

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MINNESOTA**

Civil Action No.

ABDIKADAR MOHAMED, and  
FOWSIYA HASSAN,

*Plaintiffs,*

v.

TIM WALZ, in his official capacity as Governor of the STATE OF MINNESOTA;  
SHIREEN GANDHI, in her official capacity as Interim Commissioner of the MINNESOTA  
DEPARTMENT OF HUMAN SERVICES and individually;  
JENNIFER FENROW,  
JOHN DOE 1-10, and  
JANE DOE 1-10, individually;

*Defendants.*

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**PLAINTIFFS' ORIGINAL COMPLAINT**

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Plaintiffs submit this Complaint against Defendants, based on personal knowledge and upon information and belief as follows:

**INTRODUCTION**

Pursuant to longstanding stereotypes about purported corruption in the Somali immigrant community in Minnesota, the Minnesota Department of Human Services (DHS) has for many years operated under a presumption that businesses operated by Somalis that receive public funds are particularly likely to engage in fraud. As a result, DHS licensing and fraud investigations in Minnesota have long been disproportionately targeted against Somalis and other East African groups misperceived by DHS to be Somali.

In August 2022, agents from the Minnesota Bureau of Criminal Apprehension (BCA) used false statements that investigators had obtained video evidence tending to indicate a likelihood of fraudulent attendance records to obtain search warrants targeting multiple Somali-owned child-care centers in Minnesota. No complaints of fraud had been made against any of the targeted child-care centers and nearby child-care centers that were not Somali-owned were not targeted either for either investigation or search warrants. The search warrant affidavits also contained allegations targeted specifically at the Somali community, alleging that Somalis routinely concocted a scheme to defraud the federally funded Child-Care Assistance Program (CCAP).

During the resulting “raids,” the targeted businesses were told that their ability to bill the CCAP for services was being “temporarily” suspended and the targeted providers were immediately locked out of the CCAP billing system. DHS employees nonetheless told the providers that they were required by law to continue providing services for 14 additional days to allow parents to identify alternate CCAP providers.

Because the CCAP suspension was “temporary,” the targeted providers had no right of review other than simply asking DHS to change its mind, which DHS declined to do. After it became obvious that the BCA investigation was being left open even though no actual investigation was occurring, some of the targeted providers filed suit in state court to challenge the de facto shutdown of their business, but DHS claimed that the BCA’s “ongoing investigation” allowed DHS to maintain the “temporary” CCAP suspension indefinitely while also permitting DHS to refuse to disclose the evidentiary basis for its allegations. DHS maintained these claims for over two years until the providers’ businesses had failed and their lawsuit had proceeded to the state supreme court.

On the eve of oral argument at the state supreme court, DHS abruptly stated that the BCA had ended its investigation and that the temporary suspension had been lifted. DHS asked the state supreme court to dismiss the providers' lawsuit as moot, assuring the state supreme court that any "eligible" billing claims that remained outstanding from the time that the providers' CCAP access had been suspended would be paid. Based explicitly on this assurance, the state supreme court dismissed the providers' appeal.

When the providers sought payment, however, DHS immediately refused, citing a statute that prohibited payment on bills submitted more than one year after services were provided. DHS also falsely claimed that the providers had not been locked out of the CCAP billing system at the time of the search warrant executions and DHS denied that its employees had directed the providers to continue providing child-care services for 14 days afterward. DHS had failed to mention this detail to the supreme court when arguing that the providers' claims were rendered moot by the long-awaited closure of the BCA investigation.

In short, acting explicitly and proudly under color of state law and exploiting the privileged status it is given under state law to regulate child-care providers and oversee child-care assistance programs, DHS targeted child-care providers based on their race, ethnicity, and/or religion, denied the providers any meaningful opportunity to challenge the allegations against them until providers' businesses had already failed, and then used deception to obtain dismissal of the providers' lawsuit while denying the providers any compensation for the services that the providers had provided. This conduct blatantly, egregiously, and shamelessly violated Plaintiffs' constitutional rights.

Plaintiffs seek to hold Defendants accountable for these gross abuses of government authority

### **PARTIES**

1. Plaintiff Abdikadar Mohamed is the former owner and operator of City Center Childcare Center (City Center), which operated in Hennepin County, Minnesota.

2. Plaintiff Fowsiya Mohamed is the former owner and operator of Sunshine Child Care Center (Sunshine), which operated in Hennepin County, Minnesota.

