

STATE OF MINNESOTA

IN THE DISTRICT COURT

COUNTY OF DOUGLAS

SEVENTH JUDICIAL DISTRICT

Candice Joy Nelson, Petitioner,

Civil Case No: 21 CV 20-892

D.O.B.: 10/28/1977

SSN:XXX-XX-6192

CIVIL COMPLAINT:

P.O. Box 17370 Lot 167

(False Indication, Defamation of

St. Paul, Minnesota 55117

Character, Other Professional

v.

Malpractice, Negligence and

Mary Peterson, d/b/a Guardian Ad Litem, **Non-Economic Damages).**

Anna Hughes, d/b/a Social Worker for County of Douglas,

Pursuant to Rule 3.01, 14th, 8th &

Josh Klein, d/b/a Foster Parent for the State of Minnesota,

4th Amendments of the Constitution

Beth Klein, d/b/a Foster Parent for the State of Minnesota,

(Demand for Jury Trial)

And Paige Nelson,

Respondent(s).

Comes Now the Petitioner, Candice Joy Nelson, Sui Juris, and alleges the following:

1. The Petitioner is an individual and a citizen of the County of Ramsey of the State of Minnesota.
2. The Respondents' One, Two, Three and Four are individuals and doing business as Workers for the State of Minnesota.
3. The Respondent Five is an individual and a citizen of the State of Minnesota. The Respondent Five is the daughter of the Petitioner.
4. This is the proper jurisdiction for all parties, and this is the proper County for this lawsuit.
5. On or about the 28th day of August 2019, the Respondents allowed the Petitioner's daughter to Make false allegations against the Petitioner without an evidentiary hearing to remove the children from the home. The Petitioner has been denied access to her children due to the false allegations made by Respondent five and the case manager reporting false allegations to the Court. The Petitioner has not been proven unfit and the Petitioner has not abused or neglected her

Children. The State of Minnesota has not investigated the Petitioner or done the proper Investigation to show cause the Petitioner has violated or abused the children. The Petitioner's children were removed illegally, and the Petitioner has lost wages and financial means in the process of these proceedings. The Petitioner's children were supposed to be released to her months ago; before the Respondents indicated this false information to keep the children detained. There was no convincing evidence presented or by any form of clear tangible evidence to support the Petitioner neglected her children. There was no evidentiary hearing to show cause the Petitioner neglected or abused the minor children. Furthermore, the only thing that was shown by all the Respondents was: 1. A delivering orchestrated plan to keep the Petitioner's children in foster care with Respondents three and four. 2. The Petitioner did not violate any form of statutory basis to support such a decision of termination or her children residing in foster care. 3. The Petitioner has family and next of kin that were never contacted to have an opportunity to take custody of the children. Respondents One and Two relied on Respondent Five false statements to detain the minor children in the first place without sufficient prove in evidence to remove the minor children away from the home. 4. Respondents One and Two did not conduct a proper investigation to support their opinions and false allegations to deny visitation and request to the Court termination of the Petitioner's fundamental rights as a parent. The basis for termination has to be supported by factual findings in evidence to justify a report made by a worker presenting anything to the Court to remove a child permanently from the custody of a parent; not based on assumptions or opinions without evidence to support such opinions. 5. Respondents One and Two went beyond protocol to make sure the Petitioner's children would be permanently placed in foster care and in care of Respondents Three and Four. 6. All the Respondents actions were oppressive, bias, unreasonable in practice due to case management reports and unconstitutional depriving the Petitioner of her rights to her children. These false indications were unsupported by substantial evidence and this is clearly unprofessional malpractice on the Social worker and

Guardian Ad Litem due to their actions without supporting foundation to request termination of the Petitioner's rights as a parent. The Petitioner complied to all recommendations issued by the worker and the Court. This is clearly a violation of the 14th amendment of due process and equal protection of the law. This is also a violation of the 8th amendment for cruel and unusual punishment and the 4th amendment for illegally detaining the Petitioner's children in the first place. The Respondents are liable for this cause of action and the Petitioner has stated her claim and can show the Court convincing facts by documentation and witnesses. The Petitioner has not been proven unfit and there is no factual evidence to presume the Petitioner should lose custody of her children; nor is there any evidence that supports the next of kin should not have the opportunity to raise the Petitioner's children. Counsel has failed the Petitioner in reunification or providing a proper argumentation to obtain the Petitioner's children back. The Petitioner has a lot of friends, family that can be temporary custodians of the minor children. The Petitioner believes the Social worker (Respondent Two) should have had to show supporting and factual evidence to the Family Law Court. "Not just Hearsay, without substantial evidence". The Respondents are liable for this lawsuit and the Respondents One and Two do not have immunity. The Petitioner is suing these parties in their own capacity. See: *In re Welfare of C.K.*, 426 N.W. 2d 842, 847 Minn., and *In re Welfare of Child of S.S.W.*, 767 N.W. 2d 723, 734, Minn. App. 2009; also, Minnesota Statute 260C.007, subd. 6., and the legislative intent that all Parents should have the right to reunification of their children first or the opportunity for the children to be placed with next of kin; before foster care is considered as placement of the minor children. Using, 18 U.S.C. 242, 18 U.S.C. 245, 42 U.S.C. 1983. See- *Stanley v. Illinois*, 405 U.S. 645, 651, 92 S.Ct. 1208, 31 L.Ed.2d 551, *Wisconsin v. Yoder*, 406 U.S. 205, 232, 92 S.Ct. 1526, 32 L.Ed.2d 15, *Parham v. J.R.*, 442 U.S. 584, 602, 99 S.Ct. 2493, 61 L.Ed.2d 101, *Meyer and Pierce*, and *Santosky v. Kramer*, 455 U.S. 745, 753, 102 S.Ct. 1388, 71 L.Ed.2d 599. See- Case Number 21-JV-18-1514.

Petitioner alleges the following negligence against the Respondents as follows:

COUNT I: NEGLIGENCE:

The Respondents failed to perform the duties for all individuals or persons not to be treated with defamation of character, deprived of their right of their property as provided by 42 U.S.C. 1983 and making statements that are not professional and using this as a reason to deny next of kin custody of the Petitioner's children; because the Respondents do not approve of some of the Petitioner's family. This is emotional distress. The Respondents have caused pain/ suffering due to their negligence against the Petitioner. The Petitioner is entitled to general damages for putting the Petitioner through emotional distress in accordance with proof at trial. The Respondents have acted with reckless, willful or callous disregard for Petitioner's rights and with malice, fraud or oppression towards the Petitioner; thereby entitling the Petitioner to an award of punitive damages in accordance with proof at trial. The Respondents are liable for this cause of action and these Respondents do not have immunity to their person or capacity. See: 1. 42 C.F.R. Section 1356.21(b) which states very clearly that the agency must make reasonable efforts to maintain the family unit and prevent the unnecessary removal of a child from his/her home, as long as the child's safety is assured; to effect the safe reunification of the child and family (if temporary out-of-home placement is necessary to ensure the immediate safety of the child); and to make and finalize alternate permanency plans in a timely manner when reunification is not appropriate or possible. In order to satisfy the "reasonable efforts" requirements of section 471(a)(15) (as implemented through section 472(a)(2) of the Act), the title IV-E agency must meet the requirements of paragraphs (b) and (d) of this section. In determining reasonable efforts to be made with respect to a child and in making such reasonable efforts, the child's health and safety must be the paramount concern. See:

Malik v. Arapahoe City. Department of Social Services (10th Cir. 1999). Using, K.H. through Murphy v. Morgan (7th Cir. 1990)- Social workers were not entitled to absolute immunity where no court order commanded them to place plaintiff with particular foster caregivers and the parties do not have immunity to their person or capacity and this lawsuit is justified at this present time. See: Grossman v. City of Portland (9th Cir. 1994) Individuals aren't immune for the results of their official conduct simply because they were enforcing policies or orders. Where a statute authorizes official conduct, which is patently violative of fundamental constitutional principles, an officer who enforces that statute is not entitled to qualified immunity., and Hafer v. Melo (S. Ct. 1991)- Social workers (and other government employees) may be sued for deprivation of civil rights under 42 USC 1983 if they are named in their 'official and individual capacity.

COUNT II: FALSEFIED INDICATION:

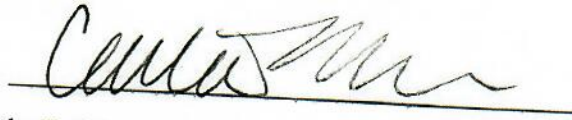
The Respondents have made unprofessional comments towards the Petitioner and using their own belief to decide where the children should be. The best interest of the children should be with family and due to the Respondents disliking the Petitioner; the Respondents went beyond law to keep the children from family.

REQUEST FOR RELIEF:

The Petitioner prays for relief at this time and prays the Court would review the Respondents actions and award the Petitioner relief. The Petitioner does request her children to be placed back in the home with the Petitioner or the Petitioner will continue this cause of action.

WHEREFORE, Petitioner seeks compensatory and punitive damages in the amount of \$100,000.00 dollars per year and fees that were paid to file this cause of action. The Respondents should also pay an

additional amount for their misconduct, malpractice and cruel and usual punishment that was conducted by these Respondents.



Candice Joy Nelson, the Petitioner.

P.O. Box 17370 Lot 167

St. Paul, Minnesota 55117

Via Telephone: (612) 240-8322

Email: candyjoy28@gmail.com

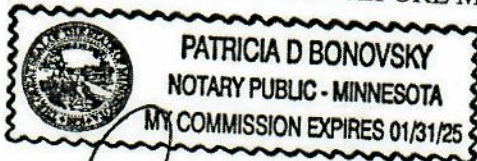
VERIFICATION:

State of Minnesota)

) ss.

County of _____)

SUBSCRIBED AND SWORN BEFORE ME ON THIS 15th DAY OF June, 2020.




