

**FOSTER CARE REFORM
LITIGATION DOCKET
2005**

NATIONAL CENTER FOR YOUTH LAW

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Introduction

The 2005 *FOSTER CARE REFORM LITIGATION DOCKET* (“the *Docket*”) provides basic information on 71 child welfare reform cases nationwide that are currently in active litigation, a pending settlement agreement, or are significant in some other respect. The *Docket* also describes a small sampling of damages cases. Each case summary contains identifying information, citations, contact information for current plaintiffs’ counsel, brief summaries of the issues raised by the case, procedural history, and the current status.

The criteria for including child welfare reform cases in the *Docket* are that they involve factual allegations and legal claims addressing recurrent, systemic problems in a state or local child welfare system, and that they seek relief affecting children and families beyond the named plaintiffs. The criteria for including damages cases are that they concern systemic problems and likely had or will have an impact beyond the named plaintiff. This year we have removed older cases filed before the passage of the Adoption and Safe Families Act of 1997 (ASFA), Public Law 105-89, 111 Stat. 2115 (1997), that have neither a published court opinion nor an active settlement agreement. Also, because foster care reform cases involve government defendants who frequently change, the names of some cases are different from the last version of the *Docket*. As a result, we have tried to cross-reference the new titles throughout.

The *Docket* collectively refers to the Adoption Assistance and Child Welfare Act of 1980, P. L. 96-272, 94 Stats. 500, and its amending statutes (including the Adoption & Safe Families Act of 1997) as Title IV-E of the Social Security Act (“Title IV-E”). Most of the lawsuits described in the *Docket* seek to enforce the provisions of Title IV-E and/or the Fourteenth Amendment of the U.S. Constitution. Currently, the *Docket* contains descriptions of 26 child welfare reform settlement agreements being implemented in various states throughout the U.S. In addition, 7 foster care reform cases are currently being litigated in various courts.

These cases are generally filed in federal court. However, more reform cases – especially those that also involve damages claims – have been pursued in state court as the federal bench has become less hospitable and defendants have increasingly relied on raising federal procedural defenses. The vast majority of reform cases are multi-issue, rather than single-issue, litigation. Nonetheless, even single-issue litigation can and has led to broad-ranging settlements.

Litigation is costly. Rather than proceed to trial, government defendants eventually settle child welfare reform cases, and locate dollars that they previously argued were unavailable. Unfortunately, defendants have generally been well aware of the significant problems giving rise to the litigation many years before the case is ever settled.

We have made every effort to include all relevant cases in the *Docket*, and to provide accurate and up-to-date information on each case. In some cases, plaintiffs’ counsel who originally brought the case, or made significant contributions to it, are no longer involved. For that reason, we have only listed those attorneys who currently are working on the case or are currently working for the organization or firm with primary responsibility for the case. However, errors and omissions are nearly inevitable, and we appreciate receiving your corrections or updates. Please contact Leecia Welch at (510) 835-8098, extension 3023, or via email at lwelch@youthlaw.org, with any corrections or additions to the *Docket*.

Jurisdictions Currently Under Settlement Agreements

Anderson v. Houstoun: Pennsylvania
Aristotle v. Samuels: Illinois
B.H. v. Samuels: Illinois
Braam v. Washington: Washington
Brian A. v. Hattaway: Tennessee
Charlie and Nadine H. v. Codey: New Jersey
David C. v. Huntsman: Utah
Emily J. v. Weicker: Connecticut
Eric L. v. Bird: New Hampshire
Freeman v. Scoppetta: New York
G.L. v. Stangler: Kansas City, Missouri
Higgins v. Saenz: California
Hill v. Erickson: Illinois
Jeanine B. v. Doyle: Milwaukee, Wisconsin
Juan F. v. Rell: Connecticut
Katie A. v. Bonta: Los Angeles County, California
Kenny A. v. Perdue: Fulton and DeKalb Counties, Georgia
L.J. v. Massinga: Baltimore, Maryland
LaShawn A. v. Williams: District of Columbia
Marisol v. Pataki: New York
Mark A. v. Wilson: California
Office of the Child Advocate v. Rossi: Rhode Island
People United for Children, Inc. v. City of New York: New York City
R.C. v. Wally: Alabama
Roe v. Ohio Department of Human Services: Ohio
Wheeler v. Sanders: California

Pending Litigation

A.S.W. v. Mink: Oregon
Carson P. v. Heineman: Nebraska
Dupuy v. Samuels: Illinois
E.C. v. Blunt: Missouri
Katie A. v. Bonta: California
Olivia Y. v. Barbour: Mississippi
W.R. v. Connecticut Department of Children and Families: Connecticut

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Acknowledgments

We would like to thank Andrew Argyris, Nadine Gartner, Victoria Valentine, Luke Trares, and Katina Ancar for their help in updating the *Docket* and Ethel L. Oden-Brown for her assistance with production. We would also like to express our deepest gratitude to the attorneys whose cases are included in the *Docket* and who took time from their busy schedules to respond to our requests for information.

Leecia Welch
National Center for Youth Law
December 2005

TABLE OF CASES (ALPHABETICAL)

A.S.W. v. Mink

Aisha W. v. Aunt Martha's Youth Services Center

Anderson v. Houstoun

Angela R. v. Huckabee, also known as Angela R. v. Clinton

Apostol v. Aunt Martha's Youth Services Center

Aristotle P. v. Samuels, also known as Aristotle P. v. McDonald and Aristotle P. v. Johnson

Artist M. v. Suter, also known as Artist M. v. Johnson

B.H. v. Samuels, also known as B.H. v. Samuels, B.H. v. Johnson, B.H. v. Suter, and B.H. v. Ryder

Baby Neal v. Casey, also known as Baby Neal v. Ridge

Bates v. McDonald, also known as Bates v. Johnson and Bates v. Suter

Belcher-Dixon v. Saenz

Bogutz v. State of Arizona

Bonnie L. v. Bush, also known as 31 Foster Children v. Bush

Booraem v. Orange County

Braam v. State of Washington

Brian A. v. Hattaway, also known as Brian A. v. Sundquist

Brown v. Kearney, also known as Brown v. Chiles, Brown v. Feaver, and Brown v. Towey

Carson P. v. Heineman

Charlie and Nadine H. v. Codey, also known as Charlie and Nadine H. v. McGreevey and Charlie and Nadine H. v. Whitman

Cosentino v. Perales (consolidated with Martin A. v. Giuliani)

David C. v. Huntsman, also known as David C. v. Leavitt

Doe v. Kearney

Dupuy v. Samuels, also known as *Dupuy v. McDonald*

E.C. v. Blunt

E.F. v. Scafidi

Emily J. v. Weicker

Eric L. v. Bird

Fields v. Johnson (see *Norman v. McDonald*)

Freeman v. Scoppetta

Guardianship Estate of Keffeler v. Washington State

G.L. v. Stangler, also known as *G.L. v. Zumwalt*

Grant v. Cuomo

Harris v. Martin

Higgins v. Saenz (related to *Wheeler v. Sanders*)

Hill v. Erickson

J.B. v. Valdez (see *K.L. v. State of New Mexico*)

J.D.B. v. Barton (see *Sheila A. v. Whiteman*)

Jeanine B. v. Doyle, also known as *Jeanine B. v. Thompson*

Joseph and Josephine A. v. Bolson, also known as *Joseph and Josephine A. v. Ingram* and *Joseph and Josephine A. v. N.M. Dept. of Human Services*

Juan F. v. Rell, also known as *Juan F. v. O'Neill* and *Juan F. v. Rowland*

K.H. v. Dorsey

K.J. v. Division of Youth and Family Services

K.L. v. State of New Mexico

Katie A. v. Bontá

Kenny A. v. Purdue

L.J. v. Massinga

LaShawn A. v. Williams, also known as *LaShawn A. v. Williams* and *LaShawn A. v. Dixon*

Laurie Q. v. Contra Costa County

Letisha v. Morgan

Lofton v. Secretary of the Department of Children and Family Services, also known as *Lofton v. Kearney* and *Lofton v. Butterworth*

M.E. v. Bush, also known as *M.E. v. Chiles* and *M.E. v. Williams*

M.W. v. Davis

Mabel A. v. Woodard

Mark A. v. Wilson

Marisol v. Pataki, also known as *Marisol v. Giuliani*

Martin A. v. Giuliani, also known as *Martin A. v. Gross* (consolidated with *Cosentino v. Perales*)

Nicholson v. Williams, also known as *Nicholson v. Scopetta*

Norman v. McDonald, also known as *Norman v. Suter* and *Norman v. Johnson*

Office of the Child Advocate v. Rossi, also known as *Office of the Child Advocate v. Picano* and *Office of the Child Advocate v. Rhode Island*

Olivia v. Samuels

Olivia Y. v. Barbour

People United for Children, Inc. v. City of New York

R.C. v. Wally, also known as *R.C. v. Petelos*, *R.C. v. Cleveland*, *R.C. v. Hornsby*, and *R.C. v. Nachman*

Roe v. Staples, also known as *Roe v. Ohio Dept. of Human Services*

Rosales v. Thompson, also known as *State of California Department of Social Services v. Thompson* and *State of California Department of Social Services v. Shalala*

S.S. v. McMullen

Sheila A. v. Whiteman, also known as *Sheila A. v. Finney* and *Sheila A. v. Haden*

Tara S. v. McDonald (see *Dupuy v. Samuels*)

Timmy S. v. Stumbo

Two Forgotten Children v. State of Florida

W.R. v. Connecticut Department Of Children and Families

Ward v. Neal, also known as Ward v. Keller

Warren v. Saenz

Washington State Coalition for the Homeless v. Dept. of Social & Health Services

Wheeler v. Sanders

Wilder v. Bernstein, also known as Wilder v. Sugarman

Willingham v. McDonald

Youakim v. McDonald

A.S.W. v. MINK

FILE NO.,
COURT, AND
DATE FILED: 6-03-06038-AA (Dist. Or., March 14, 2003)

CITATION: 424 F. 3d 970 (9th Cir. 2005)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This class action challenges the Oregon Department of Human Services' 7.5% across-the-board unilateral reduction of Adoption Assistance Program (AAP) payments and denial of an administrative fair hearing to contest Defendants' actions. Defendants implemented the 7.5% AAP payment reduction in conjunction with a 7.5% reduction in foster care rates in response to state budgetary pressures. Plaintiffs challenge the AAP reductions on grounds that the defendants' actions violate federal and state law requiring a binding AAP agreement and the concurrence of the adoptive parent for any changes in the AAP payment amount, and deny recipients due process of law under the federal Constitution.

