

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; JANE GAJDA, Lawrence County  
Children and Youth Services Director; SANDY  
COPPER, Lawrence County Children and  
Youth Services Supervisor; 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 SECOND AMENDED COMPLAINT AND AFFIRMATIVE DEFENSES**

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

1. Paragraph 1 of the Second 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 Second 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' Second 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' Second 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' Second 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' Second Amended Complaint are admitted.

7. Upon information and belief, the averments set forth at paragraph 7 of the plaintiffs' Second 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' Second Amended Complaint. By way of further response, upon information and belief it is admitted that the plaintiffs reside with Richard Mort.

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

10. The averments set forth at paragraph 10 of the plaintiffs' Second Amended Complaint are admitted.

11. The averments set forth at paragraph 11 of the plaintiffs' Second 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' Second 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 112 constitutes an allegation that these defendants in any way violated any right of the plaintiffs, the averments set forth therein are denied.

13. The averments set forth at paragraph 13 of the plaintiffs' Second 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 13 constitutes an allegation that these defendants in any way violated any right of the plaintiffs, the averments set forth therein are denied.

14. The averments set forth at paragraph 14 of the plaintiffs' Second 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 14 constitutes an allegation that Ms. Montague in any way violated any right of the plaintiffs, the averments set forth therein are denied.

15. Upon information and belief, the averments set forth at paragraph 15 of the plaintiffs' Second Amended Complaint are admitted.

#### JURISDICTION AND VENUE

16. The averments set forth at paragraph 16 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 16, 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.

17. The averments set forth at paragraph 17 of the plaintiffs' Second Amended Complaint are admitted.

18. The averments set forth at paragraph 18 of the plaintiffs' Second Amended Complaint are admitted.

### FACTS

#### JAMESON'S OBSTETRICAL DRUG TESTING POLICY

19. The averments set forth at paragraph 19 of the plaintiffs' Second 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' Second Amended Complaint constitute conclusions of law to which no response is required.

21. The averments set forth at paragraph 21 of the plaintiffs' Second Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

22. The averments set forth at paragraph 22 of the plaintiffs' Second Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

23. The averments set forth at paragraph 23 of the plaintiffs' Second 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 23.

24. The averments set forth at paragraph 24 of the plaintiffs' Second 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 24.

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

28. The averments set forth at paragraph 28 of the plaintiffs' Second Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

29. The averments set forth at paragraph 29 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a

response is deemed required to paragraph 29 and the averments set forth therein constitute allegations of liability against these defendants, the averments set forth therein are denied.

30. The averments set forth at paragraph 30 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 30 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.

31. The averments set forth at paragraph 31 of the plaintiffs' Second Amended Complaint appear to address a party other than these defendants and, therefore, no response is required.

32. The averments set forth at paragraph 32 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 32 and the averments set forth therein constitute allegations of liability against these defendants, the averments set forth therein are denied.

#### THE BIRTH OF BABY RODRIGUEZ

33. The averments set forth in paragraph 33 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 33 of the plaintiffs' Second 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' Second Amended Complaint. By way of further response, there is information indicating prenatal care was delayed.

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' Second Amended Complaint.

36. 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 36 of the plaintiffs' Second Amended Complaint.

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' Second Amended Complaint.

38. Upon information and belief, the averments set forth at paragraph 38 of the plaintiffs' Second Amended Complaint are admitted.

39. 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 39 of the plaintiffs' Second 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' Second 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' Second Amended Complaint.



42. 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 42 of the plaintiffs' Second 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' Second Amended Complaint.

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

45. 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 45 of the plaintiffs' Second Amended Complaint.

46. The averments set forth in paragraph 46 of the plaintiffs' Second Amended Complaint are denied.

47. 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 47 of the plaintiffs' Second Amended Complaint. It is admitted, however, that Jameson Hospital informed LCCYS following the birth of her child that the plaintiff had tested positive for opiates.

48. The averments set forth at paragraph 48 of the plaintiffs' Second Amended Complaint are denied as stated. While it is admitted that Ms. Copper did not receive the

specific screening or testing levels of the presence of opiate metabolites, to the extent that the allegations of paragraph 48 constitute an averment of any duty to request such information, the allegations are denied.

