

FILED IN THE  
U.S. DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

**Jul 29, 2020**

SEAN F. McAVOY, CLERK

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF WASHINGTON

BARBARA DAVIS, as Personal  
Representative of the Estate of G.B.,  
deceased,

Plaintiff,

v.

JENNIFER STRUS, individually and in  
her official capacity acting under the  
color of state law; HEIDI KAAS,  
individually and in her official capacity  
acting under the color of state law;  
MELISSA KEHMEIER, individually  
and in her official capacity acting under  
the color of state law; JAMES  
DESMOND, individually and in his  
official capacity acting under the color  
of state law; CASSIE ANDERSON,  
individually and in her official capacity  
acting under the color of state law;  
BRINA CARRIGAN, individually and  
in her official capacity acting under the  
color of state law; MAGGIE  
STEWART, individually and in her  
official capacity acting under the color  
of state law; LORI BLAKE,  
individually and in her official capacity  
acting under the color of state law;  
SHANNON SULLIVAN, individually  
and in her official capacity acting under  
the color of state law; SUSAN  
STEINER, individually and in her

No. 2:17-cv-00062-SMJ

**ORDER GRANTING IN PART  
AND DENYING IN PART  
INDIVIDUAL STATE  
DEFENDANTS' MOTION FOR  
SUMMARY JUDGMENT**

1 official capacity acting under the color  
of state law; CAMERON NORTON,  
2 individually and in his official capacity  
acting under the color of state law;  
3 SARAH OASE, individually and in her  
official capacity acting under the color  
4 of state law; RANA PULLOM,  
individually and in her official capacity  
5 acting under the color of state law;  
DONALD WILLIAMS, individually  
6 and in his official capacity acting under  
the color of state law; CHRIS MEJIA,  
7 individually and in his official capacity  
acting under the color of state law;  
8 RIVERSIDE SCHOOL DISTRICT NO.  
416, a Municipal Corporation duly  
9 organized and existing under the laws  
of Washington State; JUANITA  
10 MURRAY, individually and in her  
official capacity acting under the color  
11 of state law; ROBERTA KRAMER,  
individually and in her official capacity  
12 acting under the color of state law;  
SARAH RAMSDEN, individually and  
13 in her official capacity acting under the  
color of state law; CAROLINE  
14 RAYMOND, individually and in her  
official capacity acting under the color  
15 of state law; CHERI MCQUESTEN,  
individually and in her official capacity  
16 acting under the color of state law;  
SARAH RAMSEY, individually and in  
17 her official capacity acting under the  
color of state law; TAMI BOONE,  
18 individually and in her official capacity  
acting under the color of state law;  
19 MELISSA REED, individually and in  
her official capacity acting under the  
20 color of state law; ANN STOPAR,  
individually and in her official capacity

1 acting under the color of state law;  
KRISTINA GRIFFITH, individually  
2 and in her official capacity acting under  
the color of state law; WENDY  
3 SUPANCHICK, individually and in her  
official capacity acting under the color  
4 of state law; SHERRY DORNQUAST,  
individually and in her official capacity  
5 acting under the color of state law;  
GARY VANDERHOLM, individually  
6 and in his official capacity acting under  
the color of state law; ROGER PRATT,  
7 individually and in his official capacity  
acting under the color of state law;  
8 CHRIS NIEUWENHUIS, individually  
and in his official capacity acting under  
9 the color of state law; and JOHN DOES  
1–50, individually and in their official  
10 capacities acting under the color of state  
law,

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12  
Defendants.

