph 33 of the plaintiffs' Amended Complaint.

34. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments set forth at paragraph 34 of the plaintiffs' Amended Complaint.

35. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments set forth at paragraph 35 of the plaintiffs' Amended Complaint.

36. Upon information and belief, the averments set forth at paragraph 36 of the plaintiffs' Amended Complaint are admitted.

37. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments set forth at paragraph 37 of the plaintiffs' Amended Complaint.

38. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 38 of the plaintiffs' Amended Complaint.

39. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 39 of the plaintiffs' Amended Complaint.

40. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 40 of the plaintiffs' Amended Complaint.

41. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 41 of the plaintiffs' Amended Complaint.

42. The averments set forth in paragraph 42 as to the performance of a confirmatory test are admitted. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the remaining averments set forth at paragraph 42 of the plaintiffs' Amended Complaint.

43. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 43 of the plaintiffs' Amended Complaint.

44. The averments set forth in paragraph 44 of the plaintiffs' Amended Complaint are denied.

45. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of certain averments contained within paragraph 45. It is admitted, however, that Jameson Hospital informed LCCYS following the birth of her child that the plaintiff had tested positive for opiates.

46. The averments set forth at paragraph 46 of the plaintiffs' Amended Complaint are denied as stated. To the extent that paragraph 46 constitutes an allegation of liability against these defendants, the averments set forth therein are denied.

47. The averments set forth at paragraph 47 of the plaintiffs' Amended Complaint are admitted, as relates to the time the test results were first reported.

48. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 48 of the plaintiffs' Amended Complaint.

49. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 49 of the plaintiffs' Amended Complaint.

50. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 50 of the plaintiffs' Amended Complaint.

51. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 51 of the plaintiffs' Amended Complaint.

52. The averments set forth at paragraph 52 of the plaintiffs' Amended Complaint are denied as stated. Paragraph 52 implies that these defendants were aware of the positive test result of Elizabeth Mort prior to her discharge from the hospital which would have afforded an opportunity to discuss this matter at that time with Ms. Mort, which these defendants deny.

THE REMOVAL OF BABY RODRIGUEZ BY LCCYS

53. Upon information and belief, the averments set forth at paragraph 53 of the plaintiffs' Amended Complaint are admitted.

54. The averments set forth at paragraph 54 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, these defendants admit that an Order from the Court of Common Pleas of Lawrence County was issued permitting these defendants to take the child into emergency protective custody. The characterization of the process for securing said Order is denied.

55. The averments set forth at paragraph 55 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, these defendants admit that an Order from the Court of Common Pleas of Lawrence County was issued permitting these defendants to take the child into emergency protective custody. The characterization of the process for securing said Order is denied.

56. The averments set forth at paragraph 56 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, these defendants admit that an Order from the Court of Common Pleas of Lawrence County was issued permitting these defendants to take the child into emergency protective custody. The characterization of the process for securing said Order is denied.

57. The averments set forth at paragraph 57 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, these defendants admit that an Order from the Court of Common Pleas of

Lawrence County was issued permitting these defendants to take the child into emergency protective custody. The characterization of the process for securing said Order is denied.

58. The averments set forth at paragraph 58 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, these defendants admit that an Order from the Court of Common Pleas of Lawrence County was issued permitting these defendants to take the child into emergency protective custody. The characterization of the process for securing said Order is denied.

59. The averments set forth at paragraph 59 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, these defendants admit that an Order from the Court of Common Pleas of Lawrence County was issued permitting these defendants to take the child into emergency protective custody. To the extent that paragraph 59 implies that CYS had any duty to offer services prior to removal of the child pursuant to the issued Order, the averments set forth therein are denied.

60. The averments set forth at paragraph 60 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, these defendants admit that an Order from the Court of Common Pleas of Lawrence County was issued permitting these defendants to take the child into emergency protective custody. The characterization of the process for securing said Order is denied. Specifically, the Court Order speaks for itself as to the basis for the removal of the child and it is therefore denied that the "allegations of Montague" were the only basis for the Court's decision.

61. The averments set forth at paragraph 61 of the plaintiffs' Amended Complaint are admitted.

62. After reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 62 of the plaintiffs' Complaint.

63. The averments set forth at paragraph 63 of the plaintiffs' Amended Complaint are denied as stated. While these defendants admit that custody of the child was transferred pursuant to a valid court Order, the plaintiffs' characterization of the process is denied.

64. The averments set forth at paragraph 64 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. It is denied that no questioning or review of the conditions in the home occurred.

65. The averments set forth in paragraph 65 of the plaintiffs' Amended Complaint are admitted to the extent they describe a police officer being present and plaintiff Rodriguez gathering the baby for transfer to the police and the Lawrence County Children and Youth Services. Any remaining allegations are denied in that after reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 65 of the plaintiffs' Complaint.

66. The averments set forth at paragraph 66 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. The remaining allegations are denied in that after reasonable investigation, these defendants are without knowledge or information sufficient to form a belief as to the truth of the averments set forth at paragraph 66 of the plaintiffs' Complaint.