**HISTORY AND
STATUS:**

On May 12, 2003, defendants filed a motion to dismiss on grounds that there is no private right of action under the federal AAP statute. The court granted this motion. One month later, on November 17, 2003, the court also dismissed

plaintiffs' class certification motion as moot. Plaintiffs appealed to the Ninth Circuit Court of Appeals.

On September 13, 2005, the Ninth Circuit held that the federal AAP statute created a private right to individualized adoption assistance payment determinations that is enforceable under § 1983. Subsequently, the Ninth Circuit denied defendants' petition for an *en banc* rehearing.

ANDERSON v. HOUSTOUN

FILE NO.,
COURT, AND
DATE FILED: CV-04148-BWK (E.D. Penn., Aug. 16, 2000)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs filed a class action lawsuit on behalf of abused and neglected children in the care of relatives or close friends. The suit alleged that state and county officials, including the Department of Public Welfare; the Office of Children, Youth, and Families, Department of Health Services of Philadelphia; and Children and Youth Services in Lancaster, Monroe, Montgomery, Beaver, and Washington Counties, withheld tens of millions of dollars per year in federal benefit payments from grandparents, aunts, uncles, and others caring for the children of troubled relatives. Federal law mandated that states that receive federal foster care funds pay the same amount to all children living with foster parents, kin, and non-relatives alike. The law also encouraged states, where possible, to place foster children with relatives or friends of the children's parents. The suit alleged that officials in some counties explicitly told foster parents that agencies were trying to eliminate kinship foster care payments and refused to provide funds. Other counties did not advise foster parents that they were entitled to such payments.

HISTORY AND STATUS:

Plaintiffs filed suit on August 16, 2000. Defendants responded by filing motions to dismiss, which the court denied on December 5, 2000. From that time until May 2004, defendants and plaintiffs pursued various motions. On May 7, 2004, plaintiffs filed their second amended complaint.

On October 24, 2004, the court certified a settlement class. After notice to the class, the settlement agreement was formally approved by the court on March 14, 2005. The agreement provides for the issuance of a bulletin by the Pennsylvania Department of Public Welfare that (1) makes clear the obligation of county children and youth agencies to treat kinship care givers like all other foster parents, and (2) includes a draft notice to be provided to all kinship caregivers clearly stating their rights to receive benefits under state and federal law. The defendant county children and youth agencies also conducted an audit of their files from November 2000 to March 14, 2005, to identify kinship caregivers currently caring for adjudicated dependent children but not receiving foster care benefits. Under certain circumstances, where kinship caregivers have been caring for related children placed in their care but legal custody remains with the county children and youth agency, caregivers were entitled to receive retroactive payments for a period not to exceed 2 years.

ANGELA R. v. HUCKABEE
(also known as *Angela R. v. Clinton*)

FILE NO.,
COURT, AND
DATE FILED: LR-C-91-415 (E.D. Ark., July 3, 1991)

CITATIONS: 999 F.2d 320 (8th Cir. 1993)

CLEARINGHOUSE
REVIEW NO.: 48,193

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ISSUES: The complaint addressed nearly all aspects of Arkansas's child welfare services and foster care system, including: abuse and neglect investigations and child protective services; placement prevention and family reunification services; out-of-home placement; health care for foster children; caseloads and staff training; and case planning, case review, and quality assurance.

HISTORY AND
STATUS: The court certified a class by stipulation in October 1991. From October 1991 through January 1992, the parties engaged in settlement negotiations, resulting in a lengthy and comprehensive consent decree. The consent decree addressed: investigation of abuse and neglect reports (including reports of abuse and neglect in out of home placements); protective services; out of home placement (resource development, foster parent training, board rates, standards of care, supervision of placement, and preparation for independent living); health care for foster children (screening, treatment, and record keeping); staffing (qualifications, caseloads, and training); family preservation and reunification services (basic services, parental and sibling visitation, intensive family preservation, and cash assistance); and case planning, case review, and quality assurance.

In February 1992, the parties submitted the consent decree to the district court. A special session of the Arkansas Legislature approved the settlement and passed funding legislation.

The district court entered final approval of the consent decree in April 1992, simultaneously denying the defendants' motion to narrow the plaintiff class in light of the Supreme Court's decision in *Suter v. Artist M.* Implementation of the consent decree began in the summer of 1992, monitored by a compliance oversight committee.

In July 1992, however, defendants appealed to the Eighth Circuit, challenging the district court's denial of their motion to narrow the plaintiff class. On July 13, 1993, the Eighth Circuit issued an opinion rejecting the appellants' jurisdictional challenge, but vacating the consent decree and remanding the case to the district court due to a perceived ambiguity in the enforcement provisions of the decree. Plaintiffs sought to negotiate a reinstatement of the settlement, but defendants refused to enter into any enforceable agreement. Plaintiffs then sought relief from the district court, through a motion requesting that the court construe the consent decree to resolve the ambiguity found by the Eighth Circuit.

On March 30, 1994, the district court denied this motion and set the case for trial on October 17, 1994. Less than three weeks before trial, defendants agreed to engage in settlement negotiations. The parties developed a revised settlement that included provisions similar to the original. However, the agreement contained a new implementation mechanism. Instead of explicit implementation steps and deadlines, the agreement included only the ultimate standards the state was required to achieve by the end of the five-year term.

The state agency itself was given the duty of developing a yearly implementation plan, with the advice of a five-member committee chosen jointly by the parties. The committee had the authority to establish outcome measures and to determine whether each year's plan had been accomplished. The Center for the Study of Social Policy (CSSP), an independent out-of-state organization used the outcome measures to conduct a yearly evaluation of the agency. On October 14, 1994, the district court approved the settlement.

In January 1997, CSSP found that the agency had failed to meet the goals set by the Committee in most areas. In spring and summer 1999, the Standards Committee met with directors of the state agency to discuss the plans for bringing the agency into compliance. On August 30, 1999, the parties filed a joint motion to amend the settlement agreement, extending court jurisdiction and the terms of the agreement until October 13, 2001. With plaintiffs' agreement, the settlement expired in December 2001.

ARISTOTLE P. v. SAMUELS

(also known as *Aristotle P. v. McDonald* and *Aristotle P. v. Johnson*)

FILE NO.,
COURT, AND
DATE FILED: 88 C 7919 (N.D. Ill. Dec. 5, 1988)

CITATIONS: 721 F. Supp. 1002 (N.D. Ill. 1989)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs brought this class action on behalf of children who (1) are or will be in the temporary custody or guardianship of the Illinois Department of Children and Family Services (DCFS), and (2) have not been, or will not be, placed with their siblings, or will not be given reasonable visitation with their siblings. Plaintiffs alleged that DCFS regularly placed siblings into separate foster homes and residential facilities, and refused to arrange or permit sibling visits, thereby depriving children of rights secured by the First and Fourteenth Amendments and Title IV-E of the Social Security Act.

HISTORY AND
STATUS:

In September 1989, the district court ruled on defendants' motion to dismiss, denying it in part and granting it in part. The court found that plaintiffs stated a § 1983 claim for violation of their First Amendment and substantive due process rights. However, the district court dismissed plaintiffs' federal statutory claims, holding that plaintiffs did not have enforceable rights to be "placed in the least restrictive most family-like setting," to have DCFS make "reasonable efforts to reunify families," or to "meaningful visitation," because these federal child welfare claims were not privately enforceable.

In March 1994, the parties entered into a consent decree, providing for placement of siblings together when possible, visitation and other contacts among siblings placed apart, training of caseworkers, and monitoring and data collection over a three-year period.

One portion of the decree regarding sibling placement was reached when defendants complied with its terms. The parties then agreed to extend until March 2004, the portion of the consent decree regarding sibling visitation. In March 1997, because DCFS remained out of compliance, the parties agreed to a two-year extension of the consent decree. It was extended again in 1999.

The parties monitor compliance through analysis of data regarding the frequency of sibling visitation and the imposition of fines on child welfare agencies that are not in compliance with the decree. As of August 2003, the court had imposed \$200,000 in fines. On March 5, 2004, the court approved the parties' joint modification of the consent decree, which extended the court's jurisdiction over the case until March 11, 2006.

ARTIST M. v. SUTER

(also known as *Artist M. v. Johnson*)

FILE NO.,
COURT, AND
DATE FILED: 88 C 10503 (N.D. Ill., Dec. 14, 1988)

CITATIONS: 726 F. Supp. 690 (N.D. Ill. 1989), *aff'd*, 917 F.2d 980 (7th Cir. 1990), *rev'd*, 503 U.S. 347 (1992); 747 F. Supp. 446 (N.D. Ill. 1989)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs brought this class action on behalf of children who are or will be placed in the custody or under the supervision of the Illinois Department of Children and Family Services (DCFS) in the course of an abuse, neglect, or dependency proceeding in the Juvenile Court of Cook County, Illinois. This civil rights class action for declaratory and injunctive relief was brought under the Due Process Clause and Title IV-E of the Social Security Act.

Plaintiffs attacked DCFS's policy and practice of failing to assign caseworkers in a timely manner. Plaintiffs alleged that defendants regularly failed to assign a caseworker until 4-6 weeks after the Juvenile Court proceeding commenced. As a result, many children were without a caseworker at critical times.

HISTORY AND
STATUS: A preliminary injunction hearing was conducted in January 1989. On August 15, 1989, the court declined to dismiss the case. Plaintiffs conducted further discovery, and in March 1990, the court granted a preliminary injunction. The Seventh Circuit upheld the preliminary injunction.

The Supreme Court reversed in 1992, finding that Title IV-E created no private right of action to sue state agencies for failing to make "reasonable efforts" to avoid the need for foster care placement, or to reunify families after a child has been placed.

