

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

H.T. ET AL.,

Plaintiffs,

v.

MARK A. CIAVARELLA, JR. ET AL.,

Defendants.

WILLIAM CONWAY ET AL.,

Plaintiffs,

v.

MICHAEL T. CONAHAN ET AL.,

Defendants.

CONSOLIDATED
Civil Action No. 3:09-cv-0286

JURY TRIAL DEMANDED

AMENDED
MASTER COMPLAINT –
FOR CLASS ACTIONS

(Civil Action No. 3:09-cv-0357)

(Civil Action No. 3:09-cv-0291)

JUDGE: A. RICHARD
CAPUTO

[ELECTRONICALLY FILED]

AMENDED

MASTER COMPLAINT – FOR CLASS ACTIONS

INTRODUCTION

1. With utter disdain for the rule of law, defendants Mark A. Ciavarella, Jr. and Michael T. Conahan, in combination and conspiracy with other defendants named herein, have collectively perpetrated, through their acts and omissions, what ranks as one of the largest and most serious violations of children’s rights in the history of the American legal system. Both in its duration, spanning approximately five years between 2003 and 2008 – and its magnitude, inflicting damage on the lives of thousands of children and their families – the scope of defendants’ unlawful scheme is profoundly shocking. In choosing to treat children as commodities that could be traded for cash, the defendants have placed an indelible stain on the Luzerne County juvenile justice system.
2. Specifically, defendants Ciavarella and Conahan engaged for years in a brazen scheme to accept financial kickbacks from defendants Powell, Mericle, and others in exchange for placing children appearing before Ciavarella in residential programs owned and operated by Powell and Zappala, PA Child Care LLC, Western PA Child Care LLC, and Mid-Atlantic Youth Services. As part of the implementation of this scheme,

Ciavarella, in concert with other defendants, routinely deprived children of their constitutional rights – established for decades – to appear before an impartial tribunal, to be represented by counsel, to be protected against self-incrimination and, through a detailed colloquy with the Court, to insure a knowing, intelligent and voluntary waiver of trial rights before pleading guilty.

3. The fact that the victims of the defendants' misconduct were children who went before the juvenile court expecting justice and fairness only exacerbates the venality of defendants' conduct. Instead of due process, thousands of these children, among the most vulnerable members of our society, were victims of a wave of unprecedented lawlessness that within minutes of their court appearances, swept them away in handcuffs and shackles and placed them in detention or other residential facilities for months for infractions as trivial as shoplifting a four dollar jar of nutmeg or taking change from unlocked cars. The abuse and trauma these children suffered at the hands of defendants has dramatically changed the trajectory of many of their lives.
4. Confronted as we are in this case with the wholesale subversion of children's constitutional rights at the hands of the very public officials, elected judges, charged with enforcing and protecting those rights, the due

process clause has never been more relevant; the principle that no individual is above the law has never been more compelling. This case requires that we squarely confront these two fundamental principles of our own constitutional tradition.

5. These defendants have shamed the face of justice; plaintiffs now come before this court to seek redress.

JURISDICTION

6. Jurisdiction of this Court is proper pursuant to 28 U.S.C. §§ 1331 and 1343(3) and (4), in that claims are brought under 42 U.S.C. § 1983 for the redress of rights secured by the United States Constitution and under 18 U.S.C. § 1964 for civil violations of the Racketeer Influenced and Corrupt Organizations Act, 18 U.S.C. §§ 1961-68 (“RICO”).
7. Plaintiffs’ claims for compensatory and punitive damages are authorized by 18 U.S.C. § 1964 and 42 U.S.C. § 1983.
8. Plaintiffs’ claims for attorneys’ fees are authorized by 42 U.S.C. §§ 1983 and 1988 and 18 U.S.C. § 1964(c).
9. Venue is proper in this district pursuant to 28 U.S.C. § 1391(b) because the plaintiffs reside in this district, the defendants are located in this district, and the acts and omissions giving rise to the claims herein occurred in this district.

PARTIES

Plaintiffs

10. Plaintiff H.T. of White Haven, Pennsylvania is a seventeen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
11. Plaintiff L.T. of White Haven, Pennsylvania is the next friend and mother of Plaintiff H.T.
12. Plaintiff B.W. of Mountain Top, Pennsylvania is a sixteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
13. Plaintiff W.W. of Mountain Top, Pennsylvania is the next friend and father of Plaintiff B.W.
14. Plaintiff KEVIN WILLIAMSON of Hanover Township, Pennsylvania is an eighteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
15. Plaintiff SUSAN MISHANSKI of Hanover Township, Pennsylvania is the mother of Plaintiff KEVIN WILLIAMSON.
16. Plaintiff M.Y. of Sugarloaf, Pennsylvania is a seventeen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

17. Plaintiffs M.B.Y. and J.Y. of Sugarloaf, Pennsylvania are the next friends and parents of Plaintiff M.Y.
18. Plaintiff P.S. of Wilkes-Barre, Pennsylvania is a fifteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
19. Plaintiff A.S. of Wilkes-Barre, Pennsylvania is the next friend and mother of Plaintiff P.S.
20. Plaintiff S.S. of Wilkes-Barre, Pennsylvania is a seventeen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
21. Plaintiff R.K. of Wilkes-Barre, Pennsylvania is the next friend and mother of Plaintiff S.S.
22. Plaintiff JESSICA VAN REETH of Mountain Top, Pennsylvania is a nineteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
23. Plaintiff JACK VAN REETH of Mountain Top, Pennsylvania is the father of Plaintiff JESSICA VAN REETH.
24. Plaintiff M.K. of Exeter, Pennsylvania is a seventeen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

25. Plaintiff J.F.K. of Exeter, Pennsylvania is the father and next friend of Plaintiff M.K.
26. Plaintiff CHARLES BALASAVAGE, JR. of Wilkes-Barre, Pennsylvania is an eighteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
27. Plaintiffs CHARLES and JOANNE BALASAVAGE of Wilkes-Barre, Pennsylvania are the parents of Plaintiff CHARLES BALASAVAGE, JR.
28. Plaintiff JESSE BALLIET of Wilkes-Barre, Pennsylvania is a twenty-two-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
29. Plaintiff SARAH MYERS is a nineteen-year-old female from Wilkes-Barre, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
30. Plaintiff FRANK WEBER is a twenty-three-year-old male from Wilkes-Barre, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
31. Plaintiff FLORENCE MYERS of Wilkes-Barre, Pennsylvania, is the mother of Plaintiff JESSE BALLIET, Plaintiff SARAH MYERS, and Plaintiff FRANK WEBER.

32. Plaintiff STEVEN BRANNIGAN is an eighteen-year-old male who resides in Hanover Township, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
33. Plaintiff LISA BRANNIGAN of Hanover Township, Pennsylvania is the mother of Plaintiff STEVEN BRANNIGAN.
34. Plaintiff JEFFREY BRUNO is a twenty-one-year-old male who resides in Larksville, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
35. Plaintiff JAY BRUNO of Larksville, Pennsylvania is the father of Plaintiff JEFFREY BRUNO.
36. Plaintiff SCOTT BUKOSKI is a twenty-one-year-old male who resides in Nanticoke, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
37. Plaintiff D.C. of Shickshinny, Pennsylvania is a seventeen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
38. Plaintiff R.C. of Shickshinny, Pennsylvania is the next friend and mother of Plaintiff D.C.

39. Plaintiff RUTH DAVIS of Shavertown, Pennsylvania is a twenty-two-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
40. Plaintiff CAROL FRONCZEK of Shavertown, Pennsylvania is the mother of Plaintiff RUTH DAVIS.
41. WILLIAM DIXON is a twenty-one-year-old male who resides in Plymouth, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
42. Plaintiff RACHELLE FARBER of Swoyersville, Pennsylvania is a twenty-four-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
43. Plaintiff JUDY DANE of Swoyersville, Pennsylvania is the parent of Plaintiff RACHELLE FARBER.
44. Plaintiff J.G. of Harvey's Lake, Pennsylvania is a seventeen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
45. Plaintiff M.O. of Harvey's Lake, Pennsylvania is the next friend and mother of Plaintiff J.G.

46. Plaintiff BRIAN GYLE is a nineteen-year-old male who resides in Pittston, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
47. Plaintiff WAYNE GYLE is a twenty-one-year-old male who resides in Pittston, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
48. Plaintiff TRACY HARVEY of Harvey's Lake, Pennsylvania is an eighteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
49. Plaintiff ALEXANDER HOGAN of Kingston, Pennsylvania is an eighteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
50. Plaintiff MOLLY HOGAN of Kingston, Pennsylvania is the mother of Plaintiff ALEXANDER HOGAN.
51. Plaintiff D.J. of Edwardsville, Pennsylvania is a sixteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
52. Plaintiff S.J. of Edwardsville, Pennsylvania is the next friend and mother of Plaintiff D.J.

53. Plaintiff BARBARA KEARNS of Southern Pines, North Carolina is a nineteen-year-old female. She was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
54. Plaintiff JESSICA THURSTON of Wilkes-Barre, Pennsylvania is a twenty-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
55. Plaintiff BARBARA THURSTON of Wilkes-Barre, Pennsylvania is the mother of Plaintiff JESSICA THURSTON and Plaintiff BARBARA KEARNS.
56. Plaintiff KURT KRUGER is a twenty-two-year-old male who resides in Wilkes-Barre, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
57. Plaintiff J.M.K. of Wilkes-Barre, Pennsylvania is a seventeen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
58. Plaintiff B.T. of Wilkes-Barre, Pennsylvania is the next friend and mother of Plaintiff J.M.K.
59. Plaintiff EDWARD KENZAKOSKI III is a twenty-two-year-old male from Wilkes-Barre, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

60. Plaintiffs EDWARD KENZAKOSKI JR. and SANDRA FONZO of Wilkes-Barre, Pennsylvania are the parents of plaintiff EDWARD KENZAKOSKI III.
61. Plaintiff J.K. of Kingston, Pennsylvania is a fifteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
62. Plaintiff A.K. of Kingston, Pennsylvania is the next friend and father of Plaintiff J.K.
63. Plaintiff B.L. of Kinston, Pennsylvania is a sixteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
64. Plaintiff M.L. of Kingston, Pennsylvania is the father and next friend of Plaintiff B.L.
65. Plaintiff ANTHONY MILLAN of Nanticoke, Pennsylvania is a twenty-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
66. Plaintiff DAMON MILLAN is an eighteen-year-old male who resides in Nanticoke, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

67. Plaintiff CINDY MILLAN of Nanticoke, Pennsylvania, is the mother of Plaintiffs DAMON and ANTHONY MILLAN.
68. Plaintiff PAUL MORGAN JR., is an eighteen-year-old male from Mountain Top, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
69. Plaintiff FRED ODOM JR., is an eighteen-year-old male from Mountain Top, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
70. Plaintiff SHERRELL ODOM of Mountain Top, Pennsylvania is the mother of Plaintiff FRED ODOM JR.
71. Plaintiff STEVEN PALCHANIS JR. of Wilkes-Barre, Pennsylvania is a twenty-one-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
72. Plaintiff STEVEN PALCHANIS SR. of Wilkes-Barre, Pennsylvania is the father of Plaintiff STEVEN PALCHANIS JR.
73. Plaintiff JAMIE QUINN is an eighteen-year-old female who resides in Wyoming, Pennsylvania. She was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

74. Plaintiff K.R. of Hanover Township, Pennsylvania is a seventeen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
75. Plaintiff T.S. of Hanover Township, Pennsylvania is the mother and next friend of Plaintiff K.R.
76. Plaintiff DAVID ROWLANDS of Laporte, Pennsylvania is an eighteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
77. Plaintiff MARY SEVILLE of Laporte, Pennsylvania is the mother of Plaintiff DAVID ROWLANDS.
78. Plaintiff MICHAEL S. SCARLATO of Hazleton, Pennsylvania is an eighteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
79. Plaintiffs MICHAEL P. and TINA SCARLATO of Hazleton, Pennsylvania, are the parents of Plaintiff MICHAEL S. SCARLATO.
80. Plaintiff A.S. of Wilkes-Barre, Pennsylvania is a fifteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
81. Plaintiff G.S. of Wilkes-Barre, Pennsylvania is the next friend and father of Plaintiff A.S.

82. Plaintiff JAMES SWARTLEY is a nineteen-year-old male from Wilkes-Barre, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
83. Plaintiff MICHAEL VITALI of Wilkes-Barre, Pennsylvania is a twenty-two-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
84. Plaintiff M.M.W. of Freeland, Pennsylvania is a fourteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
85. Plaintiff J.C. of Freedland, Pennsylvania is the next friend and legal guardian of Plaintiff M.M.W.
86. Plaintiff JOHN ASHFORD JR. of Wilkes-Barre, Pennsylvania is a twenty-one-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
87. Plaintiff DONNA ASHFORD of Wilkes-Barre, Pennsylvania is the mother of Plaintiff JOHN ASHFORD JR.
88. Plaintiff CHRISTIAN BARNES of Wilkes-Barre, Pennsylvania is a twenty-one-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

89. Plaintiff BRIAN BARNES of Wilkes-Barre, Pennsylvania is the parent of Plaintiff CHRISTIAN BARNES.
90. Plaintiff SHANE BLY of Sugar Notch, Pennsylvania is a twenty-one-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
91. Plaintiffs KEVIN and LINDA BLY of Sugar Notch, Pennsylvania are the parents of twenty-year-old SHANE BLY and were ordered to pay for the placement and probation of their son who was placed by Defendant CIAVARELLA some time between 2003 and 2008.
92. Plaintiff G.B. of Larksville, Pennsylvania is a seventeen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
93. Plaintiffs P.P. and J.B. of Larksville, Pennsylvania are the next friends and parents of Plaintiff G.B.
94. Plaintiff DARYL CHARLES of Wilkes-Barre, Pennsylvania is a twenty-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
95. Plaintiff LIZA CHARLES of Wilkes-Barre, Pennsylvania is the mother of Plaintiff DARYL CHARLES.

96. Plaintiff WILLIAM CLARKE of Bear Creek Township, Pennsylvania is a twenty-three-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
97. Plaintiff SHARON GRAAF of Bear Creek Township, Pennsylvania is the mother of Plaintiff WILLIAM CLARKE.
98. Plaintiff GLENN COOPER of Meshoppen, Pennsylvania is a twenty-one-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
99. Plaintiff KAREN COOPER of Meshoppen, Pennsylvania is the mother of Plaintiff GLENN COOPER.
100. Plaintiff RICHARD COPELAND II of Sugar Notch, Pennsylvania is a twenty-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
101. Plaintiffs DONNA and RICHARD COPELAND of Sugar Notch, Pennsylvania are the parents of Plaintiff RICHARD COPELAND II.
102. Plaintiff CHAD DERHAMMER of Dallas, Pennsylvania is a twenty-three-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

103. Plaintiff A.D. of Plymouth, Pennsylvania is a seventeen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
104. Plaintiff J.E. of Plymouth, Pennsylvania is the next friend and mother of Plaintiff A.D.
105. Plaintiff MATTHEW DOUGHERTY of Pittston, Pennsylvania is a twenty-one-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
106. Plaintiff E.E. of Wilkes-Barre, Pennsylvania is a fourteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
107. Plaintiff K.E. of Wilkes-Barre, Pennsylvania is a fifteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
108. Plaintiff L.E. of Wilkes-Barre, Pennsylvania is a seventeen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
109. Plaintiff H.E. of Wilkes-Barre, Pennsylvania is the next friend and mother of Plaintiff L.E., Plaintiff K.E., and Plaintiff E.E.

110. Plaintiff A.F. of Drums, Pennsylvania is a seventeen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
111. Plaintiff L.F. of Drums, Pennsylvania is a nineteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
112. Plaintiff M.F. of Drums, Pennsylvania is the next friend and mother of Plaintiff A.F. and Plaintiff M.F.
113. Plaintiff J.D.F. of Exeter, Pennsylvania is a sixteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
114. Plaintiff M.W. of Exeter, Pennsylvania is the next friend and mother of Plaintiff J.D.F.
115. Plaintiff J.F. of Nanticoke, Pennsylvania is a fourteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
116. Plaintiff A.I.K. of Nanticoke, Pennsylvania is the next friend and mother of Plaintiff J.F.

117. Plaintiff ALEXANDRA FAHEY is a nineteen-year-old female who resides in Pittston, Pennsylvania. She was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
118. Plaintiff L.H. of Wilkes-Barre, Pennsylvania is a sixteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
119. Plaintiff J.M. of Wilkes-Barre, Pennsylvania is the next friend and mother of Plaintiff L.H.
120. Plaintiff MICHAEL HAINES of Dallas, Pennsylvania is a nineteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
121. Plaintiff BARBARA HAINES of Dallas, Pennsylvania is the mother of Plaintiff MICHAEL HAINES.
122. Plaintiff TIFFANY HARRISON of Pittston, Pennsylvania is a twenty-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
123. Plaintiff BERNADETTE HARRISON of Pittston, Pennsylvania is the mother of Plaintiff TIFFANY HARRISON.

124. Plaintiff EDWARD KANE JR. is a twenty-two-year-old male who resides in Swoyersville, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
125. Plaintiff BRIANNA KEE is an eighteen-year-old female who resides in Wilkes-Barre, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
126. Plaintiff MATTHEW KOPETCHNY is a twenty-year-old male who resides in Kingston, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
127. Plaintiff MAGEE MOTT is a twenty-three-year-old female who resides in Pittston, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
128. Plaintiff G.M. of Wilkes-Barre, Pennsylvania is a fifteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
129. F.M. of Wilkes-Barre, Pennsylvania is the next friend and father of Plaintiff G.M.
130. Plaintiff KRYSTAL POPE is a nineteen-year-old female who resides in Kingston, Pennsylvania. She was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

131. Plaintiff LISA SCARBROUGH of Mountain Top, Pennsylvania is a twenty-one-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
132. Plaintiff LAURIE SCARBROUGH of Mountain Top, Pennsylvania is the mother of Plaintiff LISA SCARBROUGH.
133. Plaintiff MARSHONDA SEWARD is a nineteen-year-old female from Wilkes-Barre, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
134. Plaintiff J.S. is a fifteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
135. Plaintiff C.S. of Plymouth, Pennsylvania is the next friend and mother of Plaintiff J.S.
136. Plaintiff CHAD UCA is an eighteen-year-old male from Hazleton, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
137. Plaintiff W.U. of Wilkes-Barre, Pennsylvania is a fifteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

138. Plaintiff D.S. of Wilkes-Barre, Pennsylvania is the next friend and mother of Plaintiff W.U.
139. Plaintiff B.R.W. of Wilkes-Barre, Pennsylvania is a fifteen-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
140. Plaintiffs C.W. and S.W. of Wilkes-Barre, Pennsylvania are the next friends and parents of Plaintiff B.R.W.
141. Plaintiff WILLIAM CONWAY is a twenty-three-year old male from Ashley, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
142. Plaintiff CHRISTIAN RYAN is a twenty-three-year old male from Hanover Township, Pennsylvania who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
143. Plaintiff KEVIN RYAN of Mountain Top, PA is the father of Plaintiff CHRISTIAN RYAN.
144. Plaintiff TRACEY ROWLANDS of Laporte, Pennsylvania is a nineteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
145. Plaintiff MARY SEVILLE of Laporte, Pennsylvania is the mother of Plaintiff TRACEY ROWLANDS.

146. Plaintiff PAIGE CICARDO of Tobyhanna, Pennsylvania is an eighteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
147. Plaintiff WILIAM CIRCARDO of Pittston, Pennsylvania is the father of Plaintiff PAIGE CIRCADO.
148. Plaintiff ANGELIA KARSKO of Wyoming, Pennsylvania is a nineteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
149. Plaintiff ROSEMARY KARSKO of Wyoming, Pennsylvania is the mother of Plaintiff ANGELIA KARSKO.
150. Plaintiff ELIZABETH HABEL of Plymouth, Pennsylvania is an eighteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
151. Plaintiffs GLORIA HABEL and RICHARD HABEL of Plymouth, Pennsylvania are the parents of Plaintiff ELIZABETH HABEL.
152. Plaintiff A.L. is a seventeen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
153. Plaintiffs E.L. and T.L. are the parents of Plaintiff A.L.

154. Plaintiff TIFFANY MURPHY of Nanticoke, Pennsylvania is a nineteen-year-old female who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
155. Plaintiff JAMES MURPHY of Wilkes-Barre, Pennsylvania, is the father of Plaintiff TIFFANY MURPHY.
156. Plaintiff STEPHEN FINO is a twenty-one-year-old who resides in Mountain Top, Pennsylvania. He was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
157. Plaintiff LYNN FINO of Mountain Top, Pennsylvania is the mother of Plaintiff STEPHEN FINO.
158. Plaintiff JARED PADDEN of Ashley, Pennsylvania is a twenty-one-year old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.
159. Plaintiff JOHN PADDEN of Ashley, Pennsylvania is the father of Plaintiff JARED PADDEN.
160. Plaintiff PAUL SCHWEIZER of Harvey's Lake, Pennsylvania is a twenty-year-old male who was adjudicated delinquent and/or placed by Defendant CIAVARELLA some time between 2003 and 2008.

Defendants

161. Defendant MARK A. CIAVARELLA, JR. of Kingston, Pennsylvania (“Ciavarella”) at all relevant times served as Judge of the Court of Common Pleas for Luzerne County, Pennsylvania. He was Judge of the Juvenile Court for Luzerne County between approximately 1996 and May 23, 2008. He was named President Judge for Luzerne County in January 2007. He is sued in his individual capacity. At all relevant times, he also controlled the business-entity defendant PINNACLE GROUP OF JUPITER, LLC.
162. Defendant MICHAEL T. CONAHAN of Mountain Top, Pennsylvania (“Conahan”) at all relevant times served as Judge of the Court of Common Pleas for Luzerne County, Pennsylvania. Between January 2002 and January 2007, he served as President Judge for Luzerne County. He is sued in his individual capacity. At all relevant times, he also controlled the business-entity defendants BEVERAGE MARKETING OF PA., INC. and PINNACLE GROUP OF JUPITER, LLC.
163. Defendant ROBERT J. POWELL of Drums, Pennsylvania, at all relevant times, was an owner of defendants PA CHILD CARE, LLC; WESTERN PA CHILD CARE, LLC; MID-ATLANTIC YOUTH SERVICES CORP.; and VISION HOLDINGS, LLC.

164. Defendant ROBERT MERICLE of Wilkes-Barre, Pennsylvania at all relevant times was president of defendant MERICLE CONSTRUCTION, INC.
165. Defendant CINDY CIAVARELLA of Kingston, Pennsylvania (“Cindy Ciavarella”) is the wife of MARK A. CIAVARELLA, JR., and owner at all relevant times of defendant PINNACLE GROUP OF JUPITER, LLC.
166. Defendant BARBARA CONAHAN of Mountain Top, Pennsylvania (“Barbara Conahan”) is the wife of MICHAEL CONAHAN and managing member, at all relevant times, of defendant PINNACLE GROUP OF JUPITER, LLC.
167. Defendant MERICLE CONSTRUCTION, INC. is located in Wilkes-Barre, Pennsylvania.
168. Defendant MID-ATLANTIC YOUTH SERVICES CORP. is located in Pittston Township, Pennsylvania.
169. Defendant PA CHILD CARE, LLC is located in Pittston Township, Pennsylvania.
170. Defendant WESTERN PA CHILD CARE, LLC is located in Emlenton, Pennsylvania.
171. Defendant PINNACLE GROUP OF JUPITER, LLC is a business entity located in Mountain Top, Pennsylvania.

172. Defendant VISION HOLDINGS, LLC is a Cayman Islands business entity with a mailing address in West Hazleton, Pennsylvania.
173. Defendant BEVERAGE MARKETING OF PA., INC. is a business entity located in Selzer, Pennsylvania.
174. Defendant LUZERNE COUNTY is a political subdivision within the Commonwealth of Pennsylvania duly incorporated as a County with a principal place of business located in Wilkes-Barre, Pennsylvania.

CLASS ACTION ALLEGATIONS

175. Plaintiffs bring this action as a class action pursuant to Federal Rule of Civil Procedure 23(a) and (b)(3), on behalf of themselves and classes of persons similarly situated.
176. The classes are defined herein as follows:
- A. All children who were adjudicated delinquent or referred to placement by Ciavarella between 2003 and May 2008, whose adjudications have been or will be expunged, vacated, or otherwise invalidated, as of the date of class certification. Named plaintiffs H.T., B.W., Kevin Williamson, M.Y., R.S., and S.S. are class representatives. This class is referred to hereinafter as Class A.
- A1. All children who were adjudicated delinquent or referred to placement by Ciavarella without counsel and/or without

colloquies on the record that informed them of their rights and the consequences of waiving those rights, before either waiving counsel and/or pleading guilty, during the time period between 2003 and May 2008, and whose adjudications have been or will be expunged, vacated, or otherwise invalidated as of the date of class certification. Named plaintiffs H.T., B.W., Kevin Williamson, M.Y., R.S., and S.S. are also class representatives of this class. This class is referred to hereinafter as Subclass A1.

A2. All children who were referred to placement at PA Child Care and/or Western PA Child Care by Ciavarella between 2003 and May 2008. Named plaintiffs S.S., M.K., Charles Balasavage Jr., Steven Brannigan, Jeffrey Bruno, D.C., Ruth Davis, William Dixon, Rachelle Farber, Brian Gyle, Wayne Gyle, Tracy Harvey, Alexander Hogan, D.J., Barbara Kearns, Kurt Kruger, J.M.K., Edward Kenzakoski III, J.K., Paul Morgan Jr., Fred Odom Jr., Steven Palchanis Jr., Jamie Quinn, David Rowlands, Michael S. Scarlato, James Swartley, Jessica Thurston, Michael Vitali, Frank Weber, M.M.W., G.B., William Clarke, Glenn Cooper, Richard Copeland II, Chad Derhammer, A.D., L.E., J.D.F., Edward Kane Jr., Matthew Kopetchny, Magee Mott, G.M., Sarah

Myers, Lisa Scarbrough, B.R.W., William Conway, Christian Ryan, Tracey Rowlands, Angelia Karsko, Elizabeth Habel, A.L., Tiffany Murphy, Stephen Fino, Jared Padden and Paul Schweizer are class representatives. This class is referred to hereinafter as Subclass A2.

