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Attorney for Plaintiffs

K.S.

J.H.

Plaintiffs

v.

Mifflin County
20 North Wayne Street
Lewistown, PA 17044

Casey O'Dell
144 East Market Street
Lewistown, PA 17044

Kristen Matula
144 East Market Street
Lewistown, PA 17044

David L. Smith
144 East Market Street
Lewistown, PA 17044

Pat J. Bruno, M.D.
100 North Academy Avenue
Danville, PA 17822

Evan Wallace Crowe, M.D.
100 North Academy Avenue
Danville, PA 17822

Defendants

UNITED STATES
DISTRICT COURT FOR THE
MIDDLE DISTRICT OF
PENNSYLVANIA

JURY TRIAL DEMANDED

Plaintiffs, K.S. and J.H. through undersigned counsel hereby allege the following:

Jurisdiction

1. This action is brought pursuant to 42 U.S.C. § 1981, 42 U.S.C. § 1983 and 42 U.S.C. § 1985; the First, Fourth, Fifth, Sixth, Seventh and Fourteenth Amendment of the Constitution of the United States; Article 1 of the Pennsylvania Constitution and Pennsylvania law.

2. The jurisdiction of the Court is predicated on 28 U.S.C. § 1343(a), (1), (2), (3) and (4) and 28 U.S.C. § 1331.

Allegations - Parties

3. Plaintiff K.S. is the natural mother of B.H. At all times relevant to this action, K.S. was a resident of Lewistown, Pennsylvania. B.H. was born in 2012. D.H. is the natural father of B.H.

4. Plaintiff J.H. is not the natural father of B.H. At all times relevant to this action, K.S. was a resident of Lewistown, Pennsylvania.

5. Defendant Mifflin County is a county of the 6th class political subdivision of the Commonwealth of Pennsylvania governed by a board of three commissioners elected to four-year terms, Commissioners Kevin P. Kodesh, Lisa Nancollas and Stephen Dunkle. This suit is against the Mifflin County Commissioners in their official capacity and thus Mifflin County is the named Defendant. Defendant Mifflin County is licensed by the Pennsylvania Department of Public Welfare to operate a county child protective services agency. Defendant Mifflin County had a policy of coercing safety plans without affording due process to parent(s) whose right to the care, custody and control of their child was impaired by the safety plan. Defendant Mifflin County had a policy of

failing to train employees about due process when safety plans were coerced. Defendant Mifflin County violated the Plaintiffs' rights pursuant to the United States Constitution, the Pennsylvania Constitution and Pennsylvania law.

6. Defendant Casey O'Dell, at all times relevant to this action, was employed by Defendant Mifflin County in the Mifflin County Children and Youth Services Agency as an intake case worker. On December 1, 2015, Defendant O'Dell prevented K.S. from leaving the pediatrician's office with her son. Defendant O'Dell, in the presence of four police officers and a police detective, unilaterally dictated that B.H. would not return home from the pediatricians' office with K.S. as the safety plan, called B.H.'s natural father D.H. to come to the pediatrician's office to pick up B.H., and told K.S. that D.H. would have custody of B.H. for the duration of the safety plan and that K.S. could not have any unsupervised contact with B.H. for the duration the safety plan. K.S. did not consent to or sign the safety plan and expressed her strong disagreement with the safety plan. At all times relevant to this action, Defendant O'Dell failed to provide Plaintiff K.S. with any due process to challenge the safety plan. Defendant O'Dell violated the Plaintiffs' rights pursuant to the United States Constitution, the Pennsylvania Constitution and Pennsylvania law.

7. Defendant Kristin Matula, at all times relevant to this action, was employed by Defendant Mifflin County in the Mifflin County Children and Youth Services Agency as an intake case worker. On December 1, 2015, Defendant Matula participated with Defendant O'Dell in preventing K.S. from leaving the pediatrician's office with her son and dictating a safety plan that removed B.H.

from the custody of K.S. while failing to provide K.S. with due process to challenge the safety plan.

8. Defendant David L. Smith, at all times relevant to this action, was employed by Defendant Mifflin County in the Mifflin County Children and Youth Services Agency as an intake supervisor. Defendant Smith approved the December 1, 2015 safety plan in which Defendants O'Dell and Matula dictated and coerced which denied K.S. her Constitutional rights in the presence of four police officers and a police detective. After approving the coerced safety plan, Defendant Smith failed to afford Plaintiffs due process of law. Defendant Smith violated the Plaintiffs' rights pursuant to the United States Constitution, the Pennsylvania Constitution and Pennsylvania law.

9. Defendant Pat J. Bruno, M.D. is a physician licensed to practice medicine in Pennsylvania who holds himself out as an expert in distinguishing medical conditions that can mimic the appearance of child abuse from cases of actual child abuse. Defendant Bruno is a board certified pediatrician with a subspecialty board certification in child abuse pediatrics employed by Geisinger Medical Center (hereinafter "Geisinger"). Defendant Bruno is the medical director of the Child Advocacy Center of Central Susquehanna Valley. The Child Advocacy Center of Central Susquehanna Valley is a division of Geisinger's Janet Weis Children's Hospital. Dr. Bruno's activities, where he is the primary medical investigator on behalf of child protective services and law enforcement, coupled with the significant entwinement between Dr. Bruno and child protective services and law enforcement during the investigation of reports of suspected child abuse,

renders his actions state actions. Dr. Bruno represented that he had considered and rejected alternative non-abusive bases for B.H.'s bruising without having conducted the necessary testing to reach such conclusions, specifically for failing to test B.H. for von Willebrand Disease, the most common bleeding disorder known to medicine that affects 1% of the population or refer B.H. to a hematologist or a federally funded Hemophilia Treatment Center.

10. Defendant Evan Wallace Crowe, M.D. was a resident physician in the Child Advocacy Center of the Central Susquehanna Valley in December of 2015 who, along with Defendant Bruno, conducted the forensic medical examination of B.H. Defendant Crowe is a state actor by virtue of his forensic examination of B.H. in the Child Advocacy Center of the Central Susquehanna Valley. Dr. Crowe represented that he had considered and rejected alternative non-abusive bases for B.H.'s bruising without having conducted the testing necessary to reach such conclusions, specifically for failing to refer B.H. to a hematologist or a federally funded Hemophilia Treatment Center to test B.H. for von Willebrand Disease, the most common bleeding disorder known to medicine that affects 1% of the population.