3. Plaintiffs are both of Somali descent.

4. Defendant Tim Walz is the Governor of Minnesota and is sued in his official capacity.

5. Defendant State of Minnesota is the 32nd state admitted to the Union.

6. Defendant Shireen Gandhi is the Interim Commissioner of Human Services and is sued in her official capacity.

7. Defendant Minnesota Department of Human Services (DHS) is a state agency in Minnesota with administrative and regulatory authority over child-care providers in Minnesota.

8. Defendant Jennifer Fenrow is an investigator with the Minnesota Bureau of Criminal Apprehension (BCA) and is sued in her individual capacity.

9. Defendants John Doe 1-10 and Jane Doe 1-10 are currently unknown employees of the BCA or of DHS and are sued in their individual capacities.

### **JURISDICTION AND VENUE**

10. This Court has jurisdiction under 28 U.S.C. § 2201 and *Ex Parte Young*, 28 S. Ct. 441, 209 U.S. 123 (1908), as Plaintiffs allege that Defendants sued in their official capacity have created and enforced a system that, both facially and as-applied to Plaintiffs, violates Plaintiffs' civil rights under the Due Process Clause of the United States Constitution and the Fifth and Fourteenth Amendments to the United States Constitution.

11. This Court has jurisdiction under 42 U.S.C. § 1983, 42 U.S.C. § 1985, and 28 U.S.C. §§ 1331 and 1343, as Plaintiffs allege that individual Defendants have, under color of state law, deprived and conspired to deprive Plaintiffs of their civil rights under the Due Process Clause and the Fourth, Fifth, Thirteenth, and Fourteenth Amendments to the United States Constitution.

12. This Court has supplemental jurisdiction over Plaintiffs' state-law claims because those claims are part of the same case or controversy that forms the basis for the Plaintiffs' federal claims.

### **FACTUAL ALLEGATIONS**

13. On or about August 23, 2022, agents from the Minnesota Bureau of Criminal Apprehension (BCA), supervised and directed by Defendant Jennifer Fenrow, accompanied and/or assisted by investigative and licensing employees of the Minnesota Department of Human Services (DHS) executed search warrants against multiple child-care centers in the Twin Cities area of Minnesota, including those operated by Plaintiffs. Substantively identical search warrant executions were used to obtain Plaintiffs' bank records.

14. On arrival to Plaintiffs' child-care facilities, Fenrow did not have search warrant in-hand. When Plaintiffs requested that she produce a warrant authorizing her entry and search, she instructed officers to leave and remain outside but they did not all leave. Fenrow proceeded to make a cell phone call and received a warrant approximately 30 minutes later.

15. During the execution of the search warrant on City Center Child Care, Fenrow and other unknown law-enforcement officers destroyed Plaintiff Mohamed's security camera for the facility, forced Mohamed and other employees to stand against a wall, seized Mohamed's phone to prevent Mohamed from calling an attorney, and asked Mohamed questions seeking to elicit inculpatory information without providing required *Miranda* warnings.

16. Plaintiffs later discovered that multiple other child-care centers had been targeted for search warrants at the same time. The search warrant affidavits supporting the BCA's search-warrant applications for all of these simultaneously targeted child-care centers were attested to by Fenrow and contained on allegations that investigators had used hidden cameras focused on the entryways of the targeted child-care facilities to determine that the number of children arriving did not match the number of children for which the facility purportedly billed. With the exception of the numbers of children listed in single chart in the search warrants, each of the search warrants attested to by Fenrow was nearly word-to-word identical and appeared to be a "cut-and-paste" document.

17. On information and belief, the information in Fenrow's search-warrant affidavits was either false or intentionally misleading. Despite the multiple child-care centers purportedly targeted for hidden-camera investigations at the same time as Plaintiffs', no independent witnesses have been identified claiming to have observed any activity or equipment consistent with placement, access, or removal of cameras focused on the entryways of the targeted centers. Also, neither the BCA nor DHS has produced search warrants authorizing the placement of cameras on the private property proximate to the targeted child-care centers and Plaintiffs have been able to find no such search warrants in publicly available court records. And the configuration of Plaintiffs' facilities makes it implausible that such cameras could have been installed on nearby public property without being noticed.

