

COMFORT ONE HEART

One Baby One Blanket



Table of contents

Organization
Mission/Vision/Core Values
History of Topic
Rationale
Purpose
Review of Literature
Conclusion and recommendations
Timeline for Implementation
Appendices
Glossary of terms
My resume
Similar Case
Pamphlet
Budget
Works Cited

HISTORY OF THE ORGANIZATION



Comfort one heart is an organization that has been established since 1994 by my mother and I after a trip that we executed in South America. We were volunteers and we went there to help people in need. During our trip, we noticed that people from South America were recycling baby blankets. Instead of throwing the blankets away or re-selling; they gave the blankets to orphanages and poor families.

MISSION

Our Mission is to be able to provide baby blankets to hospitals and orphanages.



VISION

Our Vision is to be able to make our community understand that there is a real need for the care of babies without parents; particularly babies in 3rd world countries. Our Company Comfort One Heart will provide a blanket for the babies as a symbol of comfort and care.

CORE VALUES



HISTORY OF TOPIC

After traveling to South American and talking with parents, we realized that some babies right after birth are abandoned or have to go through emergency surgery. Comfort One Heart is devoted and ready to provide blankets to babies. At Comfort One Heart, “Caring for Babies is Our Passion.” The organization needs additional funding to make sure that each baby gets a blanket as a symbol of comfort.

INQUIRY

- 1- What do you think about recycling baby blankets?
- 2- Do you think that giving recycled blankets to babies in foster homes, shelters, orphanages and poor families is helpful and comforting for the baby?
- 3- Will you volunteer for this organization?

Person one: Person one thinks that it is a good initiative to recycle blankets for babies. Yes, it will be helpful. Yes, I will volunteer.

Person two: Babies really need comfort. This is a good idea. Also, this will make the community feel that they are doing a good deed. I can volunteer sometime to make telephone calls for donations of blankets.

Person three: I would love to volunteer for an organization like Comfort One Heart, but I have a busy schedule. Babies deserve to feel love and comfort and I can support by donating blankets. I will ask my friends to help.



PURPOSE

The purpose of this proposal is to develop a business plan to collect blankets for babies.

REVIEW OF LITERATURE

Introduction

Babies are small helpless and need love. They deserve all the love they can get in order to grow up in good conditions. Taking care of a baby involves a lot of time, patience comfort and love. To be able to raise a child you must be ready.

THEME #1: Symbolic care of babies.

ARTICLE: Common emotional problems in parents with new babies.

Taking care of a baby is not an easy task. It involves a lot of time patience and can sometimes affect the emotions. This article is about what the parents are going through right after child birth. The article discussed, that sometimes after the child is born some mothers are go through depression, anxiety, baby blues (a state where the mom is irritable anxious and might even spend time crying due to hormonal changes). This type of stress can have a negative impact on a parents' ability to bond with the child.

THEME # 2: Teddy bear for comfort.



ARTICLE: The Science behind the Teddy Bear: Why Every Child Should Have One

This article is about the fact that every baby should have a Teddy Bear. According to this article, at a certain point of life, babies will be separated from their parents. Their parents will have to resume work after maternity leave or other activities taking their time. That is where the Teddy Bear comes in because, it is going to be the element they will stay with in order to go through the transition of not having the parents with them all the time. Therefore, holding the blanket for the

baby will be a way for him or her to remember the parent. We can see that this article is showing us that having a Teddy Bear is another way of bringing comfort into a baby life.

THEME #3: Volunteer cuddling at the hospital



ARTICLE: Volunteers cuddle babies at hospitals to boost health published by CBS news on March 13th 2014

This article is talking about people that volunteer at the hospital to cuddle babies. Most of the times babies are sick or are born too early; so they are not able to go home with their parents. Hospital volunteers are there to bring a human touch to babies who may not be able to be with their parents after childbirth. The article stated, other studies have suggested that touch may benefit preemies' heart rate and sleep and perhaps even shorten their stay at the hospital. "This is a very good thing because it is way to bring comfort and love to those babies so that their stay at the hospital can be shorten for them to get back home and bond with their families.

