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IN THE SUPERIOR COURT OF THE STATE OF WASHINGTON  
IN AND FOR THE COUNTY OF THURSTON

MARIA FERNANDEZ, MARIA SOLEDAD  
CHAVEZ, BERTHA MENDOZA, as individuals  
and on behalf of all other similarly situated persons,  
and,

PRISCILA ERAZO, SILVIA GONZALEZ, OLGA  
MERCADO, CARMELA RAMIREZ,  
ROSALINDA RAMIREZ, and ROSA MARIA  
REYEZ, as individuals,

Plaintiffs,

v.

DEPARTMENT OF SOCIAL AND HEALTH  
SERVICES, ROBIN ARNOLD-WILLIAMS in  
her official capacity, KENNITH HARDEN, and  
JOHN BUMFORD in their official and  
individual capacity, and ROBIN CLAWSON,  
MICHAEL COYNE, JAMES DITZEL,  
ISRAEL VARGAS, DICK HOEZEE, KRIS  
BONESS, DON SMITH, JUDY ESSER,  
RANDALL BLACKBURN, STEVE JENSEN,  
DAVID MATNEY, JANE DOES 1-5, JOHN  
DOES 1-5 in their individual capacities,  
GRANT COUNTY, WASHINGTON and  
TOWN OF MATTAWA, WASHINGTON,

Defendants.

CLASS ACTION

No.

COMPLAINT FOR DAMAGES  
AND CLASS ACTION FOR  
DECLARATORY AND  
INJUNCTIVE RELIEF

**PRELIMINARY STATEMENT**

1. This is a national origin discrimination and civil rights action brought by nine  
Latina licensed family home child care providers from Mattawa, Washington. The suit has two  
components: 1) a class action for declaratory and injunctive relief to prevent DSHS from

COMPLAINT FOR DAMAGES  
AND CLASS ACTION FOR DECLARATORY  
AND INJUNCTIVE RELIEF - 1

COLUMBIA LEGAL SERVICES  
Central Regional Office  
200 Palouse St., Ste 201  
Wenatchee, WA 98801  
(509) 662-9681 / (509) 662-9684 (fax)

1 systematically violating the constitutional rights of all child care providers in Washington state;  
2 and, 2) individual damage actions. The named plaintiffs are limited English proficient (LEP)  
3 who speak Spanish as their primary language.

4         2.         In June, 2001 the white Mayor of Mattawa requested DSHS to investigate child  
5 care providers in Mattawa, claiming they were illegally billing DSHS for “phantom children.”  
6 The Mayor and members of the all white Mattawa Police Department urged DSHS’s  
7 investigative arm, the Division of Fraud Investigation (“DFI”), to target Latina providers. DFI  
8 immediately decided this was a serious criminal case that would involve the possibility of search  
9 warrants. After months of initial investigation, DFI concluded there was “no evidence” to  
10 support the Mayor’s claim. Despite this conclusion, DFI expanded the scope of the investigation  
11 and launched surprise raids on approximately 50 family child care homes in Mattawa on May 7  
12 & 8, 2002, including the homes of the plaintiffs.

13         3.         DFI demanded immediate production of years of original business records and  
14 illegally seized and removed boxes full of documents without ever obtaining a warrant. DFI  
15 agents used a generic subpoena, written only in English, that was never translated, and which  
16 explicitly violated DFI’s policy of allowing businesses 14 days to produce records. Furthermore,  
17 DFI agents purposefully mislead the plaintiffs telling them the subpoena was a court order,  
18 knowing full well the subpoena had never been reviewed or signed by a judge. DFI further  
19 intimidated the plaintiffs by inviting Immigration and Customs Enforcement (“ICE”, formerly  
20 INS) agents who conducted simultaneous immigration interrogations of the plaintiffs and their  
21 family members.

22         4.         Putative class plaintiffs seek declaratory and injunctive relief to enjoin DSHS  
23 from future conduct that discriminates on the basis of race or national origin and violates the

1 constitutional rights of child care providers. The individual plaintiffs seek damages to redress  
2 these abuses of State power.

3 **JURISDICTION AND VENUE**

4 5. This action arises under Article 1, §7 of the Washington State Constitution, the  
5 Washington Law Against Discrimination, RCW 49.60.030, 42 U.S.C. §1983, and 42 U.S.C.  
6 §1985.