Allegations – Factual

11. B.H. was diagnosed with von Willebrand Disease in September of 2016 (See Exhibit 1).

12. Von Willebrand Disease is the most common bleeding disorder known to medicine affecting up to 1% of the U.S. population and it causes easy bruising without abusive trauma¹.

13. B.H. has a medical history of bruising and/or ear pulling that dates to his first day of life and dates prior to any contact between B.H. and J.H.

14. In 2012, B.H. was born in Lewistown, Pennsylvania after which “[b]ruising of the skin on the left side of the scrotum”, described as “purple-black discolored” and “eccymotic”, was noticed leading to an ultrasound that resulted in a left orchiectomy for testicular torsion. (emphasis supplied)

15. Plaintiff K.S. was diligent to take B.H. to all of his Pediatrician appointments with the Lewistown, Pennsylvania office of Geisinger.

16. On January 29, 2013, Geisinger pediatrician, Dr. Severs, examined B.H. during his one-year well child visit.

17. The January 29, 2013 GEISINGER medical record states, “CAREGIVERS CONCERNS FOR TODAY’S VISIT: **Ear pulling**” and “Mother states she thinks pt may have an ear infection he has been **picking at his ears a lot**, mother thinks both ears.” (emphasis supplied)

18. On February 25, 2013, Geisinger Pediatrician Dr. Joseph Romeo examined B.H. during a sick child visit.

19. The February 25, 2013 Geisinger medical record states, “**pulling on ear** and fussy” (emphasis supplied).

¹ <https://www.hemophilia.org/Bleeding-Disorders/Types-of-Bleeding-Disorders/Von-Willebrand-Disease>

20. On March 4, 2013, Geisinger Pediatrician Dr. Christopher Severs examined B.H. during a sick child visit.

21. The March 4, 2013 Geisinger medical record states, “rash on face and trunk for 2 days”.

22. On May 13, 2013, Geisinger Pediatrician Dr. Severs examined B.H. during a sick child visit.

23. The May 13, 2013 Geisinger medical record states “Pt here for **pulling at ears**, screaming at night” and “**pulling at his ears** and very irritable since last night” (emphasis supplied).

24. Plaintiffs first met and began a relationship on or about December 25, 2014.

25. Prior to December 25, 2014 Plaintiff J.H. had no contact with B.H.

26. In 2015, Plaintiffs were residing together and, by agreement of B.H.’s natural father D.H., Plaintiff K.S. had primary custody of B.H. with B.H. visiting D.H.

27. Plaintiff K.S. continued to be diligent to take B.H. to all of his Geisinger Pediatrician appointments.

28. On or about February 26 or 27, 2015, three-year old B.H. fell down some steps while in the care of his mother K.S. causing some red marks on B.H.’s buttocks.

29. When B.H. visited with his father D.H. over the weekend, D.H. noticed bruising developing on B.H.’s buttocks.

30. D.H. called Mifflin County Children and Youth Services to falsely report that J.H. had abused B.H.

B.H.'s FIRST VISIT TO GEISINGER PEDIATRICIAN FOR ACCIDENTAL BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED

31. On March 3, 2015, K.S. took B.H. to Geisinger Pediatrician Office where B.H. was examined by Physician's Assistant Emilee Geedy.

32. The March 3, 2015 Geisinger medical records note:

Here for bruising on buttocks and back, fell down a couple of wooden steps onto cement 5 days ago, said that it hurt but didn't fuss much, area was then red the next day, **bruising then developed over the weekend**, mom informed dad that he had fallen, parents are currently separated and dad had him over the weekend and called C&Y claiming that mom's boyfriend had hit her [sic], no head injury, no attempted therapies, no pain when sitting or using the toilet, no other bruising.... Patient here for bruised on his buttocks, and Mom states Pt fell down steps on Thursday of last week.... Mom instructed by C+Y to make appt today to have child evaluated. Per mom, he fell down the stairs on Thursday at home, on his buttocks, on Friday he just had some red marks on there. Mom called and told Dad what happened (they are not together). He said he was not getting the boy on the weekend anyway. He then called back and wanted him on Saturday. By Saturday the red areas had started to turn to bruises, and Dad reported to C+Y that "mom is beating the child". Per mom, the bruising is still visible and C+Y would like to see if it is consistent with a fall.
(emphasis supplied)

33. The March 3, 2015 Geisinger medical records have an 11:51 a.m. note authored by Physician's Assistant Emilee M. Geedy stating, "Any history of abuse at all?"

34. In response, the March 3, 2015 Geisinger Pediatrician records have an 11:58 a.m. note authored by LPN Kimberly J. Demaree stating, "I do not see any red flags. No hx of 'no shows', no requests from C+Y, prior to this, for records or information. No previous visits for accidents or injuries."

35. On August 1, 2015, B.H. fell off of the family residence porch approximately three feet.

36. B.H. was taken to the hospital emergency room.

37. The August 1, 2015 Geisinger medical records state, “

[B.H.] is a 3 year old male who presents for evaluation of fall with laceration. The patient fell off the porch approximately 3 and have [sic] foot onto the ground without loss of consciousness. With a laceration to the left scalp.... no rashes **there is some faint ecchymoses to the right posterior flank that appear old** there is no tenderness over the aspect no crepitus, there is a 1 cm linear laceration at the left temporoparietal scalp (emphasis supplied)

B.H.'s SECOND VISIT TO GEISINGER PEDIATRICIAN FOR ACCIDENTAL BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED

38. On August 13, 2015, K.S. took B.H. to Geisinger Pediatrician Dr. Joseph Romeo in Lewistown who examined B.H.

39. August 13, 2015 medical records note:

Has easy bruising and no bleeding while brushing.no bruising before this. fell of [sic] porch 10 days ago. ROS; no history bleeding, no fever.

Patient here **for bruising on his back**. Patient fell a few weeks ago and had staples in his head. **These bruises were not present during the incident with his head and now concerned because they keep getting darker**. Mom states patient has been having vomiting episodes. Patient used to make himself sick, but this is happening more often now. Patient accompanied by mom.