13 Before the Court, without oral argument, is the Individual State Defendants'<sup>1</sup>  
14 Motion for Summary Judgment, ECF No. 359. The Individual State Defendants  
15 seek summary judgment on Plaintiff's negligence claims related to the death of  
16 Plaintiff's grandchild, G.B. *Id.* Plaintiff opposes the motion as to Defendants Sarah  
17 Oase and James Desmond, two of the fourteen Individual State Defendants. ECF

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<sup>1</sup> The Individual State Defendants include Cassie Anderson, Lori Blake, Brina Carrigan, James Desmond, Melissa Kehmeier, Chris Mejia, Cameron Norton, Sarah Oase, Rana Pullom, Susan Steiner, Maggie Stewart, Jennifer Strus, Shannon Sullivan, and Donald Williams. ECF No. 359 at 1 n.1.

1 No. 376 at 2. Having reviewed the motion and the file in this matter, the Court is  
2 fully informed. For the reasons that follow, the Court grants in part and denies in  
3 part the motion.

#### 4 **BACKGROUND<sup>2</sup>**

5 This case arises out of the tragic death of G.B., a minor child, in April 2015  
6 while in the custody of his aunt. *See* ECF No. 1 at 13–14. Following the death of his  
7 parents, G.B. and his siblings became dependents of the State of Washington. *Id.*  
8 at 12–13. In early September 2014, G.B. and his younger brother were placed in  
9 the care of their paternal aunt, Cynthia Khaleel, who lived in Chattaroy, Washington.  
10 ECF No. 218-4 at 10, 24–35.

11 During the 2014–15 school year, staff and teachers at the elementary school  
12 G.B. was attending observed numerous signs that G.B. may have been suffering  
13 abuse and neglect, and on December 12, 2014, school counselor Tiffany Zuck  
14 submitted a report to the Washington Department of Social and Human Services  
15 (“DSHS”) indicating that she believed G.B. and his siblings were being abused at  
16 home. ECF No. 135-9 at 4. DSHS social worker Brina Carrigan investigated the

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19 <sup>2</sup> The detailed factual background of G.B.’s death has been set forth in multiple prior  
20 orders, see ECF Nos. 221, 281 & 368, and the Court finds it unnecessary to repeat  
that general background in full here. Because the contested issues pertain primarily  
to the actions of Sarah Oase and James Desmond, the Court focuses on Oase and  
Desmond’s involvement with G.B.’s placement.

1 referral and ultimately closed it as unfounded. ECF No. 218-2 at 3–4; ECF  
2 No. 218-4 at 3–4.

3 Heidi Kaas was G.B.’s primary social worker in 2014 and was involved in  
4 G.B. and his younger brother’s placement. ECF No. 218-10 at 4. Sarah Oase served  
5 as Kaas’s direct supervisor until August 30, 2014. ECF No. 382 at 2. Jeremy  
6 Kirkland served as Kaas’s supervisor from September through December 2014. ECF  
7 No. 218-3 at 4, 22–23. In an October 2014 review of Kaas’s work, Kirkland raised  
8 concerns about the accuracy of Kaas’s reporting because the times she noted for  
9 some health and safety visits were not possible given distances between the locations  
10 of those visits. *Id.* at 28. Kaas stated that these must have been errors, and Kirkland  
11 accepted this explanation. *Id.* at 29. In a November 2014 meeting with Kaas,  
12 Kirkland noticed that Kaas had documented seeing G.B. in Chattaroy on the same  
13 day she documented seeing another child in Port Angeles. *Id.* at 4–5, 26–27, 33–34.  
14 Confronted with this inconsistency, Kaas admitted falsifying these records. *Id.* at 5,  
15 34. Kirkland notified his supervisors of Kaas’s admission, and they opened an  
16 investigation. *Id.* at 5, 34–35.

