

STATE OF NEW HAMPSHIRE

MERRIMACK, SS.

SUPERIOR COURT

CIVIL ACTION NO. 217-2023-CV-00002

JANE DOE #73

V.

STATE OF NEW HAMPSHIRE, NEW HAMPSHIRE DEPARTMENT OF  
HEALTH AND HUMAN SERVICES; DIVISION OF CHILDREN, YOUTH,  
AND FAMILIES; SADDLEBACK MOUNTAIN RETREAT, INC.

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**COMPLAINT AND DEMAND FOR JURY TRIAL**

NOW COMES the plaintiff, Jane Doe #73 (“Plaintiff”), by and through counsel, Rilee & Associates, P.L.L.C. and Nixon Peabody LLP, and respectfully submits the following Complaint and Demand for Jury Trial, stating in support thereof as follows:

**PARTIES**

1. Plaintiff is an individual who is currently a resident of the State of Florida, Pasco County, and a crime victim pursuant to the New Hampshire Victim Bill of Rights, RSA 21-M:8-k, and as such, Plaintiff’s identity and date of birth are being contemporaneously filed *under seal* with this Honorable Court.

2. Defendant State of New Hampshire, Department of Health and Human Services, is a New Hampshire state administrative agency with a mailing address of 129 Pleasant Street, Concord, New Hampshire 03301 (hereinafter “DHHS”). At all times relevant to the allegations contained herein, DHHS accepted custody and control over children and at times placed them in various privately run schools, treatment and rehabilitative centers, foster homes, group homes, and other residential placements for the care, treatment, and rehabilitation of children.

3. Defendant Division of Children, Youth and Families (hereinafter “DCYF”) is a New Hampshire State administrative agency with a mailing address of 129 Pleasant Street, Concord, New Hampshire 03301. At all times relevant to the allegations contained herein, DCYF was a subdivision of DHHS, and DCYF accepted custody and control over children and at times placed them in various privately run schools, treatment and rehabilitative centers, foster homes, group homes, and other residential placements for the care, treatment, and rehabilitation of children.

4. Defendant Saddleback Mountain Retreat, Inc. ("Saddleback") was a nonprofit corporation incorporated under New Hampshire law to provide care for adolescents in a group home setting with a principal place of business at Saddleback Mountain Road in Deerfield, New Hampshire 03037. At all times relevant to this complaint, Saddleback was paid under contract with the State of New Hampshire to provide, on behalf of the state and as an agent of the state, residential treatment and related services to children under the custody and control of the state.

5. For ease of reference, Saddleback is hereinafter referred to as “Contractor Defendant” and, together with the State Defendants, referred to simply as “Defendants.”

### **JURISDICTION AND VENUE**

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

7. Pursuant to RSA 491:7, this Honorable Court has subject matter jurisdiction over this action because this is a civil action arising out of acts that occurred in the State of New Hampshire.

8. Pursuant to RSA 507:9, this Honorable Court is a proper venue for this action because at least one of the parties resides in the County of Merrimack, State of New Hampshire.

### **FACTUAL BACKGROUND**

#### **Background Facts Regarding Children Taken into State Custody**

9. Since at least the 19th century, the State of New Hampshire has been taking the custody of vulnerable children and children in need of protection or services pursuant to its *parens patriae* powers. Those powers arise from two fundamental principles: first, that the state has inherent authority to intervene in a child's life in appropriate circumstances, such as when the child's parents are deficient or the child otherwise needs protection or support; and second, that once the state has intervened, it thrusts upon itself the duties of a "super parent" or a "higher parent" of the child. *See generally*, Esther K. Hong, *A Reexamination of the Parens Patriae Power*, 88 Tenn. L. Rev. 277, 283-286 (2021). Indeed, New Hampshire's Office of the Child Advocate has recognized the heightened duty of protection the state bears when it institutionalizes children:

When children are removed from their home and community for whatever reason, it falls to the State child welfare system to ensure safety and well-being at an even higher standard than parents would be expected to provide, because just leaving home sets a child back in the trajectory of development. Children placed in institutional settings are hidden from community view. Children who are institutionalized have the highest risk of being [abused].

Office of the Child Advocate, *System Review 2019-01, Restraining and Secluding Children* (Jan. 9, 2020), available at <https://www.childadvocate.nh.gov/documents/reports/OCA-Restraint-Seclusion-Review-2020-1-8.pdf>.

10. Under New Hampshire's modern statutory regime, which largely adopts these foundational principles of the *parens patriae* doctrine, the state takes custody of delinquent children (RSA Chapter 169-B, "Delinquent Children"), abused, neglected, or abandoned children (RSA Chapter 169-C, "Child Protection Act"), and children in need of services (RSA Chapter 169-D, "Children in Need of Services") (these three chapters of the RSA are collectively referred to hereinafter as "the Child Welfare Acts") in order to protect, rehabilitate, and treat them. While the Child Welfare Acts were enacted in 1979, the antecedents to these statutes, which shared likeminded policies and purposes, existed at least as far back as 1937.

11. The Child Welfare Acts define custody as "a legal status created by court order wherein the department of health and human services has placement and care responsibility for the minor." RSA 169-B:2, III-a.; RSA 169-D:2, V. In taking such custody of minors, the state accepts certain fiduciary and nondelegable duties, both implied and express, including those specifically set forth in the Child Welfare Acts. As reflected in the Child Welfare Acts, and as has been the policy of the State of New Hampshire long before the modern Child Welfare Acts were enacted, the purpose of the state taking custody of at-risk children is the care, protection, and rehabilitation of such children who have come into the juvenile justice system because of adverse childhood experiences, parental abuse or neglect, or other trauma or crisis. In accepting custody and making these placements, State Defendants remove these children from the physical custody and care of their parents, family members, or legal guardians and entrusts them to the custody and care of state agencies who assume the duties of a "super parent" to care for, supervise, and protect them, to the exclusion of others.

12. Since at least 1858, the State of New Hampshire has operated certain secure residential facilities, such as the Sununu Youth Services Center (f/k/a Youth Development Center

and State Industrial School), for the purpose of discharging its duties to shelter, care for, protect, educate, and rehabilitate at-risk children. As an alternative to placement at a state operated facility, State Defendants have at times placed children at any one of a number of privately operated facilities that provide similar services on behalf of the State.

13. State Defendants contract with (and historically have contracted with) a number of private third-party providers of congregate care services—secure residential treatment facilities that usually consist of 24-hour-a-day supervision in a highly structured and restricted setting. State Defendants often use placements with these privately operated congregate care providers (hereinafter, “State Contractors”) as an alternative placement in one of the state-operated facilities. Because the state retains legal custody and control of the children it places with State Contractors, and the State Contractors perform their services on behalf of the state and as agents of the state, the state remains obligated to ensure the safety and well-being of those children.

