

STATE OF NEW HAMPSHIRE

MERRIMACK, SS

SUPERIOR COURT

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David Meehan, on behalf of himself and all  
others similarly situated,

Plaintiffs,

vs.

State of New Hampshire, Department of Health  
and Human Services (“DHHS”), Kerrin Rounds,  
Acting Commissioner of DHHS, Division of  
Juvenile Justice Services (“DJJS”), Division of  
Children, Youth, and Families (DCYF”),  
Sununu Youth Services Center (“SYSC”), f/k/a  
Youth Development Center (“YDC”),  
Jeffrey Buskey, Stephen Murphy, James Woodlock,  
Frank Davis, Richard Brown, Thomas Searles, and  
John and Jane Does 1-100,

Defendants.

Civil Action No. \_\_\_\_\_

**CLASS ACTION COMPLAINT  
AND DEMAND FOR JURY  
TRIAL**

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NOW COMES the plaintiff, David Meehan, on behalf of himself and all others similarly situated, by and through his attorneys, Rilee & Associates, P.L.L.C., and respectfully submits the following Class Action Complaint and Demand for Jury Trial, stating in support thereof as follows:

**INTRODUCTION**

This Class Action Complaint and Demand for Jury Trial (hereinafter “Complaint”) seeks to hold accountable the State of New Hampshire and all other individuals and entities that, through their systemic failure to promulgate *any* policies, procedures, rules, and regulations as required by legislative mandate, have caused or contributed to *decades* of physical abuse, sexual

abuse, mental/emotional abuse, solitary confinement, and deprivation of education of hundreds<sup>1</sup> of children while in the care, custody, or control of the Sununu Youth Services Center (hereinafter “SYSC”), f/k/a the Youth Development Center (hereinafter “YDC”), who receives federal funding. These horrific acts of abuse were perpetrated by the very individuals who were legally responsible for providing protection, care, guidance, rehabilitative, educational and other services to children who had been committed to YDC pursuant to RSA 621, *et seq.* These individuals not only conspired to perpetrate horrific acts of abuse on these children who were in their care, custody, and control, but they then conspired to conceal these acts and their complicity in and knowledge of these acts from outside scrutiny. As if that weren’t enough, these individuals deliberately intimidated and manipulated these children into believing that they had no recourse and that no one would believe them. Even when these children, sporting black eyes, swollen faces, and bleeding genitals, sought help from YDC staff, they were informed that they were mistaken and that the abuse had not occurred. As a consequence, when they finally left YDC and were released into society, these juveniles had not only been terrorized into keeping quiet and hiding the horrific years of physical violence and sexual torture to which they had been subjected, but they had also been stripped of any ability to obtain gainful employment, become functioning members of society, and live normal lives. This lawsuit seeks to hold the State of New Hampshire and others responsible for the lives they forever destroyed and to bring about systemic change so that this can never happen again to another child in New Hampshire.

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<sup>1</sup> As of today’s date, undersigned counsel already represents thirty-five (35) other members of this putative class with claims against not only these defendants, but against other individual perpetrators, who will be identified in later court filings.

## PARTIES

1. Plaintiff David Meehan (“David”) is an individual who is a resident of New Hampshire and, pursuant to the New Hampshire Victim Bill of Rights, RSA 21-M:8-k, his address will be filed *in camera* with this Honorable Court.

2. Defendant State of New Hampshire, Department of Health and Human Services (hereinafter “DHHS”), is a New Hampshire state administrative agency with mailing address of 129 Pleasant Street, Concord, New Hampshire 03301. At all times relevant to this Complaint, SYSC, f/k/a YDC, was a facility at which juveniles, some as young as eleven (11) years old, who were adjudicated as “delinquent,” were detained in a secure facility. YDC was/is under the purview and control of defendant DHHS. By statute, the programs and policies of YDC are administered by DHHS. *See* RSA 621:1,II. At all times relevant to the allegations contained herein, DHHS received and receives federal funding for the operation of SYSC, f/k/a YDC.

3. Defendant Kerrin Rounds is the Acting Commissioner of DHHS with a mailing address of 129 Pleasant Street, Concord, New Hampshire 03301.

4. Defendant Division of Juvenile Justice Services (hereinafter “DJJS”) is a New Hampshire State administrative agency with mailing address of 129 Pleasant Street, Concord, New Hampshire 03301. At all times relevant to this Complaint, DJJS was a subdivision of DHHS, and at times relevant to this Complaint, SYSC, f/k/a YDC was administered by DJJS.

5. Defendant Division of Children, Youth, and Families (hereinafter “DCYF”) is a New Hampshire State administrative agency with mailing address of 129 Pleasant Street, Concord, New Hampshire 03301. At all times relevant to this Complaint, DCYF was a

subdivision of DHHS, and at times relevant to this Complaint, SYSC, f/k/a YDC was administered by DCYF.

6. Defendant Sununu Youth Services Center, f/k/a Youth Detention Center is a New Hampshire state administrative agency with mailing address of 129 Pleasant Street, Concord, New Hampshire 03301. At all times relevant to this Complaint, SYSC, f/k/a YDC, was a facility at which juveniles, some as young as eleven (11) years old, who were adjudicated as “delinquent,” were detained in a secure facility. YDC was/is under the purview and control of DHHS. By statute, the programs and policies of YDC are administered by DHHS. *See* RSA 621:1,II. At all times relevant to the allegations contained herein, DHHS received and receives federal funding for the operation of SYSC, f/k/a YDC.

7. Defendant Jeffrey Buskey (hereinafter “Buskey”) is an individual with a last known address of 12 Castlerock Street, Dorchester, MA 02125. At all times relevant to the allegations in this Complaint, Buskey was an employee of YDC.

8. Defendant Stephen Murphy (hereinafter “Murphy”) is an individual with a last known address of 15 Crestline Circle, Danvers, MA 01923. At all times relevant to the allegations in this Complaint, Murphy was an employee of YDC.

9. Defendant James Woodlock (hereinafter “Woodlock”) is an individual with a last known address of 129 Pleasant Street, Concord, NH 03301. At all times relevant to the allegations in this Complaint, Woodlock was an employee of YDC, and upon information and belief, remains employed by SYSC.

10. Defendant Frank Davis (hereinafter “Davis”) is an individual with a last known address of 129 Pleasant Street, Concord, NH 03301. At all times relevant to the allegations in this Complaint, Davis was an employee of YDC.

11. Defendant Richard Brown (hereinafter “Brown”) is an individual with a last known address of 129 Pleasant Street, Concord, NH 03301. At all times relevant to the allegations in this Complaint, Brown was an employee of YDC.

12. Defendant Thomas Searles (hereinafter “Searles”) is an individual with a last known address of 129 Pleasant Street, Concord, NH 03301. At all times relevant to the allegations in this Complaint, Searles was an employee of YDC.

13. Defendants John and Jane Does 1-100 were, at all times relevant to the allegations contained in this Complaint, officers, directors, supervisors, employees, servants or agents of DHHS, DJJS, DCYF, SYSC, f/k/a YDC and other public or private agencies or businesses involved in the care, custody, and control of the members of the putative class.