(NOTARY PUBLIC) (NOTARY EXPIRES)

CERTIFICATE OF SERVICE:

This is to certify that a true and correct copy of the foregoing Petition, was hand delivered and addressed on this 15th day of June 2020 to the following:

c/o Clerk of the Douglas County District Court, 305 8th Ave W., Alexandria, MN 563098.

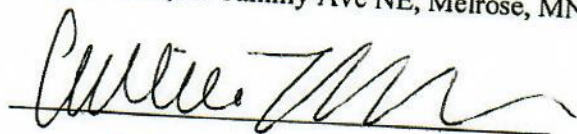
Josh Klein-731 Pine St., Sauk Centre, MN 56378

Beth Klein- 731 Pine St., Sauk Centre, MN 56378

Anna Hughes (Social Worker), 809 Elm St, Suite 1186, Alexandria, MN 56308

Mary Peterson-GAL, 1700 Broadway Suite 106, Alexandria, MN 56308

Paige Nelson, 28 Tammy Ave NE, Melrose, MN 56352.

A handwritten signature in black ink, appearing to read 'Candice Joy Nelson', written over a horizontal line.

Candice Joy Nelson, the Petitioner.

Single Mother of 3 accused of grooming her 8-year-old son to later sexually abuse him by a MN LICSW

No, this isn't sequel of *Minority Report* and it sounds ridiculous, doesn't it? This is what my childhood friend is being accused of in an open CHIPS case in Douglas County MN.

First off if you are reading this, thank you. Secondly, I know what you are thinking, because I did too; you are thinking there must be a legitimate reason CPS is involved in her life. Simply put, there is not.

Candice is my friend and I have known her since Kindergarten, I know her family and their history, I know about her struggles and her accomplishments; her kids are the greatest of these accomplishments.

In November 2018, Candice's dad and her children's only father figure passed away. Candice and her children of course struggled with the loss, but I talked to her frequently during this time and in no way was her grieving process unhealthy. Child protection was notified due to educational neglect because Candice kept her boys Preston (then 12) and Parker (then 6) out of school and with her while she wrapped up her dad's affairs and continued grief services in the cities. The boys' school would not accept the letter from hospice of the family's death and ongoing services. The case was later closed April 2019.

Later in 2019, Candice's older daughter Paige (now 20) was found to be using drugs and calling in allegations against Candice to Child Protection. Candice kicked her daughter out of the house and took away Paige's car which caused the CPS retaliation calls. During this time, Preston was discovered to have spent over \$400 in virtual cash for a video game and abusing his electronic freedoms, subsequently he lost all privileges and after an argument with his mom, he ran away from home. 4 hours later, Candice called the police after her attempts to find her son and wait for his return failed. Her family then was under scrutiny.

In August of 2019, Douglas County Child Protective Services came and took Candice's minor boys from the home where a trusted adult was with them because Candice wasn't home. At her first CHIPS hearing and at the advice of her hired attorney she entered an Alford plea, she trusted her attorney to do the right thing but never believed she did anything wrong.

One of the allegations was drug abuse. Candice was given a follicle test by Douglas county and one the same day completed one with an independent clinic. The test given by the county came back positive and the one paid for by Candice was negative. All subsequent drug screening has resulted in negative results and Candice was congratulated on her sobriety by the judge overseeing her case.

Candice quickly completed all requirements in her case plan. She was given 2 supervised visits per week. Due to her questioning the policies of the visitation center, she was not given the ability to progress in her visits. She was also shorted on her visits weekly by 1 total hour or more.

Candice's family was ordered to begin reunification therapy, but the children's GAL insisted Candice understated her mental health and decided that the boys had attachment issues after attending a symposium conducted by Deena McMahon MSW, LICSW. The county then requested a parenting assessment; which was completed by Deena McMahon.

Deena determined that Candice was "grooming her son Parker" to sexually abuse him later because during the assessment Parker sat on his mom's lap for 60 of the 90-minute visit and Candice questioned

the new underwear she purchased for him. Remember Ms. McMahon is not a psychologist and does not have the credentials to make this type of accusation.

Candice and both boys were attending family therapy and the therapist wrote, "in 35 years I have never seen children removed from the home for less". Preston decided after awhile he didn't trust this therapist which coincided with the time when CPS quit communicating with the therapist as he found nothing wrong with the family dynamic.

There is so much more going on in this case, it is full of bias, and retaliation. The "foster" family is unlicensed and in no way has been encouraging of reunification. The foster mother is a paraprofessional at the boys' school and is the mother of Preston's best friend (it is illegal for the boys to be in the car of a district employee).

Preston does not want to return home, he has a father figure and his best friend in his new home. At 13 (now 14) I would have preferred to live with my best friend too. Parker is the true victim but not at the hands of his mother but rather the county and the people who are to provide for his care. He wants to be home with his mother and the county insists he's happy where he is, but no one will ask him.

As I said in the beginning; at first, I thought there had to be more to the story something I was missing, but I have seen all reports, listened to the police interviews, read all notes, emails, everything and I cannot find any reason for any of this.

The Alford plea should have never been recommended. Candice has since fired the first attorney and retained new counsel but now is dealing with the repercussions of the Alford plea. In Family court you cannot take back your plea.

Family court allows our government entities to circumvent laws and civil rights and to rip apart families. The counties make money off adopting kids and in this case, they know they made errors and are doing all they can to legitimize what they have done. The Judge overseeing the case called Candice disingenuous and is obviously biased, in the last hearing she didn't even consider any of the motions, Candice's attorney filed. CPS is now filing for permanency placement. They have no intentions of returning these boys and I can follow up with you in August to prove my point. Candice has done nothing wrong and certainly nothing more than any other loving parent would do and still her children are being kept from her. The damage that has been done to this family is unfathomable.

I tried so hard to keep this short and to the point, there are many details I haven't included. Candice would love the opportunity to get her story out and has networked with other similar families. Adoption is big business and lots of people are making money from Candice and people like her. We the people cannot sit by and pretend this isn't happening, Candice's story is hers but not unique. We must expose this corruption, so no other families are ripped apart.

Worker: 000

S T A T E M E N T O F A C C O U N T

Page 1

6/01/2020 - 6/30/2020
52-00 OUT OF HOME PLACE

Please send payment to:

DOUGLAS COUNTY SOCIAL SERVICES
809 ELM STREET, STE 1186
ALEXANDRIA, MN 56308

RE: PARKER & PRESTON NELSON

Client ID: 3641-01

NELSON/CANDICE J
LOT 167
PO BOX 17370
ST PAUL, MN 55117-0370

TOTAL BALANCE DUE: 9,520.65

Amount Paid: _____

Please tear off and send top portion with payment.

Posted Date	Transaction	Description of Service	Charge	Payment	Balance
6/01/20	BALANCE FORWARD OUT OF HOME PLACEMENT				8,473.00
6/30/20	OUT OF HOME PLCMT-CHARGE				
	MAY 2020 1/2 COST OF CARE - 2		1,047.65		9520.65
6/30/20	BALANCE DUE FOR OUT OF HOME PLACEMENT				9,520.65

Your next statement will show payments that we receive by 7/25/2020

PLEASE PAY YOUR OVERDUE ACCOUNT IMMEDIATELY, OR CONTACT US.

	Current	Over 30	Over 60	Over 90	Balance Due
Aging:	1,047.65	1,013.85	1,122.65	6,336.50	9,520.65

THERE WILL BE A \$75 COLLECTION FEE ASSESSED TO ALL ACCOUNTS THAT HAVE RECEIVED NO PAYMENTS FOR 90 DAYS OR MORE.

** WHEN PROVIDING A CHECK FOR PAYMENT, YOU ARE AUTHORIZING DOUGLAS COUNTY TO UTILIZE THE INFORMATION FROM YOUR CHECK TO INITIATE A ONE-TIME ELECTRONIC FUND TRANSFER FROM YOUR ACCOUNT FOR THAT AMOUNT. **

OUT-OF-HOME PLCMT OF PARKER & PRESTON
NELSON BEGINNING 8/28/19

7/02/2020 Client ID: 3641-01

Page 1

6/01/2020- 6/30/2020

Worker: 000

Please refer inquiries to:
PHYLLIS J.
COLLECTIONS DEPT
PHONE: 320-762-2938

320-762-2938 or

Office of the Revisor of Statutes

2019 Minnesota Statutes

Authenticate  PDF

This section has been affected by law enacted during the 2020 legislative session. [Less info...](#)

260B.331 subd. 2 has been amended by [Chapter 83, Article 1, Section 71](#)

Note: see session law sections for effective dates.

260B.331 COSTS OF CARE.

Subdivision 1. **Care, examination, or treatment.** (a)(1) Whenever legal custody of a child is transferred by the court to a local social services agency, or

(2) whenever legal custody is transferred to a person other than the local social services agency, but under the supervision of the local social services agency, and

(3) whenever a child is given physical or mental examinations or treatment under order of the court, and no provision is otherwise made by law for payment for the care, examination, or treatment of the child, these costs are a charge upon the welfare funds of the county in which proceedings are held upon certification of the judge of juvenile court.

(b) The court shall order, and the local social services agency shall require, the parents or custodian of a child, while the child is under the age of 18, to use the total income and resources attributable to the child for the period of care, examination, or treatment, except for clothing and personal needs allowance as provided in section [256B.35](#), to reimburse the county for the cost of care, examination, or treatment. Income and resources attributable to the child include, but are not limited to, Social Security benefits, Supplemental Security Income (SSI), veterans benefits, railroad retirement benefits and child support. When the child is over the age of 18, and continues to receive care, examination, or treatment, the court shall order, and the local social services agency shall require, reimbursement from the child for the cost of care, examination, or treatment from the income and resources attributable to the child less the clothing and personal needs allowance.