14. At all times relevant to the allegations herein, Contractor Defendant was among the State Contractors that provided congregate care services on behalf of the State for children in state custody to whom State Defendants owed fiduciary and other duties.

15. While minors were and are committed to the custody and charge of the State of New Hampshire for a variety of reasons, the central purpose for these placements has always been protective, rehabilitative, therapeutic, and developmental, not penal. For example, RSA 169-B:1 states that the chapter governing delinquent children shall be “liberally interpreted, construed and administered to effectuate the following purposes and policies:”

I. To encourage the wholesome moral, mental, emotional, and physical development of each minor coming within the provisions of this chapter, by providing the protection, care, treatment, counselling, supervision, and rehabilitative resources which such minor needs.

...

IV. To provide effective judicial procedures through which the provisions of this chapter are executed and enforced and which recognize and enforce the constitutional and other rights of the parties and assures them a fair hearing.

RSA 169-B:1. *See also* RSA 169-D:1; RSA 169-C:2.

**Facts Specific to Plaintiff's Experience in State Custody**

16. Plaintiff was born in 1976. In or around 1991 or 1992 to 1993, Plaintiff came into State Defendants' custody and control. State Defendants thereafter placed Plaintiff in residential placements with State Contractors, including Contractor Defendant.

17. Plaintiff was raised in an abusive home in New Hampshire. Her stepfather inflicted severe physical abuse on her, including by sticks, belts, and cords. Her mother was unwilling or unable to stop the abuse, despite severe bruising and the injuries. Plaintiff began running away to escape the abuse. Eventually, her school learned of the abuse and called State authorities. Plaintiff was placed in the custody of the State.

18. In approximately 1992, Plaintiff was placed by the State at Saddleback Mountain Retreat ("Saddleback") in Deerfield, New Hampshire, a privately-run State contractor. At Saddleback, Plaintiff felt abandoned, as if no one cared about her. As a ward of the State, emotionally damaged, and without family support, she was a particularly vulnerable young girl.

19. Peter Tsetsilas and his wife, Beverly, were the owners and licensees of Saddleback. Peter ran the day-to-day operations with Beverly, and both lived on the premises in another part of the main building.

20. Before long, Peter began "grooming" Plaintiff by giving her special attention and privileges. He began bringing Plaintiff to quiet areas of the premises and giving her alcohol and other drugs. Eventually, he began assaulting Plaintiff sexually. The abuse began slowly at first and progressed to oral and vaginal sex.

21. Plaintiff was fearful of being sent to YDC. Rumors abounded that YDC was a violent place. Plaintiff knew a girl who had been beaten and raped by staff at YDC. Peter Tsetsilas was aware of her fear. He enforced her silence about his sexual abuse of her by threatening that he would get her sent to YDC if she said anything. No one would believe her if she disclosed the abuse, he would accuse her of lying, and she would be taken to YDC, a worse place in her mind.

22. Over time, residents and staff noticed how much time Peter spent with Plaintiff and how much attention he gave her. One of these staff was the co-owner Beverly Tsetsilas. Beverly expressed her anger that Peter was spending time alone with Plaintiff and that Peter was sexually taking advantage of Plaintiff. Beverly, however, was ill and somewhat disabled at the time, and never took action to stop Peter or protect Plaintiff.

23. Peter devised a plan to try to quell suspicion and avoid outright apprehension. He told Plaintiff he was going to stage a "disappearance" from the facility, after which the residents, staff, and Beverly would forget about her and about Peter's abuse. He took Plaintiff away from Saddleback and put her in a motel in Concord, New Hampshire. The plan was roughly to arrange for Plaintiff to "disappear" in a staged "runaway" situation, after which Plaintiff would evade detection until she reached the age of majority, at which point the State would lose jurisdiction.

24. The plan, however, was poorly devised. Peter would sexually assault Plaintiff multiple times a day on several visits to the motel. He would leave and prevent her from escaping by threatening that she would be sent to YDC if she did. Plaintiff had no real ability to live on her own as a "runaway" without substantial support, which Peter was unable to provide for an extended period of time.

25. The pressure on Peter began to intensify. He began to beat her when she complained about being held against her will and sexually assaulted regularly. He held a pillow over her face

to stifle her cries. Plaintiff began to fear that Peter would kill her, dispose of her body, and claim she had run away.

26. After a week or so of indecision and anxiety, someone noticed that a young girl was staying with a 50-year-old man for an extended time at the motel. They called the Concord Police, which knocked on the door for a wellness check. Plaintiff was alone at the time and, relieved to be rescued (but still fearful of YDC), told the police that she had been sexually abused and held against her will by Peter.

27. Eventually, Peter faced criminal charges for his abuse of Plaintiff. He died several years later. The State closed the Saddleback facility and disbursed the residents, including Plaintiff, to other State contractor facilities.

28. Plaintiff, however, received no care at all for the ordeal and patterns of abuse she suffered. No one from the State ever talked to her about the abuse. She received no medical attention. No one tested her for sexually transmitted diseases. She received no counseling or therapy. No one ever apologized or expressed sympathy for her.

29. In fact, the State acted as if it did not want to acknowledge that the abuse occurred and, accordingly, ignored Plaintiff. In news articles at the time, the State used the excuse of "child secrecy laws" to avoid any account of the severe sexual abuse of a young girl in its custody. The most information the State provided to the press were vague allusions to generic "issues" that had come to light, requiring the closure (and eventual reopening, for a short time) of the facility.

30. Plaintiff was sexually assaulted in excess of one hundred times at Saddleback or while kept in the Concord motel, while Peter Tsetsilas frantically tried to hatch a plan to cover up his abuse and get rid of Plaintiff.



31. On information and belief, the abuse that Plaintiff suffered at Contractor Defendant was not unusual or isolated and other child residents of Contractor Defendant experienced similar abuse both before and after Plaintiff resided there.

32. On information and belief, multiple employees and agents of State Defendants, including Contractor Defendant, and including persons in positions with supervisory authority, knew or should have known of the inherent risk of child abuse at a congregate care facility where children are powerless to protect themselves and are subjected to the absolute control of the adults charged with their care. On information and belief, they also knew or should have known about the abusive proclivities of certain individual employees who worked with children at Contractor Defendant, and yet they not only failed to report this information as required by law, or to take other corrective measures to protect the children who were placed there from reasonably foreseeable abuse, but they also concealed information regarding abuse at Contractor Defendant. As a result of the failures by employees and agents of State Defendants, including Contractor Defendant, the abusers employed by Contractor Defendant were permitted to continue working with children in a custodial institution that was shielded from outside scrutiny, enabling them to continue to victimize children in the care and custody of the State Defendants.

