IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLORADO

Civil Action No. 13-cv-2406-RPM

A.A., D.M., A.V., EUGENE KNIGHT, MICHAEL EAST, DONALD MORRIS AND W.B., BY HIS NEXT FRIEND CHERRYL WORKMAN

Plaintiffs,

v.

Ronald C. SLOAN, in his official capacity as Director of the Colorado Bureau of Investigation, for prospective injunctive and declarative relief,

Defendants.

FOURTH AMENDED COMPLAINT

Comes Now the Plaintiffs, by and through their Counsel, Alison Ruttenberg, and hereby submit their Fourth Amended Complaint as follows.

JURISDICTION AND VENUE

1. This action arises under the Constitution and laws of the United States and is brought pursuant to Title 42 USC §1983. Jurisdiction is conferred on this Court pursuant to Title 28 USC §1331. Jurisdiction supporting the Plaintiffs' claim for attorney fees and costs is conferred by 42 USC §1988.

2. Venue is proper in the District of Colorado pursuant to 28 USC §1391(b). All of the events relevant to the claims set forth in this Complaint occurred within the Denver Metro Area, Colorado.

THE PARTIES

3. Plaintiff D.M. is an African American male. He was convicted of F4 Second Degree Sexual Assault (in violation of CRS 18-3-403(1)(a)) and was sentenced to probation. No complaint to revoke or extend his probation was ever filed. He successfully completed sex offense specific treatment and his probation supervision was terminated on October 23, 2007.

4. Plaintiff A.A. is an African American female. She was eleven years old when she allegedly committed aggravated incest (in violation of CRS 18-6-302(1)(b)) in such a way as to annoy another family member and she was arrested three years later. She was adjudicated delinquent and was released from probation supervision just days prior to her eighteenth birthday. She was not unsuccessfully terminated from sex offense specific treatment.

5. Plaintiff A.V. is an Hispanic male. He was thirteen years old when a girl at his Elementary School accused him of "always trying to hug her." He was adjudged delinquent for criminal attempt to commit third degree sex assault (in violation of CRS 18-3-404(1)(a)). He was committed to the DOC Division of Youth Corrections ("DYS") where he successfully competed his sentence, was paroled and then discharged from parole. He was not unsuccessfully terminated from sex offense specific treatment.

6. Plaintiff Eugene Knight is an African American male. He was eighteen years old when he was charged with sex assault on a child for allegedly touching his 3 year old niece. The allegations against him were made by his sister in law during a contentious divorce between his brother and sister in law. It

is unclear whether Mr. Knight was seventeen or eighteen when the alleged offense took place, but he was charged as an adult and entered into an *Alford* plea to attempted sex assault on a child in order to avoid the lifetime supervision act. He successfully completed his sentence and was discharged from parole on May 11, 2011.

7. Plaintiff Michael East was charged with sex assault on a child in Adams County case 2002JD181 for an offense that is alleged to have taken place on Christmas 2001 when he was 13 years old. Pursuant to his pleas, he was adjudicated a delinquent for sex assault on a child on May 8, 2002 and sentenced to two years probation. His probation was revoked for smoking marijuana and being truant from school while on probation and he was sent to Lookout Mountain juvenile facility. However, there was no allegation that he was not participating in or not progressing in sex offender treatment. His sentence was successfully discharged in 2008 when he was twenty years old.

8. Plaintiff Donald Morris is a 52 year old disabled and legally blind man who moved to Colorado after successfully serving a ten year prison term for possession of child pornography in Louisiana. He was successfully discharged from his sentence in 2012.

9. Plaintiff W.B. is a brain damaged, developmentally delayed and illiterate African American male. He entered into an Alford Plea to Second Degree Sexual Assault (in violation of CRS 18-3-403) twenty years ago. He was released from custody ten years ago, and has not committed any more sex offenses. However, due to his incapacity, he repeatedly fails to comply with the

sex offender registration requirement, and consequently, is charged with felony failure to register. He is then appointed counsel and a Guardian ad Litem, and then the charges are dismissed due to his permanent incompetency. However, when the next quarterly requirement to register arrives, he again fails to register, he is charged with new felony charges, and the process is repeated. Cherryl Workman was appointed W.B.'s Guardian ad Litem by the Arapahoe County District Court in 2012, and she is bringing this lawsuit on his behalf, because it will be in his best interests to secure a court order that he is no longer required to register.

10. Ronald C. Sloan is the Director of the Colorado Bureau of Investigation ("CBI") and is sued in his official capacity for prospective declaratory and injunctive relief. According to the Attorney General, The Colorado Registration Act "delegates authority to the Colroado Bureau of Investigation to establish and maintain a centralized, statewide registry of sex offenders who are required to register" pursuant to 16-22-110(1) (CRS).