CONCLUSION

Babies are so fragile, that they need a lot of comfort from their parents after their birth. Unfortunately, not all of them have that privilege of getting comfort from their parents. Comfort One Heart will be a very good initiative to help with the gap of empty space for babies without parents and babies born in countries without medical care.

RECOMMENDATION

- 👶 Comfort One Heart would like to work with hospitals to ensure that right after birth every baby receives a blanket.
- 👶 Comfort One Heart would like to work with a sponsor to help get blankets to 3rd world countries for babies.

TIMELINE IMPLEMENTATION





APPENDICES



APPENDIX A

GLOSSARY OF TERMS WITH MEANINGS

A Foster home: A residential institution providing care and guardianship for children whose parents are dead or unable to look after them.

An Orphanage: A residential institution for the care of orphan.

An Orphan: a child whose parents are dead

To Recycle:

- 1- convert (waste) into reusable material
- 2- Return to previous stage in a cyclic process
- 3- Use again

To Comfort:

- 1- to ease the grief of distress of
- 2- Improve the mood of or restore the sense of physical well-being to

A Shelter:

- 1-A place giving temporary protection from bad weather or danger.
- 2- A place providing food and accommodation for the homeless
- 3-An animal sanctuary.
- 4-A shielded or safe condition; protection

A Donation: Something that is given to a charity, especially a sum of money.

The action of donating something

A Volunteer:

- 1- person who freely offers to take part in an enterprise or undertake a task.
- 2- A person who freely enrolls for military service rather than being conscripted.
- 3- A plant that has not been deliberately planted.
- 4-A person who works for an organization without being paid.
- 5-Law A person to whom a voluntary conveyance or disposition is made.

The image shows two rolled-up towels. The towel on the left is plain white, and the towel on the right has a grey and white patterned design. Both towels are tied with a light-colored ribbon that has a small, dark polka-dot pattern. The towels are set against a plain white background.

APPENDIX B



My Resume-See Insert



APPENDIX C

SIMILAR CASE

843 F.Supp.2d 259

United States District Court,

E.D. New York.

Desiree PHELAN, by her parents John PHELAN and Ellien Phelan, and John Phelan and Ellien Phelan, individually, Plaintiffs,

v.

Marisol TORRES, individually and as [caseworker](#); Leta Macadaeg, individually and as supervisor; Juanita Bowers, individually and as director, Elizabeth Mullane, individually and as director of medical services; St. Vincent's Services, Inc.; Monica Hoover, individually and as [caseworker](#); Barbara Felton, individually and as manager; Robert Jackson, individually and as supervisor; Kathryn Croft, individually and as Deputy Commissioner; Nicholas Scopetta, individually and as Commissioner; and City of New York, Defendants.

Desiree Phelan, by her parents John Phelan and Ellien Phelan, Plaintiff,

v.

Kings County Hospital Center; New York City Health and Hospitals Corporation; Jeffrey Birnbaum, M.D.; and Sundari Nandanavanam, M.D., Defendants.

Nos. 1:04-cv-03538-ERK-CLP, 1:06-cv-01663-ERK-CLP.

Dec. 30, 2011.As Amended Jan. 3, 2012.

Synopsis

Background: Adoptive parents, on their own behalf and on behalf of their child, brought § 1983 action against foster care agency and its caseworkers, among others, alleging violation of child's substantive due process rights after she suffered injuries during a foster placement. Defendants moved for summary judgment.

[211k1794](#)Injury to child

Attorneys and Law Firms

*261 [Carolyn A. Kubitschek](#), Lansner Kubitschek Schaffer & Zuccardy, New York, NY, for Plaintiffs.

[Timothy J. O'Shaughnessy](#), McAloon & Friedman, [Carl Judah Schaerf](#), [Bruce Strikowsky](#), Schnader Harrison Segal & Lewis LLP, Patricia A. Murphey, Conway, Farrell, Curtin & Kelly, P.C., New York, NY, for Defendants.