33. On information and belief, the individual perpetrators of the abuse and the officers, directors, supervisors, employees, servants, or agents of the State of New Hampshire and other public or private agencies or businesses involved in the care of Plaintiff acted together, in a common plan or design, for the purpose of committing acts of physical, sexual, and emotional abuse and torture, and then acted together, in a common plan or design, to unlawfully and deliberately conceal those acts from discovery so that they could continue to perpetrate those acts

on Plaintiff and on other minors in the custody and under the control of the State of New Hampshire.

34. The foregoing acts and omissions, including acts of fraudulent concealment, by agents and employees of the State Defendants, including the Contractor Defendant, constituted, among other things, endangering the welfare of a child, contrary to RSA 639:3, and criminal violations of RSA Chapter 642, Obstructing Governmental Operations.

35. When Plaintiff was a minor in the custody and control of the Defendants, she did not understand, nor was she capable of understanding, that the foregoing incidents of abuse constituted injuries or that those injuries were caused by a wrongful act of omission of Defendants. As a child in state custody, who was manipulated by the adults who exercised absolute control over every aspect of his life, Plaintiff was not capable of comprehending that she was being abused or injured. Moreover, even to the extent that Plaintiff could comprehend that she was injured while in state custody, she did not understand, nor could any child in such circumstances be reasonably expected to understand, that the abuse she suffered was caused not just by the intentional acts of individual perpetrators of the abuse, but by institutional failures of both the State Defendants and the Contractor Defendant.

36. At the time Plaintiff was released from state custody, as a child survivor of traumatic abuse, Plaintiff did not understand, and reasonably could not have understood, that Plaintiff had been harmed by the State of New Hampshire as an entity, and its agencies, employees, and agents, including State Defendants and Contractor Defendant. Further, Plaintiff did not understand, and reasonably could not have understood, that the abuse Plaintiff had suffered was caused by institutional negligence and malfeasance in addition to the intentional acts of the individual abusers, nor did Plaintiff understand, and reasonably could not have understood, that

Plaintiff's abuse, and the fraudulent concealment of Plaintiff's abuse, was part of a coordinated effort in combination with deliberate indifference and widespread neglect by many employees and agents of State Defendants, as well as employees and agents of Contractor Defendant.

37. In fact, Plaintiff did not understand, until recently, that Plaintiff was harmed not only by the intentional acts and omissions of individual abusers, but that the harm was caused by the institutional negligence and intentional malfeasance of Defendants.

38. Not until recently did it occur to Plaintiff, nor could it reasonably have occurred, that persons in the state government in positions of supervision and authority with respect to juveniles in state custody potentially knew or reasonably should have known, directly or through employees or agents, that without proper policies, protocols, and oversight, the abuse of children at congregate care facilities such as Contractor Defendant was reasonably foreseeable; that in fact abuse of children had occurred at Contractor Defendant and was likely to occur again; that despite this actual or constructive knowledge of prior abuse and foreseeable risk of future abuse, these supervisors in positions of authority failed to take corrective action to protect Plaintiff from reasonably foreseeable abuse; and that these repeated institutional failures caused Plaintiff's injuries.

39. Plaintiff's delayed appreciation that she was harmed by institutional failures is not surprising. First, as alleged herein, State Defendants, acting through their agents and employees, engaged in a conspiracy with Contractor Defendant, and their employees and agents, to conceal, cover-up, and minimize the systemic child abuse perpetrated at the Contractor Defendant's facilities. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of child abuse, particularly sexual abuse, is the norm, not the exception. For example, as one leading study found, the average

age at the time of reporting child sex abuse is approximately 52 years old. See CHILD USA, *Delayed Disclosure: A Factsheet Based on Cutting-Edge Research on Child Sex Abuse*, 3 (Mar. 2020), available at <https://childusa.org/wp-content/uploads/2020/04/Delayed-Disclosure-Factsheet-2020.pdf> (citing Spröber, N., et al., *Child sexual abuse in religiously affiliated and secular institutions: a retrospective descriptive analysis of data provided by victims in a government-sponsored reappraisal program in Germany*, BMC PUBLIC HEALTH, 14:282, doi: 10.1186/1471-2458-14-282 (2014)). The New Hampshire legislature implicitly recognized this fact when it eliminated the statute of limitations for civil actions based on sexual assault in 2020. See H.B. 705-FN, as amended, *An Act Relative to Sexual Assault, Sexual Misconduct in Institutions of Higher Education, and the Rights of Victims of Crimes* (2020) (enacted), § 11 (amending RSA 508:4-g to allow sexual assaults victim to commence a personal action “at any time”).

40. In recent months, and now as an adult, Plaintiff began the process of inquiry, investigation, and exercise of reasonable diligence into how persons in positions of authority within Defendants could have and should have known about the abuse, and the inherent and foreseeable risks of abuse, and yet failed to take steps to protect Plaintiff.

41. Following this period of inquiry, investigation, and exercise of reasonable diligence, Plaintiff discovered that, in fact, the acts and omissions of Defendants caused or contributed to the abuse Plaintiff endured as a child and continues to suffer from to this day.

## **CAUSES OF ACTION**

### **COUNT I**

#### **(Breach of Fiduciary Duty—All Defendants)**

42. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in this Complaint as though fully and completely set forth herein.

43. Pursuant to the state's *parens patriae* powers, including those set forth in the Child Welfare Acts and their antecedents, State Defendants took custody of and control of Plaintiff as a child and placed Plaintiff at the congregate care facilities operated by Contractor Defendant.

44. At all times relevant to the allegations contained herein, Contractor Defendant was a privately-owned business that contracted with and was paid by the State of New Hampshire to provide programs and services on behalf of State Defendants and as agents of State Defendants, to children in the custody and control of State Defendants. In particular, State Defendants hired Contractor Defendant to provide congregate care residential facilities for children in state custody, including Plaintiff.

45. At all times relevant to the allegations contained herein, Plaintiff was a minor, and State Defendants and their agents and employees, including Contractor Defendant and their agents and employees, were charged with the custody, care, and protection of Plaintiff, and exercised control over Plaintiff to the exclusion of others.

46. A fiduciary relationship arose between State Defendants and Plaintiff by virtue of the state removing Plaintiff, a minor, from the custody, care, and control of Plaintiff's parents or guardian, and placing Plaintiff in the custody, care, and control of State Defendants, who thereafter placed Plaintiff with Contractor Defendant. When State Defendants accepted custody of Plaintiff, and exercised control over Plaintiff to the exclusion of others, they undertook a fiduciary duty to protect, care for, and educate Plaintiff, and they were required by common law to act at all times in Plaintiff's best interests, including by taking whatever steps necessary to prevent Plaintiff from being harmed.