B. All children adjudicated delinquent or referred to placement by Ciavarella who paid fees, costs, fines, restitution, or any other monetary charges associated with their adjudications and/or placements during the time period between 2003 and May 2008, as well as all children's parents or guardians who paid fees, costs, fines, restitution, or any other monetary charges associated with their children's adjudications and/or placements during the same time period. All named plaintiff youth and named plaintiff parents or guardians are class representatives. This class is referred to hereinafter as Class B.

177. The classes are sufficiently numerous such that joinder of all members is impracticable. Between 2003 and May 2008, Ciavarella adjudicated more than 2,500 children delinquent and placed more than 1000 of these children in facilities outside their homes. Other children were placed on probation or put under some other type of court supervision. As of the date of class

certification, the vast majority of children adjudicated delinquent by Ciavarella between 2003 and May 2008 will have had their adjudications expunged, vacated, or otherwise invalidated pursuant to the procedure explained in paragraphs 734 through 737 and 739, below. None of the youth who appeared before Ciavarella without counsel and pled guilty had a colloquy regarding their waiver of counsel or guilty plea. The number of children who appeared before Ciavarella without counsel during the relevant time period is believed to be in excess of 1,200. Nearly all the children who were adjudicated delinquent by Ciavarella or placed by him between 2003 and May 2008, as well as their parents or guardians, were assessed fees, costs, fines, restitution, or other monetary charges.

178. There are questions of law and fact common to the classes. With respect to Class A and its Subclasses, these questions include, among others, (1) whether defendants did or conspired to violate plaintiffs' right to an impartial tribunal as guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the U.S. Constitution; (2) whether defendants did or conspired to deprive plaintiffs of their right to counsel, their right against self incrimination and their right to have any guilty plea they make be knowing, intelligent, and voluntary, in violation of the Fifth, Sixth, and Fourteenth Amendments of the U.S. Constitution; and (3) whether

defendants wrongfully imprisoned plaintiffs in violation of Pennsylvania tort law.

179. Additionally, with respect to Class B, these common questions include, among others, (1) whether defendants devised and/or engaged in a scheme or artifice to defraud the citizens of the Commonwealth of Pennsylvania, including plaintiffs, and to deprive those citizens – and particularly plaintiffs – of the intangible right of honest services and engaged in other racketeering activity; (2) whether defendants, through that racketeering activity, participated in the conduct of the affairs of an association that functioned for the purpose of adjudicating youth and providing housing for youth adjudicated delinquent; (3) whether defendants, through that racketeering activity, acquired or maintained interests in or control of the association; (4) whether defendants conspired and agreed to acquire or maintain interests in or control of the association and/or to participate in the conduct of the affairs of the association; and (5) whether defendants' actions caused injury to plaintiffs' property interests.
180. The claims of the representative parties are typical of the claims of the class. Like the other members of the class, the named plaintiffs maintain that defendants did or conspired to violate their rights to an impartial tribunal, to counsel, and to a knowing, intelligent and voluntary guilty plea,

as well as caused them to suffer financial loss or other injuries to their property interests through a pattern of racketeering activity.

181. The representative plaintiffs will fairly and adequately represent and protect the interests of the class members. Plaintiffs have retained counsel experienced in complex class action litigation, juvenile and constitutional law, and the intersection thereof. Juvenile Law Center has been at the forefront of protecting and defending children's legal rights since 1975, and has litigated many class action lawsuits involving children's constitutional rights over the last thirty-four years. Juvenile Law Center attorneys have also authored or co-authored numerous scholarly articles addressing children's legal rights in the juvenile justice system, and they teach courses on the juvenile justice system at both the University of Pennsylvania Law School and Temple University Beasley School of Law. In 2008, Juvenile Law Center was one of eight organizations world-wide to receive the MacArthur Foundation Award for Creative and Effective Institutions. Hangley Aronchick Segal & Pudlin's litigation department is highly regarded, with attorneys concentrating on a wide range of areas, including complex commercial litigation, constitutional litigation, and criminal defense and investigations. The firm's attorneys have considerable expertise in both bringing and defending class action suits in

federal and state courts. The firm is proud of its long-standing relationship with one of the nation's premiere public interest law firms, the Juvenile Law Center. Anapol Schwartz Weiss Cohan Feldman & Smalley, P.C. has successfully litigated cases involving large numbers of plaintiffs for more than 30 years and has earned a national reputation for handling complex mass torts cases and class action lawsuits. Anapol Schwartz has worked with firms from across the country in pursuing compensation for the injuries its clients have sustained due to the negligent, fraudulent, and criminal actions of others. With sound legal experience, the firm provides victims with superior negotiation and trial work. Barry H. Dyller and the Dyller Law Firm are the premiere civil rights and constitutional litigators in Northeastern Pennsylvania. Mr. Dyller has handled thousands of cases, tried over ninety jury trials as lead counsel, and handled countless civil rights cases. Mr. Dyller is the recipient of various awards and honors by civil rights organizations. Mr. Dyller is active with the organized bar, and will be the national chair of the Civil Rights Section of a national trial lawyers' organization as of July 2009. Johanna Gelb of the Gelb Law Firm has over 20 years experience and successfully handled numerous constitutional cases involving the 1st, 2nd, 4th, 8th, & 14th Amendments in front of juries and on appeal. Ms. Gelb has also been active in local and

state bar associations throughout her practice holding multiple leadership positions.

182. Class certification is appropriate pursuant to Federal Rule of Civil Procedure 23(b)(3) because common questions of law and fact predominate over any questions affecting only individual members of the class, and because a class action is superior to other available methods of the fair and efficient adjudication of this litigation. In addition to the common questions set forth in paragraphs 178 through 179, common questions regarding potential immunity claims of defendants and the availability of punitive damages to plaintiffs are also present. The class members are entitled to recovery as a result of the defendants' conspiracy to violate their constitutional rights and defendants' violation of federal RICO statutes. Individual differences in the cases of each class member do not defeat commonality, as plaintiffs seek recovery for the same violations of their constitutional rights and injury to their property interests without regard to each plaintiff's underlying circumstances.

OVERVIEW OF THE JUVENILE JUSTICE SYSTEM

183. The juvenile justice system in Pennsylvania and throughout the United States was created based on the recognition that youth who commit delinquent acts are fundamentally different than adult criminals. Youth are

considered less culpable, more vulnerable, and more susceptible to treatment and rehabilitation. The juvenile justice system is therefore designed to provide for the *care, supervision and rehabilitation* of youth committing delinquent acts. *See, e.g., In re M.D.*, 839 A.2d 1116, 1120 (Pa. Super. Ct. 2003).

184. The Pennsylvania Juvenile Act states as its purpose, *inter alia*: “[t]o provide for the care, protection, safety and wholesome mental and physical development of children coming within the provisions of [the Act].” 42 Cons. Stat. § 6301(1). The Act aims to achieve its purposes “in a family environment whenever possible, separating the child from parents only when necessary for his welfare, safety or health or in the interests of public safety.” 42 Pa. Cons. Stat. § 6301(3). Courts in Pennsylvania have recognized that, while principles and policies underlying the juvenile justice system may have evolved since its creation, “particular importance is still placed upon rehabilitating and protecting society’s youth.” *In re J.F.*, 714 A.2d 467, 471 (Pa. Super. Ct. 1998).
185. Youth in delinquency proceedings are entitled to nearly all of the due process rights guaranteed to adult criminal defendants. *See, e.g., McKeiver v. Pennsylvania*, 403 U.S. 528, 533 (1971) (“Among [the constitutional rights applicable in state juvenile proceedings] are the rights to appropriate

notice, to counsel, to confrontation and to cross-examination, and the privilege against self-incrimination. Included, also, is the standard of proof beyond a reasonable doubt.”).

186. The constitutional right to counsel in juvenile adjudications has been firmly established for decades. More than forty years ago, the United States Supreme Court held in *In re Gault*, 387 U.S. 1 (1967), that the Due Process Clause of the Fourteenth Amendment guarantees youth charged with delinquency and facing the possibility of incarceration the right to counsel. *Gault* recognized that a system in which children’s liberty interests are not protected is a system that violates due process. The Court recognized that attorneys are needed in the juvenile justice system to assist clients to “cope with problems of law, to make skilled inquiry into the facts, to insist upon regularity of the proceedings, and to ascertain whether [the client] . . . has a defense and to prepare and submit.” *Id.* at 36.

187. Consistent with *Gault*, Pennsylvania’s General Assembly and the Pennsylvania Supreme Court have established that the right to counsel extends to juveniles through all stages of the juvenile delinquency process (*e.g.*, detention, pre-trial motions or hearings, adjudication, disposition, post-disposition, probation, appeal). The General Assembly codified a juvenile’s right to counsel in the Juvenile Act. Section 6337 of the Act

states that “a party is entitled to representation by legal counsel at all stages of any proceedings under [the Juvenile Act].” The judiciary’s concern about delinquency hearings proceeding without counsel for the child led the Pennsylvania Supreme Court to require, effective October 1, 2005, that, where a waiver of counsel is proffered, that juvenile court must conduct an extensive colloquy with the juvenile on the record to determine his or her comprehension of the consequences of a waiver. Pa. R. Juv. Ct. P. 152.

188. Today, the need for the assistance of counsel in juvenile court is even more paramount than it was when the Supreme Court issued the *Gault* decision in 1967. Delinquency dispositions have become longer and more punitive, and delinquency adjudications now carry collateral consequences that follow youth into adulthood and, in some cases, for the rest of their lives. Of equal if not greater importance, as the stakes in juvenile court have risen, social science research has confirmed that most youth lack the capacity, on their own, to understand the nature of those stakes and to make intelligent decisions about how to navigate the increasingly complex dimensions of the modern juvenile court. T. Grisso, L. Steinberg, *et al.*, *Juveniles’ Competence to Stand Trial: A Comparison of Adolescents’ and Adult Capacities as Trial Defendants*, Law and Human Behavior, Aug. 2003, at 333-63. Because of these complexities, as recognized in the

Juvenile Act, children charged as delinquents should be provided with continuous legal representation throughout the delinquency process, including, but not limited to, detention, pre-trial motions or hearings, adjudication, disposition, post-disposition, probation, appeal, expungement, and sealing of records.

189. In 2001, Ciavarella himself publicly acknowledged the importance of the right to counsel in juvenile proceedings. After the Pennsylvania Superior Court overturned Ciavarella's adjudication of a youth whom Ciavarella also allowed to appear unrepresented before him without a constitutionally adequate waiver of counsel, Ciavarella told the *Wilkes-Barre Times Leader*, "I'll never do it again They obviously have a right to a lawyer, and even if they come in and tell me they don't want a lawyer, they're going to have one."
190. During the next six years, Ciavarella, together with the other defendants, violated this promise, his judicial duties, and the constitutional rights of the youth plaintiffs in exchange for approximately \$2.6 million.

FACTUAL ALLEGATIONS¹

A. PLAINTIFFS' ALLEGATIONS

H.T., through and with her next friend and mother, L.T.

191. H.T., a seventeen-year-old female, and her mother L.T. reside in White Haven, Pennsylvania.
192. On April 17, 2007, H.T., then a fifteen year old, appeared before Ciavarella for an adjudication hearing on a charge of harassment, a third degree misdemeanor. Specifically, H.T. was charged with creating a “My Space”

¹ All of the following allegations are based on information or belief, or based on the Bill of Information filed by United States Attorney Martin C. Carlson against Mark A. Ciavarella, Jr. and Michael T. Conahan on January 26, 2009 in the United States District Court for the Middle District of Pennsylvania (No. 3:09-cr-028) a copy of which is attached as Exhibit “A”; Plea Agreements in United States of America v. Michael T. Conahan and United States of America v. Mark A. Ciavarella, M.D. Pa. No. 3:09-CR-028 (January 26, 2009), copies of which are attached hereto, made a part hereof and collectively marked Exhibit “B”; Information in United States of America v. Robert J. Powell, M.D. Pa. (June 9, 2009), a copy of which is attached hereto, made a part hereof, and marked Exhibit “C”; Plea Agreement in United States of America v. Robert J. Powell, M.D. Pa. (June 9, 2009), a copy of which is attached hereto, made a part hereof, and marked Exhibit “D”; Information in United States of America v. Robert K. Mericle, M.D. Pa. (August 13, 2009), a copy of which is attached hereto, made a part hereof, and marked Exhibit “E”; Plea Agreement in United States of America v. Robert K. Mericle, M.D. Pa. (August 13, 2009); and the Commonwealth of Pennsylvania, Department of Public Welfare, Bureau of Financial Operations February 11, 2009 Draft Proposed Audit Report of Western PA Child Care, LLC, a copy of which is attached hereto, made a part hereof and marked Exhibit “F”; January 11, 2008 letter from the Bureau of Financial Offices to the Office of Children Youth, and Families attached hereto as Exhibit “G”.

page (a website) about the assistant principal of her high school. H.T. had no prior contact with the juvenile justice system.

193. H.T. did not have private counsel, nor was she appointed counsel. At the courthouse, prior to the adjudication hearing, H.T.'s mother signed a form, given to her outside the courtroom and without explanation, waiving her daughter's right to counsel. H.T. did not sign the statement.
194. At no point during the adjudication hearing did Ciavarella explain the consequences of proceeding without counsel. H.T. admitted creating the website in question. Ciavarella did not conduct a colloquy with H.T. on the record to explain her rights and the consequences of waiving her right to a trial.
195. Although H.T. had no prior record and was adjudicated for a third degree misdemeanor, the court immediately committed her to a residential treatment facility operated by Youth Services Agency. H.T. was lead away in shackles and her shocked mother collapsed into tears.
196. H.T. remained committed to the treatment facility for approximately one month, when Juvenile Law Center filed a writ of habeas corpus challenging the constitutionality of her adjudication and detention. In May 2007, the writ was granted by the juvenile court and H.T. was allowed to return home to her family; her adjudication was vacated.

197. H.T. was eventually placed on a consent decree by the court; she was ordered to make payments – and is still making payments – to Juvenile Probation.

B.W., through and with his next friend and father, W.W.

198. B.W. is a sixteen-year-old male who resides with his father W.W. in Mountain Top, Pennsylvania.

199. In February 2007, at the age of fourteen, B.W. was charged with simple assault for getting into a fight in school and with unauthorized use of a motor vehicle for driving his parents' car without permission.

200. When they arrived at the courthouse, B.W.'s father signed a form waiving counsel. B.W. was told by the court officer that he had to sign the waiver form because his father did.

201. B.W. appeared before Ciavarella without counsel; he was adjudicated delinquent after he admitted to the charges. Ciavarella did not inform B.W. and his father that he had a right to an attorney and that the court would appoint an attorney if they could not afford one. Nor did Ciavarella explain the potential consequences to B.W. of waiving his right to counsel and his right to trial by pleading guilty.

202. Ciavarella ordered B.W. into placement at Camp Adams where he remained for about two months. During the time he was at Camp Adams,

B.W. was repeatedly bullied by other juveniles. When he returned home he was placed on probation.

203. In January 2008, B.W. was charged with possession of marijuana with intent to deliver, simple possession, and unauthorized use of a vehicle. Allegedly, B.W. was threatened by another child he met in Camp Adams to deliver some marijuana.
204. Before the hearing on these new charges, B.W.'s father again signed the waiver of counsel form and B.W. was again told that he needed to sign the form as well.
205. B.W. appeared before Ciavarella without counsel; he was adjudicated delinquent after he admitted to the charges. Ciavarella did not inform B.W. and his father that he had a right to an attorney and that the court would appoint an attorney if they could not afford one. Nor did Ciavarella explain the potential consequences to B.W. of waiving his right to counsel or his right to trial by pleading guilty.
206. Ciavarella sent B.W. back to Camp Adams, where he remained for about six weeks before being transferred to St. Michaels, where B.W. did very well and was nominated for an award for his outstanding performance.
207. A volunteer attorney then stepped in and filed a writ of habeas corpus; B.W. was released from St. Michaels in the summer of 2008.

208. The felony charge was *nul prossed*, but the adjudications for the misdemeanor charges of possession of a marijuana and unauthorized use of a motor vehicle remain on B.W.'s record.
209. B.W. was ordered to and paid fees and costs to the court. B.W.'s father was ordered to and paid \$3,500 to the court to cover the costs of his placements in the various facilities.

Kevin Williamson and his mother, Susan Mishanski

210. Kevin Williamson, now age eighteen, is the son of Susan Mishanski of Hanover Township, Pennsylvania.
211. In April 2008, Kevin, then a seventeen year old, was charged with simple assault when he was in a fight with a friend outside of a concert hall.
212. On April 22, 2008, Kevin was adjudicated delinquent in an approximately five-minute hearing before Ciavarella.
213. Kevin was not told of his right to an attorney, but a public defender did appear in the middle of the hearing. The public defender did not speak to Kevin. Kevin believes that he may have pled guilty to the charges, but he does not think he was told the consequences of pleading guilty or of his right to a trial.
214. Ciavarella ordered that Kevin be placed at Camp Adams for three months.

215. In May 2007, the Juvenile Law Center filed a writ of habeas corpus on Kevin's behalf, challenging the constitutionality of Kevin's adjudication and detention. On June 18, 2008, the court granted the writ; Kevin's delinquency adjudication was vacated and he was released from Camp Adams.
216. Kevin was put on probation by Judge Lupas on the same charge in July 2008; this time, he was represented by an attorney whom his mother retained. Kevin was successfully discharged from probation on February 5, 2009.
217. Kevin's mother paid \$450 to Juvenile Probation for the cost of placement. Kevin and his mother also were ordered to and paid \$140 in court fees and \$140 in Juvenile Probation fees.

M.Y., through and with her next friends and parents, M.B.Y and J.Y.

218. M.Y. is a seventeen-year-old female who resides with her parents, M.B.Y. and J.Y., in Sugarloaf, Pennsylvania.
219. In April 2008, at the age of sixteen, school security found less than five dollars worth of marijuana in the glove compartment of her father's car, which she had driven to school that day. She was arrested.
220. Shortly thereafter, the family received a notice that M.Y. was to report to court for a hearing on the possession charge. M.Y.'s parents considered

hiring an attorney but believed the court would be fair since M.Y. was an honor student and this was her first offense.

221. M.Y., without counsel, appeared before Ciavarella and admitted to the charge. Ciavarella adjudicated M.Y. delinquent and ordered that she be placed at Camp Adams for ninety days.
222. M.Y.'s stunned parents immediately sought help for their daughter. A pro bono attorney filed a writ of habeas corpus challenging the constitutionality of her adjudication and detention. In response to the writ, the Luzerne County Juvenile Court released M.Y. to her parents and vacated the adjudication.

P.S., through and with his next friend and mother, A.S.

223. P.S., now fifteen years old, is the son of A.S. of Wilkes-Barre, Pennsylvania. In 2007, when he was fourteen years old, P.S. was arrested for stealing loose change from unlocked cars.
224. One of the police officers who arrested P.S. told A.S. that P.S. would receive probation because P.S. cooperated with the police and committed a minor offense.
225. Before P.S.'s hearing, A.S. contacted two attorneys about representing P.S. The first attorney advised her against hiring him because A.S. would likely receive probation even without the assistance of an attorney. The second

attorney asked her for the name of the judge assigned to the case. When she told the attorney it was Ciavarella, the attorney advised her that it would be “a waste of money” to hire him because Ciavarella does not listen to the attorneys of juvenile defendants.

226. Before entering Ciavarella’s courtroom, A.S. was asked to sign a form waiving P.S.’s right to an attorney. A.S. told the staff person that she would like P.S. to be represented by an attorney, but that she could not afford to hire one. The staff person pressured A.S. into signing the form by telling her that it would take six to eight months to assign a public defender to P.S. and that P.S. would be held in detention in the interim.
227. P.S. appeared before Ciavarella without counsel; he was adjudicated delinquent. Ciavarella did not inform P.S. or A.S. that P.S. had a right to an attorney and that the court would appoint an attorney if P.S. could not afford one. Nor did Ciavarella explain the potential consequences to P.S. of waiving his right to an attorney.
228. P.S.’s hearing before Ciavarella lasted no longer than three minutes. Ciavarella asked P.S. whether he would plead guilty, but did not explain the legal rights P.S. would relinquish by waiving his right to a trial. P.S. pled guilty.

229. P.S. was detained at Camp Adams for three days before he was transferred to Glen Mills.
230. P.S. remained at Glen Mills for approximately twelve months, when pro bono attorneys who had become aware of his situation filed a writ of habeas corpus challenging the constitutionality of his underlying adjudication and commitment.
231. The Luzerne County Juvenile Court granted the writ in June 2008, his adjudication was vacated, and P.S. returned home. P.S. is currently on probation.
232. P.S.'s father pays \$440 per month in child support for P.S. The Domestic Relations Court redirected the child support payments to Juvenile Probation while P.S. was in placement.
233. The court also ordered P.S. to pay \$1,900 in restitution fines. Juvenile Probation also told A.S. that she will have to pay between \$45 and \$80 per month for every month P.S. is on probation. Juvenile Probation told A.S. that P.S.'s probation will not end until P.S. and A.S. pay the restitution, fines, and probation fees.
234. Although P.S. was fourteen when he was detained at Glen Mills, Glen Mills placed him in pre-GED classes. He was not assigned a grade level.

When he returned home from Glen Mills, he was therefore held back a grade.

235. At Glen Mills, P.S. developed anxiety and depression. As a result, he can no longer attend school. He now receives homebound instruction.

S.S., through and with his next friend and mother, R.K.

236. S.S. is seventeen years old. He resides with his mother, R.K., of Wilkes-Barre, Pennsylvania.

237. In October 2007, when S.S. was sixteen years old, S.S. was charged with driving without a license and presenting false identification to the police in Dauphin County.

238. That month, S.S. appeared, with an attorney, before the Dauphin County Juvenile Court and made a counseled admission to the charges. The Dauphin County court then transferred the case to the Luzerne County Juvenile Court as S.S. was (and still is) a resident of Luzerne County.

239. On November 14, 2007, S.S. appeared without counsel before Ciavarella for an adjudication/disposition hearing. Ciavarella did not ascertain whether S.S. knew he had the right to counsel, nor did the court obtain an affirmative waiver of counsel from S.S. on the record.

240. Ciavarella ordered that S.S. be placed a Glen Mills School for an indefinite period. Upon Ciavarella's order, S.S. spent approximately two weeks from

November 14 to November 28, 2007 in PA Child Care and then was transferred to Glen Mills.

241. S.S. remained at Glen Mills until July 2008, when Juvenile Law Center filed a writ of habeas corpus, challenging the constitutionality of his adjudication and detention. On July 31, 2008, Judge Lupas of the Luzerne County Juvenile Court issued an order releasing S.S. from his commitment at Glen Mills and vacating the delinquency adjudication and disposition of November 14, 2007.
242. During S.S.'s placement at Glen Mills, the court garnished S.S.'s survivor's check of \$598 a month, which S.S. has received from Social Security since his father passed away. S.S. was also ordered to pay fees and costs of \$35 a month to the court.

Jessica Van Reeth and her father, Jack Van Reeth

243. Jessica Van Reeth, now nineteen years old, lives with her mother, Toni, and her father, Jack Van Reeth, in Mountain Top, Pennsylvania. On January 30, 2007, Jessica, then sixteen, appeared before Ciavarella for an adjudication hearing on a delinquency petition charging her with possession of drug paraphernalia, namely a cigarette lighter and pipe, which is a misdemeanor. Jessica had no prior contact with law enforcement.

244. Prior to the hearing, Jessica and her father were interviewed by a Luzerne County Juvenile Probation Officer, who told them that he would not recommend placement to the court.
245. Jessica appeared in court without a lawyer. Jessica was not advised of her right to counsel, nor did Ciavarella administer a colloquy with Jessica on the record to explain the consequences of proceeding without counsel. During the hearing, Jessica admitted to the charge and she was adjudicated delinquent. Ciavarella did not conduct a colloquy with Jessica on the record to explain her rights and the consequences of waiving her right to a trial.
246. Despite the fact that she had no prior record, Ciavarella ordered Jessica placed in Camp Adams for three months. She was immediately handcuffed and escorted out of the courtroom without even getting a chance to say good-bye to her father. She was not allowed to see her parents for the first two weeks she was in placement.
247. Jessica was released from Camp Adams on April 26, 2007 and placed on intensive probation for an additional three months. The Juvenile Court's supervision over Jessica ended on September 17, 2007.

248. Jessica and her parents were ordered to and paid monies to Juvenile Probation to cover various fees and costs associated with her adjudication and placement.

M.K., through and with his next friend and father, J.F.K.

249. M.K. is the seventeen year old son of J.F.K. of Exeter, Pennsylvania.

250. In December 2004, when he was thirteen years old, M.K. was charged with simple assault and harassment. The charges arose out of an incident in November, in which his mother's boyfriend alleged that M.K. spilled beer on the floor, pushed him around, and threw a piece of steak on him. The boyfriend was 6'3" tall and weighed about 210 pounds, while M.K. was 4'2" tall and weighed 87 pounds. At the time, M.K.'s parents were involved in a custody dispute.

251. On December 28, 2004, M.K. appeared with his father and a lawyer before Ciavarella. M.K., who had no prior police record, told the judge he had done nothing wrong. Ciavarella ordered that M.K. be placed in PA Child Care pending a psychological evaluation. M.K. was taken out of the courtroom in handcuffs and shackles.