17 Susan Steiner replaced Kaas as G.B.’s primary social worker in  
18 December 2014. ECF No. 218-12 at 3. Because no home study had been conducted  
19 on Khaleel’s home, she also requested that the Spokane office of DSHS conduct a  
20 home study. *Id.* at 4. Social worker James Desmond conducted a home study of

1 Khaleel's home in late January 2015. ECF No. 218-5 at 3. During this visit, he  
2 observed G.B., G.B.'s brother, and Khaleel's other children, and he watched Khaleel  
3 interact with them. *Id.* at 4. Desmond stated G.B. seemed to be happy and healthy.  
4 *Id.* He also spoke by phone to Khaleel's husband, who was in the military and  
5 stationed in Kansas. *Id.* at 4. Desmond did have several concerns, which he reported  
6 to Steiner, including that Khaleel reported a good childhood despite six CPS referrals  
7 about her as a child; a 2008 referral against the Khaleels alleging that their two-year-  
8 old child was found alone outside the home; the stability of the Khaleel marriage;  
9 Khaleel's hesitancy to discuss issues concerning the paternity of her youngest son;  
10 and whether a background check had been completed on Khaleel's parents, whom  
11 she said helped her care for the children. *Id.* at 5–6.

12 Desmond and his supervisor, Nancy Sundin, went to Khaleel's home in  
13 March 2015. ECF No. 218-5 at 5. During this visit, the children were asleep, and  
14 Desmond discussed his draft report with Khaleel and gave her background check  
15 forms for her parents to complete. *Id.* Desmond returned again to the Khaleel home  
16 to meet with Mr. and Ms. Khaleel on April 9, 2015. *Id.* He observed that the home  
17 was in good condition with no visible safety concerns. *Id.* At this time Khaleel had  
18 not completed the required forms and Desmond advised her that if she failed to do  
19 so by the end of April, he would consider closing the home study without approval.  
20 *Id.*

1 On April 17, 2015, emergency medical providers arrived at the Khaleel  
2 residence and discovered G.B. in an unresponsive state. ECF No. 1 at 13. He was  
3 taken to Sacred Heart Medical Center, where medical staff discovered multiple skull  
4 fractures and traumatic brain injuries. *Id.* G.B. died from these injuries the following  
5 day. *Id.* at 14. The Spokane County Medical examiner determined that G.B.’s cause  
6 of death was a blunt force head injury and ruled the death a homicide. *Id.* G.B. also  
7 sustained multiple other traumas, including an abdominal injury that was the result  
8 of a forceful blow. *Id.* Khaleel was arrested in July 2015 and charged with second-  
9 degree murder. *Id.* Desmond completed his home study after G.B.’s death,  
10 recommending the home not be approved for placement of any children by DSHS.  
11 ECF No. 218-5 at 6.

12 On September 14, 2016, G.B.’s grandmother, on behalf of G.B.’s Estate and  
13 the Estate’s statutory beneficiaries, brought this action against the Washington State  
14 Department of Social and Health Services (“DSHS”) and the Riverside School  
15 District, along with numerous employees of those entities. ECF No. 1. The  
16 procedural history of this case, including ten prior motions for complete or partial  
17 summary judgment, is substantial. *See* ECF Nos. 105, 144, 151, 157, 218, 226, 236,  
18 239, 347, 359 & 361. The Individual State Defendants filed this motion solely as to  
19 Plaintiff’s negligence claims. ECF No. 359.

1 **LEGAL STANDARD**

2 The Court must grant summary judgment if “the movant shows that there is  
3 no genuine dispute as to any material fact and the movant is entitled to judgment as  
4 a matter of law.” Fed. R. Civ. P. 56(a). A fact is “material” if it “might affect the  
5 outcome of the suit under the governing law.” *Anderson v. Liberty Lobby, Inc.*, 477  
6 U.S. 242, 248 (1986). A dispute about a material fact is “genuine” if “the evidence  
7 is such that a reasonable jury could return a verdict for the nonmoving party.” *Id.*

8 In ruling on a summary judgment motion, the Court must view the evidence  
9 in the light most favorable to the nonmoving party. *See Tolan v. Cotton*, 572  
10 U.S. 650, 657 (2014) (quoting *Adickes v. S.H. Kress & Co.*, 398 U.S. 144, 157  
11 (1970)). Thus, the Court must accept the nonmoving party’s evidence as true and  
12 draw all reasonable inferences in its favor. *See Anderson*, 477 U.S. at 255. The  
13 Court may not assess credibility or weigh evidence. *See id.* Nevertheless, the  
14 nonmoving party may not rest upon the mere allegations or denials of its pleading  
15 but must instead set forth specific facts, and point to substantial probative evidence,  
16 tending to support its case and showing a genuine issue requires resolution by the  
17 finder of fact. *See Anderson*, 477 U.S. at 248–49.

