UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF MISSISSIPPI JACKSON DIVISION

CIRILA BALTAZAR CRUZ and R.J.M.B by and through her Next Friend, Cirila Baltazar Cruz) .))	
Plaintiffs)	Case No. 3:10-cv-446 HTWLRA
· iaiiiiii)	
V.)	
)	
MISSISSIPPI DEPARTMENT OF)	
HUMAN SERVICES, SINGING RIVER)	
HEALTH SYSTEM D/B/A SINGING	,)	
RIVER HOSPITAL, and VICKI HAYES, RALPH (MATT) MATHEWS, JESSIE)	
BETHER, and ABIGAIL MEDINA,)	
individually,)	
,,)	
Defendants.	´)	

FIRST AMENDED COMPLAINT

PRELIMINARY STATEMENT

1. Plaintiffs in this lawsuit are a Mexican immigramoman, Cirila Baltazar Cruz, and her minor daughter, R.J.M.B., a U.S. citizen, whosestitutional rights to family integrity were violated by employees and/or agents of the MississDepartment of Human Services ("MDHS") and Singing River Hospital ("Singing River Plaintiff Baltazar Cruz is a member of the Chatino indigenous group from southern Mexical speaks limited Spanish and virtually no English. The individual defendants conspiredetrove R.J.M.B. from her mother in order to place the infant child in the custody of a whitedbattorney couple who were seeking to adopt and who frequently practiced before the same juvdge sanctioned the removal. In doing so, the individual Defendants deliberately took advgetaf Plaintiff Baltazar Cruz's indigence,

inability to speak or understand English, and **late** familiarity with the U.S. legal system in order to attempt to remove R.J.M.B. permanentlynf from mother.

2. Two days after Plaintiff Baltazar Cruz gave birdhher daughter, R.J.M.B., at Singing River in Pascagoula, Mississippi, MDHS Drefant Vicki Hayes ("Defendant Hayes") removed R.J.M.B. from her mother's custody and courthe basis of patently and facially unreliable and deliberately false information puted by Singing River "patient advocate" Defendant Abigail Medina ("Defendant Medina") anid@ng River social worker Jessie Bether ("Defendant Bether"). Defendant Hayes and her suisper, Defendant Ralph (Matt) Mathews ("Defendant Mathews"), refused to conduct any inverted investigation into these obviously flawed allegations before removing R.J.M.B. from hereother's custody. In violation of Plaintiffs' due process rights, Defendants Hayes Mathews continued to forcibly separate R.J.M.B. from her mother despite their awareneast the original allegations against Plaintiff Baltazar Cruz were false. Defendants Hayes, Mathewather, and Medina, together and in concert with the Youth Court judge and the fosterepts, manipulated the child welfare system in an attempt to deny Plaintiffs equal protection o

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- 14. At all times relevant to this action, Vicki Hayesasva case worker employed by the Jackson County office of MDHS. Defendant Hayessuiss in her individual capacity.
- 15. At all times relevant to this action, Defendant Haywas a "person" within the meaning of 42 U.S.C. §§ 1983 and 1985.
- 16. At all times relevant to this action, Defendantsyets actions were taken under color of law.
- 17. At all times relevant to this action, Ralph (Malti)athews was an area social work supervisor employed by the Jackson County Departmonen Human Services. Defendant Mathews is sued in his individual capacity.
- 18. At all times relevant to this action, Defendant **Mean**'s was a "person" within the meaning of 42 U.S.C. §§ 1983 and 1985.
- 19. At all times relevant to this action, Defendant Means' actions were taken under color of law.
- 20. As Defendant Hayes' supervisor, Defendant Matheimscttly participated in the R.J.M.B. case from its earliest stages, by actitation part in the decision to remove R.J.M.B. from her mother's custody and in the later pretaktovestigation of Ms. Baltazar Cruz, and by monitoring and directing Defendant Hayes' work be tase.

The Singing River Defendants

- 21. Singing River Hospital ("Singing River"), a divisio of Singing River Health Systems, is a community-owned hospital as define the Systems. Code Ann. § 41-13-10 and is a political subdivision of the state of Mississippi.
- 22. Singing River receives and uses federal fundinthenadministration of its activities and programs.