#### **JURISDICTION AND VENUE**

14. This Honorable Court may properly exercise personal jurisdiction over the defendants because, at all times relevant to the allegations contained herein, the defendants were residents of the State of New Hampshire, committed tortious acts in the State of New Hampshire, and/or were otherwise transacting business within or receiving money from within the State of New Hampshire.

15. Pursuant to N.H. R.S.A. 491:7, this Honorable Court has subject-matter jurisdiction over this action because this is a civil action arising out of acts that occurred in the State of New Hampshire.

16. Pursuant to N.H. R.S.A. 507:9, this Honorable Court is a proper venue for this action because, at all times relevant to the specific allegations of negligence contained herein, the defendants are residents of the County of Merrimack, State of New Hampshire.

## CLASS ACTION ALLEGATIONS

17. Plaintiff herein brings all claims as class claims on behalf of himself and the putative class (or subclass(es)<sup>2</sup>, as this Honorable Court may deem necessary) pursuant to N.H. Super. Ct. R. 16 and the common law of the State of New Hampshire.

18. The putative class consists of both men and women who, while minors in the care, custody and control of the defendants, were victims of physical, sexual, and mental/emotional abuse, solitary confinement, and deprivation of education at the hands of defendants, their agents, employees, and/or contractors. The plaintiff seeks certification of this putative class as an “opt out” class.

19. The class is so numerous that joinder of all members, whether otherwise required or permitted is impracticable. N.H. Super. Ct. R. 16(a)(1). There are believed to be thousands of children who have been removed from their families, group homes, and foster homes by and placed in the custody of YDC over the past several decades. While in the physical and legal care, custody, and control of YDC, many of these juveniles were physically abused, sexually abused, mentally/emotionally abused, held in solitary confinement, and deprived of their right to an education, as guaranteed by the New Hampshire Constitution, Part 2 Article 83. The relevant civil statutes of limitations for these claims give minors (a) until age twenty (20) to bring claims arising out of physical abuse (see RSA 508:8) and (b) until age thirty (30) to bring claims arising out of sexual abuse (see RSA 508:4-g). Even then, those statutes of limitations may be further extended by the application of any number of legal principles, including the “discovery rule,” fraudulent concealment, equitable tolling, and defendant absence from the jurisdiction. As such, it would be impossible to identify and join all members of the putative

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<sup>2</sup> Subclasses may include survivors with claims of (a) physical abuse, (b) sexual abuse, (c) mental/emotional abuse, (d) solitary confinement, and (e) deprivation of education.

class, and the only way to determine the number and identities of putative class members would be through discovery and notice to those putative class members. As of today's date, undersigned counsel already represents thirty-five (35) other members of this putative class with claims against not only these defendants, but other individual perpetrators, who will be identified in later court filings.

20. There are questions of law or fact common to the class which predominate over any questions affecting only individual members. N.H. Super. Ct. R. 16(a)(2). Those common mixed questions of law and fact include, *inter alia*, the following:

- a. Whether the "discovery rule" applies to toll the statute of limitations for claims of physical abuse against the State defendants pursuant to RSA 508:4;
- b. Whether the "discovery rule" applies to toll the statute of limitations for claims of sexual abuse against the State defendants pursuant to RSA 508:4-g;
- c. Whether the "discovery rule" applies to toll the statute of limitations for claims of solitary confinement against the State defendants pursuant to RSA 508:4 and 508:4-g;
- d. Whether the "discovery rule" applies to toll the statute of limitations for claims of deprivation of education against the State defendants pursuant to the New Hampshire Constitution, Part 2 Article 83;
- e. Whether the "discovery rule" applies to toll the statute of limitations for claims of physical abuse against individual employees of the State defendants pursuant to RSA 508:4;
- f. Whether the "discovery rule" applies to toll the statute of limitations for claims of sexual abuse against individual employees of the State defendants pursuant to RSA 508:4-g;
- g. Whether the "discovery rule" applies to toll the statute of limitations for claims of solitary confinement against individual employees of the State defendants pursuant to RSA 508:4 and 508:4-g;
- h. Whether the "discovery rule" applies to toll the statute of limitations for claims of deprivation of education against individual employees of the State defendants pursuant to the New Hampshire Constitution, Part 2 Article 83;
- i. Whether the defendant's absence from the jurisdiction applies to toll the statute of limitations for claims against individual employees of the State defendants pursuant to RSA 508:9;
- j. Whether the common law doctrine of fraudulent concealment operates to toll the statute of limitations against the State defendants;
- k. Whether the common law doctrine of fraudulent concealment operates to toll the statute of limitations against individual employees of the State defendants;

- l. Whether the common law doctrine of equitable tolling operates to toll the statute of limitations against the State defendants;
- m. Whether the common law doctrine of equitable tolling operates to toll the statute of limitations against the individual employees of the State defendants;
- n. Whether physical, sexual, and mental/emotional abuse of children while in the custody of the State constitute violations of the class plaintiffs' civil rights in violation of 42 U.S.C. §1983;
- o. Whether solitary confinement of children while in the custody of the State constitutes violations of the class plaintiffs' civil rights in violation of 42 U.S.C. §1983; and
- p. Whether physical, sexual, and mental/emotional abuse of children while in the custody of the State deprived the class plaintiffs of their educational rights in violation of Title IX, 20 U.S.C. 1681, *et seq.*

21. The claims or defenses of the representative parties are typical of the claims or defenses of the class. N.H. Super. Ct. R. 16(a)(3). David's claims are for physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education. These claims are typical of not only the other thirty-five (35) other putative class members who undersigned counsel currently represents, but also of the putative class as a whole.

22. The representative party will fairly and adequately protect the interests of the class. N.H. Super. Ct. R. 16(a)(4). David has overcome feelings of fear, shame, and embarrassment to go public with his claims of abuse in order to shine a light on a broken juvenile justice system, bring forward public criminal charges to hold people accountable, and to bravely give a voice to those who, for various reasons - all caused by the State - haven't had the strength to do the same. It is with his strength and courage that David will ensure that the interests of the class, which are the same as his own, are protected at all costs.

23. A class action is superior to other available methods for the fair and efficient adjudication of the controversy. N.H. Super. Ct. R. 16(a)(5). Because of the commonality regarding issues of liability, law and damages among the representative party and the class



members, certification as a class action will provide for streamlined discovery, avoid repetitive and duplicative expert testimony, and overall promote judicial economy.

24. Undersigned counsel for the representative party will adequately represent the interests of the class. N.H. Super. Ct. R. 16(a)(6). Undersigned counsel is experienced in high-exposure, complex multi-party litigation, both inside and outside the State of New Hampshire, including claims involving sexual abuse, catastrophic injury, and death against governmental agencies and national and international corporations.

**ALTERNATIVE TO FORMAL CLASS CERTIFICATION**

25. Plaintiff herein bring all claims on behalf of himself and a group of claimants<sup>3</sup> with similar claims arising out of the same kinds of events and involving common issues of law and/or fact as set forth in the previous paragraphs, hereby incorporated as though fully set forth herein.