B.H. v. SAMUELS

(also known as *B.H. v. McDonald*, *B.H. v. Suter*, *B.H. v. Johnson*, and *B.H. v. Ryder*)

FILE NO.,
COURT, AND
DATE FILED: 88 C 5599 (N.D. Ill., June 9, 1988)

CITATIONS: 128 F.R.D. 659 (N.D. Ill. Dec. 19, 1989); 715 F. Supp. 1387 (N.D. Ill. May 30, 1989), 49 F.3d 294 (7th Cir. 1995), *reh'g and reh'g en banc denied*, (Apr. 7, 1995)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This civil rights class action suit was brought on behalf of all children who are or will be in the custody of the Illinois Department of Children and Family Services (DCFS). The complaint charged DCFS with failure to provide services to the children in its care, and with violations of the Constitution and Title IV-E of the Social Security Act.

HISTORY AND
STATUS: On May 30, 1989, the court granted in part and denied in part a motion to dismiss concerning a number of constitutional and statutory claims. The court held that Title IV-E did not create a privately enforceable right to preventive services. Plaintiffs filed an amended complaint in October 1989.

The parties negotiated a consent decree, which the court approved on December 20, 1991. The decree required extensive reform of Illinois's child welfare agency over two and one half years. A monitor was appointed to oversee the settlement.

In August 1992, defendants submitted the required implementation plans. In response to plaintiffs' and the monitor's objections, defendants submitted several revisions and additions, including provisions for seeking supplemental appropriations of funds.

Over the next two years, the monitor issued year-end reports on defendants' progress (to which each party responded), and defendants issued their annual plan, outlining their progress in complying with the consent decree and describing their plans for the next year (to which plaintiffs and the monitor filed objections and comments). In the meantime, Illinois's legislature, largely in response to the reforms required by the consent decree, approved large increases in the agency's budget.

As of June 1994, the date by which defendants were to have achieved full compliance, defendants were still out of compliance with a majority of the key reforms required by the decree. In response to demands by plaintiffs, and partly due to the appointment of a new agency director, defendants acknowledged serious managerial and structural barriers to achieving compliance, and retained national child welfare and public-sector reform experts to work with them to remove these obstacles.

After lengthy negotiations supervised by national child welfare consultants, the parties agreed on a series of new strategies to achieve compliance. First, the parties agreed on a set of outcomes as the focus of compliance efforts. Second, the parties agreed that the state would replace some of the functions of the court-appointed monitor with a Research Center at the University of Illinois. The Center was responsible for providing regular reports on defendants' progress in improving outcomes for the plaintiff class and making recommendations regarding appropriate actions to ensure further progress. As a result, the court concluded that an appointed monitor was no longer necessary. Finally, defendants articulated a group of strategies designed to address many of the most serious non-compliance issues.

Reports revealed that the total number of children under DCFS care had dropped from more than 50,000 in 1997 to fewer than 40,000 in 1999. More children were adopted out of the system in fiscal year 1998 than in fiscal years 1991 through 1994 combined, and the number of children either adopted or placed in guardianships with family members in 1999 alone was nearly 8,500.

On July 5, 2001, the court indicated that it was satisfied that DCFS had achieved substantial compliance with the decree. However, due to plaintiffs' ongoing concerns about the system (including inadequate case workers, agencies, foster placements, and mental health services), on February 20, 2003, the court approved the parties' joint modification of the consent decree. On April 21, 2004, the court ordered plaintiffs to prepare an additional modification of the consent decree.

On September 9, 2005, the court held a status conference at the parties' request. The court received reports of progress, as well as some continuing problems regarding the well-being of children in the system. Two primary areas of continuing concern are foster children's educational outcomes and access to mental health services. Problems relating to poor educational outcomes and inadequate mental health services (including inadequate oversight of residential treatment centers, multiple moves of children with mental health problems, etc.) remain the most difficult issues in the case.

BABY NEAL v. RIDGE

(also known as *Baby Neal v. Casey*)

FILE NO.,
COURT, AND
DATE FILED:

90-2343 (E.D. Pa., Apr., 1990)
94-1381 (3d Cir. Dec. 15, 1994)

CITATIONS: 1990 WL 163194 (E.D. Pa. Oct. 21, 1990) (unreported); 931 F.2d 49 (3rd Cir. 1991); 1992 WL 3294 (E.D. Pa. Jan. 7, 1992) (unreported); 1992 WL 58311 (E.D. Pa. Mar. 20, 1992) (unreported); 151 F.R.D. 282 (E.D. Pa. 1993); 821 F. Supp. 320 (E.D. Pa. 1993); 43 F.3d 48 (3rd Cir. 1994); 1995 WL 728589 (E.D. Pa. Dec. 7, 1995) (unreported); 1996 WL 4050 (E.D. Pa. Jan. 1, 1996) (unreported)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: In April 1990, plaintiffs filed this suit in federal district court against the Commonwealth of Pennsylvania, Philadelphia's Department of Human Services (DHS) and the Presiding Judge of Philadelphia Court of Common Pleas on behalf of children in Philadelphia's foster care system, charging that defendants

were violating the children's constitutional and statutory rights by failing to provide them with basic mandated services.

HISTORY AND STATUS:

After the court rejected the state's motion to dismiss, plaintiffs filed a class certification motion in April 1990. In addition to opposing the motion, defendants asked the court to disqualify plaintiffs' next friends, all recognized child welfare experts familiar with DHS's operations. The court denied plaintiffs' certification motion and granted defendants' motion to disqualify.

Plaintiffs filed a motion for reconsideration, or alternatively, asked the court to certify subclasses and to substitute as next friends lawyers and private agency social workers. The court granted the substitution, denied the motion to reconsider, and declined to certify subclasses until plaintiffs provided more factual support.

Defendants moved to stay discovery and for summary judgment. After allowing limited discovery, on April 13, 1993, the district court granted in part and denied in part defendants' motion for summary judgment. In so ruling, it narrowed the scope of plaintiffs' claims.

On December 7, 1993, for the third time, the court denied plaintiffs' motion for certification of subclasses. Because the individual claims of most, if not all, of the named plaintiff children had become moot due to the passage of time, the parties entered into a Stipulation of Entry of Final Judgment on February 28, 1994. Nonetheless, plaintiffs appealed the denial of their class certification motions and the partial grant of summary judgment. On December 15, 1994, the Third Circuit reversed the district court's orders denying class certification, and remanded the case. Plaintiffs conducted a case record review of a random sample of case records. The review documented the problems so clearly that the city and state finally agreed to discuss settlement.

Plaintiffs entered into three settlement agreements, one with each of the defendants. The court approved the agreements on February 1, 1999. The settlement agreement with the city required the city to produce certain reports on a quarterly basis, including caseload reports, case planning reports, and critical and unusual incident reports. In addition, the settlement agreement authorized plaintiffs to conduct a semi-annual review of a limited number of case records that represent the city's practices with respect to the entire class of children. The family court settlement similarly required the family court to produce periodic reports, including reports on the progress of the model court.

In 2000 and 2001, the court approved two amendments to the settlement between plaintiffs and the family court. In February 2001, the parties announced that the lawsuit had been concluded.

BATES v. MCDONALD

(also known as *Bates v. Suter* and *Bates v. Johnson*)

FILE NO.,
COURT, AND
DATE FILED: 84 C 10054 (N.D. Ill., Nov. 20, 1984)

CITATIONS: 1989 WL 75954 (N.D. Ill. June 30, 1989) (unreported); 901 F.2d 1424 (7th Cir. 1990)

CLEARINGHOUSE
REVIEW NO.: 38,270

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ISSUES: Plaintiffs challenged the practice of the Illinois Department of Children and Family Services (DCFS) of routinely limiting visits between foster children and their parents to one hour per month. Plaintiffs also challenged DCFS’s practice of having social workers supervise all visits, and its failure to provide parents with an opportunity for notice and a hearing to challenge visitation restrictions. Plaintiffs claimed that these practices prevented parents from maintaining close relationships with their children, hindered their efforts to reunite their families, and violated their rights under Title IV-E and the Constitution.

**HISTORY AND
STATUS:**

The parties’ June 5, 1986 settlement agreement provided that parents would receive weekly in-home visits, initiated within ten days of placement, and notice of their visitation and appeal rights. The agency failed completely to implement this settlement, however, and, in March 1987, plaintiffs filed a contempt motion. The court issued its contempt order in June 1989, and appointed a Special Master in January 1990 to study the obstacles to weekly visitation. When DCFS promulgated new rules that curtailed parents’ visitation rights, the district court sanctioned the State. In May 1990, the Seventh Circuit held that the district court’s “oral injunction” was not binding. However, plaintiffs successfully prevented implementation of the new rules.

In 1990, the court appointed Dr. Brandon Greene as Special Master to conduct a full review of DCFS’s provision of parent-child visitation, in accordance with the 1986 decree. The 1991 report documented extremely low levels of compliance, particularly in Cook County. Following this report, DCFS reaffirmed its

commitment to providing weekly visitation, and agreed to maintain the consent decree in full force for four additional years after it achieved “substantial compliance.” DCFS has now been purged of contempt, and the case has been closed.

BELCHER-DIXON v. SAENZ

FILE NO.,
COURT, AND
DATE FILED: CGC-03-417287 (Cal. Supr. Ct., San Francisco County, Feb. 11, 2003)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: 55,132

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ISSUES: Plaintiffs filed this taxpayer suit against the California Department of Social Services (CDSS) for its failure to regulate and monitor adequately child welfare services and county-run adoption agencies to ensure both that adoptions are processed and that foster children achieve permanence expeditiously. Plaintiffs alleged that CDSS violated state and federal laws that require it to administer timely child welfare services and to provide services consistent with the goal of adoption. As a result, thousands of foster children were subjected to unreasonable delays in completing their adoptions, which caused emotional distress and psychological harm to the children, as well as deprived them of the economic and other benefits of a parental relationship.

HISTORY AND

STATUS: This case sought declaratory and injunctive relief. On June 20, 2003, the court granted defendant's demurrer without leave to amend, on the grounds that plaintiffs failed to allege taxpayer standing. Plaintiffs appealed to the California Court of Appeal. The court affirmed the dismissal on different grounds. Throughout the litigation, defendants took the position that recent California legislation, AB 636, was going to create accountability relating to adoption processing times. Plaintiffs continue to monitor this issue.

