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**IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR PIERCE COUNTY**

M.D., an infant, by BARBARA COSTER, her  
litigation guardian ad litem,

Plaintiff,

v.

STATE OF WASHINGTON,  
DEPARTMENT OF SOCIAL AND  
HEALTH SERVICES,

Defendant.

No. 17-2-06953-7

COMPLAINT FOR NEGLIGENT  
INVESTIGATION AND NEGLIGENCE

Plaintiff M.D., through her litigation guardian ad litem Barbara Coster, alleges as follows:

**I. PARTIES**

1.1 Plaintiff M.D. is a child born on October 19, 2013. She is currently being cared for in a rehabilitation facility in Walla Walla, Washington. On September 18, 2015, the Superior Court of King County, Washington appointed Barbara Coster as litigation guardian ad litem for M.D. M.D’s claim is brought by Barbara Coster.

1.2 Defendant is the State of Washington (the “State”). The Department of Social and Health Services (“DSHS”) is an agency of the State.

1 **II. JURISDICTION AND VENUE**

2 2.1 M.D. has filed a standard tort claim with the Office of Risk Management,  
3 pursuant to Chapter 4.92 RCW. More than sixty (60) days have elapsed since the claim was  
4 filed. The notice of claim provisions required by RCW 4.92 have been satisfied.

5 2.2 The Superior Court of Pierce County, Washington has jurisdiction over this  
6 matter pursuant to RCW 2.08.010.

7 2.3 Venue is proper in Pierce County pursuant to RCW 4.92.010.

8 **III. FACTS**

9 3.1 M.D. is the biological child of Taylor G. Wilson and an unknown father. Ms.  
10 Wilson's other biological child is N.W.-R. (d.o.b. 2/19/10), who is M.D.'s half-sister.

11 3.2 On June 17, 2014, DSHS filed a dependency petition for M.D. in Pierce County.  
12 The same day a Warrant in Aid of Writ of Habeas Corpus was issued by the Pierce County  
13 Juvenile Court for DSHS to take custody of M.D.

14 3.3 On June 18, 2014, M.D. was removed from Ms. Wilson's care and placed into  
15 foster care in Washington.

16 3.4 On June 24, 2014, DSHS filed an amended dependency petition listing Bryant K.  
17 Davis as the alleged father.

18 3.5 On August 19, 2014, M.D. was found to be dependent as to her mother Ms.  
19 Wilson.

20 3.6 On September 15, 2014, DSHS received a report regarding a domestic violence  
21 incident between Mr. Davis and his wife, Jasmine N. Hunt, which had occurred in Austin,  
22 Texas. The referrer, a Texas social worker, noted that M.D. was present in the home at the time  
23 of the incident.

1           3.7     On September 30, 2014, M.D. was found to be dependent, as to Mr. Davis, the  
2 alleged father, and as to John Doe, the biological father.

3           3.8     The dependency court ordered DSHS to develop a service plan including  
4 paternity testing, a drug/alcohol assessment, and a parenting assessment, if Mr. Davis came  
5 forward as a placement resource. DSHS later placed M.D. with Mr. Davis without completing  
6 either the paternity testing or the parenting assessment.

7           3.9     In October 2014, Mr. Davis appeared in M.D.'s dependency action.

8           3.10    On December 18, 2014, the dependency court ordered that DSHS initiate an  
9 Interstate Compact on the Placement of Children ("ICPC") for Mr. Davis, as he had come  
10 forward as a placement resource for M.D. At that time, Mr. Davis lived with Ms. Hunt in  
11 Austin, Texas.

12          3.11    On January 20, 2015, as part of the ICPC pre-screening process, DSHS asked  
13 Mr. Davis to disclose his criminal history. Mr. Davis self-reported that he was convicted in  
14 2005 for theft and served two years, that he was convicted in 2010 for possession of a controlled  
15 substance with intent to sell and served six months, and that he was convicted in 2014 for  
16 possession of a controlled substance with intent to sell and served 10 months. DSHS did not  
17 verify Mr. Davis' self-reported criminal history. Prior to July 9, 2015, DSHS did not inform the  
18 dependency court of Mr. Davis' self-reported criminal history.

19          3.12    On or about January 28, 2015, DSHS submitted to the Texas Department of  
20 Family and Protective Services ("DFPS") an ICPC Placement Request for placement of M.D.  
21 with Mr. Davis. DSHS represented to DFPS that Mr. Davis was the biological parent of M.D.  
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1           3.13    On or about February 20, 2015, M.D. and N.W.-D. were placed with foster  
2 parents Melissa and Jeffrey Isaacson. The Isaacsons provided both girls with a safe and loving  
3 home and were interested in adopting both girls.