26. Specifically, the claimants as a group consist of individuals who, while minors in the care, custody and control of the defendants, were victims of physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education at the hands of defendants, their agents, employees, and/or contractors.

27. Because it is likely that a class exists, David and the claimants would urge the Court to proceed as though they were a putative class for the purposes of discovery, consolidating all present and future claims by all plaintiffs in all courts in New Hampshire into this Honorable Court, as this would provide for streamlined discovery, avoid repetitive and duplicative expert testimony, and overall promote judicial economy.

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<sup>3</sup> As of today's date, undersigned counsel already represents thirty-five (35) other members of this putative class with claims against not only these defendants, but against other individual perpetrators, who will be identified in later court filings.

28. There are questions of law or fact common to this group of plaintiff and claimants which predominate over any questions affecting only individual claimants. Those mixed questions of law and fact include, *inter alia*, the following:

- a. Whether the “discovery rule” applies to toll the statute of limitations for claims of physical abuse against the State defendants pursuant to RSA 508:4;
- b. Whether the “discovery rule” applies to toll the statute of limitations for claims of sexual abuse against the State defendants pursuant to RSA 508:4-g;
- c. Whether the “discovery rule” applies to toll the statute of limitations for claims of solitary confinement against the State defendants pursuant to RSA 508:4 and 508:4-g;
- d. Whether the “discovery rule” applies to toll the statute of limitations for claims of deprivation of education against the State defendants pursuant to the New Hampshire Constitution, Part 2 Article 83;
- e. Whether the “discovery rule” applies to toll the statute of limitations for claims of physical abuse against individual employees of the State defendants pursuant to RSA 508:4;
- f. Whether the “discovery rule” applies to toll the statute of limitations for claims of sexual abuse against individual employees of the State defendants pursuant to RSA 508:4-g;
- g. Whether the “discovery rule” applies to toll the statute of limitations for claims of solitary confinement against individual employees of the State defendants pursuant to RSA 508:4 and 508:4-g;
- h. Whether the “discovery rule” applies to toll the statute of limitations for claims of deprivation of education against individual employees of the State defendants pursuant to the New Hampshire Constitution, Part 2 Article 83;
- i. Whether the defendant’s absence from the jurisdiction applies to toll the statute of limitations for claims against individual employees of the State defendants pursuant to RSA 508:9;
- j. Whether the common law doctrine of fraudulent concealment operates to toll the statute of limitations against the State defendants;
- k. Whether the common law doctrine of fraudulent concealment operates to toll the statute of limitations against individual employees of the State defendants;
- l. Whether the common law doctrine of equitable tolling operates to toll the statute of limitations against the State defendants;
- m. Whether the common law doctrine of equitable tolling operates to toll the statute of limitations against the individual employees of the State defendants;
- n. Whether physical, sexual, and mental/emotional abuse of children while in the custody of the State constitute violations of the class plaintiffs’ civil rights in violation of 42 U.S.C. §1983;
- o. Whether solitary confinement of children while in the custody of the State constitutes violations of the class plaintiffs’ civil rights in violation of 42 U.S.C. §1983; and

- p. Whether physical, sexual, and mental/emotional abuse of children while in the custody of the State deprived the class plaintiffs of their educational rights in violation of Title IX, 20 U.S.C. 1681, *et seq.*

29. The claims or defenses are typical of the claims or defenses of David and the claimants bringing or who are likely to bring claims. David's claims are for physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education. These claims are typical of not only the other thirty-five (35) claimants who undersigned counsel currently represents, but also of those likely to bring future claims.

30. Because of the commonality regarding issues of liability, law and damages among all members of the group, proceeding as a putative class in these claims for the purposes of discovery will provide for streamlined discovery, avoid repetitive and duplicative expert testimony, and overall promote judicial economy, not to mention avoiding satellite litigation that formal certification of the class might engender.

31. Undersigned counsel for David and the claimants will adequately represent the interests of the entire group of plaintiffs. Undersigned counsel is experienced in high-exposure, complex multi-party litigation, both inside and outside the State of New Hampshire, including claims involving sexual abuse, catastrophic injury, and death against governmental agencies and national and international corporations.

**CLASS AND/OR CONSOLIDATION REPRESENTATIVE ALLEGATIONS**

32. David was born in 1981.

33. Starting in approximately fifth grade, David ran away from home multiple times in order to escape the toxic and abusive environment of his home. Consequently, he was often homeless and living "on the street."

34. During David's episodic periods of homelessness, David met and became dependent on other homeless juveniles for companionship and protection.

35. During these periods of homelessness, David committed a number of burglaries in order to acquire the means to obtain food and shelter. This led to his apprehension by the police on multiple occasions during 1995.

36. Finally, on December 1, 1995, when David was fourteen years old, David was ordered committed to YDC by the Rochester, New Hampshire District Court. The Court also ordered that David "...have individualized counseling as soon as practicable."

37. New Hampshire Revised Statutes, 621:2, effective on June 30, 1981, sets forth the purposes and policies of YDC:

The New Hampshire youth development center shall be administered to effect the following purposes and policies:

- I. To provide a wholesome physical and emotional setting for each child detained at or committed to the center;
- II. To provide protection, care, counseling, supervision, and rehabilitative services as required by the individual child;
- III. To assure that the child has not been deprived of those rights to which he or she is entitled by law;
- IV. To teach the child to accept responsibility for his or her actions;
- V. To recognize that the child's interests are of major importance while also acknowledging the interests of public safety;
- VI. To cooperate with the courts, law enforcement agencies, and other agencies in juvenile matters to ensure that the needs of each child who is involved with these agencies are met with minimum adverse impact upon the child; and
- VII. To return each child committed to the center to a community setting with an improved attitude toward society.

38. Even before David arrived at YDC, he had heard rumors about mistreatment of the residents including rapes and beatings. Shortly before his commitment to YDC, in October 1995, David was being transported between the Rochester District Court and the Youth Detention Services Unit ("YDSU") in Concord, New Hampshire by the Strafford County

Sheriff's Department. There was another boy in the vehicle with him who was being transported between the Rochester District Court and YDC. While they were in transit, the other boy told David that he and others were being raped and beaten at YDC and that no one would believe it. David and this other boy, who were handcuffed, fled from the vehicle and remained on the run for two weeks.

39. When David was first admitted to YDC, he was assigned to Spaulding Cottage, one of the medium security "cottages" where juveniles committed to YDC to live.

40. Within the first two weeks of David's arrival at YDC, David witnessed another YDC resident being called out of line and, when that resident initially refused to comply, David saw him dragged out of the line by Woodlock and Murphy. The next time David saw that resident, all of the blood vessels around his eyes were broken. On information and belief, it was David's understanding that this young resident had been choked nearly to death, causing the broken blood vessels.

41. During most of 1996, David seemed to adjust well to life at YDC. He visited home regularly on scheduled furloughs and on information and belief and based upon the records in plaintiff's possession, with the exception of one disciplinary action for failing to report the presence of smoking and cigarette lighters in the main kitchen, was not the subject of any disciplinary action.

42. On or about June 26, 1996, David was sent home on an "Administrative release" for the summer months until August 9, 1996. At the end of that time, David's father reported that he did not want David to return home.