- 23. At all times relevant to this action, Jessie Bethras an employee or agent of Singing River Hospital. Defendant Bether is sued in helivirdual capacity.
- 24. At all times relevant to this action, Defendant Meet was a "person" within the meaning of 42 U.S.C. §§ 1983 and 1985.
- 25. At all times relevant to this action, Defendant Beets actions were taken under color of law.
- 26. At all times relevant to this action, Abigail Medinus an employee or agent of Singing River Hospital. Defendant Medina is suredier individual capacity.
- 27. At all times relevant to this action, Defendant Mhadwas a "person" within the meaning of 42 U.S.C. §§ 1983 and 1985.
- 28. At all times relevant to this action, Defendant Ninheads actions were taken under color of law.

STATEMENT OF FACTS

- 29. Plaintiff Cirila Baltazar Cruz is an indigenous Mean immigrant from the state of Oaxaca. She is a member of the indigenous Chatimomunity and speaks Chatino as her primary language.
- 30. Ms. Baltazar Cruz has limited Spanish proficiently airtually no understanding of English. She has completed the equivalent of the education and is unable to read or write in any language.
- 31. In November 2008, Ms. Baltazar Cruz was living anothking in Pascagoula,

 Mississippi. She was pregna(d)-0.956417()-0.476985(i)]TJ 252 un79.54093(S)-5.07194(h) actine h-0

and summoned police assistance in getting to the ital. Shortly after her arrival at Defendant Singing River, she gave birth to a healthy girl. R.B.

- 33. Ms. Baltazar Cruz remained at Singing River duthregnight of November 16, 2008.
- 34. At some point during the morning of November 170200 representative from the Singing River social services department visited Matazar Cruz in her hospital room, accompanied by Defendant Abigail Medina, a Spanjaetaking "patient advocate" and an employee or agent of Singing River.
- The social services department representative authorized and Medina attempted to speak with Ms. Baltazar Cruz in Spanish and English Chatino-speaking individual assisted with interpretation. Ms. Baltazar Cruz did notlyfulinderstand what they were communicating to her. Ms. Baltazar Cruz told Defendant Medinast the did not understand what Defendant Medina was saying. Knowing that Ms. Baltazar Csuzomprehension was limited, Defendant Medina used hand gestures and repeated her statsetmeths. Baltazar Cruz multiple times.
- Acter in the day on November 17, 2008, Defendantil Meand the other Singing River employee returned to Ms. Baltazar Cruz's rozond questioned her about her living situation. Ms. Baltazar Cruz attempted to explaint the worked at a Chinese restaurant and lived in employer-provided housing. Defendant Macdasked Ms. Baltazar Cruz where she planned to live when she left the hospital. Msta ar Cruz stated that she would return to the apartment in which she had been living. Defendated in a told Ms. Baltazar Cruz that she would not be permitted to leave the hospital with thaughter, even though no order of any kind had been entered that authorized R.J.M.B.'s deterated Singing River Hospital.
- 37. Ms. Baltazar Cruz remained at Singing River Hospitaring the night of November 17, 2008.

Following this conversation, Defendant Medina—odlesihe presence of Ms.

Baltazar Cruz—told Mr. Mendez that Ms. Baltazar Cstated she was trading sex for housing and intended to give R.J.M.B. up for adoption. Mendez was incredulous and told Defendant Medina that he believed Ms. Baltazar Cruz had Indicustood what Defendant Medina was saying. Defendant Medina insisted that Ms. Baltaza

