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CLERK OF DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF OHIO  
WESTERN DIVISION

PAUL WALSH, Individually and as Parent and  
Natural Guardian of Rebekah Walsh, Isaac Walsh,  
Charity Walsh, Grace Walsh, Naomi Walsh, and  
Paul N. Walsh, Minors  
1106 State Street  
Vermilion, Ohio 44089

and

LINDA C. WALSH, Individually and as Parent and  
Natural Guardian of Rebekah Walsh, Isaac Walsh,  
Charity Walsh, Grace Walsh, Naomi Walsh, and  
Paul N. Walsh, Minors  
1106 State Street  
Vermilion, Ohio 44089

Plaintiffs,

v.

ERIE COUNTY DEPARTMENT OF JOB AND  
FAMILY SERVICES  
221 West Parish Street  
Sandusky, OH 44870

) CASE NO.

) JUDGE:

) JUDGE JAMES G. CARR

) COMPLAINT

) (*Jury Demand Endorsed*  
) *Hereon*)

NYCOLA DARNOLD )  
c/o ERIE COUNTY DEPARTMENT OF JOB )  
AND FAMILY SERVICES )  
221 West Parish Street )  
Sandusky, OH 44870 )

and )

LANA BROWN )  
c/o ERIE COUNTY DEPARTMENT OF JOB )  
AND FAMILY SERVICES )  
221 West Parish Street )  
Sandusky, OH 44870 )

and )

CITY OF VERMILION POLICE DEPARTMENT )  
5791 Liberty Avenue )  
Vermilion, OH 44089 )

and )

SERGEANT JEFFREY CHANDLER )  
c/o CITY OF VERMILION POLICE )  
DEPARTMENT )  
5791 Liberty Avenue )  
Vermilion, OH 44089 )

and )

CORPORAL RICK RIGGS )  
c/o CITY OF VERMILION POLICE )  
DEPARTMENT )  
5791 Liberty Avenue )  
Vermilion, OH 44089 )

and )

ROBERT A. KISH, CHIEF OF POLICE )  
 c/o CITY OF VERMILION POLICE )  
 DEPARTMENT )  
 5791 Liberty Avenue )  
 Vermilion, OH 44089 )  
 )  
 and )  
 )  
 ERIE COUNTY COMMISSIONERS )  
 2900 Columbus Avenue )  
 Sandusky, OH 44870-5554 )  
 )  
 )  
 Defendants. )

***I. JURISDICTION AND VENUE***

1. Plaintiffs bring this civil rights lawsuit pursuant to 42 U.S.C. §1983 to redress the deprivation, by the Defendants under color of state law, of rights secured to them under the First, Fourth and Fourteenth Amendments to the United States Constitution and Part I, Section 4 of the Constitution of the State of Ohio.

2. Jurisdiction is conferred upon this Court by 28 U.S.C. §1343(3) and §1343(4), which provide for original jurisdiction in this Court of all suits pursuant to 42 U.S.C. §1983. Jurisdiction is also conferred on this Court by 28 U.S.C. §1331(8) because the cause of action arises under the Constitution and laws of the United States.

3. Venue properly lies in the Northern District of Ohio pursuant to 28 U.S.C §1391 and §1392, in that all of the parties reside in this federal district and all events alleged herein occurred in this federal district.

## **II. PARTIES**

4. Plaintiffs Paul Walsh and Linda Walsh are married and are the parents of Plaintiffs Rebekah Walsh, Isaac Walsh, Charity Walsh, Grace Walsh, Naomi Walsh, and Paul N. Walsh, all minors. The Walshes are United States citizens and reside in the City of Vermilion, Ohio.

5. Defendants NyCola Darnold and Lana Brown are employees of Erie County Department of Job and Family Services, and at all times relevant to this action acted in its behalf and in the course and scope of their employment.

6. Defendant Erie County Department of Job and Family Services ("Family Services") is the agency which promulgated the policies, plans and procedures pursuant to which Defendants Darnold and Brown committed the acts complained of herein, and is located in Sandusky, Ohio.

7. Defendants Robert A. Kish, Jeffrey Chandler and Rick Riggs are police officers employed by the City of Vermilion Police Department and at all times relevant to this action acted on its behalf in the course and scope of their employment.