4           3.14    On March 9, 2015, DSHS received the home study of the Davis-Hunt residence  
5 that it had requested from DFPS. In the home study, Mr. Davis self-reported his criminal  
6 history, which included crimes he had not previously reported to DSHS. The Texas social  
7 worker who conducted the home study reviewed Mr. Davis' criminal history and noted that  
8 there was an assault charge from February 2014 which was listed as charged, although Mr.  
9 Davis had claimed it was dismissed. In addition, Mr. Davis and Ms. Hunt informed the social  
10 worker that they had no history of domestic violence. DFPS approved the placement of M.D.  
11 with Mr. Davis with conditions, and only because it believed he was the M.D.'s biological  
12 father. A condition of placement of M.D. with Mr. Davis and Ms. Hunt was verification that all  
13 of Mr. Davis' criminal charges were cleared, due to the inconsistency between Mr. Davis' self-  
14 reported criminal history and the criminal history revealed by his background check.

15           3.15    On March 26, 2015, DSHS recommended to the dependency court that M.D. be  
16 placed with Mr. Davis and Ms. Hunt. DSHS stated that there were "no red flags" regarding Mr.  
17 Davis' contact with Texas. At that time, however, DSHS had yet to review the home study,  
18 directly contrary to its own policies and procedures. In fact, the assigned social worker for M.D.  
19 did not read the home study until March 24, 2017.

20           3.16    The dependency court ordered that M.D. could be placed with Mr. Davis and  
21 Ms. Hunt once the full ICPC had been reviewed, if it met the concerns of DSHS. The court also  
22 ordered that Mr. Davis complete a parenting assessment.

1           3.17    At no point did DSHS express any concern regarding the care the Isaacsons were  
2 providing to M.D. and N.W.-D. To the contrary, DSHS noted that M.D. and N.W.-D. were  
3 doing well with the Isaacsons.

4           3.18    On or about April 24, 2015, DSHS removed M.D. from the Isaacsons' home and  
5 placed her with Mr. Davis and Ms. Hunt in Austin, although Mr. Davis had not completed the  
6 court-ordered parenting assessment. DSHS did not contact anyone in Texas to coordinate a  
7 parenting assessment of Mr. Davis, either before or after the placement of M.D. with him.

8           3.19    At the time M.D. was placed with Mr. Davis, he had in fact been convicted of  
9 numerous crimes, to wit:

- 10           • 2005 – Aggravated Robbery. Sentenced to two years in jail.
- 11           • 2010 – Assault causing bodily injury. Sentenced to 50 days in jail.
- 12           • 2010 – Possession of a Controlled Substance. Sentenced to six months in jail.
- 13           • 2011 – Possession of a Controlled Substance. Sentenced to 120 days in jail.
- 14           • 2013 – Manufacturing/Delivery of a Controlled Substance. Sentenced to 10 months  
15 in jail.
- 16           • 2014 – Assault Causing Bodily Injury to a Family Member. Sentenced to 100 days in  
17 jail.

18           3.20    The 2014 conviction involved Mr. Davis assaulting his wife, Ms. Hunt. During  
19 the assault, Mr. Davis pinned her down by her throat and choked her. Using his 6'2", 235 pound  
20 body, Mr. Davis then forced Ms. Hunt's leg behind her head. The entire assault took place in  
21 front of their one-year-old daughter. M.D. was also present in the home during the assault, as  
22 DSHS was notified in September 2014, six months before it returned M.D. to the care of Mr.  
23 Davis and Ms. Hunt.

1           3.21    On July 9, 2015, Austin-Travis County Emergency Medical Services responded  
2 to a call by Mr. Davis, who reported that M.D. was having a seizure. The first responders found  
3 M.D. severely injured, suffering from 16 rib fractures, liver and spleen lacerations, a brain  
4 bleed, and facial bruising. M.D. was immediately transported to the hospital, where she went  
5 into cardiac arrest.

6           3.22    Mr. Davis told police investigators that 18-month-old M.D. had “gone to the  
7 bathroom on the living room floor.” In response, Mr. Davis punched M.D. in the ribs and  
8 spanked her. He proceeded to take her to the bathroom, where he left her. When he returned to  
9 the bathroom, M.D. was standing in the toilet bowl. According to documents in a pending  
10 criminal case against him, Mr. Davis then slammed M.D. into the toilet, causing her to hit her  
11 head on the back of it. Mr. Davis then took M.D. to the living room and resumed beating her.