- 48. Upon information and belief, on or about Novemberof 18, 2008, Defendant Bether also instructed Signing River social workency Fagan to report Baltazar Cruz to federal immigration authorities, which Fagan did.
- 49. Neither federal nor state law required Defendanth Reor anyone else at Singing River to report Baltazar Cruz to the Mississipplio Anthey General's office.
- Neither federal nor state law required Defendanth Exeror anyone else at Singing River to report Baltazar Cruz to federal immigratiauthorities.
- At around 12:00 p.m. on November 18, 2008, DefetsdBether, Medina and Hayes returned to Ms. Baltazar Cruz's room and reiteralhead she could not leave the hospital with her newborn daughter, R.J.M.B. When Defendants Haylesi,na, and Bether told Ms. Baltazar Cruz that she would not be permitted to take R.B.Muith her when she left the hospital, there was not any court order directing that R.J.M.Btableen into MDHS custody or otherwise authorizing the detention of R.J.M.B. at Singingren
- Around this time, Defendants Medina, Hayes, an Blather ordered Mr. Mendez to leave the room again. When he declined, Defendants and/or Bether threatened to call the police. Defendants also requested to see Mr. Mesa detentification, and proceeded to make a copy of it.
- 53. A notation on R.J.M.B.'s physician orders from Nonteer 18, 2008 stated "mother is not to see infant."

54.

- During the afternoon of November 18, 2008, Ms. Azalir Cruz was discharged from Singing River Hospital. Following Defendants Meadis and Bether's instructions, Ms. Baltazar Cruz and Mr. Mendez went to the Salvation Army terrein Pascagoula in the hope that they would be able to see R.J.M.B. in the morning ase Defant Medina had promised.
- During the afternoon of November 18, 2008, aftefreindeants Medina and Bether had told Ms. Baltazar Cruz that R.J.M.B. would not bissoblarged with her, the Youth Court of

- During the night of November 18, 2008, Ms. Balta and Mr. Mendez slept at the Salvation Army Shelter in Pascagoula as Defets delina and Bether had instructed. Ms. Baltazar Cruz suffered great anguish during the train the Salvation Army shelter, as she experienced post-partum bleeding, was unable tastfreed her newborn daughter, and was distraught about her separation from R.J.M.B.
- During the evening at the Salvation Army shelter, **M**endez called Defendant Medina several times on the cell phone number **ablegiven** him, but she did not answer. He left a message asking Defendant Medina to call **braict**. She never returned the call.
- On the morning of November 19, 2008, Ms. Baltazarz and Mr. Mendez went to Singing River to seek information about R.J.M.Bhen Ms. Baltazar Cruz and Mr. Mendez arrived at Singing River, they were told that R.B.Mwas no longer there.
- 68. Unbeknownst to Ms. Baltazar Cruz, Douglas L. Tynkesand Wendy Tynes had picked up R.J.M.B. from Singing River that mornianged taken her to their home.
- 69. At Singing River, Ms. Baltazar Cruz and Mr. Mendleized unsuccessfully to obtain information about R.J.M.B.'s whereabouts. Theykleod for Defendant Medina but were initially unable to find her. Instead, a Singinity for employee handed them contact information for Defendant Hayes. Later, they encountered Defendant Mehome.B.i ei a 17(2)500]TJ -228.4389(e)3.16 Baltazar Cruz and es

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Baltazar Cruz, a woman who worked at the clinicksepto Defendant Hayes over the telephone. Defendant Hayes informed the clinic worker that arting would take place at the Jackson County Youth Court that afternoon. The clinic werkocated Elizabeth Bjork, an individual who spoke both English and Spanish, to accompany Baltsazar Cruz and Mr. Mendez to the hearing.

72.

recommend that R.J.M.B. remain in MDHS custodye **T**burt agreed to continue to withhold custody of R.J.M.B. from Ms. Baltazar Cruz.

- 78. Through Ms. Bjork, Ms. Baltazar Cruz asked the **citus**he could see her three-day old child. The court denied her request.
- Upon instruction from Judge Sigalas, after the inegate the Jackson County Youth Court, Defendant Hayes, Defendant Mathews, and digura and liter Terry Holtz went to Ms. Baltazar Cruz's home to conduct a "home study." feldent Mathews also directly supervised and reviewed the work of Defendant Hayes during "timivestigatory" phase of the case. Several Pascagoula police officers followed Ms. talkarir Cruz, Mr. Mendez, and the above-listed individuals to Ms. Baltazar Cruz's residen the least one Pascagoula police detective accompanied them inside the apartment.
- 80. Defendant Hayes' notes from the visit fail to documnany conversation with Ms.