8. Defendant Robert A. Kish is the Chief of Police of the City of Vermilion Police Department ("Police Department") who, both personally and by promulgation of policies, plans and procedures, authorized and approved the acts of Defendants Chandler and Riggs complained of herein.

9. Erie County Department of Job and Family Services is an agency created, authorized and empowered by the Defendant Erie County Commissioners, a political subdivision

doing business in Erie County, which has expressly or implicitly authorized and approved the policies, plans and procedures pursuant to which such agency and its employees committed the acts complained of herein.

### ***III. FACTS***

10. On February 21, 2001, Defendants Darnold and Brown went to the Plaintiffs' residence at 1106 State Street, Vermilion, Ohio, in response to an anonymous complaint concerning the family's living conditions. Defendants Darnold and Brown were also accompanied by a county health inspector.

11. When Mrs. Walsh answered the door, Defendant Darnold advised her that the purpose of their visit was to investigate an anonymous complaint and requested permission to enter the home to conduct a general inspection of the condition of the home and of the children.

12. Upon determining that Defendants Darnold and Brown did not possess a search warrant, Mrs. Walsh denied their request to enter the home. Defendant Darnold responded that agency policy required them to gain access to the home, conduct an inspection and complete a report, and that she and Defendant Brown might be otherwise subject to disciplinary action. Mrs. Walsh responded that she would call her husband at work and returned inside the home.

13. Mrs. Walsh paged her husband, and when Mr. Walsh called, she had him speak with Defendant Darnold outside on a cordless phone. Ms. Darnold again repeated her request to enter the home and Mr. Walsh declined permission in the absence of a warrant. He then immediately left work to go home.

14. When Mr. Walsh arrived at the residence, Defendants Chandler and Riggs were also present. Defendant Darnold advised Mr. Walsh that if he did not consent to an entry and

inspection, she would have the officers arrest him and Mrs. Walsh, and that she would declare an emergency and remove the children to foster care.

15. Upon further inquiry from Mr. Walsh, Defendants confirmed that although they did not have a warrant, their agency policy compelled them to obtain entry and perform an inspection, regardless of the true merits of the complaint. Both Defendant Darnold and Defendant Chandler advised the Walshes to the effect that, "You are making a big deal out of nothing," "Everything is probably okay, but we have to get inside and look around to make sure the kids are safe," and "We have to complete a report to do our job."

16. Defendant Chandler advised Mr. Walsh to the effect that, "If you make us go to the trouble of getting a warrant, I guarantee I will take you to jail if we find any problems inside."

17. During the course of these discussions, Mrs. Walsh brought each of the children to the door to allow them to be viewed by the Defendants Darnold and Chandler. These Defendants concurred that the children appeared healthy and well-treated, but persisted in their requests to gain entry.

18. Mr. Walsh refused Defendants' requests, in the absence of a warrant, and went inside and closed the door. Thereafter, all Defendants left the scene.

19. Approximately 30 minutes later, Mr. and Mrs. Walsh and their children got into their van to leave for a previously scheduled appointment.

20. As the Walshes were beginning to leave, Defendant Darnold, who had apparently returned and was observing the premises, pulled her vehicle into the Walshes' driveway and blocked their path. When approached by Mr. Walsh, Defendant Darnold advised the Walshes that

they would not be permitted to leave because the Police Department was seeking a warrant. She also summoned the police officers, who returned to the scene.

21. At the request of Defendant Darnold, Defendant Chandler advised Mr. Walsh that he was being placed under arrest for obstruction of official business. He placed Mr. Walsh spread-eagle against Defendant Darnold's car and began frisking him.

22. At approximately this time, Defendant Kish arrived on the scene. Defendant Kish advised Mr. Walsh that he could avoid being incarcerated if he cooperated and permitted Defendants to enter the home.

23. Mr. Walsh then permitted Defendants Darnold, Brown, Chandler and the county health inspector to inspect the home. Defendants conducted a general search, looking for and questioning Mr. Walsh about sleeping arrangements, bedding, clothes, food, chemical and tool hazards, electrical hazards, fire hazards, educational and other intellectual stimuli including books, games and television, and the general cleanliness of the home. Against Mr. Walsh's request, Defendants also photographed the premises.