MEMORANDUM & ORDER

[KORMAN](#), Senior District Judge:

Desiree Abson was born on December 5, 1995 at Kings County Hospital Center ("KCHC"). Desiree's mother, Darlene Abson, reported using alcohol and cocaine during her pregnancy, receiving no prenatal care, and "smok[ing] a pack of cigarettes daily since 1989." SVS Defs.' Rule 56.1 Stmt. ¶¶ 31, 32. Desiree remained at KCHC until the City of New York ("City"), through its Child Welfare Administration ("CWA"), the predecessor agency to the Administration for Children's Services ("ACS"), took custody of her on January 2, 1996 and later placed her with a foster care agency, St. Vincent's Services, Inc. ("SVS" or "St. Vincent's Services"). On February 1, 1996, after SVS placed Desiree in a foster home, Desiree began having seizures. After her third visit to the emergency room at KCHC, all of which occurred in February 1996, it was determined that Desiree had four broken ribs and [bleeding in her brain](#). She was then diagnosed with [Shaken Baby Syndrome](#), a devastating form of child abuse caused by violently shaking a baby, resulting in [traumatic brain injury](#), which is characterized by a constellation of injuries including [subdural hematomas](#) (i.e., [bleeding in the brain](#)), [retinal hemorrhages](#), [rib fractures](#) and long-bone fractures.¹ She was subsequently placed by SVS with John and Ellien Phelan, a foster care placement *262 that led to her adoption by them on June 3, 1999.

On August 14, 2004, John and Ellien Phelan commenced an action pursuant to [42 U.S.C. § 1983](#) on behalf of Desiree, and on their own behalf, alleging among other things that the defendants violated Desiree's civil rights. Plaintiffs also alleged pendent claims under New York law. They named as defendants the City, St. Vincent's Services, and various employees of the City and SVS. The City employee defendants who remain in the case are Kathryn Croft, Robert Jackson, Barbara Felton, and Monica Hoover. The St. Vincent's Services employee defendants who remain in the case are Marisol Torres (now Zobler, hereinafter "Torres-Zobler"), Leta Macadaeg, and Elizabeth Mullane. *See* Pls.' Opp'n Br. 1.

On April 10, 2006, almost two years after filing the first complaint, plaintiffs filed a complaint pursuant to [42 U.S.C. § 1983](#) against KCHC, two doctors employed by KCHC and KCHC's parent, the New York City Health and Hospitals Corporation. The KCHC employee defendants are Dr. Jeffrey Birnbaum—an attending physician—and Dr. Sundari Nandanavanam—a first year resident. Plaintiffs allege, without any specific allegation that Dr. Nandanavanam, failed to provide Desiree with adequate medical treatment. Plaintiffs also alleged three causes of action arising under New York law. The two complaints were consolidated. After an unsuccessful motion to dismiss and the completion of discovery, all the defendants moved for summary judgment. In an unpublished Memorandum and Order, I granted the motion of each of the defendants. *See Phelan ex rel. Phelan v. Torres, Nos. 04-03538 & 06-01663, 2011 WL 6935354 (E.D.N.Y. Dec. 30, 2011)*. *See Phelan v. Torres, Nos. 04-03538 & 06-01663, 2011 WL 6935354 (E.D.N.Y. Dec. 30, 2011)*. The only portion of that Memorandum and Order that warrants publication here addresses the liability of SVS.

FACTUAL BACKGROUND

A. Desiree's Placement in Foster Care

1. Certification of Maitland

Janice Maitland, who would become Desiree's foster mother, initially applied to be a foster parent with SVS on November 8, 1994. Ex. FF, at SVS 3810.² She is a licensed Registered Nurse and, at the time she applied, had worked as a pediatric nurse for over twelve years. Ex. K, Maitland Dep. 22:23–24:22. From 1991 to 2000, Maitland worked in the neonatal intensive care unit at Brookdale Hospital. *Id.* at 23:7–13. "Pursuant to [Section 424-a of the Social Services Law](#), St. Vincent's Services completed a background check of Maitland." SVS Defs.' Rule 56.1 Stmt. ¶ 97. The State Central Register ("SCR") Report on Maitland, issued on February 22, 1995, did not indicate any incidents of prior child abuse or maltreatment. *Id.*; Ex. FF, at SVS 3895. Desiree was placed with Maitland on January 2, 1996.