 Baltazar Cruz and instead contain a cursory phlydiesscription of the apartment, noting such details as "[Ms. Baltazar Cruz's] mattress is not pletely covered."
- 81. Defendants Hayes and Mathews encountered a 160 Job Dhinese girl who also lived in the apartment where Ms. Baltazar Cruz Machined her residence. The girl and her mother shared a room separate from that of Msa Balt Cruz. Defendant Hayes recorded in her notes of the visit that the girl stated that she later mother "found the apartments through the owner of the restaurant where she works." This estent was consistent with Ms. Baltazar Cruz's description of her living arrangement.
- 82. Upon investigation of Ms. Baltazar Cruz's residence

- 89. Upon information and belief, Defendants Hayes and Mews conducted no additional investigation of Ms. Baltazar Cruz's in situation.
- On December 17, 2008, the Jackson County Youtht Continuation of the neglected. The basis for the neglect petition through the Baltazar Cruz "neglected to provide adequate care and supervision" for her child. Neat the interpreter assisted Ms. Baltazar Cruz during the court proceedings. The court recorted that Ms. Baltazar Cruz, via attorney John Foxworth, pleaded no contest to the neglect petitibecause of the language barrier, however, Ms. Baltazar Cruz did not understand the proceeding which she was embroiled, including the charges against her, what her attorney was pleading her behalf, or the consequences of this plea.

Defendants Hayes and Mathews did not inquire as to

during the hearing, did not offer any additionadations to permit visitation between Ms. Baltazar Cruz and R.J.M.B.

- 99. Upon information and belief, MDHS made no attemptontact Ms. Baltazar Cruz during January 2009. R.J.M.B. continued to livehwhe Tynes, whose residence remained unlicensed as a foster care home.
- During January 2009, while custody of R.J.M.B. remed with MDHS, Defendants Hayes and Mathews made no effort to allow Ms. ExalitaCruz to see her child.
- During a hearing on January 28, 2009, Judge Signaldsguardian ad litem Terry Holtz recommended that Ms. Baltazar Cruz learn Eshgshould she wish to be reunited with R.J.M.B.
- During the January 28, 2009 hearing, unlicensettle for sother Wendy Tynes expressed her opposition to reunification between Braltazar Cruz and her daughter, claiming, among other things, that returning 10-week old MR.B. to her mother would cause "developmental" problems because Ms. Baltazar Couztd not communicate with her daughter in English. Judge Sigalas agreed and reiterated Hollitz's recommendation that Ms. Baltazar Cruz learn English as part of her "service agreet" weith MDHS. Following the hearing, MDHS continued its placement of R.J.M.B. with theres.
- 103. During February 2009, R.J.M.B. continued to livehwithe Tynes, whose residence remained unlicensed as a foster care home.
- On or about February 25, 2009, Ms. Baltazar Crwz RsaJ.M.B. for the first time since MDHS separated them at the hospital ovee threenths earlier, in a visit held at the Youth Court visitation room.



- 116. At the conclusion of the May 13, 2009 hearing, Jau Signalas ordered MDHS to prepare a package to terminate Ms. Baltazar Cpuzz's ntal rights. Judge Signalas also ordered visitation between Ms. Baltazar Cruz and her daughot cease.
- 117. Ms. Baltazar Cruz's attorney appealed the ordernfttoe May 13, 2009 hearing to the Mississippi Supreme Court.
- Upon information and belief, from November 2008bthgh at least May 2009,
 Defendants Hayes and Mathews, Judge Sigalas, threesTrand/or guardian ad litem Terry Holtz,
 engaged in multiple discussions outside the presend without the knowledge of Ms. Baltazar
 Cruz and her attorney about, inter alia, the custord ceedings involving Ms. Baltazar Cruz and
 R.J.M.B., the terms of any visitation permitted Ms. Baltazar Cruz and her daughter, and Ms.
 Baltazar Cruz's appeal of the Youth Court's May 2009 order.
- 119. On or about June 22, 2009, MDHS submitted a tertitoin and parental rights package to the Mississippi Attorney General's Office, steatin motion the formal legal process to sever permanently Ms. Baltazar Cruz's legal rights to them six-month old daughter, R.J.M.B.
- Ms. Baltazar Cruz was prohibited from seeing heargableer during the remainder of May, as well as for the entirety of June, July, Assig and September of 2009. During this time, R.J.M.B. remained in the legal custody of MDHS annathe physical custody of Douglas L. Tynes, Jr. and Wendy Tynes.
- 121. In August 2009, the United States Department of the man Services (HHS) Office for Civil Rights (OCR) and the HHS Adminiation for Children and Families (ACF) began investigations into MDHS' handling of R.J.MsBcase. OCR also opened an investigation into Defendant Singing River's action the matter.