49. The averments set forth at paragraph 49 of the plaintiffs' Second Amended Complaint are denied as stated. To the extent that paragraph 49 constitutes an allegation of liability against these defendants, the averments set forth therein are denied.

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' Second 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' Second Amended Complaint.

52. 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 52 of the plaintiffs' Second Amended Complaint.

53. 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 53 of the plaintiffs' Second Amended Complaint.

54. The averments set forth at paragraph 54 of the plaintiffs' Second Amended Complaint are denied as stated. Paragraph 54 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

55. Upon information and belief, the averments set forth at paragraph 55 of the plaintiffs' Second Amended Complaint are admitted.

56. The averments set forth at paragraph 56 of the plaintiffs' Second 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' Second 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' Second 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' Second 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.

60. The averments set forth at paragraph 60 of the plaintiffs' Second 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.

61. The averments set forth at paragraph 61 of the plaintiffs' Second 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.

62. The averments set forth at paragraph 62 of the plaintiffs' Second 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 62 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.

63. The averments set forth at paragraph 63 of the plaintiffs' Second 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.

64. The averments set forth at paragraph 64 of the plaintiffs' Second Amended Complaint are admitted.

65. 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' Second 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.

67. The averments set forth at paragraph 67 of the plaintiffs' Second 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.

68. The averments set forth in paragraph 68 of the plaintiffs' Second 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.

69. The averments set forth at paragraph 69 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. The remaining allegations are denied insofar as they constitute averments that the defendants conducted no interview or review of the conditions in the home at the time of the transfer of custody of the child.

70. The averments set forth at paragraph 70 of the plaintiffs' Second 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.

71. The averments set forth at paragraph 71 of the plaintiffs' Second 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.

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' Second Amended Complaint.

73. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 73 of the plaintiffs' Second Amended Complaint.

74. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 74 of the plaintiffs' Second Amended Complaint.

75. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 75 of the plaintiffs' Second Amended Complaint.

76. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of certain averments of paragraph 76 of the plaintiffs' Second Amended Complaint. It is admitted that the Lawrence County Children and Youth Services did not contact Dr. Carlson at the time in question.

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

the plaintiffs' Second Amended Complaint. It is admitted that plaintiff-mother provided a urine sample for testing after the baby was transferred.

78. The averments set forth at paragraph 78 of the plaintiffs' Second Amended Complaint are denied as stated. To the extent that paragraph 78 constitutes liability against these defendants, the averments set forth therein are denied.

79. Upon information and belief, the averments set forth at paragraph 79 of the Second Amended Complaint are admitted.

80. After reasonable investigation, these defendants are without knowledge of information sufficient to form a belief as to the truth of the averments of paragraph 80 of the plaintiffs' Second Amended Complaint.

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

82. The averments set forth at paragraph 82 of the plaintiffs' Second Amended Complaint are admitted.

83. The averments set forth at paragraph 83 of the plaintiffs' Second Amended Complaint are denied as stated. To the extent that paragraph 83 constitutes allegations of liability against these defendants, the averments set forth therein are denied.

84. 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 84 of the plaintiffs' Second Amended Complaint.



85. The averments set forth at paragraph 82 of the plaintiffs' Second 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. By way of further response, the hearing on May 3, 2010 was continued until May 6, 2010.

86. The averments set forth at paragraph 86 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 86 and said paragraph constitutes allegations of liability against these defendants, the averments set forth therein are denied.

87. Upon information and belief, the averments set forth at paragraph 87 of the plaintiffs' Second Amended Complaint are admitted.

88. The averments set forth at paragraph 88 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 88 and said paragraph constitutes allegations of liability against these defendants, the averments set forth therein are denied.

89. The averments set forth at paragraph 89 of the plaintiffs' Second Amended Complaint are admitted.

90. The averments set forth at paragraph 90 of the plaintiffs' Second Amended Complaint are admitted.

91. The averments set forth at paragraph 91 of the plaintiffs' Second Amended Complaint are admitted.

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

92. The averments set forth at paragraph 92 of the plaintiffs' Second 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' Second 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.

94. The averments set forth at paragraph 94 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 94, the averments set forth therein are denied.