As part of the Foster Parent Application Process, Maitland's home was inspected on April 19, 1995. SVS Defs.' Rule 56.1 Stmt. ¶ 108. That same day, SVS case workers Sister Catherine Peter and Shelton Collins completed a home study and interviewed Maitland. Ex. FF, at SVS 3873–82. Maitland identified her sister, Elma Guillaume, as her backup in-home childcare provider. Ex. FF, at SVS 3880. Guillaume, who was *263 also a registered nurse, lived with her husband and one child. *Id.*; Ex. K, Maitland Dep. 56:5–11, 57:19–22. Although SVS was required to obtain an SCR clearance for Guillaume *before* certifying Maitland, it did not do so until June 4, 1996. Pls.' Rule 56.1 Stmt. ¶¶ 70, 367. Nevertheless, when it came, the clearance reflected no prior reports of abuse or maltreatment. Ex. FF, at SVS 3889.

On April 26, 1995, the New York State Department of Social Services certified Maitland as a foster parent to care for as many as three children (ages 0–8 years-old), for the period April 26, 1995 to April 26, 1996. Ex. FF, at SVS 3887–88. On October 24, 1995, Maitland submitted paperwork indicating that she could accommodate a wide range of classifications for foster children with various disabilities. Ex. FF, at SVS 3805–07. The document indicates that Maitland was willing to care for children with, e.g., brain damage, but was not willing to care for children with, e.g., HIV or "Exceptional Needs." *Id.* At the time of Desiree's placement, Maitland "was caring for two other foster care children," an eight-month-old girl and the girl's four-and-a-half year-old brother. SVS Defs.' Rule 56.1 Stmt. ¶ 87.

2. Foster care placement of Desiree with Maitland

On January 2, 1996, KCHC discharged Desiree. On the same day, the City placed Desiree under the care of SVS. Ex. KK, at 1075; Ex. LL, at 955–56. That evening, Desiree was placed in Maitland's home on a temporary basis until the home of Delores Magwood, who had adopted Desiree's biological brother, could be recertified for foster care—a process which was expected to take two weeks. *Id.*; Ex. K, Maitland Dep. 66:23–67:4, 128:3–130:6.

On January 4, 1996, Marisol Torres-Zobler, a SVS social worker, met with Maitland and Desiree at SVS's offices for Desiree's initial medical intake examination, conducted by Dr. Matilda Bravo. Ex. FF, at SVS 0199, SVS 1645. A neurological evaluation indicated that Desiree was "jittery." *Id.* Dr. Bravo recommended that Desiree be tested for HIV, and Maitland consented to the test that day. *Id.* at SVS 1245, SVS 1567–70. On January 29, 1996, CWA

provided SVS the requisite authorization for the HIV testing. *Id.* at SVS 1243. After the requisite authorizations were obtained, Desiree was tested for HIV on February 7, 1996. Ex. FF, at SVS 1237. The result of the test, which was available a few days later, indicated that Desiree had HIV antibodies. *Id.* Such a result very likely “reflects the mother’s HIV status,” rather than the baby’s status. Ex. M, Ajl Dep. 512:18–513:2; *see also* Ex. N, Molofsky Dep. 46:23. Indeed, plaintiffs concede that Desiree *was not in fact HIV positive*. *See* Pls.’ Opp’n Br. 12.