- On September 23, 2009, after the commencement defale investigations into the Baltazar Cruz case, Judge Sigalas recused herestelf the case, citing the fact that foster parents Douglas L. Tynes, Jr. and Wendy Tynes "regular by crice law" before her court. The same day, Prosecutor Michael Breland also moved to writing from the case, noting that the Tynes were members of the legal community of Jackson CyuMississippi. Mr. Holtz later moved to withdraw as guardian ad litem to R.J.M.B., alsongith acquaintance with the foster parents.
- 123. Until federal authorities began investigating MDHSandling of the R.J.M.B. case, Defendant Hayes remained the primary case workensons.
- 124. Until federal authorities began investigating MDf66 possible civil rights violations as well as violations of federal law governing ferstare subsidies, MDHS made no efforts to reunify Ms. Baltazar Cruz and R.J.M.B.
- 125. On November 19, 2009, Ms. Baltazar Cruz regainers ipal custody of R.J.M.B.
- 126. On February 19, 2010, Ms. Baltazar Cruz was grapheen hanent legal custody of R.J.M.B. and MDHS was ordered to close R.J.M.B. seca
- Due to Defendants Hayes', Mathews', Bether's and Mae's unconstitutional actions, Ms. Baltazar Cruz lost custody of R.J.MdBring the first year of her daughter's life and was only able to see R.J.M.B. four times from the house 18, 2008 through October 2009.
- Defendants Hayes, Mathews, and Medina conspired ownie another and Judge Sigalas, guardian ad litem Holtz, and the Tynestetoy Ms. Baltazar Cruz and R.J.M.B. their constitutional rights to family integrity because Ms. Baltazar Cruz's race and/or national origin by unlawfully removing R.J.M.B. from her nhostr's custody just two days after birth. Defendants' arbitrary and egregious conduct subsattyninterfered with Plaintiffs' constitutionally-protected right to family integrit

- As a direct result of Defendants' unconstitutionations which separated her from her daughter for over a year, Plaintiff Baltazatzsuffered tremendous mental anguish and serious physical problems.
- 130. As a direct result of Defendants' unconstitutionations which separated her from her mother during the first year of her life, PtaffrR.J.M.B. suffered substantial damages.
- 131. Due to state actors' unconstitutional interfereimate Plaintiffs' family relationship. Ms. Baltazar /R13 12 opportunity to bond during the formative first year of RR13 12J.M.B.'s life. Plaintiff Baltazwas deprived of the chance to see her daughter grow her first tooth, learn to crawl, author her first words. For the first year of her life, Plaintiff RR13 12J.M.B. was denied the chance the keal family and their language and culture, to be soothed and fed by her mother, and tognize her mother's voice and touch. Plaintiff Baltazar /R13 12 J.M.B., to comfort her when she was sick or distressed, to sing her to sleep, and to watch from an infant to a toddler. Because the foster parents who sought to adopt R.J.M.B. called by a different name, as R.J.M.B. began to gain recognition of and respond to words during filtse year of her life, she did not even know her real name. Plaintiff Baltazar /R13 12 ff R.J.M.B. experienced the profound psychological ha]TJ 25(n)-m of sepa]TJ 25(n)-atidanas'aunesunlstitutDenhal actions.