(c) If the income and resources attributable to the child are not enough to reimburse the county for the full cost of the care, examination, or treatment, the court shall inquire into the ability of the parents to support the child and, after giving the parents a reasonable opportunity to be heard, the court shall order, and the local social services agency shall require, the parents to contribute to the cost of care, examination, or treatment of the child. Except in delinquency cases where the victim is a member of the child's immediate family, when determining the amount to be contributed by the parents, the court shall use a fee schedule based upon ability to pay that is established by the local social services agency and approved by the commissioner of human services. In delinquency cases where the victim is a member of the child's immediate family, the court shall use the fee schedule but may also take into account the seriousness of the offense and any expenses which the parents have incurred as a result of the offense. The income of a stepparent who has not adopted a child shall be excluded in calculating the parental contribution under this section.

(d) The court shall order the amount of reimbursement attributable to the parents or custodian, or attributable to the child, or attributable to both sources, withheld under chapter 518A from the income of the parents or the custodian of the child. A parent or custodian who fails to pay without good reason may be proceeded against for contempt, or the court may inform the county attorney, who shall proceed to collect the unpaid sums, or both procedures may be used.

(e) If the court orders a physical or mental examination for a child, the examination is a medically necessary service for purposes of determining whether the service is covered by a health insurance policy, health maintenance contract, or other health coverage plan. Court-ordered treatment shall be subject to policy, contract, or plan requirements for medical necessity. Nothing in this paragraph changes or eliminates benefit limits, conditions of coverage, co-payments or deductibles, provider restrictions, or other requirements in the policy, contract, or plan that relate to coverage of other medically necessary services.

Subd. 2. **Cost of group foster care.** Whenever a child is placed in a group foster care facility as provided in section [260B.198](#), [subdivision 1](#), clause (2) or (3), item (v), the cost of providing the care shall, upon certification by the juvenile court, be paid from the welfare fund of the county in which the proceedings were held. To reimburse the counties for the costs of providing group foster care for delinquent children and to promote the establishment of suitable group foster homes, the state shall quarterly, from funds appropriated for that purpose, reimburse counties 50 percent of the costs not paid by federal and other available state aids and grants. Reimbursement shall be prorated if the appropriation is insufficient.

The commissioner of corrections shall establish procedures for reimbursement and certify to the commissioner of management and budget each county entitled to receive state aid under the provisions of this subdivision. Upon receipt of a certificate the commissioner of management and budget shall issue a state payment to the county treasurer for the amount due, together with a copy of the certificate prepared by the commissioner of corrections.

Subd. 3. **Court expenses.** The following expenses are a charge upon the county in which proceedings are held upon certification of the judge of juvenile court or upon such other authorization provided by law:

(1) the fees and mileage of witnesses, and the expenses and mileage of officers serving notices and subpoenas ordered by the court, as prescribed by law;

(2) the expense of transporting a child to a place designated by a child-placing agency for the care of the child if the court transfers legal custody to a child-placing agency;

(3) the expense of transporting a minor to a place designated by the court;

(4) reasonable compensation for an attorney appointed by the court to serve as counsel, except in the Eighth Judicial District where the state courts shall pay for counsel to a guardian ad litem until the recommendations of the task force created in Laws 1999, chapter 216, article 7, section 42, are implemented.

The state courts shall pay for guardian ad litem expenses.

Subd. 4. Legal settlement. The county charged with the costs and expenses under subdivisions 1 and 2 may recover these costs and expenses from the county where the minor has legal settlement for general assistance purposes by filing verified claims which shall be payable as are other claims against the county. A detailed statement of the facts upon which the claim is based shall accompany the claim. If a dispute relating to general assistance settlement arises, the local social services agency of the county denying legal settlement shall send a detailed statement of the facts upon which the claim is denied together with a copy of the detailed statement of the facts upon which the claim is based to the commissioner of human services. The commissioner shall immediately investigate and determine the question of general assistance settlement and shall certify findings to the local social services agency of each county. The decision of the commissioner is final and shall be complied with unless, within 30 days thereafter, action is taken in district court as provided in section 256.045.

Subd. 5. Attorney fees. (a) In proceedings in which the court has appointed counsel pursuant to section 260B.163, subdivision 4, for a minor unable to employ counsel, the court shall inquire into the ability of the parents to pay for such counsel's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay attorney fees.

(b) The court may order a parent under paragraph (a) to reimburse the state for the cost of the child's appointed counsel. In determining the amount of reimbursement, the court shall consider the parent's income, assets, and employment. If reimbursement is required under this subdivision, the court shall order the reimbursement when counsel is first appointed or as soon as possible after the court determines that reimbursement is required. The court may accept partial reimbursement from a parent if the parent's financial circumstances warrant establishing a reduced reimbursement schedule. If the parent does not agree to make payments, the court may order the parent's employer to withhold a percentage of the parent's income to be turned over to the court.

Subd. 6. Guardian ad litem fees. (a) In proceedings in which the court appoints a guardian ad litem pursuant to section 260B.163, subdivision 6, paragraph (a), the court may inquire into the ability of the parents to pay for the guardian ad litem's services and, after giving the parents a reasonable opportunity to be heard, may order the parents to pay guardian ad litem fees.

(b) In each fiscal year, the commissioner of management and budget shall deposit guardian ad litem reimbursements in the special revenue fund and credit them to a separate account with the State Guardian Ad Litem Board. The balance of this account is appropriated to the State Guardian Ad Litem Board and does not cancel but is available until expended. Revenue from this account must be spent in the judicial district in which the reimbursement is collected.

History: 1999 c 139 art 2 s 35; art 4 s 2; 1999 c 216 art 7 s 22, 23; 2003 c 112 art 2 s 50; 2005 c 164 s 29; 1Sp 2005 c 7 s 28; 2009 c 101 art 2 s 109; 2010 c 309 s 2; 2012 c 212 s 4; 2013 c 37 s 2; 1Sp 2019 c 10 art 3 s 40

Ms. Nelson:

I represent Douglas County Social Services with regard to Douglas County Court File Nos. 21-JV-19-1514, 21-JV-19-1515, 21-JV-20-868, and 21-JV-20-888. As the attorney for Douglas County Social Services with regard to those four matters, I am sending you this email with regard to your email to me from July 1, 2020, in which you requested discovery pertaining to Douglas County Court File Nos. 21-JV-19-1514 and 21-JV-19-1515. This is Douglas County Social Services' response to that July 1, 2020, email from you.

First, my understanding is that you have requested "the exact protocol that Douglas County Social Services uses from intake to the end." See your email sent to me on July 1, 2020, at 5:27 p.m. In child protection matters, Douglas County Social Services looks to sections 260C and 626.556 of the Minnesota Statutes, to relevant Minnesota Department of Human Services bulletins, and to rules, that are relevant to child protection matters, for use when proceeding with a child protection matter. The above-mentioned Minnesota Department of Human Services bulletins may be accessed via Internet search. Douglas County Social Services also uses the Minnesota Department of Human Services "Revised Minnesota Child Maltreatment Intake, Screening and Response Path Guidelines", and the Minnesota Department of Human Services "Minnesota's Best Practices for Family Assessment and Family Investigation", and the links to those two resources are, respectively:

[https://www.dhs.state.mn.us/main/idcplg?](https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs-319528)

[IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs-319528](https://www.dhs.state.mn.us/main/idcplg?IdcService=GET_FILE&RevisionSelectionMethod=LatestReleased&Rendition=Primary&allowInterrupt=1&noSaveAs=1&dDocName=dhs-319528)

<https://edocs.dhs.state.mn.us/lfserver/Public/DHS-7059-ENG>

Second, my understanding is that you have requested "the training requirements for Social Workers." See your email sent to me on July 1, 2020, at 5:27 p.m. At Douglas County Social Services, child protection social workers need to have a four-year college degree related to human services. Douglas County Social Services is aware of Minnesota statutory training requirements for child protection social workers as set out in the pertinent provisions of section 626.559 of the Minnesota Statutes, more specifically, in Minn. Stat. § 626.559, subds. 1, 1a, and 1b(a)(1)(2)(b) (2015). Child protection social workers employed by Douglas County are subject to the Minnesota Merit System.

Third, my understanding is that you have requested "the state statutes that you are using for the TPR processes in Douglas County." See your email sent to me on July 1, 2020, at 5:27 p.m. Douglas County Social Services looks to section 260C of the Minnesota Statutes, for use in termination of parental rights processes in Douglas County.

Fourth, my understanding is that you have requested that "if you are no longer using the Social Service Manual what was that replaced with?" See your email sent to me on July 1, 2020, at 5:27 p.m. If you are referring to the MN Department of Human Services Manual, XV1-1400, Douglas County Social Services: does not have that document; does not use that document; and if that document was replaced, the Minnesota Department of Human Services did not indicate to Douglas County Social Services with what that document was replaced.

XVI-4000

STATE OF MINNESOTA
COUNTY OF DOUGLAS

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

Candice Joy Nelson,
Plaintiff,

Court File No. 21-CV-20-892
Judge Leonard A. Weiler

v.

Mary Peterson, d/b/a Guardian Ad Litem,
Anna Hughes, d/b/a Social Worker for County of Douglas,
Josh Klein, d/b/a Foster Parent for the State of Minnesota,
Beth Klein, d/b/a Foster Parent for the State of Minnesota,
And Paige Nelson,

**DEFENDANTS JOSH KLEIN
AND BETH KLEIN'S NOTICE
OF MOTION AND MOTION
TO DISMISS**

Defendants.

TO: All parties above-named and their counsel of record.

PLEASE TAKE NOTICE that at a time and date to be established by the Court at the Douglas County Courthouse, 305 8th Avenue West, Alexandria, Minnesota 56308, Defendants Josh Klein and Beth Klein will move the Court for an order dismissing Plaintiff's Complaint pursuant to Minn. R. Civ. P. 12. Said motion will be made upon all of the files, records and proceedings herein as well as a Memorandum of Law and supporting documents to be served and filed within the time required by the General Rules of Practice.