FACTUAL ALLEGATIONS

11. Pursuant to CRS 16-22-103, all the Plaintiffs are compelled to register on the state sex offender registry for the rest of their lives. Registration information includes at a minimum, the offender's name, address, physical details and photograph (except for juvenile offenders). Offenders who were adjudged delinquent as juveniles for sex offenses are also on the registry, even though juvenile adjudication records are inaccessible to the general public in the absence of a court order.

a. The Colorado sex offender registry is a public record, maintained by the Colorado Bureau of Investigations ("CBI"), and it is this public record that violates the Plaintiffs' Eighth and Fourteenth Amendment rights. The registry is the only place where all sex offender convictions are publically collected and published; and the registry contains all the information (except photographs) of the juvenile sex offenders as well as the adult sex offenders. Without this publically available registry, it would not be possible for private entities to post all the information, that is currently available on the internet, regarding all sex offenders in Colorado. With respect to the juvenile offenders, their actual court and conviction records are sealed and cannot be released to the public. The CBI does not post juvenile sex offender registration information on the internet, but the sex offender registration information (with the exception of the photograph of the offender) is publically releasable by the CBI to anyone else who wants to obtain it and post it on the internet -- and there are several private companies who readily do this, in particular soarchives.com or offenders.sexoffenderrecord.com websites. Private companies troll the CBI sex offender registration records, and it is these private companies that post all available information, regarding juvenile sex offenders, on the internet -- often with exaggerations and inaccurate information. With respect to the adult sex offenders, their criminal case files are open to the public for inspection and copying, for the most part. However, without the CBI sex offender registry, it would be

virtually impossible for a private entity to compile the same information as is currently publically available from the sex offender registry maintained by the CBI. In order to put together the same type of data bank, a private entity would have to examine all the tens of thousands of felony case files, in all 58 Colorado Counties, and then painstakingly put together a list of just the persons who have been convicted of sex offenses -- and without the information from the sex offender registry, certain information would still not be available: such as the offenders' photographs and current residential addresses. The sex offender registry also collects and publishes convictions for failure to register as a sex offender; and this information is posted on the internet by the CBI even if the underlying sex offense was a juvenile adjudication. Information regarding all five Plaintiffs is available on the internet including the details of their sex offenses, their addresses, their convictions for failure to register and the pictures of the adult offenders (D.M. and W.B.). Even though the Colorado Sex Offender registration statute does not require the type of community notification where the offender's sex offender registration information is released to the local media and handed out in fliers to the offender's neighborhood,[1] there is in effect, "community notification," because the sex offender registration information is released to any private entity that requests it. Companies such as soarchives.com or offenders.sexoffenderrecord.com then publish the information on the internet. In this day and age where

[1] Except for "sexually violent predators." None of the Plaintiffs in the case at bar have been labeled as "sexually violent predators."

people rely on the internet for their information, this public notification to the offender's neighbors' computer is every bit as effective as if a flier were physically placed on the offender's neighbors' front doors.

b. The information on the internet regarding the Plaintiffs includes some sort of subjective "risk" level, which is often misinterpreted by the public, and also any subsequent convictions for failure to register.

c. Both A.A. and A.V. have been subsequently convicted of misdemeanor failing to register as adults. Once a juvenile sex offender has been convicted of a subsequent failure to register as an adult, then the information regarding the subsequent failure to register is posted by the CBI on the internet. Information regarding A.A., including her name, alleged crimes and subsequent failure to register is all over the internet, as if she were an adult sex offender. The only piece of information that is not on the internet is her photograph.

d. Pursuant to CRS 16-22-113, the adult Plaintiffs may petition for removal from the registry after ten years, but removal from the registry is a matter of discretion by individual state court judges, and this discretion is exercised in an arbitrary and capricious manner. In most cases, if there is any objection by a District Attorney, law enforcement agency or purported victim to a Petition for removal from the registry, the Petition will be denied. Pursuant to CRS 16-22-113(1)(e), the juvenile Plaintiffs may petition for removal from the registry after the successful completion of and discharge from a juvenile sentence or disposition, and if he or she has

not been subsequently convicted or has a pending prosecution for unlawful sexual behavior or for any other offense, the underlying factual basis of which involved unlawful sexual behavior.

e. A.V. petitioned multiple times for removal from the registry but his petitions were denied because he cannot prove that he was not unsuccessfully terminated from sex offense specific treatment -- even though that is not a prerequisite pursuant to CRS 16-22-113(1)(e). All A.V. was required to show was that he successfully completed and was discharged from his juvenile sentence or disposition -- not that he completed the entire sex offender treatment program. In any event, the DOC Department of Youth Corrections ("DYC") purges its treatment records every three years, and therefore it is impossible for A.V. to "prove" this negative. Successful completion of sex offense specific treatment is not a statutory prerequisite for removal from the sex offender registry pursuant to CRS 16-22-113.

f. W.B. has been repeatedly charged with felony failure to register as a sex offender. However, due to his brain damage and illiteracy, he cannot remember that he is supposed to register quarterly, he cannot read or fill out the required paperwork and does not have the cognitive capacity to complete this task.