Appointment Notes: **concerned with bruising**.
(emphasis supplied)

40. On August 13, 2015, Dr. Romeo ordered a CBC blood test which found B.H.'s hemoglobin and hematocrit levels to be higher than the normal range.

B.H.'s THIRD VISIT TO GEISINGER PEDIATRICIAN FOR ACCIDENTAL BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED

41. On August 18, 2015, K.S. took B.H. back to the Lewistown Geisinger pediatrician where B.H. was examined by Dr. Christopher Severs.

42. August 18, 2015 medical records state:

Patient here for follow up, vomiting. **Bruising.**
(emphasis supplied)

B.H.'s FOURTH VISIT TO GEISINGER PEDIATRICIAN FOR ACCIDENTAL BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED

43. On August 23, 2015, K.S. took B.H. back to the Geisinger Pediatrician in Lewistown for a follow up to B.H.'s bruising and because B.H. was vomiting where B.H. was examined by pediatrician, Dr. Christopher Severs.

44. August 23, 2015 medical records note:

HPI: **Here for f/u of bruising on the back.** Mom says the bruises have now resolved. She has concerns today about Blaine's persistent vomiting which occurs several times daily. ...
(emphasis supplied)

45. On August 26, 2015, K.S. took B.H. to the Geisinger pediatrician in Lewistown where Physician's Assistant Emilee Geedy examined B.H. for symptoms of diarrhea and vomiting.

46. On August 27, 2015, K.S. was diligent to take B.H. to the emergency room for vomiting.

47. On August 27, 2015, a head CT scan was performed of B.H. to rule out head trauma as the cause of B.H.'s vomiting. B.H.'s head CT was normal.

48. On August 28, 2015, K.S. was diligent to return B.H. to the emergency room for continued vomiting.

B.H.'s FIFTH VISIT TO GEISINGER PEDIATRICIAN FOR ACCIDENTAL BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED

49. On October 2, 2015, K.S. took B.H. to the Geisinger pediatrician in Lewistown at the insistence of Mifflin County Children and Youth Services due to another report of suspected abuse due to bruising observed on both of B.H.'s earlobes.

50. Dr. Christopher Severs examined B.H. on October 2, 2015 and telephoned Mifflin County Children and Youth Services to report to them after his examination.

51. October 2, 2015 medical records state:

HPI: **Sent here by CYS for ecchymosis of both ear lobes** due to possible child abuse. Scratches above both ear lobes as well. Occurred last night. Mom says they became red and scratched. Afterwards, his mom's boyfriend, [J.H.], pulled the ears forward to look at them and mom says they were bruised and scratched at the time. Mom says she is unsure how they became red and how the scratch occurred as she was not in the room, When asked how it occurred, Blaine says "[J.H.] did it" Mom denies this. He was the subject of 2 prior CYS cases for suspected abuse due to bruising. [B.H.] has no history of bleeding disorders and mom is not aware of any family history of such disorders

Can apply Neosporin to the scratches. **I called CYS to inform them of this visit.** 2 of the caseworkers came to the office to see Blaine and talk with his mom. They will go to Blaine's house now with mom and Blaine and further care pertaining to possible abuse will be at their discretion.
(emphasis supplied)

K.S. REQUESTS BLEEDING DISORDER WORKUP DUE TO EASY BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED

52. On October 9, 2015, K.S. took B.H. to the Geisinger pediatrician in Lewistown because K.S. felt B.H. bruised easily and requested he be worked up for a bleeding disorder.

53. Dr. Christopher Severs examined B.H. on October 9, 2015 and ordered a very basic screening consisting of three tests, the PT/INR-PT, PT/INR-INR & APTT all of which were in the normal range. Dr. Severs did not order any additional bleeding workup such as a test for von Willebrand disease nor did Dr. Severs refer B.H. to a federally funded Hemophilia Treatment Center or to a hematologist.

54. October 9, 2015 medical records state:

HPI: Pt has had **multiple office and ER visits recently for bruises** some of which were at the request of CYS for suspected abuse by the mom's boyfriend. Mom would like [B.H.] **tested for and [sic] bleeding disorders as she feels he bruises too easily.**

ASSESSMENT/Plan T14.8 Bruising (primary encounter diagnosis)

Patient here for **bruising easily.**

Patient accompanied by: Mother

Patient here for **bruising easily.**

Patient accompanied by: Mother ...

Appointment Notes - bruising mom wants bloodwork

Plan PT/inr APtt
(emphasis supplied)

B.H.'s SIXTH VISIT TO GEISINGER PEDIATRICIAN FOR ACCIDENTAL BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED

55. On October 12, 2015, K.S. took B.H. to the Geisinger pediatrician in Lewistown because B.H. fell on a step, hit his head and bruised his knees.

56. Dr. Joseph Romeo examined B.H. on October 12, 2015.

57. October 12, 2015 medical records state:

HPI: Fell on step and hit head and leg hurt but now better. ROS:no LOC,no vomiting, no cough, has some congestion.

Extremities: no joint deformities, effusion, or inflammation, no edema, no clubbing, no cyanosis, **few eccymotic areas on knees**

ASSESSMENT: **Contusion to knees** Acute URI
(emphasis supplied)

58. On December 1, 2015, another report of suspected child abuse was made because B.H. was observed to have bruising on his right ear.

59. As a result of this report Mifflin County Children and Youth Services told K.S. to take B.H. to the Pediatrician.

B.H.'s SEVENTH VISIT TO GEISINGER PEDIATRICIAN FOR ACCIDENTAL BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED – FALSE ALLEGATION OF CHILD ABUSE

60. Pursuant to the instruction of Mifflin County Children and Youth Services, K.S. took B.H. to the Geisinger Pediatrician in Lewistown.

61. On December 1, 2015, Physician's Assistant Emilee Geedy examined B.H.

62. December 1, 2015 medical records state:

HPI: Here for bruising of right ear, noticed the bruising today, per mom patient states that it happened when he was "jumping", per mom grandmother has a trampoline at her house and babysits the patient, possibly observed by patient's uncles, no open wound, when patient is asked directly he states that "John did it" and states that he bent his ear

ASSESSMENT/PLAN: S00.431A Contusion of right ear, initial encounter (primary encounter diagnosis) CYS contacted and patient transferred into custody of father

Patient here for fall on trampoline approximately 2-3 days ago. Patient states his ear hurts. Patient accompanied by mom.