252. On January 13, 2005, sixteen days after being locked up in PA Child Care, M.K. was evaluated by Dr. Frank Vita. M.K. remained in placement for an additional thirty-two days after the evaluation. He remained at PA Child

Care the entire time, except for one week when he was transferred to Tioga County Detention Center due to space constraints.

253. On January 27, 2005, M.K.'s father attended a meeting at PA Child Care. At that meeting, Sandra M. Brulo, then chief of Juvenile Probation, told M.K.'s father that she could send M.K. away until he was twenty-one years old. Indeed, in a report to the court dated January 28, 2005, Ms. Brulo recommended to the court that M.K. be placed for one year at the Colorado Boys Ranch, followed by a second year at Glen Mills School in Pennsylvania.
254. Frustrated that his son was being held and concerned that he would be sent out of state, M.K.'s father approached the local media. They published a story describing M.K.'s plight on February 9, 2005.
255. On February 14, 2005, five days after the article appeared in the *Wilkes-Barre Times-Leader*, M.K. again appeared in court. Ciavarella ordered that M.K. be released from PA Child Care and placed on probation for approximately six months.
256. M.K. and his father were ordered to pay \$420 in probation and detention service fees to the Juvenile Probation department. In addition, M.K.'s father paid for the services of an attorney to represent his son.

Charles Balasavage Jr. and his parents, Charles and Joanne Balasavage

257. Charles Balasavage Jr., now eighteen years old, is the son of Charles and Joanne Balasavage of Wilkes-Barre, Pennsylvania.
258. In 2006, when he was sixteen years old, Charles was adjudicated delinquent by Ciavarella for receiving a stolen scooter. Charles did not go to trial but neither he nor his father can remember if he actually pled guilty in the three-minute hearing. Charles was unrepresented. Ciavarella did not inform Charles that he had a right to an attorney, or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Charles of waiving his right to counsel and of waiving his right to trial by pleading guilty.
259. Although Charles had no prior record and was adjudicated delinquent on a misdemeanor charge, Ciavarella placed him in PA Child Care, where he initially remained for approximately four to six weeks. Then he was placed at two other facilities before being sent home and placed on probation.
260. Over the next two years, Ciavarella ordered that Charles be placed in PA Child Care on at least four other occasions, in Western PA Child Care on one occasion, and in various other facilities.
261. Charles was ordered to and paid fees and costs to the court. His parents were ordered to and paid money to Juvenile Probation to cover the costs of

his placements in PA Child Care, Western PA Child Care, and various other facilities, and for Charles to receive a psychological examination.

Jesse Balliet and his mother, Florence Myers

262. Jesse Balliet, now age twenty-two, is the son of Florence Myers of Wilkes-Barre, Pennsylvania.

263. In 2003, when he was fifteen years old, Jesse was adjudicated delinquent for simple assault. Jesse was not represented by counsel. Ciavarella did not inform Jesse that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Jesse of waiving his right to counsel and of waiving his right to trial by pleading guilty.

264. Even though this was Jesse's first offense, Ciavarella ordered that Jesse be placed at Camp Adams for three months.

265. Jesse and his father were ordered to and paid about \$2,000 to Juvenile Probation in various fees and costs including for the cost of Jesse's placement.

Steven Brannigan

266. Steven Brannigan, now eighteen years old, is the son of Lisa Brannigan of Hanover Township, Pennsylvania.

267. Since 2003, Steven has been before Ciavarella on four separate charges of delinquency. Each time Steven appeared before Ciavarella, he was placed.
268. In 2003, he was placed in Camp Adams for four months.
269. In January 2005, he appeared before Ciavarella without counsel. Ciavarella immediately sent Steven to PA Child Care for a month without receiving testimony from anyone. He was later placed in various other facilities.
270. In 2007, on charges of hindering, Steven appeared before Ciavarella, represented by a public defender. The public defender advised Steven that he would likely get a maximum sentence if he did not plead guilty, so Steven pled guilty. Ciavarella did not explain the consequences of a plea, nor did he explain Steven's right to a trial. Ciavarella accepted his plea, however, and sent Steven to Camp Adams for a month and then to Job Corps for a year. Steven is currently on probation.
271. Each time Steven was in placement, his mother was required to pay child support to Juvenile Probation. Both Steven and his mother are currently making payments to Juvenile Probation to cover the costs of supervision. Steven's mother pays \$25 per month and Steven pays \$40 per month.
272. Following his placement, Steven dropped out of high school. However, while in Job Corps, he was able to get his GED.

Jeffrey Bruno

273. Jeffrey Bruno, now twenty-one years old, is the son of Jay and Karen Bruno of Larksville, Pennsylvania.
274. In 2003, when he was sixteen years old, Jeffrey was adjudicated delinquent by Ciavarella on a charge of driving a dirt bike while intoxicated. Jeffrey was not represented by counsel, and he apparently pled guilty by nodding his head after the judge read the charges. Ciavarella did not inform Jeffrey that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Jeffrey of waiving his right to counsel and of waiving his right to trial by pleading guilty.
275. By Ciavarella's order, Jeffrey was placed in PA Child Care for about two and one-half months. He was then placed at another facility for six months.
276. Jeffrey and his parents were ordered to pay various fees and costs to Juvenile Probation. Specifically, his parents paid about \$4,500 for placement costs. Funds were deducted from Jeffrey's father's disability check and garnished from his mother's wages. Jeffrey and his parents also paid \$225 for probation fees and \$1,200 in court costs.

Scott Bukoski

277. Scott Bukoski is a twenty-one-year-old male from Nanticoke, Pennsylvania. His father is Brian Bukoski.
278. In May 2005, Scott was adjudicated delinquent by Ciavarella on a charge of unlawful use of a vehicle. After Ciavarella read out loud the charges, Scott pled not guilty. However, without a trial, Ciavarella adjudicated Scott delinquent. Scott was not represented by counsel. Ciavarella did not inform Scott that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Scott of waiving his right to counsel and of waiving his right to trial by pleading guilty.
279. Upon Ciavarella's order, Scott was placed at Camp Adams for ninety days.
280. Scott and his father were ordered to and paid various fees and costs to Juvenile Probation.

D.C., through and with his next friend and mother, R.C.

281. D.C., now seventeen years old, is the son of R.C. of Shickshinny, Pennsylvania.
282. In 2007, when D.C. was sixteen years old, he was adjudicated delinquent by Ciavarella on possession of drug paraphernalia and burglary charges. D.C., who was unrepresented by counsel, pled guilty. Ciavarella did not

inform D.C. that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to D.C. of waiving his right to counsel and of waiving his right to trial by pleading guilty.

283. Ciavarella ordered D.C. to be sent to Camp Adams for a few weeks. From there he was sent to PA Child Care for a few days and then to another facility for twelve months.

284. D.C. and his parents were ordered to and paid various fees and costs to the court. Specifically, the court garnished the wages of D.C.'s father for two weeks at a rate of \$125 per week. The court also took their adoption subsidy in the amount of \$600 per month for a total of approximately \$7200. While D.C. was on probation, his parents were ordered to pay to Juvenile Probation \$35 per month and to pay separately for the ankle monitor, which was \$100. D.C. also was ordered to pay \$1,700 in restitution.

Ruth Davis and her mother, Carol Fronczek

285. Ruth Davis, now twenty-two years old, is the daughter of Carol Fronczek of Shavertown, Pennsylvania.

286. At age seventeen, Ruth was adjudicated delinquent by Ciavarella on a simple assault charge. Ruth, who was unrepresented by counsel, pled

guilty. Ciavarella did not inform Ruth that she had a right to an attorney or that the court would appoint an attorney if she could not afford one. Nor did Ciavarella explain the potential consequences to Ruth of waiving her right to counsel and of waiving her right to trial by pleading guilty.

287. Upon Ciavarella's orders, Ruth was in various placements between 2003 and 2005, including in PA Child Care for approximately seven months.

288. Ruth's mother was ordered to and paid child support to Juvenile Probation for the duration of Ruth's placement. Ruth and her mother also were ordered to and paid court fees.

William Dixon

289. William Dixon is the twenty-one-year-old son of Janet Dixon of Plymouth, Pennsylvania.

290. In April 2003, when he was fifteen, William was adjudicated delinquent by Ciavarella on misdemeanor charges arising out of an incident involving his family. Prior to appearing before Ciavarella, William was held in PA Child Care for five days without a hearing.

291. When William finally appeared before Ciavarella, he was unrepresented by counsel. Ciavarella asked William if he had disrespected his grandfather, to which William answered yes. William was adjudicated delinquent even though he did not actually plead guilty or admit to the charges. Ciavarella

did not inform William that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to William of waiving his right to counsel and of waiving his right to trial by pleading guilty.

292. Upon Ciavarella's order, William was placed at Camp Adams for sixty days; he was placed on probation after he returned home.

293. William's mother's paycheck was attached to cover the costs of his placement. William was ordered to and paid Juvenile Probation \$35 per month from the period July 2003 through May 2004. In total, William and his family paid about \$2,300.

Rachelle Farber and her mother, Judy Dane

294. Rachelle Farber, now twenty-four years old, is the daughter of Judy Dane of Swoyersville, Pennsylvania.

295. In December 2002, Rachelle appeared with a private attorney before Ciavarella on charges of aggravated assault.

296. While at the probation office prior the hearing, Rachelle and her mother were told by the probation officer that, if the lawyer did not cease efforts to intervene on behalf of Rachelle, Rachelle would be placed in a maximum security facility. The probation officer told her that having an attorney present was "making things worse."

297. Rachelle was initially placed by Ciavarella in Camp Adams. Then, in a subsequent hearing before Ciavarella, she was placed in PA Child Care for 90 days.
298. Rachelle's mother was told by the probation office that she was required to pay to cover the cost of Rachelle's placement. Rachelle's mother met with the probation office and filled out paperwork that allowed Juvenile Probation to garnish her wages at the rate of \$225 per month to cover the cost of placement.
299. Upon release from PA Child Care, Rachelle was placed on house arrest and on probation. Her mother was ordered to pay to cover the cost of the ankle bracelet, psychological testing, drug testing, and the supervision fees associated with probation. In total, Rachelle and her mother were ordered to pay nearly \$950 in probation fines and fees.
300. As a result of her placement, Rachelle suffered severe separation anxiety. She also attempted suicide immediately after she was placed. She continues to have nightmares about her experiences in placement.

J.G., through and with his next friend and mother, M.O.

301. J.G., now seventeen, is the son of M.O. of Harvey's Lake, Pennsylvania.
302. In 2007, when he was fifteen, J.G. was adjudicated delinquent by Ciavarella. J.G. was unrepresented by counsel. According to J.G.'s

mother, J.G. may have pled guilty, but she is not sure because the hearing lasted about five seconds. Ciavarella did not inform J.G. that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to J.G. of waiving his right to counsel and of waiving his right to trial by pleading guilty.

303. Upon Ciavarella's orders, J.G. was sent to Camp Adams for three months.

304. J.G.'s mother was ordered to and paid about \$2,000 to Juvenile Probation for the cost of placement, a portion of which was deducted directly from her tax refund. J.G. and her mother were ordered to and paid about \$200 in fees and costs to Juvenile Probation.

Brian Gyle

305. Brian Gyle, now nineteen, is the son of Maria Gyle of Pittston, Pennsylvania.

306. Brian was adjudicated delinquent by Ciavarella on four occasions from 2003 to 2004. Upon Ciavarella's orders, Brian was placed at different times in PA Child Care, Camp Adams, and Northwestern Academy.

307. Brian and his parents were ordered to pay to Juvenile Probation \$1,728.68 for fines, probation and detention fees, and services.

Wayne Gyle

308. Wayne Gyle, now age twenty-one, is the son of Maria Gyle of Pittston, Pennsylvania.
309. On July 21, 2004, Wayne was charged with simple assault, terroristic threats, and harassment. He was placed in PA Child Care for sixteen days prior to seeing a judge.
310. On August 6, 2004, Wayne appeared before Ciavarella. Although the charges against him were dismissed, Ciavarella ordered that Wayne's probation resulting from an earlier adjudication be extended for one year. Neither Wayne nor his mother recall that Wayne was represented by an attorney or told of Wayne's right to counsel at this hearing.
311. Wayne was ordered to pay Juvenile Probation fees and still owes approximately \$5,000.

Tracy Harvey

312. Tracy Harvey, now eighteen years old, is the son of Albert Harvey of Harvey's Lake, Pennsylvania.
313. In 2007, when Tracy was sixteen years old, he was adjudicated delinquent by Ciavarella on a charge of being under the influence of a substance. Tracy, who was unrepresented, did not formally plead guilty, nor did Ciavarella seek a plea. Ciavarella merely asked the police officer what

happened, and he did not allow anyone else in the courtroom to speak.

Ciavarella did not inform Tracy that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Tracy of waiving his right to counsel and of waiving his right to trial by pleading guilty.

314. Tracy was placed in PA Child Care for one week and then transferred to another facility for seven months.
315. Tracy's father was ordered by a letter he received from Juvenile Probation to pay \$200 per month to the Pennsylvania State Collection Disbursement Unit ("PA SCDU") to cover the cost of Tracy's placement. When he was unable to continue paying that amount, his wages were garnished. Since Tracy's release from placement in July 2008, he has been paying supervision fees for his probation; he was ordered to pay \$350 plus \$35 per month to Juvenile Probation for supervision.

Alexander Hogan and his mother, Molly Hogan

316. Alexander Hogan, now age eighteen, is the son of Molly Hogan of Kingston, Pennsylvania.
317. In September of 2007, Alexander, then sixteen years old, was charged with simple assault and other related charges.

318. Alexander pled guilty and was adjudicated delinquent in a hearing that lasted less than ten minutes.
319. Alexander does not remember being represented by counsel during his adjudicatory hearing. Ciavarella did not inform Alexander of his right to an attorney or explain that an attorney would be appointed if he could not afford one. Nor did Ciavarella conduct a colloquy with Alexander on the record to explain the consequences of waiving his right to a trial.
320. Alexander was detained at PA Child Care for about a month and then transferred to Western PA Child Care where he was detained for another month. Finally, Alexander was transferred to Northwestern Academy where he remained for approximately four months.
321. The court ordered Alexander's mother to pay costs associated with Alexander's adjudication but she has been unable to afford to do so.
322. When Alexander returned to his school, after being released from placement, he was harassed incessantly. Ultimately, he stopped going to school because the taunting became unbearable. He plans to work towards a GED.

D.J., through and with his next friend and mother, S.J.

323. D.J., now sixteen years old, is the son of S.J. of Edwardsville, Pennsylvania.
324. In 2005, when D.J. was about thirteen years old, the police picked him up from school on a Friday morning and told him he was being taken to detention because he had failed to appear as a witness to a school fight. D.J.'s mother reports that she never received a subpoena for her minor son to appear as a witness.
325. D.J. was taken from school to PA Child Care. Police would not let D.J.'s mother speak to or see her son, and the police did not fully explain what was going on.
326. D.J. was brought to court on the following Monday, having spent the weekend at PA Child Care. In court, Ciavarella yelled at D.J. and his attorney. D.J. was then released without ever testifying.
327. D.J. has never been arrested or detained aside from this incident.
328. D.J.'s mother paid \$500 to the attorney to appear with her son in court.

Barbara Kearns and her mother, Barbara Thurston

329. Barbara Kearns, now nineteen years old, is the daughter of Barbara Thurston of Wilkes-Barre, Pennsylvania.

330. In September 2003, when Barbara was fourteen years old, she appeared before Ciavarella on a curfew violation; at the time, she was on probation for a previous adjudication on a retail theft charge. Barbara was unrepresented by counsel. In the very short hearing, Ciavarella did not hear any evidence. Barbara pled not guilty. Ciavarella did not inform Barbara that she had a right to an attorney or that the court would appoint an attorney if she could not afford one. Nor did Ciavarella explain the potential consequences to Barbara of waiving her right to counsel and of waiving her right to trial by pleading guilty.

331. Barbara was then placed in PA Child Care for three days, at Camp Adams for over six months, and at another boot camp for a week. In 2006, after appearing before Ciavarella again without counsel, Barbara received probation.

332. Barbara was ordered to pay fees and costs to the court. Her Supplemental Security Income check was garnished to offset the cost of placement.

Kurt Kruger

333. Kurt Kruger is a twenty-two-year-old male who resides in Wilkes-Barre, Pennsylvania.

334. In 2004, when he was seventeen years old, Kurt was adjudicated delinquent by Ciavarella on a charge of conspiracy to shoplift. Before appearing in

court, Kurt was held in PA Child Care for three days. Kurt did not have counsel at his hearing, at which he made an admission. Ciavarella did not inform Kurt that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Kurt of waiving his right to counsel and of waiving his right to trial by pleading guilty.

335. Despite the fact that shoplifting is a summary offense, Ciavarella ordered that Kurt be placed at Camp Adams, where he remained for four months.

336. Kurt's parents were ordered and paid to Juvenile Probation \$1,000 to \$2,000 for the cost of his placements. Kurt himself was ordered to and paid approximately \$200 in restitution.

J.M.K., through and with his next friend and mother, B.T.

337. J.M.K., now seventeen years old, is the son of B.T. of Wilkes-Barre, Pennsylvania.

338. J.M.K. was charged in 2002 with fighting in school and then again for a curfew violation. When he was fourteen years old, in 2005, J.M.K. was again charged with fighting.

339. In most circumstances when J.M.K. appeared before Ciavarella, he was without counsel. In the very short hearings, J.M.K. attempted to explain the circumstances surrounding the charge, and Ciavarella did not allow him

to speak. At all but one of these hearings, Ciavarella did not inform J.M.K. that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to J.M.K. of waiving his right to counsel and of waiving his right to trial by pleading guilty.

340. Between 2002 and 2005, J.M.K. was placed by Ciavarella in various facilities including PA Child Care and Western PA Child Care.
341. J.M.K.'s mother was ordered to pay fees and costs associated with J.M.K.'s placement and supervision. Because of her financial hardship, J.M.K.'s mother was unable to pay more than a couple hundred dollars during the last seven years. Because J.M.K. received Supplemental Security Income, those checks were automatically garnished to cover the costs of his placement and supervision. J.M.K. and his mother still owe money to Juvenile Probation.

Edward Kenzacoski III and his parents, Edward Kenzacoski Jr. and Sandra Fonzo

342. Edward Kenzacoski III is a twenty-two-year-old male from Wilkes-Barre, Pennsylvania. He is the son of Sandy Fonzo and Edward Kenzacoski, Jr.
343. In September 2003, Edward, then seventeen years old, was adjudicated delinquent by Ciavarella on a misdemeanor charge of possession of drug paraphernalia. Before the filing of the delinquency petition, Edward had

no prior contact with law enforcement. Edward appeared before Ciavarella without counsel. Edward was not advised of his right to counsel and to have counsel appointed for him, nor did Ciavarella conduct a colloquy with Edward on the record to explain the consequences of proceeding without counsel. Edward admitted to the charge, but Ciavarella did not conduct a colloquy with Edward on the record to explain the consequences of pleading guilty and giving up his right to a trial.

344. After adjudicating him delinquent, Ciavarella immediately committed Edward to PA Child Care for more than thirty days.

345. In October 2003, Edward, then in the custody of PA Child Care, appeared before Ciavarella, again without counsel, and was then ordered into placement at a boot camp for 120 days. Edward was released four months later and was placed on probation for several months.

346. One week before his probation would have expired, Edward failed to appear at a scheduled delinquency review hearing, and the Juvenile Court issued a bench warrant. In the fall of 2005, Edward, then nineteen years old, was involved in a traffic accident. He was taken into custody based on the bench warrant and appeared, without counsel, before Ciavarella for a violation of probation hearing. Edward was immediately committed to Western PA Child Care for 120 days.

347. Upon his release in the winter of 2006, Juvenile Court jurisdiction ended.

348. Edward was ordered to and paid fees and costs to the court. His parents were ordered to and paid approximately \$5,000 to the court to cover the costs of his placements.

J.K., through and with his next friend and father, A.K.

349. J.K. is the fifteen-year-old son of A.K. and D.K. of Kingston, Pennsylvania.

350. In July 2007, when he was thirteen years old, J.K. was adjudicated delinquent on charges of criminal mischief, trespass, and attempted burglary after having been found one night playing a game called Manhunt on the grounds of a local school. Prior to going to court, J.K.'s parents applied for a public defender to represent J.K., but they were told that they made too much money to qualify.

351. J.K. appeared before Ciavarella without counsel. His parents asked for a continuance to obtain a lawyer, but that request was denied.

352. After he was adjudicated delinquent, J.K. was sent by the court to PA Child Care and then Camp Adams for about five days. When he returned home, he was placed on house arrest. When he broke his house arrest rules, J.K. was sent to another residential facility where he remained for approximately nine months, until September 2007.

353. J.K.'s parents were ordered to and paid \$3,300 to PA SCDU for his placement; a portion of the monies were garnished from unemployment checks. J.K. himself was ordered to and is still paying fees and costs to the court.

B.L., through and with his next friend and father M.L.

354. B.L., now sixteen years old, is the son of M.L. of Kingston, Pennsylvania.

355. In 2006, when he was thirteen years old, B.L. was adjudicated delinquent by Ciavarella on a charge of perjury. B.L. was unrepresented when he appeared before Ciavarella. Ciavarella did not inform B.L. that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to B.L. of waiving his right to counsel. B.L. pled not guilty. Ciavarella told B.L. that he was guilty.

356. Although he had no prior contact with the juvenile justice system, Ciavarella ordered that B.L. be placed in Camp Adams for ninety-three days.

357. M.L. had \$150 a week taken from his paycheck during the three months that B.L. was placed. B.L. has received multiple notices indicating that he owes \$500 to Juvenile Probation.

Anthony Millan and his mother, Cindy Millan

358. Anthony Millan, now twenty years old, is the son of Cindy Millan of Nanticoke, Pennsylvania.
359. In 2005, when Anthony was sixteen years old, Anthony was adjudicated delinquent for fighting in school. This was Anthony's first offense. When he appeared before Ciavarella, Anthony was unrepresented by counsel. Ciavarella did not inform Anthony that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Anthony of waiving his right to counsel. Anthony pled not guilty.
360. Ciavarella immediately ordered Anthony shackled and sent him to Camp Adams where he remained for three months.
361. Anthony's mother was ordered to pay placement fees, court costs, and supervision costs totaling over \$200.

Damon Millan and his mother, Cindy Millan

362. Damon Millan, now eighteen years old, is the son of Cindy Millan of Nanticoke, Pennsylvania.
363. In 2007, when Damon was sixteen years old, he was adjudicated delinquent by Ciavarella on a breaking and entering charge. When Damon appeared before Ciavarella, he was represented by a private attorney. Damon pled

not guilty. However, neither Damon's attorney nor anyone else was permitted to speak. The homeowners who were burglarized were in the courtroom and wanted to explain that they did not believe Damon was involved, but Ciavarella did not allow them to speak.

364. Ciavarella ordered Damon to Camp Adams, where he remained for three months.

365. Damon's mother recalls that she and Damon were ordered to and paid to Juvenile Probation roughly \$200 for the cost of supervision, placement, and court fees.

Paul Morgan Jr.

366. Paul Morgan Jr., now eighteen years old, is the son of Tracy Stair and Paul Morgan of Mountain Top, Pennsylvania.

367. In 2005, Paul was adjudicated delinquent by Ciavarella for possession of a controlled substance. Paul, unrepresented by counsel, pled guilty.

Ciavarella did not inform Paul that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Paul of waiving his right to counsel and of waiving his right to trial by pleading guilty.

368. Paul was placed in PA Child Care for three days. After he was released, he was put on probation for six months.

369. Tracy paid Juvenile Probation \$35 per month during this six-month period to cover the cost of Paul's probation.
370. In 2007, Paul was again adjudicated delinquent by Ciavarella on charges of harassment and disorderly conduct. Again, Paul was unrepresented by counsel and pled guilty. Ciavarella did not inform Paul that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Paul of waiving his right to counsel and of waiving his right to trial by pleading guilty.
371. Ciavarella placed Paul at Camp Adams for three months and placed him on probation for six months following his release.
372. At the time of these events, Paul's father had been paying to Tracy \$46 per week in child support. These payments were redirected to Juvenile Probation during the three months Paul was detained at Camp Adams. Tracy and Paul paid Juvenile Probation \$35 per month while he was on probation.

Fred Odom Jr. and his mother, Sherrell Odom

373. Fred Odom Jr., now eighteen years old, is the son of Sherrell Odom of Mountain Top, Pennsylvania.

374. In 2003, when he was thirteen years old, Fred was adjudicated delinquent by Ciavarella for disorderly conduct and simple assault. Fred's mother had called the police to scare Fred when he was acting out at home. Against his mother's wishes, the police arrested Fred and filed charges. Fred was detained at PA Child Care from November 7, 2003 until his adjudicatory hearing on November 26, 2003. Fred entered a guilty plea during his two-minute hearing, as he and his mother believed that the judge would simply order Fred to attend counseling. Fred was unrepresented. Ciavarella did not inform Fred that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Fred of waiving his right to counsel and of waiving his right to trial by pleading guilty.
375. Although Fred had no prior record, Ciavarella placed him at Camp Adams for three months, from November 26, 2003 until March 3, 2004.
376. Fred was ordered to and paid fees and costs to the court. His mother was ordered to pay \$480 a month via garnishment to Juvenile Probation to cover the costs of Fred's placement. She also paid for a court-ordered psychological evaluation. Both Fred and his mother have made payments for the cost of his probation. His mother had to withdraw funds from her

401(k), incurring penalties and taxes for early withdrawal, in order to make ends meet.

377. As a result of his placement at Camp Adams, Fred had to repeat ninth grade. He was also initially not allowed to return to his local public high school. Fred has since obtained his GED and is pursuing post-secondary studies.

Steven Palchanis Jr., and his father, Steven Palchanis Sr.

