

STATE OF NORTH CAROLINA

17-CVS-

HAYWOOD County

FILED

In The General Court Of Justice
District Superior Court Division

OCT 2 2017

Name Of Plaintiff
CDR and CCR by and through their Guardian Ad Litem
Address
CHRISTOPHER W. DERRICK and JANE DOE and JOHN DOE
City, State, Zip
SEE ATTACHED

CIVIL SUMMONS

ALIAS AND PLURIES SUMMONS (ASSESS FEE)

G.S. 1A-1, Rules 3 and 4

Name Of Defendant(s)
HAYWOOD COUNTY; HAYWOOD COUNTY DEPARTMENT
OF SOCIAL SERVICES; KARE, INC.; AMBER BENHART;
JASON BIBB; TALMADGE S. BLEVINS; JULIE SCHROER;
REBECCA D. SNIDER

Date Original Summons Issued

Date(s) Subsequent Summons(es) Issued

To Each Of The Defendant(s) Named Below:

Name And Address Of Defendant 1
Julie Schroer, individually and in her official capacity
c/o Kare, Inc., Clarence H. Dickson, III Registered Agent
429 N. Main Street
Waynesville NC 28786

Name And Address Of Defendant 2
Rebecca D. Snider, individually and in her official capacity
c/o Kare, Inc., Clarence H. Dickson, III Registered Agent
429 N. Main Street
Waynesville NC 28786

A Civil Action Has Been Commenced Against You!

You are notified to appear and answer the complaint of the plaintiff as follows:

- 1. Serve a copy of your written answer to the complaint upon the plaintiff or plaintiff's attorney within thirty (30) days after you have been served. You may serve your answer by delivering a copy to the plaintiff or by mailing it to the plaintiff's last known address, and
2. File the original of the written answer with the Clerk of Superior Court of the county named above.

If you fail to answer the complaint, the plaintiff will apply to the Court for the relief demanded in the complaint.

Name And Address Of Plaintiff's Attorney (if none, Address Of Plaintiff)
Jeffrey W. Norris
Jeffrey W. Norris & Associates, PLLC
17 North Main Street
Waynesville NC 28786

Date Issued 4-19-17 Time 3:34 PM

Signature [Handwritten Signature]
Deputy CSC Assistant CSC Clerk Of Superior Court

ENDORSEMENT (ASSESS FEE)

This Summons was originally issued on the date indicated above and returned not served. At the request of the plaintiff, the time within which this Summons must be served is extended sixty (60) days.

Date Of Endorsement Time AM PM

Signature
Deputy CSC Assistant CSC Clerk Of Superior Court

NOTE TO PARTIES: Many counties have MANDATORY ARBITRATION programs in which most cases where the amount in controversy is \$25,000 or less are heard by an arbitrator before a trial. The parties will be notified if this case is assigned for mandatory arbitration, and, if so, what procedure is to be followed.

(Over)

RETURN OF SERVICE

I certify that this Summons and a copy of the complaint were received and served as follows:

DEFENDANT 1

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
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- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- Other manner of service (*specify*)

- Defendant WAS NOT served for the following reason:

DEFENDANT 2

<i>Date Served</i>	<i>Time Served</i> <input type="checkbox"/> AM <input type="checkbox"/> PM	<i>Name Of Defendant</i>
--------------------	---	--------------------------

- By delivering to the defendant named above a copy of the summons and complaint.
- By leaving a copy of the summons and complaint at the dwelling house or usual place of abode of the defendant named above with a person of suitable age and discretion then residing therein.
- As the defendant is a corporation, service was effected by delivering a copy of the summons and complaint to the person named below.

Name And Address Of Person With Whom Copies Left (if corporation, give title of person copies left with)

- Other manner of service (*specify*)

- Defendant WAS NOT served for the following reason:

<i>Service Fee Paid</i> \$	<i>Signature Of Deputy Sheriff Making Return</i>
<i>Date Received</i>	<i>Name Of Sheriff (type or print)</i>
<i>Date Of Return</i>	<i>County Of Sheriff</i>

ATTACHMENT TO CIVIL SUMMONS: Names and Addresses of Plaintiffs

Plaintiffs:

CDR and CCR by and through their Guardian Ad Litem
c/o Christopher W. Derrick, Esquire
Christopher W. Derrick, PC
One Town Square Blvd., Suite 339
Asheville, NC 28803

Jane Doe and John Doe
177 N. Main Street
Waynesville, NC 28786

HAYWOOD

County

FILED

No. 17 CVS 422

In The General Court Of Justice

District Superior Court Division

Name And Address Of Plaintiff 1
CDR and CCR minors by and through their Guardian Ad Litem
Christopher W. Derrick, Christopher W. Derrick, PC
One Town Square Blvd., Suite 339
Asheville NC 28803

Name And Address Of Plaintiff 2
JANE DOE and JOHN DOE
177 N. Main Street
Waynesville NC 28786

VERSUS

Name Of Defendant 1
HAYWOOD COUNTY

Summons Submitted Yes No

Name Of Defendant 2
HAYWOOD COUNTY DEPARTMENT OF SOCIAL SERVICES

Summons Submitted Yes No

Jury Demanded In Pleading
 Complex Litigation

GENERAL
CIVIL ACTION COVER SHEET
 INITIAL FILING SUBSEQUENT FILING

Rule 5(b), General Rules of Practice For Superior and District Courts

Name And Address Of Attorney Or Party, If Not Represented (complete for initial appearance or change of address)

Jeffrey W. Norris
Jeffrey W. Norris & Associates, PLLC
177 North Main Street
Waynesville NC 28786

Telephone No. 828-452-2221 Cellular Telephone No.

NC Attorney Bar No. 29663 Attorney E-Mail Address jnorris@norrisandassoc.com

Initial Appearance in Case Change of Address

Name Of Firm
Jeffrey W. Norris & Associates, PLLC
FAX No. 828-452-3534

Counsel for
 All Plaintiffs All Defendants Only (list party(ies) represented)

Amount in controversy does not exceed \$15,000
 Stipulate to arbitration

TYPE OF PLEADING

(check all that apply)

- Amend (AMND)
- Amended Answer/Reply (AMND-Response)
- Amended Complaint (AMND)
- Assess Costs (COST)
- Answer/Reply (ANSW-Response) (see Note)
- Change Venue (CHVN)
- Complaint (COMP)
- Confession Of Judgment (CNJF)
- Consent Order (CONS)
- Consolidate (CNSL)
- Contempt (CNTP)
- Continue (CNTN)
- Compel (CMPL)
- Counterclaim (CTCL) Assess Court Costs
- Crossclaim (list on back) (CRSS) Assess Court Costs
- Dismiss (DISM) Assess Court Costs
- Exempt/Waive Mediation (EXMD)
- Extend Statute Of Limitations, Rule 9 (ESOL)
- Extend Time For Complaint (EXCO)
- Failure To Join Necessary Party (FJNP)

(check all that apply)

- Failure To State A Claim (FASC)
- Implementation Of Wage Withholding In Non-IV-D Cases (OTHR)
- Improper Venue/Division (IMVN)
- Including Attorney's Fees (ATTY)
- Intervene (INTR)
- Interplead (OTHR)
- Lack Of Jurisdiction (Person) (LJPN)
- Lack Of Jurisdiction (Subject Matter) (LJSM)
- Modification Of Child Support In IV-D Actions (MSUP)
- Notice Of Dismissal With Or Without Prejudice (VOLD)
- Petition To Sue As Indigent (OTHR)
- Rule 12 Motion In Lieu Of Answer (MDLA)
- Sanctions (SANC)
- Set Aside (OTHR)
- Show Cause (SHOW)
- Transfer (TRFR)
- Third Party Complaint (list Third Party Defendants on back) (TPCL)
- Vacate/Modify Judgment (VCMD)
- Withdraw As Counsel (WDCN)
- Other (specify and list each separately)

NOTE: All filings in civil actions shall include as the first page of the filing a cover sheet summarizing the critical elements of the filing in a format prescribed by the Administrative Office of the Courts, and the Clerk of Superior Court shall require a party to refile a filing which does not include the required cover sheet. For subsequent filings in civil actions, the filing party must either include a General Civil (AOC-CV-751), Motion (AOC-CV-752), or Court Action (AOC-CV-753) cover sheet.

