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8 Attorneys for Plaintiff Keith Thornton

9 **IN THE UNITED STATES DISTRICT COURT**
10 **FOR THE CENTRAL DISTRICT OF CALIFORNIA**

11 **KEITH THORNTON, an Individual**

12 **PLAINTIFF**

13 v.

14 **COUNTY OF LOS ANGELES, by and**
15 **through the LOS ANGELES COUNTY**
16 **DEPARTMENT OF CHILDREN AND**
17 **FAMILY SERVICES; DAISY CRUZ, an**
18 **Individual; CAROL PORRAS, an**
19 **Individual; and DOES 1 through 10,**
20 **inclusive,**

21 **DEFENDANTS**

No.

COMPLAINT FOR DAMAGES

1. Violation of Civil Rights Under 42 U.S.C. § 1983 – 1st Amendment – Retaliation
2. Violation of Civil Rights Under 42 U.S.C. § 1983 – 5th and 14th Amendment – Violation of Procedural and Substantive Due Process
3. Violation of Civil Rights Under 42 U.S.C. § 1983, 14th Amendment – Discrimination
4. Violation of Civil Rights Under 42 U.S.C. § 1983 – Monell Liability

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27 **Plaintiff alleges as follows:**
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JURISDICTION AND VENUE

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3 1. This is an action for damages for violations of Plaintiff’s federal civil rights,
4 pursuant to 42 U.S.C. § 1983, including violations of the First, Fifth, and Fourteenth
5 Amendments to the United States Constitution, arising from the misconduct as
6
7 alleged in more detail below.

8 2. Jurisdiction is conferred upon this Court by 28 U.S.C. §§ 1343(3) and 1343(4),
9
10 which provides for additional jurisdiction in this Court for all suits brought pursuant
11 to 42 U.S.C. § 1983 and other federal statutes. Jurisdiction is also conferred pursuant
12 to 28 U.S.C. § 1331 because the claims for relief derive from the United States
13
14 Constitution and the laws of the United States.

15 3. Venue is proper in this Court because, upon information and belief, one or
16
17 more of the Defendants reside, transact business, or have offices in Los Angeles
18
19 County and many of the acts and omissions alleged herein took place in Los Angeles
20
21 County.

PARTIES

22 4. Plaintiff KEITH THORNTON (hereinafter “Plaintiff” or “THORNTON”) is an
23
24 individual, competent adult, who, during all times relevant as described in more detail
25
26 below, engaged with the Los Angeles County Department of Children and Family
27
28 Services (“DCFS”), by and through numerous employees, representatives, or agents
of the same, in and around Los Angeles County, both individually and as the

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1 prospective adoptive parent of minor foster children M.A., D.A., and I.S. (hereinafter
2 “Minor Children”).

3
4 5. Defendant COUNTY OF LOS ANGELES is a local public entity organized
5 under the laws of the State of California (hereinafter referred to as “COUNTY OF
6 LOS ANGELES” or “COLA”). The Los Angeles County Department of Children
7 and Family Services (hereinafter referred to as “DCFS” or “the Department”) is an
8 agency of Defendant COUNTY OF LOS ANGELES designated to administer laws
9 and programs relating to protective services for children, foster care, and adoptions.
10 DCFS operates under the policy direction of the Los Angeles County Board of
11 Supervisors and the California Departments of Social Services and Health Services.

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15 6. At all times relevant herein, DCFS employed Defendant DAISY CRUZ
16 (hereinafter referred to as “CRUZ”) as a Social Worker charged with the
17 investigation, monitoring, and management of juvenile dependency matters, which
18 included – at certain times as stated below – the matter of the minor children, M.A.,
19 D.A., and I.S. Defendant CRUZ was an individual residing, on information and
20 belief, in the County of Los Angeles, and at all times relevant herein was an officer,
21 agent and employee of Defendant COLA and DCFS. Defendant CRUZ is sued herein
22 in both her individual capacity and in her official capacity as an employee of the
23 County of Los Angeles.
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1 7. At all times relevant herein, DCFS employed Defendant CAROL PORRAS
2 (hereinafter referred to as “PORRAS”) as a Social Worker charged with the
3 supervision and monitoring of other social workers, which included – at certain times
4 as stated below –Defendant CRUZ. Defendant PORRAS was an individual residing,
5 on information and belief, in the County of Los Angeles, and at all times relevant
6 herein was an officer, agent and employee of Defendant COLA and DCFS. Defendant
7 PORRAS is sued herein in both her individual capacity and in her official capacity as
8 an employee of the County of Los Angeles.

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12 8. Plaintiff is informed and believes and thereon allege that Defendants, Does 1
13 through 10, inclusive (hereinafter referred to as “Does”), are now and at all times
14 herein mentioned in this Complaint were individuals and residents or were entities –
15 either governmental or otherwise – operating and/or doing business in and around the
16 County of Los Angeles, State of California, and were in some manner employed by
17 and acting within the scope of their employment on behalf of Defendant COLA,
18 whether by and through DCFS or some other means.

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22 9. Defendant COLA was at all times alleged herein to be responsible for the
23 appointment and promotion of employees of COLA, and for the supervision, training,
24 instruction, discipline, control, and conduct of said employees.

25
26 10. At all times alleged herein, Defendant COLA had the power, right, and duty to
27 control the manner in which the individual defendants carried out the objectives of
28

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1 their employment and to assure that all orders, rules, instructions, and regulations
2 promulgated were consistent with the United States Constitution, the California
3 Constitution, the laws of the United States, the laws of the State of California, and the
4 laws of the local municipalities.
5

6
7 11. The unknown named defendants – identified herein as “Doe” Defendants 1
8 through 50, include, but are not limited to, unknown social workers, supervisors,
9 managers, investigators, deputy directors, who participated in, approved of, or
10 otherwise acquiesced in the actions and misconduct of the other named defendants as
11 described herein, resulting in the deprivation of Plaintiff’s civil rights and injuries to
12 her person, as is described below. These unknown defendants include policymakers
13 that created, fostered, acquiesced in, ratified, and/or maintained the policies, customs,
14 and/or practices that caused the deprivation of Plaintiff’s constitutional rights and his
15 injuries.
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19 12. Plaintiff is ignorant of the true names and capacities of these Doe Defendants,
20 though all are believed to have been employed by COLA, or acting in concert with
21 other named defendants and in their capacity were acting as state actors, but alleges
22 that each such defendant was in some intentional or negligent manner responsible for
23 the injuries suffered by Plaintiff.
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1 13. Defendants, and each of them, performed the wrongful acts and omissions
2 alleged herein in bad faith and with knowledge that their conduct violated well and
3 clearly established and settled law.
4

5 14. At all times material herein, defendants, and each of them, were acting as the
6 employees, agents, representatives, and officers of every other defendant herein, and
7 within the course and scope of such employment and agency.
8

9 **FACTS COMMON TO ALL CLAIMS**

10 15. Each and every allegation set forth in each and every averment of this
11 Complaint is hereby incorporated by this reference in each and every other averment,
12 allegation, and count of this Complaint.
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15 16. Plaintiff was previously deprived of his interests protected by the Constitution
16 and/or laws of the United States of America, as well as California, and suffered
17 injuries to his person, and such deprivation was caused by defendants – by
18 commission and omission – while defendants acted under color of law.
19

20 17. All acts and/or omissions perpetrated by each defendant, except any
21 governmental entity defendant or any defendant only in their official capacity, were
22 engaged in maliciously, callously, oppressively, wantonly, recklessly, and with
23 deliberate indifference to the rights of Plaintiff, and were done so despicably and with
24 evil motive and/or intent.
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1 18. In or around 2012, Plaintiff KEITH THORNTON moved to the greater Los
2 Angeles area and entered the field of law enforcement. Plaintiff graduated from the
3 Los Angeles Police Academy with top honors as class president.
4