378. Steven Palchanis Jr., now twenty-one years old, is the son of Steven Palchanis Sr. of Wilkes-Barre, Pennsylvania.
379. In 2003, when Steven was sixteen years old, he was adjudicated delinquent by Ciavarella for criminal trespass. Unrepresented by counsel, Steven pled guilty. Ciavarella did not inform Steven that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Steven of waiving his right to counsel and of waiving his right to trial by pleading guilty.
380. Upon Ciavarella's order, Steven was shackled and taken to PA Child Care, where he remained for three weeks before going to Camp Adams for ninety days. Following his release from placement, Steven was placed on probation for almost five years, until he paid off approximately \$3,000 in restitution.

381. Steven and his parents were ordered to and paid monies to the court for his placement; the money was garnished from the paycheck of Steven's father. Furthermore, they were required to pay various fees to Juvenile Probation while Steven was on probation. In total, they paid about \$7,000.

Jamie Quinn

382. Jamie Quinn is an eighteen-year-old female who resides in Wyoming, Pennsylvania.

383. In 2005, when she was fourteen years old, Jamie was charged with simple assault and harassment after punching another girl.

384. During her hearing, Jamie was not represented by an attorney, as the intake worker had told her she did not need one because the charges were minor. Ciavarella never informed Jamie of her right to an attorney or the consequences of waiving that right. Furthermore, Ciavarella never explained to Jamie her trial rights or what, specifically, she was charged with.

385. Jamie was initially told she would be placed in a detention center for three to six months, but she ended up staying in various facilities (PA Child Care, Vision Quest, and Bridgeview) for nearly a year.

386. Jamie's parents were ordered to and paid fees and costs to the court, as well as costs to Juvenile Probation for Jamie's placement.

387. Jamie's detention had lasting and negative consequences to her, most distinctly illustrated by the many scars she bears from self-mutilation during her detention.

K.R., through and with his next friend and mother, T.S.

388. K.R, now seventeen years old, is the son of T.S. of Hanover Township, Pennsylvania.

389. In 2007, when K.R. was sixteen years old, he was adjudicated delinquent by Ciavarella for disorderly conduct after getting into a fight on a school bus. Unrepresented by counsel, K.R. pled guilty. Ciavarella did not inform K.R. that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to K.R. of waiving his right to counsel and of waiving his right to trial by pleading guilty.

390. Ciavarella placed K.R. at Camp Adams from April to July 2007, and K.R. is still on probation.

391. K.R. was ordered to pay \$30 per month to Juvenile Probation for every month he is on probation.

David Rowlands and his mother, Mary Seville

392. David Rowlands, now eighteen years old, is the son of Mary Seville of Laporte, Pennsylvania.

393. In October 2003, when David was twelve years old, he was adjudicated delinquent by Ciavarella for harassment. Unrepresented by counsel, David

pled guilty. Ciavarella did not inform David that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to David of waiving his right to counsel and of waiving his right to trial by pleading guilty.

394. Ciavarella ordered David placed in PA Child Care. Over the course of the next two months, David was placed in PA Child Care, then moved to Camp Adams because of space constraints, and then moved back to PA Child Care. Within the two months, he was moved back and forth between PA Child Care and Camp Adams several times.

395. David and his mother were ordered to pay \$35 per month to Juvenile Probation to cover the costs of his placement and supervision.

Michael S. Scarlato and his parents, Michael P. and Tina Scarlato

396. Michael S. Scarlato, now eighteen years old, is the son of Michael P. and Tina Scarlato of Hazelton, Pennsylvania.

397. In November 2004, when Michael was fourteen years old, he was adjudicated delinquent on a charge of possession of drug paraphernalia for bringing a pipe to school. Unrepresented by counsel, Michael made an admission. Ciavarella did not inform Michael that he had a right to an attorney or that the court would appoint an attorney if he could not afford

one. Nor did Ciavarella explain the potential consequences to Michael of waiving his right to counsel and of waiving his right to trial by pleading guilty.

398. Ciavarella placed Michael at Camp Adams. Over the next four years, Michael was in various court-ordered placements, including PA Child Care and Western PA Child Care.

399. During that time, Michael's parents were ordered to and paid approximately \$2,500 to the court for Michael's placements. Additionally, Michael has paid and continues to make payments to Juvenile Probation.

A.S., through and with his next friend and father, G.S.

400. A.S., now fifteen years old, is the son of G.S. and K.S. of Wilkes-Barre, Pennsylvania.

401. In 2007, when he was fourteen years old, A.S. was adjudicated delinquent by Ciavarella for writing graffiti with a group of kids. A.S. was unrepresented when he pled guilty before Ciavarella. Ciavarella did not inform A.S. that he had a right to an attorney and that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to A.S. of waiving his right to counsel or of waiving his right to trial by pleading guilty.

402. Ciavarella ordered that A.S. be placed in Camp Adams for ninety days.

403. A.S.'s parents were ordered to pay \$140 per month to the court to defray the cost of his placement in Camp Adams; the monies were taken out of his father's unemployment checks. A.S. himself was ordered to pay \$30 a month when he was placed on probation after being released from Camp Adams.

James Swartley

404. James Swartley, now nineteen years old, is the son of Amy Swartley of Wilkes-Barre, Pennsylvania.

405. In 2005, when he was sixteen years old, James was adjudicated delinquent by Ciavarella on a misdemeanor charge of possession of drug paraphernalia. James was placed at PA Child Care prior to his hearing. When he appeared before Ciavarella, James was unrepresented by counsel and pled guilty. Ciavarella did not inform James that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to James of waiving his right to counsel and of waiving his right to trial by pleading guilty.

406. Ciavarella ordered that James return to PA Child Care. James was detained at PA Child Care for approximately eleven days before he was sent home and placed on probation.
407. Over the next two years, Ciavarella placed James in two separate facilities for allegedly violating a term of the probation he was still serving. In total, James spent more than a year in placement.
408. James's mother's wages were garnished while James was in placement; about \$110 was deducted every two weeks. James's father had paid \$240 per month in child support. The court redirected the child support payments to Juvenile Probation while James was in placement.

Jessica Thurston and her mother, Barbara Thurston

409. Jessica Thurston, now twenty years old, is the daughter of Barbara Thurston of Wilkes-Barre, Pennsylvania.
410. In 2003, when Jessica was fourteen years old, she was adjudicated delinquent for fighting and theft. Jessica appeared before Ciavarella without counsel and pled guilty. Ciavarella did not inform Jessica that she had a right to an attorney or that the court would appoint an attorney if she could not afford one. Nor did Ciavarella explain the potential consequences to Barbara of waiving her right to counsel and of waiving her right to trial by pleading guilty.

411. Upon Ciavarella's order, Jessica was placed in PA Child Care for approximately two weeks, and then she was placed at Camp Adams and another facility in Tioga County for five to six months.
412. Jessica's mother was ordered to pay fees and costs to the court. Jessica was receiving Supplemental Security Income and her SSI check was garnished to offset the costs of supervision and placement.

Michael Vitali

413. Michael Vitali, now twenty-two years old, is the son of Eugene and Joan Vitali of Wilkes-Barre, Pennsylvania.
414. In 2002, when Michael was fifteen years old, he was charged with assault. At his adjudicatory hearing before Ciavarella, he was unrepresented by counsel. No colloquy was conducted on his waiver of counsel. Neither Michael nor his parents recall Michael being asked to plead guilty or not guilty, and neither remember Ciavarella explaining to Michael his rights.
415. Following that adjudication, Michael was placed in Camp Adams for three months. Later, he was in and out of various placements, including PA Child Care, for probation violations. He was not represented by counsel at the probation violation hearings.

416. As a result of his placements, both Michael and his parents received a bill from the court to cover the costs of his supervision and placement. They have paid over \$2,000 to the court.
417. As a result of Michael's time in placement, he struggled when he returned to school and opted to take the GED instead. Michael also suffered great psychological harm and was placed on a variety of medications while at KidsPeace that caused him to gain significant weight.

Frank Weber and his mother Florence Myers

418. Frank Weber, now twenty-three years old, is the son of Florence Myers of Wilkes-Barre, Pennsylvania.
419. In 1997, when he was thirteen years old, Frank was a passenger in a car that was reported stolen; the driver of the car got into an accident. Frank was adjudicated delinquent by Ciavarella on various charges related to this incident. Frank was unrepresented by counsel at the adjudicatory hearing. Ciavarella did not inform Frank that he had a right to an attorney or that the court would appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Frank of waiving his right to counsel.
420. Until Frank turned eighteen, he spent the majority of time in various court-ordered placements including PA Child Care. These continued periods of

placement resulted from violations of probation on the original charge when Frank was thirteen years old. He was not represented by an attorney at any of these violations hearings.

421. Frank's father paid \$400 a month in child support to Juvenile Probation for the cost of placement for the duration of the time that Frank was in placement.

M.M.W., through and with her next friend and legal guardian, J.C.

422. M.M.W., now fourteen years of age, resides with her guardian J.C. in Freedland, Pennsylvania.

423. When she was ten years old, M.M.W. was adjudicated delinquent by Ciavarella. Prior to appearing before Ciavarella, M.M.W. was taken by police to PA Child Care, where she was held for a week without a hearing. M.M.W. was unrepresented at her adjudicatory hearing. Ciavarella did not inform M.M.W. that she had a right to an attorney or that the court would appoint an attorney if she could not afford one. Nor did Ciavarella explain the potential consequences to M.M.W. of waiving her right to counsel.

424. M.M.W. returned to PA Child Care, where she spent approximately one month. She was on probation for a year after she was released from PA Child Care.

425. M.M.W.'s guardian had to pay at least \$200 to the court.

John Ashford, Jr. and his mother, Donna Ashford

426. John Ashford, Jr., now twenty-one years of age, is the son of Donna Ashford of Wilkes-Barre, Pennsylvania.
427. In October 2005, John, then sixteen years old, and three of his friends were charged with a misdemeanor for shooting some windows with a BB gun. Except for this charge, John has never been in trouble with the law.
428. John was represented at his adjudicatory hearing before Ciavarella by a public defender. However, each time the public defender attempted to speak, Ciavarella cut her off. The homeowner whose windows were broken spoke on the boys' behalf and asked Ciavarella not to send them away.
429. After adjudicating John delinquent, Ciavarella ordered that John be placed at Camp Adams, where he remained for ninety-seven days.
430. John's parents were ordered to and paid monies to PA SCDU for John's placement at Camp Adams. John and his parents also were ordered to and paid fees and costs to the court. In total, the family paid more than \$5,000.

Christian Barnes and his father, Brian Barnes

431. Christian Barnes, now twenty-one years old, is the son of Brian Barnes of Wilkes-Barre, Pennsylvania.

432. In 2006, when Christian was sixteen years old, he was adjudicated delinquent by Ciavarella for underage drinking and bringing a multi-tool to school on his keychain. Christian appeared before Ciavarella without counsel on the advice of the Juvenile Probation Officer that he would wait weeks to be appointed a public defender, during which time Christian would have to remain in detention. Christian pled guilty. Ciavarella did not conduct a colloquy to inform Christian of the rights he would be giving up if he pled guilty, nor did he explain to Christian the potential consequences of pleading guilty.
433. Upon Ciavarella's order, Christian was placed at Clearbrook rehabilitation facility for alcoholism treatment where he remained for six months.
434. During the time Christian was placed at Clearbrook, the domestic relations court ordered his father to pay \$520 to cover the cost of his placement. He made two separate payments to the Luzerne County to pay the amount.
435. While Christian was on house arrest, his father was ordered to pay \$20 per day, for six weeks, for use of the ankle monitor. Christian's father was also ordered to pay an additional \$3000 over the course of three years while Christian was on probation. These payments were also made to Luzerne County. Christian was also ordered to pay up to \$1500 in restitution.

436. As a result of the incident and placement, Christian was expelled from school and was required to repeat tenth grade. Christian eventually returned to his school and graduated one year later than he should have had he not lost that time in placement. As a result of his adjudication, he has been unable to enlist in the military.

Shane Bly, and his parents Kevin and Linda Bly

437. Shane Bly, now twenty years old, is the son of Kevin and Linda Bly of Sugar Notch, Pennsylvania.

438. In May 2005, when Shane was sixteen years old, he was adjudicated delinquent by Ciavarella. Represented by counsel, Shane pled guilty. Ciavarella did not conduct a colloquy to inform Shane of the rights he would be giving up if he pled guilty, nor did he explain to Shane the potential consequences of pleading guilty.

439. Upon advice of counsel, Shane requested a mental health evaluation. Ciavarella then ordered that Shane be placed at Camp Adams for three months and then placed on probation when he returned home.

440. In 2006, Shane appeared with an attorney before Ciavarella at another adjudication hearing on a separate charge. Upon Ciavarella's order, Shane was placed at two other facilities for a total of six months. After being

placed for six months, Shane was ordered to pay restitution and then was discharged from court supervision.

441. During the three months that Shane was in Camp Adams in 2005, the court garnished \$85.38 per week from the paycheck of Shane's father. Consequently, Shane's parents had to take out loans to cover mortgage payments on their home. Shane's parents were also required to pay \$200 for the mental health examination. The court also ordered Shane to pay \$469 in restitution and \$35 a month for six months to the court while he was on probation.

G.B., through and with his next friends and parents, P.P. and J.B.

442. G.B., now seventeen years old, is the son of P.P. and J.B. of Larksville, Pennsylvania.
443. In 2005, when G.B. was fourteen years old, he was adjudicated delinquent by Ciavarella on a misdemeanor charge. When G.B. appeared before Ciavarella for the first time, his case had been transferred from Wayne County. G.B. was represented by a private attorney, but the attorney was not permitted to present any evidence as to G.B.'s mental capacity or learning disability. G.B. pled guilty. Ciavarella did not conduct a colloquy to inform G.B. of the rights he would be giving up if he pled guilty, nor did he explain to G.B. the potential consequences of pleading guilty.

444. Upon adjudication, Ciavarella placed G.B. at PA Child Care, where he remained for a month. He was then placed in other facilities, including Western PA Child Care for four months.
445. G.B.'s mother received a notice ordering her to pay a lump sum of \$500 for his placement. She was also ordered to pay \$35 per month for the cost of his supervision on probation. She is currently making these monthly payments.

Daryl Charles and his mother, Liza Charles

446. Daryl Charles, now twenty-years of age, is from Wilkes-Barre, Pennsylvania. He is the son of Liza Charles.
447. In October 2005, when he was seventeen years old, Daryl was adjudicated delinquent by Ciavarella for shooting a BB gun out of a window one night. Represented by counsel, Daryl pled guilty. Ciavarella did not conduct a colloquy to inform Daryl of the rights he would be giving up if he pled guilty, nor did he explain to Daryl the potential consequences of pleading guilty.
448. Ciavarella ordered Daryl placed at Camp Adams, where he remained for twenty-seven days. After his release, Daryl was placed on probation.
449. Daryl paid \$401.42 in fees and costs to the court between November 2005 and January 2006.

William Clarke and his mother, Sharon Graaf

450. William Clarke, now twenty-three years old, is from Bear Creek Township, Pennsylvania. He is the son of Sharon Graaf.
451. In March 2003, when he was seventeen years old, William was adjudicated delinquent by Ciavarella on a simple assault charge for getting into a fight. Prior to his hearing, William was taken to Northwest Academy and then transferred to PA Child Care. William was represented by counsel when he appeared before Ciavarella. However, the attorney was not allowed to speak. Ciavarella read the charge and then said “you’re done.” William does not recall actually pleading guilty.
452. Upon Ciavarella’s order, William spent three months at PA Child Care and three months at another facility. He was sent home in September 2003 and placed on probation for six months.
453. William’s parents were ordered to and paid money to the court for William’s placements. William was ordered to and paid restitution in the amount of \$3,000.

Glenn Cooper and his mother, Karen Cooper

454. Glenn Cooper, now twenty-one years old, is the son of Karen and David Cooper of Meshoppen, Pennsylvania.

455. In 2003, when he was fifteen years old, Glenn was adjudicated delinquent by Ciavarella for simple assault. Glenn pled not guilty. Glenn was represented by private counsel at his hearing; however, Ciavarella would not permit his attorney to speak.
456. Ciavarella initially placed Glenn at PA Child Care and subsequently placed him at several other facilities throughout the state.
457. Glenn's parents were ordered to pay the costs of his placements in various facilities. To date, they have paid several hundred dollars, but they believe that they still owe approximately \$1,000.

Richard Copeland II and his parents, Donna and Richard Copeland

458. Richard Copeland II, now twenty years old, is the son of Donna and Richard Copeland of Sugar Notch, Pennsylvania.
459. In 2005, when he was sixteen years old, Richard was adjudicated delinquent by Ciavarella when he appeared with counsel at a hearing. Ciavarella asked Richard whether he was guilty, but did not explain the legal rights Richard would relinquish or the consequences he would experience by pleading guilty. Richard stated that he was not guilty.
460. Ciavarella then ordered that Richard be returned to PA Child Care, where Richard was placed prior to the hearing. Richard was kept at PA Child Care for approximately seventy-four days between August and October

2005. After returning home from PA Child Care, Richard was placed on probation.

461. Soon after Richard returned home, his probation officer accused him of violating his curfew. As punishment for the alleged curfew violation, Richard was sent to a facility for two weekends.

462. Richard's parents were ordered to and paid \$2,700 to Juvenile Probation to cover the costs of Richard's placements. Richard was ordered to and is paying \$35 per month to cover the cost of his probation. In addition, Richard was ordered to pay \$30,000 for restitution. Richard and his parents have paid approximately \$275 per month for restitution over the past four years.

Chad Derhammer

463. Chad Derhammer, now twenty-three years old, is the son of Tammy Ruger of Dallas, Pennsylvania.

464. In November 2003, when Chad was seventeen years old, he and three other boys from his high school were charged with simple assault and harassment for an incident of hazing. Although all the boys were represented by counsel at the adjudicatory hearing, none of the lawyers were permitted to speak and neither were the boys' parents. Chad pled guilty. Ciavarella did not conduct a colloquy to inform Chad of the rights

he would be giving up if he pled guilty, nor did he explain to Chad the potential consequences of pleading guilty.

465. Although Chad had no prior contact with the juvenile delinquency system, Ciavarella placed him in PA Child Care, where he remained for two weeks.

466. Chad and his family were ordered to pay fees, costs, and restitution to the court. His parents were also ordered to pay Juvenile Probation the cost of his placement in PA Child Care as well as his supervision while on probation.

A.D., through and with her mother and next friend, J.E.

467. A.D., now age seventeen years old, is the daughter of J.E. of Plymouth, Pennsylvania.

468. On or about 2004, at age thirteen, A.D. was adjudicated delinquent by Ciavarella on various charges related to being a passenger in the car of a friend that belonged to the friend's grandmother. At the hearing, A.D. was represented by a private attorney and pled guilty. Ciavarella did not conduct a colloquy to inform A.D. of the rights she would be giving up if she pled guilty, nor did he explain to A.D. the potential consequences of pleading guilty.

469. Upon Ciavarella's order, A.D. spent about six hours at PA Child Care and was then placed on probation for three months.

470. A.D. and her family were ordered to and paid \$420 in supervision fees.
471. At age sixteen, A.D. was again adjudicated delinquent by Ciavarella on a charge of terroristic threats for something she said at school. A.D. appeared without counsel at this hearing. A.D. tried to tell her side of the story and to present letters from teachers in her support. She pled guilty. Ciavarella did not inform A.D. that she had a right to an attorney or that the court would appoint an attorney if she could not afford one. Nor did Ciavarella explain the potential consequences to A.D. of waiving her right to counsel and of waiving her right to trial by pleading guilty.
472. A.D. was sent to Camp Adams for three months. A.D.'s mother's wages were garnished. She paid about \$300 to Juvenile Probation for the cost of placement.

Matthew Dougherty

473. Matthew Dougherty, now twenty-one years old, is the son of Joelle Dougherty of Pittston, Pennsylvania.
474. In May 2006, when he was eighteen years old, Matthew was adjudicated delinquent for graffiti writing, stemming from an incident that allegedly occurred before Matthew turned eighteen.
475. Matthew appeared with private counsel before Ciavarella. Matthew's mother recalls that the attorney said very little during the hearing and that

there was no opportunity to contest the charges. Matthew did not plead guilty or make an admission on the record. Ciavarella did not conduct a colloquy informing Matthew of his right to go to trial or the potential consequences of pleading guilty. Nevertheless, Ciavarella adjudicated him delinquent.

476. Upon Ciavarella's order, Matthew was placed at Camp Adams for approximately six weeks.

477. Matthew and his mother were ordered to and paid various fees and costs to the Juvenile Probation department.

E.E., through and with her next friend and mother, H.E.

478. E.E., now fourteen years old, is the daughter of H.E. of Wilkes-Barre, Pennsylvania.

479. In 2007, when she was thirteen years old, E.E. was adjudicated delinquent by Ciavarella on charges of disorderly conduct and harassment after getting in a fight on a school bus on her way to elementary school. E.E. was represented by a public defender. Ciavarella presumed E.E. was guilty and asked her why she did it. When E.E. did not respond, but instead started crying, Ciavarella told her that he was going to send her to Camp Adams for three months because she would not respond to his questions.

Ciavarella did not conduct a colloquy informing E.E. of her right to go to trial or the potential consequences of pleading guilty.

480. Even though this was E.E.'s first offense, Ciavarella ordered her placed at Camp Adams for three months. Though E.E. is in special education and has an IEP, she did not receive any special education services while at Camp Adams.

481. H.E. was charged a total of \$450 for psychological testing and maintenance fees. She still owes \$350.

K.E., through and with her next friend and mother, H.E.

482. K.E., now fifteen years old, is the daughter of H.E. of Wilkes-Barre, Pennsylvania.

483. In 2007, when she was fourteen years old, K.E. was adjudicated delinquent by Ciavarella on charges of criminal trespass, simple assault, and harassment after getting into a fight on school grounds. K.E. was represented by a public defender. K.E. pled guilty. H.E. recalls Ciavarella asking questions when K.E. pled guilty, but he asked them so quickly that K.E. could not understand what he was asking.

484. Even though this was K.E.'s first offense, Ciavarella ordered her placed at Camp Adams for three months, followed by three months of probation. She was not allowed to return to public school after her placement.

485. H.E. was charged \$310 in maintenance fees and for psychological evaluations. She still owes this money.

L.E., through and with his next friend and mother, H.E.

486. L.E., now seventeen years old, is the son of H.E. of Wilkes-Barre, Pennsylvania.

487. In 2007, when he was fifteen years old, L.E. was adjudicated delinquent by Ciavarella for a giving false identification to a police officer. L.E. was represented by a public defender and put on probation. When he missed curfew a couple of times, he was charged with violating his probation. At the hearing, Ciavarella automatically treated him as guilty. H.E. does not recall if L.E. pled guilty.

488. Ciavarella ordered that L.E. be placed in Camp Adams for three months. L.E. was sent to PA Child Care for a week or two before going to Camp Adams. He was placed on probation upon his release from Camp Adams.

489. In May 2008, when L.E. was sixteen years old, L.E. was adjudicated delinquent by Ciavarella for simple assault and theft for allegedly hitting a child and taking his basketball. H.E. does not recall L.E. pleading guilty to the charges or Ciavarella conducting a colloquy informing L.E. of his right to go to trial or the potential consequences of pleading guilty. Nevertheless, Ciavarella adjudicated him delinquent.

490. L.E. was sentenced to one to three years in placement. He expects to be released in June 2009.
491. L.E. had to pay money upon his release from Camp Adams. A portion of H.E.'s child support payments also paid for his subsequent placement.

A.F. and L.F., through and with their mother and next friend, M.F.

492. A.F., seventeen years old, and her sister, L.F., nineteen years old, reside with their mother, M.F., in Drums, Pennsylvania.
493. In July 2007, A.F., then sixteen years old, and L.F., then seventeen years old, were adjudicated by Ciavarella on charges of criminal mischief. Although A.F. and L.F. were represented by counsel, neither their attorney nor their mother was allowed to say anything at the adjudicatory hearing. A.F. and L.F. both pled guilty. Ciavarella did not conduct a colloquy to inform A.F. and L.F. of the rights they would be giving up if they pled guilty, nor did he explain to A.F. and L.F. the potential consequences of pleading guilty.
494. Ciavarella committed A.F. and L.F. to Camp Adams; they remained there from July 24, 2007 through October 23, 2007. When they returned home, they were placed on probation.

495. A.F., L.F., and their mother were ordered to and paid approximately \$7500 in restitution and \$2,325.57 in various fees and costs to the court. Their mother also paid \$1,000 to retain a private attorney.

J.D.F., through and with his next friend and mother, M.W.

496. J.D.F., now sixteen years old, is the son of M.W of Exeter, Pennsylvania.

497. In 2006, J.D.F. was adjudicated delinquent in Montgomery County and his case was transferred to Luzerne County. Ciavarella placed him in PA Child Care for over two years.

498. The county sought payment from M.W. to cover the costs of her son's placement. However, because she is unemployed, M.W. has not been able to make any payment.

499. J.D.F. has now been in placement for almost three years.

J.F., through and with his next friend and mother, A.I.K.

500. J.F., now fourteen, is the son of A.I.K. of Nanticoke, Pennsylvania.

501. In 2008, J.F. was adjudicated delinquent by Ciavarella. J.F. was represented by private counsel who entered a guilty plea on J.F.'s behalf. J.F. and his mother told the attorney that J.F. would not plead guilty, especially after they were informed by a representative of the District Attorney that the only witness recanted his statement. Private counsel told

J.F. and his mother not to speak in court. Ciavarella did not explain to J.F. the consequences of pleading guilty or his right to a trial.

502. J.F. was placed on probation and house arrest for eight months.

503. J.F. and his mother were ordered to and paid to Juvenile Probation about \$375 for supervision fees. J.F.'s mother still owes \$200 for the cost of a court-ordered evaluation completed by Dr. Vita.