CLAIMS FOR RELIEF

- | | | |
|--|--|---|
| <input type="checkbox"/> Administrative Appeal (ADMA) | <input type="checkbox"/> Limited Driving Privilege - Out-Of-State Convictions (PLDP) | <input type="checkbox"/> Product Liability (PROD) |
| <input type="checkbox"/> Appointment Of Receiver (APRC) | <input type="checkbox"/> Medical Malpractice (MDML) | <input type="checkbox"/> Real Property (RLPR) |
| <input type="checkbox"/> Attachment/Garnishment (ATTC) | <input type="checkbox"/> Minor Settlement (MSTL) | <input type="checkbox"/> Specific Performance (SPPR) |
| <input type="checkbox"/> Claim And Delivery (CLMD) | <input type="checkbox"/> Money Owed (MNYO) | <input type="checkbox"/> Other (specify and list each separately) |
| <input type="checkbox"/> Collection On Account (ACCT) | <input type="checkbox"/> Negligence - Motor Vehicle (MVNG) | |
| <input type="checkbox"/> Condemnation (CNDM) | <input type="checkbox"/> Negligence - Other (NEGO) | |
| <input type="checkbox"/> Contract (CNTR) | <input type="checkbox"/> Motor Vehicle Lien G.S. 44A (MVLN) | |
| <input type="checkbox"/> Discovery Scheduling Order (DSCH) | <input type="checkbox"/> Possession Of Personal Property (POPP) | |
| <input type="checkbox"/> Injunction (INJU) | | |

Date April 19, 2017 Signature Of Attorney/Party [Signature]

FEES IN G.S. 7A-308 APPLY

Assert Right Of Access (ARAS)
 Substitution Of Trustee (Judicial Foreclosure) (RSOT)
 Supplemental Procedures (SUPR)

PRO HAC VICE FEES APPLY

Motion For Out-Of-State Attorney To Appear In NC Courts In A Civil Or Criminal Matter (Out-Of-State Attorney/Pro Hac Vice Fee)

No.	<input type="checkbox"/> Additional Plaintiff(s)

No.	<input checked="" type="checkbox"/> Additional Defendant(s)	<input type="checkbox"/> Third Party Defendant(s)	Summons Submitted
3	KARE, INC.		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
4	AMBER BENHART, individually and in her official capacity		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
5	JASON BIBB, individually and in his official capacity		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
6	TALMADGE S. BLEVINS, individually and in his official capacity		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No
7	JULIE SCHROER, individually and in her official capacity		<input checked="" type="checkbox"/> Yes <input type="checkbox"/> No

Plaintiff(s) Against Whom Counterclaim Asserted

Defendant(s) Against Whom Crossclaim Asserted

ATTACHMENT TO CIVIL ACTION COVER SHEET

FILED

2017 APR 19 PM 3: 31

NAME AND ADDRESS OF CO-COUNSEL for Plaintiffs: HAYWOOD CO., C.S.C.

Fred W. Devore, III
DeVore, Acton & Stafford, P.A.
438 Queens Road
Charlotte, NC 28207
(704) 377-5242
fdevore@devact.com
NC Bar No. 10308

Defendants continued:

8. REBECCA D. SNIDER, individually and in her official capacity Summons submitted

STATE OF NORTH CAROLINA

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 17 CVS 422

COUNTY OF HAYWOOD

CDR and CCR minors by and through their
Guardian Ad Litem CHRISTOPHER W.
DERRICK, Esquire, JANE DOE, and JOHN
DOE,

Plaintiffs,

v.

HAYWOOD COUNTY; HAYWOOD
COUNTY DEPARTMENT OF SOCIAL
SERVICES; KARE, INC., AMBER
BENHART, individually and in her official
capacity; JASON BIBB individually and in his
official capacity, TALMADGE S. BLEVINS,
individually and in his official capacity; JULIE
SCHROER, individually and in her official
capacity, REBECCA D. SNIDER, individually
and in her official capacity,

Defendants.

COMPLAINT
Jury Trial Demanded

HAYWOOD CO., C.S.C.
2017 APR 19 PM 3:31
FILED

COME NOW the Plaintiffs, by and through their undersigned counsel, and set forth the following complaint against the Defendants and state as follows:

The Parties

1. Plaintiffs Jane and John Doe are citizens and residents of Haywood County. They are the parents of minors CDR and CCR. The identities of Jane Doe, John Doe, CDR and CCR are known to the Defendants and are considered properly named in this Complaint without further identification.

2. Christopher W. Derrick was duly appointed Guardian ad Litem of the minor Plaintiffs by the Clerk of Superior Court for Haywood County on April 19, 2017.

3. CDR (born January 25, 2001) and CCR (born October 14, 2005) are minors proceeding through their Guardian ad Litem. CDR and CCR are citizens and residents of Haywood County and they live with their parents and sister.

4. Haywood County is a county under N.C. Gen. Stat. §153A-10 *et seq.* and is a public body politic and corporate and a unit of local government within the State of North Carolina.

5. Haywood County Department of Social Services (“DSS”) is an agency of Haywood County.

6. Kare, Inc. (“Kare”), is a nonprofit corporation existing under the laws of the State of North Carolina with its principal place of business in Waynesville, Haywood County. Kare is an affiliate or subsidiary of Haywood County and DSS. Hereinafter, Haywood County, DSS and Kare may be referred to as the “Municipal Defendants.”

7. Upon information and belief Defendant Amber Benhart is a citizen and resident of Haywood County and holds the title of DSS- Social Worker II.

8. Upon information and belief Defendant Jason Bibb is a citizen and resident of Haywood County and holds the title of DSS- Social Worker I/A/T.

9. Upon information and belief, Defendant Talmadge S. Blevins is a citizen and resident of Haywood County and is the DiDoe of DSS.

10. Upon information and belief, Defendant Julie Schroer is a citizen and resident of Haywood County and is the DiDoe of Kare.

11. Upon information and belief, Defendant Rebecca D. Snider, is a citizen and resident of Buncombe County and is a nurse practitioner with Kare.

Jurisdiction and Venue

12. This Court has jurisdiction over the parties and this matter pursuant to N.C. Gen. Stat. §1-253 *et seq.*

13. Venue is proper in Haywood County pursuant to N.C. Gen. Stat. §1-82.

Factual Background

14. CDR and CCR are the children of Jane and John Doe. The Does also have a daughter, who is 19 years old.

15. On or about February 5, 2015, CDR sustained a small fracture in one of his fingers before getting on the school bus. The injury to his finger was accidental and not caused by any action of his parents.

16. The next day, while traveling to Wake Forest University with CCR for a sporting event, the Does received calls from CDR and their daughter informing them that DSS and a sheriff’s deputy had come to their school and questioned them about possible abuse in their home. At that point, CCR then told his parents that his school counselor too had questioned him earlier that day as well.

17. At no time did any interview with any of the children suggest that they lived in an abusive environment at home.

18. Later that day, the Does received a call from Amber Benhart of DSS. She asked, and the Does agreed, to a meeting on Monday, February 9, to discuss the situation.

19. At that meeting, the Does agreed to certain things, like no corporal punishment, until an investigation was completed. The Does cooperated fully with DSS even though they did not understand why they were being pursued in that manner. They specifically responded to all questions, including concerns about abuse in their home, and there was never any cause or suspicion to believe anything out of the ordinary was occurring in the home with any of the children.