BOGUTZ v. STATE OF ARIZONA

FILE NO.,
COURT, AND
DATE FILED:

CV94-04159 (Az. Supr. Ct., Maricopa County, Oct. 1993)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.:

42,317

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ISSUES:

Plaintiffs filed this action on behalf of (1) a class of all present and future foster children (Class A) and (2) a subclass of children who entered state custody after January 1, 1986, and who suffered sexual abuse in foster care (Class B). The case sought injunctive relief on behalf of the class, and damages for the subclass.

Plaintiffs sought to remedy the high instance of neglect, abuse, and sexual molestation of children in foster care, and the state's failure to provide a wide variety of preventative, reunification, and other permanency services. The complaint includes constitutional substantive and procedural due process, state statutory, and state tort claims. The case has raised concerns regarding the state's inherent conflict in opposing the claims of the foster children it must protect, while representing the state employees who harmed the children in their care.

HISTORY AND
STATUS:

Plaintiffs filed this action as a consolidated action on behalf of 36 families. In June 1994, the court ordered plaintiffs to file an amended complaint. In the amended complaint, plaintiffs abandoned all claims on behalf of parents and added class action allegations.

In 1996, the court appointed University of Arizona Law School Professor Winton Woods as Special Master and charged him with determining whether the state could use its own record-keeping system to identify Class B children so that they

could be compensated monetarily. The Special Master determined that the state's Central Registry System would identify only eighty percent of the abused children (about 210 children). The court ordered discovery, which identified another 92 children who may have been abused. Due to some overlap between the two figures, the number of abused children remained 210.

The court denied class certification for Class A in 1997, but indicated that it might reconsider the issue. Certification for Class B on the issues of duty and standard of care was subsequently denied. In 2000, plaintiffs filed a special petition seeking the state supreme court's grant of *certiorari* of a class action. Plaintiffs' petition was denied on June 1, 2004. Subsequently, individual cases were tried by various lawyers with varying results.

BONNIE L. v. BUSH

(also known as *31 Foster Children v. Bush*)

FILE NO.,
COURT, AND

DATE FILED: 00-2116-CIV-HUCK (S.D. Fla., Aug. 28, 2000)

CITATIONS: 2001 WL 1400051 (S.D. Fla. May 10, 2001) (unreported); 180 F. Supp. 2d 1321 (S.D. Fla. 2001), *aff'd in part and vacated in part*, 329 F.3d 1255 (11th Cir. 2003), *cert. denied*, 540 U.S. 984 (2003)

CLEARINGHOUSE

REVIEW NO.: 53,814

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ISSUES:

Plaintiffs filed this suit on behalf of twenty-two children against Florida's Department of Children and Families (DCF). The suit alleged that DCF failed to protect foster children in its custody from harm and to provide them with appropriate placements. Specific provisions of the complaint concerned the lack of foster homes and other placement options; overcrowded and inadequately supervised homes and facilities; and placement in homes that were dangerous, abusive, or neglectful.

HISTORY AND
STATUS:

Plaintiffs filed the lawsuit in June 2000 and submitted an amended complaint on August 28, 2000. On December 4, 2001, the court granted defendants' motions to dismiss in part, dismissing a number of plaintiffs' claims.

On February 7, 2002, plaintiffs reached a settlement with defendants on the remaining claims. Defendants agreed to reinforce in DCF policy the principles of providing adequate services to children who are about to turn 18 years old and "age out" of the system, and to treat African-American children in a non-discriminatory manner.

Nonetheless, plaintiffs appealed the district court's dismissal to the Eleventh Circuit on February 12, 2002. The Court affirmed the district court's decision on May 8, 2003, holding that certain provisions of Title IV-E did not create federally enforceable rights for foster children that they could enforce in federal court and that foster children may only seek relief from the harms they are suffering by raising the issues in their own individual dependency cases.

The Eleventh Circuit denied plaintiffs' petition for a rehearing, and the Supreme Court denied a petition for writ of *certiorari*.

BOORAEM v. ORANGE COUNTY

FILE NO.,
COURT, AND
DATE FILED: 798871 (Cal. Supr. Ct., Orange County, Aug. 31, 1998)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO: None

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ISSUES: This taxpayer action against Orange County and the California Department of Social Services (CDSS) challenged the detention for an extended period of time of abused and neglected infants and young children in Orangewood Children’s Home under illegal and unconstitutional conditions. Allegations against the county defendant included depriving children of a secure emotional relationship with a primary care giver; confining children under the age of six in emergency shelters without a court order specifying the need for an extensive evaluation; confining children for long periods of time in overcrowded conditions under the supervision of untrained staff who are unable to meet their most basic developmental needs; and being unable or unwilling to treat psychological and behavioral disturbances experienced by children. Allegations against the state defendant included failing to develop standards and regulations for the operation of county run shelters as required by state law; permitting the county defendant to operate the institution in violation of the law and state and federal constitutions; and failing to monitor the care and services provided to children confined in Orangewood.

HISTORY AND
STATUS:

The parties entered into settlement discussions early in the litigation. The County has dramatically decreased the number of young children confined in Orangewood, and CDSS has agreed to promulgate regulations governing shelter care facilities. Plaintiffs continue to monitor the number of children under six years old who are at Orangewood, as well as compliance with state licensing standards for shelters.

BRAAM v. STATE OF WASHINGTON

FILE NO.,
COURT, AND
DATE FILED:

98-2-01570-1 (Wash. Supr. Ct., Whatcom County, Nov. 3, 1998)

CITATIONS: 81 P.3d 851 (Wash. 2003)

CLEARINGHOUSE
REVIEW NO.:

None

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ISSUES:

This case was originally filed by thirteen current and former foster children against the State of Washington, the Department of Social and Health Services (DSHS), and the Secretary of DSHS seeking damages for injuries plaintiffs suffered as a result of the state's practice of shuttling them from one foster facility to another. In March 2000, the court approved the filing of a Second Amended Complaint in which plaintiffs added class action claims on behalf of a class of foster children who had experienced three or more placements while in state custody. Plaintiffs alleged in their complaint that federal statutes require that

whenever a foster child's placement is changed (1) the child be afforded procedural safeguards and (2) the child's case plan be amended to reflect the reasons for the change and how the new placement meets the child's needs. The class sought relief under Title IV-E of the Social Security Act, the Due Process Clause of the Fourteenth Amendment, and numerous state statutes and regulations.

HISTORY AND STATUS:

In July 2000, plaintiffs filed a class certification motion. Defendants spent almost a year conducting discovery related to the motion. In August 2000, defendants filed a motion to dismiss the federal child welfare claims. On November 9, 2000, the court denied defendants' motion without prejudice.

In March 2001, defendants filed a motion for partial summary judgment. Defendants alleged that under federal law any rights to notice and a hearing prior to a change in the child's foster care placement are rights of the parent, not of the foster child. Moreover, defendants argued that even if foster children did have a right to procedural safeguards, Washington law provided adequate protections. In this same motion, defendants asserted several defenses to the named plaintiffs' damages claims.

In May 2001, the court granted defendants' motion for partial summary judgment, holding that plaintiffs were not entitled to the procedural protections they sought. The court also dismissed the § 1983 damage claims against DSHS and the Secretary, but retained the state law claims in support of the damage action.

On May 30, 2001, plaintiffs filed an amended motion for class certification revising the proposed class definition to include all children who are or will be in DSHS custody and who have been in three or more placements since DSHS assumed custody. On June 25, 2001, the Court granted plaintiffs' motion.

In June 2001, defendants filed two summary judgment motions arguing that any order by the court taking over the foster care system infringed upon the legislative and executive branch's authority to determine how state resources are allocated and asserting that alleged emotional harm and deprivation of mental health treatment did not rise to a Fourteenth Amendment violation. The Court denied defendants' motions.

In late September 2001, the parties agreed to settle plaintiffs' claims for monetary damages. Defendants agreed to pay \$1.3 million to the thirteen individually-named plaintiffs. Each child received \$100,000 placed in trust to meet his or her needs for counseling, education, housing, job training, or necessary assistance.

Defendants then sought discretionary review by the Washington Court of Appeals of the denial of their summary judgment motions. On October 9, 2001, a week before trial, the Court of Appeals denied review.

Following a seven-week trial, the jury returned a verdict for plaintiffs, concluding that state practices violated the constitutional rights of foster children and that those practices caused children to suffer significant harm. Following plaintiffs' submission of a proposed injunction in March, the Court requested that the parties meet with an organizational systems reform and child welfare expert in order to reach a remedy. Defendants refused to meet with the court's expert. Defendants also failed to submit an alternative injunction. On May 31, 2002, the Court entered an injunction granting plaintiffs' requested relief in every area addressed in the proposed injunction.

Defendants immediately filed a notice of appeal and a motion for stay. On June 7, 2002, the Court of Appeals issued a partial stay of the injunction and certified the case for expedited appeal to the Washington Supreme Court. The Washington Supreme Court granted *certiorari* on June 13, 2002.

In December 2003, the court reversed the judgment on the basis of an error in the jury instructions. On remand, the court directed that the defendants were not entitled to a jury trial. Plaintiffs' arguments on the nature and extent of foster children's constitutional rights were explicitly upheld by a unanimous court. The Supreme Court rejected defendants' arguments that children in foster care have no constitutionally protected rights or that the rights they do possess are no greater than convicted criminals in prison.

Upon remand, the trial court ordered the parties to attempt to reach a settlement through mediation. Judy Meltzer, deputy director of the Center for the Study of Social Policy, and Kathleen Noonan, a consultant to the Annie E. Casey Foundation, were the mediators. After several lengthy sessions with the mediators, a comprehensive settlement was reached at the end of July 2004. The settlement builds upon and incorporates some parts of the state's Kids Come First II Plan, which is Washington's federal Program Improvement Plan. The settlement also established a five-person panel with considerable authority over the state's child welfare system. Among other responsibilities, the panel has the authority to set professional standards for the day-to-day practices of the agency and to devise specific actions the agency must take to improve children's mental health and services to adolescents. The agency was granted a fifteen-month grace period before the panel could revise actions to be taken in areas other than mental health and adolescents.