Alexandra Fahey

504. Alexandra Fahey, now nineteen years old, is the daughter of Robert II and Maria Fahey of Pittston, Pennsylvania.

505. In 2004, when she was fourteen years old, Alexandra was adjudicated delinquent by Ciavarella for assaulting a police officer who had detained her. Alexandra, who was represented by a private attorney at the hearing, pled guilty. Ciavarella did not conduct a colloquy to inform Alexandra of the rights she would be giving up if she pled guilty, nor did he explain to Alexandra the potential consequences of pleading guilty.

506. Despite having no prior record, Alexandra was placed on house arrest and was made to wear an ankle bracelet for three months. She was subsequently on probation for six months.

507. Alexandra's family was ordered to and paid costs to Juvenile Probation during both her house arrest and her probation.

L.H., through and with her next friend and mother, J.M.

508. L.H., now sixteen, is the daughter of J.M. of Wilkes-Barre, Pennsylvania.
509. When she was fifteen, L.H. was adjudicated delinquent by Ciavarella for disorderly conduct after she was in an argument in school that escalated. Although L.H. was represented by the public defender, she did not understand what was going on at the hearing or what her rights were. L.H. and her mother are not sure if she pled guilty.
510. Upon Ciavarella's order, L.H. was shackled and sent to Camp Adams, where she remained committed from August to November 2007.
511. Juvenile Probation garnished J.M.'s Supplemental Security Income for the cost of placement; to the best of her recollection this totaled more than \$2,000. L.H. and her mother were also ordered to and paid about \$300 in fees to Juvenile Probation.

Michael Haines and his mother, Barbara Haines

512. Michael Haines is nineteen years old and is the son of Barbara Haines of Dallas, Pennsylvania.
513. In July 2007, when he was seventeen, Michael was adjudicated delinquent by Ciavarella on a theft charge for using a snow board that was on a rack outside of a ski lodge. Michael appeared with an attorney, but neither his lawyer nor his mother was allowed to speak. Michael pled guilty.

Ciavarella did not conduct a colloquy to inform Michael of the rights he would be giving up if he pled guilty, nor did he explain to Michael the potential consequences of pleading guilty.

514. Michael was ordered to Camp Adams for thirty days.
515. Michael's mother paid approximately \$400 to Juvenile Probation for the placement. Michael and his mother were ordered to and are still paying fees and costs to Juvenile Probation; they estimate that to date they have paid \$630.

Tiffany Harrison and her mother, Bernadette Harrison

516. Tiffany Harrison, now twenty years old, is the daughter of Bernadette Harrison of Pittston, Pennsylvania.
517. In 2005, when she was fifteen years old, Tiffany was accused of biting a boy in a scuffle after school and was charged with simple assault.
518. Tiffany was represented by a public defender at her hearing. While she intended to plead not guilty, the public defender entered a guilty plea. Tiffany's mother does not recall Ciavarella ever informing Tiffany of her rights during the hearing or the potential consequences of pleading guilty.
519. Despite having no prior record, Tiffany was adjudicated delinquent and led out of the courtroom in shackles. Ciavarella sentenced her to six months of probation, during which she reported to a probation officer at school and

had counseling sessions at home two to three times every week as part of a forensic program.

520. Tiffany's mother was ordered to and paid fees and costs to the court and Juvenile Probation. She was also ordered to and paid additional costs for the forensic program.

521. Tiffany's mother believes that Tiffany, who has both ADHD and dyslexia, was unable to get into a private school for children with learning disabilities because of her juvenile record.

Edward Kane Jr.

522. Edward Kane Jr., now twenty-two years old, is the grandson of Joanne Golden of Swoyersville, Pennsylvania.

523. In 2003, when Edward was sixteen years old, he was adjudicated delinquent on a misdemeanor charge by Ciavarella. Edward was represented by a public defender. The youth who pressed a simple assault charge against Edward did not appear, so that charge was dismissed. A second charge of criminal trespass was reduced to a misdemeanor. Ciavarella also told Edward that he had an unpaid fine. Edward does not recall pleading guilty to any charge.

524. Ciavarella sent Edward to Camp Adams for ninety days and ordered Edward to pay the unpaid fine. Edward's grandmother immediately paid

the fine on Edward's behalf. Edward was put on probation after his release.

525. In spring 2003, two or three weeks after his release from Camp Adams, Edward was picked up by his probation officer and taken to PA Child Care. He was transferred among three different facilities, including PA Child Care, for three to four weeks before having a hearing.
526. When Edward appeared before Ciavarella for his probation violation hearing, he did not have a lawyer, and no one advised him that he should have an attorney. Ciavarella remanded Edward to Camp Adams for six months based on an accusation that Edward had been drinking while on probation.
527. In 2004, Edward was again placed in PA Child Care due to a probation violation.
528. Within a month of being placed there, he had a hearing before Ciavarella. He was not represented by counsel at that hearing, nor did anyone advise him that he should have an attorney. Ciavarella issued an order placing Edward at Northwestern Boot Camp. Before Edward left the courthouse that day, a probation officer spoke with Edward's mother about his lack of representation in the hearing. Edward had another hearing before Ciavarella that same day. At the later hearing, the probation officer stated

that Edward was entitled to have a lawyer represent him and that the earlier hearing should be postponed until Edward had a lawyer. Ciavarella vacated the order placing Edward at Northwestern Boot Camp and scheduled another hearing. Edward was sent back to PA Child Care.

529. A few weeks later, Edward appeared before Ciavarella again and was represented by private counsel. Edward was placed in PA Child Care for another month and a half and then sent to Manose House for six months. Edward was released from Manose House in October 2004.

530. Edward, his parents, and his grandmother were ordered to and paid fees and costs to the court. Edward believes that his parents each still owe approximately \$400 to \$500. Edward was ordered to pay more than \$750 to Juvenile Probation in supervision fees, processing fees, court costs, and fines. He was also ordered to pay \$535.50 to Juvenile Probation in restitution fees.

Brianna Kee

531. Brianna Kee, age eighteen, is the daughter of Cheral and Talif Thomas of Wilkes-Barre, Pennsylvania.

532. In 2007, when Brianna was seventeen years old, she and two other children were adjudicated delinquent on criminal trespass and misdemeanor theft charges for going into an unlocked, empty building.

533. By the time Brianna appeared with an attorney before Ciavarella, the two other children had already been adjudicated and received their dispositions – one was sent to Camp Adams, the other was put on a work program. When Brianna’s attorney addressed Ciavarella, Ciavarella asked and was told by courtroom personnel what disposition the two other children received. Ciavarella immediately ordered that Brianna be placed at Camp Adams, where she remained for three months, from September 5 through November 27, 2007.

534. Brianna and her mother do not recall that Brianna actually pled guilty before Ciavarella. Ciavarella never explained to Brianna her rights or the consequences of pleading guilty.

535. Brianna and her parents were ordered to and paid fees and costs to the court; the court garnished the paychecks of both of Brianna’s parents.

Matthew Kopetchny

536. Matthew Kopetchny is the twenty-year-old son of Angelique Ronchetti of Kingston, Pennsylvania.

537. In 2005, when he was sixteen years old, Matthew was adjudicated delinquent by Ciavarella for shoplifting videos and video games. Matthew appeared with an attorney before Ciavarella and pled guilty. Ciavarella did not conduct a colloquy to inform Matthew of the rights he would be giving

up if he pled guilty, nor did he explain to Matthew the potential consequences of pleading guilty.

538. Matthew was initially placed on house arrest, but he violated the terms. When he appeared before Ciavarella for a probation violation hearing at which he was not represented by an attorney, Ciavarella ordered Matthew placed at PA Child Care, where he remained for three months before being sent to another facility for approximately one year.
539. Mathew's family was ordered to and paid monies to Juvenile Probation for his placements. In addition, Matthew and his mother paid \$300 in fees and costs to Juvenile Probation.

Magee Mott

540. Magee Mott, now twenty-three, is the daughter of Bill and Leann Mott of Pittston, Pennsylvania.
541. In 2002, when Magee was seventeen years old, she was adjudicated delinquent by Ciavarella for drug possession.
542. Magee was represented by the public defender at her adjudication hearing. She believes she might have pled guilty, but she does not recall ever being told of the consequences of pleading guilty or her right to a trial.
543. Magee was placed at PA Child Care for a few days and then ordered to spend ten months at another facility.

544. Until Magee turned eighteen, she spent most of her time in placement, including three of four times at PA Child Care. These placements were ordered as a result of probation violations, such as curfew violations and running away.
545. Magee was never represented by an attorney at any of the probation violation hearings. She was never informed of her right to counsel or the consequences of waiving that right.
546. Magee's parents believe that during the course of Magee's court-ordered placement, they paid several thousand dollars to Juvenile Probation. Magee's mother had her wages garnished. Magee's father was jailed for failing to pay the monies to Juvenile Probation, and Magee's mother had to pay \$1,200 to bail him out. Magee believes she still owes money to Juvenile Probation and that her credit report now shows this debt.

G.M., through and with his mother and next friend, F.M.

547. G.M., now age fifteen, is the son of F.M. of Wilkes-Barre, Pennsylvania.
548. In 2008, when G.M. was fourteen years old, he was adjudicated delinquent by Ciavarella for breaking into and entering the home of a family member. Prior to his hearing, G.M. was detained. When he appeared before Ciavarella, he did not have an attorney. Ciavarella did not inform G.M. that he had a right to an attorney or that the court would appoint an attorney

if he could not afford one. G.M.'s mother left the courtroom and searched the building to try to get an attorney to represent G.M. In the middle of the hearing, an attorney came up to represent G.M. Even though the family member did not want to press charges against G.M. and it was G.M.'s first offense, G.M. pled guilty. Ciavarella did not conduct a colloquy to inform G.M. of the rights he would be giving up if he pled guilty, nor did he explain to G.M. the potential consequences of pleading guilty.

549. G.M. was placed for about one month at PA Child Care, one month at Western PA Child Care, and two months at Camp Adams. G.M. is still on probation.

550. While G.M. was in placement, the court garnished his disability checks. G.M.'s mother still owes costs and fees to the court.

Sarah Myers and Florence Myers

551. Sarah Myers, now nineteen years old, is the daughter of Florence Myers of Wilkes-Barre, Pennsylvania.

552. In 2003, when Sarah was thirteen years old, she was adjudicated delinquent by Ciavarella for taking a bike and change from abandoned cars.

553. Prior to appearing before Ciavarella, Sarah was arrested and taken to PA Child Care. Her mother was not permitted to see her despite her requests.

554. When they appeared in court before Ciavarella, Sarah's mother requested an attorney for her daughter. She was told that a particular public defender would represent Sarah. Her mother asked that another attorney be appointed because that attorney had represented Sarah's father in a protection-from-abuse proceeding in which Sarah's mother was the petitioner. This request was refused.
555. At this hearing, Sarah told her public defender that she would not plead guilty because she did not commit the crimes of which she was accused. Her public defender told her that Ciavarella would not agree to that and would send her away. Ciavarella adjudicated Sarah delinquent, but Sarah is not sure if she pled guilty or not.
556. Upon Ciavarella's order, Sarah was returned to PA Child Care and was then sent to Camp Adams for about ninety days.
557. When Sarah finally returned home from Camp Adams, she was extremely angry. She began cutting herself and was hospitalized. Due to these issues, Sarah was charged with a probation violation. Sarah's mother does not recall having counsel at that hearing despite her requests.
558. Pursuant to Ciavarella's orders, Sarah was placed in various facilities including PA Child Care and Western PA Child Care.

559. Since leaving placement, Sarah has been in and out of hospitals because of her mental health disorders.
560. The money that Sarah's father paid to her mother for child support went instead to Juvenile Probation for the cost of Sarah's placements. Sarah's mother believes that Sarah's Supplemental Security Income check was also directed to Juvenile Probation for the cost of the placements.

Krystal Pope

561. Krystal Pope, now nineteen years old, resides in Kingston, Pennsylvania.
562. In 2006, when she was seventeen years old, Krystal was adjudicated delinquent for possession of drugs and drug paraphernalia. At the adjudication hearing, Krystal was represented by a public defender and she pled guilty. Ciavarella did not conduct a colloquy to inform Krystal of the rights she would be giving up if she pled guilty, nor did he explain to Krystal the potential consequences of pleading guilty.
563. Despite having no prior record, Krystal was placed in the Youth Services Agency at Wind Gap for three months. Following her release, Krystal was placed on probation for six months.
564. Krystal and her mother were ordered to and paid approximately \$500 in various costs and fees to Juvenile Probation.

Lisa Scarbrough and her mother, Laurie Scarbrough

565. Lisa Scarbrough is currently a twenty-one year old college student. She is the daughter of Laurie Scarbrough of Mountain Top, Pennsylvania.
566. In 2003, Lisa, then sixteen, was arrested on a charge of making terroristic threats. When Lisa was arrested, the officers took her to PA Child Care, where she remained for six days – including Thanksgiving weekend – without a hearing. Lisa had no prior contact with law enforcement.
567. On December 1, 2003, Lisa appeared before Ciavarella. Lisa, who was represented by counsel, brought several witnesses to testify on her behalf at the hearing; however, Ciavarella did not allow them to speak. Lisa's principal, however, was permitted to testify on behalf of the state.
568. Ciavarella placed Lisa at Camp Adams for an indefinite period; she stayed there for nine days.
569. Lisa and her parents were ordered to and paid fees and costs to the court.

Marshonda Seward

570. Marshonda Seward, now nineteen years old, is the daughter of Olanda Carter of Wilkes-Barre, Pennsylvania.
571. In 2006, when she was sixteen years old, Marshonda was adjudicated delinquent on an assault charge that arose out of a neighborhood fight. At the adjudication hearing, Marshonda was represented by a public defender.

Marshonda never entered a guilty plea, but she and all the other children involved in the fight were adjudicated delinquent by Ciavarella.

572. Marshonda was placed at Camp Adams for three months, after which she was sent home and placed on probation for six months.

573. Marshonda's family was ordered to and paid fees and costs to the court, as well as \$30 monthly to Juvenile Probation during her six months of probation.

J.S., through and with his next friend and mother C.S.

574. J.S. is fifteen years old and resides with his mother C.S. in Plymouth, Pennsylvania.

575. In March of 2007, when he was thirteen years old, J.S. was adjudicated delinquent by Ciavarella on charges of burglary, criminal trespass, theft by unlawful taking, receiving stolen property, and criminal conspiracy.

576. When J.S. appeared before Ciavarella, a public defender with whom J.S. had not previously spoken represented J.S. Ciavarella adjudicated J.S. delinquent after J.S. admitted to the charges. Ciavarella did not conduct a colloquy to inform J.S. of the rights he would be giving up if he pled guilty, nor did he explain to J.S. the potential consequences of pleading guilty.

577. Ciavarella ordered J.S. into placement at Camp Adams, where he remained for four months.

578. J.S.'s Access Card was taken away from him and he was removed from his mother's food stamps. His mother received approximately \$130 less a month in food stamps. J.S. is currently back on food stamps, but his Access Card has not been returned to him.
579. J.S. worked at Camp Adams during his time there; the money he earned there will go towards paying his probation costs.

Chad Uca

580. Chad Uca, now eighteen years old, is the son of Ruby Uca of Hazleton, Pennsylvania.
581. In 2005, when Chad was fifteen years old, he was adjudicated delinquent on a simple assault charge for pushing a fellow student who was bothering a classmate. At the brief hearing, Chad was represented by a public defender who spoke very little. Ciavarella did not permit anyone involved, including the victim, to speak. Chad pled guilty. Ciavarella did not conduct a colloquy to inform Chad of the rights he would be giving up if he pled guilty, nor did he explain to Chad the potential consequences of pleading guilty.
582. Chad was ordered to Camp Adams, where he remained for more than ninety days.

583. Chad and Chad's mother were ordered to pay monies to the court to cover various costs and fees, including the cost of Chad's placement. Over the course of six to nine months, Chad's mother paid \$600 to \$700.

W.U., through and with his next friend and mother, D.S.

584. W.U., now fifteen years old, is the son of D.S. of Wilkes-Barre, Pennsylvania.

585. In 2007, when he was fourteen years old, W.U. was adjudicated delinquent by Ciavarella for aggravated assault. At the adjudication hearing, W.U. was represented by a private attorney and initially pled not guilty.

Ciavarella pressured W.U. for an admission of guilt, and W.U. ultimately pled guilty. Ciavarella did not conduct a colloquy to inform W.U. of the rights he would be giving up if he pled guilty, nor did he explain to W.U. the potential consequences of pleading guilty.

586. W.U. was placed on indefinite probation after the hearing, but he was finally taken off probation after six months.

587. During the six months of probation, D.S. was ordered to and paid \$35 monthly to Juvenile Probation. Furthermore, she was ordered to and paid approximately \$110 in initial court fees and costs after the hearing.

B.R.W., through and with his next friends and parents, C.W. and S.W.

588. B.R.W. is the fifteen-year-old son of C.W. and S.W. of Wilkes-Barre, Pennsylvania.

589. On March 21, 2006, B.R.W., then thirteen years old, was adjudicated delinquent by Ciavarella. B.R.W., who denied the charge, was represented by private counsel. While the complaining witness was allowed to testify, B.R.W.'s attorney was not allowed to speak or cross examine the witness.

590. At the end of a "trial" that took less than three minutes, B.R.W. was handcuffed and shackled and placed at PA Child Care, where he remained until April 17, 2006.

591. When he returned home, B.R.W. was placed on intensive probation. B.R.W. remained on probation until October 2, 2006, when probation recommended that B.R.W.'s probation be terminated because he had complied with all the terms and had no further violations.

592. B.R.W. and his parents C.W. and S.W. were ordered to and have paid approximately \$870 in costs and fees to the court.

William Conway

593. William Conway, now twenty-three years old, resides in Ashley, Pennsylvania.

594. On approximately March 2, 2003, William Conway, then seventeen years old, appeared before Ciavarella and was adjudicated delinquent for violating his probation by staying out past his curfew.
595. William appeared in court without a lawyer. Upon information and belief, William was not advised of his right to counsel, nor did Ciavarella administer a colloquy with William on the record to explain the consequences of proceeding without counsel.
596. The hearing was very brief and William was not permitted to explain what happened. Ciavarella placed William at PA Child Care for approximately six months.
597. William was ordered to and paid monies to Juvenile Probation to cover the cost of his placement at PA Child Care; William continues to pay for his placement.

Christian Ryan and his father, Kevin Ryan

598. Christian Ryan, now twenty-three years old, is the son of Kevin Ryan and resides in Hanover Township, Pennsylvania.
599. In approximately 2003, when he was sixteen years old, Christian was adjudicated delinquent by Ciavarella and sentenced to approximately one year in PA Child Care.

600. Christian's father attempted to speak on behalf of his son during the hearing, however Ciavarella would not allow him to speak.
601. Christian and his father were ordered to and paid monies to Juvenile Probation to cover costs for Christian's stay in PA Child Care

Tracey Rowlands and her mother, Mary Seville

602. Tracey Rowlands, now nineteen years old, is the daughter of Mary Seville and resides in Laporte, Pennsylvania.
603. In approximately 2003, when Tracey was approximately thirteen years old, Tracey was adjudicated delinquent by Ciavarella for indirect criminal contempt.
604. Tracey was not represented by counsel. Upon information and belief, Ciavarella did not inform Tracey that she had a right to an attorney, or that the court would appoint an attorney if she could not afford one. Nor did Ciavarella explain the potential consequences to Tracey of waiving her right to counsel and of waiving her right to trial by pleading guilty.
605. Tracey was adjudicated delinquent by Ciavarella and sentenced to approximately two months in PA Child Care. Tracey spent time in other facilities as well.

606. Tracey and her mother were ordered to and paid monies to Juvenile Probation to cover the costs for Tracey's stay in PA Child Care.

Paige Circardo and her father, William Circardo

607. Paige Cicardo, now eighteen years old, is the daughter of William Cicardo and resides in Tobyhanna, Pennsylvania.

608. In July of 2005, when she was fourteen years old, Paige appeared before Ciavarella for an adjudicatory hearing. The charge arose out of an argument Paige had with her mother in which she threw a shoe.

609. Paige did not have private counsel, nor was she appointed counsel. Upon information and belief, Ciavarella did not inform Paige that she had a right to an attorney, or that the court would appoint an attorney if she could not afford one. Further, Ciavarella did not explain the potential consequences to Paige of waiving her right to counsel.

610. Ciavarella told Paige to "kiss your parents goodbye" and ordered Paige to approximately six months placement in PA Child Care. Prior to being placed in PA Child Care, Paige spent some time in Western PA Child Care.

611. Paige and her father were ordered to and paid monies to Juvenile Probation to cover the costs for Paige's stay in PA Child Care.

Angelia Karsko and her mother, Rosemary Karsko

612. Angelia Karsko, now nineteen years old, is the daughter of Rosemary Karsko and resides in Wyoming, Pennsylvania.
613. In approximately 2005, when she was fourteen years old, Angelia appeared before Ciavarella for an adjudicatory hearing for writing on a street sign with a felt pen. Ciavarella adjudicated Angelia delinquent and placed her for an indefinite term at PA Child Care.
614. At the time of her placement, Angelia had a medical condition which pre-disposed her to having severe seizures. Angelia had a seizure after a few days in PA Child Care from the stress of being incarcerated and was subsequently released from PA Child Care.
615. Angelia and her mother were ordered to and paid monies to Juvenile Probation to cover the costs for Paige's stay in PA Child Care.

Elizabeth Habel and her parents, Gloria and Richard Habel

616. Elizabeth Habel, now eighteen years old, is the daughter of Richard Habel and Gloria Habel of Plymouth, Pennsylvania.
617. In February 2006, when she was fifteen years old, Elizabeth appeared before Ciavarella for drinking alcohol before school.

618. Elizabeth appeared in court without a lawyer. Elizabeth was not advised of her right to counsel, nor did Ciavarella administer a colloquy with Elizabeth on the record to explain the consequences of proceeding without counsel and the consequences of waiving her rights.
619. Ciavarella was informed that her conduct resulted from a serious assault which had been committed upon her. Ciavarella silenced Elizabeth's parents as they attempted to explain this, and instructed them not to discuss the assault in the courtroom. Ciavarella then adjudicated Elizabeth delinquent and placed her at PA Child Care for approximately three months in 2006, and for approximately one month additional month in 2007.
620. Elizabeth and her parents were ordered to and paid monies to Juvenile Probation to cover the costs for Elizabeth's stays in PA Child Care.

A.L. through and with her parents E.L. and T.L.

621. A.L., now seventeen years old, is the daughter of E.L. and T.L.
622. In May 2006, A.L. appeared before Ciavarella for an adjudicatory hearing for a charge of simple assault resulting from a fight in school while she was in eighth grade.
623. A.L. did not have private counsel, nor was she appointed counsel. A.L. was not advised of her right to counsel, nor did Ciavarella administer a

colloquy with A.L. on the record to explain the consequences of proceeding without counsel.

624. Ciavarella ordered A.L. to be placed at PA Child Care from June 27, 2006 until July 17, 2006, Western PA Child Care from July 17, 2006 until July 23, 2006, back to PA Child Care for one day, and then to Camp Adams.

625. Ultimately, Ciavarella ordered A.L. to be placed at Clearbrook for drug and alcohol treatment despite the fact that A.L. did not have a drug and alcohol problem and there was no evidence of such a problem. A.L. and her family were told that A.L. would be held indefinitely unless she admitted to being cross-addicted to both drugs and alcohol. At first, A.L. and her family refused to falsely admit to such addictions. Eventually, in order to be released, A.L.'s family convinced her to state that she had such cross-addiction.

626. A.L. remained on probation and was told that she was not being released from probation because her family owed \$317.00.

627. A.L. and her parents were ordered to and paid monies to Juvenile Probation to cover costs for her placements in PA Child Care and Western PA Child Care.

Tiffany Murphy and her father, James Murphy

628. Tiffany Murphy, now nineteen years old, is the daughter of James Murphy and resides in Nanticoke, Pennsylvania.
629. In 2004, when Tiffany Murphy was fourteen years old, she appeared before Ciavarella for an adjudicatory hearing on a charge of unauthorized use of an automobile. The charge related to taking her mother's car around the block. Her mother did not wish for the charges to be pursued.
630. Prior to the hearing, Tiffany was interviewed by a Luzerne County Juvenile Probation Officer, who recommended that Tiffany receive probation.
631. Despite the Probation Officer's recommendation, Ciavarella adjudicated Tiffany delinquent and placed her for 33 days at PA Child Care and 90 days at Camp Adams.
632. In 2007, Tiffany was charged with contempt of court. Defendant Conahan originally heard the matter and referred Tiffany to his "partner" Ciavarella for adjudication. Ciavarella found Tiffany to be in contempt and ordered her to placement. This time, Tiffany spent approximately two-and-a-half weeks at PA Child Care, two weeks at Camp Adams, and 90 days at Vision Quest.
633. Tiffany and her father were ordered to and paid monies to Juvenile Probation to cover costs for Tiffany's placement.

Stephen Fino and his mother, Lynn Fino

634. Stephen A. Fino, now twenty-one years old, is the son of Lynn Fino and resides in Mountaintop, Pennsylvania.
635. In 2003, in the midst of his parents divorce, Stephen Fino became depressed. His mother found a gun in his room. The chief of police, a personal friend, recommended that Stephen Fino be charged so that he could get help through the juvenile justice system.
636. In approximately 2003, Stephen appeared before Ciavarella and was adjudicated delinquent. Ciavarella placed Stephen at PA Child Care for one to two months.
637. Stephen and his mother were ordered to and paid monies to Juvenile Probation to cover costs for Stephen's stay in PA Child Care.