12. None of the Plaintiffs have committed any sex offense or been accused of committing any sex offense, or any other offense the underlying factual basis of which involves unlawful sexual behavior, since their convictions

or adjudications for the underlying offenses that have led to the CRS 16-22-103 registration requirement on the Colorado sex offender registry.

13. If the Plaintiffs' employers find out that they are registered sex offenders, then they will lose their jobs. The fact that their information is posted on websites leaves them open to someone randomly finding out, and they suffer anxiety about this contingency every day. A.A., A.V. and D.M. have all either been fired from jobs or lost employment opportunities because an employer or potential employer googled his or her name and discovered that he or she is a registered sex offender.

14. Since his release from probation, D.M. has had difficulties finding a place to live because landlords will not rent to registered sex offenders. He has had threats shouted at him, such as: "Watch your back," or "Are you that f*cking registered sex offender?" D.M. wakes up every morning apprehensive that this could be the day he is murdered because his photograph and residential address are on the sex offender registry. There are dozens of cases, across the United States, in the last decade, where vigilantes have utilized the sex offender registry as a preprinted and researched hit list, and have murdered offenders on the list in cold blood. D.M. has done nothing whatsoever to place any member of the community at risk of harm, since he committed his original sex offense; and yet he has to live every day with the anxiety that his photograph and residence are published and he is a murder target. The publication of his photograph and address on the sex offender registry does not advance community safety in a

single objective or demonstrable way; all it does is make it more likely that he could be targeted for physical violence or murder.

15. A.A. was only fourteen years old when she was arrested and placed in handcuffs on March 26, 2003. The alleged offense had taken place when A.A. was only eleven years old. A.A. was terrified when she was ripped from her family. She was not allowed to see her little brother again until he was an adult. She was bounced from one juvenile placement facility after another. She was not allowed to attend middle school in the community. She did not want to be sent away like that, she was frightened to death, and kept running away because she wanted to go home. She was charged with criminal mischief in Pueblo County in June 2003 after she broke some windows and ran away from a juvenile facility in Pueblo County. While helpless in these juvenile facilities, without an adult advocate who was looking out for her best interests, she was irresponsibly overmedicated by irresponsible mental health treatment providers, who irresponsibly turn to pharmaceuticals in order to "manage" alleged juvenile offenders, and that exacerbated her problems. She was (incorrectly) diagnosed with bi-polar disorder. She was told over and over again that she was nothing but a monster who did not deserve to live, and that she was an ungrateful little ingrate for running away. As part of the sex offender "treatment" she was subjected to numerous offense specific polygraphs. This was irresponsible and unethical behavior by the treatment providers as it is impossible to accurately polygraph a person regarding their actions as eleven year olds. The only way for A.A. to escape this nightmare was to cooperate with the unethical treatment, and

she did the best she could. When she was released from "treatment" in December 2007, she was overmedicated, mentally ill, homeless and confused.

16. A.A. was able to overcome the abuse she was subjected to by the criminal justice system, but as a result of having to register as a sex offender, she had trouble finding employment and housing. While still a teenager, she was diagnosed with lupus and became reliant on medical marijuana in order to manage the pain. She spent long periods of time being homeless. When her status as a registered sex offender is discovered, she is fired from any job she has been able to find.

17. A.A. was charged with felony failure to register or deregister as a sex offender on two occasions. A.A. was homeless, and had problems complying with all the registration and deregistration requirements of CRS 16-22-103 because she had no address, and sometimes police departments will not accept a registration from a homeless person. A.A. was eventually convicted of the misdemeanor failure to register offense and placed on probation. These are her only criminal charges as an adult. While on probation for the failure to register/deregister, she received motel vouchers for a dive hotel from her probation officer. When the two week vouchers would run out, she would be homeless again, and unable to comply with the probation requirements of having an address and a job. So, she would be arrested again, would spend more time in jail, then obtain another two week voucher for a dive motel and the process would repeat. She was finally terminated "unsuccessfully" on probation for the failure to register or deregister cases in September 2012. However, failure to

register is not a "sex offense." A.A. CBI's report erroneously shows that she has an adult felony conviction for failure to register, and this erroneous information causes her to lose employment and housing opportunities. A.A. and her same sex significant other and her significant other's child have been homeless for most of the time during the past three years. Only recently, they have found housing. However, if the neighbors find A.A. on the internet and complain to the landlord, they are afraid they will be evicted.