18 **DISCUSSION**

19 **A. Objections to Reply**

20 After the Individual State Defendants filed their reply, Plaintiff filed an



1 objection, asking the Court to strike pages four through six of the reply. ECF  
2 No. 383. Specifically, Plaintiff alleged the Individual State Defendants' arguments  
3 that Oase and Desmond did not owe G.B. a duty of care were raised for the first  
4 time in their reply. *Id.* at 1. The Individual State Defendants responded to the  
5 objection, asserting they had raised the arguments in the original motion and that,  
6 even if the original summary judgment motion did not raise the issue of duty,  
7 Plaintiff's responsive pleadings expressly claim that Oase and Desmond owed G.B.  
8 a legal duty, and so the Individual State Defendants were entitled to respond to that  
9 argument. ECF No. 385 at 1–2.

10       The Individual State Defendants briefed the legal standards applicable to the  
11 duty, breach, and causation elements of negligence in their motion for summary  
12 judgment. ECF No. 359 at 4–7. However, in each of the fourteen sections devoted  
13 to individual Defendants, the Individual State Defendants used general language  
14 regarding Plaintiff's failure to meet her burden. *See id.* at 7–15. For example, as to  
15 Oase, the motion states Plaintiff cannot “present sufficient competent evidence that  
16 (1) Oase personally committed a negligent act or omission with regard to the  
17 investigation of allegations of abuse or neglect, or G.B.'s placement with Kahleel,  
18 and (2) that any alleged negligent act or omission by Oase was a proximate cause  
19 of the injuries being claimed by the Estate.” *Id.* at 12–13. Similarly, for Desmond,  
20 the motion states Plaintiff cannot “present sufficient competent evidence that (1)

1 Desmond personally committed a negligent act or omission with regard to the  
2 investigation of allegations of abuse or neglect, or G.B.’s placement with Kahleel,  
3 and (2) that any alleged negligent act or omission by Desmond was a proximate  
4 cause of the injuries being claimed by the Estate.” *Id.* at 15.

5 Although the Individual State Defendants’ motion is not perfectly clear as to  
6 whether they were challenging both the existence of a duty and the breach of that  
7 duty, the Court understands “committed a negligent act or omission” to mean both  
8 the duty and breach. As such, the Court denies Plaintiff’s objection regarding  
9 whether Oase and Desmond owed G.B. a duty of care. Given Plaintiff’s  
10 misunderstanding of the motion, the Court would ordinarily permit supplemental  
11 briefing on the issue of duty. However, because the Court finds Defendants have  
12 failed to show that there no genuine issue of material fact exists as to each of the  
13 elements of Plaintiff’s negligence claims, summary judgment is not appropriate and  
14 no further briefing is necessary.

15 **B. Mejia, Norton, Strus, Sullivan, Williams, Anderson, Blake, Kehmeier,**  
16 **Pullom, Stewart, Carrigan, and Steiner**

17 Plaintiff has not responded to the motion for summary judgment as to  
18 Defendants Mejia, Norton, Strus, Sullivan, Williams, Anderson, Blake, Kehmeier,  
19 Pullom, Stewart, Carrigan, and Steiner. *See* ECF No. 376. Nor has Plaintiff  
20 identified any facts that would support Plaintiff’s claim of negligence against these

1 Defendants.<sup>3</sup> See ECF No. 375. As such, summary judgment is granted as to the  
2 negligence claims against Defendants Mejia, Norton, Strus, Sullivan, Williams,  
3 Anderson, Blake, Kehmeier, Pullom, Stewart, Carrigan, and Steiner.