20. Unbeknownst to the Does, upon information and belief, Defendants obtained the Does' children's medical records and reviewed them prior to meeting with them. There is nothing in the medical records of the children that suggested abuse or mistreatment in any way.

21. Later that week, even though the Defendants' investigation had not generated any reason for concern or evidence of abuse and even though the Does had cooperated fully with them, Ms. Benhart again contacted the Does and asked to schedule a meeting at Kare.

22. Benhart asked that the meeting include another interview with the two male children. While the Does did not understand the need for yet an additional meeting and interview, and while Defendants did not articulate one, the Does agreed to meet again on March 5, 2015. The Does felt obligated to comply in fear that if they did not, that the County and DSS would take negative action against them.

23. Although both Mrs. and Mrs. Doe were planning to attend the meeting, Mrs. Doe was advised that the "perpetrator," meaning Mr. Doe, was not to attend the meeting. Mrs. Doe told the case worker to never refer to her husband in such a manner.

24. There was no indication, suggestion, or any basis for the investigation to go further and specifically there was no indication, evidence, reasonable suspicion, or probable cause to believe that either CDR or CCR were abused in any way, including in any manner sexually.

25. Believing that they had no choice, but also attempting to further demonstrate their cooperative nature and to hopefully bring an end to the disruption to their family, the Does again cooperated and agreed to the March 5 visit.

26. At no time did the Does fail or refuse to cooperate with the County, DSS, or Kare, and throughout the entire process, the Does were forthcoming and honest.

27. On March 5, Mrs. Doe took CDR and CCR to Kare as scheduled. An employee of

Kare and a nurse practitioner, Rebecca D. Snider, told Ms. Doe that the children would be interviewed and then a simple physical exam would take place and that it would be “eyes, ears, a simple exam like a sports physical.” Ms. Snider was very specific that the physical exam was limited and she never mentioned anything about examining and photographing the children’s private areas while naked, etc.

28. The Kare staff asked that Mrs. Doe complete a simple medical history on the children and sign a consent form for the exam. The consent form made no reference to the children being stripped of their clothes and examined.

29. Prior to Mrs. Doe completing the medical history and consent form, the Kare staff, specifically Ms. Snider, stated again that the exam was a simple, school sports-type of exam and nothing further. At no time did anyone ever mention stripping the children, taking pictures of their genitals and anuses, touching the children in order to position them to take pictures of them nude, etc.

30. Before Mrs. Doe completed any forms, DSS social worker, Jason Bibb, asked CCR if he “would like to *see* the interview room” while his mother was filling out the papers.

31. Mr. Bibb then took CCR into the room, shut the door, turned on a sound machine, and started questioning him without getting any written consent from Mrs. Doe. His questions were aggressive and focused on whether Mr. Doe was sexually abusing him.

32. In addition to the questions, and while Mr. Bibb was in the room, Rebecca Snider instructed CCR to remove all of his clothing. They then proceeded to take close-up pictures of the child’s genitals and anus.

33. Ms. Benhart was watching on live feed video from another room, and halfway through the interview, Mr. Bibb came out to consult with Ms. Benhart and then went back to the room with CCR.

34. The same individuals then repeated the same process with CDR. After a considerable wait, Mrs. Doe inquired why it was taking such a long time, and Ms. Benhart stated that she was not sure.

35. To the contrary, Ms. Benhart knew exactly what was taking place and that DSS and Kare were continuing the same abusive conduct with CDR that they had just exacted on CCR.

36. When the process finally was completed and the children were back in the vehicle with their mother, they both started to cry.

37. Neither child wanted to discuss the situation and were visibly shaken, but after a few minutes both children reluctantly told the same story to their mother that their interviews were on camera and that during the physical exam, they were asked to undress completely; that a worker took close up pictures of their genitals and made them fully expose themselves for the pictures; and that

Ms. Snider touched them and placed them in the positions that she wanted in order to take the pictures of their genitals.

38. They stated that Mr. Bibb encouraged them to state that their father was abusing them.

39. As soon as Mrs. Doe heard this, she immediately returned to Kare to question the staff about misrepresenting what they told her they were going to do with her children, about conducting such an inappropriate "exam," and about taking pictures of her children naked, etc.

40. No one at that point would even acknowledge the children's version of what had occurred.

41. Eventually, Rebecca Snider, in the presence of Ms. Benhart and Julie Schroer, confirmed to Mrs. Doe what the children had stated.

42. Mrs. Doe, who works in the medical field, told Ms. Snider that DSS and Kare had not gotten informed consent from her to conduct such an invasive and abusive search of her children and that she had not even executed the limited consent form before they had taken CCR into the examination room.

43. Mrs. Doe directly told Ms. Snider that, "we both know what informed consent is and you did not properly inform me as to what was going to happen to my children."

44. Ms. Snider stated that, "you're right." She acknowledged that they did not inform Mrs. Doe as to the scope or nature of the search and examination.

45. Even after this outrageous conduct, the Does were contacted by DSS who wanted to do a home inspection to determine if the house was safe for children and whether there was adequate food in the home. This inspection, however, never occurred.

46. After the abuse and violations the children experienced at the hands of Kare and DSS, CDR and CCR immediately began suffering from a variety of physical and mental harm which are typical and foreseeable causes and harms when children have been abused and subjected to sexually inappropriate conduct.

47. CDR and CCR have developed serious behavioral problems, have suffered from nightmares, bouts of uncontrollable crying, shaking, headaches, etc.

48. Prior to the sexual abuse and harm imposed by the Defendants, CDR was performing well in school and did not have any behavioral issues associated with school. After the abuse, he was unable to focus, his grades dropped almost immediately, and he was suspended from school. He has exhibited typical signs of a sexually abused child where such signs had never previously existed prior to the outrageous conduct of the Defendants.

49. Since the abuse, CCR too has suffered nightmares, bed wetting, bouts of crying, and

otherwise exhibited typical signs of a sexually abused child.

50. The children began seeing a counselor who has concluded that the abuse at the hands of DSS and Kare has had an immediate and lasting negative impact on the children.

51. The Does and their children have experienced direct, foreseeable, and lasting harm and damage as a result of the actions of the Defendants.

52. To the extent that Plaintiffs' claims sound in tort, Haywood County and DSS, has waived governmental immunity by the purchase of insurance and/or participating in a local government risk pool.

53. To the extent that Plaintiffs' claims sound in tort, Kare, to the extent it is an agent of Haywood County and DSS, has waived governmental immunity by the purchase of insurance.

54. The County, DSS, and Kare did not properly supervise and monitor the circumstances surrounding and leading up to what took place with the Doe children. The failure to supervise and coordinate their functions resulted in a series of increasingly invasive and unwarranted searches and intentional actions that harmed Plaintiffs.

55. Defendants did not have any basis, reasonable suspicion, informed consent from a parent, or authority to conduct the naked searches of the children and to broadcast that over video equipment and to take close-up pictures of the children's genitals and anuses.

56. The Defendants did not obtain reasonable consent from the parents of the minors to conduct the type of personal and invasive and abusive examination that was performed.

57. Haywood County, DSS, and Kare did not have proper measures in place to evaluate the need for such an invasive search which resulted in an assault and battery on the minor children.

58. The County, DSS, and Kare failed to provide adequate supervision among its staff and workers who dealt with, investigated, and manipulated the Plaintiffs.

59. The County and DSS failed to have proper safety measures in place and to ensure that its employees and agents were properly trained and monitored to prevent the harm that occurred in this matter.

60. That all claims alleged herein are brought with the applicable statute of limitations.

COUNT I
Parents' Claim for Medical Expenses

61. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

62. Jane and John Doe have incurred and will incur medical expenses as a result of the harm and abuse suffered by their children at the hands of the Defendants.