B. Desiree’s First Hospitalization

Sometime on February 1, 1996, though the record is not clear as to when, Maitland took Desiree to see a pediatrician, Dr. Melanie Bravo (not to be confused with the SVS pediatrician, Dr. Matilda Bravo, mentioned above), because Desiree exhibited twitching in both her left hand and arm and in her lower lip and chin. Ex. FF, at SVS 1078. Dr. Melanie Bravo examined Desiree and referred her to the KCHC pediatric emergency room. *Id.* Later that day, at approximately 8:40 p.m.—the very same day—Maitland had telephoned SVS to report that Desiree was irritable, her face was twitching and that Maitland would be taking Desiree to KCHC. SVS Defs.’ Rule 56.1 Stmt. ¶ 170. Less than an hour later, at approximately 9:25 p.m., Maitland brought Desiree to KCHC for irritability and jerky movements with a blank stare. Ex. X, at 11–16, 27. During *264 the admitting physical examination, the physician witnessed a seizure. *Id.* at 32. Infection was among a number of possible causes considered in the differential diagnosis, and Desiree “was placed on [Phenobarbital](#) for the seizures and an antibiotic.” Hosp. Defs.’ Rule 56.1 Stmt. ¶¶ 5–6. Maitland called SVS again, at approximately 11:30 p.m., to report that Desiree was being admitted to KCHC. SVS Defs.’ Rule 56.1 Stmt. ¶ 173.

On February 2, 1996, Dr. Schubert, a pediatric neurologist, who examined Desiree, noted that there was “[n]o evidence of [head trauma](#).” Ex. BB, at M001809. Nevertheless, she ordered a number of tests, including a “stat [CT scan](#),” an imaging method that uses x-rays to create cross-sectional pictures of the body. Ex. X, at 41. The report of the scan of Desiree’s head, which was taken that same day, states that the “images are remarkable for unusually dense areas seen in the region of the straight sinus, transverse sinus and superior sagittal sinus.” Ex. BB, at M001854. And that the “etiology of these regions of increased density include superficial [sinus thrombosis](#) [i.e., a [blood clot](#)] or [acute subdural hematoma](#).” *Id.* (emphasis added). An [acute subdural hematoma](#) is a collection of blood on the surface of the brain that results from a serious [head injury](#).³ [Subdural hematoma](#) is one of a constellation of indications of [Shaken Baby Syndrome](#), along with retinal hemorrhaging, long bone fractures, and [rib fractures](#). Ex. M, Ajl Dep. 57:18–67:12.⁴

The radiology report also recommended an MRI of the brain. Ex. BB, at M001854. Dr. Schubert testified that she agreed and directed that one be done. Ex. 79, Schubert Dep. 22:12–23:8; Ex. BB, at M001832. Dr. Schubert testified that “it would have been helpful to have the [MRI, b]ut as [Desiree] stabilized, it became less urgent [because] it was no longer an emergency. It wasn’t a question of acute management anymore.” Ex. 79, Schubert Dep. 23:16–22. Ultimately, it was determined that the MRI would be done on April 11, 1996 at Downstate Medical Center, at the same time as Desiree’s next clinic visit. *Id.* at 25:17–19.

Significantly, although plaintiffs’ pediatric experts, Drs. Ajl and Molofsky, testified that most infants who have been shaken will have [retinal hemorrhages](#), there was no evidence that Desiree had retinal hemorrhaging. Ex. M, Ajl Dep. 117:7–9; Ex. N, Molofsky Dep. 150:2–11. Nor was she observed to have had any bruises, abrasions, cuts, marks, injuries, or any further seizures during her first admission. SVS Defs.’ Rule 56.1 Stmt. ¶ 248; Hosp. Defs.’ Rule 56.1 Stmt. ¶ 10. Because child abuse was not considered a possible cause of Desiree’s symptoms, she was treated for an infection and additional tests were run to rule out a [metabolic disorder](#). *Id.* at 315:18–316:10; Ex. M, Ajl Dep. 316:11–17. She was discharged on February 16, 1996.

C. Desiree’s Second Hospitalization

Two days later, on February 18, 1996, at approximately 7:45 p.m., Maitland brought Desiree back to KCHC with complaints of nasal congestion, coughing and occasional vomiting after coughing. Ex. CC, at M000187, M000192, M000214. A [chest x-ray](#) was taken of Desiree later that night. The results of this x-ray were not discussed or reported in any clinical notes or typewritten report, on any date during this admission. A handwritten report concerning this [chest x-ray](#), however, did not *265 indicate [rib fractures](#). Ex. PP. Plaintiffs’ expert, Dr. Ajl, testified that the [rib fractures](#) were seven to twelve days old—a time frame that suggests the fractures may have been caused by a procedure while Desiree was hospitalized, and not while she was in Maitland’s home. *See* [Torres, 2011 WL 6935354, at *22](#).