47. When State Defendants placed Plaintiff with Contractor Defendant, and Contractor Defendant accepted physical custody of Plaintiff pursuant to their contracts with State Defendants,

and Contractor Defendant thereafter exercised physical control over Plaintiff to the exclusion of others, they likewise accepted a fiduciary obligation to protect and care for Plaintiff and were required by common law to act at all times in Plaintiff's best interests, including by taking whatever steps necessary to prevent Plaintiff from being harmed.

48. In addition, the state legislature has codified, at least partially, the state's fiduciary obligations to children in its custody. Pursuant to RSA 169-B:1, 169-C:2, and 169-D:1, and the antecedents to those provisions, State Defendants and their agents and employees had statutorily imposed duties with respect to Plaintiff and all other minors committed to their custody and control. Among other duties, State Defendants were required to "encourage the wholesome moral, mental, emotional, and physical development of each minor coming within the provisions of this chapter, by providing the protection, care, treatment, counseling, supervision, and rehabilitative resources which such minor needs." These statutorily pronounced purposes created a fiduciary relationship between State Defendants and all children, including Plaintiff, entrusted to their custody, care, and control.

49. The state's fiduciary duty to children in state custody could not be discharged by transferring physical custody of such children to private residential placements, such as the residential facilities operated by Contractor Defendant.

50. Notwithstanding the fiduciary duty State Defendants and Contractor Defendant owed to Plaintiff, during the time period that Plaintiff was entrusted to the custody, care, and control of Defendants, and while Plaintiff was residing in the residential facilities operated and controlled by Contractor Defendant, agents and employees of Defendants harmed Plaintiff by the specific acts of child abuse recounted in the above factual allegations. Moreover, every agent and employee of Defendants had an independent duty to report knowledge of events observed, heard

about, or done by the agent or employee relating to the care and safety of children in state custody placed with Contractor Defendant. On information and belief, however, the agents and employees of Defendants working at the residential facilities operated by Contractor Defendant failed to report or take corrective steps after witnessing or becoming aware of prior abuse of other children in state custody, and/or agents and employees in supervisory positions failed to take adequate corrective action upon receiving such reports, and thereby failed to correct the conditions that led to Plaintiff's subsequent abuse.

51. Each of the acts of child abuse recounted in the above factual allegations constitutes an independent breach of each Defendant's fiduciary duty to Plaintiff, and the repeated failures of the agents and employees of Defendants to take corrective action in response to Plaintiff's abuse, and to take corrective action in response to previous acts of abuse against other children, represent additional breaches by agents and employees of Defendants, all of which are imputable to Defendants. Even setting aside the failure to take corrective action in response to actual incidents of abuse, Defendants knew or should have known of the inherent risks of abuse to children in congregate care facilities by the adults charged with their care and breached their fiduciary duties to Plaintiff by failing to take affirmative action to correct the conditions that lead to Plaintiff's abuse.

52. Additionally, those acts of child abuse constitute violations of Plaintiff's state and federal constitutional rights. For example, agents and employees of Defendants violated Plaintiff's substantive due process and equal protection rights under the Fourteenth Amendment to the United States Constitution to not be subjected to sexual abuse and unjustified physical violence; the use of excessive force, bodily injury, and unreasonable restraint; and other abhorrent and unjustified conditions of confinement while in state custody. Defendants' deliberate

indifference to the risks of harm to Plaintiff also constitute substantive due process violations, and Defendants' unjustified and excessive punishments of Plaintiff without any due process violated Plaintiff's right to procedural due process. In addition, or in the alternative, Defendants' liberal use of physical violence, excessive force, excessive isolation, and excessive restraints also violated Plaintiff's right under the Eighth Amendment to the United States Constitution to be free from cruel and unusual punishment. As fiduciaries, the acts and omissions of Defendants rising to the level of constitutional violations are by themselves breaches of the fiduciary duty Defendants owed to Plaintiff.

53. As recounted in the above factual allegations, Plaintiff has only recently come to realize that she was harmed by the institutional malfeasance of Defendants. As Plaintiff was only a child at the time of the abuse, Plaintiff did not understand, and could not have understood until recently, that Defendants owed Plaintiff a fiduciary duty, and that much of the behavior of agents and employees of the Contractor Defendant breached that duty, nor could Plaintiff appreciate, until recently, the enduring psychological and emotional harm caused by abuse at the hands of the Contractor Defendant. Likewise, not until recently did it occur to Plaintiff, nor could it previously have reasonably occurred to Plaintiff, that persons with supervisory authority over the Contractor Defendant, including persons in supervisory positions employed by the State Defendants, as well as persons in management and supervisory positions employed directly by the Contractor Defendant, knew or reasonably should have known, directly or through employees or agents, about the misconduct and abuse perpetrated by agents and employees of the Contractor Defendant, as well as the inherent risk that agents and employees of the Contractor Defendant would abuse children in their care; that despite this actual or constructive knowledge, these persons with supervisory authority over Contractor Defendant failed to take corrective action to protect



Plaintiff from the abuse; and that the State Defendants' and Contractor Defendant's failure in this regard caused Plaintiff's injuries. As alleged above, Plaintiff's delayed realization is in part a natural and predictable result of the conspiracy to conceal, cover-up, and minimize the systemic child abuse perpetrated against children in state custody. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of childhood abuse is the norm, not the exception. Indeed, the systemic abuse suffered by Plaintiff caused such a degree of psychological trauma that it interfered with and disabled Plaintiff's ability to comprehend that she was injured by Defendants and that she had rights protecting her against such conduct.

54. As a direct and proximate cause and result of the foregoing, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

**COUNT II**  
**(Breach of Nondelegable Duty—State Defendants)**

55. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in this Complaint as though fully and completely set forth herein.

56. State Defendants undertook a nondelegable duty to care for and protect Plaintiff at all times and that duty persisted and was not interrupted, satisfied, or discharged by State Defendants' placement of Plaintiff with Contractor Defendant.

57. Accordingly, when State Defendants placed Plaintiff with Contractor Defendant, and agents and employees of Defendants working at those residential facilities thereafter harmed Plaintiff as recounted in the above factual allegations, State Defendants breached their nondelegable duty to Plaintiff. Every agent of State Defendants, including the agents and employees of Contractor Defendant, had an independent duty to report knowledge of events observed, heard about, or done by the agent or employee relating to the care and safety of children in state custody placed with Contractor Defendant. On information and belief, however, the agents of State Defendants working at the residential facilities operated by Contractor Defendant failed to report or take corrective steps after witnessing or becoming aware of prior abuse of other children in state custody, and/or agents and employees of State Defendants in supervisory positions failed to take adequate corrective action upon receiving such reports, and thereby failed to correct the conditions that lead to Plaintiff's subsequent abuse.