63. On December 1, 2015, Defendant O'Dell noted:

PA [Physician's Assistant Geedy] did not believe that the bruises were consistent with falling off the trampoline. The nurses at the office said that IC [Injured Child, B.H.] had been in the office often for bruises and think that something is going on.

64. On December 1, 2015, Lewistown Police Department Officer Vallimont, and Lewistown Police Department Detective Poff were summoned to the Geisinger Lewistown Pediatrician office and were present when Defendant O'Dell prevented K.S. from leaving the doctor's office with B.H., unilaterally removed B.H. from the custody of K.S. and imposed a safety plan denying unsupervised contact between B.H. and K.S, a safety plan to which K.S. did not consent or sign (see below).

65. On December 2, 2015, Defendant O'Dell, having removed B.H. from the custody of K.S., scheduled B.H. to have a CRC Interview at 1:00 pm and to have an appointment with Defendant Bruno without K.S.'s consent.

DEFENDANTS BRUNO AND CROWE FAIL TO TEST B.H. FOR VON WILLEBRAND DISEASE

66. According to the American Academy of Pediatrics' Committee on Child Abuse and Neglect and the Section on Hematology/Oncology, "**Any bleeding disorder can cause cutaneous bruising**, and sometimes this bruising can be mild, can appear in locations that are considered suspicious for abuse, and can appear at any age."² (emphasis supplied).

² Anderst JD, Carpenter SL, Abshire TC, American Academy of Pediatrics Committee on Child Abuse and Neglect and Section on Hematology/Oncology. Evaluation for Bleeding Disorders in Suspected Child Abuse. PEDIATRICS 2013 doi:10.1542/peds.2013-0195

67. According to the American Academy of Pediatrics' Committee on Child Abuse and Neglect, "In addition to accidents, bruising may occur secondary to coagulopathies and vasculitides such as idiopathic thrombocytopenic purpura, hemophilia, or von Willebrand disease."³

68. The bleeding disorder B.H. has, von Willebrand Disease, is the most common bleeding disorder known to medicine and occurs in about 1% of the population⁴.

69. Defendant Bruno failed to test B.H. for von Willebrand Disease. Defendant Bruno failed to do any workup for a bleeding disorder and failed to refer B.H. to a federally funded Hemophilia Treatment Center or a hematologist to determine whether B.H. had a bleeding disorder.

70. Defendant Bruno completed his investigation in approximately three hours, agreed that no further workup for bleeding disorders was needed and diagnosed B.H. as having been physically abused.

71. December 2, 2015 medical records state:

12/2/2015 – Office Visit @ 10:30 am
REASON FOR VISIT – Child Abuse
Appt notes d/t per Sherry (CAC) fro [sic] physical abuse with
Dr. Bruno.
Status: Closed by BRUNO, PAT on 12/2/15 at 1:42 PM

HPI - Bruising has been a problem for the past several months and has been worked up prior to this. On 10/9/2015, his PT/INR and PTT were found to be normal, and there is

³ Kellogg ND, American Academy of Pediatrics Committee on Child Abuse and Neglect. Evaluation of Suspected Child Physical Abuse. PEDIATRICS. 2007;119(6):1232-1241

⁴ <https://www.hemophilia.org/Bleeding-Disorders/Types-of-Bleeding-Disorders/Von-Willebrand-Disease>

no known family history of bleeding disorders. Abuse has therefore been suspected and CYP has been involved for the past couple of months.

ASSESSMENT: Given recent history and physical exam findings, do have concerns for abuse as the cause of the bruising. **As he has had bleeding work up in the recent past, there is no need to do further lab work at this time.**"

I saw and evaluated the pt. Discussed with resident and **agree with resident's findings and plan** as documented in resident's note. ... **Bleeding studies in the past have been wnl** [within normal limits]. **Assessment.. Physical abuse of child.** C and Y is involved in the case and was contacted again about this child. Pat J Bruno, M.D. (emphasis supplied)

72. On December 2, 2015, Defendant O'Dell noted:

CW received a PC from Dr. Crow [sic] at the Knapper Clinic in Danville. He stated that he and Dr. Bruno saw IC this morning. **He stated that the marks on ICs ear were not accidental and are consistent with abuse.** IC was still saying today that his ear hurt. Dr Crow said that after the notes are approved that the records will be sent to CW. CW thanked Dr. Crow. (emphasis supplied).

73. Defendant Crowe's and Bruno's forensic medical evaluation notes were faxed by Defendant Crowe to Defendant O'Dell on December 4, 2015.

THE IMPOSSIBILITY - THE BRUISING CONTINUES EVEN AFTER J.H. HAS NO CONTACT WITH B.H.

74. Beginning on December 1, 2015, pursuant to the unilaterally imposed safety plan, J.H. had no contact whatsoever with B.H.

75. Beginning on December 1, 2015, pursuant to the unilaterally imposed safety plan, K.S. was only able to have supervised visits with B.H.

76. On January 15, 2016, during a supervised visit, K.S. observed a bruise on B.H.'s left ear that was very similar to the bruise on B.H.'s right ear observed on December 1, 2015.

77. On January 15, 2016, J.H. had no contact with B.H. for over six weeks, since December 1, 2015.

78. Although it was impossible, on January 15, 2016, B.H. again says J.H. caused the bruise, this time to his left ear, even though J.H. had no contact with B.H. since December 1, 2015.

79. A Mifflin County Children and Youth Services Intake Supervisory Review dated January 15, 2016 states:

[B.H.] was at a visit with [K.S.] and showed [K.S.] a bruise on his left ear. When [K.S.] asked how the bruise happened [B.H.] told [K.S.] that [J.H.], [K.S.'s] paramour did it.

B.H.'s EIGHTH VISIT TO GEISINGER PEDIATRICIAN FOR ACCIDENTAL BRUISING - B.H.'S VON WILLEBRAND DISEASE MISSED

(EVEN NATURAL FATHER D.H. HAS DOUBTS ABOUT ABUSE – BUT DR. SEVERS “REASSURED” HIM THAT THERE WERE TWO WORKUPS FOR BLEEDING DISORDERS AND NONE WERE FOUND)

80. On January 27, 2016, D.H. took B.H. to the Geisinger pediatrician in Lewistown to follow up B.H.'s emergency room visit for the bruise to his left ear.