Jared Padden and his father John Padden

638. Plaintiff Jared Padden, now twenty-one years old, is the son of John Padden and resides in Ashley, Pennsylvania.
639. In approximately 2003, when he was then fifteen years old, Jared appeared before Ciavarella for misdemeanor and summary charges of simple assault, disorderly conduct, harassment and possession of drug paraphernalia.
640. Jared did not have counsel. Upon information and belief, Ciavarella did not inform Jared that he had a right to an attorney or that the court would

appoint an attorney if he could not afford one. Nor did Ciavarella explain the potential consequences to Jared of waiving his right to counsel.

641. Ciavarella adjudicated Jared delinquent and placed him at PA Child Care for approximately one month.

642. Jared and his father were ordered to and paid monies to Juvenile Probation to cover costs for Jared's stay in PA Child Care.

Paul Schweizer

643. Paul Schweizer, now twenty years old, lives in Harvey's Lake, Pennsylvania and State College, Pennsylvania to attend college.

644. In 2003, when he was approximately fifteen years old, Paul was charged with harassment and appeared before Ciavarella.

645. Paul was represented by private counsel at his hearing.

646. Paul was adjudicated delinquent and was ordered to two weeks at PA Child Care.

647. Paul and his father were ordered to and paid monies to Juvenile Probation to cover costs for Paul's stay in PA Child Care.

B. SECRET AGREEMENTS, PROFITABLE CONTRACTS, AND CONSTRUCTION OF PRIVATE DETENTION FACILITIES

648. Beginning in June 2000, Ciavarella, in his administrative capacity as a juvenile court judge, and defendant Powell, an attorney in Luzerne County, began discussions about constructing a new juvenile detention facility in Luzerne County. Ciavarella then introduced Powell to his friend, defendant Mericle, the owner of defendant Mericle Construction. Together, Powell and Mericle located land in Pittston Township, Luzerne County for the construction of such a facility.
649. Powell and Zappala, doing business as defendant PA Child Care, acquired land located in Luzerne County to build the juvenile detention facility.
650. In July 2001, PA Child Care sent Luzerne County an unsolicited proposal to build a juvenile detention facility in Pittston Township and to lease the facility to the County for \$37 million over 30 years.
651. Even after receiving PA Child Care's proposal in September 2001, the then-serving Luzerne County Commissioners preferred using the existing County-owned juvenile detention center on River Street in Wilkes-Barre (the "River Street facility").
652. On or around January 29, 2002, Conahan signed a secret "Placement Guarantee Agreement" between PA Child Care and the Court of Common Pleas for Luzerne County to house juvenile offenders at the PA Child Care

facility in spite of the Commissioners' preference for a County-run facility. Under this agreement, the Court would pay PA Child Care an annual sum of \$1,314,000. At the time, Conahan, as President Judge of Luzerne County, oversaw the administration of the court and its departments and in that capacity had final decision-making authority with regard to defendant Luzerne County's funding of the River Street facility.

653. As President Judge, Conahan had supervisory authority and responsibility over the other judges, including Ciavarella, on the Luzerne County Court of Common Pleas. The president judge of a court shall “[b]e the executive and administrative head of the court, supervise the judicial business of the court, promulgate all administrative rules and regulations, make all judicial assignments, and assign and reassign among the personnel of the court available chambers and other physical facilities.” 42 Pa. Cons. Stat. § 325(e)(1) (2008). These administrative powers also include: the power to appoint personnel and the power to set the compensation and duties of administrative staff. *See* 42 Pa. Cons. Stat. § 325(e)(2) (2008); 42 Pa. Cons. Stat. § 2301(a)(2) (2008). The “President Judge shall be responsible for ensuring that the judicial district is in compliance with the Pennsylvania Rules of Criminal Procedure, other rules, and statutes, applicable to the minor judiciary, courts, clerks of courts, and court administrators.” *See* Pa.

R. Crim. P. 116. The Comment to this rule notes that “the Supreme Court is imposing on the president judges the responsibility of supervising their respective judicial districts to ensure compliance with the statewide Rules of Criminal Procedure, other rules, and statutes, applicable to the minor judiciary, courts, clerks of courts and court administrators.” Pa. R. Crim. P. 116 cmt. When Ciavarella became President Judge, he also assumed these same duties and responsibilities.

654. On February 19, 2002, PA Child Care and Mericle Construction entered into an agreement to build the 48-bed private juvenile detention center facility in Pittston Township.

655. With the construction of the PA Child Care facility well under way, Conahan, acting in his administrative role as President Judge, announced in October 2002 that judges would no longer send youth to the River Street facility. Ciavarella and Conahan publicly maintained that conditions at the River Street facility were deplorable. However, in November 2002, the state Department of Public Welfare deemed the River Street facility “safe and satisfactory” to house juveniles. The state Labor and Industry Department and the Wilkes-Barre Health Department also determined that the building met applicable standards.

656. In December 2002, Conahan, acting in his administrative role as President Judge and with his authority to make final decisions with regard to defendant Luzerne County's funding of the River Street facility, took official steps to remove funding from the Luzerne County budget for the River Street facility.
657. A majority of the three Luzerne County Commissioners approved the Court's budget request to remove funding from the River Street facility despite the Commissioners' earlier preference to continue with the County-run facility, *see* ¶ 651 *supra*. The River Street facility's license was returned to the state, effectively closing the County-run detention center. The closing of this detention center helped ensure that youth in Luzerne County would be detained at the detention facility being built by Mericle and PA Child Care.
658. In or before January 2003, defendants agreed that Powell and Mericle would pay \$997,600 to Ciavarella and Conahan for their roles in facilitating the construction of the PA Child Care facility. Powell understood the payments to be a *quid pro quo* for the judges' agreement to send juveniles to PA Child Care and Western PA Child Care and other related acts.

659. In January 2003, Powell and Mericle signed a Registration and Commission Agreement for \$997,600.00 and backdated the agreement to February 19, 2002, which was the same day that PA Child Care and Mericle signed an agreement to build the PA Child Care facility. This payment was concealed through a series of financial transactions as described in paragraphs 741 through 747, below.
660. In February 2003, the PA Child Care facility opened in Pittston. The Luzerne County Commissioners agreed to allow County juvenile offenders to be housed in the facility at this time; however, as of March 2003, a majority of the Luzerne County Commissioners continued to pursue plans to construct a new County-run juvenile detention facility, asserting that Powell, Zappala, and PA Child Care wanted to charge the County too much. Specifically, two of the three Luzerne County Commissioners, Stephen Urban and Thomas Makowski, voted to build a new detention center using approximately \$9 million of Luzerne County's municipal bond fund to be used for that purpose. In 2004, two newly-elected Commissioners, Gregory Skrepenak and Todd Vonderheid, now comprising the majority of the Commission, put these construction plans on hold.

661. Due to the fact that the PA Child Care facility was operating at or near capacity, Powell and Zappala planned to construct another juvenile detention facility in Butler County, Pennsylvania. To that end, Western PA Child Care, LLC was created on June 11, 2003.
662. On June 8, 2004, Powell and Zappala, doing business as Western PA Child Care, again contracted with Mericle and Mericle Construction, this time to build the Western PA Child Care facility.
663. Also on or about June 8, 2004, Powell and Mericle signed a Registration and Commission Agreement for \$1,000,000.00, which was paid to Conahan and Ciavarella by Powell through defendant Pinnacle Group as a financial reward for the creation of the Western PA Child Care facility project. The payment of funds to Conahan and Ciavarella were concealed through a series of transactions as described in paragraphs 748 and 749, below.
664. On October 19, 2004, Luzerne County Commissioners Gregory Skrepenak and Todd Vonderheid voted for the County to enter an extremely costly contract with PA Child Care guaranteeing that Luzerne County would pay PA Child Care a minimum of \$58 million over 20 years for the housing of adjudicated juveniles. The Commissioners approved this contract without first performing the required cost analysis and in violation of federal and

state regulations regulating the County's ability to legally enter the agreement discussed herein at paragraphs 671 through 697.

665. On February 24, 2005, PA Child Care contracted with Mericle and Mericle Construction to construct an addition to the PA Child Care detention facility in Luzerne County.
666. Also on or about February 24, 2005, Powell and Mericle signed a third Registration and Placement Agreement for \$150,000.00. This money was paid to Conahan and Ciavarella through defendant Pinnacle Group. The payments were concealed through a series of transactions as described in paragraphs 750 and 751, below.
667. While receiving these payments and not disclosing them, Ciavarella sent juveniles to PA Child Care and Western PA Child Care.
668. In addition to these payments, between February 2003 and January 1, 2007, Powell made hundreds of thousands of dollars in concealed payments to Ciavarella and Conahan for their past and future acts relating to PA Child Care and Western PA Child Care. These payments were made through Pinnacle Group and Vision Holdings, as described in paragraphs 752 through 757, below.
669. In sum, Ciavarella and Conahan, in their administrative roles as judges in Luzerne County, and PA Child Care and Western PA Child Care, by

Powell and Zappala, entered into costly contracts with Mericle Construction for the construction of their facilities, tendering to Mericle high profits. Luzerne County, by its Commissioners, entered into costly contracts with PA Child Care and Western PA Child Care, tendering to Powell and Zappala excessive profits. The high profits generated by the contracts between all parties enabled Powell and Mericle to pay Conahan and Ciavarella for the placement of youth in violation of their constitutional rights. In return, Conahan and Ciavarella ensured the profitability of the contracts by adjudicating juveniles delinquent in violation of their constitutional rights and thereby providing a continual flow of juveniles for the juvenile detention centers – a flow which necessitated additional development and expansion of the detention facilities.

670. Through the conspiracy, Conahan and Ciavarella received approximately \$2.6 million in return.

C. PA CHILD CARE’S LEASE WITH LUZERNE COUNTY

671. Rejecting the previous Commissioners’ concern that Powell, Zappala, and PA Child Care wanted to charge the County too much for using the PA Child Care facility, on or around October 18, 2004, newly-elected Luzerne County Commissioners Greg Skrepenak and Todd Vonderheid announced

that they planned to vote in favor of a contract for Luzerne County to lease the PA Child Care facility and to abandon the County's existing plans to construct its own facility.

672. On or around October 19, 2004, the Pennsylvania Department of Public Welfare ("DPW") auditor notified Luzerne County that the Commonwealth of Pennsylvania would be auditing the PA Child Care facility.
673. Despite this notice from DPW and despite public disapproval of Luzerne County entering an agreement with PA Child Care without sufficient valuation of the lease, Luzerne County Commissioners Skrepenak and Vonderheid, as a majority, voted the next day, on October 20, 2004, to lease the PA Child Care detention center for 20 years at a cost of \$58 million.
674. On October 21, 2004, a DPW auditor sent another letter to the Luzerne County Commissioners informing them of the Department's plans to speed up the state audit in light of the County's plan to lease the PA Child Care facility.
675. On November 3, 2004, DPW held an entrance conference with PA Child Care representatives and expressed the purpose of the audit, namely (a) to determine the actual costs of service to residents; (b) to determine if the costs were reasonable and consistent with applicable cost principles; and

(c) to determine if the proposed juvenile detention facility lease between Luzerne County and PA Child Care would be cost effective for the County.

676. The DPW's audit fieldwork was conducted from November 3, 2004 through December 3, 2004.
677. On or about November 16, 2004, the state auditor faxed an urgent letter about the PA Child Care audit to the Luzerne County Commissioners.
678. Despite the ongoing audit, Luzerne County Commissioners Vonderheid and Skrepenak gave final approval to the lease between Luzerne County and PA Child Care on or about November 17, 2004. This lease replaced the prior lease, which provided for a per diem per child fee. While Vonderheid and Skrepenak claimed they did not receive the November 16, 2004 fax, Commissioner Stephen Urban consistently but unsuccessfully urged his colleagues to delay signing the lease until the pending state audit was completed.
679. Prior to December 17, 2004, Luzerne County Controller Steve Flood ("Flood"), subpoenaed documents and records from DPW related to the County's \$58 million lease with PA Child Care; DPW turned over a substantial number of documents to Flood in response to the subpoena.
680. On December 17, 2004, PA Child Care filed a "sealed" court action in the Luzerne County Court of Common Pleas to enjoin Flood and two DPW

681. Conahan assigned PA Child Care's case to himself and granted *ex parte* preliminary injunctive relief and sealing of case on December 17, 2004, the very same day that PA Child Care filed the action.
682. On December 23, 2004, *The Times Leader*, a local newspaper that had been provided with copies of the PA Child Care documents by Flood, promptly filed a petition to intervene. That same day, then-President Judge Conahan, without a hearing, denied *The Times Leader* petition to intervene, refused to hold a public hearing regarding the sealing of all judicial records, refused to unseal judicial records, refused to consider alternatives to sealing, and refused to articulate, on the public record, his reasons for rejecting the alternatives.
683. Thereafter, DPW stated that the release of the PA Child Care audit was stalled indefinitely due to the pending litigation over the records.
684. The \$58 million lease agreement between Luzerne County and PA Child Care became effective in January 2005. Luzerne County became the

licensed entity for the juvenile detention center and assumed responsibility for operation of the detention and treatment programs.

685. Also in 2005, Luzerne County Commissioners Skrepenak and Vonderheid hired MAYS to replace Northwestern Human Services to run PA Child Care for \$3.5 million per year. *See* Juvenile Detention Facility Management Agreement, dated May 1, 2005 attached hereto as Exhibit “H”. Under this Management Agreement, the County paid a fixed amount of money – \$3.5 million annually in monthly installments of \$288,052.50 – for MAYS to operate the facility. *Id.* at ¶ 6. Notably, under the terms of the same agreement, if the facility’s actual operating costs were less than the budgeted costs submitted to the County, MAYS would have to remit to the County 100% of the first \$50,000 and 50% of any further savings thereafter. *Id.* at ¶ 6 and Appendices. This created an incentive for MAYS to keep beds filled so that the entity would not have to return monies to the County.

686. On March 31, 2005 pursuant to an order of the court, Conahan filed an opinion in support of his decision – originally filed on December 23, 2004 – to seal the lawsuit filed by PA Child Care.

687. On November 16, 2005, the Pennsylvania Superior Court reversed Conahan, unsealed the audit documents, and allowed for *The Times Leader*

to intervene. The Court observed that Pennsylvania’s general mandate for openness applies with particular force to issues of public money and a contract involving governmental body funds. *See PA Child Care LLC v. Flood*, 887 A.2d 309 (Pa. Super. Ct. 2005).

688. Upon information and belief, the documents that were the subject of *PA Child Care v. Flood* were never made public.
689. On February 6, 2007, the Bureau of Financial Operations (“BFO”) finally issued its draft audit report of the PA Child Care juvenile detention facility. *See Exhibit “G”*.
690. Because of DPW’s inability to obtain certain information, despite multiple requests to both Luzerne County and PA Child Care, its audit was limited.² *See id.* at 5.
691. The BFO audit revealed the following:
- (a) PACC was projected to have a profit of 34% in 2004. *Id.* at 1.

² Specifically, the DPW made requests to both Luzerne County and PA Child Care to provide any detailed information in the form of cost schedules, contract or other appropriate documents to verify Luzerne County’s assertion that costs were reduced as a result of Luzerne County’s lease with PA Child Care. The DPW never received documentation supporting Luzerne County’s claim that costs were in fact reduced. Similarly, the BFO was unable to verify if any negotiations of PA Child Care’s per diem rates occurred. Luzerne County and PA Child Care officials provided no evidence of price negotiations for per diem rates.

- (b) PACC daily rates exceeded actual costs by an average of \$85.00 for detention services and \$109.00 for treatment services. *Id.*
- (c) PACC detention rates exceeded actual costs by the average amount of \$85.26 in 2004-2005. *Id.*
- (d) The lease arrangement between PACC and Luzerne County was a capital lease and PACC received excessive state and federal reimbursements in the amount of \$1.6 million annually for the term of the lease. *Id.* at 2.
- (e) The lease arrangement between PACC and Luzerne County was atypical when compared to other County Juvenile Probation Purchase of Service Agreements; for instance, it did not include standard language prohibiting payment for the first day of care and the day of discharge, which resulted in \$387,359.00 worth of improper reimbursements from the Commonwealth. *Id.*
- (f) Despite Luzerne County's assertion that it is better to serve children closer to home, it purchased in excess of one million dollars in services from Western PA Child Care during the fiscal year 2006-2007; the Western PA Child Care is more than 236 miles from Wilkes Barre. *Id.* at 3.

692. The BFO letter also stated that Luzerne County was subject to federal and state fiscal policies as operator of the PA Child Care facility and recipient of federal funds. Specifically, according to the BFO letter, Luzerne County was required to comply with the following:

- (a) Pennsylvania Code Title 55, Chapter 3170 regulations, Allowable Costs and Procedures for County Children and Youth.
- (b) Code of Federal Regulations, Title 45, Subtitle A, Part 92.
- (c) Office of Management and Budget Circular A-87, Cost Principles for State and Local Governments.

See id. at 5.

693. The BFO audit found that Luzerne County had violated state and federal contracting rules and regulations by virtue of the agreement between it and PA Child Care, including but not limited to the following:

- (a) In violation of federal regulations, the County did not perform the required cost analysis before entering into the agreement with PA Child Care, despite the fact that the PA Child Care facility was the sole detention center in Luzerne County and

competition was lacking.³ *See* 45 C.F.R. § 92.36(f)(1-2). *Id.* at 7.

- (b) The County did not properly ensure that profits PA Child Care would receive under the contract were fair and reasonable as required by federal regulation. The lease negotiated by the County projected an exorbitant profit of 34% for PA Child Care in 2004, which was much higher than “fair and reasonable” profits permitted by governmental regulations and defined as 10%. *Id.*
- (c) Luzerne County violated § 3170.83(b) of the Title 55 of the Pennsylvania Code requiring the County to as a “prudent buyer” and that “the appropriate county authorities shall negotiate agreements with providers of services.” *Id.*
- (d) In 2003, Luzerne County paid \$2.3 million under the lease. This amount exceeded the projected cost of depreciation and interest of \$686,333.00 (if Luzerne County owned the facility) and, thus, was unreasonable under OMB Budget Circular A-87,

³ The BFO was not provided with any evidence that Luzerne County completed the required cost analysis.

(e) The BFO determined that the contract was a capital lease and therefore that PACC should reimburse State and Federal agencies \$1,600,000.00 annually of the \$2,300,000.00 that was paid. *Id.* at 2, 3, 12.

694. Luzerne County agreed to lease the facility on November 17, 2004 – prior to the BFO’s review of the lease terms – despite multiple notices from the BFO that it would promptly be conducting an audit and despite County taxpayers’ outcry against executing the agreement before ample opportunity was taken to analyze its contractual terms.

695. PACC’s 2004 projected profit of \$1.9 million dollars on its face shows that the County failed to perform the required analysis or simply disregarded the regulations.

696. The County officials who negotiated the lease agreed to a non-standard Placement Agreement that lacked usual audit rights. It also obligated the County to pay for the day of discharge. This is inconsistent with several sections of the Pennsylvania Code, Title 55, § 3170.11 and previous placement agreements for Luzerne County juveniles. This novel clause

697. In sum, Luzerne County allowed excessive amounts of public money to be paid to PA Child Care, and, in turn, its owners, Powell and Zappala, who yielded improper and excessive profits and were able to use these excess funds to pay Conahan and Ciavarella.

D. IMPLEMENTATION OF CONSPIRACY TO DENY CLASS MEMBERS THEIR CONSTITUTIONAL RIGHTS

698. For defendants' scheme to succeed, Ciavarella and Conahan had to ensure that youth were placed at the facilities and that youth were not aware of Ciavarella's or Conahan's financial stake in their placement. All defendants therefore acted in concert to conceal and disguise the existence, nature, location, source, ownership, and control of the money paid to Ciavarella and Conahan.

699. In February 2003, Ciavarella began placing plaintiff youth at PA Child Care facility upon completion of the facility.

700. Ciavarella never informed plaintiffs that he had done business with PA Child Care or that he had a pecuniary interest in ensuring that youth were placed in PA Child Care. Throughout the relevant time period, Ciavarella continued to receive payments from Powell, Mericle and PA Child Care.

Ciavarella and Conahan concealed their financial relationship with PA Child Care from plaintiffs by, for example, filing materially false annual statements of financial interest with the Administrative Office of the Pennsylvania Courts, as described below in paragraphs 758 through 761.

701. After the construction of PA Child Care, defendants' ability to maintain their association and continue their ongoing conspiracy depended on the continued profitability and viability of this private, for-profit facility.

702. The \$58 million agreement entered between Luzerne County and PA Child Care assured PA Child Care and its owners that it would continue to have excessively high revenue and profits.

703. Additionally, the consistent placement of youth at PA Child Care facilitated and led to the subsequent construction of Western PA Child Care and the expansion of PA Child Care, directly benefiting PA Child Care, Western PA Child Care, and their owners and operators, as well as the contractor, Mericle, and Mericle Construction. All these defendants, therefore, had a financial interest in placing juveniles in the PA Child Care and Western PA Child Care facilities.

704. If youth from Luzerne County were not placed in PA Child Care or Western PA Child Care, the County would have discontinued contracting with PA Child Care and its private operators.

705. Ciavarella and Conahan received \$997,600 from and through the other defendants for facilitating the construction of PA Child Care. Upon the completion of Western PA Child Care and of the PA Child Care addition, Ciavarella and Conahan received \$1,000,000 and \$150,000, respectively. In addition to these payments, between February 2003 and January 1, 2007, Powell made hundreds of thousands of dollars in concealed payments to Ciavarella and Conahan for their past and future acts relating to PA Child Care and Western PA Child Care. These payments were made through Pinnacle Group and Vision Holdings. In total, Ciavarella and Conahan received more than \$2.6 million in payments. These payments were directly tied to the success of the detention facilities.
706. Because Ciavarella had a concealed financial interest in placing youth in detention, the adjudication of every juvenile adjudicated delinquent or referred for placement by him from February 2003 through May 2008 was tainted. Each adjudication and placement occurred in violation of each child's constitutional right to be adjudicated by an impartial tribunal. *See Tumey v. Ohio*, 273 U.S. 510, 535 (1927); *Aetna Life Ins. Co. v Lavoie*, 475 U.S. 813, 825 (1986). Moreover, any order by Ciavarella concerning the disposition of a youth during that time period, even if the youth had been adjudicated delinquent prior to 2003 or by a different judge, was also

tainted and violative of the youth's constitutional right to appear before an impartial tribunal.

707. From the opening of PA Child Care in February 2003 until May 23, 2008 (when Ciavarella ceased hearing juvenile cases), Ciavarella took steps to ensure that youth were routinely placed in detention, even in situations where detention was plainly not appropriate or over the objection of some probation officers. These steps were taken as part of the conspiracy with all other defendants.
708. The defendants had an interest in increasing overall adjudications and placements, not just adjudications that resulted in placements at PA Child Care and Western PA Child Care. Youth who were adjudicated delinquent and placed at other facilities because of a lack of available space at PA Child Care or Western PA Child Care were transferred into PA Child Care or Western PA Child Care when space opened at PA Child Care or Western PA Child Care. Youth were also often placed in PA Child Care or Western PA Child Care while they were awaiting placement in a longer-term placement facility.
709. To increase the number of out-of-home placements of youth adjudicated delinquent, Ciavarella exerted pressure on Luzerne County probation staff to recommend detention of juveniles even when detention was not

appropriate. Ciavarella at times pressured probation officers to change recommendations of release to recommendations of detention, which resulted in additional juveniles being detained. Even when probation officers did not recommend detention, Ciavarella often ordered youth detained.

710. Additionally, Ciavarella and Conahan individually and in conspiracy with each other created “zero tolerance” policies, including zero tolerance for curfew violations and for missing school.

711. These “zero tolerance” policies were designed to make it virtually impossible for juveniles not to violate terms of probation and thereby to increase the number of youth placed.

712. In addition to the “zero tolerance” policies, Ciavarella and/or Conahan engaged or acquiesced in a practice of detaining juveniles solely for failure to pay their court-assessed fines.

713. In effort to increase the number of detained youth, Conahan and/or Ciavarella directed juvenile probation office employees to “ramp up admissions” to PACC for the primary purpose of ensuring that juveniles would be placed at PACC, WPACC and/or other juvenile detention facilities in which they had an interest. Ciavarella and Conahan also

encouraged the “ramping up” of the treatment side of PACC, unrelated to treatment needs, in order to place more juveniles in PACC.

714. Conahan and Ciavarella suspended, demoted, or otherwise punished some employees who questioned how they operated or treated juveniles.
715. In spite of the clear mandate from the United States Supreme Court and Ciavarella’s own pledge, the defendants’ interest in this conspiracy also led Ciavarella to regularly deny, for a period of years, many of the plaintiff youth, specifically Subclass A1, herein represented by named plaintiffs H.T., B.W., Kevin Williamson, M.Y., R.S. and S.S., their most basic constitutional rights. These rights include the right to appear before an impartial tribunal, the right to counsel, the right against self-incrimination, and the right to be advised of the consequences of waiving counsel or entering a guilty plea such that waivers and pleas are knowing, intelligent and voluntary, as required by due process.
716. The United States Constitution requires that valid guilty pleas must be knowing and voluntary because a guilty plea constitutes a waiver of the Fifth Amendment right against compulsory self-incrimination and the Sixth Amendment right to confront one’s accusers. It has been settled for more than forty years that these rights apply to youth in juvenile delinquency proceedings. *See In re Gault*, 387 U.S. at 55, 56. To enter into a knowing

and voluntary guilty plea, a youth must be informed of and then must affirmatively state that he understands the consequences of pleading guilty and the rights he is giving up as a consequence thereof. He must also admit to each and every element of the offenses with which he is charged. The decision to plead guilty must be made freely and without threat or coercion.