Subsequently, the court approved the proposed settlement. The Panel members have been selected and have met three times since December 2004. Their initial tasks required the development of goals, benchmarks, and action steps for children's mental health and improvements in the quality of care and services to adolescents. In November 2005, the panel produced a detailed reform plan, which sets benchmarks for the next five years.

BRIAN A. V. HATTAWAY

(also known as *Brian A. v. Sundquist*)

FILE NO.,
COURT, AND
DATE FILED: 3-00-0445 (M.D. Tenn., May 10, 2000)

CITATIONS: 149 F. Supp. 2d 941 (M.D. Tenn. 2000)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs filed this lawsuit on behalf of more than 9,000 foster children in the legal custody of Tennessee's Department of Children's Services (DCS), alleging that DCS systematically failed to provide Tennessee's foster children and their families with legally required placements and services. The lawsuit sought to end ongoing violations of the rights of the plaintiff class that endangered their health and well-being and to ensure that DCS provides proper protection and care for these vulnerable children.

HISTORY AND
STATUS: In 2000, the court denied defendants' motion to dismiss and ordered the parties to negotiate a settlement. In July 2001, the court approved the agreement. The Comprehensive Settlement Agreement calls for significant reform, including DCS's implementation of new practices and heightened review systems to prevent foster children from being abused or neglected while in state custody; hiring of

hundreds of caseworkers to ease caseloads; development of pre- and in-service training of all caseworkers; development of appropriate new foster home placements and services; enhancements of DCS's computerized management system; a requirement that the state meet specific percentage outcomes in numerous areas affecting the lives of children in foster care; independent evaluation of the child welfare system to assess and develop remedies for any disparities concerning placements and services provided to African-American children; and an independent court monitor to report on compliance.

In the wake of the monitor's November 4, 2003 report finding full compliance in only 24 of 136 settlement provisions, plaintiffs filed a contempt motion. Plaintiffs requested that the court order an independent administrator to develop a plan to implement the terms of the Settlement.

In December 2003, the parties settled the contempt motion with an agreement that DCS will work with a technical assistance committee (TAC) composed of five child welfare experts to develop a comprehensive implementation plan. The stipulation also extended the settlement end-date to June 2007. Plaintiffs agreed not to pursue further contempt proceedings for a period of twelve months.

In August 2004, the court approved DCS's Path to Excellence Implementation Plan, developed by DCS and TAC with input from plaintiffs' attorneys. The plan sets out with great specificity the steps that DCS must take in order to come into compliance with the settlement agreement.

In April 2005, the panel issued its second report, finding that DCS had made significant progress in building the foundation and infrastructure necessary to improve outcomes for families and children. The report also noted areas of concern, including slippage in compliance with foster care caseload standards and a backlog of incomplete child protective services investigations. Plaintiffs continue to monitor DCS's compliance with the settlement agreement and the implementation plan.

BROWN v. KEARNEY

(also known as *Brown v. Chiles*, *Brown v. Towey*, and *Brown v. Feaver*)

FILE NO.,
COURT, AND

DATE FILED: 91-54813 (28) (Fla. Cir. Ct., Dade County, Dec. 6, 1991)

CITATIONS: 726 So.2d 322 (Fla. 3d DCA 1999), *rev. denied*, 744 So.2d 452 (1999)

CLEARINGHOUSE

REVIEW NO.: 52,072

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ISSUES: This action challenged the failure of the Florida Department of Health and Rehabilitative Services (HRS) (now called the Department of Children and Families) to prevent the removal of children from their families or to reunite families, where homelessness was a primary factor resulting in HRS custody.

Plaintiff is the great-aunt and temporary legal guardian of four children. After being awarded temporary custody of the children, she was forced to move from her condemned apartment. She alleged that HRS refused to help her locate suitable, affordable replacement housing, while at the same time threatening to remove the children from her custody for failure to provide a home. Plaintiff claimed that HRS violated the state's Juvenile Justice Act; Title IV-E; and the

equal protection, family integrity, and privacy rights guaranteed by the Florida and U.S. Constitutions.

HISTORY AND
STATUS:

In December 1991, defendants agreed to provide the named plaintiff with housing assistance through the use of flexible funds. In May 1992, the court denied defendants' motion for judgment on the pleadings, rejecting arguments that plaintiffs' federal claims were precluded by *Suter* and that Florida law does not entitle plaintiffs to housing assistance.

In February 1993, plaintiffs amended their complaint to include class action allegations, which the court granted on October 6, 1993. On December 27, 1997, ruling on the parties' cross-motions for summary judgment, the trial court entered an order denying plaintiffs' motion and granting defendant's motion. The trial court concluded that plaintiffs had neither a private right of action under Title IV-E, nor a private right of action to obtain housing or housing-related services under Florida law.

Plaintiffs appealed to the Third District Court of Appeal. The appellate court affirmed the decision of the trial court. In affirming the decision, the court held that the services to be offered are within the discretion of the Department. The court further held that, pursuant to the separation of powers doctrine, dependency courts could not order housing-related services to reunify the family. Finally, the court held that, because of the impact on Departmental resources, a dependency court could not order the provision of specific services.

Plaintiffs sought review in the Florida Supreme Court, but the court denied the petition.

CARSON P. v. HEINEMAN

FILE NO.,
COURT, AND
DATE FILED: 4:05-cv-03241-RGK-DLP (D. Neb., Sep. 19, 2005)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs filed this case on behalf of five children who have suffered physical and psychological harm while in the custody of the Nebraska Division of Health and Human Services (HHS), and as a class action on behalf of 6,000 foster children in state custody in Nebraska. The complaint alleged violations of the children's constitutional rights, their rights under Title IV-E and IV-B, and their rights pursuant to the Early Periodic Screening Diagnosis and Treatment provisions of the Medicaid Act. The lawsuit charges the state with failing to address longstanding systemic problems such as a drastic shortage of foster homes, high caseloads for case workers assigned to monitor child safety, a lack of mental health care services, the lowest payments to care for foster children in the country, and a lack of services and resources to get children adopted.

HISTORY AND
STATUS: Plaintiffs filed their complaint and a motion for class certification on September 19, 2005. The court has ordered the parties to conduct discovery into the facts and circumstances of the named plaintiffs and has indicated that it will rule on plaintiffs' class certification motion in early 2006.

CHARLIE AND NADINE H. v. CODEY

(also known as *Charlie and Nadine H. v. McGreevey* and *Charlie and Nadine H. v. Whitman*)

FILE NO.,
COURT, AND
DATE FILED: 99-3678 (D.N.J., Aug. 4, 1999)

CITATIONS: 83 F. Supp. 2d 476 (D.N.J. 2000); 213 F.R.D. 240 (D.N.J. 2003)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs filed this class action on behalf of children in the custody of the New Jersey Division of Youth and Family Services (DYFS). The complaint alleged violations of the children's constitutional rights and their rights under Title IV-E, the Child Abuse Prevention and Treatment Act, Early Periodic Screening Diagnosis and Treatment, § 504 of the Rehabilitation Act, the Americans with Disabilities Act, and the Multiethnic Placement Act (MEPA).

HISTORY AND
STATUS: Plaintiffs filed a motion for class certification, and defendants filed a motion to dismiss. On January 27, 2000, the district court granted in part and denied in part defendants' motion to dismiss. The court ruled that children in DYFS custody

have a right to be protected from harm and may bring an action in federal court to vindicate that right. The court also found that African-American and Latino children have a right not to have their foster or adoptive placement delayed or denied based on their race, and can bring federal actions to enforce these rights. The court dismissed plaintiffs' claims under Title IV-E, CAPTA, EPSDT, the Rehabilitation Act, and the ADA.

In March 2002, the court granted class certification. In July 2002, the court granted plaintiffs' experts access to 500 children's case files, allowing plaintiffs to collect information concerning harm to children in foster care through a case record review.

The court also granted the media access to thousands of pages of DYFS's Institutional Abuse Investigation Unit (IAU) files produced during discovery. These files revealed numerous cases in which foster children were abused, and DYFS failed to take proper action.

Subsequently, the parties reached a comprehensive settlement agreement, which the court approved on September 2, 2003. The agreement established an expert panel, which approved a detailed action plan in June 2004. The settlement included several long-term and emergency measures: an immediate infusion of \$22.35 million for hiring DYFS workers, an immediate assessment of the safety of every child in out-of-home care, an additional \$1.5 million for the recruitment of foster parents, and other important changes.

On June 9, 2004, the child welfare panel appointed by the parties approved the State's Reform Plan. The court accepted the plan on June 17, 2004. On July 19, 2004, the Panel declared which elements of the Reform Plan were to be enforceable, as required by the settlement agreement.

On March 7, 2005, the Panel submitted its first monitoring report, which analyzed the state's accomplishments and shortcomings. In its second report, submitted on October 11, 2005, the Panel concluded that the state's progress in meeting the requirements of the Reform Plan is "seriously inadequate" in several areas. In light of the Panel's report, plaintiffs announced that they planned to seek emergency federal court intervention, pursuant to a provision in the settlement agreement allowing such action after notice to the state and a brief negotiation period. On December 1, 2005, plaintiffs filed a contempt motion against DYFS for failing to comply with the settlement agreement. Plaintiffs asked the court to appoint Governor-elect Jon Corzine as receiver of the child welfare agency.

COSENTINO v. PERALES

(consolidated for disposition with *Martin A. v. Giuliani*)

FILE NO.,
COURT, AND

DATE FILED: 43236-85 (N.Y. Sup. Ct., N.Y. City, Nov. 7, 1985)

CITATIONS: 138 Misc. 2d 212 (Sup. Ct. 1987), *aff'd*, 153 A.D.2d 812 (1st Dept. 1989), *appeal dismissed*, 552 N.Y.S. 2d 110 (N.Y. 1990)

CLEARINGHOUSE

REVIEW NO.: 40,918

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ISSUES: Plaintiffs sought housing assistance to enable homeless families and those at risk of becoming homeless to avoid foster care placement of their children due to the families' lack of adequate shelter. This was one of three cases (the others were *Martin A. v. Giuliani* and *Grant v. Cuomo*) against the city and state of New York concerning the scope of New York statutes requiring protective and preventive services.