81. Dr. Christopher Severs examined B.H. on January 27, 2016. Dr. Severs did not order any additional bleeding workup such as a test for the most common bleeding disorder, von Willebrand Disease, nor did Dr. Severs refer B.H. to a federally funded Hemophilia Treatment Center or to a hematologist.

82. January 27, 2016 medical records state:

HPI: 4 yr old boy here today with his dad for f/u of an ER visit for an ear contusion. He has had these before and CYS has been involved with this case. [B.H.] says that the current injury occurred when he fell on steps at his mom's house. His dad says that the bruising is improving. He asked if [B.H.] might have any bleeding disorder that causes him to bleed easily.

ASSESSMENT AND PLAN: S00.432D Contusion of left ear, subsequent encounter (primary encounter diagnosis) Plan: **Reassured dad that [B.H.] has had lab tests twice in the last several months for any hematologic causes for his bruising and there were none found.** Follow up: Return if symptoms worsen or fail to improve.

Patient here for er follow up, ear bruising.

Patient accompanied by: Father
(emphasis supplied)

DEFENDANT O'DELL PREVENTS K.S. FROM LEAVING PEDIATRICIAN'S OFFICE WITH B.H.

83. On December 1, 2015, Defendants O'Dell and Matula were summoned to the Geisinger Pediatrician's office.

84. On December 1, 2015, Defendant O'Dell, under color of law, prevented K.S. from leaving the Geisinger Pediatrician's office with her son B.H.

85. December 1, 2015 case note by Defendant O'Dell states:

While CW was waiting to hear back about Dr. Bruno NM tired [sic] leaving the doctor's office. **CW explained to NM that she could not leave** at this time because we still needed to figure things out and what happened to IC. NM complained about being there so long. NM was rolling her eyes and assertive with CW in the way she spoke with CW. CW apologized and said that we will work as fast as we can. We are waiting for a return PC from Danville. NM and IC went back into the room.

NM came back out of the room soon after to take IC to the bathroom. **CW O'Dell made sure NM did not leave with IC**

when they went to bathroom. There were concerns that NM would try to leave with IC
(emphasis supplied)

DEFENDANT O'DELL UNILATERALLY IMPOSED SAFETY PLAN, WITH THE ASSISTANCE OF MULTIPLE POLICE OFFICERS AND WITHOUT THE CONSENT OF K.S.

86. On December 1, 2015, law enforcement officers were summoned to the Geisinger Pediatricians office.

87. After preventing K.S. from leaving the Geisinger Pediatrician's office with B.H., and with four uniformed police officers and Detective Poff present at the Geisinger Pediatrician's office, Defendant O'Dell unilaterally decided to remove B.H. from K.S.'s custody and place B.H. with B.H.'s natural father, D.H., using a safety plan.

88. K.S. did not consent to the placement of B.H. with D.H. and refused to sign the safety plan.

89. Defendant O'Dell never explained or provided K.S. with any due process to challenge the safety plan imposed by Defendant O'Dell in the presence of four police officers and a police detective.

90. December 1, 2015 notes by Defendant O'Dell state:

CW asked where places IC could go until this investigation was done. NM said her mothers. ...

NM asked what are you telling me. CW stated that the agency was looking at putting IC on a safety plan. NM did not understand why there was going to be a safety plan. **NM said that she would not approve** of IC going to NFs.

CW stated that it looks like they are looking at NF being the safety plan. **NM said that she would not approve of NF being the safety plan.** CW stated that they will look at the

other options and get back to NM. CW left the room at this time. CW O'Dell called NF and explained the situation....

CW spoke with NF about the safety plan. NF said he is able to care for IC and will pick him up in 10-15 minutes.

CW O'Dell went into exam room and explained to NM that IC was going with NF for the safety plan. NM started crying and saying that NF does drugs and has a history of domestic violence. NM said he used to beat NM and IC will not be safe there. CW stated that he has the right to IC. CW stated that we respect NMs concerns but if NF wants him and the home is appropriate, IC is going with him.

...CW asked NM if she would sign the safety plan and NM refused.

NM started to cry again and said NF used to beat her and IC needed to go to his Nanas house. CW explained that NF wants him and has every right to have him. CW explained that we would look into her drug concerns and continue to see IC on a weekly basis to make sure he is safe in NF home.

(emphasis supplied)

91. The safety plan of Defendant O'Dell was approved by her supervisor Defendant Smith and the coerce safety plan altered K.S.'s fundamental Constitutional right to the care, custody and control of B.H.
92. K.S. explicitly told Defendants that she did not consent to the safety plan.
93. Although Defendant O'Dell "explained" the natural father's rights of custody to B.H. to K.S., Defendant O'Dell did not explain any right for K.S. to challenge the safety plan that denied K.S. her fundamental right to the custody of her son B.H., a safety plan to which K.S. did not consent.
94. Defendant O'Dell failed to schedule any hearing for K.S. to challenge the safety plan to which K.S. did not consent.

95. Defendant O'Dell failed to explain to K.S. how she could schedule any hearing for K.S. to challenge the safety plan to which K.S. did not consent.

96. Defendant O'Dell failed to explain to K.S. that she had any right to counsel to challenge the safety plan to which K.S. did not consent.

97. The safety plan contains no notice of any right, or explanation of how, to schedule a hearing to challenge the safety plan to which K.S. did not consent.

98. The safety plan contains no notice of any right to counsel to challenge the safety plan to which K.S. did not consent.

99. Defendant O'Dell and Defendant Matula failed to provide K.S. with any notice of due process available to challenge the safety plan to which K.S. did not consent.