43. On August 9, 1996, upon revocation of his administrative release, David was returned to YDC and placed directly at King Cottage, which was a "maximum security" cottage.

44. After Thanksgiving 1996, David did not return to King Cottage from his holiday visit home and was reported “AWOL” (Away Without Leave). He was apprehended on December 12, 1996 and that day was sanctioned with a ten-day “Out of Community” confinement.

45. An Out Of Community (“OOC”) confinement was equivalent to solitary confinement. During an OOC, the resident was confined alone in his room.

46. On information and belief, King Cottage was a higher security dormitory than East Cottage. At King Cottage, many if not all of the rooms were equipped with toilets and sinks, so when the residents were placed in OOC they were not taken out of their cells even to go to the bathroom. The only contact that residents of King Cottage had with others when they were in OOC was when their meals were brought to them.

47. On information and belief, when residents were in OOC while in East Cottage, they were supposed to be taken out of their rooms for fifteen minutes per day. Because there were no toilets or washing facilities in the rooms, the residents had to be taken down the hall to use the bathroom. These trips were included in the fifteen minutes.

48. On information and belief, when a resident was confined to his cell in East Cottage during OOC, the staff was required to do fifteen-minute checks on the resident, but often the staff did not check on the resident for many hours but would sign the time-sheet as though the checks had been done. Consequently, there were times when residents who needed to use the bathroom would have to bang on the doors to get attention but were often unable to attract any notice. Consequently, residents who were in OOC would find themselves having to relieve themselves on the floor because no one responded to their requests to be taken to the bathroom.

49. For example, on more than one occasion when David was confined on OOC, David had to urinate but no one responded when he banged on the door. David finally had to relieve himself by urinating on the floor. He was then forced to clean up the puddle with the only available object in the room—the clothing he was wearing.

50. On information and belief, often when the resident was placed in OOC, the resident was not permitted to attend school and was given no educational instruction or “makeup” lessons.

51. On information and belief, more often than not, during the school day, when the other residents of East Cottage were taken by the staff to the school building, the residents who were in OOC were brought to King Cottage and placed in cells there because King Cottage was staffed even during the school day while the staff of East Cottage was at the school building during school hours.

52. On information and belief, when a resident was placed in OOC following a serious infraction, the resident’s cell would be stripped of everything but the mattress, a sheet and a bible, and the resident himself would be stripped to only his underwear. The resident was sometimes permitted to have a pencil and paper for a few hours during the day.

53. In early January 1997 David was disciplined again, once for disobeying a teacher and once for fighting with another YDC youth. The second infraction resulted in David being sanctioned with ten days locked room confinement.

54. On one occasion during the time that David was serving his time in Out Of Community confinement during this period of December 1996-January 1997, Davis entered his room and told David that he was there to perform a contraband search. He instructed David to undress. Davis put a glove on his hand, picked up a tube of lubricant and told David to turn

around. David complied, believing that Davis was going to perform a digital cavity search. Instead, Davis anally raped him. When David felt Davis' penis enter his rectum he turned his head and saw another YDC employee, defendant Brown, at the door to the room, apparently standing guard and preventing the door from closing and automatically locking. This was the first time David was raped. David contracted gonorrhea as a result of this rape, for which he was treated by YDC staff. David was fifteen years old.

55. On or about May 4, 1997 David was reported to have run from home during a furlough. He received ten days room confinement OOC.

56. By June 1997 David was living at East Cottage again.

57. At East Cottage, David encountered Buskey, Murphy and Woodlock. On information and belief, Buskey was a counselor, Murphy was a counselor and Woodlock was a group leader, all three being David's direct care and treatment team.

58. During this period of time, Buskey developed a relationship of trust with David. Buskey would give David special privileges, such as coveted work assignments and access to snacks not given to the other boys. With Buskey's help, David was permitted to leave the campus to play basketball with a local high school team. David came to look upon Buskey as a father figure and as one of the few people who cared about him.

59. At the end of July 1997 David was accused of, and admitted to, planning to run from the facility. He was sanctioned with 10 days OOC.

60. On or about September 11, 1997 David was sentenced to 10 days of room confinement for fighting. Shortly thereafter he was given 3 days OOC following an accusation that he stole candy from someone's locker.



61. Sometime after David moved to East Cottage and prior to Halloween 1997, Buskey told David that “I bet I can get you to break up with his girlfriend and suck my dick in the same day.” David assumed that he was joking around.

62. At that time, David’s girlfriend was a resident at the Nashua Children’s Home but she was scheduled to be released at the end of October 1997.

63. In late October 1997 Buskey told David that David should break up with his girlfriend, advising David that they were not good together. Buskey told David that if he did not break up with his girlfriend, David would be denied any further furloughs.

64. Buskey took David to the second floor central control area of East Cottage and had him place the call to his girlfriend, who at the time was still confined at the Nashua Children’s Home. After David ended the relationship, and while David was sobbing at Buskey’s feet, Buskey exposed himself and orally raped David. While orally raping David, Buskey said “See, I told you that I could get you to break up with your girlfriend and suck my dick on the same day.”

65. Approximately a week later, early one morning he was surprised by Murphy, who forced him to his knees and orally raped him. David was visibly bruised during his futile efforts to resist the rape.

66. Later that day, Buskey saw the bruises on David. When Buskey realized that the bruises were a result of David’s struggles during his oral rape by Murphy, Buskey became angry and anally raped David for the first time. This would also be the first time, but not the last time, that David was raped by both Buskey and Murphy on the same day.

67. At some point after these two rapes, during October or November, Buskey forced David to watch while he sexually assaulted a female resident with whom David had become friendly.

68. One of the privileges Buskey had secured for David was the privilege of being allowed to play basketball with a school team outside of YDC. On one occasion, prior to basketball practice, Buskey took David to his apartment. While there, he took David to the bedroom of the apartment and showed him a gun, removed the magazine, and let David handle it. When David returned the gun to Buskey, Buskey replaced the magazine, pulled back the slide, loading a bullet into the chamber, and then put the gun to David's head while he forced David to perform oral sex. During the rape, Buskey told David "Do not make a mess. This time, you clean up every last drop, or I will pull the trigger."

69. On December 13, 1997, while on furlough at the home of another resident, David stepped out and did not return. He was apprehended on January 3, 1998 and sentenced to ten days of room confinement and was to be reevaluated by cottage staff. Although he was not evaluated for suicidality, during his time in confinement, he was placed on "suicide watch" and was confined to his room dressed in only his underwear with only his mattress, a sheet and a bible.

70. Following David's return to YDC on January 3, 1998, David began to experience almost constant physical, sexual and emotional abuse.

71. On an almost daily basis, David was orally and/or anally raped by Buskey and/or Murphy, sometimes multiple times in one day. During these rapes, the perpetrator would often beat him.

72. During these times of OOC solitary confinement, when David was beaten and raped on an almost constant basis, he was not permitted to attend school, nor was he provided with any alternative educational resources or opportunities.