18. A.V. has always maintained his innocence. He was not sexually assaulting the girls at his elementary school playground. The allegations against him are typical playground type of behavior: the boy who chases the girls he likes, and even trips them and then tries to hug and kiss them. The girls teased him back, calling him names. His mother was a single parent, who did not speak English, did not have a green card, and was poor and struggled with the hardships of having to come to court for all the multiple court appearances. The District Attorneys know that poor parents of juveniles have this hardship (especially those who are undocumented aliens), and that it is difficult for them to come to court. This is used as leverage to coerce a plea agreement, and that is exactly what happened in this case. A.V. was tired of seeing his mother having to miss work and struggle as a result; and so he agreed to plead guilty to hugging and kissing a girl named C.H. who allegedly did not want to be hugged and kissed. At the disposition hearing, he was told that he was being removed from his family and had to be placed in In-Patient Residential Treatment at a juvenile facility for his "best interests." He rushed from the courtroom allegedly "out of

control," he was so upset and frightened. He had to be returned to the courtroom by the Sheriff. Less than three weeks later, his probation was revoked, and he was committed to the DOC Department of Youth Corrections ("DYC") for two years. While at the DYC, A.V. successfully completed sex offender treatment, learned how to manage his anger, and then was paroled. His sentence was completed before his seventeenth birthday.

19. Like A.A., A.V. was also charged with felony failure to register as a sex offender. A.V. also was only convicted of misdemeanor failure to register as a sex offender and was sentenced to a misdemeanor fine. A.V. has no felony convictions, and no criminal record at all for the last five years. He has never been accused of a sex offense, or any offense, the underlying factual basis of which involved unlawful sexual behavior. However, he has to register for life as a sex offender.

20. On March 8, 2007 Mr. Knight was sentenced to eight years sex offender intensive supervision probation. No Sexually Violent Predator finding was made. As a term and condition of probation, Mr. Knight was required to successfully participate in sex offender treatment. Sex offender treatment costs $600 per month, including the charges for the mandatory polygraphs. Mr. Knight could only obtain minimum wage jobs and he could not afford the treatment. He would show up for his treatment classes and groups but turned away because he could not pay the fee. On August 20, 2008, his probation officer filed a complaint to revoke his probation for failure to participate in sex offender treatment. Mr. Knight's probation was revoked and he was sentenced to the DOC. On

September 4, 2008 Mr. Knight was sentenced to two years DOC. Mr. Knight completed his DOC sentence without incident and was placed on mandatory parole in 2010. He was again required to participate in sex offender treatment, and once again he struggled to pay for this mandatory treatment. He would show up for his treatment classes and groups but turned away because he could not pay the fee. On May 11, 2011, Mr. Knight was discharged from parole. Mr. Knight has no other adult criminal convictions. He has never been accused of any sexually inappropriate behavior other than his sister in law's allegations. Since he turned 18, he has not been accused of violating any other criminal law except failure to register as a sex offender in 2013. That allegation was unfounded and the charges were dismissed.

21. Mr. Knight has two children who attend Palmer Elementary School in Denver. His five year old daughter is in Kindergarten, and his three year old son attends the pre-school and day care at Palmer Elementary. Since his release from parole, Mr. Knight has taken an active role in parenting his children, and he is very close to and attached to his children. He also has a three year old son, A.K. Mr. Knight, his girlfriend and the two children are a very close family. Mr. Knight lived with his grandmother before he went to prison. She died before he was paroled, her house was sold and he lost everything except his girlfriend and daughter. When he could be reunited with his family, he did everything he could to build a close and loving family. Mr. Knight is contributing member of society, who has done nothing since the birth of his children to merit being singled out as a pariah.

22. DPS (Denver Public Schools) is the second largest school district in Colorado and served 83,377 K-12 students in the 2012-13 school year. DPS has promulgated an official "policy" called KFA Public Conduct on School Property. It lists a number of actions that "persons using or upon school district property for any purpose shall not engage in." Ms. Paula Bieneman, the Principal of Palmer Elementary School, found Mr. Knight's sex offender registration information on the internet. She then determined, based on the sole fact that Mr. Knight is a young African American male on the sex offender registry, that his mere presence on school grounds was causing a "disruption of teaching or administrative operations and the creation of an unsafe/threatening environment for students and staff members." Bieneman then bootstapped this sophistic conclusion into a violation of DPS "policy" KFA Public Conduct on School Property. Mr. Knight never actually engaged in any conduct on DPS property that remotely violates DPS "policy" KFA Public Conduct on School Property. The conduct Mr. Knight's sister in law alleged that Mr. Knight committed in 2004 or 2005 did not occur on DPS property.

23. On September 15, 2014, Bieneman served Mr. Knight with a written directive that he will be subject to arrest by the Denver Police Department if he sets foot upon the school grounds of Palmer Elementary or any other DPS school or facility. As a result, since September 15, when he drops off his children at Palmer Elementary, he has to leave them on the sidewalk, and his children have to be "escorted" by a "paraprofessional" to the sidewalk after school, as if they were little criminals themselves. This experience is confusing and

humiliating to the children, to be paraded like little criminals in front of their peers, and they cannot understand why their Father is not allowed at their school. This directive, which was authored and signed by Bieneman (who allegedly has a doctorate degree) is littered with typographical and grammatical errors. However, often the assigned "paraprofessional," who is anything but a professional, forgets to collect one or both of Mr. Knight's children, leaves one or both of them in the ECE classroom where they are alone and terrified, and "forgets" to bring them to the sidewalk to their Father. Mr. Knight is not even allowed to go the intercom to ask about the location of his children. When he tries to call the school while standing outside on the sidewalk, the rude and incompetent staff at Palmer Elementary refuse to answer the telephone and/or take Mr. Knight's telephone calls.