AS MEDICAL DIRECTOR OF THE CHILD ADVOCACY CENTER OF CENTRAL SUSQUEHANNA VALLEY, DEFENDANT BRUNO HAS A CLOSE NEXUS WITH CPS AND LAW ENFORCEMENT RENDERING HIS ACTIONS, AND THE ACTIONS OF DEFENDANT CROWE, REGARDING THE INVESTIGATION THAT B.H.'S BRUISING WAS ABUSIVELY INFLICTED, INTO STATE ACTIONS

100. On December 1, 2015, B.H. was seen at Geisinger Pediatrician office in Lewistown.

101. On December 1, 2015, after removing custody of B.H. from K.S. with a safety plan, and while at the Geisinger Pediatrician's office in Lewistown, Defendant O'Dell unilaterally and without asking for K.S.'s permission, scheduled B.H. to have an appointment with Defendant Bruno because Defendant Bruno is the Medical Director of Geisinger Medical Center's Child Advocacy Center of Central Susquehanna Valley (hereinafter "CACCSV").

102. B.H.'s appointment with Defendant Bruno was specifically conducted at the request of Defendant O'Dell as part of the investigation into whether B.H.'s bruises were abusively inflicted.

103. December 1, 2015 notes by Defendant O'Dell state:

CW asked where places IC could go until this investigation is done.... CW stated that the agency was looking at putting IC on a safety plan...

NM asked how long the safety plan would be. CW explained that it could be as long as 60 days, but to focus one day at a time. CW also told NM that IC has an apt with Dr. Bruno tomorrow at the Knapper Clinic. CW is hoping to know more after this visit.

104. The Knapper Clinic is where Defendants Crowe and Bruno conduct forensic Medical Evaluations on behalf of CACCSV⁵.

105. Geisinger's website⁶ explains that the role and goals of the CACCVS includes facilitating coordination between various government agencies investigating child abuse and to increase the effectiveness of child abuse prosecution:

The Child Advocacy Center (CAC) of the Central Susquehanna Valley, a division of Geisinger's Janet Weis Children's Hospital, was created to help reduce the number of interviews children undergo during investigations. Through the CAC, trained forensic interviewers conduct victim interviews. **We also offer medical examinations**, crisis intervention counseling and ongoing case tracking.

Each agency involved in the investigation actively participates by becoming part of the investigative team. The team members observe the forensic interviews and discuss

⁵ http://www.dailyitem.com/the_danville_news/news/child-abuse-battle-chose-geisinger-s-dr-pat-bruno/article_e05b7561-a643-52ef-9ba9-5f0411d3eda3.html

⁶ <https://www.geisinger.org/sites/jwch/pediatric-specialties/child-advocacy-center/>

the case together. **This coordinated approach** reduces multiple interviews and **increases the likelihood of successful prosecution of the offender.**

Other goals of the CAC include:

- Increasing the number of offenders that are held accountable for crimes against children

106. After the Sandusky scandal, the Pennsylvania Commission on Crime and Delinquency published a study funded by two US Department of Justice subgrants about how to develop Child Advocacy Centers (CAC) throughout the state of Pennsylvania⁷. This study describes the role of the CAC:

[From Executive Summary] A Child Advocacy Center (CAC) is a child-friendly facility where multidisciplinary teams, **including representatives from child welfare and law enforcement, can collaborate** on child sexual abuse investigations and case planning.

[From “Terminology” section] Multidisciplinary Team (MDT) - **A team comprised of law enforcement, child protective services, prosecution, medical, mental health, victim advocacy, and the children’s advocacy center. This is the team that collaborates on investigations in the CAC model.** Pennsylvania child welfare agencies, under the direction of the Department of Public Welfare, convene MDTs to review certain cases. MDTs referenced in this report refer only to the MDTs described in the National Children’s Alliance standards for CACs.

[From The CAC Model Background] A Child Advocacy Center (CAC) is a child-friendly facility where multidisciplinary teams, including **representatives from child welfare and law enforcement, can collaborate on child abuse investigations and case planning...** The CAC model **brings together child protective services, law enforcement, prosecution, medical providers, mental health providers, and victim advocates** to ensure that the

⁷ The study is titled “Child Advocacy Center Statewide Plan Development: Technical Assistance to the Commonwealth of Pennsylvania” and is available online at <http://www.pccd.pa.gov/AboutUs/Documents/PCCD%20Report%20Statewide%20CAC%20Plan.pdf>

systems designed to protect children do not further traumatize them. The majority of CACs respond to allegations of child sexual abuse. However, some have also added on services for the victims of severe physical abuse and child witnesses to violence. Investigations typically begin with a forensic interview conducted by a trained forensic interviewer, which is viewed by the multidisciplinary team via a one-way mirror or closed circuit video (CCTV.) This interview is recorded to prevent the need for multiple interviews of the child and can be made available for evidence in the potential prosecution of perpetrators. The child **should also receive a forensic medical exam from a trained, experienced, and qualified medical professional.** The medical exam component is **necessary not only for the collection of evidence**, but is also often the first step in healing for the child. **The team then collaborates on case planning, including potential prosecution**, and makes referrals for needed services, such as mental health treatment. **Team members participate in multidisciplinary case reviews to assure that the investigation is proceeding** and that the victim is receiving needed services to foster the healing process.

1. Multidisciplinary Team (MDT) Standard: The multidisciplinary team response to child abuse allegations includes representation from the following – law enforcement, child protective services, prosecution, medical, mental health, victim advocacy, and the children’s advocacy center. **An allegation of child abuse must be met with a multidisciplinary team response and the team must include representation from law enforcement, child protective services, prosecution, medical, mental health, victim advocacy, and the children’s advocacy center. The multidisciplinary team is the foundation of the CAC** and such an approach fosters interagency collaboration and coordination which limits trauma for children and families as they **navigate the investigation process.**

... It is important to note that **medical exams do not serve only an evidence-finding** or clinical purpose.
(emphasis supplied)

107. B.H. was interviewed at the Pinnacle Health Children’s Resource Center (hereinafter “CRC).

108. During the CRC interview, B.H. was unable to:

- tell the interviewer how old he was or his birthday.
- called crayons “colors”.
- was unable to count to ten.
- stated that his “mommy lives in her work”.
- was unable to tell the interviewer his natural father’s first name.
- said “I tripped myself” in response to the interviewer’s questioning about “how come you came to see me here today” and “what happened”.
- stated “I don’t know what happened”, “I bumped myself”, “I hit myself on the nose”, “I broke myself” and “I hurt myself on the nose” and “I hit my nose”.
- said he was afraid of John, in the context of getting spanked, and in the context of B.H. saying “it was in a dream”.
- said the cat scratched his face.
- in response to the interviewer’s question about where the cat scratched him, with B.H. immediately pointed to his right ear.
- when the interviewer was not asking B.H. leading questions, B.H. never identified J.H. as having caused the ear bruise.