#### 4 **C. Negligence claims against Sarah Oase and James Desmond**

5 The Individual State Defendants assert Plaintiff “cannot establish that  
6 Defendant Sarah Oase breached a duty owed” and that “[t]here is a complete lack  
7 of evidence to support claims of negligence against James Desmond.” ECF No. 359  
8 at 12, 14. Plaintiff argues that issues of material fact preclude summary judgment  
9 as to these Defendants. ECF No. 376 at 2.

10 The elements of a negligence claim are duty, breach, causation, and damages.  
11 *Hansen v. Friend*, 824 P.2d 483, 485 (Wash. 1992). Under Washington common  
12 law, DSHS is subject to both a common law and statutory duty of care. See *M.W. v.*  
13 *Dep’t of Soc. & Health Servs.*, 70 P.3d 954, 959–60 (Wash. 2003). “DSHS owes a  
14 duty of reasonable care to protect foster children from abuse at the hands of their  
15 foster parents.” *H.B.H. v. State*, 429 P.3d 484, 487 (Wash. 2018).

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17 <sup>3</sup> Plaintiff notes that she does not dispute or has no knowledge of certain facts related  
18 to Carrigan, Anderson, and Stewart and raises hearsay and foundation objections to  
19 fact in the Individual State Defendants’ Statement of Material Facts Not In Dispute  
20 related to Carrigan. ECF No. 375 at 18, 21–23. Plaintiff also mentions that Carrigan  
found reports in a database Oase was able to access and that Steiner as the recipient  
of certain emails from Defendant Desmond. *Id.* at 10, 12, 13. However, none of  
these facts support a finding that Carrigan, Anderson, Stewart, or Steiner acted  
negligently.

1 Washington courts also recognize that the obligation to investigate under  
2 Revised Code of Washington § 26.44.050 “implies a cause of action for children  
3 and parents for negligent investigation in certain circumstances.” *M.W.*, 70 P.3d  
4 at 957 (quoting *Tyner v. Dep’t of Soc. & Health Servs.*, 1 P.3d 1148, 1154–55  
5 (Wash. 2000)). This implied duty requires DSHS to act reasonably when  
6 investigating reports of child abuse or neglect. *Tyner*, 1 P.3d at 1155. The duty is  
7 triggered when DSHS receives a report of previous or existing abuse or neglect, but  
8 not on receipt of allegations of potential future neglect. *Wrigley v. State*, 455  
9 P.3d 1138, 1144 (Wash. 2020).

10 Thus, a child, parent, or guardian may assert a claim for negligent  
11 investigation where “DSHS has gathered incomplete or biased information that  
12 results in a harmful placement decision, such as removing a child from a nonabusive  
13 home, placing a child in an abusive home, or letting a child remain in an abusive  
14 home.” *M.W.*, 70 P.3d at 960.

15 There are two elements of proximate cause: cause in fact and legal causation.  
16 *Tyner*, 1 P.3d at 1155–56. Cause in fact exists when “but for” the defendant’s  
17 actions, the Plaintiff would not have been injured. *Id.* at 1156. This is typically a  
18 factual question presented to a jury, but it may be resolved as a matter law where a  
19 reasonable jury could reach only one conclusion. *H.B.H.*, 387 P.3d 1093, (Wash.  
20 Ct. App. 2016) *aff’d* 429 P.3d 484, 487 (Wash. 2018). “Mere speculation or

1 argumentative assertion of possible counterfactual events is insufficient to prove  
2 that but for the defendant’s breach of duty, the plaintiff would not have been  
3 injured.” *Id.*