7 6. Proper venue for this action is in Thurston County, pursuant to RCW  
8 34.05.570(2)(b)(i) (petition for declaratory action regarding validity of agency rule filed in  
9 Thurston County), RCW 4.92.010(5) (venue for action against the State is Thurston County),  
10 RCW 4.12.020(3) (personal damages action with multiple defendants may be filed where one of  
11 the defendants resides).

12 **PARTIES**

13 7. Plaintiff Maria Soledad Chavez is a resident of Mattawa located in Grant  
14 County, Washington.

15 8. Plaintiff Priscila Erazo is a resident of Mattawa located in Grant County,  
16 Washington.

17 9. Plaintiff Maria Fernandez is a resident of Mattawa located in Grant County,  
18 Washington.

19 10. Plaintiff Sylvia Gonzalez is a resident of Mattawa located in Grant County,  
20 Washington.

21 11. Plaintiff Bertha Mendoza is a resident of the Mattawa located in Grant  
22 County, Washington.

1           12.     Plaintiff Olga Mercado is a resident of Mattawa located in Grant County,  
2 Washington.

3           13.     Plaintiff Carmela Rarmirez is a resident of Mattawa located in Grant County,  
4 Washington.

5           14.     Plaintiff Rosalinda Ramirez is a resident of Mattawa located in Grant County,  
6 Washington.

7           15.     Plaintiff Rosa Maria Reyez is a resident of Mattawa located in Grant County,  
8 Washington.

9           16.     Defendant Department of Social and Health Services is a Washington state  
10 agency with its principal place of business located in Olympia, Washington.

11           17.     Defendant Robin Arnold-Williams is the Secretary of the Department of Social  
12 and Health Services and is sued in her official capacity.

13           18.     Defendant Kenneth Harden is an Assistant Director of the Department of Social  
14 and Health Services and is sued in his individual and official capacities.

15           19.     Defendant John Bumford is the Director of the Division of Fraud Investigations,  
16 Department of Social and Health Services, and is sued in his individual and official capacities.

17           20.     Defendant Robin Clawson is the Secretary's Designee and Operations  
18 Administrator, Department of Social and Health Services, and is sued in her individual capacity.

19           21.     Defendant Michael Coyne is employed by the Department of Social and Health  
20 Services and was the Manager of Region 1, Division of Fraud Investigations, and is sued in his  
21 individual capacity.  
22

1           22.     Defendant James Ditzel is a fraud investigator employed by the Department of  
2 Social and Health Services, Division of Fraud Investigations, and is sued in his individual  
3 capacity.

4           23.     Defendant Israel Vargas is a fraud investigator employed by the Department of  
5 Social and Health Services, Division of Fraud Investigations, and is sued in his individual  
6 capacity.

7           24.     Defendant Dick Hoezee is a fraud investigator employed by the Department of  
8 Social and Health Services, Division of Fraud Investigations, and is sued in his individual  
9 capacity.

10          25.     Defendant Kris Boness is a fraud investigator employed by the Department of  
11 Social and Health Services, Division of Fraud Investigations and is sued in his/her individual  
12 capacity.

13          26.     Defendant Don Smith is a fraud investigator employed by the Department of  
14 Social and Health Services, Division of Fraud Investigations, and is sued in his individual  
15 capacity.

16          27.     Defendant Town of Mattawa, Washington is a municipal corporation in Grant  
17 County, Washington.

18          28.     Defendant Judy Esser is the Mayor of the Town of Mattawa located in Grant  
19 County, Washington and is sued in her individual capacity.

20          29.     Defendant Randall Blackburn is Chief of Police for the Town of Mattawa located  
21 in Grant County, Washington and is sued in his individual capacity.  
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1 licensed family home child care provider homes without a warrant is a question of law and fact  
2 common to the plaintiff class.

3 40. Whether defendant DSHS is violating the constitutional rights of the plaintiff  
4 class by failing to specifically prohibit DFI investigators from converting a subpoena duces  
5 tecum into a warrant and demanding the immediate production and removal of original  
6 documents from licensed family home child care providers is a question of law and fact common  
7 to the plaintiff class.

8 41. Whether the defendant DSHS is violating the constitutional rights of the plaintiff  
9 class by failing to advise licensed family home child care providers of their right to counsel and  
10 an opportunity to quash or limit a subpoena duces tecum is a question of law and fact common to  
11 the plaintiff class.

