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Attorney for Plaintiffs

FIRST CIRCUIT COURT
STATE OF HAWAII
FILED

2018 JUN 12 PM 1:56

N. ANAYA
CLERK

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

TINA MARIE KASTEN, as Personal)	Civil No. <u>18-1-0926-06</u>	BIA
Representative of the ESTATE OF)	(Other Non-Vehicle Tort)	
SHAELYNN ALOHALANI HALEAKA)		
LEHANO-STONE, deceased, and as Guardian)	COMPLAINT; DEMAND FOR JURY	
Prochein Ami for K.L.-S. and S.L.-S., minors,)	TRIAL; SUMMONS	
)		
Plaintiffs,)		
)		
vs.)		
)		
STATE OF HAWAII, KEVIN LEHANO,)		
TIFFANY STONE, HENRIETTA STONE)		
and JOHN DOES 1-10,)		
)		
Defendants.)		
)		

COMPLAINT

Comes now Plaintiff Tina Marie Kasten as Personal Representative of the Estate of Shaelynn Alohalani Haleaka Lehano-Stone, deceased, and as Guardian Prochein Ami for K.L.-S.

I do hereby certify that this is a full, true, and correct copy of the original on file in this office.


Clerk, Circuit Court, First Circuit

and S.L.-S., minors, by and through her attorneys, Rosenberg McKay Hoffman and Robert P. Marx, and for a Complaint against the above-named Defendants alleges and avers as follows:

1. Plaintiff Tina Marie Kasten (hereinafter "Plaintiff Kasten") is and at all time relevant was a resident of St. Lucie County, in the State of Florida. Plaintiff Kasten has petitioned the Third Circuit Court for (a) an order appointing her as the Personal Representative of the Estate of Shaelynn Alohalani Haleaka Lehano-Stone, deceased, (hereinafter "Shaelynn"), and (b) an order appointing her the Guardian Prochein Ami for minor children K.L.-S. and S.L.-S., who are siblings of Shaelynn (hereinafter "the Siblings"). Plaintiff Kasten brings claims on behalf of Shaelynn and the Siblings herein for the wrongful death of Shaelynn, pursuant to Hawaii Revised Statutes §663-3.

2. Defendant State of Hawaii is the governing sovereign which has consented to be sued for the torts of its employees, while acting within the scope of their employment, including but not limited to employees of State agencies like the Department of Human Services ("DHS"), Child Protective Services ("CPS"), Child Welfare Services ("CWS") and Department of Education ("DOE"). Defendant State of Hawaii is liable for the tortious conduct of its employees under the doctrines of respondeat superior, master servant, vicarious liability and ostensible agency, as well as Hawaii Revised Statutes §662-2.

3. Defendant Kevin Lehano, is and at all times relevant was a resident of the County of Hawaii, State of Hawaii and is the natural father of Shaelynn and the Siblings. At all times relevant, Defendant Kevin Lehano had custody of Shaelynn and the Siblings and a legal obligation to provide parental care for them, including but not limited to shelter, food and sustenance, medical care, a safe home and reasonable supervision.

4. Defendant Tiffany Stone, is and at all times relevant was a resident of the County of Hawaii, State of Hawaii and is the natural mother of Shaelynn and the Siblings. At all times relevant, Defendant Tiffany Stone had custody of Shaelynn and the Siblings and a legal obligation to provide parental care for them, including but not limited to shelter, food and sustenance, medical care, a safe home and reasonable supervision.

5. Defendant Henrietta Stone is and at all times relevant was a resident of the County of Hawaii, State of Hawaii and the maternal grandmother of Shaelynn and the Siblings. Upon information and belief, Defendant Henrietta Stone was a member of the Lehano and Stone household and/or lived in the same apartment building and voluntarily assumed a duty of parental care and custody and/or a duty to provide home schooling and supervision to Shaelynn and the Siblings, which included an obligation to provide shelter, food and sustenance, medical care, a safe home and reasonable supervision.