4 The Individual State Defendants assert Plaintiff cannot “present sufficient  
5 competent evidence that (1) Oase personally committed a negligent act or omission  
6 with regard to the investigation of allegations of abuse or neglect, or G.B.’s  
7 placement with Kahleel, and (2) that any alleged negligent act or omission by Oase  
8 was a proximate cause of the injuries being claimed by the Estate.” ECF No. 359  
9 at 12–13. As to Desmond, the Individual State Defendants assert Plaintiff cannot  
10 “present sufficient competent evidence that (1) Desmond personally committed a  
11 negligent act or omission with regard to the investigation of allegations of abuse or  
12 neglect, or G.B.’s placement with Kahleel, and (2) that any alleged negligent act or  
13 omission by Desmond was a proximate cause of the injuries being claimed by the  
14 Estate.” ECF No. 359 at 15.

#### 15 **1. Duty of Care**

16 As to whether Oase or Desmond owed G.B. a duty of care, the Individual  
17 State Defendants presented no particularized argument asserting that no duty of care  
18 arose under statutory or common law. *See* ECF No. 359 at 12–13, 14–15. In their  
19 reply, the Individual State Defendants argue Plaintiff has failed to “bring forth  
20 sufficient, competent evidence to establish either Ms. Oase or Mr. Desmond

1 individually became legal custodians of G.B. or personally assumed the  
2 responsibility to ensure his safety.” ECF No. 379 at 5. However, the Individual State  
3 Defendants have not briefed the legal issue of whether individual employees must  
4 take specific steps to become legal custodians in order to trigger their duties under  
5 statutory or common law.<sup>4</sup> The Court declines to make such a legal determination  
6 where the issue has not properly been presented to the Court.

7 It is uncontested that Oase served as a social worker supervisor and directly  
8 supervised Heidi Kaas between 2012 and August 30, 2014. ECF No. 382 at 2. It is  
9 also undisputed that Desmond was a social worker and was assigned to complete a  
10 home study of Khaleel’s home in January 2015. *Id.* The Individual State Defendants  
11 also do not contest that “the State of Washington, through DSHS, owes a duty to  
12 dependent foster children.” ECF No. 379 at 6. The Individual Defendants cite  
13 evidence supporting their statement that Oase had no direct involvement in G.B.’s  
14 dependency or the decision to place him in Khaleel’s home. ECF No. 360 at 6.

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16 <sup>4</sup> The Individual State Defendants cite *H.B.H. v. State*, 429 P.3d 484, 496  
17 (Wash. 2018), and *C.L. v. State Dep’t of Soc. & Health Servs.*, 402 P.3d 346, 350  
18 (Wash. 2017), to support the proposition that “[w]hile the State of Washington,  
19 through DSHS, may owe dependent foster children a duty in tort neither decision  
20 supports the imposition of either duty on an individual DSHS employee that has not  
individually assumed the legal custody or the responsibility for the safety of a  
dependent child.” ECF No. 379 at 5. However, these cases indicate that the special  
relationship between DSHS and dependent children as the basis for a duty in tort,  
neither case directly addresses the issue of when such a duty arises for individual  
DSHS employees. *See H.B.H.*, 429 P.3d at 496; *C.L.*, 402 P.3d at 350.

1 However, Plaintiff cites evidence showing that Oase endorsed G.B.’s placement in  
2 the Khaleel home without a home study. ECF No. 375 at 20. Thus, the Individual  
3 State Defendants have failed to show there is no dispute over material fact as to  
4 whether Defendants Oase and Desmond owed G.B. a duty of care.

5 **2. Breach of Duty and Causation**

6 As to Oase, the Individual State Defendants assert that “Oase served as a  
7 social worker supervisor for the Department and was assigned to supervise social  
8 worker Heidi Kaas starting in 2012, but ending in August 2014” and that “Oase  
9 conducted her supervisory reviews with Kaas and had no reason to question Kaas’s  
10 representations and documentation of the services being provided by Kaas.” ECF  
11 No. 359 at 12. As to Desmond, the Individual State Defendants assert that  
12 “Desmond served as a social worker and was assigned to conduct a home study of  
13 Kahleel’s home in January 2015” and that “he immediately started the home study,  
14 gathered relevant information, raised concerns as they arose, and participated in  
15 staffings regarding the on-going home study until the time of G.B.’s death.” ECF  
16 No. 359 at 14.