5 19. In or around 2013, Plaintiff, who is an African American Male and identifies as
6 gay, sought to become an adoptive parent. Plaintiff and his long-term partner, Sergio
7 Linares, began the process of becoming certified foster parents through the Southern
8 California Foster Family & Adoption Agency (“SCFFAA”). By early 2014, both
9 Plaintiff and Mr. Linares were fully certified as foster parents.
10

11 20. On or about April 17, 2014, Plaintiff and Mr. Linares met with employees of
12 Defendant COLA/DCFS at the Belvedere Office and accepted placement of minor
13 foster children, M.A., D.A., and I.S. – three sibling boys with the ages 3 years, 2
14 years, and 2 months, respectively. During the meeting and acceptance of placement,
15 Plaintiff learned that Defendant COLA/DCFS had some difficulty placing the minor
16 children due to their challenges and needs, including exposure to alcohol and drugs
17 during pregnancy, as well as the fact that the children were removed from their
18 biological parents due to substantiated allegations of neglect and suspected physical
19 and emotional abuse.
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24 21. Thereafter, Plaintiff and his partner, Mr. Linares, met with Defendant CRUZ,
25 who was assigned to oversee the placement of minor children as well as monitor the
26 foster adoption process.
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1 22. Prior to the placement with Plaintiff and Mr. Linares, the minor children had
2 been temporarily placed with Ana Garcia, who ran a foster home.

3
4 23. As part of her job as the assigned social worker, Defendant CRUZ made
5 monthly home visits. During her home visits, Defendant CRUZ frequently
6 commented approvingly on the fact that Mr. Linares, who is Hispanic, was teaching
7 the minor children Spanish.
8

9 24. During her home visits, Defendant CRUZ frequently commented approvingly
10 on the fact that Mr. Linares, who attended a Catholic church, took the minor children
11 to Catholic services. Plaintiff THORNTON, by contrast, attended a Methodist church
12 pursuant to his own religious beliefs.
13

14
15 25. During the home visits, Defendant CRUZ frequently stated that she believed it
16 was necessary for the minor children to have regular contact with Ana Garcia, stating
17 “Ana really loved them but could not adopt them at this time.”
18

19 26. Plaintiff understood that Defendant CRUZ’s demand that the minor children
20 was not based on a court order but Defendant CRUZ’s personal desire to have the
21 children maintain communication with Ms. Garcia, allowing for the minor children to
22 speak with Ana Garcia regularly by phone. When Defendant CRUZ expressed her
23 desire that the minor children maintain contact with Ms. Garcia, Defendant CRUZ
24 acknowledged that she and Ms. Garcia were close friends.
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1 27. During the first several weeks that the minor children were placed with
2 Plaintiff, Defendant CRUZ explicitly encouraged Plaintiff to take the minor children
3 to visit Ana Garcia at the foster home in Whittier, California. Although Plaintiff had a
4 friendly interactions with Ms. Garcia, Plaintiff did not understand Defendant CRUZ's
5 encouragement to be a suggestion but in fact a demand based on what Defendant
6 CRUZ appeared to believe was best for the minor children.
7

8
9 28. In the summer of 2014, Plaintiff took the minor children to visit Ms. Garcia at
10 the behest of Defendant CRUZ. During the visit, the minor children discovered that
11 Ms. Garcia had subsequently taken in an additional female foster child, and the minor
12 children became very upset at seeing the rooms and other areas of the home changed
13 from the way it appeared when they were temporarily placed with Ms. Garcia. The
14 minor children continued to react poorly during the visit, and began acting out
15 emotionally as a result. Eventually, Plaintiff had to cut the visit short as a result.
16 Thereafter, the minor children expressed emotional hostility for several months.
17

18
19 29. At the next monthly home visit, Defendant CRUZ asked how the trip with the
20 minor children to see Ms. Garcia had been. Plaintiff explained that Ms. Garcia was
21 very nice, but the minor children reacted very poorly to seeing her home in a different
22 state and that Ms. Garcia had taken in an additional foster child who was now living
23 in the minor children's old room. Plaintiff went on to state that he spoke with Ms.
24 Garcia and, in light of the negative effect it had on the minor children, Plaintiff would
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1 not be taking the minor children back to Ms. Garcia’s home, and would phase out
2 regular communication between Ms. Garcia and the minor children for now. Plaintiff
3 explained to Defendant CRUZ that the children needed to heal, mature, and establish
4 a connection with Plaintiff and Mr. Linares as prospective adoptive parents.

5 Defendant CRUZ reacted by strongly encouraging Plaintiff to reconsider and
6 maintain contact between the minor children and Ms. Garcia, going on to claim that
7 the only reason Ms. Garcia did not move forward with adopting the minor children
8 was because she had a medical issue that prevented her from doing so. Plaintiff
9 acknowledged that the minor children would still be able to communicate with Ms.
10 Garcia, but that their emotional development and well-being had to come first.

11 Defendant CRUZ simply kept reiterating that Ms. Garcia had almost adopted the
12 children and deserved to stay in touch with them, which Plaintiff understood to be
13 based on Defendant CRUZ’s personal preferences rather than any actual court order
14 or legal requirement.

15 30. After Plaintiff explained this to Defendant CRUZ, Plaintiff and Mr. Linares
16 noticed a sharp change in Defendant CRUZ’s attitude and interactions with them;
17 Defendant CRUZ no longer appeared friendly or supportive of Plaintiff and Mr.
18 Linares’ efforts as prospective adoptive parents, but instead became overtly negative
19 and reasonably appeared to be looking for reasons to criticize Plaintiff and Mr.
20 Linares whenever she could.

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1 31. Plaintiff understood from the outset of the placement of the minor children that
2 the youngest child, minor I.S., had a mildly misshapen head in that the top of his skull
3 was flatter than normal. Defendant CRUZ had specifically informed Plaintiff that
4 minor I.S. would require a corrective helmet in order to allow his skull to heal
5 properly.
6

7
8 32. Plaintiff brought minor I.S. to his primary care physician, Dr. Lindsay Wells,
9 M.D., a pediatrician with the UCLA Santa Monica Medical Center. Dr. Wells
10 tentatively evaluated minor I.S. and advised Plaintiff that a corrective helmet was not
11 necessary, but out of caution referred Plaintiff and minor I.S. to Dr. Yoshio
12 Setoguchi, M.D., of the Pediatric Craniofacial Department at UCLA Health Santa
13 Monica Pediatrics. Dr. Setoguchi evaluated minor I.S. separately, then explained to
14 Plaintiff that minor I.S.'s head issues were not severe and were in fact healing
15 naturally. Dr. Setoguchi advised Plaintiff that minor I.S. should not be given a
16 corrective helmet but instead should simply be encouraged to sleep on his belly so
17 that the natural healing can continue.
18