CARLSON & ASSOCIATES, LTD.

Dated: July 8, 2020

/s/ Thomas P. Carlson (024871X)
1052 Centerville Circle
Vadnais Heights, MN 55127
Telephone: (651) 287-8640
tcarlson@carlsonassoc.com

ATTORNEYS FOR DEFENDANTS
JOSH KLEIN AND BETH KLEIN

State of Minnesota
Douglas County

District Court
Seventh Judicial District

Court File Number: 21-CV-20-892

Case Type: Civil Other/Misc.

Notice of Remote Telephone Hearing

FILE COPY

CANDICE JOY NELSON vs Joshua Klein, Elizabeth Klein, Mary Peterson, Paige Nelson, Anna Hughes

You are notified this matter is set for a remote Scheduling Conference on **July 23, 2020 at 3:00 PM** in Douglas County District Court with Judicial Officer Leonard A. Weiler. This hearing will not be in person at the courthouse. **The hearing will be held remotely via a conference bridge line. At the scheduled hearing time, call 612-902-9678 and enter access code 0101105#**

You must:

- Give the court a valid telephone number a minimum of 3 days before the hearing date. Please include the court file number listed above. The court's contact information is below.
- Notify the court if your address, email, or phone number changes.
- Be fully prepared for the remote hearing. If you have exhibits you want the court to see, you must give them to the court before the hearing. Visit www.mncourts.gov/Remote-Hearings for more information and options for joining remote hearings, including how to submit exhibits.
- Contact the court if you have concerns about this remote telephone hearing.

Court contact information:

- Phone: 320-762-3033
- Email: @courts.state.mn.us

Dated: June 30, 2020

Douglas County Court Administrator

cc: Candice Joy Nelson
Joshua Klein
Elizabeth Klein

Mary Peterson
Paige Nelson
Cally Rae Lynn Kjellberg-nelson

State of Minnesota**District Court**

County of: <u>Douglas</u>	Judicial District: <u>7</u> Court File Number: <u>21-CV-20-812</u> Case Type: <u>Civil</u>
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Candice Joy Nelson
Plaintiff(s) (first, middle, last)

vs.

**Answer
or
Answer and Counterclaim**

Paige Marie Nelson ET. AL
Defendaht(s) (first, middle, last)

Defendant denies everything in Plaintiff's Complaint, except as admitted, or otherwise answered.

1. **Deny.** All statements are untrue in paragraph numbers

2. **Admit.** All statements are true in paragraph numbers

Paragraph 3

3. **Partially True.** The information in the following paragraphs is partially true and partially false.

Paragraph 5

In these partially true paragraphs, I deny everything except the following statements, which are true:

I did make statements, however they were truthful.

4. **Insufficient Information.** I don't have enough information to know if the following paragraphs and/or statements are true:

Paragraph 1

Paragraph 2

Paragraph 4

Paragraph 5

5. I claim the following Affirmative Defense(s): (check only defenses that apply)

- | | |
|---|---|
| <input type="checkbox"/> Accord and satisfaction | <input type="checkbox"/> Injury by fellow servant |
| <input type="checkbox"/> Arbitration and award | <input type="checkbox"/> Laches |
| <input type="checkbox"/> Assumption of risk | <input type="checkbox"/> License |
| <input type="checkbox"/> Contributory negligence | <input type="checkbox"/> Payment |
| <input type="checkbox"/> Discharge in bankruptcy | <input type="checkbox"/> Release |
| <input type="checkbox"/> Duress | <input type="checkbox"/> Res judicata |
| <input type="checkbox"/> Estoppel | <input type="checkbox"/> Statute of frauds |
| <input type="checkbox"/> Failure of consideration | <input type="checkbox"/> Statute of limitations |
| <input checked="" type="checkbox"/> Fraud | <input type="checkbox"/> Waiver |
| <input type="checkbox"/> Illegality | <input checked="" type="checkbox"/> Other |

Facts that support my affirmative defense(s):

failure to state a claim
upon which relief can be
granted.

The statements I made were accurate and
I have first-hand knowledge of the statements
that I made.

6. Counterclaim: (check one)

☒ I have no Counterclaims.

☐ I make the following Counterclaims against Plaintiff arising from the same transactions described in the Plaintiff's Complaint.

I ask the Court to: (check all that apply)

- ☒ Dismiss Plaintiff's complaint, enter judgment for me, and award me costs and disbursements allowed by Minn. Stat. § 549.11.
- ☐ Enter judgment for me on my counterclaims, if any.
- ☐ Order that:

Dated: 6-28-20

Paige Nelson
Signature of Defendant*

Name: Paige Nelson

Address: PO BOX #302

City/State/Zip: OSAKIS MN 56360

Telephone: 320-527-3562

E-mail address: pnelson684@gmail.com

*** Read before Signing:**

By signing this Answer, you are agreeing the following statements are true and you acknowledge that fines/fees could be assessed against you.

- a. I read this document. To the best of my knowledge, information and belief the information in the document is well grounded in fact and is warranted by existing law.
- b. I have not been determined by any court in any State to be a frivolous litigant or subject to an Order precluding me from serving and filing this document.
- c. I am not serving or filing this document for any improper purpose, such as to harass the other party or to cause delay or needless increase in the cost of litigation or to commit a fraud on the Court.
- d. I understand that if I am not telling the truth or if I am misleading the court or if I am serving or filing this document for any improper purpose, the court can order me to pay money to the other party, including the reasonable expenses incurred by the other party because of the serving or filing of this document such as court costs, and reasonable attorneys fees.
- e. I understand that as part of a final order granting judgment or dismissing the case, the party who loses may be ordered to pay costs, disbursements, and reasonable attorney and witness fees to the winning party, pursuant to Minn. Stat. § 549.11.

State of Minnesota
Douglas County

**FILED in District Court
State of Minnesota**

District Court
Seventh Judicial District
Court File Number: 21-CV-20-892
Case Type: Civil Other/Misc.

Notice of Hearing

FILE COPY

CANDICE JOY NELSON vs Joshua klein, Elizabeth Klein, Mary Peterson, Paige Nelson, Anna Hughes

You are notified of the following hearing date(s):

<i>Setting</i>
September 18, 2020 Motion Hearing 9:00 AM

at the following location:

**District Court Judge Leonard A. Weiler
Morrison County District Court
213 1st Ave SE
Little Falls MN 56345
320-632-0323**

You are expected to appear fully prepared. **You must notify the court if your address changes.**

To receive an eReminder for future court dates via e-mail or text, visit

<http://www.mncourts.gov/Hearing-eReminders.aspx> or scan the QR code to enroll.



Dated: July 9, 2020

Douglas County Court Administrator

cc: CANDICE JOY NELSON
Paige Nelson
Elizabeth Klein
KERIANN LAVONNE RIEHLE
CALLY RAE LYNN KJELLBERG-NELSON
THOMAS PAUL CARLSON
DYAN JEAN EBERT



MINNESOTA JUDICIAL BRANCH

The Minnesota Judicial Branch is following Minnesota Department of Health and Center for Disease Control and Prevention recommendations to limit the spread of COVID-19. If your hearing will take place in a courthouse, you must comply with any protocols required for entrance into that county's courthouse. **You are required to wear a face covering at all times in court facilities.** You must maintain appropriate social distancing and may be required to follow additional safety procedures. Please **contact the court or your attorney** if you are experiencing symptoms of COVID-19, or have been diagnosed with or have possibly been exposed to anyone who has had COVID-19 within 14 days before your hearing date. Learn more about each courthouse's safety measures by selecting the county's name using the menu at www.mncourts.gov/emergency

STATE OF MINNESOTA
COUNTY OF DOUGLAS

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

CASE TITLE:

Judge: Leonard A. Weiler
Court File #21-CV-20-892

Candice Joy Nelson,

Plaintiff,

ORDER

vs.

Mary Peterson, Anna Hughes, Josh
Klein, Elizabeth Klein, Paige
Nelson,

Defendants.

The above-entitled matter came on for hearing before Judge Leonard A. Weiler,
Judge of District Court, at the Douglas County Courthouse on Defendant Anna Hughes'
Motion to Dismiss. Appearances were noted on the record.

Based on the files, recordings and proceedings herein, and the arguments of
counsel,

IT IS HEREBY ORDERED:

1. That Anna Hughes' Motion to Dismiss is GRANTED in its entirety.
2. Plaintiff's Complaint is dismissed with prejudice.

LET JUDGMENT BE ENTERED ACCORDINGLY.

Dated this ____ day of _____, 2020.

BY THE COURT:

Honorable Leonard A. Weiler
Judge of District Court

STATE OF MINNESOTA
COUNTY OF DOUGLAS

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

CASE TITLE:

Judge: Leonard A. Weiler
Court File #21-CV-20-892

Candice Joy Nelson,

Plaintiff,

DEFENDANT ANNA HUGHES'
MEMORANDUM OF LAW IN SUPPORT
OF MOTION TO DISMISS

vs.

Mary Peterson, Anna Hughes, Josh
Klein, Elizabeth Klein, Paige
Nelson,

Defendants.

INTRODUCTION

Defendant Anna Hughes respectfully submits this Memorandum of Law in support of her Motion to Dismiss Plaintiff Candice Joy Nelson's Complaint. Plaintiff claims Defendant Hughes has committed "false indication," defamation of character, other professional malpractice, and negligence. Plaintiff also appears to allege a violation under 42 U.S.C. § 1983. Plaintiff claims she is entitled to economic and non-economic damages.