6. Defendants JOHN DOES 1-10 (hereinafter referred to as "DOE Defendants") are persons, corporations, partnerships, business entities, non-profit entities, and/or governmental entities who acted in a negligent, wrongful or tortious manner which proximately caused or contributed to injuries and damages sustained by Plaintiff. Plaintiff has been unable to ascertain the names and identities of the above-named DOE Defendants from the investigation that has been conducted to date. Accordingly, Plaintiff has sued the unidentified DOE Defendants herein with fictitious names pursuant to Rule 17 (d) of the Hawaii Rules of Civil Procedure, and Plaintiff will substitute the true names, identities, capacities, acts and/or responsibilities of the DOE Defendants when the same are ascertained.

7. Shaelynn was born to Defendants Kevin Lehano and Tiffany Stone on September 5, 2006. Shaelynn was developmentally disabled from birth. Upon information and

belief, Shaelynn was first removed from her home within a year of her birth, along with K.L.-S., by employees of the CWS and/or DHS in 2007 due to allegations of violence in the home.

8. Upon information and belief, Shaelynn and the Siblings were removed from the home and placed in emergency and/or foster care on multiple occasions. On at least one or more of those occasions, Shaelynn was removed because she had lost weight and was clearly suffering from severe malnutrition. Her weight during this time period was that of a very small child and not appropriate for her age and size.

9. Upon information and belief, in approximately 2014 or 2015, Shaelynn was placed in foster care by CWS and/or DHS with Defendant Henrietta Stone, even though Defendant Henrietta Stone lived in the same building as Defendants Tiffany Stone and Kevin Lehano. Additional reports of abuse and neglect were received by CWS and/or DHS while Shaelynn was in the care of Henrietta Stone. However, CWS and DHS took no further action with respect to Shaelynn.

10. Shortly after assuming custody of Shaelynn, Defendant Henrietta Stone filed a request with the DOE to home school Shaelynn, which was approved by DOE. Upon information and belief, neither CWS nor DHS were notified by DOE that Shaelynn had switched from a public elementary school to home school.

11. On June 28, 2016, 9-year-old Shaelynn was discovered in her home, unconscious and near death. She was transported by ambulance to the hospital where she died a few hours later. Her cause of death was listed as malnutrition. She had acute pneumonia and pyelonephritis (kidney infection). The death certificate noted, "She was denied food by her caregivers."

12. Defendants Kevin Lehano, Tiffany Stone, and Henrietta Stone were subsequently arrested by law enforcement officers, charged with second degree murder, and incarcerated

pending trial on the criminal charges. The Siblings were removed from the home and placed in foster care.

13. Defendants Kevin Lehano, Tiffany Stone, and Henrietta Stone maliciously, intentionally, recklessly, and/or negligently caused the death of Shaelynn. Defendants breached their parental duties, failing to provide Shaelynn and the Siblings with food and sustenance, medical care, and a safe home.

14. Defendant State of Hawaii, through its employees, including but not limited to employees of CWS, DHS, CPS and DOE, had a duty to Shaelynn and the Siblings derived from the Hawaii Child Protective Act as amended. Said duty required Defendant to protect Shaelynn and the Siblings from abuse and neglect and to exercise ordinary and/or reasonable care in the placement of Shaelynn and the Siblings in foster care and/or return to the custody of Defendants Kevin Lehano, Tiffany Stone, and Henrietta Stone.

15. Defendant State of Hawaii and its employees breach their duty to Shaelynn and the Siblings and were, thus, negligent in failing to protect Shaelynn and the Siblings from abuse and neglect, and such negligence was a substantial factor causing the death of Shaelynn and severe pain and suffering and emotional distress to the Siblings.