58. Each of the acts of child abuse recounted in the above factual allegations constitutes an independent breach of State Defendants' nondelegable duty to Plaintiff, and the repeated failures of the agents and employees of State Defendants to take corrective action in response to Plaintiff's abuse, and to take corrective action in response to previous acts of abuse against other children, represent additional breaches by agents and employees of State Defendants, all of which are imputable to State Defendants. Even setting aside the failure to take corrective action in response to actual incidents of abuse, State Defendants knew or should have known of the inherent risks of abuse to children in congregate care facilities by the adults charged with their

care and breached their fiduciary duties to Plaintiff by failing to take affirmative action to correct the conditions that lead to Plaintiff's abuse.

59. As recounted in the above factual allegations, Plaintiff has only recently come to understand that she was harmed while in the custody of State Defendants and that the harm was caused by the institutional failures of State Defendants. As alleged above, Plaintiff's delayed realization is in part a natural and predictable result of the conspiracy to conceal, cover-up, and minimize the systemic child abuse perpetrated against children in state custody. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of childhood abuse is the norm, not the exception. Indeed, the systemic abuse suffered by Plaintiff caused such a degree of psychological trauma that it interfered with and disabled Plaintiff's ability to comprehend that she was injured by Defendants and that she had rights protecting her against such conduct.

60. As a direct and proximate cause and result of the foregoing, State Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against State Defendants of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

**COUNT III**  
**(Aiding and Abetting Breach of Fiduciary Duty—All Defendants)**

61. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in this Complaint as though fully and completely set forth herein.

62. As alleged herein, Defendants owed a fiduciary duty to Plaintiff which they breached when their agents and employees harmed Plaintiff through the acts of child abuse alleged herein, and by failing to take steps to protect Plaintiff from said acts of child abuse, including by failing to take corrective action in response to previous acts of abuse against other children in state custody as well as to the known risks of abuse in a congregate residential facility.

63. Upon information and belief, Defendants' agents and employees knew and understood that each of them individually, and each of their co-workers or other employees and agents of Defendants, as well as all of them collectively, owed a fiduciary obligation to the minors committed to their custody, care, and control, including Plaintiff.

64. Upon information and belief, Defendants' agents and employees, including individuals in positions of supervisory authority, knew, or in the exercise of reasonable diligence should have known, about at least some of the various forms of abuse and harm suffered by Plaintiff, and by the other minors committed to the custody, care, and control of Defendants, and not only failed to report this information or take other corrective actions, but actively participated in the abuse and/or concealed this information.

65. Upon information and belief, Defendants' agents and employees, including individuals in positions of supervisory authority, acted together in a common plan or design, for the purpose of committing acts of physical, sexual, and emotional abuse, and then acted together, in a common plan or design, to unlawfully and deliberately conceal those acts from discovery so that they would evade consequences for those acts and could continue to perpetrate those acts on

minors in state custody, including Plaintiff. All of the aforesaid knowledge, constructive knowledge, acts, and omissions of agents and employees of Defendants is imputable to Defendants.

66. As a direct and proximate consequence of the foregoing acts and omissions, Defendants subjected Plaintiff to the harm and abuse alleged herein. Moreover, Defendants' agents and employees, including individuals in supervisory positions, failed to report or take corrective steps that could have prevented the abuse.

67. As recounted in the above factual allegations, Plaintiff has only recently come to understand that she was harmed while in the custody of Defendants and that the harm was caused by the institutional failures of Defendants. As alleged above, Plaintiff's delayed realization is in part a natural and predictable result of the conspiracy to conceal, cover-up, and minimize the systemic child abuse perpetrated against children in state custody. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of childhood abuse is the norm, not the exception. Indeed, the systemic abuse suffered by Plaintiff caused such a degree of psychological trauma that it interfered with and disabled Plaintiff's ability to comprehend that she was injured by Defendants and that she had rights protecting her against such conduct.

68. As a direct, proximate, and reasonably foreseeable cause and result of the foregoing, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the

foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

**COUNT IV**  
**(Negligent Hiring, Training, Supervision, and Retention—All Defendants)**

69. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in this Complaint as though fully and completely set forth herein.

70. Pursuant to the state's *parens patriae* powers, including those set forth in the Child Welfare Acts and their antecedents, State Defendants took custody of and control of Plaintiff and placed Plaintiff at various residential facilities and placements, including the residential facilities operated by Contractor Defendant.

71. At all times relevant to the allegations contained herein, Plaintiff was a minor and Defendants and their agents and employees were charged with the custody, care, and protection of Plaintiff, and exercised control over Plaintiff to the exclusion of others.

72. At all times relevant to the allegations contained herein, Defendants owed Plaintiff a duty to exercise reasonable care in the hiring, training, supervision, and retention of their employees and agents, including, *inter alia*, the duty to properly supervise, train, and control the employees and agents working with minors at residential facilities, including the facilities operated by Contractor Defendant, and to ensure that programs were in place to provide proper hiring, training, supervision, and retention so that their agents and employees would comply with the protective and rehabilitative duties owed by the state to children in state custody, as required by common law and in RSA 169-B, 169-C, 169-D.

73. Despite and in breach of the aforesaid duties, Defendants, as organizations, agencies, and programs charged under the common law and by statute with the rehabilitation and protection of minors in state custody, were negligent and breached minimum standards of care in failing to take reasonable measures to ensure the proper hiring, training, supervision, and retention of their agents and employees to promptly and effectively provide for the safety and welfare of the children in their care. Defendants' negligence includes, but is not limited to, failing to take reasonable measures to properly hire, train, supervise, and retain their workers, failing to report and act on any indicia or precursors of suspected physical, sexual, or emotional abuse, and failing to take affirmative steps to prevent the physical, sexual, and emotional abuse, including the unauthorized strip searches, excessive use of restraints, excessive use of force, and excessive solitary confinement thereby resulting in the abuse experienced by Plaintiff. State Defendants were further negligent in failing to ensure that any contractors it hired to fulfill its custodial obligations to the children in its custody hired appropriate and adequately vetted personnel and provided them with sufficient training, supervision, and oversight.