18. Upon information and belief, all or nearly all of the targeted child-care centers, including Plaintiffs', were owned and operated by persons of East African descent and were identified for investigation solely or primarily based on that ownership and Defendants' belief that businesses owned by members of the East African community were automatically suspect. The

search-warrant affidavits also did not detail any complaints or other basis upon which the targeted childcare centers were originally identified for the purported investigation. And DHS officials along with other government officials in Minnesota have a known history of negative stereotypes and expressions of animus towards the Somali community, particularly regarding Somali-operated child-care centers receiving CCAP payments. *See, e.g.,* John Bowden, *Minnesota Probe Finds No Evidence Day Care Fraud Was Funneling Money to Terrorists*, The Hill, March 13, 2019, available at <https://thehill.com/homenews/state-watch/433950-minnesota-investigation-concludes-day-care-fraud-not-funneling-money-to/>; Ibrahim Hersi, *How a New Group Is Trying to Counter Negative Perceptions About Somali-American Day Cares in Minnesota*, Minn. Post, June 30, 2017, available at <https://www.minnpost.com/new-americans/2017/06/how-new-group-trying-counter-negative-perceptions-about-somali-american-day-ca/>.

19. Concurrently with or shortly after the search-warrant executions, DHS served facility representatives present with notices that their eligibility for payment through the Child Care Assistance Program (CCAP) was being suspended “temporarily” under Minn. Stat. 245E.02 (2022) due to DHS’s determination that the facilities had provided “materially false” billing information. The notices were explicitly based on the information contained in the search warrant applications.

20. The notices stated that the “temporary” CCAP suspension would be effective September 1, 2022, which effectively prevented the facility operators for billing for services that had already been provided, because September 1, 2022 fell towards the end of the biweekly CCAP billing cycle ending on September 4 and because DHS immediately locked the targeted facilities out of the CCAP billing system, which prevented the facilities from submitting out-of-cycle billing before September 1, 2022.

21. DHS licensors had previously told Plaintiffs that, if authorized services to eligible families were ever lost for any reason, the child-care providers were required to continue providing CCAP-funded services to affected families for 14 days after service of the “temporary” CCAP suspension notices, to allow the affected families time to find alternative placements for their children. In compliance with these instructions, Plaintiffs continued to provide child-care services after receiving notice of their “temporary” suspension of CCAP eligibility because they reasonably believed that they were required to do so to avoid further sanctions. Since few if any of the affected families were able to find alternative placement within the 14-day period and because Plaintiffs were locked out of the CCAP billing system, Plaintiffs provided an additional 10 days of child-care services that would normally be billable to the State for their entire roster of previously eligible clients.

22. The notices stated that the targeted facilities could seek administrative review of the “temporary” CCAP suspension and payment withholding. *See* Minn. Stat. §§ 119B.16, subd. 1a (formerly cited as Minn. Stat. § 245E.02) (allowing facilities to request an administrative “fair hearing” appeal only if the provider is *not* eligible for an “administrative review under section 119B.161); 119B.161, subd. 1 (permitting administrative review “if payment was suspended under Chapter 245E”). But the administrative review was restricted to “the right to submit written evidence and argument for consideration *by the commissioner*.” *See* Minn. Stat. § 119B.161, subd. 2(b)(4) (emphasis added). And the provider’s ability to use even that limited right to administrative review was, as a practical matter, vitiated by the fact that the provider was given notice only of “*general* allegations leading to the . . . suspension of the provider’s authorization.” *See id.*, subd.



2(b)(2) (emphasis added).<sup>1</sup> As such, the right to administrative review was effectively pointless, as demonstrated by the fact that Plaintiffs’ submissions to DHS were summarily denied without explanation.

23. The notices advised Plaintiffs that, after any administrative review, the “temporary” suspension would remain in effect until “(1) the commissioner or a law enforcement authority determines that there is insufficient evidence warranting the action and a county agency or the commissioner does not pursue an additional administrative remedy . . . or (2) all criminal, civil, and administrative proceedings related to the provider’s alleged misconduct conclude and any appeal rights are exhausted.” *See* Minn. Stat. § 119B.16, subd. 3. Because CCAP suspensions pursuant to fraud allegations are purportedly “temporary,” Minnesota courts have held that providers have no right to judicial review unless, at the end of any criminal investigation, DHS imposes a permanent CCAP disqualification or other sanction. *See, e.g., Shire v. Harpstead*, A19-0807, 2019 WL 7287088, at \*5 (Minn. Ct. App. Dec. 30, 2019) (noting that there is no time limit for temporary suspension of Medicare payments during ongoing criminal investigation).