63. The parents of the minor children have been damaged in amount to be determined by a jury.

COUNT II
Negligence

64. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

65. The Defendants were negligent in one or more of the following respects:

- a. Failed to use reasonable care in determining whether to do an investigation of abuse.
- b. Failed to use reasonable care in conducting the investigation of abuse.
- c. Failed to obtain the consent of the parents before conducting a naked examination of the minor children.
- d. Failed to review and analyze the prior medical records of the children to verify the lack of an abusive conduct.
- e. Breached a duty to the parents and the minors to conduct a fair, impartial and objective investigation into the injury of CDR's finger.
- f. Photographed the genitalia of the children.
- g. Intimated or suggested that the father had sexually abused his children.
- h. In causing the very harm from sexual abuse that they were duty bound to try to prevent.
- i. Violated the duties imposed by N.C. Gen. Stat. §108A-14.
- j. Failed to implement safeguards to prevent the events complaint of herein.
- k. Failed to train its employees in the area of proper investigation.

66. As a result of the negligence of the Defendants, the minor Plaintiffs have been damaged in an amount in excess of \$25,000.

COUNT III
Gross Negligence

67. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

68. The acts of the Defendants were malicious, willful or wanton or constituted gross negligence.

69. The acts of the Defendants were an extreme departure from the ordinary standard of conduct expected from the Department of Social Services and its affiliates.

70. The acts of the Defendants were a gross failure to exercise reasonable care.

71. The acts of the Defendants were in conscious or reckless disregard for the rights and safety of the minor Plaintiffs.

72. As a result of the acts of the Defendants, the minor Plaintiffs are entitled to the recovery of compensatory from all Defendants and punitive damages as to the individual employees in an amount in excess of \$25,000.

COUNT IV

Battery

73. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

74. The acts of the Defendants in regards to the "examination" of the naked minor children was an intentional infliction of harmful or offensive contact with the minor children.

75. The acts of the Defendant described above were without the parental consent of the minor children.

76. As a result of the acts of the Defendants, the minor Plaintiffs have been damaged in amount in excess of \$25,000.

COUNT V

Negligence Infliction of Emotional Distress

77. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

78. The Defendants negligently engaged in the conduct described above.

79. It was reasonably foreseeable that the conduct of the Defendants would cause the minor Plaintiffs severe emotional distress.

80. The conduct did in fact cause minor Plaintiffs severe emotional distress.

81. As a result of the acts of the Defendants, the minor Plaintiffs have been damaged in an amount in excess of \$25,000.

COUNT VI

Intentional Infliction of Emotional Distress

82. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

83. The Defendants' conduct described above was extreme and outrageous.

84. The conduct indicates a reckless indifference to the likelihood that such conduct will cause severe emotional distress.

85. The conduct did in fact cause minor Plaintiffs severe emotional distress.

86. As a result of the acts of the Defendants, the minor Plaintiffs have been damaged in an amount in excess of \$25,000.

COUNT VII
Violation of 42 USC §1983

87. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

88. Amber Benhart, Jason Bibb, Talmadge Blevins and Julie Schroer are sued in their individual capacity for their actions as a government official acting under the color of state law.

89. Amber Benhart, Jason Bibb, Talmadge Blevins and Julie Schroer are also sued in their official capacity and the Municipal Defendants are liable for their actions.

90. The acts of the Municipal Defendants and the Municipal Employees constitute a reckless indifference to the rights and safety of others, including the minor Plaintiffs.

91. The Municipal Defendants maintained an express policy that permitted and condoned the type of misconduct alleged herein which when enforced causes a constitutional deprivation or rights.

92. In the alternative, the Municipal Defendants were aware that the acts described herein were examples of a widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well settled as to constitute a custom or usage with the force of law.

93. That the acts of one or more of the named individual employees of the Municipal Defendants was a person or persons with final policy making authority which caused the constitutional injury.

94. That the Municipal Defendants are liable for their failure to train and that such failure amount to a deliberate indifference to the constitutional rights of persons, such as the minor Plaintiffs, with whom the Municipal Defendants come into contact.

95. The acts of the Municipal Defendants, and the employees identified above, violated the constitutional rights of the minor Plaintiffs including the right of privacy and the rights afforded under the Fourth Amendment as guaranteed by the Fourteenth Amendment of the United States Constitution.

96. As a result of the acts of the Defendants, the minor Plaintiffs have been damaged in an amount in excess of \$25,000.

COUNT VIII
Punitive Damages

97. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

98. The acts of the Municipal Employees individually, as more particularly described above, were the result of willful or wanton conduct.

99. As a result of the outrageous conduct of the Defendants, the Plaintiffs are entitled to the recovery of punitive damages in excess of \$25,000.

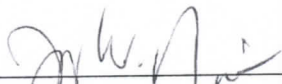
WHEREFORE, Plaintiffs respectfully pray for judgment of the Court as follows:

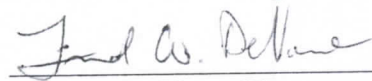
1. That this Court enter judgment in favor of Plaintiffs and against Defendants for all causes of action set forth above and for the appropriate interests upon those judgments;
2. That this Court grant Plaintiffs their attorneys' fees as allowed by law;
3. For the costs associated with this action;
4. For a trial by jury;
5. For punitive damages for the egregious nature of Defendants' conduct; and
6. Such other relief as this Court may deem just and proper.

This the 19th day of April, 2017.

JEFFREY W. NORRIS & ASSOCIATES, PLLC

By: _____


Jeffrey W. Norris
Attorneys for Plaintiffs
Norris Professional Building
177 N. Main Street
Waynesville, NC 28786
828.452.2221 – Telephone


Fred W. DeVore, III
DeVore, Acton & Stafford, P.A.
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Charlotte, North Carolina 28207
704-377-5242
fdevore@devact.com
NC Bar No. 10308

STATE OF NORTH CAROLINA
HAYWOOD COUNTY

2017 JUN -1 PM 2:55
HAYWOOD COUNTY, N.C.

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
17 CVS 422

CDR AND CCR, minors by and through)
their Guardian Ad Litem CHRISTOPHER)
W. DERRICK, JANE DOE AND JOHN)
DOE,)

OCT 2 2017

Plaintiffs,)

**DEFENDANTS HAYWOOD COUNTY,
HAYWOOD COUNTY DEPARTMENT
OF SOCIAL SERVICES, AND
TALMADGE S. BLEVINS' MOTION TO
DISMISS**

v.)

HAYWOOD COUNTY; HAYWOOD)
COUNTY DEPARTMENT OF SOCIAL)
SERVICES, TALMADGE S. BLEVINS,)
individually and in his official capacity, et.)
al.)

Defendants.)

NOW COME Defendants Haywood County, Haywood County Department of Social Services, and Talmadge S. Blevins (collectively "Haywood County Defendants"), by and through the undersigned counsel, and hereby move to dismiss Plaintiffs' Complaint pursuant to Rules 12(b)(1), 12(b)(2) and 12(b)(6) of the North Carolina Rules of Civil Procedure. In support of this Motion, the Haywood County Defendants show as follows:

1. The Court lacks personal and subject matter jurisdiction over the Haywood County Defendants because they have governmental immunity or sovereign immunity. Governmental immunity is a defense established to protect a governmental entity from suit when the entity is being sued for the performance of a governmental function. *Vest v. Easley*, 145 N.C.App. 70, 549 S.E.2d 568 (2001). Haywood County Defendants have not waived their immunity by the purchase of liability insurance because there is no insurance for the claims alleged by Plaintiffs. Patrick v. Wake County Department of Human Services, 188 N.C. App.

592 (2008); Owens v. Haywood County, 205 N.C. App. 456 (2010); Estate of Earley ex rel. Earley v. Haywood County Department of Social Services, 204 N.C. App. 338 (2010).

2. Claims against Defendant Haywood County Department of Social Services should be dismissed for the additional reason that it is not a entity capable of being sued.