During the same visit, the attending pediatrician at KCHC, Dr. Jeffrey Birnbaum, examined Desiree and found her to be alert and active in no apparent distress, and that she had bilateral rhinorrhea, i.e., runny nose, and congestion. Ex. CC, at M000200–201. Dr. Birnbaum testified that he was trained to identify signs of child abuse and neglect,

and would have noted any signs of abuse if he noticed any while examining Desiree. Ex. J, Birnbaum Dep. 115:13–117:13. He did not note any signs of abuse. SVS Defs.' Rule 56.1 Stmt. ¶¶ 268–69. Because Desiree did not have any seizures during her second hospitalization at KCHC, Dr. Birnbaum's opinion was that Desiree's seizure disorder was under control. Ex. J, Birnbaum Dep. 49:2–8.

Nevertheless, Dr. Birnbaum failed to request and review Desiree's hospital chart from her first hospitalization, from which she had been discharged only two days earlier, although it was standard practice for KCHC doctors to request charts from prior hospitalizations when an infant was subsequently hospitalized. Ex. 64, Chari Dep. Tr. 35:9–18. Plaintiffs allege that the chart would have reflected a dangerous increase in Desiree's head circumference between her initial release from KCHC on January 2, 1996 and her second hospitalization on February 18, 1996. The evidence discussed in the unpublished Memorandum and Order, however, casts significant doubt to the whether any such unusual increase in the head circumference had occurred. See [Torres, 2011 WL 6935354, at *23](#).

Desiree was discharged from KCHC on February 22, 1996. Hosp. Defs.' Rule 56.1 Stmt. ¶ 15. At that time, she was alert and active and her lungs were clear. *Id.*; Ex. Y, 742, 767. Desiree's hospital records for this admission do not contain any notes regarding any bruises, abrasions, cuts, marks, or injury to Desiree. SVS Defs.' Rule 56.1 Stmt. ¶ 269. Nor do the notes reflect any bruising, pain or tenderness to Desiree's rib cage. *Id.* ¶ 270. The diagnosis, following this hospitalization, was that Desiree had suffered from acute respiratory infection, convulsions, and [anemia](#). *Id.* ¶ 277.

D. Desiree's Third Hospitalization

On February 27, 1996, at approximately 4:30 a.m., Maitland brought Desiree back to the KCHC emergency room because Desiree had another seizure. Ex. Z, at 940–45. Initially, the cause of these conditions was again suspected to be an infection, “possibly HIV related.” *Id.* at 974. Drs. Chari and Schubert noted that the possible etiology of Desiree's seizures included perinatal insult (i.e., birth trauma) and toxic [embryopathy](#) (i.e., [birth defect](#)). Ex. DD, at M000407.

Later on February 27, 1996, a [CT scan](#) of Desiree's head was performed. *Id.* at M000425. At approximately 8:15 p.m. on February 27, a KCHC [neurosurgery](#) physician was notified of the [CT scan](#) results, which “revealed bilateral [subdural hematomas](#) and multiple hypodensities.” Hosp. Defs.' Rule 56.1 Stmt. ¶ 17. A [chest x-ray](#) taken that day indicated that Desiree's ribs were fractured. Ex. DD, at M000424. Nothing in Desiree's hospital records suggests that anyone communicated any information regarding [rib fractures](#) prior to February 27, 1996. Ex. N, Molofsky Dep. 360:13–361:3.

On February 29, 1996, at approximately 11:00 a.m., the first notation is made in *266 Desiree's hospital charts reflecting a suspicion of child abuse. Ex. DD, at M000275. The Pediatric Child Abuse Attending Physician, Dr. Ajl, who was consulted, wrote that “at present this child has at least 3 [left] posterior rib [fractures], [right] peristal [reaction,] [right] humerus, [sic] and bilateral [subdural hematoma](#) (old) and possible intracerebral infarctions.... This is [shaken baby syndrome](#) (eye exam pending).” Ex. Z, at 000978. At approximately 3:00 p.m., on February 29, 1996, Dr. Lim contacted the police, ACS, and SVS to report the suspected abuse. Ex. DD, at M000277.