24. Upon information and belief, parents of DPS students who are not otherwise on probation or parole, but who have prior convictions for homicide, attempted homicide, burglary, aggravated robbery, assault, aggravated child abuse resulting in death, possession of controlled substances with intent to distribute, contributing to the delinquency of a minor and other felonies for which there is no registry are not barred from DPS property unless they commit an actual overt act on DPS property that violates DPS "policy" KFA Public Conduct on School Property.

25. Michael East was never accused of committing another sex offense or even engaging in another sexual impropriety. However, after being locked up in a juvenile facility for his entire adolescence, he was unable to successfully

reintegrate. Within months of his release from parole of the juvenile adjudication, he was accused of various non violent theft and property crimes in three Adams County felony cases: 2009CR203, 2009CR1994 and 2009CR3294. Mr. East was sentenced to the DOC as a 21 year old adult. Because of his prior juvenile adjudication for a sex offense, Mr. East was designated as a "sex offender" by the DOC, and was subjected to mandatory sex offender treatment and other terms and conditions of parole, that are applicable only to sex offenders, while on parole. One of these terms and conditions is that he was prohibited from having any contact with anyone under the age of 18, including other family members. The only place he could parole to was his mother's (Bonita East's) house in Englewood; however the DOC and parole board would not approve that location because grandchildren lived at Ms. East's house. Mr. East spent period of time in homelessness and in the Washington County jail while on parole. His sentence was finally discharged in September 2014.

26. The City of Englewood has promulgated City of Englewood Ordinance 34 that effectively bars registered sex offenders from living in the City of Englewood. Approximately 99% of the City of Englewood is off limits to sex offenders. The only reason why Mr. East was allowed to register at his Mother's address is because Judge Jackson struck down Ordinance 34 for violating the Federal and State Constitutions in *Ryals v. City of Englewood,* 962 F.Supp.2d 1236 (August 21, 2013). This case is on appeal to the Tenth Circuit, but the City of Englewood has suspended the enforcement of Ordinance 34. If Mr. East is

not permitted to register as a sex offender at his mother's address in Englewood, then he will be homeless.

27. Mr. Morris is elderly and disabled. He is legally blind and has to use a cane. When he successfully discharged his ten year prison sentence for video voyeurism and one count of one image of child pornography, he moved to Denver in July 2012. He has completely discharged his sentence and is only required to register as a sex offender. He moved to the Shepard's Motel, 1525 Valencia Street, one of the few rental locations in Denver that will rent to registered sex offenders. No other landlord in Denver will rent to him after discovering that he is on the sex offender registry. However, vigilante bullies also know that the Shepard's Motel has registered sex offenders, and they harass and assault the residents, including Mr. Morris.

28. On Sunday September 28, 2014, Mr. Morris was assaulted and beaten by vigilantes, in the courtyard of the Shepard's Motel. His eye was reinjured and his cane was broken. The vigilantes told him that he was being assaulted because he was a sex offender. The wife of the apartment manager called the police. However, when the Denver police arrived, they ignored the vigilante bullies and instead zeroed in on Mr. Morris. Officer Gentry (badge number 97008) ignorantly determined that Mr. Morris was committing a crime because he was present in a courtyard where children were present. This officer confused the SOMB standards, which mandate that sex offenders who are serving a criminal sentence may not have contact with anyone under the age of 18, with the laws of the state of Colorado. The SOMB standards are not codified

into law and have no applicability to any person who is not serving a sentence for a sex offense or is not a DOC designated sex offender on parole. Officer Gentry issued a written directive to Mr. Morris that he was required to present himself to the Denver Police Department sex offender unit by 10:00 a.m. on Monday September 29, 2014 or be arrested. This was a patently unlawful order and unconstitutionally infringed upon Mr. Morris' liberty. No police department has the authority to order a citizen, who is not on probation or parole, to stay away from children or check in with a "sex offender unit" simply because the citizen is a registered sex offender. There was no probable cause or reasonable suspicion that Mr. Morris had engaged in a criminal offense. Instead, he was the victim of a brutal assault, which Officer Gentry ignored. When he arrived at the sex offender unit on September 29, the officer in charge did not understand why he had been directed to report, and told Mr. Morris he could go home. However, this Detective also told Mr. Morris that it was a felony to not notify his landlord that he was a registered sex offender. This is false. There is no such requirement.