CLAIMS FOR RELIEF

COUNT I

42 U.S.C. § 1983 CLAIMS ARISING FROM VIOLATIONS OF AND CONSPIRACY TO VIOLATE PLAINTIFFS' FOURTEENTH AMENDMENT SUBSTANTIV E DUE PROCESS RIGHTS (DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

- 132. Plaintiffs re-allege and incorporate by referencealtegations set forth in the preceding paragraphs as if set forth herein.
- Plaintiffs assert these claims pursuant to 42 U.§. © 83 against Defendants Hayes, Mathews, Bether, and Medina according to the siperparameters detailed below.
- Defendants Hayes', Mathews', Bether's, and Medinae's ons occurred under color of state law for the purposes of 42 U.S.C. § 1983.
- 135. Plaintiff Baltazar Cruz has a constitutionally-percited liberty interest in the care, companionship, upbringing and nurture of her chiral characteristic interest in being raised and nurtured by her biral characteristic interest in being raised and nurtured by her biral characteristic interest in being raised and nurtured by her biral characteristic interest in the care,
- 136. Defendants Hayes, Mathews, Bether, and Medinaulhilfdeliberately, and without justification, violated Plaintiffs' clearly establied Fourteenth Amendment substantive due process right to family integrity. Defendants'iants subjected Plaintiffs to egregious, arbitrary,

- Defendants Bether's and Medina's fabricated allegs at and willful and reckless misrepresentations to MDHS set in motion a chain with they knew or reasonably should have known would lead to the deprivation of Platis tisubstantive due process rights to family integrity. Defendants Bether's and Medina's responsible known falsehoods to MDHS, which initiated unjustified intervention into Plaintiff amily life, was arbitrary and egregious.
- 139. Defendants Hayes and Mathews deprived Plaintiffts eifr constitutional right to

utter refusal to make efforts to reunite mother almittle, and their failure to follow applicable MDHS statutes, regulations, and internal policies.

- Defendants Hayes and Mathews further violated **Pffai**nsubstantive due process rights to family integrity by seeking to termina teaintiff Baltazar Cruz's parental rights to R.J.M.B. permanently and to ensure that the Types Cadopt R.J.M.B.
- Defendants Hayes, Mathews, Bether, and Medinaulhilland maliciously conspired with one another and Judge Sharon Sigalas, Doluglagnes, Jr. and Wendy Tynes, and/or guardian ad litem Terry Holtz to deprive Plaintiffstheir Fourteenth Amendment substantive due process rights. Defendants Hayes and Mathemspired with Judge Sigalas to transfer custody of R.J.M.B. to the Tynes directly upon their discharge from Singing River, knowing that the Tynes sought to adopt and integration facilitate their potential adoption by depriving Plaintiffs of their substantive due proceeding to Defendants Hayes, Mathews, Bether, and Medina conspired with one another and Judgelasigthe Tynes, and guardian ad litem Holtz to cause and perpetuate the separation of MPBJ from her mother despite their S

for adoption by the Tynes, a white family. Thesterons were motivated by an impermissible bias against Ms. Baltazar Cruz due to her status Mexican woman of indigenous descent.

Defendants furthered the goals of Judge Sigalas thand ynes to effectuate a forced, permanent transfer of custody of R.J.M.B. from Ms. Baltazaru to the Tynes.

146. Defendants Hayes', Mathews', Bether's, and Medinae'tsons severely subverted the integrity of Plaintiffs' family relationship and **caed** Plaintiff R.J.M.B. to be separated from her natural mother from the time she was two days **catil a**fter her first birthday, and caused Plaintiff Baltazar Cruz to miss the first year **ca**frhdaughter's life.

COUNT II

42 U.S.C. § 1983 CLAIMS ARISING FROM VIOLATIONS OF AND CONSPIRACY TO VIOLATE PLAINTIFFS' FOURTEENTH AMENDMENT PROCEDURAL DUE PROCESS RIGHTS

(DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

147. Plaintiffs re-allege and incorporate by referentealtegations set forth in the

Medina and Bether acted knowingly and malicious perparate Ms. Baltazar Cruz and her newborn daughter by intentionally and reckless porting fabricated allegations to MDHS.