12 42. Whether defendant DSHS is violating the constitutional rights of the plaintiff  
13 class by recruiting non-DSHS law enforcement persons to accompany DFI staff on criminal  
14 investigations involving searches and seizures without demonstrating probable cause to a neutral  
15 magistrate is a question of law and fact common to the plaintiff class.

16 43. Whether RCW 74.15.030, RCW 74.15.050, RCW 74.15.060, RCW 74.15.080,  
17 WAC 388-296-0450 and WAC 388-296-0520 violate Article 1, §7 of the Washington State  
18 Constitution and the Fourth and Fourteenth Amendments to the United States Constitution  
19 because they authorize entries into homes without restriction as to time, scope, place or manner  
20 is a question of law and fact common to the plaintiff class.

21 44. The claims of the representative plaintiffs are typical of the claims of the class  
22 they seek to represent.

1 45. Representative plaintiffs will fairly and adequately protect the interests of the  
2 class.

3 46. Representative plaintiffs are represented by experienced counsel who will  
4 vigorously prosecute the litigation on behalf of the class.

5 47. Defendant DSHS has acted or refused to act on grounds generally applicable to  
6 the class, thereby making declaratory and injunctive relief appropriate with respect to the class as  
7 a whole.

8 **B. PLAINTIFF SUBCLASS**

9 48. Representative plaintiffs Fernandez, Mendoza, and Chavez seek certification of a  
10 subclass of plaintiffs pursuant to Civil Rule 23 (a) and (b)(2).

11 49. Representative plaintiffs seek to represent a subclass defined as: All limited  
12 English proficient (LEP) persons currently licensed and all future LEP persons who will be  
13 licensed by the Department of Social and Health Services to provide family home child care.

14 50. The subclass is so numerous that joinder of all members is impracticable.

15 51. Representative plaintiffs estimate and allege that hundreds of LEP persons  
16 provide licensed family home child care in Washington state.

17 52. There are questions of law or fact common to members of the subclass.

18 53. Whether the defendant DSHS is discriminating against the plaintiff subclass on  
19 the basis of race or national origin by refusing to translate legal documents like a subpoena duces  
20 tecum into the primary language of LEP, licensed family child care providers is a question of law  
21 and fact common to the plaintiff class.  
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1           63.     On or before June 6, 2001, defendant Esser reported to DSHS that Latina child  
2 care providers in Mattawa were billing DSHS for phantom children.

3           64.     On or before June 6, 2001, defendant Esser reported to DSHS that Latina child  
4 care providers in Mattawa were involved in dealing illegal drugs.

5           65.     On June 6, 2001, defendant Coyne wrote an e-mail instructing defendants Ditzel  
6 and Vargas to “approach this as a serious criminal case.” Defendant Bumford received the same  
7 e-mail.

8           66.     On June 6, 2001, defendant Coyne wrote an e-mail advising defendants Ditzel and  
9 Vargas that he had told defendant Esser there “was the possibility of search warrants done in  
10 Mattawa and this would cause quite a [sic] impact on this small community.” Defendant  
11 Bumford received the same e-mail.

12           67.     On or about June 19, 2001, defendants Esser, Blackburn, Jensen, Ditzel, and  
13 Vargas met in Mattawa to discuss and plan the investigation of Mattawa family home child care  
14 providers.

15           68.     On July 26, 2001, defendants Bumford, Coyne, Vargas, and Ditzel met in  
16 Spokane to discuss and plan the investigation of Mattawa family home child care providers.

17           69.     On July 26, 2001, defendant Bumford decided DSHS could not investigate all  
18 Mattawa child care providers and needed to limit the investigation to three providers.

19           70.     After the July 26, 2001 meeting, defendants Vargas and Ditzel returned to  
20 Mattawa to meet with defendants Esser, Blackburn, and Jensen to obtain guidance on which  
21 three Mattawa child care providers to target.  
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1           71. Defendants Esser, Blackburn, and Jensen suggested the names of three Latina  
2 child care providers to defendants Vargas and Ditzel because they “seemed to have large  
3 incomes.”

4           72. As a result of information received from defendants Esser, Blackburn, and Jensen,  
5 defendants Bumford and Coyne authorized an investigation targeting three Latina child care  
6 providers.

7           73. In February, 2002, a DFI report authored by defendant Ditzel concluded that  
8 “there was no evidence” that child care providers from Mattawa billed DSHS for phantom  
9 children.