67 The averments set forth at paragraph 67 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required, these defendants admit that an Order from the Court of Common Pleas of Lawrence County was secured permitting these defendants to take the child into emergency protective custody. It is admitted plaintiffs were informed the baby would be placed in foster care.

68. The averments set forth at paragraph 68 of the plaintiffs' Amended Complaint are denied as stated. Specifically, these defendants are without knowledge or information as to the mind set of the plaintiffs in terms of their actions. The defendants admit that the plaintiffs complied with the directions of the police officers and caseworkers at the time the child was removed from their custody.

69. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 69 of the plaintiffs' Amended Complaint.

70. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 70 of the plaintiffs' Amended Complaint.

71. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 71 of the plaintiffs' Amended Complaint.

72. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 72 of the plaintiffs' Amended Complaint.

73. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of certain averments of paragraph 73 of the plaintiffs' Amended Complaint. It is admitted that the Lawrence County Children and Youth Services did not contact Dr. Carlson at the time in question.

74. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of certain averments of paragraph 74 of the plaintiffs' Amended Complaint. It is admitted that plaintiff-mother provided a urine sample for testing after the baby was transferred.

75. The averments set forth at paragraph 75 of the plaintiffs' Amended Complaint are denied as stated. To the extent that paragraph 75 constitutes liability against these defendants, the averments set forth therein are denied.

76. Upon information and belief, that averments set forth at paragraph 76 of the Amended Complaint are admitted.

77. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 77 of the plaintiffs' Amended Complaint.

78. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 78 of the plaintiffs' Amended Complaint.

79. The averments set forth at paragraph 79 of the plaintiffs' Amended Complaint are admitted.

80. The averments set forth at paragraph 80 of the plaintiffs' Amended Complaint are denied as stated. To the extent that paragraph 80 constitutes allegations of liability against these defendants, the averments set forth therein are denied.

81. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments set forth at paragraph 81 of the plaintiffs' Amended Complaint.

82. The averments set forth at paragraph 82 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 82 and said paragraph constitutes allegations of liability against these defendants, the averments set forth therein are denied. By way of further response, the hearing on May 3, 2010 was continued.

83. The averments set forth at paragraph 83 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 83 and said paragraph constitutes allegations of liability against these defendants, the averments set forth therein are denied.

84. Upon information and belief, the averments set forth at paragraph 84 of the plaintiffs' Amended Complaint are admitted.

85. The averments set forth at paragraph 85 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is

deemed required to paragraph 85 and said paragraph constitutes allegations of liability against these defendants, the averments set forth therein are denied.

86. The averments set forth at paragraph 86 of the plaintiffs' Amended Complaint are admitted.

87. The averments set forth at paragraph 87 of the plaintiffs' Amended Complaint are admitted.

88. The averments set forth at paragraph 88 of the plaintiffs' Amended Complaint are admitted.

LCCYS' POLICY OF REMOVING NEWBORNS BASED SOLELY
ON THE REPORT OF A POSITIVE PRENATAL DRUG TEST

89. The averments set forth at paragraph 89 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 89 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

90. The averments set forth at paragraph 90 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 90 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

91. The averments set forth at paragraph 91 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 91 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

92. The averments set forth at paragraph 92 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 92 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

93. The averments set forth at paragraph 93 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 93 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

COUNT I

FOURTEENTH AMENDMENT SUBSTANTIVE DUE PROCESS:
PARENTS' RIGHT TO THE CARE AND CUSTODY OF THEIR CHILDREN

(PLAINTIFFS MORT AND RODRIGUEZ v. DEFENDANTS CYS,
LAWRENCE COUNTY AND MONTAGUE)

94. These defendants hereby incorporate by reference their responses to paragraphs 1 through 93 of the plaintiffs' Amended Complaint as if more fully set forth at length herein.

95. The averments set forth at paragraph 95 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 95 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

96. The averments set forth at paragraph 96 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is

deemed required to paragraph 96 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

97. The averments set forth at paragraph 97 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 97 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

98. The averments set forth at paragraph 98 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 98 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

99. The averments set forth at paragraph 99 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 99 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

COUNT II

CONSPIRACY TO VIOLATE PLAINTIFFS' FOURTEENTH AMENDMENT RIGHTS

(PLAINTIFFS MORT AND RODRIGUEZ v.
DEFENDANTS JAMESON, CYS AND LAWRENCE)

100. These defendants hereby incorporate by reference their responses to paragraphs 1 through 99 of the plaintiffs' Amended Complaint as if more fully set forth at length herein.

101. The averments set forth at paragraph 101 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 101 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

102. The averments set forth at paragraph 102 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 102 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

103. The averments set forth at paragraph 103 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 103 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

104. The averments set forth at paragraph 104 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 104 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

105. The averments set forth at paragraph 105 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 105 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

106. The averments set forth at paragraph 106 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is

deemed required to paragraph 106 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

107. The averments set forth at paragraph 107 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 107 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

108. The averments set forth at paragraph 108 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 108 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

109. The averments set forth at paragraph 109 of the plaintiffs' Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 109 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

COUNT III

NEGLIGENCE

(PLAINTIFF MORT v. DEFENDANT JAMESON)

110. – 113. The averments set forth at paragraphs 110 through 113 address a party other than these defendants and, therefore, no response is required.