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21 33. At the next home visit, Plaintiff informed Defendant CRUZ of the doctor's
22 evaluation and the positive diagnosis minor I.S. received. Rather than being pleased
23 with Plaintiff's proactive approach or the good news regarding minor I.S. healing
24 without the need for additional medical intervention, Defendant CRUZ aggressively
25 criticized Plaintiff and Dr. Setoguchi, stating, "You guys need to take [minor I.S.]
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1 back to the doctor and get a helmet put on his head. I have seen over and over again
2 with other children this becoming a permanent issue later on.” Plaintiff calmly and
3 politely disagreed, telling Defendant CRUZ that Dr. Setoguchi was not just a
4 respected physician but was in fact a specialist in the area of pediatric craniofacial
5 issues, and his professional medical opinion was that minor I.S. would actually be
6 worse off with a corrective helmet, as minor I.S. would have to wear it for a minimum
7 of six months, twenty-three hours per day, and it would likely cause unnecessary
8 physical and emotional trauma to the child. Defendant CRUZ, who is not a medical
9 professional, asserted that a public health nurse employed by Defendant
10 COLA/DCFS, identified as Margaret Medrano, had previously suggested that minor
11 I.S. would need a corrective helmet. Defendant CRUZ commented that she was very
12 concerned to hear Plaintiff stand by Dr. Setoguchi’s medical opinion and not that of a
13 public health nurse who had not actually examined minor I.S. at any time.
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19 34. Out of abundance of caution, and because of Defendant CRUZ’s aggressive
20 position regarding a corrective helmet for minor I.S., Plaintiff took minor I.S. back to
21 Dr. Setoguchi for a subsequent appointment. Plaintiff explained to Dr. Setoguchi his
22 interaction with Defendant CRUZ. In response, Dr. Setoguchi reiterated that it was
23 medically inappropriate for minor I.S. to have a corrective helmet.
24
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26 35. Subsequent to Plaintiff’s interaction with Defendant CRUZ regarding minor
27 I.S.’s medical needs, Defendant CRUZ began doing unannounced visits rather than
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1 providing any notice of visitation. Plaintiff at one point was forced to ask that
2 Defendant CRUZ contact Plaintiff ahead of time so that he could make sure that he
3 and the minor children were home so the visit could occur. Defendant CRUZ became
4 upset at Plaintiff's request, but did not provide any explanation as to why.
5

6
7 36. Some of the behavioral problems that began to arise after the visit to Whittier,
8 California, continued with the minor children, resulting in minors M.A. and D.A.
9 being kicked out of their head start program in the fall of 2014. Plaintiff researched
10 special education options and located an intensive behavioral treatment program and
11 school that addressed their needs, and both minors M.A. and D.A. were accepted into
12 the program as they met all the requirements of special needs students.
13
14

15 37. Throughout the time that Defendant CRUZ worked as a social worker for the
16 minor children, though, Defendant CRUZ consistently denied that the minor children
17 had any special needs.
18

19 38. In the fall of 2014, Plaintiff and his partner, Sergio Linares, began experiencing
20 relationship difficulties due to Mr. Linares committing infidelity. In December of
21 2014, after discussing it at length, Plaintiff and Mr. Linares decided to separate and
22 mutually agreed that Plaintiff would take full control and responsibility for the minor
23 children.
24

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26 39. The same day that Mr. Linares left the home, Plaintiff contacted Defendant
27 CRUZ by phone and informed her of the situation. Defendant CRUZ confirmed that
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1 Mr. Linares had contacted Defendant COLA/DCFS already, and told Plaintiff that a
2 meeting needed to occur to work out how everyone would proceed.

3
4 40. Shortly thereafter, Plaintiff met with social workers from the foster family
5 agency. The social workers acknowledged that they had discussed the matter in detail
6 with Defendant CRUZ and others employed by Defendant COLA/DCFS, and jointly
7 prepared a case plan that focused on Plaintiff and Mr. Linares staying together as a
8 couple, which belied and ignored Plaintiff’s repeated assertions that their relationship
9 was over and that Plaintiff would be proceeding as a single parent. By the end of the
10 meeting, Plaintiff was instructed to attend both weekly couples counseling with Mr.
11 Linares and individualized counseling, and that Mr. Linares was expected to “sleep in
12 the bed with [Plaintiff] at night” regardless of their relationship status. Plaintiff
13 understood that, although Defendants CRUZ and PORRAS were absent from the
14 actual meeting, that the case plan and corresponding requirements that Plaintiff
15 remain in a relationship with Mr. Linares and attend multiple counseling programs
16 were at the behest of Defendants CRUZ and PORRAS.

17
18
19 41. Plaintiff was distraught and offended by the expectation that he and Mr.
20 Linares force their relationship to continue solely due to the demands of social
21 workers. However, Plaintiff attempted to follow their demands in an effort to avoid
22 problems with Defendant COLA/DCFS, including attending relationship counseling
23 regularly.
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1 42. During therapy sessions, Plaintiff was advised that it was in the best interests of
2 everyone that he separate from Mr. Linares completely, and that Mr. Linares had
3 ceased participating in therapy despite Plaintiff continuing in good faith; however,
4 when Plaintiff brought this up with Defendant CRUZ, she responded by telling
5 Plaintiff that being single would threaten his ability to successfully adopt the minor
6 children. Defendant CRUZ did not elaborate on why Plaintiff acting as a single parent
7 would threaten his ability to adopt the minor children.
8

9
10 43. Plaintiff continued to attempt to salvage his relationship with Mr. Linares at the
11 behest of Defendant CRUZ for several months, until he could no longer do so.
12 Plaintiff contacted the foster family agency and informed them that neither he nor Mr.
13 Linares could make the relationship work and they mutually agreed that Plaintiff was
14 the only one who wished to continue with the adoption of the minor children. In
15 response, Plaintiff was informed that social workers would be visiting more often and
16 without notice as a result.
17
18

19
20 44. After Plaintiff and Mr. Linares ceased their relationship, Plaintiff noticed an
21 overt difference in the way that Defendant CRUZ conducted her home visits, which
22 became weekly. Defendant CRUZ would begin every visit by asking the eldest child,
23 minor M.A., to tell her “the bad things that happened this week.” This usually made
24 M.A. very uncomfortable and made him feel like he was in trouble and would not
25 know how to respond. Plaintiff would often be forced to reassure M.A. that he could
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1 talk about what the family had done together over the last week. Around this time,
2 Plaintiff began to notice that minor M.A. would begin to state that “the lady is going
3 to take me away,” which Plaintiff reasonably understood to be M.A. attempting to
4 express concern that Defendant CRUZ would cause M.A. to be placed in another
5 home.
6

7
8 45. After Plaintiff and Mr. Linares ceased their relationship, Defendant CRUZ
9 repeatedly asked Plaintiff whether he had taken over teaching the minor children
10 Spanish. Each time, Plaintiff acknowledged that he was not, as he did not speak
11 Spanish, which appeared to upset Defendant CRUZ.
12

13 46. During a home visit after Plaintiff and Mr. Linares ceased their relationship,
14 Defendant CRUZ asked Plaintiff whether he was taking the minor children to church
15 services. Plaintiff confirmed that he took them to service every Sunday. Defendant
16 CRUZ then demanded that Plaintiff identify the specific church he attended. Plaintiff
17 reiterated what he had previously told Defendant CRUZ that he was a member of
18 United Methodist Church, and then talked about how much the minor children
19 enjoyed attending service and singing in the children’s choir.
20
21
22

23 47. Defendant CRUZ then asked for the location of United Methodist, and Plaintiff
24 again told Defendant CRUZ it was in Hollywood. Defendant CRUZ responded by
25 stating that “It’s very concerning to me that you are taking [the minor children] so far
26 away to a church. It’s emotionally and even physically draining to the children to go
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1 so far.” Plaintiff calmly reiterated that the minor children enjoyed the services at
2 United Methodist and were not harmed by going to them.
3

4 48. In response, Defendant CRUZ stated, “Well, Sergio used to take them to his
5 Catholic Church.” Plaintiff calmly stated that Mr. Linares no longer lived with him or
6 the minor children, and reiterated how much the minor children enjoyed the services
7 and choir at United Methodist Church.
8

9 49. Defendant CRUZ then turned to minor M.A. – who was four years old at this
10 time – and asked, “Do you like Sergio’s church?” Minor M.A. replied, “No, I like my
11 daddy’s church.”
12

13 50. Defendant CRUZ then asked Plaintiff if she could go with Plaintiff and the
14 minor children to attend their church service and observe them. Plaintiff, who at this
15 point reasonably understood that Defendant CRUZ wished to dictate the religious
16 preferences of his household, politely told Defendant CRUZ that she could not.
17
18