10           74. On or about February 7, 2002, defendants Bumford, Clawson, and Ditzel met and  
11 defendant Bumford authorized the investigation of the remaining child care providers in  
12 Mattawa.

13           75. Despite the fact that DFI eliminated the phantom children allegation, defendants  
14 Harden, Bumford, and Clawson decided to initiate a sweeping fraud investigation of every  
15 family home child care provider in Mattawa, almost all of whom were known by these  
16 defendants to be LEP Latinas.

17           76. Defendants Harden, Bumford, Clawson, and Ditzel decided to expand this  
18 investigation in part because of the defendants’ stereotypic and false racial and national origin  
19 beliefs about Latinas.

20           77. Defendants Harden and Bumford authorized DFI agents to investigate the  
21 immigration status of Mattawa home child care providers, even though immigration status was  
22 not a licensing requirement under Washington’s family home child care program regulations.  
23

1           78. Defendants Bumford and Clawson authorized DFI investigators to collaborate  
2 with the ICE in order to determine the immigration status of Mattawa family home child care  
3 providers.

4           79. On March 15, 2002, defendant Harden granted defendant Bumford authorization  
5 to have ICE agents accompany DFI investigators into the homes of Mattawa family home child  
6 care providers.

7           80. As a result of the actions taken in paragraphs 74-79, defendants Harden,  
8 Bumford, Coyne, Clawson, Vargas, Ditzel, Town of Mattawa, Esser, Blackburn and Jensen  
9 continued the investigation of Latina child care providers begun the previous summer, and  
10 during that investigation continued to violate plaintiffs' rights under Article I §7 of the  
11 Washington state Constitution the Fourth and Fourteenth Amendment of the U.S. Constitution.

12           81. On or before May 7, 2002, defendants Bumford and Clawson authorized DFI  
13 investigators to enter plaintiffs' homes, and to search and seize plaintiffs' original private  
14 business records without search warrants.

15           82. On or about May 7, 2002, defendant Clawson signed approximately 50 generic  
16 subpoenas duces tecum that demanded and compelled all Mattawa family home child care  
17 providers to immediately produce years of copies of business records.

18           83. On or about May 7, 2002, defendant Clawson signed the subpoenas compelling  
19 immediate production of years of documents despite DFI's written policy which normally  
20 provides a business two weeks to comply with a subpoena duces tecum.  
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1           84.     On or about May 7, 2002, at approximately 9:15 a.m. DFI agent defendants  
2 Ditzel, Vargas, Hoezee, Smith, and Boness met with INS staff and Mattawa police officers at the  
3 Mattawa City Hall.

4           85.     Directly after the May 7, 2002 meeting at Mattawa City Hall, DFI agents Ditzel,  
5 Vargas, Hoezee, Smith, and Boness divided into five separate teams, each with at least one INS  
6 agent, and seized original business records without a warrant from family home child care  
7 providers throughout Mattawa.

8           86.     On or about May 8, 2002, DFI agent defendants Ditzel, Vargas, Hoezee, and  
9 Smith returned to Mattawa and seized original business records without a warrant from family  
10 home child care providers throughout Mattawa.

11           87.     On or about May 8, 2002, DFI agent defendant Vargas spent approximately two  
12 hours at Mattawa City Hall before he seized original business records without a warrant from  
13 family home child care providers throughout Mattawa.

14           88.     The acts of defendants Harden, Bumford, Coyne, Clawson, Vargas, Ditzel,  
15 Hoezee, Smith, Boness, Town of Mattawa, Esser, Blackburn and Jensen were made with reckless  
16 or callous indifference for the rights of the individual plaintiffs.

17           89.     The investigation targeted Latina day care providers, including the plaintiffs, and  
18 systematically, intentionally and foreseeably denied the plaintiffs equal protection of the laws  
19 and violated their rights under Article I §7 of the Washington state Constitution and the Fourth  
20 and Fourteenth Amendments of the United States Constitution.

21           90.     The investigations the responsible defendants initiated were conducted under  
22 color of Washington State law, and particularly RCW 74.15, WAC 388-155-080 and -090, which  
23

1 on their face and as applied authorized searches that were unreasonable under Article I §7 of the  
2 Washington state Constitution and the Fourth Amendment to the United States Constitution.