24. Based on its longstanding regulatory and licensing authority over child-care centers and its administration of the CCAP program, DHS had actual knowledge that child-care facilities serving the Somali community in Plaintiffs’ area of operation had little access to “private pay” clients and thus any lengthy suspension of CCAP eligibility imposed on those facilities would have the practical effect of putting the targeted facilities out of business.

25. As the BCA’s and DHS’s purported investigations dragged on and the “temporary” suspension of their CCAP eligibility remained in place, Plaintiffs sought declaratory judgment in

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<sup>1</sup> Chapters 245E and 119B were reorganized and recodified into Chapter 142E, effective August 1, 2024, but the changes implemented concurrently to this reorganization do not substantially alter the deficiencies addressed herein. *Compare* Minn. Stat. §§ 119B.16, .161, *with* Minn. Stat. §§ 142E.19, .51.

state court that the indefinite “temporary” suspension of their CCAP eligibility without imposition of a sanction that allowed for administrative and judicial review violated due process as applied to Plaintiffs. During those proceedings, Defendants refused to provide copies of the purported hidden-camera footage or other evidentiary basis for DHS’s claimed fraud determination stated in the notices, claiming that they were not required to provide information related to an ongoing criminal investigation.

26. On information and belief, BCA’s and DHS’s claims that there was an ongoing criminal investigation was a sham. There is no evidence, such as interviews of witnesses, indicating that either the BCA or DHS was actively pursuing an ongoing investigation during the period that Plaintiffs were “temporarily” barred from CCAP eligibility. Instead, the BCA and DHS kept the investigation open for the primary purposes of ensuring that Plaintiffs’ businesses would fail while avoiding disclosure of the lack of evidentiary foundation for their fraud allegations.

27. During the pendency of the purported investigation, Plaintiffs’ businesses did in fact fail due to the lack of “private pay” clients and DHS’s requirement that child-care licenses that are not used to serve any clients for 12 months can be administratively closed and that the license-holder would have no right to create a record of the reasons for DHS’s closure of their license in an administrative appeal. *See* Minn. Stat. § 142B.25.

28. Other providers attempted to administratively appeal similar “temporary” CCAP suspensions. Those appeals were either dismissed on jurisdictional grounds or the targeted providers were granted settlement agreements that allowed them to reopen. In all cases, DHS and BCA avoided disclosure of the evidentiary basis for its search-warrant applications. Based on this nondisclosure pattern and other information regarding DHS enforcement patterns, Plaintiffs

believe that the factual allegations made in the search warrant applications were knowingly false and that DHS's and BCA's actual motivation was racial, ethnic, or religious prejudice against East African service providers.

29. After the state district court granted summary judgment to DHS, Plaintiffs appealed and the intermediate state court of appeals affirmed. *See Sunshine Childcare Center, LLC v. Ramsey Cnty.*, 7 N.W.2d 611 (Minn. Ct. App. 2024). Specifically, the court of appeals ruled that, because Minnesota's CCAP statute allows the state to suspend CCAP payments without review, Plaintiffs had no property interest in those payments that was protected by the Due Process Clause. *See id.* at 617. The court of appeals also relied on the general notion that "those actions do not prevent [Plaintiffs] from operating a licensed childcare center during the investigation," ignoring the particular circumstances of providers serving the Somali community in Minnesota. *See id.* at 617-18. And although the court of appeals opined that it was "troubling that the investigations into this matter have taken over a year with no concrete results," it held that the delay did not create a due process issue because Minnesota's CCAP statutes did not establish a deadline for fraud investigations. *See id.* at 618 (contrasting the lack of deadline for fraud investigations with the statutory requirement that payments withheld for violations of CCAP program rules could be withheld for only 90 days "after the condition has been corrected"). In short, the court of appeals held that Minnesota's statutory scheme provides that DHS is immune from due process claims for indefinite withholding of CCAP payments, provided that DHS withholds those payments pursuant to a claim of fraud, regardless of whether DHS ever produces any evidence of fraud and that providers are without judicial or other remedy for such withheld payments.