In 1979, New York enacted its Child Welfare Reform Act (CWRA) (1979 N.Y. Laws ch. 610 & 611), establishing as state policy that families should not be separated due to poverty alone. The CWRA mandated and provided fiscal incentives for local social service districts to offer preventive services to families. New York also enacted extensive protective services statutes requiring investigations and services into abuse and neglect allegations.

All three cases rely heavily on these New York statutes. The lawsuits also included claims based on federal child welfare statutes, the U.S. Constitution, and the New York Constitution.

HISTORY AND
STATUS:

This case was consolidated with *Martin A. v. Giuliani* because plaintiffs in both suits requested that defendants provide sufficient services to enable families to remain together. In April 1987, the trial court granted plaintiffs' motion for preliminary injunction, finding that the city's failure to provide preventive services to avert or shorten placement in voluntary foster care violates state and federal law. The court ordered the city to develop a comprehensive plan to satisfy its constitutional and statutory obligations.

In 1989, defendants appealed, claiming that the decision in *Grant v. Cuomo*, 130 A.D.2d 154, *aff'd*, 73 N.Y.2d 820, was dispositive. However, the Appellate Division unanimously affirmed the trial court, ordering defendants to develop and implement individual case plans for the named plaintiffs that included housing services as preventive services under CWRA and striking down the state's 90-day emergency shelter limitation.

In 1994, plaintiffs began systemic enforcement proceedings. On November 30, 1994, plaintiffs filed a motion for systemic injunctive relief and defendants' filed a cross-motion for summary judgment. In 1996, leaving intact the individual plaintiffs' damages claims, the court dismissed the constitutional and certain other claims, but allowed plaintiffs to proceed with enforcement of the requirement for preventive services.

On January 17, 2003, the court referred this case and three others to a Special Masters Panel, which issued reports in 2003 and 2004. The Special Masters' tenure subsequently ended. The underlying rulings and orders remain in place. The city has developed a new reunification rent subsidy for some families, and monitoring continues with respect to ongoing reunification problems because of lack of adequate housing.

DAVID C. v. HUNTSMAN

(also known as *David C. v. Leavitt*)

FILE NO.,
COURT AND
DATE FILED: 93-C-206W (D. Utah, Feb. 25, 1993)
99-4223 (10th Cir. 2000)

CITATIONS: 900 F. Supp. 1547 (D. Utah 1995); 13 F. Supp. 2d 1206 (D. Utah 1998);
242 F.3d 1206 (10th Cir.), *cert. denied*, 534 U.S. 822 (2001).

CLEARINGHOUSE
REVIEW NO.: 48,842

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ISSUES: This comprehensive child welfare reform class action was filed on behalf of all foster children and children reported as abused or neglected in the State of Utah. The complaint addressed nearly all aspects of the state's child welfare services and foster care system, including: abuse and neglect investigations and child protective services; quality and safety of out-of-home placement; health care and mental health care for foster children; caseloads and staff training; and case planning, case review, and permanency planning.

HISTORY AND
STATUS:

After class certification in May 1993, the parties negotiated a comprehensive settlement providing for reform in every aspect of Utah's child welfare system. In 1996, the Monitoring Panel concluded that defendants had complied with only four of the settlement agreement's 95 areas. Plaintiffs filed a motion to enforce and asked the court to appoint a receiver. Although the court found defendants in noncompliance with the settlement agreement, it did not appoint a receiver. However, the court granted plaintiffs' motion for preparation of a Comprehensive Plan to implement the settlement.

In 1998, plaintiffs sought to extend the settlement's four-year term and to implement the Comprehensive Plan, developed by defendants, the Monitoring Panel, and expert consultant Paul Vincent of the Child Welfare Policy & Practice Group (CWPPG). In October of 1999, Judge Campbell issued an order that retained jurisdiction, ordered implementation of the Plan, and appointed the CWPPG as court monitor. This order was affirmed on appeal to the Tenth Circuit.

On November 9, 2001, defendants filed a motion to dismiss based on the Tenth Circuit's initial holding in *Joseph A. v. Ingram*, 262 F.3d 1113 (10th Cir. 2001), *opinion withdrawn and superseded on rehearing in part by Joseph A. v. Ingram*, 275 F.3d 1253 (10th Cir. 2002). Plaintiffs filed an opposition brief. Based on the Tenth Circuit's reversal of its prior decision in *Joseph A.*, defendants voluntarily withdrew their motion.

In response to continued noncompliance, on August 22, 2002, plaintiffs filed a motion to enforce the settlement agreement. Suggesting that she believed defendants were in noncompliance, Judge Campbell ordered the parties to negotiate a solution to defendants' noncompliance, as well as to identify areas in which the Milestone Plan's provisions could be made more efficient. In March 2003, the parties submitted, and the Court approved, a stipulation requiring defendants to implement a set of Rules and Practice Guidelines for department workers, hire eight full-time trainers to meet training needs, develop a computerized tracking system to ensure all staff are trained, and hire forty-five new caseworkers. Furthermore, defendants were required to implement a simple and transparent procedure for caseworkers to obtain access to the flexible funding source.

The parties negotiated additional amendments to the Milestone Plan, which the court approved on June 9, 2004, and July 12, 2005. Plaintiffs continue to monitor defendants' compliance with the various performance benchmarks established by the Milestone Plan.

DOE v. KEARNEY

FILE NO.,
COURT, AND
DATE FILED: 00-cv-184 (M.D. Fla., Jan. 28, 2000)

CITATIONS: 329 F.3d 1286 (11th Cir. 2003)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Parents, individually and on behalf of their minor children, brought suit against the Florida Department of Children and Families, seeking a declaration that the Florida statute that authorized “emergency” removal of their children was unconstitutional under the Fourteenth and Fourth Amendments.

HISTORY AND
STATUS: Plaintiffs filed suit on January 28, 2000. The district court dismissed plaintiffs’ claims on July 31, 2000, finding that the statute comports with due process and Fourth Amendment requirements. Plaintiffs appealed, and the Eleventh Circuit held on May 8, 2003, that the statute was not facially unconstitutional under the Due Process Clause of the Fourteenth Amendment.

DUPUY v. SAMUELS

(also known as *Dupuy v. McDonald* and *Tara S. v. McDonald*)

FILE NO.,
COURT, AND
DATE FILED: 97-C-4199 (N.D. Ill., June 11, 1997)

CITATIONS: 141 F. Supp. 2d. 1090 (N.D. Ill. 2001); 2003 WL 21557911 (N.D. Ill. Jul. 10, 2003) (unreported), *aff'd in part, rev'd in part, and remanded by*, 397 F.3d 493 (7th Cir. 2005); 2005 WL 588997 (N.D. Ill. Mar. 9, 2005) (unreported); 2005 WL 1498468 (N.D. Ill. Jun. 10, 2005) (unreported); 423 F.3d 714 (7th Cir. 2005)

CLEARINGHOUSE
REVIEW NO.: 51,679

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ISSUES: This case against the Illinois Department of Child and Family Services (DCFS) addresses the constitutionality of the “credible evidence” standard for indicated child abuse and neglect reports, the procedures applied during investigations, and an inadequate expungement process. The suit seeks injunctive relief on behalf of (1) child care workers terminated from employment due to abuse reports and (2) children and families who are subjected to unconstitutional practices. The case also addresses other constitutional issues, such as the policy and practice of instituting involuntary safety plans without due process protections and the fairness of the administrative hearing process.

HISTORY AND STATUS:

The court certified a class of over 145,000 persons who had been indicated as perpetrators of child abuse or neglect in DCFS reports maintained on the Central Register. At a summer 1999 hearing, plaintiffs proved error rates of seventy-five percent of the abuse findings on appeal. In March 2001, the district court held that defendant's policies and practices with respect to "indicated reports" of child abuse, neglect, or both violated plaintiffs' due process rights. The court gave the parties 60 days in which to develop constitutionally adequate procedures.

On July 10, 2003, the court directed DCFS to revise its system of conducting investigations. The order extended procedural protections to plaintiffs who work with children. The court also found that plaintiffs had the right to a high level administrative review and a full hearing on the merits within 35 days. Previously, the DCFS administrative appeal system had averaged 18 months. The court found, however, that foster parents were adequately protected by the DCFS licensing procedures, and that they have no liberty interest in a foster care license that demands a pre-deprivation conference or an expedited appeal.

On February 5, 2005, the Seventh Circuit affirmed in part and reversed in part the district court ruling. The Seventh Circuit found that being indicated for child abuse or neglect implicated plaintiffs' liberty interest in pursuing their occupation; that DCFS could use the term "credible evidence" in articulating the standard of proof for placing a person who has been indicated as a perpetrator on the central register; that DCFS was required to provide an accused person an opportunity to respond to allegations before the case is indicated and disclosed on a report; that DCFS was required to adopt a 35-day expedited appeals process for indicated child care workers; that entrants to the child care field were entitled to notice and a hearing prior to being placed on the Central Register; and that the loss of reputation to foster parents placed on the Central Register did not give rise to any protected liberty interest.

On September 9, 2005, the Seventh Circuit reversed the district court's interim award of attorney's fees, finding that plaintiffs were not yet prevailing parties because further proceedings on the merits were clearly contemplated. The parties are currently engaged in litigating the remaining claims and issues that were not resolved by plaintiffs' preliminary injunction motion.

E.C. v. BLUNT

FILE NO.,
COURT, AND
DATE FILED: 05-0726-CV-W-SOW (W.D. Mo., Aug. 15, 2005)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This case challenges Senate Bill 539, which ends adoption subsidies for many children with special needs who have been or will be adopted from foster care. Plaintiffs allege that the new law violates the federal Adoption Assistance and Child Welfare Act of 1980, which prohibits states from unilaterally modifying or terminating adoption assistance subsidy contracts. Plaintiffs also allege that the law violates the Equal Protection rights of foster children by applying a "means test" to the income of adoptive parents of certain foster children to deny adoption assistance payments.