74. Upon information and belief, multiple employees and agents of Defendants, including those in supervisory positions and those employed by State Defendants with responsibility to oversee Contractor Defendant, knew or reasonably should have known of the indicia of abuse and the abusive proclivities of certain employees or agents of Defendants, and knew or reasonably should have known of the foreseeable risk of harm to Plaintiff and other children in Defendants' custody, care, and control. Notwithstanding this actual or constructive knowledge, agents and employees of Defendants not only failed to report this information and/or failed to take adequate corrective action in response to this information, but also actively concealed this information, which resulted in the continued retention of the individual perpetrators as

employees or agents of Defendants, and the continued perpetration of abuse upon Plaintiff and other children in the state's custody, care, and control. More than that, agents and employees of Defendants, including those in supervisory positions and those with responsibility to oversee Contractor Defendant, tolerated or ignored a general culture of violence, abuse, boundary crossing, and disrespect and antipathy toward the children in their custody, creating fertile ground for reasonably foreseeable individual acts of abuse to proliferate, persist, and be left unaddressed, thereby creating a cycle that perpetuated abuse.

75. On further information and belief, when reports of suspected child abuse were made, employees and agents of Defendants, including those in supervisory positions, told the reporters to keep the reports to themselves or otherwise discouraged or prevented reporting of the abuse; consequently, no corrective action was taken and the perpetrators of abuse continued in their employment as agents and employees of Defendants.

76. Additionally, notwithstanding their knowledge of prior abuse of children in the custody of Defendants and the foreseeable risk of future harm to children who remained in the custody of Defendants, including Plaintiff, Defendants failed to adequately supervise and train its agents and employees who were entrusted to care for and protect children in state custody.

77. As a direct, proximate, and reasonably foreseeable cause and result of the negligent hiring, training, and supervision of Defendants, agents and employees of Defendants working at the residential facilities operated by Contractor Defendant harmed Plaintiff by the specific acts of child abuse recounted in the above factual allegations, and Plaintiff suffered deprivations of Plaintiff's constitutional rights as alleged herein. Moreover, agents and employees of Defendants, including individuals in supervisory positions, failed to report or take corrective



steps that could have prevented the aforesaid abuse and deprivation of Plaintiff's constitutional rights.

78. As recounted in the above factual allegations, Plaintiff has only recently come to understand that she was harmed while in the custody of Defendants and that the harm was caused by the institutional failures of Defendants. As alleged above, Plaintiff's delayed realization is in part a natural and predictable result of the conspiracy to conceal, cover-up, and minimize the systemic child abuse perpetrated against children in state custody. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of childhood abuse is the norm, not the exception. Indeed, the systemic abuse suffered by Plaintiff caused such a degree of psychological trauma that it interfered with and disabled Plaintiff's ability to comprehend that she was injured by Defendants and that she had rights protecting her against such conduct.

79. As recounted in the above factual allegations, Plaintiff has only recently come to understand that she was harmed while in the custody of Defendants and that the harm was caused by the institutional failures of Defendants. As alleged above, Plaintiff's delayed realization is in part a natural and predictable result of the conspiracy to conceal, cover-up, and minimize the systemic child abuse perpetrated against children in state custody. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of childhood abuse is the norm, not the exception. Indeed, the systemic abuse suffered by Plaintiff caused such a degree of psychological trauma that it interfered with and disabled Plaintiff's ability to comprehend that she was injured by Defendants and that she had rights protecting her against such conduct.

80. As a direct and proximate cause and result of the foregoing, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

**COUNT V**  
**(Negligence—All Defendants)**

81. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in this Complaint as though fully and completely set forth herein.

82. Pursuant to the state's *parens patriae* powers, including those set forth in the Child Welfare Acts and their antecedents, State Defendants took custody of and control of Plaintiff and placed Plaintiff at various residential facilities and placements, including the residential facilities operated by Contractor Defendant.

83. At all times relevant to the allegations contained herein, Plaintiff was a minor and Defendants and their agents and employees were charged with the custody, care, and protection of Plaintiff, over whom they exercised control to the exclusion of others.

84. By taking custody and control of Plaintiff, a minor, and by accepting the obligation to care for and protect Plaintiff in place of Plaintiff's parents, family, or legal guardian,

whom the state physically separated from Plaintiff and effectively barred from ensuring Plaintiff's care and protection, Defendants entered into a special relationship with Plaintiff.

85. The special relationship between Plaintiff and Defendants created a duty of care owed to Plaintiff, including, but not limited to, a duty of reasonable supervision and a duty to protect Plaintiff from reasonably foreseeable harm.

86. Defendants and their agents and employees also owed Plaintiff duties arising under statutory law, including, but not limited to, the duties set forth in the Child Welfare Acts and the duty to report instances of suspected child abuse or neglect pursuant to RSA 169-C:29.

87. During the time period that Plaintiff was committed to the custody, care, and control of Defendants, and specifically during the time period State Defendants had placed Plaintiff in the residential facilities operated by Contractor Defendant, agents and employees of Defendants harmed Plaintiff by the specific acts of child abuse recounted in the above factual allegations. Moreover, the agents and employees of Defendants working at the residential facilities operated by Contractor Defendant or with oversight responsibilities, including those in supervisory positions, failed to report or take corrective steps that could have prevented the abuse suffered by Plaintiff despite actual or constructive knowledge of prior abuse of other children in state custody at the facilities operated by Contractor Defendant.

88. The harm Plaintiff suffered was reasonably foreseeable and preventable. Upon information and belief, agents and employees of Defendants, including those in supervisory positions and those with responsibility to oversee Contractor Defendant, knew or reasonably should have known of at least some of the various forms of abuse and harm suffered by minors placed in the custody and control of Contractor Defendant, including Plaintiff, and not only failed to report this information or take adequate corrective action in response to this information, but

actively participated in the abuse and/or concealed this information and thereby failed to correct the conditions that lead to Plaintiff's subsequent abuse. Even setting aside the failure to take corrective action in response to actual incidents of abuse, Defendants knew or should have known of the inherent risks of abuse to children in congregate care facilities by the adults charged with their care and breached their special duties to Plaintiff by failing to take affirmative action to correct the conditions that lead to Plaintiff's abuse. More than that, Defendants, including agents and employees in supervisory positions and those with responsibility to oversee Contractor Defendant, tolerated or ignored a general culture of violence, abuse, boundary crossing, and disrespect and antipathy toward the children in their custody, creating fertile ground for reasonably foreseeable individual acts of abuse to proliferate, persist, and be left unaddressed, thereby creating a cycle that perpetuated abuse. All of the aforesaid knowledge, constructive knowledge, acts, and omissions of agents and employees of Defendants is imputable to Defendants.

89. Inasmuch as the harm suffered by Plaintiff was reasonably foreseeable and preventable, both State Defendants and Contractor Defendant breached their duties owed to Plaintiff. Moreover, Defendants also breached statutory duties owed to Plaintiff, including, but not limited to, the duty to report suspected instances of child abuse or neglect.