When SVS was so notified on February 29, 1996, based on the x-rays showing [rib fractures](#), Desiree (though still at KCHC) was “promptly pulled” from Maitland's care, Ex. M, Ajl Dep. 404:23–405:3, and Maitland's home was ultimately involuntarily closed by the City, Ex. 42, at Phelan 20102.⁵

E. Proximate Cause of Desiree's Injuries

There is circumstantial evidence suggesting that at least some of Desiree's injuries were suffered when she was in Maitland's care. Not only did injury to Desiree occur during this period, but, when OCI interviewed Maitland, following the KCHC doctor's report that Desiree had been abused, Maitland stated that she had used a babysitter named “Marianne,” whose last name and address she did not know. *Id.* at PHELAN 20071–72; Ex. 72, Graham Dep. 43:4–25. “Marianne” was never identified, located, or interviewed as part of the OCI investigation. *Id.* The only babysitter Maitland told SVS she would use was her sister, Elma Guillaume; yet, when interviewed by OCI, Guillaume denied that she ever cared for Desiree. Ex. 42, at PHELAN 20093. Maitland also identified Desiree Abson as Shonda Arbut, on February 1, 1996, when she brought Desiree to Dr. Melanie Bravo and to the KCHC emergency room, when Desiree began having seizures. Ex. FF, at SVS 1078; Ex BB, M001795–96. While she took other action at the same time that was inconsistent with a desire to hide the identity of the child—including telephoning SVS immediately before and immediately after taking Desiree to KCHC, one inference, as she explained to SVS either on February 1st or 2nd, was that she provided the wrong name because “she was nervous about the baby's condition.” Ex. 47, SVS 0739. Consequently, I will assume for purposes of the following analysis that a reasonable jury could conclude that Desiree was injured while she was under Maitland's care.

DISCUSSION

1 To establish their claims under [42 U.S.C. § 1983](#), plaintiffs must demonstrate a violation of a right protected by the Constitution or laws of the United States that was committed by a person acting under the color of state law. [Whalen v. Cnty. of Fulton, 126 F.3d 400, 405 \(2d Cir.1997\)](#). The Second Circuit has held—in the words of the Supreme Court—that a “State may be held liable under the Due Process Clause for failing to protect children in foster homes from mistreatment at the hands of their foster parents.” [DeShaney v. Winnebago Cnty. Dep’t of Soc. Servs., 489 U.S. 189, 201 n. 9, 109 S.Ct. 998, 103 L.Ed.2d 249 \(1989\)](#) (citing [Doe v. N.Y.C. Dep’t of Soc. Servs., 649 F. 2d 134, 141–42 \(2d Cir.1981\)](#), *cert. denied sub nom. *267 Catholic Home Bureau v. Doe, 464 U.S. 864, 104 S.Ct. 195, 78 L.Ed.2d 171 (1983)*). Indeed, the case of foster children is closely analogous to that of individuals involuntarily committed to a state institution for the mentally retarded, who have also been held to have substantive rights under the Fourteenth Amendment’s Due Process Clause. [Youngberg v. Romeo, 457 U.S. 307, 315, 102 S.Ct. 2452, 73 L.Ed.2d 28 \(1982\)](#). These rights, the Supreme Court held, are violated by professional caretakers “only when the decision by the professional is such a substantial departure from accepted professional judgment, practice, or standards as to demonstrate that the person responsible actually did not base the decision on such a judgment.” [Id. at 323, 102 S.Ct. 2452](#). This standard “is essentially a gross negligence standard.” [Doe v. N.Y.C. Dep’t of Soc. Servs., 709 F.2d 782, 790 \(2d Cir.1983\)](#) (“*Doe II*”). Such a standard, which is arguably more protective than the deliberate indifference applicable to an individual incarcerated for criminal activity, is based on the Supreme Court’s judgment that “[p]ersons who have been involuntarily committed are entitled to more considerate treatment and conditions of confinement than criminals whose conditions of confinement are designed to punish.” [Youngberg, 457 U.S. at 321–22, 102 S.Ct. 2452](#). Clearly, an infant, such as Desiree, who is in the custody of the City, is likewise entitled to a standard that affords her greater protection than that afforded to an individual incarcerated for criminal activity. A constitutional violation, however, is only the threshold showing in order to establish liability of a municipality or public entity. In addition to showing that a public employee violated a foster child’s substantive due process rights through gross negligence, plaintiffs must also establish that the violation occurred under an official custom or policy. Thus, the City, the New York City Health and Hospitals Corporation, KCHC, and SVS may be held liable under [§ 1983](#) only for a violation of constitutional rights committed pursuant to an official policy or custom.