3. Claims against Talmadge S. Blevins in his official capacity should be dismissed for the additional reason that claims against an employee in their official capacity are redundant since they are merely claims against the employer, Haywood County.

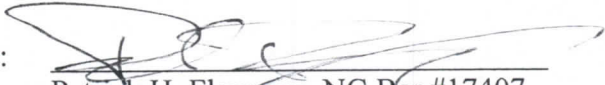
4. Claims against Talmadge S. Blevins in his individual capacity should be dismissed because there are no factual allegations to support any claim against him.

5. Plaintiffs' claim for punitive damages should be dismissed because punitive damages are not available against a public entity.

WHEREFORE, Haywood County Defendants request that Plaintiffs' Complaint be dismissed with prejudice as to the Haywood County Defendants and that the costs of this action be taxed against the Plaintiffs.

This the 26 day of May, 2017.

CRANFILL SUMNER & HARTZOG LLP

BY: 
Patrick H. Flanagan, NC Bar #17407
Attorneys for Haywood County Defendants
P.O. Box 30787
Charlotte, NC 28230
Telephone (704) 332-8300
Facsimile (704) 332-9994
phf@cshlaw.com

CERTIFICATE OF SERVICE

This is to certify that the undersigned has this day served the attached HAYWOOD COUNTY DEFENDANTS MOTION TO DISMISS on all of the parties to this cause by:

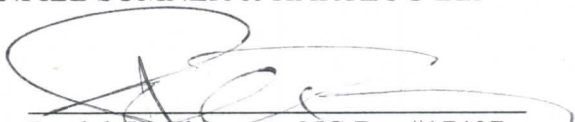
- Hand delivering a copy hereof to the attorney for each said party addressed as follows:
- Depositing a copy hereof, postage prepaid, in the United States Mail, addressed to the attorney for each said party as follows:
- Depositing a copy hereof with a nationally recognized overnight courier service, for overnight delivery, addressed to the attorney for each said party as follows:
- Telecopying a copy hereof to the attorney for each said party as follows:
- Via electronic mail addressed to the attorney for each said party as follows:

Jeffrey Norris Jeffrey Norris & Associates Norris Professional Building 177 N. Main Street Waynesville, NC 28786	Jacqueline D. Grant Roberts & Stevens, PA P.O. Box 7647 Asheville, NC 28802
Fred W. DeVore, III DeVore Acton & Stafford 438 Queens Rd Charlotte, NC 28207	

This the 26 day of May, 2017.

CRANFILL SUMNER & HARTZOG LLP

BY:


Patrick H. Flanagan, NC Bar #17407
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Charlotte, NC 28230
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STATE OF NORTH CAROLINA

FILED
2017 MAY 25 PM 2:37

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION

COUNTY OF HAYWOOD

HAYWOOD COUNTY, C.S.C.

FILE NO. 17 CVS 422

CDR and CCR minors by and through their
Guardian Ad Litem CHRISTOPHER W.
DERRICK, Esquire, JANE DOE, and JOHN
DOE,

Plaintiffs,

v.

HAYWOOD COUNTY; HAYWOOD
COUNTY DEPARTMENT OF SOCIAL
SERVICES; KARE, INC., AMBER
BENHART, individually and in her official
capacity; JASON BIBB individually and in his
official capacity, TALMADGE S. BLEVINS,
individually and in his official capacity; JULIE
SCHROER, individually and in her official
capacity, REBECCA D. SNIDER,
individually and in her official capacity,

Defendants.

OCT 2 2017

**VOLUNTARY DISMISSAL AS TO
DEFENDANTS JASON BIBB
AND AMBER BENHART**

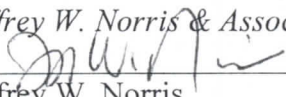
COMES NOW, plaintiffs, by and through their undersigned counsel, and pursuant to Rule 41 of the North Carolina Rules of Civil Procedure, and voluntarily dismisses the Complaint **without prejudice** as to defendants Jason Bibb and Amber Benhart. This dismissal does not involve any other party.

This 25th day of May, 2017.

Respectfully submitted,
Attorneys for Plaintiffs

Jeffrey W. Norris & Associates, PLLC

By:



Jeffrey W. Norris
N.C. Bar No. 29663
177 North Main Street
Waynesville, NC 28786
(828) 452-2221

and

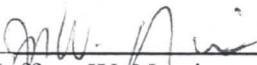
Fred W. DeVore, III
DeVore, Acton & Stafford, P.A.
438 Queens Road
Charlotte, NC 28207

CERTIFICATE OF SERVICE

This is to certify that I have this day served counsel for the opposing parties in the foregoing matter with a copy of this pleading by depositing in the U.S. Mail a copy of same in a properly addressed envelope with adequate postage thereon to insure delivery addressed as follows:

Patrick Flanagan, Esquire
Cranfill Sumner & Hartzog, LLP
P.O. Box 30787
Charlotte, NC 28230

Jacqueline D. Grant, Esquire
Roberts & Stevens
P.O. Box 7647
Asheville, NC 28802



Jeffrey W. Norris

Date: May 25, 2017

STATE OF NORTH CAROLINA
COUNTY OF HAYWOOD

IN THE GENERAL COURT OF JUSTICE
SUPERIOR COURT DIVISION
FILE NO. 17-CVS-422

OCT 2 2017

CDR and CCR minors by and through their)
Guardian Ad Litem CHRISTOPHER W.)
DERRICK, Esquire, JANE DOE, and)
JOHN DOE,)

Plaintiffs,)

v.)

HAYWOOD COUNTY; HAYWOOD)
COUNTY DEPARTMENT OF SOCIAL)
SERVICES; KARE, INC., AMBER)
BENHART, individually and in her official)
capacity; JASON BIBB, individually and in)
his official capacity, TALMADGE S.)
BLEVINS, individually and in his official)
capacity; JULIE SCHROER, individually)
and in her official capacity, REBECCA D.)
SNIDER, individually and in her official)
capacity,)

Defendants.)

DEFENDANTS KARE, INC., JULIE
SCHROER, AND REBECCA D.
SNIDER'S MOTION TO DISMISS AND
ANSWER TO THE COMPLAINT

2017 OCT 26 AM 11:55
CLERK OF SUPERIOR COURT

MOTION TO DISMISS

NOW COMES the Defendant, KARE, Inc. (hereinafter "KARE"), by and through the undersigned counsel, pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure, and hereby moves to dismiss this action for failure to state a claim upon which relief may be granted.

MOTION TO DISMISS

NOW COMES the Defendant, Julie Schroer (hereinafter "Schroer"), by and through the undersigned counsel, pursuant to Rule 12 (b)(6) of the North Carolina Rules of Civil Procedure, and hereby moves to dismiss this action for failure to state claim upon which relief may be granted. In support of this Motion, Defendant Schroer shows unto the Court as follows:

1. Defendant Schroer's participation in the investigation into allegations of possible physical abuse of the minor Plaintiffs (hereinafter "investigation") was done so in

accordance with the Haywood County Multidisciplinary Team (MDT) Memorandum of Understanding & Investigative Protocol.

2. At all relevant times stated in the Complaint, Defendant Schroer was carrying out the statutory duties of the Director of the Haywood Department of Social Services by participating in a protective services assessment and investigation of a juvenile who was allegedly abused. As such, Defendant Schroer is entitled to public official immunity and qualified immunity.
3. At all relevant times stated in the Complaint, Defendant Schroer was carrying out the statutory duties set forth in N.C. Gen. Stat. §108A-14 and Chapter 7B, Article 3 of the North Carolina General Statutes. As such, Defendant Schroer is immune from any civil liability arising out of her participation in the investigation.
4. If it is determined that Defendant Schroer is not a public official, Defendant Schroer is still entitled to immunity, pursuant to N.C. Gen. Stat. §7B-309, from any civil liability that might otherwise be incurred as a result of Defendant Schroer's cooperation and participation in the protective services assessment and investigation of a juvenile who was allegedly abused.