19 51. In or around August of 2015, Plaintiff and the minor children moved away
20 from Sunland to Palmdale, California in order to live in a bigger home with more
21 space for the minor children to play and live.
22

23 52. During a home visit at the Palmdale residence, Defendant CRUZ stated that
24 there was an “issue” that needed to be addressed. When Plaintiff asked what was
25 going on, Defendant CRUZ stated, “It’s really concerning to me that you are way out
26 here in Palmdale now, [because] it’s a long ride for me. Is there a reason why you left
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1 Sunland? Was something going on?” Plaintiff politely explained that living in a larger
2 home gave the minor children more room and a large yard to play in, and noted that
3 the foster family agency had already approved the home. Plaintiff then asked what
4 was the actual problem. Defendant CRUZ responded that there was no problem, and
5 did not inspect the home but instead focused on asking the minor children about any
6 “bad” things that have happened recently, despite the minor children attempting to
7 discuss positive events such as family trips and interactions with Plaintiff’s extended
8 family during visits.
9

10
11
12 53. In or around October of 2015, Defendant COLA/DCFS hosted a foster care
13 adoption event at Citrus College in Glendora, California. Plaintiff attended the event,
14 wishing to volunteer based on his strong belief in the importance of adoption and
15 helping children in the foster system. During the event, Plaintiff was interviewed by a
16 reporter, and part of his interview was published in a news article. During the
17 interview, Plaintiff was identified as an openly gay man adopting foster children as a
18 single parent, extolling the importance of foster care adoption. During the next home
19 visit after the publication of the news article, Defendant CRUZ accused Plaintiff of
20 being inappropriate in agreeing to be interviewed. Plaintiff expressed surprise and
21 attempted to understand why Defendant CRUZ was upset. Defendant CRUZ would
22 not explain why the news article upset her; however, Plaintiff reasonably suspected
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1 that Defendant CRUZ was upset that Plaintiff’s sexuality and/or status as a single
2 parent were disclosed in the news article.
3

4 54. In or around December of 2015, Plaintiff grew concerned regarding the
5 placement of the minor children in schools that would accommodate their behavioral
6 and educational needs. Despite repeated messages, Defendant CRUZ did not return
7 calls from Plaintiff or the therapist for the minor children, causing the minor children
8 to be pushed back further and further on waiting lists.
9

10 55. Previously, Defendant CRUZ had communicated to Plaintiff that minor D.A.
11 should be deemed “emotionally unstable” because D.A. refused to talk to Defendant
12 CRUZ during the visits in which she repeatedly asked him about what “bad things”
13 happened recently. In response to Defendant CRUZ’s insistence that D.A. had mental
14 health issues, Plaintiff took minor D.A. to see a therapist shortly before Christmas of
15 2015. The therapist evaluated D.A. and determined that he was well-behaved and
16 presented no issues, and suggested that putting D.A. in a program would be
17 detrimental to his emotional well-being. The therapist then inquired as to why
18 Plaintiff sought mental health treatment for D.A., and Plaintiff explained what
19 Defendant CRUZ had asserted re emotional instability.
20
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24 56. Based on that conversation, the therapist wished to speak with Defendant
25 CRUZ immediately, and requested her number from Plaintiff. Plaintiff provided the
26 number and the therapist contacted Defendant CRUZ in Plaintiff’s presence.
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1 57. Defendant CRUZ answered the call and the therapist respectfully stated that
2 minor child D.A. presents no problems and complimented Plaintiff on his parenting,
3 then firmly stated that the emotional wellness program was not appropriate for D.A.

4
5 58. A few days later, Plaintiff received a call from Defendant CRUZ, who stated
6 that “it’s very concerning to me that you are not getting the services for the children
7 that are offered to you by the county” and went on to claim that she had received
8 several phone calls from behavioral therapists stating that you have not answered
9 their calls.” Plaintiff had no idea what Defendant CRUZ was talking about, and
10 proceeded to call each and every therapist that Defendant CRUZ referenced. Each and
11 every time, Plaintiff was told that was not the case, and in fact was told bluntly that he
12 was in regular contact but that the therapists had great difficulty reaching Defendant
13 CRUZ as she does not return their calls.
14
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16

17 59. During the next home visit, Plaintiff told Defendant CRUZ that he wanted to
18 have a meeting with all social workers on his adoption case, as he has done
19 everything required and believed that the Defendant COLA/DCFS as not moving
20 forward, which greatly concerned him. Defendant CRUZ responded by stating that
21 she was “very concerned” about Plaintiff not returning a call she made a few weeks
22 ago and believed that a group meeting was necessary to address Plaintiff’s failures.
23 Defendant CRUZ then stated that she had spoken to Marissa Martinez, the social
24 worker handling the adoption, and that Defendant COLA/DCFS is postponing the
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1 adoption at this point. When Plaintiff asked what she was talking about, Defendant
2 CRUZ only responded that “a lot of issues have come up with you. Once my
3 supervisor is here, we will address them.”
4

5 60. On or about January 14, 2016, Plaintiff had a meeting with Defendant CRUZ,
6 her Defendant PORRAS, and Marissa Martinez, along with the FFA social worker
7 Cristina Pon and her supervisor Kimberly Sutton, and FFA social worker Nicolaus
8 Garcia. The meeting was held in Plaintiff’s home. On the recommendation of Ms.
9 Pon, Plaintiff had a friend come to watch the minor children during the meeting.
10

11 61. During the meeting, Defendant CRUZ repeated her prior misrepresentations
12 regarding the therapists not being able to reach Plaintiff. In response, Plaintiff calmly
13 explained that was not true, and in fact Defendant CRUZ refused to communicate
14 with the minor children’s therapists. Plaintiff produced a letter from a supervisor of
15 Children’s Bureau, confirming that Plaintiff was in constant contact with therapists
16 for the minor children and Plaintiff and that Defendant CRUZ was refusing to
17 communicate with them. Towards the end of the meeting, the other social workers
18 expressed agreement with Plaintiff and stated they would be in touch with Plaintiff re
19 finalizing the adoption.
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24 62. At the end of the meeting, Defendant CRUZ, who appeared to be furious,
25 stated, “You know what? I’ll just do a quick inspection of the children since I’m
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1 here.” Marissa Martinez and Defendant CRUZ then went to a back room of the house
2 with minor children D.A. and M.A. and closed the door.

3
4 63. Approximately five minutes later, Defendant CRUZ opened the door and
5 flagged over Defendant PORRAS, who entered the room and shut the door. Shortly
6 thereafter, Ms. Porras came out and stated to Plaintiff “We have a problem. Come
7 with me.” Plaintiff followed her back into the room. Defendant PORRAS then
8 demanded that Plaintiff remove each child’s clothing. Plaintiff complied and watched
9 Defendants CRUZ and PORRAS inspect the children closely. There were no bruises,
10 marks, discolorations, or anything else on the children except very minor scratches
11 that were self-inflicted due to a skin condition.

12
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14
15 64. Defendant CRUZ then pointed to M.A.’s leg, at what appeared to be a tiny
16 circular scratch and said, “look, Carol.” Defendant PORRAS turned to Plaintiff and
17 told him to go back to the living room. Plaintiff returned to the living room and
18 informed the other social workers what was going on.