All of the allegations against Ms. Hughes relate to her work as a Social Worker for Douglas County. See Complaint. Plaintiff has not alleged that Ms. Hughes exceeded the course and scope of her duties as a Douglas County Social Worker, rather, Plaintiff is unsatisfied with the results of Ms. Hughes' work and the juvenile court's rulings. Id. Accordingly, the Complaint fails to state a claim upon which relief can be granted and should be dismissed. Additionally, Ms. Hughes is entitled to official immunity, qualified

immunity, immunity under Minn. Stat. § 626.556, subd. 4(b), and/or quasi-judicial immunity. Further, Plaintiff has failed to sufficiently plead claims under Section 1983 or state law and this Court lacks jurisdiction to address Plaintiff's allegations regarding the juvenile court proceedings. Accordingly, Plaintiff's Complaint should be dismissed.

STANDARD OF REVIEW

Minnesota Rule of Civil Procedure 12.02(e) provides that a motion to dismiss may be properly granted, "if the complaint fails to state a claim upon which relief can be granted." When a party brings a motion to dismiss under Rule 12.02(e), the only question before a court is whether the complaint states a legally sufficient claim for relief. Elzie v. Comm'r of Public Safety, 298 N.W.2d 29, 32 (Minn. 1980).

A trial court should grant a dismissal under Rule 12.02(e) of the Minnesota Rules of Civil Procedure if it appears to a certainty that no facts consistent with the pleadings could be introduced to support granting the relief sought by the plaintiff. Doyle v. Kuch, 611 N.W.2d 28, 32-33 (Minn. Ct. App. 2000). A court may consider documents referenced in the complaint without converting the motion to dismiss to one for summary judgment. Martens v. Minnesota Mining & Mfg. Co., 616 N.W.2d 732, 739 (Minn. 2000). When matters outside the pleadings are considered, the Rule 12 motion is converted into a Rule 56 motion. Minn. R. Civ. P. 12.02. The allegations contained in the pleadings must be taken as true and viewed in the light most favorable to the pleader. Northern States Power Co. v. Minnesota Metropolitan Council, 667 N.W.2d 501, 506 (Minn. Ct. App. 2003).

Plaintiff's Complaint is premised on Ms. Hughes' work as a Social Worker regarding Plaintiff's children, which can be found in Court File No. 21-JV-19-1514 and

21-JV-19-1515. Because Plaintiff's Complaint is premised on these underlying documents, the Court may consider them in this Rule 12 Motion without converting the matter to summary judgment.

When evaluating a rule 12 motion to dismiss, a court may take judicial notice of opinions in an underlying action, or consider documents central to the claim alleged. See In re Hennepin County 1986 Recycling Bond Litig., 540 N.W.2d 494, 497 (Minn. 1995) (court may consider contract central to claims alleged); Rohricht v. O'Hare, 586 N.W.2d 587, 589 (Minn. Ct. App.1998) (court did not err in taking judicial notice of decisions in underlying action). "Conversion [from rule 12 motion to motion for summary judgment] is not necessary where the court only considers an authenticated copy of a key document upon which the complaint is premised." 1 David F. Herr & Roger S. Haydock, Minnesota Practice § 12.9 (1998); see also Johnson v. State, 536 N.W.2d 328, 332 (Minn. Ct. App.1995), *rev'd on other grounds*, 553 N.W.2d 40 (Minn. 1996).

Untiedt v. Schhmidt, No. C8-00-1272, 2001 WL 69482, at *2 (Minn. Ct. App. Jan. 30, 2001). In each of the juvenile protection proceedings, in accordance with Rule 27.05 of the General Rules for Juvenile Protection Matters, Ms. Hughes filed periodic reports on February 25, 2020 for the court's consideration in anticipation of the Permanency Progress Review Hearing scheduled for February 27, 2020. Ms. Hughes also filed reports on May 7, 2020 in the juvenile court proceedings in anticipation of the Intermediate Disposition Hearing scheduled for May 12, 2020. This Court may take judicial notice of the filings by Ms. Hughes as well as the juvenile court's determinations in those files.

ARGUMENT

- I. **PLAINTIFF'S COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED**
 - A. **Plaintiff's Claim of Negligence Should Be Dismissed**

Plaintiff's Complaint contains one count of negligence alleging the Defendants failed to "perform their duties not to be treated with defamation of character, deprived of their right of their property as provided by 42 U.S.C. 1983 and making statements that are not professional and using this as a reason to deny next of kin custody." Complaint, Count I. The Complaint goes on to cite how Plaintiff is critical of the agency's placement efforts. Id.

The elements of a negligence claim are: (1) the existence of a duty of care, (2) a breach of that duty, (3) an injury was sustained, and (4) breach of the duty was the proximate cause of the injury. Engler v. Ill. Farmers Ins. Co., 706 N.W.2d 764, 767 (Minn. 2005). The Complaint fails to describe how Ms. Hughes owed Plaintiff a duty of care or how Ms. Hughes allegedly breached that duty. Further, the Complaint fails to identify what injury was sustained by Plaintiff or how any of Ms. Hughes' conduct was a proximate cause of the alleged injury. Because Plaintiff has failed to allege the necessary elements of a negligence claim against Ms. Hughes, Plaintiff's negligence claim should be dismissed.

B. Plaintiff's Claim of "Falsefied [sic] Indication" Should Be Dismissed

Plaintiff's Complaint also includes one count alleging "falsefied [sic] indication" based on "unprofessional comments" made towards her and the Defendants "using their own belief to decide where the children should be." Complaint, Count II. Plaintiff further claims Defendants "went beyond the law to keep the children from the family." Id. Based on these allegations, it is unclear what cause of action is being alleged by Plaintiff. To the extent Plaintiff is disputing the decisions of the juvenile court, this

Court has no jurisdiction to overturn those decisions and Plaintiff has failed to state a claim upon which relief can be granted.

C. Plaintiff's Claim of Defamation Should Be Dismissed

Plaintiff's Complaint also arguably includes a claim for Defamation of Character. However, to be actionable, allegedly defamatory statements must be included in a plaintiff's complaint. Bebo v. Delander, 632 N.W.2d 732, 739 (Minn. Ct. App. 2001) (citing Benson v. Northwest Airlines, Inc., 561 N.W.2d 530, 538 (Minn. Ct. App. 1997)). Other allegedly defamatory statements not contained in the complaint are beyond the scope of a plaintiff's defamation claim. See Thompson v. Campbell, 845 F. Supp. 665, 680 (D. Minn. 1994); Benson, 561 N.W.2d at 538. Plaintiff's Complaint entirely fails to identify any allegedly defamatory statements by either Ms. Hughes or any other Defendant. As a result, Plaintiff's Complaint fails to state a claim for defamation upon which relief can be granted and should be dismissed.

D. Plaintiff's Claim of Other Professional Malpractice Should Be Dismissed

Plaintiff's Complaint also arguably includes a claim for "Other Professional Malpractice." In particular, Plaintiff alleges: "These false indications were unsupported by substantial evidence and this is clearly unprofessional malpractice on the Social Worker and Guardian Ad Litem due to their actions without supporting foundation to request termination of the Petitioner's rights as a parent." Complaint, ¶ 5. The Complaint does not contain any other details regarding the claim. Plaintiff's Complaint does not even specifically allege what Ms. Hughes did that would constitute professional malpractice. As such, the Complaint fails to state a claim upon which relief can be granted and should be dismissed.

II. PLAINTIFF'S COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED BECAUSE ANNA HUGHES IS ENTITLED TO OFFICIAL IMMUNITY

Even if the Court were to determine that Plaintiff has sufficiently pled her claims, all of Plaintiff's claims against Ms. Hughes are barred by official immunity. "Official immunity is a common law doctrine that protects government officials from suit for discretionary actions taken by them in the course of their official duties." Hyatt v. Anoka Police Dep't, 700 N.W.2d 502, 507 (Minn. Ct. App. 2005). Official immunity bars common law claims against public officials for acts taken in performance of duties requiring judgment and discretion unless they are guilty of a malicious or willful wrong. Anderson v. Anoka Hennepin Indep. School District, 678 N.W.2d 651, 655 (Minn. 2004) ((citing Elwood v. Rice County, 423 N.W.2d 671, 677 (Minn. 1988)(quoting Susla v. State, 311 Minn. 166, 175, 247 N.W.2d 907, 912 (1976))).

Immunity automatically attaches to a public official if he or she has duties that require the exercise of judgment or discretion. Johnson v. Morris, 453 N.W.2d 31, 41 (Minn. 1990). A county social worker is considered a "public official" for purposes of an official immunity analysis. Olson v. Ramsey County, 509 N.W.2d 368, 371 (Minn. 1993). In Olson, the plaintiff argued the social worker should have made additional contacts with a mother and child and failure to do so constituted negligence. The Minnesota Supreme Court held that the social worker was entitled to official immunity because the determination of how and when to provide services, how and when to investigate and what to do next in an investigation is discretionary. Id. at 372. Moreover, the Olson Court indicated that official immunity may be applicable even when the conduct was

negligent because “governmental immunity protects against not only right decisions with unfortunate results but wrong decisions with bad results.” Id.

The Minnesota Court of Appeals recently held that social workers are entitled to official immunity:

Because screening, assessment, and investigation of child maltreatment reports involve the exercise of independent judgment, these actions constitute discretionary conduct under the official-immunity doctrine. The social workers here are entitled to official immunity in the context of this conduct, as there are no allegations that their conduct was willful or malicious.

Jepson as Trustee for Dean v. County of Pope, 938 N.W.2d 60, 72 (Minn. Ct. App. 2019) (review granted March 17, 2020).

Plaintiff is critical of Ms. Hughes’ alleged reliance on Defendant Paige Nelson’s “false statements” to detain Plaintiff’s children and further alleges Ms. Hughes has failed to conduct a proper investigation. All of the conduct alleged by Plaintiff regarding Ms. Hughes related to Ms. Hughes’ official duties as a Douglas County Social Worker. The conduct at issue and challenged by Plaintiff clearly entails discretionary duties. Any allegations asserted by Plaintiff with regard to Ms. Hughes’ case management duties would involve the exercise of independent judgment. Plaintiff further does not allege that Ms. Hughes knowingly violated the law. Accordingly, Ms. Hughes is officially immune from Plaintiff’s claims.