24. Although Defendants recommended certain precautions or improvements, Defendants concurred that there existed no conditions which posed any imminent hazard to the Walsh children.

25. Before leaving, Defendant Darnold instructed Mr. and Mrs. Walsh to complete the recommended changes, and that the social services workers would return for a further inspection to verify such changes.

26. All acts and practices of the defendants complained of herein were done under color of state law.

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

##### ***First Cause of Action***

27. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 25 above and allege further:

28. The warrantless entry and search of Plaintiffs' home by Defendants Darnold and Brown, as assisted by Defendants Chandler, Riggs and Kish, without a search warrant or other court order, without free and voluntary consent, and without evidence of exigent circumstances, was a violation of the Plaintiffs' rights under the United States Constitution and Ohio Constitution to be secure in their persons and home against unreasonable searches and seizures.

29. The scope and intrusiveness of Defendants' search exceeded the standards of reasonableness prescribed by the Fourth and Fourteenth Amendments of the United States Constitution.

30. The detention of Plaintiffs, by blocking their vehicle and prohibiting their departure without a search warrant, free and voluntary consent, probable cause or exigent circumstances, was a violation of Plaintiffs' constitutional rights to be secure in their persons and homes against unreasonable searches and seizures.

31. The arrest and frisking of Mr. Walsh without a search warrant, free and voluntary consent, probable cause or exigent circumstances, was a violation of Plaintiffs' constitutional rights to be secure in their persons and homes against unreasonable searches and seizures.

32. Defendants Darnold, Brown, Chandler, Riggs, and Kish violated clearly established statutory or constitutional rights which a reasonable person in their positions should have known.

33. Defendants' illegal searches and seizures were part of a custom, policy or practice of Defendants Erie County Commissioners, Erie County Department of Job and Family Services, and City of Vermilion Police Department, and Plaintiffs are entitled to declaratory relief that such policies and practices are unconstitutional and must cease.

***Second Cause of Action***

34. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 32 above and allege further:

35. Erie County Commissioners, the Erie County Department of Job and Family Services, the Vermilion Police Department, and Defendant Kish failed to provide proper training for their agents in the field, thereby resulting in the violation of Plaintiffs' constitutional rights as described herein.

36. Erie County Commissioners, the Erie County Department of Job & Family Services, the Vermilion Police Department, and Defendant Kish failed to promulgate policies, plans and procedures designed to protect the civil rights of families accused of child abuse, thereby resulting in violations of the Plaintiffs' constitutional rights as described herein.

37. Erie County Commissioners, the Erie County Department of Job & Family Services, the Vermilion Police Department, and Defendant Kish failed to provide accurate legal counsel to their agents in the field, thereby resulting in violation of Plaintiffs' constitutional rights as described herein.

***Third Cause of Action***

38. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 36 above and allege further:

39. Upon information and belief, Defendants Darnold, Brown, Chandler, Riggs and Kish acted pursuant to official policies, plans and training of their respective agencies when they advised Plaintiffs that they did not need a warrant for a non-consensual entry into the home, and that they were authorized to arrest Plaintiffs, to declare an emergency and to remove the children from the home, where there was neither any probable cause nor any exigent circumstances to support such a claim.

40. Upon information and belief, Defendants Darnold, Brown, Chandler, Riggs and Kish acted pursuant to official policies, plans and training of their respective agencies when they threatened to arrest the Plaintiffs and remove their children if they did not permit the warrantless entry by Defendants, when there was neither any probable cause nor any exigent circumstances to justify such action.

41. Upon information and belief, Defendants Commissioners, Family Services, Vermilion Police, and Defendant Kish when they blocked the Plaintiffs' vehicle, detaining Plaintiffs and preventing their free and voluntary departure, and when they arrested Mr. Walsh, without probable cause or exigent circumstances to justify such action.

42. Upon information and belief, Defendants Commissioners, Family Services, Vermilion Police, and Defendant Kish authorized and approved of conduct which manifests a deliberate indifference to the constitutional rights of families accused of child abuse or neglect,

and in particular, the rights of plaintiffs to be free from warrantless searches and seizures which violate the United States Constitution and the Ohio Constitution.