19
20 65. After Defendants CRUZ and PORRAS came out, other social workers
21 approached Plaintiff and told him that Defendants CRUZ and PORRAS were alleging
22 abuse. Plaintiff reacted with extreme surprise, given the lack of actual bruising or
23 other indications of abuse. Plaintiff asked the other social workers if he could take
24 pictures, and they immediately informed Plaintiff it was a good idea because there
25 were no marks on the children. Plaintiff began taking pictures of minor child M.A. to
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1 prove there were no marks. Defendant PORRAS, who saw Plaintiff through a
2 window, immediately ran inside and demanded that Plaintiff stop taking pictures and
3 requested that he turn over his phone to her. Plaintiff stopped taking pictures but
4 refused to give Defendant PORRAS his phone.
5

6
7 66. A few minutes later, Defendant PORRAS stated to Plaintiff, “We are taking the
8 kids.” Defendant CRUZ then interjected, claiming that minor child D.A. stated “you
9 whooped his ass” and that they “couldn’t ignore it.” Defendant CRUZ went on to
10 claim that minor child D.A. kept running behind a couch and saying “belt, belt, belt”
11 and that minor child M.A. responded by stating that “Daddy’s really going to be mad
12 and whoop both of our asses.” Defendant CRUZ went on to say that all three children
13 were clearly afraid of Plaintiff, despite the fact that minor child I.S. was not present in
14 the back room during the visit, and was barely two years old.
15

16
17 67. Plaintiff did not receive a Notice of Emergency Removal until approximately
18 January 29, 2016 – just over two weeks after Defendants removed the minor children.
19 This notice was not directly provided by Defendant CRUZ or Defendant
20 COLA/DCFS, but was instead provided through his retained counsel after
21 investigation into the status of the juvenile dependency matter. Defendants therefore
22 failed to provide notice to Plaintiff regarding removal proceedings in violation of
23 state law, as Plaintiff qualified as a prospective adoptive parent pursuant to the
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1 California Welfare & Institutions Code, including but not necessarily limited to §
2 366.26(n).
3

4 68. The Notice of Emergency Removal, prepared by Defendants CRUZ and
5 PORRAS, alleged that minor child M.A. claimed to have been physically abused with
6 a belt, yet the only alleged evidence was a “linear vertical mark on his right leg” and
7 not any bruise, welt, or other mark that would potentially denote actual injury.
8

9 Furthermore, no such mark was on M.A.’s leg when Plaintiff photographed the same
10 area just prior to the removal.
11

12 69. Subsequent to the removal of the minor children by Defendants, Plaintiff
13 contacted Defendant CRUZ by phone and requested visitation with the minor
14 children until the matter was resolved by the juvenile dependency court, which was
15 Plaintiff’s right as a prospective adoptive parent. Defendant CRUZ responded by
16 telling Plaintiff that she no longer considered him to be a prospective adoptive parent
17 and therefore had no right to visitation.
18

19
20 70. On or about February 18, 2016, Defendant CRUZ submitted an interim review
21 report, reviewed by Defendant PORRAS, recommending the minor children be placed
22 with another foster home for adoption. Attached to the report were emergency
23 physical evaluation reports for each minor child. In those attached reports, there was
24 no description of bruising or other affirmative evidence of physical abuse, only minor
25 scratch marks that were admittedly self-inflicted as to minors M.A. and D.A., as well
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1 as a “small healing lesion” on M.A.’s right thigh, with the words “I don’t know”
2 written by the evaluating doctor on the form.
3

4 71. On or about February 16, 2016, Detective Sergeant Mike Becker (#005331) of
5 the Los Angeles County Sheriff’s Department Special Victims Bureau authored a
6 supplemental report, which summarized his investigation into the alleged physical
7 abuse that Defendants CRUZ and PORRAS used as a justification to remove the
8 minor children on January 14, 2016. In the report, Sgt. Becker acknowledged that the
9 emergency response investigator Sylvia Torres had interviewed minors M.A. and
10 D.A., and that, although M.A. repeatedly asserted that Plaintiff hit him on the thigh
11 with a belt “every day,” she found it difficult to confirm if his statements were at all
12 truthful given that they would change and not make sense when she questioned M.A.
13 about any specific incidence. The report also acknowledged that the medical
14 evaluations of the minor children did not uncover any evidence of abuse. The report
15 also acknowledged that both minor children repeatedly requested to be returned to
16 Plaintiff’s care. According to Sgt. Becker’s report, Sgt. Becker interviewed minors
17 M.A. and D.A., and concluded that minor D.A. was being coached on the questions
18 prior to his interview, and confirmed several shifting inconsistencies in the vague
19 assertions that Plaintiff engages in physical discipline at all. The report concluded
20 with Sgt. Becker’s assertion that “[b]ased on my investigation there is no supporting
21 evidence to substantiate [M.A.] or [D.A.] being abused.”
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1 72. Hearing on the removal was scheduled in juvenile dependency court on
2 February 29, 2016. At the hearing, the matter was continued to March 15, 2016, in
3 part due to the fact that Defendant CRUZ did not show up to court for the hearing.
4 While waiting for the matter to be called, county counsel and representative of
5 Defendant COLA/DCFS, attorney Michel H. Eisner, Esq. (SBN #96371)
6 communicated to Plaintiff's attorney of record the following: If Plaintiff chose to stop
7 fighting the removal of the minor children and not go forward with any hearing
8 accusing Defendants of misconduct, Defendant COLA/DCFS would assist Plaintiff in
9 adopting different foster children; but if Plaintiff persisted in seeking return of the
10 minor children, Defendants would never allow Plaintiff to adopt any child in Los
11 Angeles County. Plaintiff and his counsel of record reasonably interpreted this
12 statement to be a threat against Plaintiff regarding his right to be a foster parent and
13 declined the offer of Ms. Eisner, which was reasonably understood to be conveyed on
14 behalf of Defendants.
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20 73. On or about March 15, 2016, the hearing was again continued due to the
21 juvenile court calendar being excessively full, and was rescheduled for March 18,
22 2016.
23

24 74. On or about March 18, 2016, hearing was held regarding the emergency
25 removal from January 14, 2016. Defendant CRUZ testified at the hearing. During her
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1 testimony, Defendant CRUZ repeatedly made false or misleading statements,
2 including but not limited to the following:

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- 4 (a) Testifying that none of the minor children had any medical issues or
- 5 special needs, which was immediately dispelled when the judge read
- 6 aloud various diagnosed medical conditions from DCFS documents;
- 7
- 8 (b) Testifying that Plaintiff did not follow up with medical care
- 9 providers, despite letters and other documentation proving the
- 10 opposite; and
- 11
- 12 (c) Testifying that she personally observed signs of physical abuse on the
- 13 body of minor D.A. on January 14, 2016, even though the Notice of
- 14 Emergency Removal referred to minor M.A. only.
- 15

16 75. During the hearing, Defendant CRUZ initially testified that Plaintiff had
17 discussed visitation with her after she and Defendant PORRAS removed the minor
18 children, implying that Defendants allowed visitation subsequent to the removal. It
19 was not until Plaintiff's counsel questioned Defendant CRUZ further that she
20 eventually admitted that she denied any visitation as she no longer considered
21 Plaintiff to be a prospective adoptive parent.