17 However, Plaintiff’s claim against Oase is grounded in Oase’s failure to  
18 ensure a home study was conducted *before* G.B. was placed in the Khaleel home,  
19 her failure to inform the Spokane DSHS office that G.B. was being placed in the  
20 Spokane DSHS’s geographic area, her failure to request courtesy supervision, and

1 that there was no basis to place G.B. with Khaleel as an urgent placement. ECF  
2 No. 376 at 3–4. Plaintiff has identified evidence that Oase, as Kaas’s supervisor,  
3 was responsible for arranging for a social worker to conduct a home visit and did  
4 not do so and that Oase failed to contact the Spokane office of DSHS as required to  
5 notify them of G.B.’s placement in their area or establish courtesy supervision. ECF  
6 No. 375 at 3, 6–7, 11, 20.

7 Similarly, Plaintiff’s claims against Desmond are grounded in his alleged  
8 failure to complete the home study on an expedited basis despite the fact that he  
9 knew of concerns about G.B.’s welfare and the fact that a home study should have  
10 been completed prior to his assignment to the case. ECF No. 376 at 4. Plaintiff has  
11 identified evidence that, even with an urgent placement, DSHS policy required a  
12 home study to have been completed within 120 days of G.B.’s placement. ECF  
13 No. 240-25 at 19. The parties do not dispute that Desmond was assigned to  
14 complete the home study in January 2015. ECF No. 382 at 2. Because G.B. was  
15 legally placed with Khaleel on September 3, 2014, Desmond’s assignment was  
16 necessarily at least 120 days after G.B.’s placement. *See* ECF No. 241 at 14.

17 Plaintiff has also shown evidence that the Khaleel home study was not likely  
18 to be approved, even excepting her failure to submit required paperwork. ECF  
19 No. 240-15 at 4; ECF No. 240-12 at 7–9. Thus, there are material facts in dispute  
20 as to whether the failure to conduct an earlier home study, or to expedite the home



1 study that was conducted, caused G.B. to be in the Khaleel home at the time he was  
2 allegedly killed. The Individual State Defendants accordingly have failed to show  
3 there is no dispute of material fact as to whether Defendants Oase and Desmond  
4 breached a duty of care owed to G.B. and whether that breach caused his death.

5 **CONCLUSION**

6 The Individual State Defendants have failed to show there is no dispute of  
7 material fact as to any of the elements of Plaintiff's negligence claims against  
8 Defendants Oase and Desmond. As such, summary judgment is not appropriate, and  
9 the motion is denied as to these Defendants. Because Plaintiff has not cited any facts  
10 that would support Plaintiff's claim of negligence against the remaining Individual  
11 State Defendants, the motion is granted as to these Defendants.

12 Accordingly, **IT IS HEREBY ORDERED:**

13 **1.** The Individual State Defendants' Motion for and Memorandum in  
14 Support of Summary Judgment, **ECF No. 359**, is **GRANTED IN**  
15 **PART** and **DENIED IN PART** as follows:


16 **A.** Plaintiff's claims for negligence against Defendants Mejia,  
17 Norton, Strus, Sullivan, Williams, Anderson, Blake, Kehmeier,  
18 Pullom, Stewart, Carrigan, and Steiner are **DISMISSED WITH**  
19 **PREJUDICE.**

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1           **B.**     The motion is denied as to Plaintiff’ claims for negligence  
2   against Defendants Oase and Desmond.

3           **IT IS SO ORDERED.** The Clerk’s Office is directed to enter this Order and  
4 provide copies to counsel for all parties.

5           **DATED** this 29th day of July 2020.

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7   \_\_\_\_\_  
   SALVADOR MENDEZ A, JR.  
   United States District Judge

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