HISTORY AND
STATUS: On August 15, 2005, plaintiffs filed a complaint and an emergency temporary restraining order to prohibit the adoption subsidy law from taking effect on August 28, 2005, as had been scheduled. Two days later, the court entered a temporary restraining order enjoining the implementation of the law. On September 8, 2005, the court granted plaintiffs' preliminary injunction blocking Senate Bill 539 from taking effect until trial on the merits. On September 29, 2005, the Court entered an order granting class certification.

Defendants filed an appeal from the injunction and class certification orders on October 7, 2005. Plaintiffs filed a motion to dismiss defendants' interlocutory appeal of the class certification order challenging the Eighth Circuit's subject matter jurisdiction. Subsequently, both the district court and the appellate court denied defendants' request for a stay pending the preliminary injunction appeal.

On November 9, 2005, the district court entered an order setting a discovery schedule and May 4, 2006 trial date.

E.F. v. SCAFIDI

FILE NO.,
COURT, AND
DATE FILED: J91-0591 (S.D. Miss., Oct. 11, 1991)

CITATIONS: 851 F. Supp. 249 (S.D. Miss. 1994), *aff'd*, 110 F.3d 793 (5th Cir. 1997), *cert. denied*, 522 U.S. 816 (1997)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This case challenged state practices regarding children with mental or physical disabilities who are in state custody. The complaint included claims pursuant to the U.S. Constitution, the Child Abuse Prevention and Treatment Act, Title IV-E, the Americans with Disabilities Act, § 504 of the Rehabilitation Act, and the Individuals with Disabilities Education Act. Plaintiffs sought declaratory and injunctive relief.

HISTORY AND
STATUS: In November 1991, the parties stipulated to an order addressing the placement and education needs of the named plaintiff, E.F. In December 1992, the court denied a motion for class certification, stating that E.F.'s claims were moot and he was no longer an adequate class representative. The court also denied a motion by two other children to intervene as class representatives.

However, in August 1993, the court granted renewed motions to intervene and to certify the class. The court certified a class consisting of all children with disabilities who are (or are at risk of being) in foster care or institutional placements, or living at home subject to protective orders.

In fall 1994, defendants filed a motion to dismiss, or in the alternative for summary judgment. However, due to the federal "*Suter* fix" legislation and proposed state law reforms, plaintiffs and defendants agreed to a stay of the proceedings until mid-1995.

The District Court dismissed the case on March 13, 1996. On April 7, 1997, the Fifth Circuit denied plaintiffs' petition for rehearing, and the United States Supreme Court subsequently denied *certiorari*.

EMILY J. v. WEICKER

FILE NO.,
COURT, AND
DATE FILED: 3:93CV1944 (D. Conn., Oct. 25, 1993)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This lawsuit was the first effort by the Center for Children's Advocacy to address the cross-system issues of abused and neglected children, many of whom are simply runaways from child welfare programs and placed in juvenile detention facilities for lack of alternative placements. The suit sought to remedy the serious problem of children languishing in overcrowded detention centers in Bridgeport, New Haven, and Hartford, where sexual and other assaults were prevalent; medical, mental health, educational services, and recreational opportunities were inadequate; and housing conditions were deplorable.

HISTORY AND
STATUS: The defendants are the Judicial Department (which manages the detention centers); the Department of Children and Families (DCF) (which oversees the child welfare system, contracts for residential placements, and operates the state training school); and the three city education departments (that deliver the educational services within detention facilities).

The federal court approved a negotiated consent decree on February 6, 1997. In addition to expanded recreation, education, increased staffing and staff training, and a behavior management program, the decree expands medical and mental health care services and staffing through contracts with community health providers (e.g., Yale Child Study Center and the Yale Psychiatric Institute). The decree further mandates that DCF receive a population list from detention centers on a daily basis and work with the youths' attorneys and probation officers to seek alternatives to incarceration.

In 2002, plaintiffs filed a motion for noncompliance to modify the Consent Decree, which resulted in a June 2002 Court Order requiring the Judicial

Department and DCF to develop and implement a comprehensive system of screening, assessment, planning, and services for children with mental health needs who were in detention.

Due to continuing noncompliance in delivery of mental health services, plaintiffs negotiated a second court-ordered Settlement Agreement that will remain in effect until October 1, 2007. The parties' agreement generates \$8.5 million in new services and improved staff training for children with mental health needs in an effort to divert them from unnecessary detention confinements. Compliance with the agreement will be monitored by a court appointed monitor.

ERIC L. v. BIRD

FILE NO.,
COURT, AND
DATE FILED: 91-376 (D.N.H., Aug. 28, 1991)

CITATIONS: 1993 WL 764420 (D.N.H. Dec. 16, 1993) (unreported); 848 F. Supp. 303 (D.N.H. 1994)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This class action litigation against the New Hampshire Division of Children, Youth, & Families (DCYF), and the New Hampshire Department of Health & Human Services (DHHS) was brought on behalf of all children in foster care, (or at risk of being placed in foster care), and all children who are known or should be known to the state due to reports of abuse or neglect. The class was also divided into three separate subclasses.

The case challenges the state's failure to investigate properly abuse/neglect reports; provide services to keep families together; provide safe and stable placements for children who cannot live at home; and provide proper care, services, and stable, appropriate placements to children with disabilities.

The complaint includes claims under Title IV-E, the Child Abuse Prevention and Treatment Act (CAPTA), the Americans with Disabilities Act (ADA), and §504 of the Rehabilitation Act. The complaint also includes an equal protection claim on behalf of a subclass of children with disabilities, substantive due process claims regarding adequate treatment and family association rights, and a procedural due process claim regarding interests guaranteed by state law.

HISTORY AND
STATUS: The district court certified the class in December 1993. In March 1994, the court granted in part and denied in part defendants' motion to dismiss. The court concluded that the Title IV-E and CAPTA claims should be dismissed pursuant to *Suter v. Artist M.*, but expressed doubt about *Suter's* proper interpretation in light of First Circuit case law. The court also dismissed some of plaintiffs' constitutional claims. The court denied the motion as to plaintiffs' ADA

and §504 claims.

An interlocutory appeal to the First Circuit was denied in January 1995. Plaintiffs then sought reconsideration of the district court's dismissal of their statutory claims, in light of the "*Suter* fix" legislation.

On July 29, 1997, the court granted final approval of a negotiated settlement agreement. The agreement included provisions for DCYF to adopt and implement policies and procedures that speed the adoption process, to perform timely assessments of reports of abuse or neglect, and to ensure that all children in foster care receive adequate medical and mental health care services. The settlement also calls for additional training for DCYF's child protection staff and increased foster parent recruitment and training. A three member Oversight Panel supervises DCYF's performance.

The agreement was to expire on September 1, 2002. However, in April 2002, the court approved a stipulation by the parties to modify and extend the settlement. After the parties participated in mediation, the court approved a second modification in June 2002.

After continued monitoring, plaintiffs filed a motion to enforce the settlement. On September 14, 2004, the court appointed David Garfunkel to serve as a Special Master.

FREEMAN v. SCOPPETTA

FILE NO.,
COURT, AND
DATE FILED: 98 Civ. 5636 (S.D.N.Y., Aug. 7, 1998)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: 52,183

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ISSUES: This case was filed on behalf of a proposed class of foster parents who have requested, or will request, a fair hearing involving foster care benefits provided by defendants New York City Administration for Children's Services or foster care agencies under contract with city defendants.

HISTORY AND
STATUS: Plaintiff class sought declaratory and injunctive relief against the city defendants' alleged practice and policy of failing to comply in a timely manner with favorable Fair Hearing decisions concerning foster care benefits. Plaintiffs sought declaratory and injunctive relief against the State defendant's alleged practice and policy of failing to schedule hearings and issue decisions in a timely fashion, and

for failing to ensure that city defendants timely comply with favorable fair hearing decisions.

In November 1999, the court approved a negotiated settlement by which defendants will provide substantial compliance and monitoring, and take other remedial steps. On October 16, 2002, the court entered a stipulation extending the term of the settlement agreement and modifying certain terms of the agreement.

GUARDIANSHIP ESTATE OF KEFFELER v. WASHINGTON STATE

FILE NO.,
COURT, AND
DATE FILED: 96-2-00157-2 (Wash. Supr. Ct., Okanogan County, 1996)

CITATIONS: 32 P.3d 267, 145 Wash. 2d 1 (2001); 537 U.S. 371 (2003); 88 P.3d 949, 151 Wash. 2d 331 (2004)

CLEARINGHOUSE
REVIEW NO.: 54,459

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ISSUES: Plaintiffs filed suit on behalf of foster children against Washington’s Department of Health and Social Services for using the children’s social security benefits to reimburse itself for their care. They argued that the practice violated the Social Security Act’s anti-attachment provision and failed to serve the children’s best interest as required by the Act and its implementing regulations.

HISTORY AND
STATUS: The Superior Court of Okanogan County entered summary judgment in favor of the plaintiff class. The Washington Supreme Court affirmed the decision on October 11, 2001. The U.S. Supreme Court reversed and remanded on February 25, 2003, holding that the state’s practice of acting as representative payee in order to reimburse itself for foster care expenses did not constitute “execution, levy, attachment, garnishment, or other legal process” within the meaning of the Social Security Act. On April 29, 2004, the Washington Supreme Court held that children were not denied equal protection and that notice sent by the Social Security Administration prior to appointment of a representative payee satisfied the children’s procedural due process rights.

G.L. v. STANGLER

(also known as *G.L. v. Zumwalt*)

FILE NO.,
COURT, AND
DATE FILED: 77-242-CV-W-3-JWO (W.D. Mo., Mar. 28, 1977)

CITATIONS: 564 F. Supp. 1030 (W.D. Mo. 1983); 731 F. Supp. 365 (W.D. Mo. 1990); 873 F. Supp. 252 (W.D. Mo. 1994)

CLEARINGHOUSE
REVIEW NO.: 20,937

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ISSUES: In this class action, plaintiffs sought to establish the federal constitutional and statutory rights of foster children to be protected from harm and to receive appropriate treatment while in state custody. The lawsuit was filed against officials of the Missouri Division of Family Services (DFS) on behalf of all children in Jackson County placed in foster homes by DFS pursuant to juvenile court order. Plaintiffs alleged that children were exposed to contagious diseases, deprived of medical and psychiatric care, subjected to physical and emotional abuse, and transferred between foster homes inappropriately and without adequate preparation.