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24 76. Towards the conclusion of the morning portion of the hearing on March 18,
25 2016, the juvenile dependency judge began questioning Defendant CRUZ directly;
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1 the judge’s questions were sharply critical of Defendant CRUZ and implied that she
2 committed misconduct in choosing to detain the minor children.
3

4 77. As the lunch break for the court approached, the presiding judge acknowledged
5 the need to continue the remainder of the hearing during the afternoon calendar. At or
6 near this point in time, county counsel Michel Eisner informed the court that she had
7 a serious medical issue that prevented her from arguing the matter in the afternoon,
8 despite having no difficulty proceeding earlier that morning. The court found that Ms.
9 Eisner’s representation constituted “good cause” and continued the trial hearing,
10 demanding that Defendant PORRAS be present to testify at the next date. Later that
11 afternoon, Ms. Eisner continued to argue other cases in juvenile court, contradicting
12 her representation to the court that she was unable to continue for medical reasons.
13 On information and belief, Ms. Eisner lied to the juvenile dependency court in an
14 effort to continue the matter so as to avoid further revelations to the Court regarding
15 Defendants’ misconduct or a ruling returning the minor children to Plaintiff’s care.
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20 78. The hearing on the emergency removal of the minor children resumed on or
21 about June 2, 2016. As soon as Plaintiff and his counsel of record arrived, they were
22 given a document entitled “Last Minute Information for the Court,” (hereinafter
23 “LMI”) which had been filed by Defendants CRUZ and PORRAS. The LMI included
24 representations by Defendant CRUZ that the minor children had allegedly stated that
25 they had observed Plaintiff engage in sexual acts with a male partner, and that such
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1 alleged misconduct had been discussed with the minor children’s therapist – but that
2 the therapist “would not go into detail” regarding alleged abuse with Defendant
3 CRUZ, and instead focused on how well the minor children have bonded with their
4 current care provider.
5

6
7 79. Plaintiff’s counsel objected to the inclusion of any part of the LMI based solely
8 on the alleged statements from the therapist to Defendant CRUZ and sought that any
9 testimony on that issue be given by the therapist themselves, rather than by general
10 representations solely from Defendants; this objection was overruled by the court.
11

12 80. Plaintiff testified at the hearing, and discussed the minor children’s medical
13 issues, forms of discipline, and events on the date of removal. However, when
14 Plaintiff’s counsel began to testify as to Defendant CRUZ’s bias – including
15 comments about Plaintiff’s church affiliation, decision not to teach the children
16 Spanish, and decisions regarding the children’s medical care – the court cut off all
17 further questioning and did not allow Plaintiff’s counsel to even make a closing
18 statement.
19
20

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22 81. During the hearing, Defendant CRUZ and/or PORRAS specifically testified
23 that the current caregiver for the minor children intended to proceed with adopting the
24 minor children.
25

26 82. The judge commented that the case was the “saddest I’ve seen in 24 years” and
27 stated that regardless of the allegations of abuse, it was in the best interest of the
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1 minor children to stay with the care providers they had been with for the last six
2 months since the removal – despite the fact that the vast majority of the time period
3 was caused by delays instigated specifically by Defendants. When the judge
4 announced his ruling, he emphasized that it appeared the minor children would be
5 formally adopted by their current care providers.
6

7
8 83. Plaintiff, who remained employed by the Los Angeles Police Department
9 (“LAPD”), was put on administrative leave as of January 15, 2016, when Defendant
10 COLA/DCFS notified supervising officers of the allegations made by Defendants
11 CRUZ and PORRAS that Plaintiff physically abused the minor children, which
12 triggered a criminal investigation into Plaintiff by the LAPD itself. Despite the fact
13 that Plaintiff’s sexual orientation was not directly related to the allegations of
14 physical abuse made by Defendants CRUZ and PORRAS in January, it was still
15 conveyed to the LAPD as part of the allegations of physical abuse. This was the first
16 time that Plaintiff’s colleagues in the 77th Street Community Police Station – where
17 Plaintiff was assigned – were made aware of Plaintiff’s sexual orientation, as he was
18 not “out” with respect to the police station or most of the Police Department.
19

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23 84. Sergeant Ietia G. Eston (#25790) of the Internal Affairs Administrative
24 Investigation Division for the LAPD was assigned as the investigating officer for the
25 LAPD as to possible criminal charges against Plaintiff. Sgt. Eston reviewed the
26 allegations of abuse asserted by Defendant CRUZ, as well as the investigation already
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1 done by Sgt. Becker of the LASD, and the separate investigation done by Defendant
2 COLA/DCFS, both of which found no evidence of abuse.

3
4 85. In a subsequent report, Sgt. Eston noted that he interviewed Sgt. Becker
5 personally and that Plaintiff had complained that Defendant CRUZ appeared to be
6 biased against Plaintiff because he was African-American, gay, and did not take the
7 minor children to a Catholic church. According to the Sgt. Eston’s report, Sgt. Becker
8 did not believe removal was appropriate and could not explain why Defendants
9 CRUZ and PORRAS chose to remove the children.
10

11
12 86. Sgt. Eston’s report went on to acknowledge that he contacted Defendant CRUZ
13 on or about May 17, 2016 in order to clarify statements she allegedly documented.
14 Sgt. Eston attempted to interview Defendant CRUZ and other employees of
15 Defendant COLA/DCFS, but was told that he would have to obtain a subpoena in
16 order to legally compel Defendant CRUZ to submit to an interview. Ultimately, Sgt.
17 Eston’s report acknowledged that compelling an interview of Defendant CRUZ was
18 unnecessary in light of the prior investigations by both the LASD and Defendant
19 COLA/DCFS that found no evidence of any physical abuse.
20
21
22

23 87. Sgt. Eston acknowledged in his report that Defendant CRUZ’s allegations
24 “appeared to be based on [Defendant CRUZ’s] opinion, not fact.”
25

26 88. Subsequent to the LAPD investigation into Defendant CRUZ’s allegations,
27 Plaintiff – who was a decorated and highly respected law enforcement officer – was
28

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1 formally accused of several minor allegations of misconduct in the performance of his
2 job duties as a law enforcement officer and a review hearing was scheduled. None of
3 the allegations in any way related to the accusations of physical abuse by Defendant
4 CRUZ.
5

6 89. Plaintiff alleges, upon information and belief, that the subsequent allegations
7 and pending review hearing were brought in an effort to remove Plaintiff from his
8 position as a law enforcement officer with the LAPD, due to the fact that he was now
9 publicly identified as a homosexual, due to the appearance of impropriety as an
10 officer who had been accused of child abuse, or some combination thereof.

11 90. Based on the potential risk of being essentially “unemployable” in the event
12 that he is terminated at a review hearing, Plaintiff elected to resign his position as a
13 law enforcement officer so as to preserve the possibility of working as an EMT.
14

15 91. As a result of the conduct of Defendants, including Defendants CRUZ and
16 PORRAS in particular, Plaintiff’s career as an accomplished and respected member
17 police officer is effectively over.
18

19 92. In the fall of 2016, Plaintiff became re-certified as a prospective adoptive
20 parent and elected to pursue another adoption through the County of Los Angeles. In
21 or around September of 2016, Plaintiff and his fiancé met with a social worker
22 employed by Defendant COLA/DCFS, and were shown a binder that contained a list
23 of minor children that were available for adoption in the foster system for Los
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1 Angeles County; the social worker specifically informed Plaintiff that the list
2 included only children whose caregivers were not pursuing adoption themselves.
3

4 93. As Plaintiff and his partner looked through the binder, Plaintiff noticed that the
5 minor children, M.A., D.A. and I.S., were identified as sibling brothers seeking an
6 adoptive home, which directly contradicts the representations of Defendants on June
7 2, 2016 as to the anticipated adoption of the minor children by their new caregiver.
8 This directly contradicted Defendants’ testimony in or around June 2, 2016 that the
9 minor children were going to be adopted by their current care providers.
10

11 94. On or about October 25, 2016, Plaintiff discovered that he could not proceed
12 with the adoption process in Los Angeles County, as he was informed by employees
13 of Defendant COLA/DCFS that he and his fiancé were and continue to be the subject
14 of an “indefinite hold” that prevents any minor children from being placed with
15 Plaintiff. This “indefinite hold” exists despite the fact that each and every
16 investigation has consistently shown that there is no evidence that Plaintiff ever
17 engaged in any improper behavior around the minor children or abused them in any
18 way.
19

20 95. On information and belief, the ongoing “indefinite hold” demonstrates that the
21 Defendants, including but not limited to Defendants CRUZ, PORRAS, and/or other
22 employees of Defendant COLA/DCFS, have followed through on the threat conveyed
23 by county counsel Michel Eisner on or about February 29, 2016 that Plaintiff would
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1 not ever be allowed to adopt children in Los Angeles County because he chose to
2 proceed with a trial hearing on Defendants’ decision to remove the minor children
3 from his home.
4