III. PLAINTIFF’S COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED BECAUSE ANNA HUGHES IS ENTITLED TO IMMUNITY UNDER MINN. STAT. § 626.556, SUBD. 4

Under subdivision 4(b) of the Reporting of Maltreatment of Minors Act, a county social worker is immune from any civil or criminal liability related to her actions in

performing her duties if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j). Minn. Stat. § 626.556, subd. 4(b).

Plaintiff simply alleges Ms. Hughes “did not conduct a proper investigation” and “went beyond protocol” to make sure Plaintiff’s children would be permanently placed in foster care. There is no allegation that Ms. Hughes was not acting in good faith or outside of the scope of her duties as a Douglas County Social Worker. While Plaintiff may be unsatisfied with the reports Ms. Hughes has submitted to the juvenile court, Ms. Hughes is still entitled to immunity under Minn. Stat. § 626.556, subd. 4(b).

IV. PLAINTIFF’S COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED BECAUSE ANNA HUGHES IS ENTITLED TO QUASI JUDICIAL IMMUNITY

While Plaintiff does not explicitly detail what she believes Ms. Hughes has done wrong other than not conduct a proper investigation, to the extent the allegations are based on the reports Ms. Hughes has filed with the juvenile court, Ms. Hughes would be entitled to quasi-judicial immunity. Judicial immunity extends to persons who are integral parts of the judicial process. Myers through Myers v. Price, 463 N.W.2d 773, 775 (Minn. Ct. App.1990), pet. for rev. denied (Minn. Feb. 4, 1991). Courts have extended quasi-judicial immunity to court-appointed psychiatrists, physicians, psychologists, and social workers. See Sloper v. Dodge, 426 N.W.2d 478, 479 (Minn. Ct. App.1988). As noted above, Ms. Hughes was required under the General Rules for Juvenile Protection Matters to submit periodic reports to the court regarding the children. Ms. Hughes’ role in this process is required and an important part to the juvenile protection procedure.

As such, Ms. Hughes is entitled to quasi-judicial immunity for any submissions made to the juvenile court.

V. PLAINTIFF'S SECTION 1983 CLAIMS SHOULD BE DISMISSED AS PLAINTIFF HAS FAILED TO IDENTIFY CONSTITUTIONAL VIOLATIONS AND ANNA HUGHES IS ENTITLED TO QUALIFIED IMMUNITY

Plaintiff indicates she is asserting a claim under Section 1983 and that she is suing Mary Peterson and Ms. Hughes in “their own capacity.” Complaint, ¶ 5. A plaintiff who seeks relief under Section 1983 is obliged to prove that someone deprived her of a right secured by the Constitution and laws of the United States, that the alleged deprivation was committed by a person acting under the color of state law and that the person acted with the requisite culpability and causation to violate the constitutional right. See West v. Atkins, 487 U.S. 42, 48 (1988); see also Shrum v. Kluck, 249 F.3d 773, 777 (8th Cir. 2001).

Plaintiff alleges violations of the Fourteenth Amendment, Eighth Amendment, and Fourth Amendment. Complaint, ¶ 5¹. Plaintiff claims there is “clearly a violation of the 14th amendment of due process and equal protection of the law.” Id. She also claims a clear “violation of the 8th amendment for cruel and unusual punishment and the 4th amendment for illegally detaining the Petitioner’s children in the first place.” Id.

¹ To the extent Plaintiff is making a claim under the Minnesota Constitution, those claims would be subject to dismissal as there is no private cause of action under the Minnesota Constitution. See Mitchell v. Steffen, 487 N.W.2d 896, 905-06 (Minn. Ct. App. 1992) (recognizing that Minnesota does not recognize a tort for violation of due process rights), aff’d, 504 N.W.2d 198 (Minn. 1993); Bird v. State, Dep’t of Pub. Safety, 375 N.W.2d 36, 40 (Minn. Ct. App. 1985) (same).

Plaintiff does not identify how Ms. Hughes specifically violated these constitutional rights.

Fourteenth Amendment

Plaintiff fails to explain how Ms. Hughes violated her Fourteenth Amendment rights to due process and equal protection of the laws. Any complaints Plaintiff may have about the due process and equal protection she was afforded with regard to the juvenile court proceedings would be properly addressed in an appeal relating to those proceedings and not the present action.

Eighth Amendment

The Eighth Amendment prohibits cruel and unusual punishment and is made applicable to the states by the Due Process Clause. Plaintiff fails to articulate what conduct was cruel and unusual punishment or who even inflicted the punishment. Complaint. Indeed, the Complaint is entirely silent as to how Ms. Hughes inflicted any punishment on Plaintiff.

Regardless, the Eighth Amendment applies only to convicted criminal defendants against whom the state “has secured a formal adjudication of guilt in accordance with due process of law.” Ingraham v. Wright, 430 U.S. 651, 671 n. 40, 97 S.Ct. 1401, 51 L.Ed.2d 711 (1977); see also Rhodes v. Chapman, 425 U.S. 337, 344–46 (1981) (prohibiting the government from inflicting “cruel and unusual punishment” on persons convicted of crimes). Plaintiff’s reliance on the Eighth Amendment is misplaced. There is no allegation that Plaintiff was ever a convicted defendant and she therefore has no claim under the Eighth Amendment.

Fourth Amendment

The Fourth Amendment protects against unreasonable search and seizure. U.S.Const.Amdt. IV. Notwithstanding the fact that Plaintiff's children would not constitute her property subject to the Fourth Amendment unreasonable seizure protections, Plaintiff's Fourth Amendment claim for "illegally detaining" her children necessarily calls into question the decisions of the juvenile court as it was the juvenile court which made decisions relating to whether to remove Plaintiff's children from her care and custody. As such, any claim that the "detention" of Plaintiff's children was improper would be a subject for appeal in the juvenile court proceedings and not the basis for a separate civil action.

Even if the Court were to consider any of Plaintiff's alleged constitutional violation claims, Ms. Hughes is entitled to qualified immunity for her case management duties during the juvenile protection proceedings. Mitchell v. Dakota County Social Services, 959 F.3d 887, 901 (8th Cir. 2020).

VI. THIS COURT LACKS JURISDICTION TO ADDRESS PLAINTIFF'S CONCERNS AND COMPLAINTS REGARDING THE JUVENILE COURT PROCEEDINGS

Plaintiff's Complaint is essentially an appeal of the juvenile court proceedings relating to her children. Plaintiff seeks the return of her children to her home and requests Ms. Hughes be required to "show supporting and factual evidence to the Family Law Court." Complaint. In accordance with Minn. Stat. § 260C.101, the juvenile court has original and exclusive jurisdiction in proceedings concerning children alleged to be in need of protection or services. This Court has no jurisdiction to provide Plaintiff the relief she requests in placing her children back in her home.

To the extent Plaintiff believes any of the decisions of the juvenile court in Court File Nos. 21-JV-19-1514 and 21-JV-19-1515 were improper, this Court does not have jurisdiction to hear those complaints or decide those issues. Rather, in accordance with the Minnesota Rules of Juvenile Protection Procedure, Plaintiff may appeal from any final order of the juvenile court affecting her substantial legal right. Minn. R. Juv. Prot. Proc. 23.02, subd. 1. All of Plaintiff's allegations about the insufficiency of the evidence supporting the removal of her children from her home are exclusively left to the jurisdiction of the juvenile court and any corresponding appeal Plaintiff may take with regard to those decisions.

CONCLUSION

For the foregoing reasons, Defendant Anna Hughes respectfully requests all of Plaintiff's claims against her be dismissed in their entirety, on the merits, and with prejudice.

QUINLIVAN & HUGHES, P.A.

Dated: July 9, 2020

By: /s/Cally Kjellberg-Nelson
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Dyan J. Ebert #0237966
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debert@quinlivan.com

STATE OF MINNESOTA
COUNTY OF DOUGLAS

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

CASE TITLE:

Judge: Leonard A. Weiler
Court File #21-CV-20-892

Candice Joy Nelson,

Plaintiff,

DEFENDANT ANNA HUGHES'
MEMORANDUM OF LAW IN SUPPORT
OF MOTION TO DISMISS

vs.

Mary Peterson, Anna Hughes, Josh
Klein, Elizabeth Klein, Paige
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Defendants.

INTRODUCTION

Defendant Anna Hughes respectfully submits this Memorandum of Law in support of her Motion to Dismiss Plaintiff Candice Joy Nelson's Complaint. Plaintiff claims Defendant Hughes has committed "false indication," defamation of character, other professional malpractice, and negligence. Plaintiff also appears to allege a violation under 42 U.S.C. § 1983. Plaintiff claims she is entitled to economic and non-economic damages.

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immunity, immunity under Minn. Stat. § 626.556, subd. 4(b), and/or quasi-judicial immunity. Further, Plaintiff has failed to sufficiently plead claims under Section 1983 or state law and this Court lacks jurisdiction to address Plaintiff's allegations regarding the juvenile court proceedings. Accordingly, Plaintiff's Complaint should be dismissed.

STANDARD OF REVIEW

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A trial court should grant a dismissal under Rule 12.02(e) of the Minnesota Rules of Civil Procedure if it appears to a certainty that no facts consistent with the pleadings could be introduced to support granting the relief sought by the plaintiff. Doyle v. Kuch, 611 N.W.2d 28, 32-33 (Minn. Ct. App. 2000). A court may consider documents referenced in the complaint without converting the motion to dismiss to one for summary judgment. Martens v. Minnesota Mining & Mfg. Co., 616 N.W.2d 732, 739 (Minn. 2000). When matters outside the pleadings are considered, the Rule 12 motion is converted into a Rule 56 motion. Minn. R. Civ. P. 12.02. The allegations contained in the pleadings must be taken as true and viewed in the light most favorable to the pleader. Northern States Power Co. v. Minnesota Metropolitan Council, 667 N.W.2d 501, 506 (Minn. Ct. App. 2003).