73. Woodlock would be present to hold the door open so that it would not automatically lock whenever he was raped by Murphy and he was present on many occasions when he was raped by Buskey. Often Woodlock would help to hold David down, take off his pants, and participate in the beatings.

74. On February 6, 1998 David was sentenced again to 5 days Out Of Community for “excessive horseplay” that resulted in physical contact. On or about April 18, 1998 David and another resident were accused of planning to use another resident as a hostage as part of a plan to escape from YDC. David was sentenced to ten days of full room confinement.

75. Then, on or about April 20, 1998, following yet another beating and rape by Buskey, David asked to see a nurse. On this occasion, the nurse known to David as “Nurse Jane” came to his room and looked in the doorway. David was crying, his face was bruised, his nose was broken and he was covered in urine. Nurse Jane remarked that it appeared that these were self-inflicted injuries and departed.

76. David assumed that Nurse Jane thought he was lying. On information and belief, no further inquiry was made into David’s allegations.

77. The next day, on or about April 21, 1998, when David’s food was brought to him, he cursed at the individuals who brought the food and told them to “get the fuck out.” David was sanctioned with an additional five days of confinement.

78. During this time period in the winter-spring of 1998, during one of the times that David was in OOC and had been brought from East Cottage to King Cottage, defendant

Searles came into his cell. David's face was severely bruised, he had a black eye and a split lip. Searles asked, in a jocular tone, what had happened, at which point David began to cry and told Searles that he had been beaten and raped. Searles cut him off, responding "Look little fella, that just doesn't happen." Then Searles left.

79. David assumed that Searles thought he was lying. On information and belief, no further inquiry was made into David's allegations.

80. On information and belief, at the time that David confided in Searles, Searles was the House Leader of King Cottage.

81. In a Program Plan Review report dated June 18, 1998 it was noted that over the prior two months David had been displaying a lot of anger.

82. The last time David was raped was on or about September 12, 1998. On that occasion he was struggling against Buskey during the rape when he heard a "pop" and fainted. When he woke up, he was lying on the side of the softball field at YDC. Nearby was a car with the door open. A nurse was running over and Buskey was looking at him while telling the nurse that David had suffered a "football injury." He was taken to Elliot Hospital where he was found to have suffered a groin injury.

83. On or about October 7, 1998 David was transferred from YDC to another facility, Orion House.

84. Between approximately January 8, 1999 and January 14, 1999 David returned to YDC. While at YDC, David participated in a group counseling activity led by Woodlock during which David revealed to the group that he had been raped during his stay at YDC. Woodlock responded that this was untrue, had not happened and that David had simply misunderstood events.

85. Later in 1999, David turned eighteen and was released from YDC's custody.

86. On information and belief, Murphy began residing outside of the State of New Hampshire no later than October 2002.

87. On information and belief, Buskey began residing outside of the State of New Hampshire no later than June 2008.

88. David felt tremendous shame as a result of the physical, sexual, and emotional abuse to which he had been subjected at YDC. Thinking about the abuse he had suffered was itself traumatizing. As a result, following his departure from YDC, David hid his history of abuse from others, including the same girlfriend Buskey made him break up with (now his wife and mother of his three (3) children) and made a conscious effort to put it out of his mind. As part of David's response to the trauma of the physical, sexual, and emotional abuse to which he had been subjected, David became addicted to heroin for many years, abused alcohol for many years, and attempted suicide multiple times – all in an attempt to avoid dealing with the aftermath of the abuse. Inside his mind, he couldn't find a place to rest.

89. As a consequence of the physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education that David and the putative class plaintiffs suffered at YDC, David and the putative class plaintiffs, upon reaching adulthood, were suffering from various psychiatric disorders, and when they were released into society, they were unable to function normally or find and keep gainful employment.

90. On January 13, 2017, David was no longer able to suppress the memories of the horrific abuse he had suffered. At that time, David disclosed the abuse to his wife for the first time, after which they immediately went to Exeter Hospital for an evaluation, then to the Brentwood Police station and reported the abuse that David had suffered at YDC.

91. On or about late February or early March, 2017 an investigator for the State Police met with David at his home. David recognized her as a former assistant gym teacher from YDC who worked there while David was there. This investigator started out by telling David that she believed him. The investigator informed David that while she was working at YDC as an intern, she became concerned, based on her interactions with the residents at YDC, that there was some form of abuse taking place. In particular, the investigator described a time when she was working at East Cottage and witnessed another staff member named Al McDonald assault a resident and observed other residents with bruises and contusions. She told David that she was told by a superior that it was in her best interest to keep quiet and stay out of things that did not concern her.

92. David's conversation with this State Police investigator in late February/early March 2017 was the first time that it occurred to David that persons in positions of authority at YDC knew or should have known about the misconduct of YDC personnel and failed to protect him from the abuse. Prior to that time, David believed that Buskey, Murphy and Woodlock were acting alone and without the knowledge of anyone else at YDC, and he believed that the nurse and Searles thought he was lying.

93. Following David's conversation with this State Police investigator in late February/early March 2017, as David began to deal with the abuse he had disclosed and began to undergo counseling, David began a period of inquiry, investigation and diligence into how adults in positions of authority at YDC could have known about the abuse and failed to protect him.

94. Over the following weeks, months, and years, additional witness and claimants began to come forward to tell their stories of abuse.

95. Upon information and belief, through this period of inquiry, investigation, and diligence, David discovered why his disclosures of horrific abuse decades earlier had fallen on deaf ears: he learned that both Brown and Searles, the two (2) men he made aware of his abuse when he was at YDC, were also physically, sexually, and mentally/emotionally abusing other young boys at YDC.

96. On information and belief, multiple people knew about the crimes of Buskey, Murphy, Woodlock and others but not only failed to report this information as required pursuant to R.S.A. 169-C:29 but also concealed this information which resulted in these individuals' continued retention at YDC.

97. On information and belief, defendants Buskey, Murphy, Davis, Woodlock, Brown, Searles and the John and Jane Doe officers, directors, supervisors, employees, servants or agents of YDC and other public or private agencies or businesses involved in the care of David and the members of the putative class conspired together for the purpose of committing acts of physical abuse, sexual abuse, and mental/emotional abuse, solitary confinement, and deprivation of education, and then conspired together in order to unlawfully and deliberately conceal those acts from discovery so that they could continue to perpetrate those acts on David and the members of the putative class.

98. On information and belief, the physical abuse, sexual abuse, and mental/emotional abuse, solitary confinement, and deprivation of education suffered by David and by the putative class plaintiffs was so pervasive and severe that it was apparent to and known about by everyone working at YDC, including, but not limited to, those in supervisory positions.

99. On information and belief, YDC, through its agents and employees, and the individual defendants both as agents and/or employees of YDC and also individually,

intentionally concealed the ongoing acts of abuse from law enforcement authorities and also acted to “gaslight” David and the other putative class plaintiffs by denying the physical abuse, sexual abuse, and mental/emotional abuse had ever occurred, even when directly confronted by one of their victims. This created an atmosphere at YDC in which David and the other putative class members were made to understand that it was unsafe for them to attempt to report the abuse they were suffering, that they would not be believed if they attempted to report the abuse to anyone inside or outside of YDC, and that there was no recourse for their suffering.