5 96. As a result of the conduct of Defendants, Plaintiff has suffered severe,
6 pervasive, and ongoing emotional distress and psychological harm, which Defendants
7 inflicted on Plaintiff intentionally and with reckless disregard for the same.
8

9 97. As a direct and proximate result of the conduct of Defendants, Plaintiff has
10 suffered serious economic harm to his professional career as a law enforcement
11 officer, effectively ending his career with the Los Angeles Police Department and
12 preventing Plaintiff.
13

14 98. The actions of Defendants, and each of them, were reckless, willful, malicious,
15 and with a conscious disregard for the civil rights of Plaintiff as well as the well-
16 being and best interests of the minor children Such wrongful conduct necessarily
17 entitles Plaintiff to seek punitive damages from individual Defendants’ wrongful acts
18 for the purpose of punishing said Defendants, to make an example out of them, and to
19 discourage such misconduct in the future.
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FIRST CAUSE OF ACTION

42 U.S.C. § 1983 – 1st Amendment – Retaliation

Against Defendants CRUZ, PORRAS, and Doe Defendants 1-10

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99. Plaintiff re-alleges, adopts and incorporates the preceding paragraphs as if fully set forth herein.

100. At the time of the incidents as set forth in the averments above, the rights of persons within the jurisdiction of the United States of America under both Amendment I and XIV to the United States Constitution, with respect to the right of free speech, free exercise of religion, and the right to petition the government for redress under the First Amendment were in full force and effect, and the individual defendants who engaged in conduct, as set forth above, deprived Plaintiff of his constitutional rights, which violated those rights, and violated the Fourteenth Amendment to the United States Constitution. This right to petition includes but is not limited to Plaintiff’s right to petition Defendant COLA and DCFS for administrative redress and complaints of misconduct without being subject to retaliation by Defendants as a result of such exercise of his rights.

101. As described in more detail elsewhere in this Complaint, Defendants violated Plaintiff’s rights by retaliating against Plaintiff when he complained, criticized, or otherwise communicated to Defendants CRUZ and PORRAS, and others employed by Defendant COLA, of the wrongful conduct of individual defendants. This includes but was not necessarily limited to:

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- (a) Plaintiff’s decision to express disagreement with and in fact openly disagree with Defendant CRUZ’s persistent demand that Plaintiff engage in medical care for the minor children in direct contradiction to the guidance of their treating physicians;
- (b) Plaintiff’s decision to take the minor children to United Methodist Church rather than to a Catholic church in contradiction to Defendant CRUZ’s expressly stated preference;
- (c) Plaintiff’s decision to participate in a newspaper interview regarding his participation in the adoption system as a single gay man; and
- (d) Plaintiff’s decision to openly and directly dispute Defendant CRUZ’s false allegations regarding Plaintiff’s involvement in the minor children’s medical and psychological care.

102. As a direct and proximate result of Plaintiff’s decision to exercise his First Amendment rights, Defendants retaliated against Plaintiff , as described above, which specifically included but was not necessarily limited to the following examples of misconduct that occurred in response to Plaintiff’s exercise of his rights:

- a. Delay in adoption proceedings without lawful justification;
- b. Making false allegations that Plaintiff was failing to communicate appropriately with employees of Defendant COLA/DCFS, medical care

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providers, or other third-parties involved in the care and adoption of the minor children;

c. Making false allegations of physical abuse as a justification to remove the minor children from Plaintiff’s care;

d. Making false allegations of sexual misconduct in the presence of the minor children in an effort to slander Plaintiff as a gay man;

e. Making false representations that the care providers to whom the minor children were placed were engaged in adoption proceedings, so as to justify permanent removal of the minor children; and

f. Placing an “indefinite hold” on Plaintiff with respect to adoption approval, so as to prevent Plaintiff from ever adopting children in the future.

103. Defendants’ conduct, as set forth above, was the direct and proximate cause of severe and ongoing injury to Plaintiff, as stated elsewhere in this complaint.

104. In addition, the individual Defendants who worked for Defendant COLA who are government officials, deliberately engaged in corruption, retaliation and violations of Plaintiffs clearly established constitutional rights. As such, and by the nature of their conduct, the individual defendants are not entitled to qualified immunity. Punitive damages are sought against the individual defendants employed by Defendant COLA according to proof.

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SECOND CAUSE OF ACTION

42 U.S.C. § 1983 – 5th and 14th Amendment

Violation of Procedural and Substantive Due Process

Against Defendants CRUZ and PORRAS, and Doe Defendants 1-10

105. Plaintiff re-alleges, adopts, and incorporates the preceding paragraphs as if fully set forth herein.

106. Defendants violated Plaintiff’s 5th and 14th Amendment right to procedural and substantive due process by preventing Plaintiff from receiving a fundamentally fair, orderly, and just judicial proceeding, as described in this Complaint. In doing so, Defendants acted under color of law without reasonable probable cause. Defendants were deliberately indifferent to, or in the alternative were in fact motivated by a willful and malicious disregard of Plaintiff’s rights.

107. Defendants CRUZ and PORRAS, as well as unknown Doe Defendants, continually, repeatedly, and unfairly refused to conduct a competent, fair, and objective investigation and evaluation of Plaintiff’s fitness to care for and adopt the minor children. Each Defendant was responsible for evaluating the information available to them in good faith, and giving each piece of evidence proper weight in considering Plaintiff’s ability to care for the minor children, but failed to do so and instead engaged in a personal, vicious, and discriminatory campaign of undermining Plaintiff’s substantive and due process rights before the juvenile dependency court in a concerted effort to terminate Plaintiff’s relationship as a prospective adoptive parent to the minor children.

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1 108. In multiple instances as described herein, Defendants refused to communicate with or
2 cooperate with Plaintiff, often to the point of berating Plaintiff or directly misleading Plaintiff in
3 an effort to avoid responsibility for their own misconduct.
4

5 109. In furtherance of their own misconduct, Defendants made false representations to the
6 Court that were knowing, intentional, and in reckless disregard of the truth and Plaintiff's civil
7 rights.
8

9 110. As a result of these Defendants' actions, Plaintiff was never given a fair opportunity to
10 retain and maintain custody of the minor children. The actions of Defendants deprived Plaintiff
11 of his due process rights under the 5th and 14th Amendments and in violation of his First
12 Amendment Rights.
13

14 111. As a result of Defendants' misconduct, Plaintiff suffered severe emotional pain and
15 suffering, as well as economic harm in amounts to be proven at trial.
16

17 112. In addition, the individual Defendants who worked for Defendant COLA who
18 are government officials, deliberately engaged in corruption, retaliation and
19 violations of Plaintiffs clearly established constitutional rights. As such, and by the
20 nature of their conduct, the individual defendants are not entitled to qualified
21 immunity. Punitive damages are sought against the individual defendants employed
22 by Defendant COLA according to proof.
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THIRD CAUSE OF ACTION

Violation of 42 U.S.C. § 1983 – 14th Amendment – Discrimination

Against Defendants CRUZ and PORRAS, and Doe Defendants 1-10

113. Plaintiff hereby incorporates the preceding paragraphs as though fully set forth herein.

114. At the time of the incidents as set forth in the averments above, the rights of persons within the jurisdiction of the United States of America under Amendment XIV to the United States Constitution to due process of law and the equal protection of the laws as well as the right to be free from discrimination under the law were in full force and effect, and the individual defendants who engaged in conduct, as set forth above, deprived Plaintiff of his constitutional rights, which violated those rights, and violated the Fourteenth Amendment to the United States Constitution.