- Defendants Bether's and Medina's deliberate reportor known falsehoods to MDHS set in motion a chain of events that they known we as sonably should have known would lead to the deprivation of Plaintiffs' Fourteent Im Andment procedural due process rights.
- Defendants Hayes and Mathews deprived Plaintiffts eifr Fourteenth Amendment rights to procedural due process by, inter aliding to investigate any of the allegations that Defendant Medina leveled against Ms. Baltazar @aruck by deliberately or recklessly reporting false statements of neglect when seeking an expensitody order from the Jackson County Youth Court. Defendants Hayes and Mathews knetwrth aexigent circumstances existed that would have justified their efforts to initiate countrevention to remove R.J.M.B. from her mother's custody without a pre-deprivation adversal arearing, yet they maliciously denied Plaintiff Baltazar Cruz her right to be heard ton text the false accusations leveled against her.
- Defendants Hayes and Mathews further deprived fiffsinof their Fourteenth Amendment procedural due process rights by refussing ovide adequate language interpretation during the investigatory stages here tase. Upon information and belief, Defendants Hayes and Mathews also deliberately of the November 19, 2008 hearing, with the intent of canges he hearing to proceed without Ms. Baltazar Cruz's presence.
- Defendants Hayes and Mathews continued to violation IPfs' procedural due process rights after taking custody of R.J.M.Bfatiling to provide adequate language interpretation to communicate with Ms. Baltazar Laund by failing almost entirely to communicate with Ms. Baltazar Cruz during a periology proximately ten months after they

took custody of her newborn daughter, thus depgitis. Baltazar Cruz of her right to be heard to challenge her continued separation from R.J.M.B.

Defendants Hayes, Mathews, Bether, and Medinaulhilland maliciously conspired with one another and Judge Sharon Sigalas, Doluglanes, Jr. and Wendy Tynes, and/or guardian ad litem Terry Holtz to deprive Plaintiffstheir Fourteenth Amendment procedural due process rights when faced with the state-teidialestruction of their family by commencing

- Defendants Medina and Bether deprived Plaintiff. MR.B. of her Fourth Amendment right to be free from unreasonable seizure by the propriate factories and seizure by the propri
- Defendants Bether's and Medina's deliberate reportor known falsehoods to MDHS set in motion a chain of events that they know we as onably should have known would lead to the unconstitutional seizure of Plaintiff M.B. by the state. Deliberately manipulating Ms. BR

COUNT IV

42 U.S.C. § 1983 CLAIMS ARISING FROM VIOLATIONS OF PLAINTIFFS' FOURTEENTH AMENDMENT RIGHT TO EQUAL PROTECTION OF T HE LAWS (DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

- 164. Plaintiffs re-allege and incorporate by referential agations set forth in the preceding paragraphs as if set forth herein.
- On the basis of Plaintiffs' Latino, Hispanic, and Modigenous racial background and Ms. Baltazar Cruz's non-American national origind ammigrant status, Defendants Hayes, Mathews, Bether, and Medina deprived Plaintiffs the fir clearly-established right to equal protection of the laws. Defendants Hayes, Mathebesher, and Medina subjected Plaintiffs to different treatment than that received by similarity ated individuals. The different and inferior treatment, included, inter alia, forcibly separatives. Baltazar Cruz and her daughter two days after birth for reasons related to Ms. Baltazarz Gruace, color, national origin, and immigrant status, and Defendants Hayes and Mathews' effortes thinate Ms. Baltazar Cruz's parental rights permanently and hastily so that R.J.M.B.lodose raised with the white American couple with whom she had been placed.
- Based on animus against and stereotypical percresposition. Baltazar Cruz based on her race, color, and/or national origin, Defendantsher and Medina willfully or recklessly initiated MDHS interference into Ms. Baltazar Cruzd R.J.M.B.'s protected family relationship in a discriminatory manner. Defendants Bether Medina discriminatorily fabricated and reported false allegations against Plaintiff Balta2ruz to MDHS with the intent and effect of triggering destructive state interference into Medical Baltazar Cruz's family life. In so doing, Defendant Bether emphasized her belief in Defendantazar Cruz's status as an undocumented Mexican immigrant as a key reason for initiating Misp intervention and attempted to turn



intent evidenced by, inter alia, Defendants Happens Mathews' insistence that Ms. Baltazar