3 91. Moreover, in these inspections the responsible defendants deliberately and  
4 systematically exceeded and abused the powers granted by these statutes and, particularly,  
5 searched and seized documents in a manner that was unreasonable and unauthorized by these  
6 statutes or any other valid Washington law or regulation.

7 **Individual Plaintiff Facts**

8 **Maria Soledad Chavez**

9 92. On or about May 8, 2002, defendants Vargas, Smith, and Hoezee entered the  
10 home of plaintiff Maria Soledad Chavez to search it without a warrant or lawful authority.

11 93. During this search, defendants Vargas, Smith, and Hoezee searched and seized  
12 documents belonging to Mrs. Chavez without a warrant or other lawful authority.

13 94. During this search, defendants Vargas, Smith, and Hoezee detained Mrs. Chavez  
14 and questioned her about her and her family's citizenship status.

15 95. As a result of this entry, search, and seizure, Mrs. Chavez was temporarily and  
16 permanently deprived of property, suffered a loss of liberty, a loss of privacy, trespass, racial  
17 discrimination, emotional distress, the loss of the ability to enjoy life and other injuries and  
18 damages.

19 **Priscila Erazo**

20 96. On or about May 7, 2002, two defendants who are not yet presently known to the  
21 plaintiffs entered the home of plaintiff Priscila Erazo to search it without a warrant or lawful  
22 authority.  
23

1           97.     During this search, the two unidentified defendants searched and seized  
2 documents belonging to Mrs. Erazo without a warrant or other lawful authority.

3           98.     During this search, the two unidentified defendants detained Mrs. Erazo and  
4 questioned her about her and her family's citizenship status.

5           99.     As a result of this entry, search, and seizure, Mrs. Erazo was temporarily and  
6 permanently deprived of property, incurred legal expenses, suffered a loss of liberty, a loss of  
7 privacy, trespass, racial discrimination, emotional distress, the loss of the ability to enjoy life and  
8 other injuries and damages.

9 **Maria Fernandez**

10          100.    On or about May 7, 2002, defendant Vargas and INS agent Todd Holton entered  
11 the home of plaintiff Maria Fernandez to search it without a warrant or lawful authority.

12          101.    During this search, defendant Vargas and INS agent Todd Holton searched and  
13 seized documents belonging to Mrs. Fernandez without a warrant or other lawful authority.

14          102.    During this search, defendant Vargas and INS agent Todd Holton detained Mrs.  
15 Fernandez and questioned her about her and her family's citizenship status.

16          103.    As a result of this entry, search, and seizure, Mrs. Fernandez was temporarily and  
17 permanently deprived of property, suffered a loss of liberty, a loss of privacy, trespass, racial  
18 discrimination, emotional distress, the loss of the ability to enjoy life and other injuries and  
19 damages.

1 **Silvia Gonzalez**

2 104. On or about May 7, 2002, two defendants who are not yet presently known to the  
3 plaintiffs entered the home of plaintiff Silvia Gonzalez to search it without a warrant or lawful  
4 authority.

5 105. During this search, the unidentified defendants searched and seized documents  
6 belonging to Mrs. Gonzalez without a warrant or other lawful authority.

7 106. During this search, the unidentified defendants detained Mrs. Gonzalez and  
8 questioned her about her and her family's citizenship status.

9 107. As a result of this entry, search, and seizure, Mrs. Gonzalez was temporarily and  
10 permanently deprived of property, suffered a loss of liberty, a loss of privacy, trespass, racial  
11 discrimination, emotional distress, the loss of the ability to enjoy life and other injuries and  
12 damages.

13 **Bertha Mendoza**

14 108. On or about May 7, 2002, defendants Vargas, Ditzel, and Hoezee entered the  
15 home of plaintiff Bertha Mendoza to search it without a warrant or lawful authority.

16 109. During this search, defendants Vargas, Ditzel, and Hoezee searched and seized  
17 documents belonging to Mrs. Mendoza without a warrant or other lawful authority.

18 110. During this search, defendants Vargas, Ditzel, and Hoezee detained Mrs.  
19 Mendoza and questioned her about her and her family's citizenship status.

20 111. On or about June 13, 2003 defendants Ditzel and Matney along with a person  
21 presently unknown to the plaintiffs entered the home of plaintiff Bertha Mendoza to search it  
22 without a warrant or lawful authority.  
23

1           112. During this search, defendants Ditzel, Matney, and a defendant presently  
2 unknown to plaintiffs searched and seized documents belonging to Mrs. Mendoza without a  
3 warrant or other lawful authority.