30. The state supreme court accepted discretionary review but, very shortly before the scheduled oral argument, the BCA abruptly closed its investigation without any finding of

wrongdoing on the part of Plaintiffs. *See Sunshine Childcare Center, LLC, et al., v. Ramsey Cnty., et al.*, A23-1595, at \*1 (Minn. Dec. 20, 2024) (order). DHS also did not make any allegations of wrongdoing and it did not order a permanent CCAP disqualification against Plaintiffs nor seek recovery of overpayments to Plaintiffs' facilities, both of which would have been appealable. Instead, DHS moved the state supreme court to dismiss Plaintiffs' appeal as moot. *See id.* at \*2. Relying solely on DHS's averments, *see id.* at \*2 n.1, the state supreme court held that Plaintiffs' appeal was now moot because "payments due will be processed." *See id.* at \*3. The state supreme court also held that the voluntary-cessation exception to mootness did not apply because "this is not a case where we are concerned that DHS withdrew the holds and agreed to reverse the Centers' eligible payments as a litigation strategy to avoid an adverse decision" and that the proximity in time to the BCA's closure of its investigation and the oral argument date was merely "a coincidence." *See id.* at \*4-5.

31. DHS's subsequent actions would revealed that the timing of BCA's closure of its investigation and DHS's motion to dismiss was not a coincidence. DHS revealed its deception of the state supreme court shortly thereafter. After obtaining dismissal of Plaintiffs' appeal based on its assurance that it would reimburse Plaintiffs for their "eligible" billings, DHS denied Plaintiffs' requests for payment of the 24 days of child-care services that they had provided by asserting that the claims were ineligible for reimbursement because they had not been submitted within one year of the provision of services. *See Minn. Stat. § 142E.17, subd. 9(b)*. Although it clearly related to their mootness motion, DHS had omitted mention of this limitation when arguing for dismissal of Plaintiffs' claims on mootness grounds. DHS also falsely claimed that it had permitted Plaintiffs to bill for services before their access was lost to the CCAP billing system and that it had never told Plaintiffs that they were obligated to provide 14 days of ongoing services after receiving the

CCAP suspension notices. The net effect of DHS's actions was thus to intentionally manipulate Minnesota's statutory scheme for management of CCAP funds to force the closure of Plaintiffs' businesses and withhold tens of thousands of dollars for services actually provided without ever disclosing an evidentiary basis for its actions and without ever allowing Plaintiffs any opportunity to be heard.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE: SELECTIVE DISCRIMINATORY ENFORCEMENT (as to all Defendants)**

1. Plaintiffs repeat the allegations in paragraphs above as if fully set forth herein.
2. Defendants' exclusive targeting of child-care centers owned and operated by East African persons, combined with its history of suspicion and animus towards the Somali community and the absence of any known complaints justifying allegations of fraud against the targeted providers justifies the inference that Plaintiffs were selected for investigation based on their race, ethnicity, and/or religion.
3. The inference that Defendants had a discriminatory intent in targeting Plaintiffs is supported by Defendants' legal machinations to avoid disclosure of the evidentiary basis for their search-warrant applications and their subsequent allegations of fraud.
4. Such a basis for selecting Plaintiffs for investigation violated Plaintiffs' civil rights under the Equal Protection Clause of the Fourteenth Amendment to the United States Constitution, regardless of whether any evidence of misconduct had been revealed as a result of the investigation.

5. Because Defendants' conduct violated Plaintiffs' civil rights, Plaintiffs are entitled to an award of nominal compensatory damages.

6. Defendants' conduct resulted in the loss of Plaintiffs' businesses, with an estimated value of \$13,000,000, plus the known loss of continuing income from their businesses for a period of two years in the amount of \$2,600,000. Plaintiffs are therefore entitled to an award of actual special damages in the amount of \$15,600,000 plus an additional award of compensatory damages in the amount of \$31,200,000 for mental anguish and suffering, *see* Minn. Stat. § 363A.33, subd. 8(a) (authorizing compensatory damages for mental anguish resulting from discrimination at an amount "three times the actual damages sustained"), resulting in a total compensatory damages award of \$46,800,000.

**COUNT TWO: DENIAL OF PROCEDURAL DUE PROCESS (FACIAL) (as to official-capacity Defendants)**

7. Plaintiffs repeat the allegations in paragraphs above as if fully set forth herein.

8. Minnesota's statutory scheme allowing indefinite suspensions of eligibility for CCAP payments, allowing closure of child-care licenses after one-year of disuse, denying administrative or judicial review of indefinite suspensions of eligibility for CCAP payments, denying subjects of indefinite suspensions of CCAP eligibility access to the evidentiary basis for the suspensions, prohibiting suspended CCAP providers from billing for services provided more than one year after the date of service provision, and permitting DHS to avoid administrative or judicial review of its nonpayment for CCAP services by closing an investigation more than one year after the last date of service provision creates an exploitable process that implicates child-care providers' protected liberty interests in the operation of their businesses and providers' property

interests in receiving compensation for services provided prior to and after receiving a notice of indefinite CCAP suspension.