29. W.B.'s mother died when he was eight, and he was sexually abused by his Uncle. His grandmother raised him until the ago of twelve, she when sent him to a state training school. W.B. grew up abused, uneducated and illiterate. He never learned to read, and he does not have a GED. He was in a serious car accident in which the driver was killed. W.B. suffered injuries to his chest and a broken neck. In the last two years, he has several strokes. As a result of the brain damage from the car accident and the strokes, W.B. is

incompetent, and it is not possible to restore him to competency. His current Guardian ad Litem is Cherryl Workman, and she brings this action on his behalf. When he is not in jail after being arrested for failing to register as a sex offender, W.B. alternates between living with strangers and being homeless.

30. On July 27, 1994, W.B. entered into an Alford plea to attempted second degree sexual assault in Adams County case 1992CR***. He was sentenced to twelve years probation. Everything was going well, and W.B. was successful in treatment, and then the car accident occurred that caused the brain damage. He was charged with sex assault in Denver County case 2000CR***, and he pleaded guilty to misdemeanor sex assault. His probation was revoked in the Adams County case, and he was sentenced to 3 years DOC on July 13, 2001. W.B. successfully completed his sentence and mandatory parole, and he has never committed another sex offense. However, due to his illiteracy and incompetency, he does not have the cognitive capacity to complete the task of registering as a sex offender on a quarterly basis, as required. Therefore, in recent years, he has been repeatedly charged with felony failure to register. He goes to jail, is appointed an attorney and Guardian ad Litem, and he is evaluated for competency. Because he is brain damaged, he is found incompetent and cannot be restored to competency. Therefore, the charges are dismissed. However, the following quarter, the process repeats -- at an enormous expense to the taxpayers.

31. The information on the internet regarding W.B. is that he is a “multiple offender with a history of failing to register.” This information is

misleading and a violation of W.B.'s privacy because it casts him in the false light as a sexual predator. W.B. does not have the cognitive capacity to conform his actions or register as a sex offender, and he is an at risk adult. The Arapahoe County Attorney refuses to bring involuntary commitment proceedings.

32. There is an irrational fear of sex offenders by the general public. For example, the "Stop it Now!" website advertises that "together we can prevent the sexual abuse of children" and the sex offender registry "keeps children safe." This website stirs up the usual hatred, stereotypes and hyperbolic language by stating "Discovering that a convicted sex offender is living nearby stirs up a range of feelings: fear, anger, insecurity and anxiety."

33. This irrational fear of sex offenders arises out of three falsehoods perpetrated by the Colorado Sex Offender Management Board ("SOMB") and the treatment providers and polygraphers that are certified by the SOMB: (1) That there is "no cure" for sex offenders; (2) That all sex offenders are serial pedophiles and all children are at risk from harm by any sex offender; and (3) That sex offenders have the highest recidivism rate of any category of convicted felon or juvenile delinquent. All three of these statements are false, not supported by statistics, not supported by evidence and not supported by any peer reviewed scientific research. In Colorado, convicted felons have an average 25% recidivism rate. However, less than 5% of felony sex offenders, who are either in treatment or have completed treatment have reoffended in the last fifteen years. There are zero paroled sex offenders who have committed a sex offense on parole in the last fifteen years.

34. The public policy or safety excuse for maintaining the Colorado sex offender registry is that the registry provide a starting point for law enforcement investigating a crime. However, none of the Plaintiffs have been contacted one single time pursuant to an investigation of a crime. No paroled sex offender has committed a sex offense while on parole in the last fifteen years, and upon information and belief, no paroled sex offender has committed a violent crime while on parole in the last fifteen years. Less than 5% of felony offenses (excluding failure to register) are committed by registered sex offenders in Colorado.

35. There is zero peer-reviewed imperial, statistical or anecdotal evidence or research that the sex offender registries "keep children safe" or that the sex offender registries have any demonstrable positive impact upon community safety. Instead, all the sex offender registries accomplish is to provide information to harass, isolate, discriminate and demonize sex offenders who have completed their treatment and pose no demonstrable risk to community safety whatsoever. The sex offender registries encourage vigilante justice and violence toward the people who appear on the registries. In the last fifteen years, there have been more violent crimes committed upon the people who appear on the sex offender registries rather than are committed by the people who appear on the sex offender registries. The sex offender registries negatively impact community safety by creating a class of citizens who have enormous difficulty finding employment and housing as a result of appearing on the registries. Chronically unemployed and homeless persons are more likely to

become victims of mental illness or suicide, resort to petty crimes and trespass in order to survive or become victims of violent crime themselves.

36. According to Human Rights Watch, registering youth sex offenders, such as Michael East, A.A. and A.V. is bad public policy, including the fact registration overburdens law enforcement with large numbers of people to monitor, undifferentiated by their dangerousness. With hundreds of new registrants added each year in Colorado, law enforcement is stymied in their attempt to focus on the most dangerous offenders. Sex offender registries treat very different types of offenses and offenders in the same way. Instead of using available tools to assess the dangerousness of particular people who commit sex offenses as children, the Colorado sex offender registration laws paint them all with the same brush, irrespective of the variety of offenses they may have committed and in total denial of their profound differences from adults.