4           113. As a result of these entries, searches, and seizures, Mrs. Mendoza was temporarily  
5 and permanently deprived of property, suffered a loss of liberty, a loss of privacy, trespass, racial  
6 discrimination, emotional distress, the loss of the ability to enjoy life and other injuries and  
7 damages.

8 **Olga Mercado**

9           114. On or about May 7, 2002, defendant Vargas and a defendant not yet presently  
10 known to the plaintiffs entered the home of plaintiff Olga Mercado to search it without a warrant  
11 or lawful authority.

12           115. During this search, defendant Vargas and the unidentified defendant searched and  
13 seized documents belonging to Mrs. Mercado without a warrant or other lawful authority.

14           116. During this search, defendant Vargas and the unidentified defendant detained  
15 Mrs. Mercado and questioned her about her and her family's citizenship status.

16           117. As a result of this entry, search, and seizure, Mrs. Mercado was temporarily and  
17 permanently deprived of property, suffered a loss of liberty, a loss of privacy, trespass, racial  
18 discrimination, emotional distress, the loss of the ability to enjoy life and other injuries and  
19 damages.

1 **Carmela Ramirez**

2 118. On or about May 7, 2002, three defendants who are not yet presently known to  
3 the plaintiffs entered the home of plaintiff Carmela Ramirez to search it without a warrant or  
4 lawful authority.

5 119. During this search, the three unidentified defendants searched and seized docu-  
6 ments belonging to Mrs. Ramirez without a warrant or other lawful authority.

7 120. During this search, the three unidentified defendants detained Mrs. Ramirez and  
8 questioned her about her and her family's citizenship status.

9 121. As a result of this entry, search, and seizure, Mrs. Ramirez was temporarily and  
10 permanently deprived of property, suffered a loss of liberty, a loss of privacy, trespass, racial  
11 discrimination, emotional distress, the loss of the ability to enjoy life and other injuries and  
12 damages.

13 **Rosalinda Ramirez**

14 122. On or about May 8, 2002, defendants Vargas, Hoezee, and one unidentified  
15 defendant who is not yet presently known to the plaintiffs entered the home of plaintiff  
16 Rosalinda Ramirez to search it without a warrant or lawful authority.

17 123. During this search, defendants Vargas, Hoezee and the unidentified defendant  
18 searched and seized documents belonging to Mrs. Ramirez without a warrant or other lawful  
19 authority.

20 124. During this search, defendants Vargas, Hoezee and the unidentified defendant  
21 detained Mrs. Ramirez and questioned her about her and her family's citizenship status.  
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1           125. As a result of this entry, search, and seizure, Mrs. Ramirez was temporarily and  
2 permanently deprived of property, suffered a loss of liberty, a loss of privacy, trespass, racial  
3 discrimination, emotional distress, the loss of the ability to enjoy life and other injuries and  
4 damages.

5 **Rosa Maria Reyez**

6           126. On or about May 7, 2002, two defendants who are not yet presently known to the  
7 plaintiffs entered the home of plaintiff Rosa Maria Reyez to search it without a warrant or lawful  
8 authority.

9           127. During this search, the two unidentified defendants searched and seized docu-  
10 ments belonging to Mrs. Reyez without a warrant or other lawful authority.

11           128. During this search, the two unidentified defendants detained Mrs. Reyez and  
12 questioned her about her and her family's citizenship status.

13           129. As a result of this entry, search, and seizure, Mrs. Reyez was temporarily and  
14 permanently deprived of property, suffered a loss of liberty, a loss of privacy, trespass, racial  
15 discrimination, emotional distress, the loss of the ability to enjoy life and other injuries and  
16 damages.

17 **Class Action Facts**

18 **Plaintiff Class**

19           130. DSHS policies and practices violate the constitutional rights of the plaintiff class  
20 by allowing DFI investigators to demand immediate entry into homes of family child care  
21 providers without a warrant.  
22  
23

1           131. DSHS policies and practices violate the constitutional rights of the plaintiff class  
2 by allowing DFI investigators to immediately seize documents belonging to family child care  
3 providers without a warrant.