90. The acts of child abuse Plaintiff suffered while residing in the facilities of Contractor Defendant also constitute violations of Plaintiff's state and federal constitutional rights. For example, Defendants violated Plaintiff's substantive due process and equal protection rights under the Fourteenth Amendment to the United States Constitution to not be subjected to sexual abuse and unjustified physical violence, the use of excessive force and unreasonable restraint, and other abhorrent and unjustified conditions of confinement while in the custody of the state. Defendants' deliberate indifference to the risks of harm to Plaintiff also constitute a substantive

due process violation, and Defendants' unjustified and excessive punishments of Plaintiff without any due process violated Plaintiff's right to procedural due process. In addition, or in the alternative, Defendants' liberal use of physical violence, excessive force, excessive isolation, and excessive restraints also violated Plaintiff's right under the Eighth Amendment to the United States Constitution to be free from cruel and unusual punishment. Inasmuch as these constitutional violations were reasonably foreseeable and preventable, but Defendants failed to take corrective steps to prevent or stop these constitutional violations from occurring and reoccurring, these constitutional violations also constitute breaches of the special duty of care Defendants owed to Plaintiff.

91. As recounted in the above factual allegations, Plaintiff has only recently come to understand that she was harmed while in the custody of Defendants and that the harm was caused by the institutional failures of Defendants. As alleged above, Plaintiff's delayed realization is in part a natural and predictable result of the conspiracy to conceal, cover-up, and minimize the systemic child abuse perpetrated against children in state custody. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of childhood abuse is the norm, not the exception. Indeed, the systemic abuse suffered by Plaintiff caused such a degree of psychological trauma that it interfered with and disabled Plaintiff's ability to comprehend that she was injured by Defendants and that she had rights protecting her against such conduct.

92. As a direct, proximate, and reasonably foreseeable cause and result of Defendants' negligent supervision, negligent failure to protect, negligent failure to report instances of child abuse or neglect, and negligent violation of Plaintiff's constitutional rights, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor

Defendant as recounted above, and Plaintiff suffered substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

**COUNT VI**  
**(Negligent Failure to Adopt and Implement Rules—State Defendants)**

93. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in this Complaint as though fully and completely set forth herein.

94. Pursuant to the State of New Hampshire's *parens patriae* powers and associated protective and rehabilitative duties, as required by common law, and as codified in Chapters 169-B, 169-C, 169-D, and 621 of the RSA, the purpose of taking custody of minors and placing them in a residential facility, such as the residential facilities operated by Contractor Defendant, is to protect and rehabilitate the child and to give the child the opportunity to become a productive citizen of the state. This imposes a duty on the state to adopt and implement reasonable rules governing the safety, protection, proper care, supervision, treatment, education, confinement, or discipline of the children committed to its custody and control, and to prevent harm to them, including at its residential facilities and including the facilities operated by Contractor Defendant. For like reasons, the state also bears a duty to adopt and implement reasonable rules governing the training, supervision, hiring, retention, and discipline of agents and employees hired to work at its

residential facilities, including at privately operated residential facilities, such as the facilities operated by Contractor Defendant.

95. State Defendants knew or reasonably should have known that the failure to promulgate, adopt, and enforce reasonable rules or policies and procedures governing (a) the safety, proper care, supervision, treatment, education, confinement, and discipline of the juveniles committed to State Defendants' custody, care, and control and (b) the training, supervision, hiring, retention, and discipline of agents and employees working at State Defendants' residential facilities, as well as at other residential facilities and placements, would put the minors in the state's custody at foreseeable risk of harm. It was reasonably foreseeable, if not likely, that without such reasonable rules or policies and procedures in place, and reasonably enforced by State Defendants, State Defendants and their contractors would employ personnel not qualified or suited to the job of caring for and supervising vulnerable juveniles, and that unqualified, untrained, unsupervised, and unregulated personnel would abuse their position of authority and trust to the great harm of the children entrusted to their care.

96. Notwithstanding the reasonably foreseeable harm to children, State Defendants breached the aforementioned common law and statutory duties by negligently failing to promulgate, adopt, or enforce such reasonable rules or policies and procedures governing (a) the safety, proper care, supervision, treatment, education, confinement, and discipline of the children placed in State Defendants' custody, care, and control, whom State Defendants placed in privately operated residential facilities, and (b) the training, supervision, hiring, retention, and discipline of agents and employees of State Defendants entrusted with the care, custody, and control of minors placed in privately operated residential facilities, including the facilities operated by Contractor Defendant.

97. As a direct and proximate consequence of the negligent failure to promulgate, adopt, or enforce reasonable rules or policies and procedures, at all times relevant to the allegations contained herein, there were insufficient or unreasonable rules or policies and procedures in place at the various residential facilities used by State Defendants, including at privately operated residential facilities such as the facilities operated by the Contractor Defendant, to ensure the safety of minors placed at such facilities and for the prevention of and, if necessary, reporting of abuse or neglect of the minors placed at such facilities. In fact, the lack of reasonable rules or policies and procedures governing the residential facilities used by State Defendants communicated a *laissez-faire* attitude that the supervisors, employees, and agents of State Defendants working at these residential facilities were free to behave as they pleased without fear of discovery or consequences.

98. As a direct, proximate, and reasonably foreseeable cause and result of State Defendants' negligent failure to promulgate, adopt, or enforce reasonable rules or policies and procedures during the time period that Plaintiff was committed to the custody, care, and control of Defendants, and specifically during the time period State Defendants placed Plaintiff in the residential facilities operated by Contractor Defendant, agents and employees of Defendants harmed Plaintiff by the specific acts of child abuse alleged herein. Plaintiff was also deprived of Plaintiff's constitutional rights as alleged herein. Moreover, none of Defendants' agents or employees reported the abuse or took any corrective action to stop it.

99. As recounted in the above factual allegations, Plaintiff has only recently come to understand that she was harmed while in the custody of Defendants and that the harm was caused by the institutional failures of Defendants. As alleged above, Plaintiff's delayed realization is in part a natural and predictable result of the conspiracy to conceal, cover-up, and minimize the



systemic child abuse perpetrated against children in state custody. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of childhood abuse is the norm, not the exception. Indeed, the systemic abuse suffered by Plaintiff caused such a degree of psychological trauma that it interfered with and disabled Plaintiff's ability to comprehend that she was injured by Defendants and that she had rights protecting her against such conduct.

100. As a direct, proximate, and reasonably foreseeable cause and result of the foregoing, State Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant as recounted above, and Plaintiff suffered substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to suffer all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award of all actual damages against State Defendants, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

**COUNT VII**  
**(Civil Conspiracy—All Defendants)**

101. Plaintiff hereby repeats, realleges, and incorporates by reference each and every factual allegation set forth in this Complaint as though fully and completely set forth herein.