23 While the terms “policy” and “custom” are often used interchangeably, the two words reflect separate legal concepts. “The Supreme Court has identified at least two situations that constitute a municipal policy: (1) where there is an officially promulgated policy as that term is generally understood (i.e., a formal act by the municipality’s governing body), and (2) where a single act is taken by a municipal employee who, as a matter of state law, has final policymaking authority in the area in which the action was taken.” [Davis v. City of New York, 228 F.Supp.2d 327, 336–37 \(S.D.N.Y.2002\)](#) (citing [Monell v. Dep’t of Soc. Servs. of New York, 436 U.S. 658, 690, 98 S.Ct. 2018, 56 L.Ed.2d 611 \(1978\)](#), and [Pembaur v. City of Cincinnati, 475 U.S. 469, 480–81, 106 S.Ct. 1292, 89 L.Ed.2d 452 \(1986\)](#)), *aff’d* [75 Fed.Appx. 827 \(2d Cir.2003\)](#); *see also* [Walker v. City of New York, 974 F.2d 293 \(1992\)](#). “[A]n act performed pursuant to a ‘custom’ that has not been formally approved by an appropriate decisionmaker may fairly subject a municipality to liability on the theory that the relevant practice is so widespread as to have the force of law.” [Bd. of Cnty. Comm’rs v. Brown, 520 U.S. 397, 404, 117 S.Ct. 1382, 137 L.Ed.2d 626 \(1997\)](#). This is based on the premise that, where a custom and practice is so “‘well settled and widespread ... the policymaking officials of the municipality can be said to have either actual or constructive knowledge of it yet did nothing to end the practice.’” [Davis, 228 F.Supp.2d at 337](#) (quoting [Silva v. Worden, 130 F.3d 26, 31 \(1st Cir.1997\)](#)). “Widespread means that acts [complained of] are common or prevalent throughout the agency; well-settled means that the acts [complained of] have *268 achieved permanent, or close to permanent, status.” [Id. at 346](#). Moreover, even where a policy or practice is established, a plaintiff must establish “a direct causal link between [the] municipal policy or custom and the alleged constitutional deprivation.” [City of Canton v. Harris, 489 U.S. 378, 385, 109 S.Ct. 1197, 103 L.Ed.2d 412 \(1989\)](#).

I proceed to discuss the application of these principals to the potential liability of SVS. In the course of so doing, I also address the liability of each of its individual employees who are named as defendants.

The image shows two rolls of fabric standing upright. The roll on the left is white, and the roll on the right is a light-colored fabric with a small, dark, repeating pattern. Both rolls are tied with a white ribbon that has a small, dark, repeating pattern, matching the patterned fabric. The rolls are positioned in the center of the page, and the text 'APPENDIX D' is overlaid on them.

APPENDIX D



PAMPHLET-Attached to Another File



APPENDIX E



Estimated Budget

Cost of Blankets \$8,000

Cost to deliver to Hospitals (Done by Volunteers)

Cost of recycle box \$2,000

Cost to send Worldwide \$5,000

We hope to get blankets donated to eliminate cost.

Works cited

<https://www.cbsnews.com/news/volunteers-cuddle-babies-at-hospitals-to-boost-health/>

https://healthywa.wa.gov.au/Articles/A_E/Common-emotional-problems-in-parents-with-new-babies

<https://www.everydayfamily.com/blog/science-behind-teddy-bear-every-child-one/>

<https://en.oxforddictionaries.com/>