4           132. DSHS policies and practices violate the constitutional rights of the plaintiff class  
5 by allowing DFI investigator to recruit non-DSHS law enforcement persons to accompany DSHS  
6 staff on criminal investigations involving searches and seizures without demonstrating probable  
7 cause to a neutral magistrate.

8           133. DSHS policies and practices violate the constitutional rights of the plaintiff class  
9 because DSHS fails to advise licensed family child care providers of their right to counsel and an  
10 opportunity to quash or limit a subpoena duces tecum.

11           134. Defendant DSHS has refused to change its policies and practices in order to  
12 protect the constitutional rights of the plaintiff class.

13 **Plaintiff Subclass**

14           135. DSHS policies and practices discriminate against the plaintiff subclass on the  
15 basis of race or national origin because there is no requirement that DSHS translate crucial legal  
16 documents like a subpoena duces tecum into the primary language of licensed family child care  
17 providers.

18           136. DSHS policies and practices discriminate against the plaintiff subclass on the  
19 basis of race or national origin by targeting and questioning LEP family child care providers  
20 about their citizenship status.

21           137. Defendant DSHS has refused to change its policies and practices in order to  
22 protect the constitutional rights of the plaintiff subclass.  
23

1 **STATE ACTION**

2 138. Defendants named in their individual capacities took the actions described above  
3 under color of the laws of the State of Washington and as agents of the State of Washington,  
4 Grant County, or the Town of Mattawa.

5 139. In all the incidents described above defendants named in their individual  
6 capacities entered plaintiffs' homes under color of Washington state law, and particularly RCW  
7 74.15, WAC 388-155-080 and 090 (revised on October 1, 2004 to WAC 388-296-0450 and  
8 WAC 388-296-0520). On their faces and as applied by the defendants, these statues authorized  
9 entries into private homes that were unrestricted in time, scope, place, or manner, and thus  
10 violate the Fourth Amendment.

11 **MUNICIPAL LIABILITY**

12 140. Defendant Esser caused the violations of the plaintiffs' Fourth Amendment rights  
13 to occur and ratified them as the chief policymaking official of the Town of Mattawa. Those  
14 violations therefore resulted from and reflected the policies, customs, and usages of the Town of  
15 Mattawa.

16 141. The above described actions of the Grant County Sheriff's Deputies and  
17 employees were ratified by the Sheriff of Grant County, who is the County's chief law  
18 enforcement officer and policymaking official with regard to law enforcement matters. Those  
19 actions therefore reflect the policies, customs, and usages of Grant County.

20 **CAUSES OF ACTION**

21 142. RCW 74.15.030, RCW 74.15.050, RCW 74.15.060, RCW 74.15.080, WAC 388-  
22 296-0450 and WAC 388-296-0520 violate the Article 1, §7 of the Washington State Constitution  
23

1 because they authorize entries into homes without restriction as to time, scope, place or manner  
2 and this Court should so declare.

3 **Washington Law Against Discrimination - RCW 49.60.030**

4 143. The above described actions of defendants Harden, Bumford, Clawson, Coyne,  
5 Vargas, Ditzel, Hoezee, Boness, and Smith violated the individual plaintiffs' rights to be free  
6 from discrimination on the basis of race or national origin in their dealings with agencies of the  
7 State of Washington as declared by RCW 49.60.030.

8 144. The above described actions, policies, and practices of defendants DSHS, Arnold-  
9 Williams, and Bumford violated the plaintiff class' rights to be free from discrimination on the  
10 basis of race or national origin in their dealings with agencies of the State of Washington as  
11 declared by RCW 49.60.030.

12 **Civil Rights Violations– 42 U.S.C. § 1983**

13 145. The above described actions of the defendants Harden, Bumford, Clawson,  
14 Coyne, Vargas, Ditzel, Hoezee, Boness, Smith, Esser, Blackburn, Jensen, Town of Mattawa, and  
15 Grant County caused the individual plaintiffs to be deprived of rights guaranteed by the Fourth  
16 and Fourteenth Amendments to the United States Constitution rendering those defendants liable  
17 to the plaintiffs who were damaged thereby, pursuant to 42 U.S.C. §1983.

18 146. The above described actions, policies, and practices of the defendants DSHS,  
19 Arnold-Williams, and Bumford, caused the plaintiff class to be deprived of rights guaranteed by  
20 the Fourth and Fourteenth Amendments to the United States Constitution making the imposition  
21 of a permanent injunction pursuant to 42 U.S.C. §1983 appropriate.