MOTION TO DISMISS

NOW COMES the Defendant Rebecca D. Snider (hereinafter "Snider"), by and through the undersigned counsel, pursuant to Rule 12(b)(4) and Rule 12(b)(5) of the North Carolina Rules of Civil Procedure and hereby moves to dismiss this action for insufficiency of process and insufficiency of service of process. Defendant Snider also moves, pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure, to dismiss this action for failure to state a claim upon which relief may be granted. In support of this Motion Defendant Snider shows unto the Court as follows:

1. A copy of the Summons and Complaint was not served nor delivered to Defendant Snider in accordance with Rule 4(j) of the North Carolina Rules of Civil Procedure.
2. At all relevant times stated in the Complaint, Defendant Snider was carrying out the statutory duties of the Director of the Haywood County Department of Social Services by participating in the protective services assessment and investigation of a juvenile who was allegedly abused. As such, Defendant Snider is entitled to public official immunity and qualified immunity.
3. If it is determined that Defendant Snider is not a public official or public employee, Defendant Snider is still entitled to immunity, pursuant to N.C. Gen. Stat. § 7B-309, from any civil liability that might otherwise be incurred as a result of Defendant Snider's cooperation and participation in the protective services assessment and investigation of a juvenile who was allegedly abused.

4. Defendant Snider's participation in the investigation of the minor Plaintiffs was done so in accordance with the Haywood County MDT Memorandum of Understanding & Investigative Protocol.

ANSWER

NOW COME the Defendants, KARE, Schroer, and Snider, who are sometimes collectively referred to herein as "these Defendants," and hereby answer the Complaint of the Plaintiffs as follows:

PARTIES

1. It is admitted, upon information and belief, that Plaintiffs Jane and John Doe are citizens and residents of Haywood County. It is admitted that Plaintiffs Jane and John Doe are the parents of minors CDR and CCR. It is admitted that the identities of Jane Doe, John Doe, CDR and CCR are known to these Defendants. The remaining allegations contained in Paragraph 1 do not require a response by these Defendants. To the extent the remaining allegations contained in Paragraph 1 require a response of these Defendants, these Defendants are without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 1 and they are therefore denied.

2. The allegations contained in paragraph 2 do not require a response from these Defendants. To the extent a response is required, these Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 2 and they are therefore denied.

3. It is admitted, upon information and belief, that CDR was born on January 25, 2001 and CCR was born on October 14, 2005. It is admitted that CDR and CCR are minors. It is admitted, upon information and belief, that CDR and CCR are citizens and residents of Haywood County and that they live with their parents and sister. Except as admitted, the allegations contained in Paragraph 3 are denied.

4. Admitted.

5. Admitted.

6. It is admitted that Defendant KARE is a non-profit corporation existing under the laws of the State of North Carolina with its principal place of business in Waynesville, Haywood County. It is admitted that KARE is a nationally accredited Child Advocacy Center and is a Prevent Child Abuse affiliate. It is admitted that KARE is a member of the Haywood County Multidisciplinary Team (MDT) and is a party to the Memorandum of Understanding & Investigative Protocol established by the Haywood County MDT. The remaining allegations contained in Paragraph 6 do not require a response by these Defendants.

7. It is admitted, upon information and belief, that Defendant Amber Benhart is a social worker with the Haywood County Department of Social Services (hereinafter "DSS"). These Defendants are without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 7.

8. It is admitted, upon information and belief, that Defendant Jason Bibb is a social worker with DSS. These Defendants are without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 8 and they are therefore denied.

9. It is admitted, upon information and belief, that Defendant Talmadge S. Blevins is the Director of the Haywood County Health and Human Services Agency. These Defendants are without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 9 and they are therefore denied.

10. It is admitted that Defendant Schroer is a citizen and resident of Haywood County. It is admitted that Defendant Shroer is the Director of KARE. Except as admitted, the allegations contained in Paragraph 10 are denied.

11. It is admitted that Defendant Snider is a citizen and resident of Buncombe County. It is admitted that at all relevant times stated in the Complaint, Defendant Snider was a Nurse Practitioner with KARE. Except as admitted, the allegations contained in Paragraph 11 are denied.

JURISDICTION AND VENUE

12. The allegations contained in Paragraph 12 state legal conclusions and are therefore denied.

13. The allegations contained in Paragraph 13 state a legal conclusion and they are therefore denied.

FACTUAL BACKGROUND

14. Admitted upon information and belief.

15. It is admitted that on or about March 5, 2015, the DSS Director referred CDR and CCR to Defendant KARE for evaluation as part of a child protective services assessment after CCR disclosed to a school guidance counselor that CDR sustained an injury to his hand after his father allegedly pushed him off the front porch while they were arguing. These Defendants are without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 15 and they are therefore denied.

about misrepresenting what they told her they were going to do with her children, about conducting such an inappropriate “exam,” and about taking pictures of her children naked, etc.

38. No one at that point would even acknowledge the children’s version of what had occurred. The County, DSS, and Kare initially denied anything took place.

39. Eventually, Rebecca Snider, in the presence of Ms. Benhart and Julie Schroer, confirmed to Mrs. Doe what the children had stated.

40. Mrs. Doe, who works in the medical field, told Ms. Snider that DSS and Kare had not gotten informed consent from her to conduct such an invasive and abusive search, including video and up-close pictures of their genitals and anuses, of her children, and that she had not even executed the limited consent form before they had taken CCR into the examination room.

41. Mrs. Doe directly told Ms. Snider that, “we both know what informed consent is and you did not properly inform me as to what was going to happen to my children.”

42. Ms. Snider stated that, “you’re right.” She acknowledged that they did not inform Mrs. Doe as to the scope or nature of the search and examination. In fact, Ms. Snider’s comments to Mrs. Doe prior to the abusive search were deceptive and intended to mislead Mrs. Doe.

43. In addition to this outrageous conduct, the Does were contacted by DSS who wanted to do a home inspection to determine if the house was safe for children and whether there was adequate food in the home. This inspection, however, never occurred.

44. After the abuse and violations the children experienced at the hands of Kare and DSS, CDR and CCR immediately began suffering from a variety of physical and mental harm which are typical and foreseeable causes and harms when children have been abused and subjected to sexually inappropriate conduct.

45. CDR and CCR developed serious behavioral problems, have suffered from nightmares, bouts of uncontrollable crying, shaking, headaches, etc.

46. Prior to the sexual abuse and harm imposed by the Defendants, CDR was performing well in school and did not have any behavioral issues associated with school. After the abuse, he was unable to focus, his grades dropped almost immediately, and he was suspended from school. He has exhibited typical signs of a sexually abused child where such signs had never previously existed prior to the outrageous conduct of the Defendants.

47. Since the abuse, CCR too has suffered nightmares, bed wetting, bouts of crying, and otherwise exhibited typical signs of a sexually abused child.

48. The children began seeing a counselor who has concluded that the abuse at the hands of DSS and Kare has had an immediate and lasting negative impact on the children.

49. The Does and their children have experienced direct, foreseeable, and lasting harm and damage as a result of the actions of the Defendants.

50. To the extent that Plaintiffs' claims sound in tort, Haywood County and DSS, has waived governmental immunity by the purchase of insurance and/or participating in a local government risk pool.

51. To the extent that Plaintiffs' claims sound in tort, Kare, to the extent it is an agent of Haywood County and DSS, has waived governmental immunity by the purchase of insurance.

52. The County, DSS, and Kare did not properly supervise and monitor the circumstances surrounding and leading up to what took place with the Doe children. The failure to supervise and coordinate their functions resulted in a series of increasingly invasive and unwarranted searches and intentional actions that harmed Plaintiffs.

53. Defendants did not have any basis, reasonable suspicion, informed consent from a parent, or authority to conduct the naked searches of the children and to broadcast that over video equipment and to take close-up pictures of the children's genitals and anuses.