9. The essence of constitutional due process is the right to be heard at a meaningful time and in a meaningful manner before the government can take any action affecting a protected liberty interest or a protected property interest. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Because Minnesota's scheme prevents child-care providers from being heard indefinitely—and potentially eternally—by any independent fact-finder regarding the evidentiary basis for DHS's decision to withhold payment, it fails to provide hearing at *either* a meaningful time or in a meaningful manner. As such, it violates the basic requirements of constitutional due process under the Fourteenth Amendment to the United States Constitution.

10. Plaintiffs are therefore entitled to a judgment declaring Minnesota's denial of judicial appeals of indefinite suspensions of CCAP payments to be unconstitutional, a permanent injunction barring Minnesota from enforcing that prohibition, and an award of nominal damages.

**COUNT THREE: DENIAL OF PROCEDURAL DUE PROCESS (AS-APPLIED) (as to  
official-capacity Defendants)**

11. As applied to Plaintiffs, Defendants' use and manipulation of Minnesota's statutory scheme allowed DHS to indefinitely suspend CCAP eligibility under the pretext of a sham criminal investigation, deny Defendants' access to the substance of the allegations against them, frustrate Plaintiffs' attempts to exonerate themselves, fatally sabotage the ability of Plaintiffs to operate their businesses, and prevent Plaintiffs from ever obtaining independent review of the allegations against them.

12. Minnesota's statutory scheme allowing indefinite suspensions of eligibility for CCAP payments, allowing closure of child-care licenses after one-year of disuse, denying

administrative or judicial review of indefinite suspensions of eligibility for CCAP payments, denying subjects of indefinite suspensions of CCAP eligibility access to the evidentiary basis for the suspensions, prohibiting suspended CCAP providers from billing for services provided more than one year after the date of service provision, and permitting DHS to avoid administrative or judicial review of its nonpayment for CCAP services by closing an investigation more than one year after the last date of service provision creates an exploitable process that implicates child-care providers' protected liberty interests in the operation of their businesses and providers' property interests in receiving compensation for services provided prior to and after receiving a notice of indefinite CCAP suspension.

13. The essence of constitutional due process is the right to be heard at a meaningful time and in a meaningful manner before the government can take any action affecting a protected liberty interest or a protected property interest. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976). Because Minnesota's scheme prevents child-care providers from being heard indefinitely—and potentially eternally—by any independent fact-finder regarding the evidentiary basis for DHS's decision to withhold payment, it fails to provide hearing at *either* a meaningful time or in a meaningful manner. As such, it violates the basic requirements of constitutional due process under the Fourteenth Amendment to the United States Constitution.

14. As applied to Plaintiffs, Minnesota's provision barring Plaintiffs from obtaining judicial review of their years-long "temporary" CCAP suspension denied Plaintiffs due process because Plaintiffs could not be heard at a meaningful time until after expiration of the one-year limitation on their ability to bill for services already provided prior to the CCAP suspension and required to be provided after the CCAP suspension. Plaintiffs are therefore entitled to a judgment declaring that the notices of "temporary" suspension of their CCAP eligibility were



unconstitutional, a permanent injunction barring Minnesota from issuing such notices to them in the future, and an award of nominal damages.

15. Defendants' conduct resulted in the loss of Plaintiffs' businesses, with an estimated value of \$13,000,000, plus the known loss of continuing income from their businesses for a period of two years in the amount of \$2,600,000. Plaintiffs are therefore entitled to an award of actual special damages in the amount of \$15,600,000 plus an additional award of compensatory damages in the amount of \$31,200,000 for mental anguish and suffering, *see* Minn. Stat. § 363A.33, subd. 8(a) (authorizing compensatory damages for mental anguish resulting from discrimination at an amount "three times the actual damages sustained"), resulting in a total compensatory damages award of \$46,800,000.