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Untiedt v. Schhmidt, No. C8-00-1272, 2001 WL 69482, at *2 (Minn. Ct. App. Jan. 30, 2001). In each of the juvenile protection proceedings, in accordance with Rule 27.05 of the General Rules for Juvenile Protection Matters, Ms. Hughes filed periodic reports on February 25, 2020 for the court's consideration in anticipation of the Permanency Progress Review Hearing scheduled for February 27, 2020. Ms. Hughes also filed reports on May 7, 2020 in the juvenile court proceedings in anticipation of the Intermediate Disposition Hearing scheduled for May 12, 2020. This Court may take judicial notice of the filings by Ms. Hughes as well as the juvenile court's determinations in those files.

ARGUMENT

I. PLAINTIFF'S COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED

A. Plaintiff's Claim of Negligence Should Be Dismissed

Plaintiff's Complaint contains one count of negligence alleging the Defendants failed to "perform their duties not to be treated with defamation of character, deprived of their right of their property as provided by 42 U.S.C. 1983 and making statements that are not professional and using this as a reason to deny next of kin custody." Complaint, Count I. The Complaint goes on to cite how Plaintiff is critical of the agency's placement efforts. Id.

The elements of a negligence claim are: (1) the existence of a duty of care, (2) a breach of that duty, (3) an injury was sustained, and (4) breach of the duty was the proximate cause of the injury. Engler v. Ill. Farmers Ins. Co., 706 N.W.2d 764, 767 (Minn. 2005). The Complaint fails to describe how Ms. Hughes owed Plaintiff a duty of care or how Ms. Hughes allegedly breached that duty. Further, the Complaint fails to identify what injury was sustained by Plaintiff or how any of Ms. Hughes' conduct was a proximate cause of the alleged injury. Because Plaintiff has failed to allege the necessary elements of a negligence claim against Ms. Hughes, Plaintiff's negligence claim should be dismissed.

B. Plaintiff's Claim of "Falsefied [sic] Indication" Should Be Dismissed

Plaintiff's Complaint also includes one count alleging "falsefied [sic] indication" based on "unprofessional comments" made towards her and the Defendants "using their own belief to decide where the children should be." Complaint, Count II. Plaintiff further claims Defendants "went beyond the law to keep the children from the family." Id. Based on these allegations, it is unclear what cause of action is being alleged by Plaintiff. To the extent Plaintiff is disputing the decisions of the juvenile court, this

Court has no jurisdiction to overturn those decisions and Plaintiff has failed to state a claim upon which relief can be granted.

C. Plaintiff's Claim of Defamation Should Be Dismissed

Plaintiff's Complaint also arguably includes a claim for Defamation of Character. However, to be actionable, allegedly defamatory statements must be included in a plaintiff's complaint. Bebo v. Delander, 632 N.W.2d 732, 739 (Minn. Ct. App. 2001) (citing Benson v. Northwest Airlines, Inc., 561 N.W.2d 530, 538 (Minn. Ct. App. 1997)). Other allegedly defamatory statements not contained in the complaint are beyond the scope of a plaintiff's defamation claim. See Thompson v. Campbell, 845 F. Supp. 665, 680 (D. Minn. 1994); Benson, 561 N.W.2d at 538. Plaintiff's Complaint entirely fails to identify any allegedly defamatory statements by either Ms. Hughes or any other Defendant. As a result, Plaintiff's Complaint fails to state a claim for defamation upon which relief can be granted and should be dismissed.

D. Plaintiff's Claim of Other Professional Malpractice Should Be Dismissed

Plaintiff's Complaint also arguably includes a claim for "Other Professional Malpractice." In particular, Plaintiff alleges: "These false indications were unsupported by substantial evidence and this is clearly unprofessional malpractice on the Social Worker and Guardian Ad Litem due to their actions without supporting foundation to request termination of the Petitioner's rights as a parent." Complaint, ¶ 5. The Complaint does not contain any other details regarding the claim. Plaintiff's Complaint does not even specifically allege what Ms. Hughes did that would constitute professional malpractice. As such, the Complaint fails to state a claim upon which relief can be granted and should be dismissed.

II. PLAINTIFF'S COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED BECAUSE ANNA HUGHES IS ENTITLED TO OFFICIAL IMMUNITY

Even if the Court were to determine that Plaintiff has sufficiently pled her claims, all of Plaintiff's claims against Ms. Hughes are barred by official immunity. "Official immunity is a common law doctrine that protects government officials from suit for discretionary actions taken by them in the course of their official duties." Hyatt v. Anoka Police Dep't, 700 N.W.2d 502, 507 (Minn. Ct. App. 2005). Official immunity bars common law claims against public officials for acts taken in performance of duties requiring judgment and discretion unless they are guilty of a malicious or willful wrong. Anderson v. Anoka Hennepin Indep. School District, 678 N.W.2d 651, 655 (Minn. 2004) ((citing Elwood v. Rice County, 423 N.W.2d 671, 677 (Minn. 1988)(quoting Susla v. State, 311 Minn. 166, 175, 247 N.W.2d 907, 912 (1976)).

Immunity automatically attaches to a public official if he or she has duties that require the exercise of judgment or discretion. Johnson v. Morris, 453 N.W.2d 31, 41 (Minn. 1990). A county social worker is considered a "public official" for purposes of an official immunity analysis. Olson v. Ramsey County, 509 N.W.2d 368, 371 (Minn. 1993). In Olson, the plaintiff argued the social worker should have made additional contacts with a mother and child and failure to do so constituted negligence. The Minnesota Supreme Court held that the social worker was entitled to official immunity because the determination of how and when to provide services, how and when to investigate and what to do next in an investigation is discretionary. Id. at 372. Moreover, the Olson Court indicated that official immunity may be applicable even when the conduct was

negligent because “governmental immunity protects against not only right decisions with unfortunate results but wrong decisions with bad results.” Id.

The Minnesota Court of Appeals recently held that social workers are entitled to official immunity:

Because screening, assessment, and investigation of child maltreatment reports involve the exercise of independent judgment, these actions constitute discretionary conduct under the official-immunity doctrine. The social workers here are entitled to official immunity in the context of this conduct, as there are no allegations that their conduct was willful or malicious.

Jepson as Trustee for Dean v. County of Pope, 938 N.W.2d 60, 72 (Minn. Ct. App. 2019) (review granted March 17, 2020).

Plaintiff is critical of Ms. Hughes’ alleged reliance on Defendant Paige Nelson’s “false statements” to detain Plaintiff’s children and further alleges Ms. Hughes has failed to conduct a proper investigation. All of the conduct alleged by Plaintiff regarding Ms. Hughes related to Ms. Hughes’ official duties as a Douglas County Social Worker. The conduct at issue and challenged by Plaintiff clearly entails discretionary duties. Any allegations asserted by Plaintiff with regard to Ms. Hughes’ case management duties would involve the exercise of independent judgment. Plaintiff further does not allege that Ms. Hughes knowingly violated the law. Accordingly, Ms. Hughes is officially immune from Plaintiff’s claims.

III. PLAINTIFF’S COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED BECAUSE ANNA HUGHES IS ENTITLED TO IMMUNITY UNDER MINN. STAT. § 626.556, SUBD. 4

Under subdivision 4(b) of the Reporting of Maltreatment of Minors Act, a county social worker is immune from any civil or criminal liability related to her actions in

performing her duties if the person is (1) acting in good faith and exercising due care, or (2) acting in good faith and following the information collection procedures established under subdivision 10, paragraphs (h), (i), and (j). Minn. Stat. § 626.556, subd. 4(b).

Plaintiff simply alleges Ms. Hughes “did not conduct a proper investigation” and “went beyond protocol” to make sure Plaintiff’s children would be permanently placed in foster care. There is no allegation that Ms. Hughes was not acting in good faith or outside of the scope of her duties as a Douglas County Social Worker. While Plaintiff may be unsatisfied with the reports Ms. Hughes has submitted to the juvenile court, Ms. Hughes is still entitled to immunity under Minn. Stat. § 626.556, subd. 4(b).

IV. PLAINTIFF’S COMPLAINT FAILS TO STATE A CLAIM UPON WHICH RELIEF CAN BE GRANTED BECAUSE ANNA HUGHES IS ENTITLED TO QUASI JUDICIAL IMMUNITY

While Plaintiff does not explicitly detail what she believes Ms. Hughes has done wrong other than not conduct a proper investigation, to the extent the allegations are based on the reports Ms. Hughes has filed with the juvenile court, Ms. Hughes would be entitled to quasi-judicial immunity. Judicial immunity extends to persons who are integral parts of the judicial process. Myers through Myers v. Price, 463 N.W.2d 773, 775 (Minn. Ct. App.1990), pet. for rev. denied (Minn. Feb. 4, 1991). Courts have extended quasi-judicial immunity to court-appointed psychiatrists, physicians, psychologists, and social workers. See Sloper v. Dodge, 426 N.W.2d 478, 479 (Minn. Ct. App.1988). As noted above, Ms. Hughes was required under the General Rules for Juvenile Protection Matters to submit periodic reports to the court regarding the children. Ms. Hughes’ role in this process is required and an important part to the juvenile protection procedure.

As such, Ms. Hughes is entitled to quasi-judicial immunity for any submissions made to the juvenile court.