109. The CRC report states:

interview may have been limited by his young age and current developmental abilities. His speech and language was, at times, difficult to understand.

110. It is Defendants Crowe and Bruno who provided the forensic medical exam on December 2, 2015 as part of the CPS and law enforcement investigations into B.H.’s bruising.

111. It is a due process violation, and Defendants were on notice that it was a due process violation, for a physician to represent to CPS and law enforcement that they have considered and rejected other bases for a child’s injuries when they have not conducted the testing necessary to render such a conclusion⁸.

⁸ Jamel Billups v. Penn State Milton S. Hershey Medical Center, 11-cv-01784 (M.D.Pa. 2011).

112. After conducting the forensic medical examination on December 2, 2015, Defendants Crowe and Bruno contacted defendant O'Dell to provide the results of their CACCSV forensic medical exam.

113. On December 2, 2015, Defendant O'Dell noted:

CW received a PC from Dr. Crow at the Knapper Clinic in Danville. He stated that he and Dr. Bruno saw IC this morning. **He stated that the marks on ICs ear were not accidental and are consistent with abuse.** IC was still saying today that his ear hurt. Dr Crow said that after the notes are approved that the records will be sent to CW. CW thanked Dr. Crow [sic]. (emphasis supplied).

114. December 2, 2015 medical records state:

12/2/2015 – Office Visit @ 10:30 am
REASON FOR VISIT – Child Abuse
Appt notes d/t per Sherry (CAC) fro [sic] physical abuse with Dr. Bruno.
Status: Closed by BRUNO, PAT on 12/2/15 at 1:42 PM

ASSESSMENT: Given recent history and physical exam findings, do have concerns for abuse as the cause of the bruising. **As he has had bleeding work up in the recent past, there is no need to do further lab work at this time."**

I saw and evaluated the pt. Discussed with resident and agree with resident's findings and plan as documented in resident's note. ... **Bleeding studies in the past have been wnl.** Assessment.. Physical abuse of child. C and Y is involved in the case and was contacted again about this child. Pat J Bruno, M.D.
(emphasis supplied)

115. Defendants Crowe and Bruno both had full access to the records of all of B.H.'s visits to the Geisinger Pediatricians in Lewistown because they had access to the Geisinger medical records system that includes the Geisinger Pediatrician records from Lewistown.

116. Based on Defendants Crowe and Bruno's assessment that B.H. had been the victim of physical child abuse, Defendants O'Dell, Matula and Smith continued the safety plan denying K.S. custody of her son B.H., a safety plan to which K.S. did not consent.

117. On December 2, 2015, Defendant Matula noted "CY-104 was sent to Lewistown Police Department and to the DAs office."

118. Based on Defendants Crowe's and Bruno's assessment that "there is no need to do further lab workup" and that B.H. had been the victim of physical child abuse, Detective Poff of the Lewistown Police Department charged J.H. with the criminal charge of simple assault on December 14, 2015.

119. B.H. was diagnosed with type 1 von Willebrand Disease by Dr. Margaret V. Rangi, M.D., the Director of the Hemophilia Center of Western Pennsylvania on September 16, 2016.

120. In her September 16, 2016 letter, Dr. Rangi stated, "Superficial bruising is common for children with bleeding disorders and does not necessarily mean that they are being physically abused. Please consider that [B.H.] frequently presents with bruises in various stages of healing consistent with his bleeding disorder diagnosis."

121. Defendants Bruno and Crowe represented to law enforcement and MCCYS that B.H. had a "bleeding workup" and that "there is no need to do further lab work" and that the "Assessment" was "Physical abuse of child" leading to the continuation of the safety plan denying K.S. custody of her son, B.H., and the arrest of J.H.

122. Despite B.H. having eight visits to the Geisinger Pediatrician for bruising from accidental causes, despite multiple reports in the medical records of B.H. pulling at his own ears, and despite K.S. bringing B.H. to the Geisinger Pediatrician's office in October of 2015 for the specific purpose of having B.H. worked up for a bleeding disorder because he bruises too easily, Defendants Crowe and Bruno failed to test B.H. for the most common bleeding disorder known to medicine that occurs in 1% of the population, von Willebrand Disease, and failed to refer B.H. to a federally funded Hemophilia Treatment Center or to a hematologist for a work up for possible bleeding disorders.

DEFENDANT MIFFLIN COUNTY'S POLICY TO NOT PROVIDE, AND FAILURE TO TRAIN EMPLOYEES TO PROVIDE, DUE PROCESS TO PARENTS WHOSE CUSTODY RIGHTS ARE ALTERED BY A SAFETY PLAN TO WHICH THEY DO NOT CONSENT

123. Defendant Mifflin County's approved safety plan form, the one used by Defendants O'Dell and Smith on December 1, 2015, does not provide any notice or opportunity to challenge or appeal a safety plan to which a parent does not consent.

124. Defendants O'Dell, Matula and Smith were following Defendant Mifflin County's policy and procedure when they used the safety plan form upon which the December 1, 2015 safety plan was dictated in which K.S. was denied custody of B.H. and to which K.S. did not consent.

125. K.S. did not consent to the December 1, 2015 safety plan.

126. Defendant Mifflin County had no training, policy or practice of having its employees schedule a hearing for a safety plan to which a parent does not consent.

127. On or before March 2, 2016 MCCYS lifted the safety plan and B.H. returned to the custody of his mother K.S.

128. After B.H. was returned to the custody of K.S. who continued to reside with J.H., on March 22, 2016, Defendant O'Dell called Lewistown Pediatrics to find out what needed to be done to have B.H. worked up by hematology for a bleeding disorder.

129. March 2, 2016 medical records by Dr. Severs state:

History of frequent bruising. CYS has been involved for several months for suspected abuse, and they are requesting that he be seen by hematology to rule out and bleeding disorders. Previous labs done have shown no abnormality. Will await hematology appointment prior to repeating labs in case they want other tests.