37. Adolescence is a developmental period characterized by identity formation. Labels stick and can last a lifetime. The label of "sex offender" and "child molester" has caused profound damage to Michael East's, A.V.'s, and A.A.'s development and self esteem. The stigmatization of them has led to their fear or mistrust of others, rejection, and isolation from family and friends. These harms are compounded by the shame that comes with registration and notification, which lacks an endpoint since they are required to register for life pursuant to Colorado law. According to Human Rights Watch, subjecting alienated and confused youth sex offenders to long term public humiliation, stigmatization and barriers to education, employment and housing exacerbates

the psychological difficulties they already experienced as adolescents.

38. A.V. has children of his own, and A.A. lives with her significant other's child. The effects of registration can touch later generations of children as well as the child sex offenders themselves. The Colorado sex offender registration laws have especially harmful impacts on the children of registrants. A 2009 study found that 75% of the children of registrants lad lost friendships as a result of a parent's status as a registered sex offender. Additionally, 59% reported that other children at school treated them differently when it was discovered that they had a parent on the registry. (J.S. Vevenson and R. Tewskbury, "Collateral Damage Family members of registered sex offenders." *American Journal of Criminal Justice,* Vol. 34 (June 2009). Pp. 54-68). According to Human Rights Watch, children of registered sex offenders wake up every morning wondering if sex offender signs may ben on their front lawns; how many people are going to ride by their house, point and shout obscenities; how many people are going to watch every move their parents' make; how many times people are going to call the police to report their parents have done something for an average person would be normal but because the parent is a known "sex offender," it is suspicious behavior; how many more birthdays will be with just family because other parents will not let their kids come to the party; how many parties they will not be invited to; how many field trips they will not attend because it is too hard to listen to the whispers of the other parents. These are the types of fears that the children of A.V. are subjected to, and the stepchild of A.A. also has to wonder every day if today is the day that the family will be

kicked out of their home and will be homeless again; or if today is the day that A.A. will lose another job or not come home again because she has been arrested for failing to deregister if the family has to abruptly leave their home.

39. Prosecutions for failure to register are not having the desired effect of deterring subsequent sex offenses in Colorado. Failure to register is the most common offense leading to reincarcaration for convicted sex offenders released from prison or probation and placed on the sex offender registries. Among adult sex offenders, failure to register is not a predictor of sexual recidivism, which casts doubt on the idea that sex offenders who are noncompliant with registration are especially sexually dangerous. There are no studies on the relationship between failure to register and sex offense recidivism among juvenile sex offenders, but there is no reason to think one would find a stronger correlation in the youth offender population than in the overall sex offender population.

40. Children, such as Michael East, A.A. and A.V., accused of any type of offense (not just sexual offenses) are particularly vulnerable during criminal proceedings. According to Human Rights Watch, children are less mature than adults and have less life experience on which to draw, and this makes understanding the court process, the charges, and the consequences of a plea more difficult. Children may also be more compliant, especially when pressured by adult authority figures. Children are more vulnerable to police pressure during interrogations, and their deference to authority and lack of sophistication can result in both false confessions (such as in the case of A.A.) and agreements to plead guilty to crimes that they may not have committed (such as in the case of

A.V.). Mr. East's A.A.'s and A.V.'s youthful decisions to plead guilty has had lifetime detrimental consequences. They were advised of the collateral consequence that they could be compelled to register for the rest of their lives on the sex offender registries, and that they would be abused, harassed, and lose employment and housing opportunities as a result.

41. The International Convention on the Rights of the Child (CRC), which the United States has signed but not ratified, and the International Covenant on Civil and Political Rights (ICCPR) both prohibit arbitrary or unlawful interference with a child's privacy. This prohibition—along with other international legal guarantees of treatment with dignity, respect, and protection from cruel, inhuman, or degrading treatment underlie the minimum standards for privacy set forth in the UN Standard Minimum Rules for the Administration of Juvenile Justice (the "Beijing Rules"). These minimum standards require that every child's privacy be respected at all stages of the juvenile justice process, including with regard to dissemination of a youth offender's criminal record. The failure of Colorado to maintain a confidential registry for juvenile sex offenders, as well as the open access of Colorado criminal justice records for failure to register convictions of offenders whose underlying sexual offense was a juvenile sex offense, violate both the CRC and the ICCPR.

42. Sex offenders are subjected to the risk of vigilante violence, as evidenced by the assault on Mr. Morris on September 28, 2014. These bullies have warned him that if he snitches on them, they he will face more serious bodily harm. The Plaintiffs are at risk of harm because they are on the sex

offender registry and vigilante bullies therefore have access to their pictures and addresses.