102. During the time when Plaintiff was in state custody, and State Defendants placed Plaintiff in the residential facilities operated by Contractor Defendant, agents and employees of Defendants, including individuals with supervisory authority, knowingly agreed

with one another and others known and unknown, either explicitly or tacitly, on a common plan or design to perpetrate systemic child abuse at the facilities of Contractor Defendant, including through the physical, sexual, and emotional abuse of the minors committed to the custody and control of Defendants.

103. In particular, agents and employees of Defendants, including those in supervisory positions, knowingly agreed, either explicitly or tacitly, to a course of action through which they would target minors placed with Contractor Defendant, including Plaintiff, for the purpose of committing intentional acts of child abuse as previously alleged herein, as well as for the purpose of concealing those acts of abuse, to the benefit of and protection of the individual co-conspirators and as well as their employers, State Defendants and Contractor Defendant.

104. Defendants, acting through their agents and employees, then acted together, in furtherance of their common plan or design, to unlawfully and deliberately target minors, including Plaintiff, placed with Contractor Defendant, knowingly carrying out acts of child abuse as previously alleged herein, including the specific acts of child abuse recounted in the above factual allegations.

105. Defendants, acting through their agents and employees, including persons in positions with supervisory authority, further knowingly agreed with one another and others known and unknown, either explicitly or tacitly, on a common plan or design to conceal those unlawful acts from discovery. They did so for the purpose of protecting the individual co-conspirators as well as their employers, State Defendants and Contractor Defendant.

106. Broadly speaking, the purpose or object of the conspiracy was the perpetuation of systemic physical, mental, and sexual abuse of minors who were committed to the custody, care, and control of Defendants, through the abuse itself and also through its concealment. More

particularly, the co-conspirators acted in furtherance of specific unlawful purposes, some of which Plaintiff directly experienced and some of which were experienced by other minors who were victims of the same conspiracy, including, *inter alia*, the following crimes and intentional torts: (a) criminal sexual assault (RSA 632-A:4), (b) felonious sexual assault (RSA 632-A:3), (c) aggravated felonious sexual assault (RSA 632-A:2), (d) criminal simple assault (RSA 631:2-a), (e) criminal second degree assault (RSA 631:2), (f) criminal first degree assault (RSA 631:1), (g) common law assault and battery, (h) criminal endangering the welfare of a child (RSA 639:3), (i) harassment (RSA 644:4), (j) indecent exposure and lewdness (RSA 645:1), (k) violation of privacy (RSA 644:9,III-a), (l) manufacture of child sexual abuse images (RSA 649-A:3-b), (m) breach of fiduciary duty, (n) fraudulent concealment, (o) hindering apprehension or prosecution (RSA 642:3), and (p) obstructing report of crime or injury (RSA 642:10).

107. The foregoing unlawful purposes of the conspiracy were accomplished and preserved through various unlawful manners and means, some of which Plaintiff directly experienced and some of which were experienced by other minors who were victims of the same conspiracy, as well as by other employees and agents of Defendants. Those manners and means include, *inter alia*, the following crimes and intentional torts: (a) the same statutory crimes and common law torts identified in the paragraph immediately preceding this one, (b) criminal threatening (RSA 631:4), (c) false imprisonment (RSA 633:3), (d) fraud, (e) fraudulent concealment, (f) intentional infliction of emotional distress, (g) failure to report suspected child abuse or neglect (RSA 169-C:29, RSA 169-C:39), (h) obstructing government administration (RSA 642:1), (i) hindering apprehension or prosecution (RSA 642:3), (j) witness tampering (RSA 641:5), (k) obstructing report of crime or injury (RSA 642:10), (l) unsworn falsification (RSA 641:3), and (m) tampering with public records (641:7).

108. Employees and agents of Defendants, including individuals in positions with supervisory authority, and others known and unknown, knowingly committed numerous overt acts in furtherance of their common plans and designs to perpetrate systemic child abuse and conceal child abuse, including, *inter alia*, threatening, assaulting, and falsely imprisoning the minor victims of the conspiracy, as well as covering up and failing to report instances of known child abuse on myriad occasions. Additionally, employees and agents of Defendants, including persons in positions with supervisory authority, and others known and unknown, used threats and intimidation to silence their co-workers and subordinates who had observed abuse, violations of rules or protocols, and other forms of misconduct or malfeasance.

109. As a direct and proximate cause and result of the above-alleged unlawful conspiracy, systemic child abuse thrived throughout the time Plaintiff was in the custody, care, and control of Defendants at the facilities operated by Contractor Defendant, and Plaintiff, a minor, was subjected to the specific acts of child abuse recounted in the above factual allegations.

110. As recounted in the above factual allegations, Plaintiff has only recently come to understand that she was harmed while in the custody of Defendants and that the harm was caused by the institutional failures of Defendants. As alleged above, Plaintiff's delayed realization is in part a natural and predictable result of the conspiracy to conceal, cover-up, and minimize the systemic child abuse perpetrated against children in state custody. Additionally, as has now been recognized in a growing number of state legislatures and courts across the country, a victim's delayed recognition and disclosure of childhood abuse is the norm, not the exception. Indeed, the systemic abuse suffered by Plaintiff caused such a degree of psychological trauma that it interfered with and disabled Plaintiff's ability to comprehend that she was injured by Defendants and that she had rights protecting her against such conduct.

111. As a direct, proximate, and reasonably foreseeable cause and result of the foregoing, Defendants subjected Plaintiff to the harm Plaintiff suffered while residing in the facilities of Contractor Defendant as recounted above, and Plaintiff sustained substantial personal injuries of a disabling, debilitating, and permanent nature, severe and prolonged pain and suffering, medical expenses, permanent impairment, loss of enjoyment of life, severe permanent mental and emotional distress, and lost income and earning capacity, and will be caused to sustain all of the foregoing losses and damages into the foreseeable future. Accordingly, Plaintiff respectfully prays for an award against Defendants, jointly and severally, of all actual damages, economic damages, emotional distress and mental anguish damages, and compensatory damages, including enhanced compensatory damages, within the minimum and maximum jurisdictional limits of the Superior Court, plus recoupment of reasonable attorneys' fees, expert fees, other costs, and interest.

**DEMAND FOR JURY TRIAL**

112. Plaintiff demands a trial by jury on all issues so triable.

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

\* \* \*

Respectfully submitted,

**JANE DOE #73**

Dated: January 3, 2023

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

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By and through counsel,

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**CERTIFICATE OF SERVICE**

I hereby certify that a copy of the foregoing was served via the Court's e-filing system on all parties of record on January 3, 2023.

*/s/ David A. Vicinanzo* \_\_\_\_\_