717. As a regular matter, Ciavarella took no steps to ensure that Subclass A1 plaintiffs' guilty pleas were knowing and voluntary as required. He regularly failed to inform youth of their right to a trial, their right to confront and cross-examine witnesses, and the government's burden of proving every element of its case beyond a reasonable doubt. He also regularly failed to ask if youth understood they were giving up these rights before pleading guilty. Ciavarella did not confirm that youth understood the acts to which they were pleading guilty. In some cases, Ciavarella adjudicated youth delinquent without even inquiring as to the youth's plea of guilt or innocence, and he then placed the youth in a detention facility. At other times, even if the youth pled not guilty, Ciavarella adjudicated the youth delinquent in a hearing lasting no more than a few minutes, with no trial or opportunity for the youth to speak on his or her own behalf or to present testimony or evidence.

718. In addition to Ciavarella's obligation under the Constitution to accept only knowing and voluntary guilty pleas in the absence of trial, since 2005, the Pennsylvania Supreme Court, through its rule making authority, has specifically required that juvenile court judges go through an eight question colloquy with any juvenile seeking to enter an admission (guilty plea) to a charge of delinquency. Rule 407 of the Pennsylvania Rules of Juvenile Court Procedure provides, in part, as follows:

A. Admissions. At any time after a petition is filed, the juvenile may tender an admission to the facts, adjudication of delinquency, and/or disposition.

1) Requirements. Before the court can accept an admission, the court shall determine that the admission is made voluntarily and knowingly. The court, at a minimum, shall ask questions to elicit the following information:

- a) Does the juvenile understand the nature of the allegations to which he or she is admitting?
- b) Is there a factual basis for the admission?
- c) Does the juvenile understand that he or she has the right to a hearing before the judge?

- d) Does the juvenile understand that he or she is presumed innocent until found delinquent?
- e) Is the juvenile aware of the dispositions that could be imposed?
- f) Is the juvenile aware that the judge is not bound by the terms of any agreement tendered unless the judge accepts such agreement?
- g) Has the juvenile spoken with his or her attorney or waived the right to counsel in accordance with Rule 152?
- h) Does the juvenile have any questions about admitting to the facts or delinquency based on the allegations?
- i) Has the juvenile had the opportunity to speak with a guardian about his or her decision?

719. Even when plaintiffs retained private counsel to represent them in their adjudicatory hearings before Ciavarella, Ciavarella regularly gave the privately retained counsel little or no opportunity to speak on behalf of their clients at the hearing.

720. These gross violations of the youth plaintiffs' constitutional rights were part and parcel of the defendants' scheme to ensure that youth were adjudicated delinquent and placed in detention, in furtherance of their

scheme to line their own pockets through financial payments or kickbacks from other defendants named herein.

721. Additionally, in furtherance of his scheme to deny children their constitutional right to counsel, Ciavarella directed Sandra Brulo, then Chief Juvenile Probation Officer for Luzerne County, to draft a waiver form which on its face failed to advise youth or their parents of the serious consequences of giving up their right to counsel. *See Waiver of Counsel Form*, attached hereto as Exhibit “I”. This form was routinely provided to children and their parents prior to entering Ciavarella’s courtroom by court personnel or other probation officers at Ciavarella’s direction, and also expressly allowed parents to waive counsel for their children. Ciavarella continued to direct the use of this form even after the Pennsylvania Supreme Court’s adoption of a rule in 2005 that only children may waive their right to counsel; parents may not waive a youth’s right to counsel. *See Pa. R. Juv. Ct. P. 152*. The Comments to Rule 152 state:

It is recommended that, at a minimum, the court ask questions to elicit the following information in determining a knowing, intelligent, and voluntary waiver of counsel:

- 1) Whether the juvenile understands the right to be represented by counsel;

- 2) Whether the juvenile understands the nature of the allegations and the elements of each of those allegations;
- 3) Whether the juvenile is aware of the dispositions, community service, or fines that may be imposed by the court;
- 4) Whether the juvenile understands that if he or she waives the right to counsel, he or she will still be bound by all the normal rules of procedure and that counsel would be familiar with these rules;
- 5) Whether the juvenile understands that there are possible defenses to these allegations that counsel might be aware of, and if these defenses are not raised at the adjudicatory hearing, they may be lost permanently;
- 6) Whether the juvenile understands that, in addition to defenses, the juvenile has many rights that, if not timely asserted, may be lost permanently; and if errors occur and are not timely objected to, or otherwise timely raised by the juvenile, these errors may be lost permanently;
- 7) Whether the juvenile knows the whereabouts of absent guardians and if they understand they should be present; and

8) Whether the juvenile has had the opportunity to consult with his or her guardian about this decision.

722. Denying plaintiffs their fundamental right to counsel increased the number of youth adjudicated delinquent and placed in detention while minimizing the likelihood that the adjudications and placement decisions would be questioned or appealed.
723. Data from Luzerne County confirm that this strategy had an impact. According to data collected by the Juvenile Court Judges' Commission, from 2003 through 2006 (the most recent year for which data is available), the Luzerne County Juvenile Court handled 5,160 delinquency dispositions; twenty-two percent of these dispositions resulted in placement, almost double the Pennsylvania state average. *See* Pennsylvania Juvenile Court Judges' Commission, *Pennsylvania Juvenile Court Dispositions* (2003-2006), available at <http://www.jcjc.state.pa.us/jcjc/cwp/browse.asp?A=3&BMDRN=2000&BCOB=0&C=41835>.
724. In 2003, approximately seven percent of all children who waived counsel in Pennsylvania were placed outside the home; in Luzerne County, more than half of the children who waived counsel were placed outside the home (177 of 301 total waivers). In 2004, approximately twelve percent of all children who waived counsel in Pennsylvania were placed outside the

home; in Luzerne County, over half of the children who waived counsel were placed outside the home (132 of 252 total waivers). Luzerne County data from 2005 and 2006 show that more than 250 children who were unrepresented at juvenile court hearings were adjudicated delinquent and removed from their homes. In Luzerne County, nearly sixty percent of delinquency dispositions for youth without counsel in both 2005 and 2006 resulted in out-of-home placement. Additionally, while the statewide annual average for waiver of counsel in all counties was about five percent during the relevant time period, the average annual rate of waiver of counsel in Luzerne County reached as high as ten times the state average during the relevant time period.

725. The foregoing actions of Ciavarella and Conahan, as well as other of their actions, were undertaken by Ciavarella and Conahan without recusing themselves from matters in which they had a conflict of interest and without disclosing to parties involved in court proceedings their conflict of interest and the financial relationship that existed between Ciavarella and Conahan, on the one hand, and Powell, Zappala, Mericle, PA Child Care, and Western PA Child Care, on the other hand, which were material matters.

726. By failing to recuse themselves from acting in matters in which they had a material conflict of interest and by failing to disclose to parties appearing before the court their conflict of interest and their financial relationship with Powell, Mericle, Zappala, PA Child Care, and Western PA Child Care, which were material matters, Ciavarella and Conahan violated their duties of independence, impartiality, and integrity in the exercise of their discretionary actions on behalf of the Court of Common Pleas for Luzerne County.
727. Additionally, in deliberately conducting juvenile proceedings without regard to the mandates of the United States Constitution, the Pennsylvania Juvenile Act, or the Pennsylvania Supreme Court Rules of Juvenile Court Procedure, Ciavarella acted outside the law and without lawful jurisdiction to adjudicate the youth who appeared before him and without lawful jurisdiction to place the youth who appeared before him. By denying the children who appeared before him their fundamental constitutional rights, Ciavarella effectively operated an illegitimate courtroom; further, by taking money as part of his scheme to deny children their constitutional rights, he operated this illegitimate courtroom for illegitimate purposes.
728. County actors with responsibility for ensuring the lawful and constitutional operation of the Luzerne County juvenile court – including, but not limited

to, the Luzerne County District Attorney and the Luzerne County Public Defender, both County decision makers⁴ – routinely, and as a matter of custom, practice, and policy, acted outside the law and with deliberate indifference to constitutional rights of the plaintiffs by participating in and sanctioning these illegitimate proceedings that failed to comply with the mandates of the United States Constitution, the Pennsylvania Juvenile Act, or the Pennsylvania Supreme Court Rules of Juvenile Court Procedure. By way of example, the District Attorney and Public Defender routinely observed and allowed youth appearing before Ciavarella to proceed without counsel in the absence of a constitutionally-mandated waiver of counsel and to enter unconstitutional guilty pleas.

729. As a result of unconstitutional adjudications and placements described above, youth plaintiffs suffered emotional trauma, including removal from their homes and families, disruptions in their education, loss of educational credits and delayed completion – or in some case loss of the opportunity to complete – their high school education. Additionally, all plaintiffs – youth

⁴ Pennsylvania’s Constitution and the Third Circuit have expressly defined district attorneys as county, rather than state, officers. *See* Pa. Const., art. IX, § 5; *Callahan v. City of Phila.*, 207 F.3d 668 (3d Cir. 2000); *Carter v. City of Phila.*, 181 F.3d 339 (3d Cir. 1999). “Pennsylvania statutes also reflect the local status of the DA’s Office. . . . Consistent with its constitutional and statutory law, Pennsylvania case law defines district attorneys as local, and expressly not state, officials.” *Callahan*, 207 F.3d at 674 (quoting *Carter*, 181 F.3d at 349-350).

and their parents or guardians – were forced to pay the costs or some portion of the costs of placement at PA Child Care, Western PA Child Care, or other facilities, as well as other court costs, probation fees, fines, restitution, and attorneys’ fees.

730. On January 26, 2009, the United States Attorney for the Middle District of Pennsylvania filed a Bill of Information alleging two counts of fraud against Ciavarella and Conahan. The Bill of Information describes, *inter alia*, a conspiracy among the judges and at least two other unnamed parties, presumed to be Powell and Mericle, to conceal \$2.6 million in payments to the judges from owners of juvenile correctional facilities, in exchange for, *inter alia*, referring children who appeared before Ciavarella to these juvenile correctional facilities. On February 12, 2009, Ciavarella and Conahan pled guilty to these counts. In their guilty pleas, Ciavarella and Conahan agreed to serve more than seven years in federal prison. A formal sentencing hearing is pending, following a federal pre-sentence investigation.

731. U.S. District Judge Edwin M. Kosik rejected the plea agreements of the former judges and found that the negotiated pleas were “well below the sentencing guidelines for the charged offenses” “in light of the post-guilty conduct and expressions from the defendants that contradict some offense

conduct.” *See* Memorandum and Order, No. 09-cr-28 (M.D. Pa. Jul. 30, 2009) attached as Exhibit “J”. Judge Kosik noted “the Government’s abundance of evidence of [Ciavarella’s] routine deprivation of children’s constitutional rights by commitments to private juvenile facilities he helped to create in return for a ‘finder’s fee’ in direct conflict of interest with his judicial roles.” *Id.* Conahan and Ciavarella withdrew their guilty pleas after Judge Kosik denied their Motions for Reconsideration. *See* Memorandum and Order, No. 09-cr-28 (M.D. Pa. Aug. 24, 2009), attached as Exhibit “K”.

732. On June 9, 2009, the United States Attorney for the Middle District of Pennsylvania filed a Bill of Information alleging two charges against Powell. The Bill of Information affirms that Powell knowingly and intentionally cooperated in the creation of false records designed to hide, disguise, and mischaracterize income received by Ciavarella and Conahan and that Powell transferred tens of thousands of dollars in cash to Conahan with the intent that the cash not be traceable as income. A plea agreement was filed along with the Bill of Information. Powell agreed to plead guilty to both charges which carry a total penalty of up to five and one-half years of imprisonment and fines of up to \$500,000. Additionally, Powell agreed

to forfeit his ownership in a \$1.3 million yacht named “Reel Justice” and a \$2.6 million private jet.

733. On August 13, 2009, the United States Attorney for the Middle District of Pennsylvania filed a Bill of Information against Mericle alleging misprison of a felony. That same day, a plea agreement was filed wherein Mericle agreed to plead guilty to the charge, which carries a total penalty of up to three (3) years of imprisonment and fines of up to \$250,000.
734. The Pennsylvania Supreme Court assumed plenary jurisdiction and granted Juvenile Law Center’s Amended Application for the Exercise of King’s Bench Power or Extraordinary Jurisdiction arising out of Ciavarella’s denial of youth’s constitutional right to counsel and acceptance of guilty pleas without due process during the period from 2003 through May 2008 on February 11, 2009. Pursuant to that order, and citing the recently revealed criminal allegations and plea agreement entered into by Ciavarella, among others, the court appointed Special Master Arthur Grim, Senior Judge, Berks County Court of Common Pleas, to act on its behalf. Specifically, the court authorized Judge Grim to review all juvenile court adjudications and dispositions affected by the recently revealed criminal charges, including all cases in which children were committed to PA Child Care and Western PA Child Care, as well as all cases in which it is alleged

that youth appearing before Ciavarella were denied their right to counsel, and to make recommendations to the court concerning appropriate remedial actions.

735. Among the remedial actions the Special Master may recommend, on an individual basis, class basis, or both, are orders to expunge records, grant new juvenile proceedings, or find that the affected juvenile proceedings were void *ab initio*. The request for relief was limited to injunctive or other equitable relief.
736. On March 26, 2009, Special Master Grim entered the first of several anticipated orders vacating the adjudications and expunging the records of hundreds of juveniles who appeared before Ciavarella between 2003 and May 2008. In his Order, Judge Grim specifically noted that his own investigation “point[ed] to the conclusion that a very substantial number of juveniles who appeared without counsel before Judge Ciavarella for delinquency or related proceedings did not knowingly and intelligently waive their right to counsel. My investigation also has uncovered evidence that there was routine deprivation of children’s constitutional rights to appear before an impartial tribunal and to have an opportunity to be heard.” First Interim Report and Recommendations of the Special Master, at ¶ 10,

737. On July 22, 2009, Special Master Grim entered his Second Interim Report and Recommendations, which was approved and adopted by Order, No. 81 MM 2008 (Pa. Jul. 22, 2009), attached hereto as Exhibit “M”.
738. On August 7, 2009, the Pennsylvania Supreme Court issued an Order to preserve the records under seal of all cases in juvenile court in which adjudications of delinquency or consent decrees were entered between January 1, 2003 and May 31, 2008. A copy of the August 7, 2009 Order is attached hereto as Exhibit “N”.
739. On August 12, 2009, Special Master Grim entered his thirty-three page Third Interim Report and Recommendations recommending that all delinquency adjudications between 2003 and 2008 that occurred before former judge Ciavarella be vacated. Special Master Grim further recommended that he individually review the few remaining cases “in which the juvenile has not received final discharge from commitment, placement, probation . . . or in which the juvenile has not paid all fines, restitution, and fees assessed against him/her” to determine an appropriate resolution. *See* Third Interim Report and Recommendations of the Special Master at ¶ B.1.2, attached hereto as Exhibit “O”.

E. FINANCIAL TRANSACTIONS IN FURTHERANCE OF THE CONSPIRACY

740. Ciavarella, Conahan, Powell, Zappala, and Mericle entered into agreements for constructing and guaranteeing placements in the PA Child Care and Western PA Child Care facilities in return for concealed payments to Ciavarella and Conahan.
741. In or before January 2003, Ciavarella and Conahan arranged with Powell and Mericle to receive a payment from Powell and Mericle in the amount of \$997,600 to compensate them for the roles they played in accomplishing the construction of the PA Child Care facility.
742. In order to conceal the \$997,600 payment, Powell and Mericle signed a written “Registration and Commission Agreement” prepared by Mericle and backdated to February 19, 2002, which purported to be an agreement for Mericle to pay a broker’s fee of \$997,600 to Powell. In fact, however, a large portion of the money was intended to be paid to Ciavarella and Conahan.
743. Ciavarella and Conahan engaged in a series of financial transactions, over time, which were also designed to conceal the \$997,600 payment made to them. On January 21, 2003, Mericle wire transferred \$610,000 to an attorney trust account of an attorney other than Powell. The remaining

\$387,600 was wire transferred by Mericle to a bank account under the control of Powell on or about January 24, 2003.

744. Thereafter, on January 28, 2003, the \$610,000 in the attorney trust account was wire transferred to a bank account of defendant Beverage Marketing of Pa., a business entity controlled by Conahan.
745. In a series of financial transactions thereafter, a portion of the \$610,000 payment was passed from Conahan to Ciavarella. For example, on or about January 28, 2003, Conahan directed that \$330,000 of the \$610,000 be wire transferred to a bank account controlled by Ciavarella; on or about April 30, 2003, Conahan directed that an additional \$75,000 of the \$610,000 be wire transferred to a bank account controlled by Ciavarella; on or about July 15, 2003, Conahan directed that an additional \$75,000 of the \$610,000 be wire transferred to a bank account under the control of Ciavarella; on or about August 13, 2003, Conahan directed that an additional \$25,000 of the \$610,000 be wire transferred to a bank account under the control of a third party; and, on or about August 20, 2003, Conahan directed that an additional \$105,000 be transferred to a bank account under the control of Conahan.
746. To conceal the payments to Ciavarella and Conahan, Conahan directed that false entries be made in the books and records of Beverage Marketing of

Pa. That direction was followed, and false entries were in fact made in the books and records of Beverage Marketing of Pa.

747. To further conceal the \$997,600 payment made to Ciavarella and Conahan, a portion of the \$387,600 wire transfer made by Mericle to Powell on January 28, 2003 was paid to Ciavarella and Conahan in a series of financial transactions which occurred over time. One of those transactions occurred on or about August 29, 2003, when a check in the amount of \$326,000, drawn on a bank account under the control of Powell, was deposited into a bank account under the control of Conahan but maintained in the name of another person.
748. With respect to the \$1,000,000 payment made by Powell to Ciavarella and Conahan in July 2005, after completion of the construction of Western PA Child Care, defendants attempted to hide the compensation they paid, transferred, and/or received by causing that compensation to pass through Pinnacle Group, Vision Holdings, and/or Beverage Marketing of Pa., and by creating false records and/or by causing false records to be created.
749. In order to conceal the payment to Ciavarella and Conahan, Powell and Mericle signed a written "Registration and Commission Agreement" prepared by Mericle which purported to be an agreement for Mericle to pay a broker's fee of \$1,000,000 to Powell. In fact, however, the money was

wire transferred by Mericle to a bank account of the Pinnacle Group, a business entity owned by defendants Cindy Ciavarella and Barbara Conahan, but controlled by Mark Ciavarella and Michael Conahan.

750. With respect to the \$150,000 payment made to Ciavarella and Conahan by Powell and Mericle in February 2006 upon completion of the construction of an addition to PA Child Care by Mericle, the same contractor who built the facility, defendants attempted to hide the compensation they paid, transferred, and/or received by causing that compensation to pass through Pinnacle Group, Vision Holdings, and/or Beverage Marketing of Pa., and by creating false records and/or by causing false records to be created.
751. Specifically, in order to conceal the payment to Ciavarella and Conahan, Powell and Mericle signed a written “Registration and Commission Agreement” prepared by Mericle, which purported to be an agreement for Mericle to pay a broker’s fee of \$150,000 to Powell. In fact, however, the money was wire transferred by Mericle to a bank account of the Pinnacle Group, a business entity owned by Cindy Ciavarella and Barbara Conahan, but controlled by Mark Ciavarella and Michael Conahan.
752. Between approximately February of 2003 and January 1, 2007, Ciavarella and Conahan received from Powell hundreds of thousands of dollars in payments for their past and future official actions relating to PA Child Care

and Western PA Child Care. Again, they took steps to conceal and disguise the existence, nature, location, source, ownership, and control of these payments.

753. Some of the payments were made by checks drawn on one or more bank accounts under the control of Powell and were made payable to Pinnacle Group. The payments included, but were not necessarily limited to, the following: \$18,000 paid on or about January 13, 2004; \$52,000 paid on or about January 13, 2004; \$78,000 paid on or about February 15, 2004; \$75,000 paid on or about February 15, 2004; \$47,000 paid on or about February 15, 2004; \$75,000 paid on or about April 30, 2004; and \$25,000 paid on or about April 30, 2004.
754. To conceal the payments to Ciavarella and Conahan, Powell made false notations on the checks. For example, Powell, through Vision Holdings, issued a check on or about February 15, 2004 identified on its face as “Reserving Lease” to Pinnacle Group. Around or on the same day, Powell, through Vision Holdings, issued one check identified on its face as “Slip Rental Fees and another identified as “Lease Expenses April, May, June” to Pinnacle Group.

755. Ciavarella and Conahan directed that false entries be made in the books and records of Pinnacle Group. False entries were made in the books and records of Pinnacle Group.
756. In addition to payments by check, some of the payments were made by wire transfers from one or more bank accounts under the control of Powell, through Vision Holdings, and transferred to an account of Pinnacle Group. The payments included, but were not necessarily limited to, the following: \$120,000 transferred on July 12, 2004; and \$100,000 transferred on September 23, 2004.
757. Between approximately August and December 2006, Powell caused a series of checks to be cashed and then gave the proceeds to the defendant judges. For example, on or about August 16, 2006 Powell cashed a series of checks for \$42,000 and gave the proceeds to the judges. This occurred again on or about the following dates in the following amounts: October 13, 2006: \$30,000; November 1, 2006: \$20,000, November 20, 2006: \$50,000, and December 18, 2006: \$31,500. On or about December 1, 2006, Powell paid Conahan \$9,000 in cash from a check that was cashed as a referral fee for a case that was settled.
758. In order to conceal the more than \$2.6 million in unlawful payments they received, Ciavarella and Conahan knowingly and intentionally filed

materially false annual statements of financial interests with the Administrative Office of the Pennsylvania Courts, in which they failed to disclose the source of these payments, the source of the income they received, and their financial relationship with Powell, Zappala, Mericle, PA Child Care and Western PA Child Care, all of which were material matters.

759. Ciavarella made the following materially false filings with the Administrative Office of the Pennsylvania Courts on or about the following dates:

- (a) April 2004: Materially false annual statement of financial interests for calendar year 2003 submitted to the Pennsylvania Administrative Office of the Courts;
- (b) March 2005: Materially false annual statement of financial interests for calendar year 2004 submitted to the Pennsylvania Administrative Office of the Courts;
- (c) April 2006: Materially false annual statement of financial interests for calendar year 2005 submitted to the Pennsylvania Administrative Office of the Courts; and
- (d) March 2007: Materially false annual statement of financial interests for calendar year 2006 submitted to the Pennsylvania Administrative Office of the Courts.

760. Conahan made the following materially false filings with the Administrative Office of the Pennsylvania Courts on or about the following dates:
- (a) April 2004: Materially false annual statement of financial interests for calendar year 2003 submitted to the Pennsylvania Administrative Office of the Courts;
 - (b) March 2005: Materially false annual statement of financial interests for calendar year 2004 submitted to the Pennsylvania Administrative Office of the Courts;
 - (c) February 2006: Materially false annual statement of financial interests for calendar year 2005 submitted to the Pennsylvania Administrative Office of the Courts; and
 - (d) April 2007: Materially false annual statement of financial interests for calendar year 2006 submitted to the Pennsylvania Administrative Office of the Courts.
761. Furthermore, Ciavarella and Conahan, acting on behalf of the Court of Common Pleas for Luzerne County in matters in which they had discretionary decision-making authority, knowingly and intentionally issued written, oral and wire communications which were materially false to the extent that the defendants did not disclose their sources of income,

their conflict of interest, and their financial relationship with Powell, Zappala, Mericle, PA Child Care, and Western PA Child Care, which were material matters.

CLAIMS

COUNT I

**VIOLATION OF PLAINTIFFS' RIGHT TO AN
IMPARTIAL TRIBUNAL AS GUARANTEED BY THE
FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS
TO THE UNITED STATES CONSTITUTION (42 U.S.C. § 1983)**

All Youth Plaintiffs (Class A) v. Defendants Ciavarella and Conahan

762. Each of the preceding paragraphs is incorporated herein.
763. Ciavarella and Conahan are “persons” within the meaning of 42 U.S.C. § 1983.
764. Ciavarella and Conahan were acting “under color of state law” and their conduct was subject to 42 U.S.C. § 1983.
765. Ciavarella and Conahan received payments by and through the other defendants in connection with the construction of new detention facilities. Their receipt of these payments was not in furtherance of their roles and responsibilities as judges, nor did the receipt of these monies fall within their administrative responsibilities. Their receipt of these payments was criminal and completely outside the law. In return for these unlawful payments, Ciavarella and Conahan agreed to and did act in their

administrative capacities to ensure that detention facilities would be constructed and expanded and that plaintiff youth would be placed in detention. Ciavarella and Conahan knowingly hid these payments from the County of Luzerne, the Administrative Office of the Pennsylvania Courts, and the public – in particular the named plaintiffs and class members – thereby concealing Ciavarella’s and Conahan’s conflicts of interest, pecuniary interest, bias, and partiality in adjudicating plaintiff youth delinquent and ordering their placement in detention facilities.

766. “It is axiomatic that ‘[a] fair trial in a fair tribunal is a basic requirement of due process.’” *Caperton v. A.T. Massey Coal Co.*, No. 08-22, 2009 U.S. Lexis 4157, at *15 (June 8, 2009) (citing *In re Murchison*, 329 U.S. 133, 136 (1955)).
767. Conahan’s and Ciavarella’s actions described above preclude the possibility of an impartial tribunal. Rather, an unconstitutional probability of bias is plainly present. *See id.* Plaintiff youth were deprived of their right to an impartial tribunal as guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution.
768. As a result of their actions, the United States Attorney filed a Bill of Information alleging two counts of fraud against Ciavarella and Conahan. As described above, the Bill of Information describes, *inter alia*, a

conspiracy among the judges and unnamed parties to conceal \$2.6 million in payments to the judges from owners of juvenile correctional facilities, in exchange for, *inter alia*, referring children who appeared before Ciavarella to these juvenile correctional facilities. On February 12, 2009, Ciavarella and Conahan pled guilty to these two counts of fraud.

769. As a result of these constitutional violations, plaintiffs suffered injuries and damages, including but not limited to emotional trauma and costs, fines, fees, and other expenses arising out of their unconstitutional adjudications or placement.