43. Even if neighbors of sex offenders do not affirmatively look for sex offenders in the neighborhood by doing internet searches, they can discover neighbors on the registry because of the conduct of the police. Every year, the police will conduct an administrative search or sweep of all registered sex offenders to see if the offenders are still residing at their registered address. If an offender does not answer the door when the sex offender unit officers knock on their door, then the sex offender unit officers will leave a large yellow hang tag on the front door nob that is imprinted with a law enforcement badge and the words "sex offender unit" in large bold letters. Therefore, anyone walking by and seeing this hang tag on the door nob will know that there is a registered sex offender living at that address.

44. Police officers from sex offender units will also lie and attempt to bully registered sex offenders into waiving their Fourth Amendment rights. For example, during the yearly administrative sweeps in Loveland Colorado, the officers from the sex offender unit will attempt to bully the offenders into allowing them to come in and conduct a search of their computers. The officers bring USB drives with them in order to download the contents of a registered sex offender's computer. The police officers will misrepresent their authority and attempt to convince the registered sex offender that he or she is required to allow the police to have access to their computers. However, registered sex offenders, who are not on probation or parole, do not lose their Fourth Amendment right to

be free from unreasonable searches and seizures. If the police want to search a registered sex offender's computer hard drive, then they must first obtain a Search Warrant.

CLAIM FOR RELIEF
Pursuant to 42 USC 1983 against the Defendants for prospective injunctive and declaratory relief for violations of the Eighth and Fourteenth Amendments

45. The Colorado Sex Offender Registration Act (Title 16 Article 22, CRS) violates the Eighth Amendment proscriptions against cruel and unusual punishment for juvenile sex offenders, who have successfully completed their sentences, never committed a new sex offense and are not on parole, probation or any other type of supervision.

46. The Colorado Sex Offender Registration Act does not protect the public from sexual predators, and therefore, the only result is the arbitrary and capricious punishment of offenders like the Plaintiffs. The Plaintiffs have a Fourteenth Amendment right to privacy. Disclosure of the registry names in general -- and the publishing of the registry on the Internet in particular -- are invasions of their Fourteenth Amendment right to personal privacy.

47. Allowing the public access to the information in A.A.'s and A.V.'s cases and convictions for failing to register or deregister pursuant to the Colorado Sex Offender Registration Act are invasions of their Fourteenth Amendment right to personal privacy.

48. Even though the Colorado Registration Act does not require community notification of juvenile sex offenders, community notification of juvenile sex offenders is a direct result of the registration requirement because

the juvenile sex offender registration information is released by the CBI to private agencies who then publish the information on the internet. Registration and community notification, as applied to juvenile sex offenders, are akin to the historical punishments of branding and shaming and violate the Due Process Clause of the Fourteenth Amendment. By requiring juvenile sex offenders to register for the rest of their lives, the Colorado Sex Offender Registration Act is unconstitutional because the procedure involved in imposing the punishments violates the Due Process Clause of the Fourteenth Amendment. The registration and community notification are punishment, and their mandatory imposition on juveniles, is fundamentally unfair because it is contrary to the rehabilitative purpose of the juvenile system and the juvenile court lacks discretion regarding imposition of an adult punishment on juvenile offenders.

49. The Plaintiffs are entitled to an injunction against the enforcement of the requirements of the Colorado Sex Offender Registration Act (Title 16 Article 22, CRS), so long as they commit no new sex offenses, and to an order prohibiting the CBI or other state official or agency from disseminating any information regarding their prior registrations pursuant to the Colorado Sex Offender Registration Act (Title 16 Article 22, CRS). All the Plaintiffs seek this injunctive and declaratory relief against Ronald Sloan.

50. Michael East, A.A., and A.V. are entitled to a declaration that the Colorado Sex Offender Registration Act (Title 16 Article 22, CRS) are invasions of their Fourteenth Amendment right to personal privacy for requiring them to

register as sex offenders after being released from supervision or confinement as a result of their juvenile adjudication for sex offenses.

51. A.A. and A.V. are entitled to a declaration that the Colorado Open Records Act and/or Criminal Justice Act are invasions of their Fourteenth Amendment right to personal privacy insofar as these Acts require or even permit the public release of their cases and/or convictions for failing to register or deregister pursuant to the Colorado Sex Offender Registration Act. This is because their convictions as adults for failing to register/deregister are based solely on confidential juvenile adjudications.

52. The Plaintiffs are entitled to their Attorney Fees and Costs pursuant to 42 USC 1988.

Wherefore, the Plaintiffs pray for entry of injunctive and declaratory relief as set forth in paragraphs 33-39 above; for attorney fees and costs pursuant to 42 U.S.C. § 1988 as well as all other relief that is just and proper.

DATED: October 31, 2014

Respectfully submitted,

/s/ Alison Ruttenberg

Alison Ruttenberg
PO Box 19857
Boulder, CO 80308
(720) 317-3834
Fax: (888) 573-3153
Ruttenberg@me.com

Attorney for the Plaintiffs

CERTIFICATE OF SERVICE

I hereby certify that I have, on October 31, 2014, served the foregoing upon all parties via electronic service through the PACER ECF system, with service to all counsel of record

/s/ Alison Ruttenberg