12           3.23    Mr. Davis was arrested and charged with seven counts of first-degree felony  
13 Injury to a Child – Serious Bodily Injury.

14           3.24    As of July 31, 2015, M.D. remained hospitalized in Texas. She continued to  
15 suffer from a traumatic brain injury, could not respond to voice or stimuli, could not move on  
16 her own, could not sit or stand alone, had chest congestion, and was on a feeding tube. During  
17 her hospitalization, medical staff discovered that M.D. had a number of aging rib fractures and  
18 healed burns. In late August 2015, when she was stable enough to leave the hospital, M.D. was  
19 returned to Washington.

20           3.25    M.D. now suffers from asymmetric, mixed (spastic-extrapyramidal)  
21 quadriplegia. She has profound impairments in the following areas: cortical vision, oral motor,  
22 feeding ability, communication skills, activities of daily living, adaptive skills, and cognition.  
23 Due to these deficits, M.D. will require ongoing individualized support for the rest of her life.

1 She will never be able to move under her own volition. It is unlikely that she will ever regain  
2 the ability to communicate. It is also unlikely that she will ever be able to take all of her  
3 nutrition orally.

4 3.26 Prior to placing M.D. with Mr. Davis and Ms. Hunt, DSHS made no attempt to  
5 verify the details of Mr. Davis' criminal history. A proper investigation by DSHS would have  
6 revealed that Mr. Davis' 2013 drug conviction disqualified him from being a placement for  
7 M.D.

8 3.27 Prior to placing M.D. with Mr. Davis and Ms. Hunt, DSHS made no attempt to  
9 verify whether Mr. Davis was M.D.'s father.

10 3.28 DSHS knew, or should have known, that Mr. Davis was grossly unfit to be a  
11 caregiver for M.D., in part because DSHS had received actual notice in September 2014 that  
12 Mr. Davis had committed a domestic violence offense against Ms. Hunt while M.D. was  
13 present.

14 3.29 After placing M.D. with Mr. Davis and Ms. Hunt, DSHS failed to put any  
15 support services in place for her. For example, although Mr. Davis and Ms. Hunt had a recent  
16 history of domestic violence, DSHS neglected to provide them with a domestic violence  
17 assessment or domestic violence treatment prior to or during the time M.D. was placed with  
18 them.

#### 19 **IV. CAUSES OF ACTION**

##### 20 **COUNT I: NEGLIGENT INVESTIGATION**

21 4.1 DSHS owed a duty to M.D. to properly investigate the character and fitness of  
22 Mr. Davis and Ms. Hunt prior to placing M.D. with them.

23 4.2 DSHS breached this duty by conducting a faulty investigation.

1 4.3 DSHS' breach proximately caused a harmful placement decision which resulted  
2 in severe injuries to M.D.

3 COUNT II: NEGLIGENCE

4 4.4 DSHS owed a duty to protect M.D. against child abuse and neglect.

5 4.5 DSHS breached this duty by failing to conduct a reasonable investigation of Mr.  
6 Davis and Ms. Hunt prior to placing M.D. with them and by failing to take reasonable  
7 precautions during the placement of M.D. with Mr. Davis and Ms. Hunt.

8 4.6 DSHS' breach proximately caused M.D. to suffer severe injuries.

9 **V. INJURIES AND DAMAGES**

10 5.1 As a direct and proximate cause of DSHS' acts and omissions, M.D. has  
11 sustained past general and special damages, and she will sustain future general and special  
12 damages, including, but not limited to:

- 13 a. Past, present, and future pain and suffering, both physical and emotional;  
14 b. Past, present, and future psychological trauma and impairment;  
15 c. Past, present, and future loss of enjoyment of life;  
16 d. Medical bills and other expenses for future treatment;  
17 e. Loss of earning capacity; and  
18 f. Loss of educational opportunities.

19 All of the above damages are in an amount which will be proved at trial.

20 **VI. RELIEF SOUGHT**

21 M.D. prays for judgment against the State as follows:

- 22 6.1. For an award of general damages, in an amount to be determined at trial;  
23 6.2. For an award of special damages, in an amount to be determined at trial;



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6.3. For an award of costs and reasonable attorneys' fees; and

6.4. For such further relief as the Court deems just and proper.

DATED this 11th day of April, 2017.

**RESSLER & TESH PLLC**



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