COUNT II

CONSPIRACY TO VIOLATE PLAINTIFFS' RIGHT TO AN IMPARTIAL TRIBUNAL AS GUARANTEED BY THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION (42 U.S.C. § 1983)

All Youth Plaintiffs (Class A) v. Defendants Ciavarella; Conahan; Powell; Mericle; Cindy Ciavarella; Barbara Conahan; Mericle Construction, Inc.; Mid-Atlantic Youth Services Corp.; PA Child Care, LLC; Western PA Child Care, LLC; Pinnacle Group of Jupiter, LLC; Vision Holdings, LLC; and Beverage Marketing of Pa., Inc.

770. Each of the preceding paragraphs is incorporated herein.

771. Each defendant is a “person” within the meaning of 42 U.S.C. § 1983.

772. All defendants were acting “under color of state law” and their conduct was subject to 42 U.S.C. § 1983.

773. Defendants knowingly and willfully entered into a conspiracy and agreement by which Ciavarella and Conahan would and did receive payments by and through the other defendants in connection with the construction of new detention facilities. Their receipt of these payments was not in furtherance of their roles and responsibilities as judges, nor did the receipt of these monies fall within their administrative responsibilities. Their receipt of these payments was criminal and completely outside the law. In return for these unlawful payments, Ciavarella and Conahan agreed to and did act in their administrative capacities to ensure that plaintiff youth would be placed in detention facilities by, *inter alia*, securing a contract from Luzerne County to use these facilities and ordering placement of plaintiffs in these facilities. All defendants knowingly hid these payments from the County of Luzerne, the Administrative Office of the Pennsylvania Courts, and the public – in particular the named plaintiffs and class of youth they represent – thereby concealing the defendants’ conflict of interest, pecuniary interest, bias, and partiality in adjudicating plaintiff youth delinquent and ordering their placement in detention facilities.
774. Because of this conspiracy, plaintiff youth therefore were deprived of their right to an impartial tribunal as guaranteed by the Fifth, Sixth, and Fourteenth Amendments to the United States Constitution.

775. As a result of these constitutional violations, plaintiffs suffered injuries and damages, including but not limited to emotional trauma and costs, fines, fees, and other expenses arising out of their unconstitutional adjudications or detention.

COUNT III

DEPRIVATION OF PLAINTIFFS' RIGHT TO COUNSEL AND/OR TO A KNOWING, INTELLIGENT, AND VOLUNTARY GUILTY PLEA IN VIOLATION OF THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION (42 U.S.C. § 1983)

Subclass A1 Plaintiffs v. Defendant Ciavarella

776. Each of the preceding paragraphs is incorporated herein.

777. Ciavarella is a “person” within the meaning of 42 U.S.C. § 1983.

778. Ciavarella was acting “under color of state law” and his conduct was subject to 42 U.S.C. § 1983.

779. Ciavarella received payments by and through the other defendants in connection with the construction of new detention facilities. In return for these payments, Ciavarella agreed to misuse his judicial office to ensure that plaintiff youth would be placed in detention facilities.

780. Acting completely outside the law and in derogation of and contrary to his role and responsibilities as a judge, Ciavarella intentionally and knowingly, in a pervasive and persistent scheme ongoing throughout the relevant time period herein, denied Subclass A1 plaintiffs their constitutionally protected

right to counsel. When Subclass A1 plaintiffs appeared before Ciavarella without an attorney, he failed to inquire as to whether they were knowingly, intelligently, and voluntarily waiving their right to counsel, as required by the Sixth and Fourteenth Amendments to the United States Constitution. Accordingly, as Ciavarella was effectively operating an illegitimate courtroom for illegitimate purposes, Ciavarella was without lawful jurisdiction to adjudicate these plaintiff youth. Yet this pervasive pattern of intentionally denying Subclass A1 plaintiffs their constitutional rights substantially enhanced Ciavarella's ability to adjudicate the Subclass A1 plaintiffs as delinquent and place them in detention facilities or placement facilities.

781. Also acting completely outside the law and in derogation of and contrary to his role and responsibilities as a judge, Ciavarella intentionally and knowingly, in a pervasive and persistent scheme ongoing throughout the relevant time period from 2003 through May 2008, failed to engage in any colloquy with Subclass A1 plaintiffs pleading guilty to ensure that their admissions and guilty pleas were knowing and voluntary. Accordingly, as Ciavarella was effectively operating an illegitimate courtroom for illegitimate purposes, Ciavarella was without lawful jurisdiction to adjudicate these youth. Ensuring that a guilty plea is knowing, intelligent,

and voluntary is constitutionally required because a guilty plea constitutes a waiver of important constitutional rights, including the Fifth Amendment right against compulsory self-incrimination and the Sixth Amendment right to a trial and to confront one's accusers. Ciavarella's pervasive pattern of intentionally denying Subclass A1 plaintiffs their constitutional rights substantially enhanced his ability to adjudicate the Subclass A1 youth as delinquent and place them in detention facilities or other placement facilities.

COUNT IV

CONSPIRACY TO DEPRIVE YOUTH OF THEIR RIGHT TO COUNSEL AND/OR TO A KNOWING, INTELLIGENT, AND VOLUNTARY GUILTY PLEA IN VIOLATION OF THE FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS TO THE UNITED STATES CONSTITUTION (42 U.S.C. § 1983)

Subclass A1 Plaintiffs v. Defendants Ciavarella; Conahan; Powell; Mericle; Cindy Ciavarella; Barbara Conahan; Mericle Construction, Inc.; Mid-Atlantic Youth Services Corp.; PA Child Care, LLC; Western PA Child Care, LLC; Pinnacle Group of Jupiter, LLC; Vision Holdings, LLC; and Beverage Marketing of Pa., Inc.

782. Each of the preceding paragraphs is incorporated herein.
783. Each defendant is a "person" within the meaning of 42 U.S.C. § 1983.
784. All defendants were acting "under color of state law" and their conduct was subject to 42 U.S.C. § 1983.

785. Defendants knowingly and willfully entered into an agreement by which Ciavarella and Conahan would receive payments by and through the other defendants in connection with the construction of new detention facilities. In return for these payments, Ciavarella and Conahan agreed to misuse their judicial offices to ensure that plaintiff youth would be placed in detention facilities. All defendants knowingly hid these payments from the County of Luzerne, the Administrative Office of the Pennsylvania Courts, and the public – in particular the plaintiffs – thereby concealing the defendants’ conflict of interest, pecuniary interest, bias and partiality in adjudicating plaintiff youth and placing plaintiff youth in detention facilities.
786. As part of this conspiracy and agreement, Ciavarella denied Subclass A1 plaintiffs their constitutionally protected right to counsel. Acting completely outside the law and in derogation of and contrary to his role and responsibilities as a judge, when Subclass A1 plaintiffs appeared before Ciavarella without an attorney, he intentionally and knowingly, in a pervasive and persistent scheme ongoing throughout the relevant time period from 2003 through May 2008, failed to inquire as to whether the youth were knowingly, intelligently, and voluntarily waiving their right to counsel, as required by the Sixth and Fourteenth Amendments to the

United States Constitution. This denial substantially enhanced Ciavarella's ability, pursuant to the conspiracy, to adjudicate the Subclass A1 plaintiff youth as delinquent and to order their placement in detention facilities.

787. As part of this conspiracy and agreement, and also acting completely outside the law and in derogation of and contrary to his role and responsibilities as a judge, defendant Ciavarella intentionally and knowingly, in a pervasive and persistent scheme ongoing throughout the relevant time period 2003 through 2008, failed to engage in any colloquy with Subclass A1 plaintiff youth pleading guilty to ensure that the Subclass A1 plaintiff youth's admissions and guilty pleas were knowing and voluntary. Ensuring that a guilty plea is knowing, intelligent, and voluntary is constitutionally required because a guilty plea constitutes a waiver of important constitutional rights, including the Fifth Amendment right against compulsory self-incrimination and the Sixth Amendment right to a trial and to confront one's accusers. Accordingly, as Ciavarella was effectively operating an illegitimate courtroom for illegitimate purposes, Ciavarella was without lawful jurisdiction to adjudicate these youth delinquent. Ciavarella's pervasive denial of these rights to Subclass A1 youth significantly enhanced his ability, pursuant to the conspiracy, to

adjudicate Subclass A1 youth delinquent and order their placement in detention facilities.

COUNT V

CIVIL RICO (18 U.S.C. § 1962(c))

**Class B Plaintiffs v. Defendants Ciavarella; Conahan;
Powell; Mericle; Cindy Ciavarella; Barbara Conahan;
Mericle Construction, Inc.; Mid-Atlantic Youth Services Corp.;
PA Child Care, LLC; Western PA Child Care, LLC; Pinnacle Group of
Jupiter, LLC; Vision Holdings, LLC; and Beverage Marketing of Pa., Inc.**

788. Each of the preceding paragraphs is incorporated herein.
789. Each youth or parent plaintiff who paid money as a result of his or her having been adjudicated delinquent or placed by Ciavarella, or his or her child having been adjudicated delinquent or placed by Ciavarella, between 2003 and May 23, 2008 is a “person” as that term is defined in 18 U.S.C. § 1961(3).
790. Each defendant is a “person” as that term is defined in 18 U.S.C. § 1961(3).
791. Ciavarella, Conahan, PA Child Care, Western PA Child Care, Powell, Mericle, and Mericle Construction together constituted an association-in-fact “enterprise” within the meaning of 18 U.S.C. § 1961(4).
792. This enterprise, an ongoing organization that functioned as a continuing unit for the purpose of adjudicating and housing juveniles adjudicated delinquent in Luzerne County and elsewhere, at all times relevant hereto

was engaged in interstate commerce or its activities affected interstate commerce.

793. Specifically, on or about each date listed below, in the Middle District of Pennsylvania and elsewhere, Ciavarella and Conahan, aided and abetted by each other and other defendants for the purpose of executing the scheme to defraud and the conspiracy to violate plaintiffs' constitutional rights described herein, transmitted and/or caused to be transmitted by means of wire communication in interstate commerce, the following writings, signals and sounds:

- (a) July 12, 2004: Electronic funds transfer of \$120,000 transferred from an account of Vision Holdings to an account of the Pinnacle Group;
- (b) September 23, 2004: Electronic funds transfer of \$100,000 transferred from an account of Vision Holdings to an account of Pinnacle Group;
- (c) July 15, 2005: Electronic funds transfer of \$1,000,000 transferred from an account of Mericle Construction to an account of Pinnacle Group; and

(d) February 3, 2006: Electronic funds transfer of \$150,000 transferred from an account of Mericle Construction to an account of Pinnacle Group.

794. Each defendant, along with others known and unknown, was employed by or associated with the enterprise identified in paragraph 791 and 792.

795. Each defendant, along with others known and unknown, conducted or participated, directly or indirectly, in the conduct of the enterprise's affairs through a pattern of racketeering activity, in violation of 18 U.S.C. § 1962(c).

796. The pattern of racketeering activity, which each defendant conducted or in which each defendant participated, included the following "racketeering acts" within the meaning of 18 U.S.C. § 1961(1) which occurred from in or about June 2000 to on or about April 30, 2007:

(a) Devising or intending to devise a scheme or artifice to defraud by means of wire communication in interstate commerce, in violation of 18 U.S.C. § 1343, in particular as described above, including, without limitation, in Parts B and D;

(b) Devising or intending to devise a scheme or artifice to defraud the citizens of the Commonwealth of Pennsylvania, including plaintiffs, and to deprive those citizens – and particularly plaintiffs – of the

intangible right of honest services by means of wire communication in interstate commerce, in violation of 18 U.S.C. §§ 1343 and 1346, in particular as described above, including, without limitation, in Parts B and D;

- (c) Offering, conferring, or agreeing to confer on another a pecuniary benefit as consideration for the decision, opinion, recommendation, or other exercise of discretion as a public servant by the recipient, in violation of 18 Pa. Cons. Stat. § 4701(a)(1), in particular as described above, including, without limitation, in Parts B and D;
- (d) Soliciting, accepting, or agreeing to accept from another a pecuniary benefit as consideration for the decision, opinion, recommendation, or other exercise of discretion as a public servant by the recipient, in violation of 18 Pa. Cons. Stat. § 4701(a)(1), in particular as described above, including without limitation, in Parts B and D; and
- (e) Soliciting, accepting, or agreeing to accept from another any benefit as consideration for a violation of a known legal duty as public servant, in violation of 18 Pa. Cons. Stat. § 4701(a)(3), in particular as described above, including without limitation, in Parts B and D.

797. The aforementioned instances of racketeering activity constitute a “pattern of racketeering activity,” as defined in 18 U.S.C. § 1961(5). The

aforementioned acts occurred continuously from on or about June 2000 to on or about April 30, 2007, as part of defendants' regular way of conducting and participating in the ongoing RICO enterprise. These acts had the same or similar participants, victims, and method of commission. Specifically, these acts were all related to the common purpose of enriching various defendants by constructing and expanding juvenile detention facilities, namely PA Child Care and Western PA Child Care; contracting with Luzerne County to use those juvenile detention facilities; and keeping the beds at PA Child Care and Western PA Child Care full. These purposes were accomplished by denying youth who appeared before Ciavarella the right to an impartial judiciary, by obtaining guilty pleas from youth who appeared before Ciavarella in violation of the juveniles' due process rights, and by denying youth who appeared before Ciavarella the right to assistance of counsel.

798. Ciavarella and Conahan accepted compensation from and/or through PA Child Care, Western PA Child Care, Mid-Atlantic Youth Services, Mericle, Mericle Construction, Zappala, Pinnacle Group, Beverage Marketing of Pa., and Vision Holdings in exchange for official actions.
799. Additionally, defendants attempted to hide the compensation they paid, transferred, and/or received by causing that compensation to pass through

Pinnacle Group, Vision Holdings, and Beverage Marketing of Pa., by creating false records, and/or by causing false records to be created.

800. As a direct and proximate result and by reason of each of the defendants' conduct of or participation in the affairs of the previously described enterprise, along with others known and unknown, the Class B plaintiffs have been injured in their business or property.

801. Such injuries consist, *inter alia*, of the following:

- (a) Payments made by the youth plaintiffs and/or the parent plaintiffs to defense attorneys;
- (b) Payments made by the youth plaintiffs and/or the parent plaintiffs to Luzerne County for the cost of placements, court costs and fees, and costs for probation; and
- (c) Loss of the youth plaintiffs' employment, scholarships, and/or financial aid as a result of the youth plaintiffs having been adjudicated delinquent and/or committed to PA Child Care, Western PA Child Care, or other juvenile detention facilities.

802. The aforementioned conduct and practices were specifically devised to injure the plaintiffs.

COUNT VI

CIVIL RICO (18 U.S.C. § 1962(b))

Class B Plaintiffs v. Defendants Ciavarella; Conahan; Powell; Mericle; Cindy Ciavarella; Barbara Conahan; Mericle Construction, Inc.; Mid-Atlantic Youth Services Corp.; PA Child Care, LLC; Western PA Child Care, LLC; Pinnacle Group of Jupiter, LLC; Vision Holdings, LLC; and Beverage Marketing of Pa., Inc.

803. Each of the preceding paragraphs is incorporated herein.
804. The defendants, along with others known and unknown, acquired and maintained interests in and control of the enterprise identified in paragraphs 791 and 792, *supra*, through their pattern of racketeering activity, in violation of 18 U.S.C. § 1962(b).
805. They did so through a pattern of violations of 18 U.S.C. §§ 1343 and 1346 and 18 Pa. Cons. Stat. § 4701(a)(1) and (3) in constructing juvenile detention facilities, namely PA Child Care and Western PA Child Care; in contracting with Luzerne County to use those juvenile detention facilities; and in keeping the beds at PA Child Care and Western PA Child Care full.
806. As a direct and proximate result and by reason of each of the defendants' acquisition and maintenance of interests in and control of the enterprise, the constitutional rights of youth plaintiffs who appeared before Ciavarella to due process, counsel, and an impartial judiciary were violated.

807. As a direct and proximate result and by reason of each of the defendants' acquisition and maintenance of interests in and control of the enterprise, the plaintiffs have been injured in their business or property.
808. Such injuries consist, *inter alia*, of the following:
- (a) Payments made by the youth plaintiffs and/or the parent plaintiffs to defense attorneys;
 - (b) Payments made by the youth plaintiffs and/or the parent plaintiffs to Luzerne County for the cost of placements, court costs and fees, and costs for probation; and
 - (c) Loss of employment, scholarships, and/or financial aid as a result of the youth plaintiffs having been adjudicated delinquent and/or committed to PA Child Care, Western PA Child Care, or other juvenile detention facilities.
809. The aforementioned conduct and practices were specifically devised to injure the plaintiffs.

COUNT VII

CIVIL RICO (18 U.S.C. § 1962(d))

Class B Plaintiffs v. Defendants Ciavarella; Conahan; Powell; Mericle; Cindy Ciavarella; Barbara Conahan; Mericle Construction, Inc.; Mid-Atlantic Youth Services Corp.; PA Child Care, LLC; Western PA Child Care, LLC; Pinnacle Group of Jupiter, LLC; Vision Holdings, LLC; and Beverage Marketing of Pa., Inc.

810. Each of the preceding paragraphs is incorporated herein.
811. As set forth above, defendants agreed and conspired to violate 18 U.S.C. § 1962(b) and (c), all in violation of 18 U.S.C. § 1962(d).
812. In particular, the defendants intentionally conspired and agreed to acquire or maintain interests in and control of the enterprise through a pattern of racketeering activity, as described in Count VI. Additionally, the defendants intentionally conspired and agreed to conduct and participate in the conduct of the affairs of the enterprise through a pattern of racketeering activity, as described in Count V.
813. The defendants took overt acts in furtherance of the conspiracy as described above including, but not limited to, those acts described in Counts V and VI.
814. The defendants knew that their predicate acts were part of a pattern of racketeering activity, and the defendants agreed to the commission of those acts to further the schemes described in Counts V and VI.

815. As a direct and proximate result of the defendants' conspiracy, the overt acts taken in furtherance of that conspiracy, and violations of 18 U.S.C. § 1962(b) and (c), the plaintiffs have been injured in their business or property.

816. Such injuries consist, *inter alia*, of the following:

- (a) Payments made by the youth plaintiffs and/or the parent plaintiffs to defense attorneys;
- (b) Payments made by the youth plaintiffs and/or the parent plaintiffs to Luzerne County for the costs of placements, court costs and fees, costs for probation; and
- (c) Loss of the youth plaintiffs' employment, scholarships, and/or financial aid as a result of the youth plaintiffs having been adjudicated delinquent and/or committed to PA Child Care, Western PA Child Care, or other juvenile detention facilities.

817. The aforementioned conduct and practices were specifically devised to injure the plaintiffs.

COUNT VIII

**VIOLATION OF PLAINTIFFS' RIGHTS TO COUNSEL
AND TO A KNOWING, INTELLIGENT, AND
VOLUNTARY GUILTY PLEA PURSUANT TO THE
FIFTH, SIXTH, AND FOURTEENTH AMENDMENTS
TO THE UNITED STATES CONSTITUTION (42 U.S.C. § 1983)**

Subclass A2 Plaintiffs v. Defendant Luzerne County

818. Each of the preceding paragraphs is incorporated herein.
819. Luzerne County is a “person” within the meaning of 42 U.S.C. § 1983.
820. At all relevant times, all defendants were acting “under color of state law” and their conduct was subject to 42 U.S.C. § 1983.
821. As described in detail in paragraphs 698 through 733 herein, Ciavarella instituted a custom, policy and practice in the Luzerne County juvenile court from 2003 through 2008 of denying plaintiffs their constitutional rights, including the right to counsel, the right against self-incrimination, and the right to be advised of the consequences of waiving counsel or entering a guilty plea such that waivers and pleas are knowing, intelligent, and voluntary, as required by the due process provisions of the United States Constitution.
822. These practices ran contrary to and were in violation of controlling United States Supreme Court case law, Pennsylvania statutory law, and Pennsylvania Rules of Juvenile Court, as described in paragraphs 705 through 720 herein.

823. From 2003 through 2008, County decision-makers with responsibility for ensuring the lawful and constitutional operation of the Luzerne County juvenile court – including, but not limited to, the Luzerne County District Attorney and the Luzerne County Public Defender – were routinely, as a matter of custom, policy, and practice, non-compliant with controlling United States Supreme Court case law, Pennsylvania statutory law, and Pennsylvania court rules regarding plaintiffs’ due process rights.
824. By way of example, the District Attorney and Public Defender routinely observed and allowed youth appearing before Ciavarella to proceed without counsel in the absence of a constitutionally mandated waiver of counsel and to enter unconstitutional guilty pleas.
825. These acts amounted to deliberate indifference to the rights of the juveniles adjudicated by Ciavarella. *See City of Canton v. Harris*, 489 U.S. 378, 388 (1989).
826. The practices of these County officials in the Luzerne County juvenile court, which deprived the plaintiffs of their constitutional rights, were “so permanent and well settled” as to have the “force of law.” *Monell v. Department of Social Services of New York City*, 436 U.S. 658, 691 (1978).
827. That Ciavarella was the presiding judge in the Luzerne County juvenile court does not excuse County officials from complying with controlling

United States Supreme Court case law, Pennsylvania statutory law, or Pennsylvania Rules of Juvenile Court regarding plaintiffs' due process rights, as "[p]rivate citizens are presumed to know the law, and no less should be expected of public officials." *Anela v. Wildwood*, 790 F.2d 1063, 1067 (3d Cir. 1986) (citation omitted).

828. The County's routine and persistent noncompliance with controlling United States Supreme Court case law, Pennsylvania statutory law, and Pennsylvania court rules over a period of five years amounted to a custom, policy, and practice of the County for purposes of § 1983 liability. *Anela*, 790 F.2d at 1067.

829. The County's custom, policy and practice created by, but not limited to, the Luzerne County District Attorney's and the Luzerne County Public Defender's non-compliance with governing law as described above, was a direct causal link to the violation of Plaintiffs' constitutional rights. The denial of Plaintiffs' constitutional rights was a known and plainly obvious consequence of this custom, policy, and practice.

COUNT IX

WRONGFUL IMPRISONMENT (STATE TORT)

Subclass A2 Plaintiffs v. Defendants Powell; Mid-Atlantic Youth Services Corp.; PA Child Care, LLC; and Western PA Child Care, LLC

830. Each of the preceding paragraphs is incorporated herein.

831. Defendants Powell, Mid-Atlantic Youth Services, PA Child Care, and Western PA Child Care intentionally confined Subclass A2 plaintiffs in PA Child Care and/or Western PA Child Care, LLC and Subclass A2 plaintiffs were aware of their confinement in PA Child Care and/or Western PA Child Care.
832. The detentions of Subclass A2 plaintiffs were unlawful.
833. All defendants entered into a corrupt conspiracy whereby Ciavarella and Conahan would receive payments by and through the other defendants, including Powell, Mid-Atlantic Youth Services, PA Child Care, and Western PA Child Care, in connection with the construction and expansion of PA Child Care, and the construction of Western PA Child Care. In return for these payments, Ciavarella and Conahan agreed to and did use their judicial offices to ensure that plaintiffs would be placed in detention facilities.
834. In furtherance of this corrupt conspiracy with Powell, Mid-Atlantic Youth Services, PA Child Care, Western PA Child Care, and the other defendants, Ciavarella adjudicated Subclass A2 plaintiffs delinquent and placed them in PA Child Care and/or Western PA Child Care. Subclass A2 plaintiffs' placements at PA Child Care and Western PA Child Care were therefore a result of corrupt and tainted delinquency adjudications and corrupt and

tainted placement orders. Powell, Mid-Atlantic Youth Services, PA Child Care, and Western PA Child Care, participated in this corrupt conspiracy and detained Subclass A2 plaintiffs in PA Child Care and Western PA Child Care in spite of the corruption and illegality underlying the detention orders.

PRAYER FOR RELIEF

WHEREFORE, Plaintiffs respectfully pray that this Court:

1. Assume jurisdiction of this action.
2. Certify this action as a class action.
3. Award an aggregate compensatory damages award in an amount in excess of \$150,000 exclusive of interest and costs to the entire class to be allocated to each class member through a series of individualized mini-hearings, mediations or arbitrations or any other procedure as ordered by this Court.
4. Award punitive damages against all defendants except Luzerne County on an aggregate basis, with subsequent individual hearings to determine the individual award to each class member.
5. Award threefold damages in accordance with 18 U.S.C. § 1964(b)-(c).
6. Award prejudgment interest, costs of suit, and attorneys' fees.
7. Order disgorgement and restitution of moneys obtained by defendants as a result of their conspiracy to violate plaintiffs' constitutional rights.
8. Order such other and further relief as this court deems just and proper.

Respectfully submitted,

s/ Sol Weiss

Marsha L. Levick, Esq. (PA 22535)

Lourdes M. Rosado, Esq. (PA 77109)

JUVENILE LAW CENTER

1315 Walnut Street, Suite 400
Philadelphia, PA 19107
(215) 625-0551

Daniel Segal, Esq. (PA 26218)
Rebecca L. Santoro, Esq. (PA 206210)
HANGLEY ARONCHICK SEGAL & PUDLIN
One Logan Square, 27th Floor
Philadelphia, PA 19103
(215) 568-6200

Sol Weiss, Esq. (PA 15925)
Adrienne Walvoord, Esq. (PA 206014)
Amber Racine, Esq. (PA 208575)
ANAPOL SCHWARTZ WEISS COHAN
FELDMAN & SMALLEY, P.C.
1710 Spruce Street
Philadelphia, Pa 19103
(215) 735-1130

Barry H. Dyller, Esq. (PA 65084)
DYLLER LAW FIRM
Gettysburg House
88 North Franklin Street
Wilkes-Barre, PA 18701
(570) 829-4860

Johanna L. Gelb, Esquire (Pa ID. 49972)
GELB LAW FIRM
538 Spruce St., Suite 600
Scranton, PA 18503
(570) 343-6383

Counsel for Plaintiffs

Dated: August 27, 2009