16. As a direct and proximate result of the negligence of Defendant State of Hawaii and the intentional, reckless, grossly negligent and negligent conduct of Defendants Kevin Lehano, Tiffany Stone, and Henrietta Stone, Shaelynn sustained severe injuries and damages leading to her untimely and wrongful death and Shaelynn's Estate and the Siblings have claims, both independent and derivative, and are thus entitled, pursuant to Hawaii Revised Statutes §663-3, to compensation for funeral and burial expenses; past and future medical expenses; future lost wages and other out-of-pocket expenses; conscious pain and suffering; severe emotional distress and mental anguish;

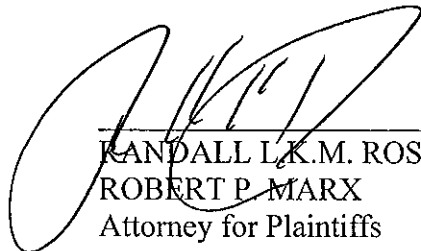
the loss of future enjoyment of life; the loss of society, companionship, comfort, consortium and/or protection; the loss of filial care or attention; and other special, general, and punitive damages allowed by law.

WHEREFORE, Plaintiff Tina Marie Kasten as Personal Representative of the Estate of Shaelynn Alohalani Haleaka Lehano-Stone, deceased, and as Guardian Prochein Ami for K.L.-S. and S.L.-S., minors, prays for relief against the above-named Defendants, jointly and severally, as follows:

- a. For general, special and punitive damages in amounts that will be proven at trial,
- b. For costs and attorney's fees,
- c. For prejudgment and post-judgment interest, and,
- d. For such other relief deemed just and appropriate under the circumstances.

JUN 12 2018

DATED: Honolulu, Hawaii, _____.



RANDALL L.K.M. ROSENBERG
ROBERT P. MARX
Attorney for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

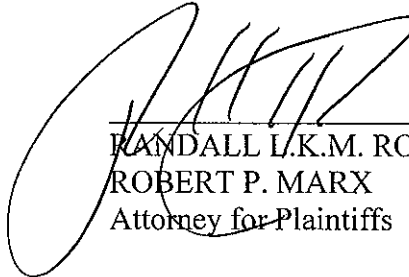
STATE OF HAWAII

TINA MARIE KASTEN, as Personal) Civil No. 18-1-0926-06 BIA
Representative of the ESTATE OF) (Other Non-Vehicle Tort)
SHAELYNN ALOHALANI HALEAKA)
LEHANO-STONE, deceased, and as Guardian) DEMAND FOR JURY TRIAL
Prochein Ami for K.L.-S. and S.L.-S., minors,)
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STATE OF HAWAII, KEVIN LEHANO,)
TIFFANY STONE, HENRIETTA STONE)
and JOHN DOES 1-10,)
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Defendants.)
)
_____)

DEMAND FOR JURY TRIAL

Plaintiffs hereby demand a trial by jury on all issues presented by the Complaint so triable.

DATED: Honolulu, Hawaii, JUN 12 2018.



RANDALL L.K.M. ROSENBERG
ROBERT P. MARX
Attorney for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

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SUMMONS

STATE OF HAWAII

To the above-named Defendants:

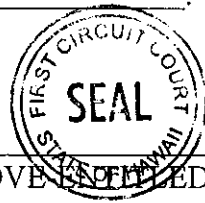
You are hereby summoned and required to file with the court and to serve upon ROSENBERG MCKAY HOFFMAN, Plaintiff's attorneys, whose address is 737 Bishop Street 2350 Mauka Tower, Pacific Guardian Center, Honolulu, Hawaii 96813, an answer to the Complaint, which is herewith served upon you, within twenty (20) days after service of this Summons upon you, exclusive of the day of service. If you fail to do so, judgment by default will be taken against you for the relief demanded in the Complaint.

This summons shall not be personally delivered between 10:00 p.m. and 6:00 a.m. on premises not open to the general public, unless a judge of the above-entitled court permits, in writing on this summons, personal delivery during those hours.

A failure to obey this summons may result in an entry of default and default judgment against the disobeying person or party.

DATED: Honolulu, Hawaii, JUN 12 2018

N. ANAYA



CLERK OF THE ABOVE CAPTIONED COURT