V. PLAINTIFF'S SECTION 1983 CLAIMS SHOULD BE DISMISSED AS PLAINTIFF HAS FAILED TO IDENTIFY CONSTITUTIONAL VIOLATIONS AND ANNA HUGHES IS ENTITLED TO QUALIFIED IMMUNITY

Plaintiff indicates she is asserting a claim under Section 1983 and that she is suing Mary Peterson and Ms. Hughes in “their own capacity.” Complaint, ¶ 5. A plaintiff who seeks relief under Section 1983 is obliged to prove that someone deprived her of a right secured by the Constitution and laws of the United States, that the alleged deprivation was committed by a person acting under the color of state law and that the person acted with the requisite culpability and causation to violate the constitutional right. See West v. Atkins, 487 U.S. 42, 48 (1988); see also Shrum v. Kluck, 249 F.3d 773, 777 (8th Cir. 2001).

Plaintiff alleges violations of the Fourteenth Amendment, Eighth Amendment, and Fourth Amendment. Complaint, ¶ 5¹. Plaintiff claims there is “clearly a violation of the 14th amendment of due process and equal protection of the law.” Id. She also claims a clear “violation of the 8th amendment for cruel and unusual punishment and the 4th amendment for illegally detaining the Petitioner’s children in the first place.” Id.

¹ To the extent Plaintiff is making a claim under the Minnesota Constitution, those claims would be subject to dismissal as there is no private cause of action under the Minnesota Constitution. See Mitchell v. Steffen, 487 N.W.2d 896, 905-06 (Minn. Ct. App. 1992) (recognizing that Minnesota does not recognize a tort for violation of due process rights), aff’d, 504 N.W.2d 198 (Minn. 1993); Bird v. State, Dep’t of Pub. Safety, 375 N.W.2d 36, 40 (Minn. Ct. App. 1985) (same).

Plaintiff does not identify how Ms. Hughes specifically violated these constitutional rights.

Fourteenth Amendment

Plaintiff fails to explain how Ms. Hughes violated her Fourteenth Amendment rights to due process and equal protection of the laws. Any complaints Plaintiff may have about the due process and equal protection she was afforded with regard to the juvenile court proceedings would be properly addressed in an appeal relating to those proceedings and not the present action.

Eighth Amendment

The Eighth Amendment prohibits cruel and unusual punishment and is made applicable to the states by the Due Process Clause. Plaintiff fails to articulate what conduct was cruel and unusual punishment or who even inflicted the punishment. Complaint. Indeed, the Complaint is entirely silent as to how Ms. Hughes inflicted any punishment on Plaintiff.

Regardless, the Eighth Amendment applies only to convicted criminal defendants against whom the state “has secured a formal adjudication of guilt in accordance with due process of law.” Ingraham v. Wright, 430 U.S. 651, 671 n. 40, 97 S.Ct. 1401, 51 L.Ed.2d 711 (1977); see also Rhodes v. Chapman, 425 U.S. 337, 344–46 (1981) (prohibiting the government from inflicting “cruel and unusual punishment” on persons convicted of crimes). Plaintiff’s reliance on the Eighth Amendment is misplaced. There is no allegation that Plaintiff was ever a convicted defendant and she therefore has no claim under the Eighth Amendment.

Fourth Amendment

The Fourth Amendment protects against unreasonable search and seizure. U.S.Const.Amdt. IV. Notwithstanding the fact that Plaintiff's children would not constitute her property subject to the Fourth Amendment unreasonable seizure protections, Plaintiff's Fourth Amendment claim for "illegally detaining" her children necessarily calls into question the decisions of the juvenile court as it was the juvenile court which made decisions relating to whether to remove Plaintiff's children from her care and custody. As such, any claim that the "detention" of Plaintiff's children was improper would be a subject for appeal in the juvenile court proceedings and not the basis for a separate civil action.

Even if the Court were to consider any of Plaintiff's alleged constitutional violation claims, Ms. Hughes is entitled to qualified immunity for her case management duties during the juvenile protection proceedings. Mitchell v. Dakota County Social Services, 959 F.3d 887, 901 (8th Cir. 2020).

VI. THIS COURT LACKS JURISDICTION TO ADDRESS PLAINTIFF'S CONCERNS AND COMPLAINTS REGARDING THE JUVENILE COURT PROCEEDINGS

Plaintiff's Complaint is essentially an appeal of the juvenile court proceedings relating to her children. Plaintiff seeks the return of her children to her home and requests Ms. Hughes be required to "show supporting and factual evidence to the Family Law Court." Complaint. In accordance with Minn. Stat. § 260C.101, the juvenile court has original and exclusive jurisdiction in proceedings concerning children alleged to be in need of protection or services. This Court has no jurisdiction to provide Plaintiff the relief she requests in placing her children back in her home.

To the extent Plaintiff believes any of the decisions of the juvenile court in Court File Nos. 21-JV-19-1514 and 21-JV-19-1515 were improper, this Court does not have jurisdiction to hear those complaints or decide those issues. Rather, in accordance with the Minnesota Rules of Juvenile Protection Procedure, Plaintiff may appeal from any final order of the juvenile court affecting her substantial legal right. Minn. R. Juv. Prot. Proc. 23.02, subd. 1. All of Plaintiff's allegations about the insufficiency of the evidence supporting the removal of her children from her home are exclusively left to the jurisdiction of the juvenile court and any corresponding appeal Plaintiff may take with regard to those decisions.

CONCLUSION

For the foregoing reasons, Defendant Anna Hughes respectfully requests all of Plaintiff's claims against her be dismissed in their entirety, on the merits, and with prejudice.

QUINLIVAN & HUGHES, P.A.

Dated: July 9, 2020

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STATE OF MINNESOTA
COUNTY OF DOUGLAS

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

Case Type: Civil Other/Misc.

CASE TITLE:

Judge: Leonard A. Weiler
Court File #21-CV-20-892

Candice Joy Nelson,

Plaintiff,

**NOTICE OF MOTION AND MOTION TO
DISMISS**

vs.

Mary Peterson, Anna Hughes, Josh
Klein, Elizabeth Klein, Paige
Nelson,

Defendants.

PLEASE TAKE NOTICE THAT on a date and time to be determined by the Court, Defendant Anna Hughes will bring a motion to dismiss the claims of Plaintiff pursuant to Minnesota Rules of Civil Procedure 12.02. This motion will take place before the Honorable Leonard A. Weiler, Judge of District Court and will be heard in the Douglas County Courthouse, Alexandria, Minnesota.

This motion will be based upon all files, records, and proceedings herein, together with memoranda of law to be filed in a timely fashion, along with arguments of counsel permitted by the Court at the above-mentioned hearing.

QUINLIVAN & HUGHES, P.A.

Dated: July 9, 2020

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STATE OF MINNESOTA
COUNTY OF DOUGLAS

DISTRICT COURT
SEVENTH JUDICIAL DISTRICT

CASE TYPE: Other Civil/Misc.

Candice Joy Nelson,

Honorable Leonard A. Weiler
Court File No. 21-CV-20-892

Plaintiff,

vs.

Josh Klein, Elizabeth Klein, Mary Peterson,
Paige Nelson, and Anna Hughes

**DEFENDANT PETERSON'S NOTICE
OF MOTION AND MOTION TO
DISMISS**

Defendants.

TO: All parties above named and their counsel of record.

PLEASE TAKE NOTICE that on September 18, 2020, at 9:00 a.m., Defendant Mary Peterson will bring a motion for hearing before the Honorable Judge Leonard A. Weiler, at the Douglas County District Court, 305 Eighth Avenue West, Alexandria, MN 56308, to dismiss Plaintiff's Complaint because it fails to state a claim upon which relief can be granted.

This motion is made pursuant to Rule 12.02 of the Minnesota Rules of Civil Procedure and is based upon all of the files, records and proceedings herein and on the memorandum that will be submitted in support of this motion. Defendant will serve and file its memorandum in support of this motion in accordance with Minn. Gen. R. Prac. 115.03.

Dated: July 9, 2020

KEITH ELLISON
Attorney General
State of Minnesota

/s/ Keriann L. Riehle

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MINNESOTA STATUTE § 549.211 ACKNOWLEDGMENT

The party on whose behalf the attached document is served acknowledges through its undersigned counsel that sanctions, including reasonable attorney fees and other expenses, may be awarded to the opposite party or parties pursuant to Minnesota Statute § 549.211.

/s/ Keriann L. Riehle

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ATTORNEY FOR DEFENDANT PETERSON

State of Minnesota
Douglas County

District Court
Seventh Judicial District

Court File Number: 21-CV-20-892

Case Type: Civil Other/Misc.

Notice of Remote Telephone Hearing

FILE COPY

CANDICE JOY NELSON vs Joshua Klein, Elizabeth Klein, Mary Peterson, Paige Nelson, Anna Hughes

You are notified this matter is set for a remote Scheduling Conference on **July 23, 2020 at 3:00 PM** in Douglas County District Court with Judicial Officer Leonard A. Weiler. This hearing will not be in person at the courthouse. **The hearing will be held remotely via a conference bridge line. At the scheduled hearing time, call 612-902-9678 and enter access code 0101105#**

You must:

- Give the court a valid telephone number a minimum of 3 days before the hearing date. Please include the court file number listed above. The court's contact information is below.
- Notify the court if your address, email, or phone number changes.
- Be fully prepared for the remote hearing. If you have exhibits you want the court to see, you must give them to the court before the hearing. Visit www.mncourts.gov/Remote-Hearings for more information and options for joining remote hearings, including how to submit exhibits.
- Contact the court if you have concerns about this remote telephone hearing.

Court contact information:

- Phone: 320-762-3033
- Email: @courts.state.mn.us

Dated: June 30, 2020

Douglas County Court Administrator

cc: Candice Joy Nelson
Joshua Klein
Elizabeth Klein

Mary Peterson
Paige Nelson
Cally Rae Lynn Kjellberg-nelson