COUNT IV

FALSE LIGHT INVASION OF PRIVACY

(PLAINTIFF MORT v. DEFENDANT JAMESON)

114. – 119. The averments set forth at paragraphs 114 through 119 appear to address a party other than these defendants and, therefore, no response is required.

WHEREFORE, these defendants, Lawrence County Children and Youth Services, Lawrence County and Chrissy Montague, deny all claims for damages and demand that judgment be entered in their favor and against all other parties.

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

120. The plaintiff has failed to set forth a cause of action upon which relief can be granted.

SECOND AFFIRMATIVE DEFENSE

121. The defendant, Chrissy Montague, is entitled to absolute immunity from any and all of plaintiffs' claims.

THIRD AFFIRMATIVE DEFENSE

122. The defendant, Chrissy Montague, is entitled to qualified immunity for any and all of plaintiffs' claims.

FOURTH AFFIRMATIVE DEFENSE

123. All actions undertaken by these defendants were objectively reasonable.

FIFTH AFFIRMATIVE DEFENSE

124. Lawrence County and Lawrence County CYs are not liable under theories of vicarious liability or respondeat superior, as these are not proper bases for civil rights liability.

SIXTH AFFIRMATIVE DEFENSE

125. Any injury or damage sustained by the plaintiffs was a direct and proximate result of the conduct of others.

SEVENTH AFFIRMATIVE DEFENSE

126. No constitutional rights of the plaintiffs' were violated.

EIGHTH AFFIRMATIVE DEFENSE

127. These defendants plead the Rooker-Feldman doctrine with regard to any claims associated with the Order of Court taking custody of the minor from the plaintiffs.

NINTH AFFIRMATIVE DEFENSE

128. These defendants plead the doctrine of collateral estoppel with respect to any and all matters determined by another Court.

TENTH AFFIRMATIVE DEFENSE

129. These defendants plead the doctrine of res judicata with respect to any and all matters determined by another Court.

ELEVENTH AFFIRMATIVE DEFENSE

130. The actions of these defendants were done pursuant to facially valid Orders of Court and, therefore, these defendants are entitled to quasi-judicial immunity.

TWELFTH AFFIRMATIVE DEFENSE

131. The actions of these defendants were done based on the best interests of the child.

132. The actions of these defendants followed the practice of the Court of Common Pleas of Lawrence County.

THIRTEENTH AFFIRMATIVE DEFENSE

133. Plaintiffs were provided appropriate due process.

FOURTEENTH AFFIRMATIVE DEFENSE

134. These defendants plead any and all applicable affirmative defense as set forth in Federal Rule of Civil Procedure 8(c).

WHEREFORE, these defendants, demand that judgment be entered in their favor and against the plaintiffs.

JonesPassodelis, PLLC

BY: s/Marie Milie Jones
MARIE MILIE JONES, ESQUIRE
PA I.D. No. 49711
E-Mail: mjones@jonespassodelis.com

JEFFREY COHEN, ESQUIRE
PA I.D. No. 76512
E-Mail: jcohen@jonespassodelis.com

Gulf Tower, Suite 3510
707 Grant Street
Pittsburgh, PA 15219
Telephone: (412) 315-7272
Facsimile: (412) 315-7273

Counsel for Defendants,
LAWRENCE COUNTY CHILDREN AND YOUTH
SERVICES, LAWRENCE COUNTY and CHRISSEY
MONTAGUE, Lawrence County Children and
Youth Services Caseworker

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the within pleading has been served upon the following parties either individually or through counsel by:

_____	Hand-Delivery
_____	First-Class Mail, Postage Prepaid
_____	Certified Mail-Return Receipt Requested
_____	Facsimile
_____	Federal Express
<u> X </u>	Electronic Service

at the following address:

Antoinette C. Oliver, Esquire
Patricia L. Dodge, Esquire
Quinn A. Johnson, Esquire
Meyer, Unkovic & Scott LLP
1300 Oliver Building
Pittsburgh, PA 15222
(Counsel for Plaintiffs)

Sara J. Rose, Staff Attorney
ACLU of Pennsylvania
313 Atwood Street
Pittsburgh, PA 15213
(Counsel for Plaintiffs)

John C. Conti, Esquire
Richard J. Kabbert, Esquire
Dickie, McCamey & Chilcote
Two PPG Place, Suite 400
Pittsburgh, PA 15222-5402
(Counsel for Defendant, Jameson Health System)

JonesPassodelis, PLLC

Dated October 10, 2011

s/Marie Milie Jones
MARIE MILIE JONES, ESQUIRE
JEFFREY COHEN, ESQUIRE

Counsel for Defendants,
LAWRENCE COUNTY CHILDREN AND YOUTH
SERVICES, LAWRENCE COUNTY and CHRISSY
MONTAGUE, Lawrence County Children and Youth
Services Caseworker