100. As a direct consequence of the deliberate acts of the defendants, even after leaving YDC, David and the other putative class members were too frightened to speak out and did not understand that they could seek legal counsel.

101. As a direct consequence of the deliberate acts of the defendants, even after leaving YDC, David and the other putative class members believed that they were powerless against their former abusers.

102. As a direct consequence of the deliberate acts of the defendants, even after leaving YDC, David and the other putative class members believed that there was no way to prove that they had been abused while at YDC, so any action to seek redress would be futile.

103. Because the deliberate and intentional acts of the defendants misled David and the other putative class members, thereby preventing them from promptly seeking redress for their injuries, the applicable statute of limitations should be tolled until David and the other putative class members learned that there was legal recourse for his, and their, abuse.

104. On or about July 25, 2019, the New Hampshire Attorney General’s Office announced that Buskey and Murphy were indicted on eighty-two (82) counts of aggravated



felonious sexual assault against David, and that the Office was “launching a comprehensive, multi-faceted investigation of the YDC and the personnel employed at that agency.”

## CAUSES OF ACTION

### COUNT I

#### **(Negligent Hiring, Training, Supervision, and Retention – DHHS, DJJS, DCYF, and SYSC)**

105. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

106. On information and belief, multiple people knew about the crimes of Buskey, Murphy, Woodlock and other perpetrators, then not only failed to report this information, but also actively concealed this information which resulted in these individuals’ continued retention at YDC.

107. On further information and belief, when reports of suspected sexual and physical abuse were made, the reporters were told to keep it to themselves. Consequently, the perpetrators of sexual abuse continued to work at YDC and continued to commit acts of physical abuse, sexual abuse, and mental/emotional abuse against David and the putative class plaintiffs.

108. At all times relevant to the allegations contained herein, DHHS, DJJS, DCYF, and SYSC owed David and the putative class plaintiffs a duty to exercise reasonable care in the hiring, training, supervision, and retention of its employees and agents, including, *inter alia*, the duty to conduct appropriate background checks of employees, the duty to properly supervise, train, and control the employees and agents working at YDC and/or to ensure that programs were in place to provide proper supervision, training and control of YDC agents and/or employees so

that they would comply with the requirements of New Hampshire Revised Statutes, 621:2, which include the duties:

- I. To provide a wholesome physical and emotional setting for each child detained at or committed to the center;
- II. To provide protection, care, counseling, supervision, and rehabilitative services as required by the individual child;
- III. To assure that the child has not been deprived of those rights to which he or she is entitled by law.

109. Despite and in breach of the aforesaid duties, DHHS, DJJS, DCYF, and SYSC as organizations and agency charged by statute with the protection of abused and neglected children in New Hampshire, were negligent and breached minimum standards of care in failing to take reasonable measures to insure the proper hiring, training, supervision, and retention of YDC workers to promptly and effectively provide for the safety of the children in its care. Specifically, DHHS, DJJS, and DCYF negligently failed to take reasonable measures to ensure the proper hiring, training, and supervision of YDC workers to report any signs of suspected physical, sexual and/or emotional abuse, negligently failed take reasonable measures to ensure that YDC was training its employees and agents to take affirmative steps to prevent the physical, sexual and/or emotional abuse of the children in its custody and negligently failed to take reasonable measures to insure that YDC was training its agents and employees to respond appropriately to reports of abuse or of suspected abuse, thereby directly resulting in the physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education of David and the putative class plaintiffs.

110. As a direct and proximate cause and result of the negligent hiring, training, supervision, and retention and breaches of care by DHHS, DJJS, and DCYF, David and the putative class plaintiffs were physically abused, sexually abused, mentally/emotionally abused, held in solitary confinement, and deprived of an education, suffered physical injuries, pain and

suffering as well as past, present and future permanent physical, mental and emotional pain and suffering and loss of enjoyment of life, past, present and future costs of therapeutic and medical care and treatment and lost earning capacity, as they say, as well as enhanced compensatory damages against the defendants for their willful, wanton, and reckless conduct, within the minimum and maximum jurisdictional limits of the Superior Court, plus interest and costs.

**COUNT II**  
**(Negligence – DHHS and Kerrin Rounds, Acting Commissioner of DHHS)**

111. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

112. Pursuant to 1983, 416:19, effective on July 1, 1983, rulemaking authority was transferred from YDC to the Commissioner of DHHS. Prior to July 6, 1999, RSA 621:35 provided that the Commissioner of the Department of Health and Human Services "...shall adopt rules, pursuant to RSA 541-A, relative to the proper administration of the center. Those rules pertaining only to children committed or detained at the center or to employees shall be exempt from the notice and hearing requirements of RSA 541-A."

113. On information and belief, the Commissioner of DHHS never adopted any rules pertaining to the proper care, supervision, treatment, education, confinement or discipline of the children committed to YDC, nor did the Commissioner of HHS ever adopt any rules or regulations pertaining to the hiring, training, supervision, retention or discipline of agents and/or employees of YDC. As a consequence of the failure to adopt any rules, there were no policies in place at YDC for the prevention and, if necessary, reporting of abuse of the residents of YDC by the staff and/or other employees at YDC. In fact, the lack of any rules communicated a laissez-faire attitude that the employees and agents at YDC were free to behave as they pleased without

fear of discovery or consequences.

114. As a direct and proximate cause and result of the negligent hiring, training, supervision, and retention and breaches of care by DHHS, DJJS, and DCYF, David and the putative class plaintiffs were physically abused, sexually abused, mentally/emotionally abused, held in solitary confinement, and deprived of an education, suffered physical injuries, pain and suffering as well as past, present and future permanent physical, mental and emotional pain and suffering and loss of enjoyment of life, past, present and future costs of therapeutic and medical care and treatment and lost earning capacity, as they say, as well as enhanced compensatory damages against the defendants for their willful, wanton, and reckless conduct, within the minimum and maximum jurisdictional limits of the Superior Court, plus interest and costs.

**COUNT III**  
**(Breach of Fiduciary Duty – DHHS, DJJS, DCYF, and SYSC)**

115. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

116. At all times relevant to the allegations contained herein, DHHS, DJJS, DCYF, SYSC, and their agents and employees had David and the putative class plaintiffs in their legal and physical custody and under their care and protection.

117. This relationship gave rise to a fiduciary duty on behalf of DHHS, DJJS, DCYF, SYSC, and their employees and agents to ensure an environment in which David and the putative class plaintiffs, at the very least, would be safe from physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education at the hands of supervisors, agents and/or employees of YDC.

118. Despite and in breach of the aforesaid duty, DHHS, DJJS, DCYF, and SYSC failed in their fiduciary duty when they knew or should have known of allegations of physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education of David and the putative class plaintiffs and further failed to properly investigate these allegations, and specifically exposed David and the putative class plaintiffs to foreseeable harm by failing to identify the abuse/violations, report, and take appropriate action so that David and the putative class plaintiffs would not be exposed to physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education, and to recommend intervention(s) and/or to take appropriate action to remove the perpetrators from their positions at YDC or otherwise protect David and the putative class plaintiffs from reasonably foreseeable physical, sexual and/or mental/emotional harm.