115. As described in more detail elsewhere in this Complaint, Defendants violated the rights of Plaintiff by discriminating against Plaintiff due to his sexual orientation – specifically that he at all relevant times identified openly to Defendants as a homosexual.

116. As described in more detail elsewhere in this Complaint, Defendants violated the rights of Plaintiff by discriminating against Plaintiff due to his race and/or ethnicity – specifically that Plaintiff was and is an African-American.

117. As described in more detail elsewhere in this Complaint, Defendants violated the rights of Plaintiff by discriminating against Plaintiff due to his religious affiliation

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1 – specifically that Plaintiff attended and took the minor children to United Methodist
2 Church, rather than a Catholic church as preferred by Defendants.
3

4 118. The actions of Defendants were willful, knowing, purposeful, discriminatory,
5 and were done with the understanding that such actions would reasonably cause both
6 Plaintiff to suffer severe emotional harm. The actions of Defendants were motivated
7 not by a desire to ensure that Plaintiff complied with procedural requirements or was
8 well-suited to care for the minor children, but instead to motivated by the desire to
9 terminate Plaintiff’s custody and care of the minor children as their prospective
10 adoptive parent in order to have the minor children placed with a care provider that fit
11 with Defendants’ cultural and social views regarding ethnicity, religion, and/or sexual
12 orientation.
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16 119. The actions of Defendants – including but not limited to Defendants CRUZ and
17 PORRAS in particular – coincided with the timing of Plaintiff demonstrating to both
18 Defendants and the assigned FFA social workers that Defendant CRUZ, and possibly
19 others, were making willful misrepresentations in a concerted effort to negatively
20 impact Plaintiff’s participation in the foster adoption process.
21
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23 120. Defendants’ conduct, as set forth above, was the direct and proximate cause of
24 severe and ongoing injury to Plaintiff as stated elsewhere in this complaint.
25

26 121. In addition, the individual Defendants who worked for Defendant COLA who
27 are government officials, deliberately engaged in corruption, retaliation and
28

1 violations of Plaintiffs clearly established constitutional rights. As such, and by the
2 nature of their conduct, the individual defendants are not entitled to qualified
3 immunity. Punitive damages are sought against the individual defendants employed
4 by Defendant COLA according to proof.
5

6
7 **FOURTH CAUSE OF ACTION**

8 **Violation of Civil Rights Under 42 U.S.C. § 1983 – Monell Claim**

9 **Against Defendants COLA/DCFS**

10 122. Plaintiff hereby incorporates the preceding paragraphs as though fully set forth
11 herein.
12

13 123. Defendant COLA, by and through the individual policymakers and/or
14 supervisory officials, improperly, inadequately, or with deliberate indifference to the
15 constitutional rights of persons, grossly negligently, or with reckless disregard for
16 constitutional rights, failed to properly train, supervise, retrain, monitor, or take
17 corrective action with respect to individual employees under their supervision and
18 control, including in particular but not necessarily limited to Defendants CRUZ and
19 PORRAS, with respect to the types of wrongful conduct alleged in this complaint,
20 including, but not limited to the failure to enforce the law of the State of California,
21 the unconstitutional enforcement of local ordinances and statutes, the enforcement of
22 unconstitutional ordinances and statutes, and misuse of actual or perceived authority
23 against individuals such as Plaintiff such that each one of them is liable legally for all
24 injuries and/or damages sustained by Plaintiff pursuant to the legal principles set forth
25 in Monell v. Dept. of Social Services of the City of New York, 436 U.S. 658 (1978),
26 Heller v. Bushey, 759 F.2d 1371 (9th Cir. 1986), cert. granted and reversed on other
27 grounds sub nom. City of Los Angeles v. Heller, 106 S.Ct. 1573 (1986), and Larez v.
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1 Gates, 946 F.2d 630 (9th Cir. 1991), the content of all of which is incorporated herein
2 by this reference.

3 124. Defendants were responsible for the investigation into misconduct committed
4 by individual employees and other individually named Defendants, and disciplining
5 the same.

6 125. The policies, customs, and practices of Defendants herein described, had the
7 following natural and foreseeable results, which were in violation of the civil rights of
8 Plaintiff, and others:

- 9 a. Engaging in home interviews of minor children with goal of confirming
- 10 negative events or justifications for removal, rather than a fair and impartial
- 11 evaluation of the home environment;
- 12 b. Making false representations regarding whether a prospective adoptive
- 13 parent is in regular communication with medical care providers for minor
- 14 children in order to create a justification for delaying adoption proceedings;
- 15 c. Using a prospective adoptive parent’s religious affiliations, sexual
- 16 orientation, or racial/ethnic background as a basis for determining whether
- 17 they are a competent care provider to minor foster children;
- 18 d. Demanding that a prospective adoptive parent follow the medical advice of
- 19 the social worker rather than the medical advice provided by the treating
- 20 physician with respect to decisions for the medical treatment of the minor
- 21 foster children;
- 22 e. Making false allegations of physical abuse; and
- 23 f. Making false allegations of sexual misconduct.

24 126. Defendant COLA/DCFS owed a duty to Plaintiff and others at all times to
25 establish, implement, and follow policies, procedures, customs, and/or practices
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1 which confirm and provide for the protections guaranteed them under the United
2 States Constitution, including the 1st, 4th, 5th, and 14th Amendments; to use reasonable
3 care to select, supervise, train, control, and review the actions of all of their agents,
4 officers, and employees.

5 127. Instead, Defendants engaged in the above-described policies, practices, and
6 customs, all of which is not unique to Plaintiff or H.S. alone or constitutes an isolated
7 incident, but is in fact a pervasive policy, practice, and custom of which Defendants
8 are aware.

9 128. The injuries suffered by Plaintiff, as described elsewhere herein, were directly,
10 proximately, and foreseeably caused in part by the unconstitutional practices,
11 policies, or customs, both written and unwritten, that at all relevant times were in full
12 force and effect by Defendants and their employees, which were put in place or
13 otherwise allowed to remain in place due to the tacit agreement of Defendants,
14 various supervisors, managers, and policymakers and was further exacerbated by their
15 refusal to properly investigate such misconduct of other individuals under their
16 supervision and authority, or discipline the same.

17 129. Defendants knew, or should have known, that by breaching the aforesaid duties
18 and obligations that it was foreseeable that it would cause Plaintiff and others to be
19 injured and damages by the wrongful acts and omissions as alleged herein, that such
20 breaches occurred in contravention of public policy and as to their respective legal
21 duties and obligations to individuals within their jurisdiction.

22 130. The aforementioned policies, practices, customs, and procedures, as well as the
23 lack of adequate training and discipline as stated and shown above, were the moving
24 force and/or substantial factor in bringing about the constitutional deprivations
25 complained of by Plaintiff.
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WHEREFORE, PLAINTIFFS respectfully pray and seek the following relief as to the Causes of Action stated above:

1. For general damages according to proof at trial on each cause of action for which such damages are available,
2. For special damages according to proof on each cause of action for which such damages are available;
3. For compensatory damages according to proof on each cause of action for which such damages are available;
4. For punitive damages according to proof at trial on each cause of action for which such damages are available;
5. For reasonable attorney fees and costs of suit, as allowed under the law;
6. For such other relief as the Court deems proper and just.
7. Civil penalties according to law; and
8. Any and all further relief as the Court may deem just and proper.

Date: November 15, 2016

BY: /S/ Daniel C. Sharpe, Esq.
Vincent W. Davis, Esq.
Daniel C. Sharpe, Esq.

DEMAND FOR JURY TRIAL

Plaintiff hereby demands a jury trial as to all causes of action asserted herein.

Date: November 15, 2016

BY: /S/ Daniel C. Sharpe, Esq.
Vincent W. Davis, Esq.
Daniel C. Sharpe, Esq.