**COUNT FOUR: FOURTH AMENDMENT VIOLATIONS (as to Defendants Fenrow,**

**John Doe 1-10, and Jane Doe 1-10**

16. Plaintiffs repeat the allegations in paragraphs above as if fully set forth herein.

17. Defendants' machinations to prevent disclosure of the evidentiary foundation for their allegations of fraud contained in the search-warrant affidavits, the absence of any evidence that the purported hidden-camera investigations ever actually occurred, Defendants' excessive length of time purportedly investigating allegations that Defendants' search-warrant applications indicated were already proven, and Defendants' ultimate failure to pursue either criminal charges or administrative sanctions such as permanent CCAP disqualification, overpayment recovery, or licensing sanctions justifies the inference that Defendants' actual purpose was to avoid disclosing the fact that the allegations in the search-warrant affidavits were intentionally fabricated or misleading.

18. The fact that only Somali-owned child-care providers were targeted by the search-warrant applications justifies the inference that the use of false information in the search-warrant affidavits was in pursuit of a discriminatory motive that constituted actual malice.

19. Defendants' use of false allegations in a search-warrant application to gain access to Plaintiffs' businesses and personal records, constituted a violation of Defendants' Fourth Amendment rights, entitling Defendants to an award of nominal damages.

20. Individually sued Defendants' conduct resulted in the loss of Plaintiffs' businesses, with an estimated value of \$13,000,000, plus the known loss of continuing income from their businesses for a period of two years in the amount of \$2,600,000. Plaintiffs are therefore entitled to an award of actual special damages in the amount of \$15,600,000 plus an additional award of compensatory damages in the amount of \$31,200,000 for mental anguish and suffering, *see* Minn. Stat. § 363A.33, subd. 8(a) (authorizing compensatory damages for mental anguish resulting from discrimination at an amount "three times the actual damages sustained"), resulting in a total compensatory damages award of \$46,800,000.

**COUNT FIVE: FIFTH AMENDMENT VIOLATIONS (as to Defendants Fenrow, John**

**Doe 1-10, and Jane Doe 1-10**

21. Plaintiffs repeat the allegations in the paragraphs above as if fully set forth herein.

22. The individually sued Defendants' conduct in executing the search warrants, including attempting to execute the search warrants without having the search warrants in-hand, physically assaulting Plaintiffs, and denying Plaintiffs the opportunity to consult with an attorney, violated Plaintiffs' Fourth Amendment and Fifth Amendment rights.

23. Plaintiffs are therefore entitled to an award of nominal damages.

**COUNT SIX: INVOLUNTARY SERVITUDE (as to all Defendants)**

24. Plaintiffs repeat the allegations in paragraphs above as if fully set forth herein.

25. By requiring under color of state law that Plaintiffs continue providing child-care services for 14 days after being rendered ineligible for CCAP reimbursement and with actual knowledge that Plaintiffs would be prevented from billing for services provided prior to the CCAP eligibility suspension notices, Defendants forced Plaintiffs to provide services to the government without compensation, in violation of the Thirteenth Amendment of the United States Constitution.

26. The fact that Defendants obtained dismissal of Plaintiffs' state-court appeal by promising to pay "eligible" payments to Plaintiffs for services already provided while concealing from Plaintiffs and the state supreme court Defendants' actual knowledge of a statutory provision that would render Plaintiffs' payment requests ineligible justifies the inference that Defendants intended from the beginning to require Plaintiffs to provide child-care services without compensation.

27. The amount of compensation withheld from Plaintiffs for services they provided in compliance with Defendants' directions while Defendants knew they would not be paid for those services was approximately \$350,000. Defendants' conduct in requiring involuntary servitude from Plaintiffs was particularly harmful to Plaintiffs because Plaintiffs are of East African descent, and Defendants' conduct thus evoked the shameful history of such servitude in Plaintiffs current lives. Plaintiffs are therefore entitled to an award of both nominal damages and actual damages in the amount of \$350,000, plus an additional award of compensatory damages for mental anguish and suffering in the amount of \$700,000, for a total compensatory damages award of \$1,050,000.

*See* Minn. Stat. § 363A.33, subd. 8(a) (authorizing compensatory damages for mental anguish resulting from discrimination at an amount “three times the actual damages sustained”).

**COUNT SEVEN: UNJUST ENRICHMENT (STATE LAW CLAIM) (as to all Defendants)**

28. Plaintiffs repeat the allegations in paragraphs above as if fully set forth herein.

29. Defendants knowingly received and retained the benefit of government-funded child-care services by issuing notices of CCAP suspension that were timed to prevent Plaintiffs from billing for 10 days of services already provided and by requiring Plaintiffs to provide an additional 14 days of services, but by also refusing to pay for those services based on intentional exploitation of a statutory scheme allowing any investigation lasting more than one year to make the services provided ineligible for reimbursement.