119. As a direct and proximate cause and result of the breach of fiduciary duty by HHS, DJJS and DCYF, David and the putative class plaintiffs were physically abused, sexually abused, mentally/emotionally abused, held in solitary confinement, and deprived of an education, suffered physical injuries, pain and suffering as well as past, present and future permanent physical, mental and emotional pain and suffering and loss of enjoyment of life, past, present and future costs of therapeutic and medical care and treatment and lost earning capacity, as they say, as well as enhanced compensatory damages against the defendants for their willful, wanton, and reckless conduct, within the minimum and maximum jurisdictional limits of the Superior Court, plus interest and costs.

**COUNT IV**  
**(Civil Conspiracy – Buskey, Murphy, Woodlock, Davis, Brown, Searles and John and Jane Does 1-100)**

120. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

121. During the time when David and the putative class plaintiffs were residents at YDC, defendants Buskey, Murphy, Woodlock, Brown, Searles and John and Jane Does 1-100 (“the Individual Defendants”), some of whom were, on information and belief, individuals with supervisory authority, agreed together on a course of action through which they would target David and the putative class plaintiffs for the purpose of committing acts of physical abuse, sexual abuse, mental/emotional abuse, solitary confinement, and deprivation of education.

122. The Individual Defendants then acted together in order to unlawfully and deliberately target David and the putative class plaintiffs, carrying out acts of physical, sexual, and mental/emotional abuse on David and the putative class plaintiffs and/or assisting other Individual Defendants in carrying out these acts.

123. The Individual Defendants also agreed to conceal those acts from discovery by, among other things, “gaslighting” David and the putative class plaintiffs by denying the physical abuse, sexual abuse, and mental/emotional abuse had ever occurred, even when directly confronted by one of their victims; by creating an atmosphere at YDC in which David and the putative class plaintiffs were made to understand that it was unsafe for them to attempt to report the abuse they were suffering; and by communicating to David and the putative class plaintiffs that they would not be believed if they attempted to report the abuse to anyone inside or outside of YDC.

124. As a proximate cause of the Individual Defendants' carrying out of the scheme upon which they had agreed, David and the putative class plaintiffs suffered physical and emotional harm, including but not limited to serial rapes, beatings, and the lasting emotional damage caused as a consequence of the Individual Defendants' agreed-upon tactic of creating an atmosphere of fear and intimidation while denying that the abuse that was part of David and the putative class plaintiffs' daily experiences at YDC was occurring at all.

125. As a direct and proximate cause and result of the civil conspiracy by and between the Individual Defendants, David and the putative class plaintiffs were physically abused, sexually abused, mentally/emotionally abused, held in solitary confinement, and deprived of an education, suffered physical injuries, pain and suffering as well as past, present and future permanent physical, mental and emotional pain and suffering and loss of enjoyment of life, past, present and future costs of therapeutic and medical care and treatment and lost earning capacity, as they say, as well as enhanced compensatory damages against the defendants for their willful, wanton, and reckless conduct, within the minimum and maximum jurisdictional limits of the Superior Court, plus interest and costs.

**COUNT V**  
**(Violation of Civil Rights – 42 U.S.C. §1983 – Buskey, Murphy, Davis, Woodlock, and John and Jane Does 1-100)**

126. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

127. Defendants Buskey, Murphy, Davis, Woodlock, and John and Jane Does 1-100 violated David and the putative class plaintiffs' Fourteenth Amendment liberty interests to be

free from bodily injury by physically abusing, sexually abusing, and mentally/emotionally abusing them while they were in the legal and physical custody of YDC.

128. Additionally, Defendants Buskey, Murphy, Davis, Woodlock, and John and Jane Does 1-100 violated David and the putative class plaintiffs' Federal Constitutional Fourteenth Amendment liberty interests to be free from unreasonable restraint while they were in the custody of YDC through the excessive and unreasonable use of solitary confinement on David and the putative class plaintiffs, all minors under the age of seventeen.

129. Defendants Buskey, Murphy, Davis, Woodlock, and John and Jane Does 1-100 violated David and the putative class plaintiffs' Federal Constitutional Eighth Amendment rights to be free from cruel and unusual punishment when they were physically, sexually and emotionally abused while in the custody of YDC, including, but not limited to, the perpetration of beatings and rapes in violation of the contemporary standards of decency as well as and the use of solitary confinement for weeks, and sometimes months, on end as a punishment for David and the putative class plaintiffs.

130. Buskey, Murphy, Davis, Woodlock, and John and Jane Does 1-100's position as agents and/or employees of YDC with authority over David and the putative class plaintiffs enabled them to commit the acts that violated their constitutional rights.

131. During all relevant times, Buskey, Murphy, Davis, Woodlock, and John and Jane Does 1-100 were acting under color of state law as employees of YDC.

132. As a direct and proximate cause and result of the deprivation of their rights as secured by the Eighth and Fourteenth Amendments, David and the putative class plaintiffs were physically abused, sexually abused, mentally/emotionally abused, held in solitary confinement, and deprived of an education, suffered physical injuries, pain and suffering as well as past,



present and future permanent physical, mental and emotional pain and suffering and loss of enjoyment of life, past, present and future costs of therapeutic and medical care and treatment and lost earning capacity, as they say, and are entitled to compensation pursuant to 42 U.S.C. §§1983 and 1986 as they say, within the minimum and maximum jurisdictional limits of the Superior Court, plus reasonable attorneys' fees, expert fees, interest and costs.

**COUNT VI**  
**(Violation of Civil Rights – 42 USC §1983 – Kerrin Rounds, Acting Commissioner of DHHS)**

133. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

134. Pursuant to 1983, 416:19, effective on July 1, 1983, rulemaking authority was transferred from YDC to the Commissioner of DHHS. Prior to July 6, 1999, RSA 621:35 provided that the Commissioner of the Department of Health and Human Services "... shall adopt rules, pursuant to RSA 541-A, relative to the proper administration of the center. Those rules pertaining only to children committed or detained at the center or to employees shall be exempt from the notice and hearing requirements of RSA 541-A."

135. On information and belief, during the relevant period of time, the Commissioner of DHHS never adopted any rules pertaining to the proper care, supervision, treatment, education, confinement or discipline of the children committed to YDC, nor did the Commissioner of DHHS ever adopt any rules pertaining to the hiring, training, supervision, retention or discipline of agents and/or employees of YDC.

136. As a consequence of the failure to adopt any rules, regulations or policies as required by statute, the employees and supervisory officials operated as they chose in an

unregulated environment with respect to the residents of YDC, including David and the putative class plaintiffs. In this rule-free world, it was highly foreseeable that physical abuse, sexual abuse, and mental/emotional abuse of YDC residents would take place undetected and unreported in violation of their Constitutional Eighth and Fourteenth Amendment rights.

137. The Commissioner of DHHS understood or reasonably should have understood that, absent the promulgation of rules, particularly, but not limited to, rules regulating the hiring, training and discipline of YDC employees to appropriately carry out the statutory duty of YDC pursuant to RSA 621:2<sup>4</sup>, that the rights of the juveniles detained at YDC would be jeopardized, whether through deliberate indifference or otherwise.