130. March 2, 2016 medical records state:

CYS, Casey [O'Dell] calling stating that Dr. Severs was going to order additional labs for pt and refer pt to see a specialist. Please call CYS with any information.

131. March 22, 2016 medical records state:

Casey [O'Dell] is calling from Children & Youth and is wondering what else has to be done before an appointment can be scheduled with hematology?

132. On or about March 31, 2016, MCCYS closed their case involving B.H.

133. On May 19, 2016, B.H. was examined by a Geisinger hematologist for easy bruising.

134. May 19, 2016 medical records state:

accompanied by mom and mom's boyfriend ... [B.H.] is a 4 year old male with a history of bruising, with CYS involvement due to concern for abuse. Considering [B.H.] has had no bleeding

diathesis and has had no difficulty with his dental procedures or GU procedures, a bleeding disorder is unlikely. PT/INR and PTT were normal, as was the platelet number. We will obtain labs to determine platelet function, and assess for Von Willebrand's.

135. On May 20, 2016, a sample of B.H.s blood was taken to test for von Willebrand disease.

136. The results of the May 20, 2016 testing was that "All multimeters of von Willebrand Factor Antigen are present in normal amounts."

137. Although it is well recognized in the medical literature that patients with von Willebrand can test normal for von Willebrand Factors at times and that von Willebrand disease cannot be ruled out with only one normal test, no further testing for von Willebrand disease was performed by Geisinger.

138. According to the National Hemophilia Foundation⁹:

Some tests may have to be repeated, because von Willebrand factor levels can fluctuate in the body and are influenced by stress and hormones.

139. According to the National Hemophilia Foundation¹⁰:

The best place for patients with bleeding disorders to be diagnosed and treated is at one of the federally-funded hemophilia treatment centers (HTCs) that are spread throughout the country.

140. The Hemophilia Center of Western Pennsylvania is a federally funded hemophilia treatment center¹¹.

⁹ <https://www.hemophilia.org/sites/default/files/basic-page/documents/Introduction-to-von-Willebrand-Disease-Brochure-2014.pdf>

¹⁰ <https://www.hemophilia.org/Bleeding-Disorders/Types-of-Bleeding-Disorders/Von-Willebrand-Disease>

¹¹ https://www2a.cdc.gov/ncbddd/htcweb/Dir_Report/Dir_Search.asp

141. On or about August 16, 2016, K.S. took B.H. to the federally funded Hemophilia Center of Western Pennsylvania to evaluate whether B.H. had a bleeding disorder.

142. Dr. Margaret V. Ragni, M.D., the Director of the federally funded Hemophilia Center of Western Pennsylvania, examined B.H. and noted on August 16, 2016:

While he was here, I noticed him rub his ears. It turned a very deep red and after a few minutes that deep red completely resolved. I would not call that a bruise, and I would not call that any sort of bleeding disorder, but I did see pictures from his mom's iPhone of his ears when he did have a bruise and they did look a little more bluish than reddish. The child we think is inflicting them all himself but I asked him if he had any ear pain and he says no. So, why he is doing that I am not quite sure.... I will test this young man for Von Willebrand disease...

143. On September 16, 2016, Dr. Ragni reported:

"[p]lease be advised that [B.H.] (DOB []) has type 1 von Willebrand disease which is an inherited lifelong bleeding disorder...Patients with von Willebrand disease typically experience ...

Superficial bruising is common for children with bleeding disorders and does not necessarily mean that they are being physically abused. Please consider that [B.H.] frequently presents with bruises in various stages of healing, consistent with his bleeding disorder diagnosis.

144. On or about October 14, 2016, J.H. filed a motion, *inter alia*, to dismiss the criminal charges against him based upon B.H.'s diagnosis of type 1 von Willebrand disease.

145. On November 29, 2016, MCCYS indicted an intent to file a motion of non-pursuit of the ChildLine indicated report against J.H., which was subsequently filed.

146. On November 30, 2016, the Mifflin County District Attorney nolle prossed the simple assault charge against J.H.

DEFENDANTS ARE HEREBY PLACED ON NOTICE OF THE FOLLOWING CLAIMS

I. **Violation of Due Process** – The Mifflin County Employee Defendants provided no opportunity to challenge the safety plan to which K.S. did not consent.

II. **Violation of Due Process** – Defendant Mifflin County has a practice and/or policy of not training employees to provide, and of not providing, due process to challenge safety plans to which a parent does not consent.

III. **Violation of Due Process** – Defendants Crowe and Bruno claimed to have considered and rejected other bases for B.H.’s bruising without conducting the necessary testing to reach such conclusion, including claiming on December 2, 2015 that because B.H. “has had bleeding work up in the recent past, there is no need to do further lab work at this time” without testing for von Willebrand disease, the most common bleeding disorder known to medicine that affects 1% of the population and without referring B.H. to a federally funded Hemophilia Treatment Center or a hematologist for a bleeding disorder evaluation, while rendering a diagnosis of “Physical abuse of child”.

IV. Violation of Fourth Amendment – For J.H.’s arrest because Defendants Crowe and Bruno claimed that B.H. had a bleeding workup and diagnosed B.H.’s bruises as having been caused by physical abuse when they had failed to test B.H. for von Willebrand Disease, the most common bleeding disorder known to medicine that affects 1% of the population.

V. Any other relief and/or claims against the Defendants supported by the above facts and facts obtained during discovery.

DAMAGES TO THE PLAINTIFFS INCLUDE, BUT ARE NOT LIMITED TO, THE FOLLOWING:

- a. K.S.’s loss of custody of B.H. for approximately 120 days.
- b. K.S.’s emotional distress for being separated from B.H. for approximately 120 days.
- c. J.H.’s arrest for being falsely accused of abusing B.H.
- d. J.H.’s emotional distress for being arrested because Defendants Crowe and Bruno failed to test B.H. for von Willebrand Disease resulting in a false allegation of child abuse.
- e. J.H.’s legal fees for defending his arrest for false allegations of child abuse.
- f. Other damages as appropriate.

WHEREFORE, Plaintiffs, K.S. and J.H. respectfully request the court enter judgment in favor of Plaintiffs and against Defendants.

Respectfully submitted,

/s/ Mark D Freeman
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