95. The averments set forth at paragraph 95 of the plaintiffs' Second 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. 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 96 of the plaintiffs' Second Amended Complaint. 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. 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 97 of the plaintiffs' Second Amended Complaint. 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.

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)

98. These defendants hereby incorporate by reference their responses to paragraphs 1 through 97 of the plaintiffs' Second Amended Complaint as if more fully set forth at length herein.

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

100. The averments set forth at paragraph 100 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 100, the averments set forth therein are denied.

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

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

103. The averments set forth at paragraph 103 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 103, 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)

104. These defendants hereby incorporate by reference their responses to paragraphs 1 through 103 of the plaintiffs' Second Amended Complaint as if more fully set forth at length herein.

105. The averments set forth at paragraph 101 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 105, the averments set forth therein are denied.

106. The averments set forth at paragraph 106 of the plaintiffs' Second 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' Second 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' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 108, the averments set forth therein are denied.

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

110. The averments set forth at paragraph 110 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 110, the averments set forth therein are denied.

111. The averments set forth at paragraph 111 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 111, the averments set forth therein are denied.

112. The averments set forth at paragraph 112 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 112, the averments set forth therein are denied.

113. The averments set forth at paragraph 113 of the plaintiffs' Second Amended Complaint constitute conclusions of law to which no response is required. To the extent that a response is deemed required to paragraph 113 and said paragraph constitutes allegations of liability of these defendants, the averments set forth therein are denied.

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

AFFIRMATIVE DEFENSES

FIRST AFFIRMATIVE DEFENSE

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

SECOND AFFIRMATIVE DEFENSE

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

THIRD AFFIRMATIVE DEFENSE

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

FOURTH AFFIRMATIVE DEFENSE

117. The defendant, Sandy Copper, is entitled to absolute immunity for any and all of plaintiffs' claims.

FIFTH AFFIRMATIVE DEFENSE

118. The defendant, Sandy Copper, is entitled to qualified immunity for any and all of plaintiffs' claims.

SIXTH AFFIRMATIVE DEFENSE

119. The defendant, Jane Gajda, is entitled to absolute immunity for any and all of plaintiffs' claims.

SEVENTH AFFIRMATIVE DEFENSE

120. The defendant, Jane Gajda, is entitled to qualified immunity for any and all of plaintiffs' claims.

EIGHTH AFFIRMATIVE DEFENSE

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

NINTH AFFIRMATIVE DEFENSE

122. Lawrence County, Lawrence County CYS, Jane Gajda, and Sandy Copper are not liable under theories of vicarious liability or respondeat superior, as these are not proper bases for civil rights liability.

TENTH AFFIRMATIVE DEFENSE

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

ELEVENTH AFFIRMATIVE DEFENSE

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

TWELFTH AFFIRMATIVE DEFFENSE

125. 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.

THIRTEENTH AFFIRMATIVE DEFENSE

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

FOURTEENTH AFFIRMATIVE DEFENSE

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

FIFTEENTH AFFIRMATIVE DEFENSE

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

SIXTEENTH AFFIRMATIVE DEFENSE

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

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

SEVENTEENTH AFFIRMATIVE DEFENSE

131. Plaintiffs were provided appropriate due process.

EIGHTEENTH AFFIRMATIVE DEFENSE

133. The plaintiff's claims are barred in whole or in part by the immunity provided by the Pennsylvania Child Protective Services Law at 23 Pa.C.S.A. § 6318.

NINETEENTH AFFIRMATIVE DEFENSE

132. 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

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Lawrence County Children and Youth Services  
Director, SANDY COPPER, Lawrence County  
Children and Youth Services Supervisor, 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
- X   Electronic Service

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JonesPassodelis, PLLC

Dated December 6, 2011

s/Marie Milie Jones  
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Counsel for Defendants,  
LAWRENCE COUNTY CHILDREN AND YOUTH SERVICES,  
LAWRENCE COUNTY, JANE GAJDA, Lawrence County  
Children and Youth Services Director, SANDY COPPER,  
Lawrence County Children and Youth Services  
Supervisor, and CHRISSY MONTAGUE, Lawrence County  
Children and Youth Services Caseworker