1 **Conspiracy To Violate Plaintiffs' Civil Rights – 42 U.S.C. § 1985**

2 147. The above described actions of defendants Harden, Bumford, Clawson, Coyne,  
3 Vargas, Ditzel, Esser, Blackburn, Jensen, and Town of Mattawa constitute a conspiracy to  
4 directly or indirectly cause the individual plaintiffs and others of their race and national origin to  
5 be deprived of the equal protection of the laws or of equal privileges and immunities under the  
6 laws, particularly the right to be free from unreasonable searches and seizures, rendering those  
7 defendants liable to the plaintiffs who were damaged thereby, pursuant to 42 U.S.C. §1985(3).

8 **PRAYER FOR RELIEF**

9 WHEREFORE, plaintiffs pray that this Court grant them the following relief:

10 1. Certify the injunctive relief sections of this action as a class action pursuant to  
11 Civil Rule 23(b)(2);

12 2. Declare that the actions of the defendant DSHS violated the Washington Law  
13 Against Discrimination, RCW 49.60.030;

14 3. Declare that the actions of defendants DSHS violated plaintiffs' rights to not be  
15 disturbed in their private affairs, or their homes invaded, without authority of law pursuant to  
16 Article 1, §7 of the Washington State Constitution;

17 4. Declare that RCW 74.15.030, RCW 74.15.050, RCW 74.15.060, RCW 74.15.080,  
18 WAC 388-296-0450 and WAC 388-296-0520 violate the Article 1, §7 of the Washington State  
19 Constitution because they authorize entries into homes without restriction as to time, scope,  
20 place or manner.

1           5.       Declare that the polices and practices of defendants DSHS, Arnold-Williams, and  
2 Bumford fail to comply with Article 1, §7 of the Washington State Constitution and the Fourth  
3 and Fourteenth Amendments to the United States Constitution;

4           6.       Enter a permanent injunction requiring defendants DSHS, Arnold-Williams,  
5 Bumford, and all successors and agents of each to comply with Article 1, §7 of the Washington  
6 State Constitution the Fourth and Fourteenth Amendments to the United States Constitution;

7           7.       Enter a permanent injunction requiring defendants DSHS, Arnold-Williams,  
8 Bumford, and all successors and agents of each to prohibit DSHS investigators from demanding  
9 immediate entry into licensed family home child care providers without a warrant.

10          8.       Enter a permanent injunction requiring defendants DSHS, Arnold-Williams,  
11 Bumford, and all successors and agents of each to prohibit DSHS investigators from demanding  
12 immediate production and removal of original documents from licensed family home child care  
13 providers without a warrant.

14          9.       Enter a permanent injunction requiring defendants DSHS, Arnold-Williams,  
15 Bumford, and all successors and agents of each to advise licensed family home child care  
16 providers of their right to counsel and an opportunity to quash or limit a subpoena duces tecum.

17          10.      Enter a permanent injunction requiring defendants DSHS, Arnold-Williams,  
18 Bumford, and all successors and agents of each to prohibit non-DSHS law enforcement persons  
19 to accompany DSHS staff on criminal investigations of family child care providers involving  
20 searches and seizures without a warrant.  
21  
22  
23

1           11.     Enter a permanent injunction requiring defendants DSHS, Arnold-Williams,  
2 Bumford, and all successors and agents of each to translate crucial legal documents into the  
3 primary language of LEP family child care providers.

4           12.     Enter a permanent injunction requiring defendants DSHS, Arnold-Williams,  
5 Bumford, and all successors and agents of each to prohibit DSHS from investigating the  
6 immigration matters family child care providers and their family members.

7           13.     Award individual plaintiffs economic damages with prejudgment interest, pain  
8 and suffering, emotional distress damages in amounts to be proven at trial;

9           14.     Award individual plaintiffs punitive damages from individual defendants in  
10 amounts to be proven at trial;

11           15.     Award plaintiffs reasonable attorneys fees and costs of suit pursuant to RCW  
12 49.60.030(3) and 42 U.S.C. §1988; and,

13           16.     Award plaintiffs such other relief at equity and law as this Court deems just and  
14 proper.

15  
16           Dated this \_\_\_\_ day of \_\_\_\_\_, 2005.

17  
18  
19           \_\_\_\_\_  
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