54. The Defendants did not obtain reasonable informed consent from the parents of the minors to conduct the type of personal and invasive and abusive examination that was performed, and one of the wrongful examinations was performed before any consent was obtained.

55. Haywood County, DSS, and Kare did not have proper measures in place to evaluate the need for such an invasive search which resulted in an assault and battery on the minor children.

56. The County, DSS, and Kare failed to provide adequate supervision among its staff, agents, and workers who dealt with, investigated, and manipulated the Plaintiffs.

57. The County and DSS failed to have proper safety measures in place and to ensure that its employees and agents were properly trained and monitored to prevent the harm that occurred in this matter.

58. The County, DSS, and Blevins had a custom and policy of referring matters to Kare, and the policy and custom played a part in the harm to the plaintiffs including the deprivation of the plaintiffs' constitutional rights.

59. The County, DSS, and Blevins made blanket referrals to Kare and failed to review properly, monitor, or maintain the integrity of the process.

60. In response to this matter, the County and DSS, through their counsel, expressed "shock" at Kare's conduct and that they had no idea that Kare would do something like the invasive and improper search on the minors and continuing the investigation and examinations beyond any reasonable point.

61. The County, DSS, and Kare were grossly negligent and/or deliberately indifferent in

83. As a result of the acts of the Defendants, the minor Plaintiffs have been damaged in an amount in excess of \$25,000.

COUNT V
Negligence Infliction of Emotional Distress

84. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

85. The Defendants negligently engaged in the conduct described above.

86. It was reasonably foreseeable that the conduct of the Defendants would cause the minor Plaintiffs severe emotional distress.

87. The conduct did in fact cause minor Plaintiffs severe emotional distress.

88. As a result of the acts of the Defendants, the minor Plaintiffs have been damaged in an amount in excess of \$25,000.

COUNT VI
Intentional Infliction of Emotional Distress

89. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

90. The Defendants' conduct described above was extreme and outrageous.

91. The conduct indicates a reckless and deliberate indifference to the likelihood that such conduct will cause severe emotional distress.

92. The conduct did in fact cause minor Plaintiffs severe emotional distress.

93. As a result of the acts of the Defendants, the minor Plaintiffs have been damaged in an amount in excess of \$25,000.

COUNT VII
Violation of 42 USC § 1983

94. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

95. Talmadge Blevins and Julie Schroer are sued in their individual capacity for their actions as a government official acting under the color of state law.

96. Talmadge Blevins and Julie Schroer are also sued in their official capacity and the Municipal Defendants are liable for their actions.

97. The acts of the Municipal Defendants and the Municipal Employees constitute a reckless and deliberate indifference to the rights and safety of others, including the minor Plaintiffs.

98. The Municipal Defendants maintained an express policy that permitted and condoned the type of misconduct alleged herein which when enforced causes a constitutional deprivation or rights. This policy was overseen and implemented by Talmadge Blevins and Julie Schroer.

99. In the alternative, the Municipal Defendants were aware that the acts described herein were examples of a widespread practice that, although not authorized by written law or express municipal policy, is so permanent and well settled as to constitute a custom or usage with the force of law.

100. That the acts of one or more of the named individual employees of the Municipal Defendants was a person or persons with final policy making authority which caused the constitutional injury.

101. That the Municipal Defendants are liable for their failure to train personnel, supervise personnel and investigations, and the lack of proper measures to monitor and prevent the abuse which occurred in this matter. Such failure amounts to a deliberate indifference to the constitutional rights of persons, such as the minor Plaintiffs, with whom the Municipal Defendants came into contact.

102. The acts of the Municipal Defendants, and the employees identified above, violated the constitutional rights of the minor Plaintiffs including the right of privacy and the rights afforded under the Fourth Amendment as guaranteed by the Fourteenth Amendment of the United States Constitution.

103. As a result of the acts of the Defendants, the minor Plaintiffs have been damaged in an amount in excess of \$25,000.

COUNT VIII
Punitive Damages

104. The Plaintiffs incorporate by reference the allegations contained in all of the prior paragraphs.

105. The acts of the Municipal Employees individually, the individuals in their individual capacities, as more particularly described above, were the result of willful, wanton, intentional, and/or malicious conduct.

106. As a result of the outrageous conduct of those Defendants, the Plaintiffs are entitled to the recovery of punitive damages in excess of \$25,000 as allowed by law.

WHEREFORE, Plaintiffs respectfully pray for judgment of the Court as follows:

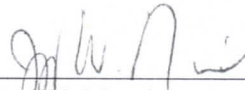
1. That this Court enter judgment in favor of Plaintiffs and against Defendants for all causes of action set forth above and for the appropriate interests upon

those judgments;

2. That this Court grant Plaintiffs their attorneys' fees as allowed by law;
3. For the costs associated with this action;
4. For a trial by jury;
5. For punitive damages, as allowed by law, for the egregious nature of individual Defendants' conduct; and
6. Such other relief as this Court may deem just and proper.

This the 10th day of August, 2017.

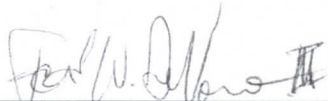
JEFFREY W. NORRIS & ASSOCIATES, PLLC

By: 

Jeffrey W. Norris
Norris Professional Building
177 N. Main Street
Waynesville, NC 28786
828.452.2221
NC Bar No. 29663

and

DEVORE, ACTON & STAFFORD, P.A.

By: 

Fred W. DeVore, III
438 Queens Road
Charlotte, North Carolina 28207
704-377-5242
fdevore@devact.com
NC Bar No. 10308

16. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 16 and they are therefore denied.

17. Denied.

18. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 18 and they are therefore denied.

19. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 19 and they are therefore denied.

20. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 20 and they are therefore denied.

21. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 21 and they are therefore denied.

22. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 22 and they are therefore denied.

23. It is admitted that in accordance with the North Carolina Child Medical Evaluation Program (hereinafter "CMEP") Guidelines and the Haywood County MDT Memorandum of Understanding & Investigative Protocol, caretakers potentially responsible for abusive acts are not permitted to attend investigative interviews and medical examinations. These Defendants are without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 23 and they are therefore denied.

24. Denied.

25. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 25 and they are therefore denied.

26. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 26 and they are therefore denied.

27. It is admitted that on March 5, 2015, Plaintiff Mrs. Doe took CDR and CCR to KARE as scheduled. It is admitted that the KARE staff advised Mrs. Doe that the children would be interviewed and undergo a medical evaluation. It is admitted that Plaintiff Mrs. Doe signed a consent/authorization form authorizing Defendant Snider to perform a medical evaluation on CDR and CCR, including diagnostic studies and photographs, on the minor children. Except as admitted, the allegations contained in Paragraph 27 are denied.

28. It is admitted that prior to performing the medical evaluation, Plaintiff Mrs. Doe was asked to complete a medical history on the children and sign a consent form for the exam. It is admitted that the consent/authorizations for the minor Plaintiffs' medical evaluations are in

writing and speaks for themselves. Except as admitted, the allegations contained in Paragraph 28 are denied.

29. Denied.

30. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 30 and they are therefore denied.

31. Denied.

32. It is admitted that after Mrs. Doe signed the consent form authorizing Defendant Snider to perform a medical evaluation, including diagnostic studies and photographs on CCR and CDR, Defendant Snider performed the medical evaluation. Except as admitted, the allegations contained in Paragraph 32 are denied.

33. It is admitted that forensic interviews conducted at KARE are videotaped. It is specifically denied that medical exams are watched on live feed video from another room. It is admitted that sometimes members of the Haywood County MDT Team present during a forensic interview will take a break and confer with each other to ascertain whether additional information is needed. Except as admitted, the allegations contained in Paragraph 33 are denied.