30. Defendants implicitly revealed the intentionality of their scheme by knowingly misleading the Minnesota Supreme Court with assurances that Plaintiffs’ claims were moot because Plaintiffs would be paid their “eligible” payments for services already provided and, after Plaintiffs’ appeals were dismissed as moot based explicitly on those assurances, revealing that Plaintiffs’ requests for payment were not eligible because Defendants had conspired to leave the criminal investigation open until after a statutory deadline on submissions of CCAP billing had expired.

31. Because Defendants were unlawfully enriched by their intentional and fraudulent acceptance and retention of services that Plaintiffs provided without compensation, Plaintiffs are entitled to an award of damages in an amount of approximately \$350,000, with the exact amount to be proven at trial.

**COUNT EIGHT: DEFAMATION PER SE AND DEFAMATION (STATE LAW CLAIM)**

**(as to all Defendants)**

32. Plaintiffs repeat the allegations in paragraphs above as if fully set forth herein.

33. Defendants intentionally issued, caused to be issued, or assisted in the issuance of notices of CCAP suspension that contained allegations of fraud that were known by Defendants to be false and/or in reckless disregard of the truth of those allegations.

34. In addition to being provided to Defendants, the notices were sent to parents of children who were clients in Plaintiffs' child-care businesses and were made available to the public through DHS's web site.

35. Defendants' targeting of solely Somali-owned child-care centers and their use of a scheme to conceal the falsehood of the allegations they used justifies the inference that Defendants acted with actual malice.

36. Because the false allegations in the notices implicated Plaintiffs' businesses, Defendants' publication of the notices constituted defamation per se, justifying an award of nominal damages without further showing of causation.

32. Defendants' publication of the notices was harmful beyond the effects noted above. As a result of Defendants' publication of the notices, Plaintiffs were tainted by allegations of fraud, unfairly linking Plaintiffs to a longstanding harmful stereotype about Somali business owners that had already been deemed harmful enough to require refutation by a special state investigation. *See, e.g.,* John Bowden, *Minnesota Probe Finds No Evidence Day Care Fraud Was Funneling Money to Terrorists*, The Hill, March 13, 2019, available at <https://thehill.com/homenews/state->

watch/433950-minnesota-investigation-concludes-day-care-fraud-not-funneling-money-to/; Ibrahim Hersi, *How a New Group Is Trying to Counter Negative Perceptions About Somali-American Day Cares in Minnesota*, Minn. Post, June 30, 2017, available at <https://www.minnpost.com/new-americans/2017/06/how-new-group-trying-counter-negative-perceptions-about-somali-american-day-ca/>.

37. As a result of Defendants' publication of the false information in the notices and the linkage that Defendants' exploited to a broader set of societal stereotypes and prejudices against Somalis, Plaintiffs' reputations in the community have been irreparably harmed. Specifically, former and potential clients of Plaintiffs are likely to be reluctant to use Plaintiffs' services lest DHS target Plaintiffs again, even if Plaintiffs can succeed in publicly establishing that they were victims of the discriminatory scheme detailed above. Plaintiffs are also likely to be impaired in any efforts to reapply for licensure from DHS since the fraud allegations will be retained in DHS's files and Plaintiffs are without remedies to remove them and because DHS will likely continue to harbor prejudicial attitudes towards Plaintiffs on a continuing basis. Plaintiffs are therefore entitled to an award of compensatory and special damages in an amount to be proven at trial.

### **JURY DEMAND**

Plaintiffs demand a jury trial to the extent allowed by law.

### **PRAYER FOR RELIEF**

Plaintiffs respectfully request that the Court award Plaintiff:

- (1) Compensatory and special damages as set forth above, in an amount up to \$46,800,000, plus punitive damages as may be pursued by amendment under Minn. Stat. §§ 549.191, 20, and 363A.33, subd. 8(a);

- (2) Declaratory and injunctive relief;
- (3) reasonable attorney's fees as allowed by law;
- (4) costs and disbursements incurred in this action;
- (5) prejudgment and postjudgment interest at the highest lawful rates; and
- (6) such further relief as Plaintiff may be entitled and which the Court deems just and proper.

Dated: 07/21/2025

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