43. Upon information and belief, Defendants Erie County Department of Job and Family Services promulgated the policies and plans which manifest a deliberate indifference to the constitutional rights of families accused of child abuse or neglect, and in particular, the rights of plaintiffs to be free from warrantless searches and seizures which violate the United States Constitution and Ohio Constitution.

#### ***V. PENDENT CLAIMS***

##### ***Fourth Cause of Action***

44. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 42 above and allege further:

45. By blocking Plaintiffs' driveway with her vehicle and preventing their freedom of movement, without benefit of a warrant, probable cause or exigent circumstances, Defendant NyCola Darnold falsely arrested Plaintiffs, as their detention and seizure was an unlawful and total detention and/or restraint upon Plaintiffs' freedom.

46. By detaining Plaintiffs and physically arresting Mr. Walsh, Defendants Chandler, Riggs and Kish falsely arrested Plaintiffs, as their detention and seizure was an unlawful and total detention and/or restraint upon Plaintiffs' freedom.

47. Defendants Family Services, Commissioners, and Vermilion Police Department are vicariously liable for the acts of the individual defendants in falsely arresting Plaintiffs.

***Fifth Cause of Action***

48. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 46 above and allege further:

49. Defendants Darnold, Brown, Riggs and Chandler have committed against Plaintiffs the tort of assault, by intentionally and knowingly put Plaintiffs in apprehension of an imminent battery.

50. Defendants Family Services, Commissioners, and Vermilion Police Department are vicariously liable for the acts of the individual defendants in assaulting Plaintiffs.

***Sixth Cause of Action***

51. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 49 above and allege further:

52. Defendants committed against Plaintiff Paul Walsh the tort of battery, as his arrest and frisking was unwanted and unlawful touching without his consent.

53. Defendants Family Services, Commissioners, and Vermilion Police Department are vicariously liable for the acts of the individual defendants in committing battery upon Mr. Walsh.

***Seventh Cause of Action***

54. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 52 above and allege further:

55. The Defendants actions were intentional and outrageous, causing Plaintiffs to suffer intentional infliction of emotional distress.

***Eighth Cause of Action***

56. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 54 above and allege further:

57. Each of the foregoing Defendants entered into a conspiracy with one another, as defined by both state and federal law, for the purpose of violating Plaintiffs' state and federal constitutional, statutory and common law rights as described herein.

58. In so conspiring, the Defendants collectively and/or individually committed numerous overt acts in the course and furtherance of the conspiracy, as will be established more fully at trial.

***VI. DAMAGES***

***Ninth Cause of Action***

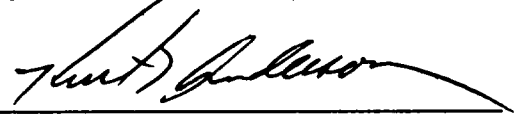
59. Plaintiffs incorporate as if fully rewritten herein the allegations of Paragraphs 1 and 57 above and allege further:

60. Plaintiffs allege that as a result of the violation of their civil rights under 42 U.S.C. §1983 and violations under Ohio law as described above, they have suffered and will continue to suffer for an as yet undetermined length of time the following; monetary loss, physical suffering, mental suffering, embarrassment, humiliation, loss of enjoyment of life and loss of parental, filial and spousal consortium and support.

WHEREFORE, Plaintiffs respectfully pray that this court:

- a. Issue a declaratory judgment that the policy of the Defendants described in paragraphs 10 through 40 herein are violations of Plaintiffs' civil rights protected by the Fourth and Fourteenth Amendments and should be permanently enjoined;

- b. Award compensatory damages in favor of each of the individual plaintiffs, including the minor children, in the amount of \$100,000.00;
- c. Award punitive damages against each of the individual Defendants in the amount of \$250,000.00 for the willful and wanton disregard of the rights of Plaintiffs, and \$500,000.00 damages against each of the agency defendants, Erie County Commissioners, Erie County Department of Job & Family Services, and City of Vermilion Police Department;
- d. Award Plaintiffs' costs and attorney's fees pursuant to 42 U.S.C. §1988;
- e. Grant the Plaintiffs such other relief as may be necessary and proper;
- f. Grant the Plaintiffs a trial by jury when the issues are joined.



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**JURY TRIAL**

Plaintiffs hereby demand trial of all issues by a jury comprised of the maximum number of jurors permitted by law.



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