34. It is admitted that forensic interviews conducted at KARE are videotaped. It is specifically denied that medical exams are watched on live feed video from another room. It is admitted that sometimes members of the Haywood County MDT Team present during a forensic interview will take a break and confer with each other to ascertain whether additional information is needed. Except as admitted, the allegations contained in Paragraph 34 are denied.

35. Denied.

36. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 36 and they are therefore denied.

37. Denied.

38. Denied.

39. It is admitted that shortly after leaving the KARE premises, Mrs. Doe returned to the KARE office and requested that all photographs taken during the exam be destroyed. Except as admitted, the allegations contained in Paragraph 39 are denied.

40. Denied.

41. Denied.

42. Denied.

43. Denied.

44. Denied.

45. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 45 and they are therefore denied.

46. Denied.

47. Denied.

48. Denied.

49. Denied.

50. It is specifically denied that the minor children suffered any abuse at the hands of these Defendants. These Defendants are without sufficient information to form a belief as to the truth or falsity of the remaining allegations contained in Paragraph 50 and they are therefore denied.

51. Denied.

52. These Defendants are without sufficient information to form a belief as to the truth or falsity of the allegations contained in Paragraph 52 and they are therefore denied.

53. It is admitted that Defendant KARE has purchased insurance. It is admitted that said insurance excludes certain acts and claims. The remaining allegations contained in Paragraph 53 state legal conclusions and are therefore denied.

54. Denied.

55. Denied.

56. Denied.

57. Denied.

58. Denied.

59. Denied.

60. The allegations contained in Paragraph 60 state legal conclusions and are therefore denied.

COUNT I
Parents' Claim for Medical Expenses

61. These Defendants' responses contained in Paragraphs 1 through 60 above are repeated and incorporated herein by reference as if fully set forth herein.

62. Denied.

63. Denied.

COUNT II
Negligence

64. These Defendants' responses contained in Paragraphs 1 through 63 above are repeated and incorporated herein by reference as if fully set forth herein.

65. The allegations contained in Paragraph 65 and each and every subpart thereof are denied.

66. Denied.

COUNT III
Gross Negligence

67. These Defendants' responses contained in Paragraphs 1 through 66 above are repeated and incorporated herein by reference as if fully set forth herein.

68. Denied.

69. Denied.

70. Denied.

71. Denied.

72. Denied.

COUNT IV
Battery

73. These Defendants' responses contained in Paragraphs 1 through 72 above are repeated and incorporated herein by reference as if fully set forth herein.

74. Denied.

75. Denied.

76. Denied.

COUNT V

Negligence Infliction of Emotional Distress

77. These Defendants' responses contained in Paragraphs 1 through 76 above are repeated and incorporated herein by reference as if fully set forth herein.

78. Denied.

79. Denied.

80. Denied.

81. Denied.

COUNT VI

Intentional Infliction of Emotional Distress

82. These Defendants' responses contained in Paragraphs 1 through 81 above are repeated and incorporated herein by reference as if fully set forth herein.

83. Denied.

84. Denied.

85. Denied.

86. Denied.

COUNT VII

Violation of 42 USC §1983

87. These Defendants' responses contained in Paragraphs 1 through 86 above are repeated and incorporated herein by reference as if fully set forth herein.

88. The allegations contained in Paragraph 88 do not require a response from these Defendants.

89. The allegations contained in Paragraph 89 state legal conclusions and are therefore denied.

90. Denied.

91. Denied.

92. Denied.

93. Denied.

94. Denied.

95. Denied.

96. Denied.

COUNT VIII
Punitive Damages

97. These Defendants' responses contained in Paragraphs 1 through 96 above are repeated and incorporated herein by reference as if fully set forth herein.

98. Denied.

99. Denied.

FIRST FURTHER ANSWER AND DEFENSE

The Plaintiffs' Complaint against these Defendants should be dismissed pursuant to Rule 12(b)(6) of the North Carolina Rules of Civil Procedure for failure to state a claim upon which relief can be granted.

SECOND FURTHER ANSWER AND DEFENSE

At all relevant times stated in the Complaint, Defendants Schroer and Snider carried out the statutory duties of public officials and are, therefore, entitled to public official immunity. Said public official's immunity is being pled as a total bar to the Plaintiffs' right to recover anything from these answering Defendants in this action.

THIRD FURTHER ANSWER AND DEFENSE

At all relevant times stated in the Complaint, Defendants Schroer and Snider were acting as public officials engaged in discretionary actions and their conduct did not violate clearly established statutory or constitutional rights of which reasonable persons would have known. As such, Defendants Schroer and Snider are entitled to qualified immunity. Qualified immunity is being pled as a total bar of the Plaintiffs' right to recover anything from these answering Defendants in this action.

FOURTH FURTHER ANSWER AND DEFENSE

The Plaintiffs' allegations for punitive damages are unconstitutional in that the award of punitive damages under the facts of this case would constitute a violation of the Constitution of the United States of America and the Constitution of the State of North Carolina; and said Constitutions are pled in bar to the punitive damages claimed. Moreover, the Plaintiffs' allegations against these Defendants do not constitute willful or wanton behavior, and the Plaintiffs' have failed to aver aggravating factors supporting their claims for punitive damages with particularity against these Defendants. Such failures are pled as a bar to the Plaintiffs' claim for punitive damages against these Defendants.

FIFTH FURTHER ANSWER AND DEFENSE

In the event it is determined that Defendant Schroer or Snider were not public officials, then these Defendants are entitled to immunity for their participation in the Haywood County DSS protective services assessments of the children in accordance with Chapter 7B, Article 3 of the North Carolina General Statutes.

SIXTH FURTHER ANSWER AND DEFENSE

The investigation of the allegations of physical abuse of the minor Plaintiffs was conducted in accordance with the Haywood County MDT Memorandum of Understanding & Investigative Protocol and the North Carolina Child Medical Evaluation Program Guidelines.

SEVENTH FURTHER ANSWER AND DEFENSE

These answering Defendants reserve the right to assert any additional defenses, affirmative or otherwise, which may become apparent through discovery and/or at trial.

WHEREFORE, these Defendants, having fully answered the Complaint of the Plaintiffs, pray as follows:

1. That the Plaintiffs have and recover nothing of these Defendants and that the Plaintiffs' action be dismissed;
2. That pursuant to N.C. Gen. Statute § 1D-30, the claims for punitive damages be tried separately from the claims for compensatory damages;
3. That the Plaintiffs' have and recover nothing of these Defendants for punitive damages and that the Plaintiffs' claim for punitive damages be dismissed;
4. That the cost of this action, including reasonable attorneys fees, be taxed against the Plaintiffs;
5. For a trial by jury; and
6. For such other and further relief as the Court may deem just and proper.

THIS the 23rd day of June, 2017.

ROBERTS & STEVENS, P.A.

By



JACQUELINE D. GRANT (NC#22079)

Attorneys for Defendants KARE, Inc., Julie Schroer and Rebecca D. Snider

P.O. Box 7647

Asheville, NC 28802

(828) 252-6600

CERTIFICATE OF SERVICE

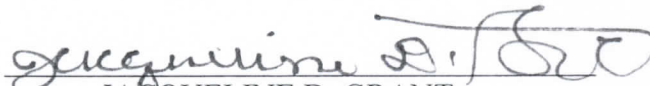
This is to certify that the undersigned has this date served this *Defendants Kare, Inc., Julie Schroer, and Rebecca D. Snider's Motion To Dismiss and Answer to the Complaint* in the above entitled action upon all parties to this cause by electronic mail (email) and by depositing a copy hereof in a post paid wrapper in a post office or official depository under the exclusive care and custody of the United States Postal Service, properly addressed as follows:

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Haywood County, Haywood
County Dept of Social Services,
Amber Benhart, Jason Bibb, and
Talmadge S. Blevins

THIS the 23rd day of June, 2017.


JACQUELINE D. GRANT