Cruz learn English and forego her constitution philiptected rights to raise her daughter to speak

Chatino and in accordance with her cultural præstic

COUNT V

42 U.S.C. § 1983 CLAIMS ARISING FROMVIOLATIONS OF AND CONSPIRACY TO VIOLATE 42 U.S.C. § 1981 UNDER COLOR OF LAW (DEFENDANTS HAYES AND MATHEWS)

- 171. Plaintiffs re-allege and incorporate by referential agations set forth in the preceding paragraphs as if set forth herein.
- As set forth supra, Defendants Hayes and Mathe Wisully and maliciously conspired with one another and Judge Sharon Siga tasglas L. Tynes, Jr. and Wendy Tynes, and/or guardian ad litem Terry Holtz to deprive in the protein alternation of her right to attend and to meaningfully participate in the protein through which she was separated from R.J.M.B.
- 173. Defendants Hayes and Mathews were motivated by was rangainst Plaintiffs based on Plaintiffs' race and/or national origin when the phase is a deprive Plaintiffs of their rights.
- 174. In conspiring and taking the actions described supr

COUNT VI

VIOLATIONS OF 42 U.S.C. § 1985(3) (DEFENDANTS HAYES, MATHEWS, BETHER, AND MEDINA)

- 177. Plaintiffs re-allege and incorporate by referenteal tegations set forth in the preceding paragraphs as if set forth herein.
- Defendants Hayes, Mathews, Bether, and Medinapllaboration with one another and Judge Sigalas, Douglas L. Tynes, Jr., and Wenders, and/or guardian ad liternerry Holtz conspired, agreed, planned, coordinated anted for the purpose of depriving Plaintiffs of their equal protection rights including, inteliantheir right to be free from arbitrary, egregious, and oppressive interference with threiterated family relationship, their right to be provided with fundamentally fair procedures wherefal with the disruption of their family relationships, and Plaintiff R.J.M.B.'s right under Fourth Amendment to the United States Constitution to be free from unreasonable seizures.
- 179. Defendants Hayes, Mathews, Bether, and Medina meterated by animus against

COUNT VII

VIOLATIONS OF 42 U.S.C. § 2000det seg. (DEFENDANTS MISSISSIPPI DEPARTMENT OF HUMAN SERVICE S AND SINGING RIVER HOSPITAL)

- 182. Plaintiffs re-allege and incorporate by referencealtegations set forth in the preceding paragraphs as if set forth herein.
- 183. Defendants MDHS and Singing River, at all timesveht to this Complaint, received federal funding in the administration being activities, services, and programs.
- As recipients of federal financial assistance, Drefænts MDHS and Singing River were at all relevant times bound by the requirement Title VI of the Civil Rights Act of 1964, 42 U.S.C. § 2000d, which prohibits excluding, dengylor subjecting any person to

she and her daughter were subjected; denying Mtazaa Cruz access to the visitation and reunification processes and programs afforded to Arran-born, non-indigenous, and non-Latino parents under MDHS supervision; and movinte minate Ms. Baltazar Cruz's parental rights based on animus against non-Americans adigenous Latinos like Plaintiff.

187. As set forth supra, Defendant Singing River violate

- 190. Defendants Medina, Hayes, and Mathews acted matibicand in the absence of probable cause to commence a Youth Court procedentivodying R.J.M.B. and against Plaintiff Baltazar Cruz.
- 191. The proceeding terminated with a ruling in Plafn altazar Cruz's favor, resulting in the custody of R.J.M.B. being returned to Pitti altazar Cruz.
- As a result of the maliciously-instituted proceepsinPlaintiffs Baltazar Cruz and R.J.M.B. were separated by the state for over a ayreal suffered substantial damages.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs pray that there be judgmændered herein in favor of

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I have this date electrorlycfilled the foregoing with the Clerk of Court using the CM/ECF system, which will automathycsend e-mail notification to the following attorneys for the Defendants:

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