138. As a direct and proximate cause and result of the Commissioner of DHHS's failure to promulgate any policies, rules, or regulations, David and the putative class plaintiffs were physically abused, sexually abused, mentally/emotionally abused, held in solitary confinement, and deprived of an education, suffered physical injuries, pain and suffering as well as past, present and future permanent physical, mental and emotional pain and suffering and loss of enjoyment of life, past, present and future costs of therapeutic and medical care and treatment and lost earning capacity, as they say, and are entitled to compensation pursuant to 42 U.S.C. §§1983 and 1986 as they say, within the minimum and maximum jurisdictional limits of the Superior Court, plus reasonable attorneys' fees, expert fees, interest and costs.

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<sup>4</sup> I. To provide a wholesome physical and emotional setting for each child detained at or committed to the center;  
II. To provide protection, care, counseling, supervision, and rehabilitative services as required by the individual child;  
III. To assure that the child has not been deprived of those rights to which he or she is entitled by law.  
*See* RSA 621:2.

**COUNT VII**  
**(Violation of Title IX – DHHS, DJJS, DCYF, and SYSC)**

139. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

140. On information and belief, at all times relevant to this complaint, defendants DHHS, DJJS, DCYF, and SYSC received federal funding either directly or through DHHS.

141. During the time that David and the putative class plaintiffs were residents at YDC, DHHS, DJJS, DCYF, and SYSC had a Constitutional and statutory duty under New Hampshire law to provide David and the putative class plaintiffs with an education.

142. In order to comply with its obligation, at all times relevant to this complaint, YDC provided educational facilities and resources on the premises, including but not limited to classrooms, teachers and the other accoutrements associated with a school.

143. As a consequence of the unremitting and brutal sexual abuse suffered on a continual basis by David and by the putative class plaintiffs, a culture of sexual violence existed at YDC that was so severe and pervasive as to interfere with the educational opportunities normally available to students like David and the putative class plaintiffs.

144. Specifically, as a consequence of the sexual abuse, David and the putative class plaintiffs began to miss a significant amount of school. Additionally, David's grades went down and his attitude towards his schoolwork and his ability to concentrate and apply himself to his studies declined as a result of the horrific sexual abuse he suffered at the hands of the defendants.

145. Additionally, David and the putative class plaintiffs were kept in Out Of Community confinement for extended periods of time, during which times they suffered repeated

rapes and beatings. On information and belief, during those periods of confinement, David and the putative class plaintiffs received no educational instruction or schooling whatsoever.

146. David and the putative class plaintiffs reported the ongoing abuse to Searles and others.

147. Upon information and belief, as a House Leader, Searles was in a position to investigate David's allegations and had the authority to take corrective action to end the ongoing abuse. However, Searles failed to take any action whatsoever, instead displaying deliberate indifference by telling David "Look little fella, that just doesn't happen."

148. Additionally, Woodlock, who was present and witnessed much of the abuse, was David's group leader at East Cottage.

149. Upon information and belief, as a group leader, Woodlock was in a position to investigate David's allegations and had the authority to take corrective action to end the ongoing abuse. Instead, he displayed deliberate indifference to the sexual abuse being perpetrated against David when he witnessed the abuse and not only did nothing to stop it but also assisted the perpetrators.

150. Where individuals in a position of authority to institute corrective measures had actual knowledge of the sexual abuse but displayed deliberate indifference to the reported and witnessed acts of sexual abuse, as they did with David and the putative class plaintiffs, they and/or DHHS are liable for violations of Title IX, 20 U.S.C. 1681(a).

151. As a direct and proximate cause and result of DHHS, DJJS, DCYF, and SYSC's violations of Title IX, 20 U.S.C. 1681(a), David and the putative class plaintiffs were physically abused, sexually abused, mentally/emotionally abused, held in solitary confinement, and deprived of an education, suffered physical injuries, pain and suffering as well as past, present

and future permanent physical, mental and emotional pain and suffering and loss of enjoyment of life, past, present and future costs of therapeutic and medical care and treatment and lost earning capacity, as they say, as well as enhanced compensatory damages against the defendants for their willful, wanton, and reckless conduct, within the minimum and maximum jurisdictional limits of the Superior Court, plus reasonable attorneys' fees, expert fees, interest and costs.

**COUNT VIII**  
**(Violation of Right To Education –DHHS, Rounds, DJJS, DCYF, and SYSC)**

152. The plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in the preceding Paragraphs as though fully and completely set forth herein.

153. The New Hampshire Constitution, Part 2 Article 83, provides:

Knowledge and learning, generally diffused through a community, being essential to the preservation of a free government; and spreading the opportunities and advantages of education through the various parts of the country, being highly conducive to promote this end; it shall be the duty of the legislators and magistrates, in all future periods of this government, to cherish the interest of literature and the sciences, and all seminaries and public schools, to encourage private and public institutions, rewards, and immunities for the promotion of agriculture, arts, sciences, commerce, trades, manufactures, and natural history of the country; to countenance and inculcate the principles of humanity and general benevolence, public and private charity, industry and economy, honesty and punctuality, sincerity, sobriety, and all social affections, and generous sentiments, among the people

154. Pursuant to this Constitutional provision, the right to a free public education is an important, substantive right, enforceable by any citizen in the State.

155. While David was a resident at YDC, defendants DHHS, Rounds, DJJS, DCYF, and SYSC, through its agents, employees and servants, failed to permit David and the putative class plaintiffs to regularly attend school or otherwise receive an education.

156. When DHHS, Rounds, DJJS, DCYF, and SYSC, through its agents, employees and servants, failed to provide David and the putative class plaintiffs with the education to which he was entitled pursuant to the New Hampshire Constitution, Part 2 Article 83, they violated David and the putative class plaintiffs' right to said education and deprived them of the fruits of that education.

157. Consequently, David and the putative class plaintiffs was deprived of the benefits of an education, including but not limited to the opportunity to access greater financial and employment opportunities.

158. As a direct and proximate cause and result of DHHS, Rounds, DJJS, DCYF, and SYSC's failure to provide David and the putative class plaintiffs with their Constitutionally guaranteed right to an education, they have suffered permanent mental/emotional anguish and lost earning capacity, as they say, as well as enhanced compensatory damages against the defendants for their willful, wanton, and reckless conduct within the minimum and maximum jurisdictional limits of the Superior Court, plus reasonable attorneys' fees, expert fees, interest and costs.

### **DEMAND FOR JURY**

159. The plaintiff, on behalf of himself and the putative class members, hereby demand a trial by jury on all issues so triable.

As discovery is ongoing, the plaintiff expressly reserves the right to amend and/or supplement this Class Action Complaint and Demand for Jury Trial.

Respectfully Submitted,

**DAVID MEEHAN, BOTH INDIVIDUALLY  
AND ON BEHALF OF ALL OTHERS  
SIMILARLY SITUATED,**

By His Attorneys,

**RILEE & ASSOCIATES, P.L.L.C.**

Date: January 11, 2020

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