**HISTORY AND
STATUS:**

After experts undertook an empirical study of the Kansas City/Jackson County foster care system that documented plaintiffs' allegations, in March 1983 the district court approved a negotiated consent decree recognizing the legal rights of foster children to be protected from abuse, neglect, and other forms of harm while in state custody.

In 1985, DFS sought modification of the decree. Plaintiffs countered with a contempt motion, and these issues were settled with a supplemental consent

decree that created a monitoring committee. The committee issued reports every six months identifying areas of compliance and noncompliance. In 1992, after years of non-compliance by DFS with many of the consent decree terms and several contempt motions filed by plaintiffs, plaintiffs again moved to hold defendants in contempt. A trial took place in January 1992.

The court granted the motion, finding defendants in contempt due to a “lack of commitment to make a good faith effort.” The court’s order directed defendants to take specific steps to remedy noncompliance including directing the state to lobby for budget increases, and threatening to transfer workers from other counties to ease Kansas City’s caseloads.

In response to the contempt finding, defendants agreed to commission a panel of national experts to conduct a comprehensive needs assessment of Kansas City's child welfare system, and make specific recommendations. In early 1994, the parties began to renegotiate the consent decree. In December 1994, the court approved a modified Consent Decree and Operational Guide. In March 1995, a monitoring plan was developed. The Division of Family Services produced semi-annual compliance reports. In October 1995, when compliance figures were low, the state created an internal “receivership” to address the problems, and the parties developed a problem-solving process to try to avoid further litigation.

There has been significant progress. Based on defendants’ substantial compliance with components of the consent decree, in 2000, the parties renegotiated the decree, allowing the state to exit from some provisions. On January 30, 2001, the court approved an Amended Decree and Operational Guide. The amended decree created a permanent community quality assurance committee, which will take over system monitoring once DFS reaches substantial compliance and exits from the decree.

The court approved another modification in 2002, and a change in monitoring methodology in July 2003. Currently, DCF continues to implement the decree, and the parties meet regularly to assist in DCF’s compliance efforts.

GRANT v. CUOMO

FILE NO.,
COURT, AND
DATE FILED:

25168/85 (N.Y. Sup. Ct., N.Y. City, filed Oct. 28, 1985); 28792 and 28793
(N.Y. App. Div., filed July 9, 1987); 349 (N.Y. Ct. App., Dec. 20, 1988)

CITATIONS:

130 A.D.2d 154 (1st Dept. 1987), *aff'd*, 73 N.Y.2d 820; 509 N.Y.S.2d 685
(1986); 518 N.Y.S.2d 105 (1987)

CLEARINGHOUSE
REVIEW NO.:

None

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ISSUES:

In this class action suit, plaintiffs sought (1) improved protective and preventive services for families of children at risk of foster placement due to actual or threatened homelessness; (2) housing assistance as a preventive service for families; and (3) a full range of protective services other than housing-related services. The lawsuit included claims based upon the New York Child Welfare Reform Act and the Adoption Assistance and Child Welfare Act, as well as the New York and U.S. Constitutions.

HISTORY AND
STATUS:

In May 1986, the trial court issued a preliminary injunction. The issue before the court was whether the Child Welfare Reform Act of 1979 and attendant state regulations mandate the provision of preventive services to families with children at risk of entering foster care. With respect to preventive services, the court found that New York law requires, for each child identified as being considered for placement in foster care, a child

service plan that identifies the services required by the child, the availability of those services, and the manner in which they are to be provided. The court determined that this service plan is in the nature of a contract, enforceable by the court.

The New York appellate court, however, modified the lower court's order granting a preliminary injunction, holding that the legislature did not intend to impose on social service officials a nondiscretionary duty to provide preventive services in all cases of alleged abuse or maltreatment. The court also held that a child's service plan did not create an enforceable contract requiring the city to provide all available services listed in the plan. Accordingly, it overturned the lower court's declaratory system-wide relief with regard to preventive services. The appellate court did, however, uphold injunctive relief against the City of New York for its failure to investigate reports of suspected child abuse within 24 hours as statutorily mandated.

In a memorandum opinion, the Court of Appeals affirmed the decision of the Appellate Division.

HARRIS v. MARTIN

FILE NO.,
COURT, AND

DATE FILED: 1:03-2535 (N.D. Ga., August 25, 2003)
2003-CV-73072 (Sup. Ct. Fulton County)

CITATIONS: 2004 WL 1905331 (N.D. Ga. Aug. 17, 2004) (unreported)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: Plaintiff, a grandmother seeking Adoption Assistance Program (AAP) payments for her two granddaughters, filed this lawsuit against the Georgia Department of Human Resources (DHR) and the United States Department of Health and Human Services (HHS). Plaintiff alleged that HHS violated the Administrative Procedure Act, 5 U.S.C. § 552, when it promulgated its 2001 Policy Announcement (ACYF-PA-01-01) without providing the appropriate notice and comment period. The 2001 policy announcement overturned previous HHS policy and required that a child demonstrate AFDC eligibility in the home from which the child was

removed. Plaintiff sought declaratory relief and the reversal of the administrative law decision.

**HISTORY AND
STATUS:**

After losing a state administrative appeal, plaintiff filed this suit in state court. On August 25, 2003, HHS removed the case to federal court. On September 9, 2003, HHS filed a motion to dismiss, arguing that the policy announcements were exempt from notice and comment requirements. Defendants also argued that because the policy announcements simply interpret an existing statute they are neither arbitrary nor capricious. The hearing on defendants' motion to dismiss was held on June 2, 2004.

The court subsequently denied the motion and reversed the ALJ's decision denying plaintiff's claim for adoption assistance benefits. The court also declared invalid that portion of the Secretary's Policy Announcement ACYF-CB-PA-01-01 dated January 23, 2001, that required children who were otherwise eligible for receiving adoption assistance benefits to demonstrate AFDC eligibility in the home from which they were removed. Defendants appealed the decision, but later dismissed their appeal with prejudice.

HIGGINS v. SAENZ

(see also *Wheeler v. Sanders*)

FILE NO.,
COURT, AND
DATE FILED: CPF-02-501937 (Cal. Supr. Ct., Los Angeles County, Oct. 24, 2002)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.:
None

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ISSUES: Plaintiffs alleged that the California State Department of Social Services failed to enforce federal regulations requiring states to license foster homes of relatives that care for youth to ensure that the homes meet health and safety requirements. The suit charged that some children were living in substandard and dangerous conditions because of the state's failure to require counties to investigate fully relative homes and to provide assistance to relatives in meeting licensing requirements.

HISTORY AND
STATUS:

The settlement, which was filed October 31, 2002, and will be monitored by the court, requires uniform, statewide standards for foster parents who are related to the children in their custody. It also calls for audits and requires counties to help unqualified relatives meet the standards, rather than simply not considering the relatives or taking the children away from them. The state has set aside \$1 million a year to help those families.

In light of the settlement, plaintiffs agreed to dismiss the action with prejudice on January 30, 2003. The parties agreed that the court would retain jurisdiction of this case until two years after court approval of the settlement agreement. Plaintiffs continue to monitor compliance with the settlement agreement.

HILL v. ERICKSON

FILE NO.,
COURT, AND

DATE FILED: 88 C 0296 (Ill. Cir. Ct., Cook City, Mental Health Div., 1988)

CITATIONS: None

CLEARINGHOUSE

REVIEW NO.: 44,096

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ISSUES: This is a class action suit on behalf of adolescent wards of the Illinois Department of Children and Family Services (DCFS) who are pregnant or already parents. Plaintiffs alleged that DCFS failed to provide adequate placements and services to meet their needs and those of their children. Class members are moved from shelter to shelter and needlessly separated from their young children, in violation of federal statutory law, Illinois state law, and the state and federal constitutions.

HISTORY AND
STATUS:

The court certified a class on May 12, 1989. Plaintiffs obtained an injunction in January 1990, which resulted, in part, in the development of a program and services plan for pregnant and parenting teens. DCFS has issued a positive report on the implementation of this plan.

On January 3, 1994, the parties entered a comprehensive consent decree. The consent decree provides for community-based programs and services for pregnant and parenting teens who are wards of the state, including placements, education, day care, independent living programs, and health care.

After a period of significant noncompliance, defendants entered into negotiations with plaintiffs to create a new case management system. In 1998, defendants awarded a contract to Ulich's Children's Home. Monica Mahem, M.S.W., from the Children and Family Justice Center at Northwestern University, was selected as the decree's consultant. New training modules have been developed, and case worker training is underway with some management-level reorganization.

Counsel for plaintiffs continue to monitor compliance and work with class members to ensure that they are provided with adequate housing, access to community-based services, and employment.

JEANINE B. v. DOYLE

(also known as *Jeanine B. v. Thompson*)

FILE NO.,
COURT, AND

DATE FILED: No. 93-C-0547 (E.D. Wis., June 1, 1993)

CITATIONS: 877 F. Supp. 1268 (E.D. Wis. 1995); 967 F. Supp. 1104 (E.D. Wis. 1997); 2001
WL 748062 (E.D. Wis. Jun. 19, 2001) (unreported)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: This class action against the Governor of Wisconsin was brought on behalf of foster children and other victims of child abuse and neglect in Milwaukee County. The complaint alleged that plaintiffs did not receive timely and appropriate investigations of abuse/neglect, services to prevent entry into foster care, or appropriate case planning and services once they entered foster care. In addition, children were placed in inadequate and unmonitored foster homes, and did not receive services to allow them to return home or to increase the chance of adoption should they not return home. Finally, the complaint alleged that children with disabilities in the foster care system were discriminated against in the provision of case planning and services. The lawsuit sought injunctive relief to ensure that the county's foster care system complies with federal statutory and constitutional law and with Wisconsin state law.

HISTORY AND
STATUS:

As the case neared trial, the state took legislative and executive action to begin planning the take over of the county-run child welfare system. Affidavits submitted by plaintiffs in the fall of 1996 demonstrated that the state's planned takeover had not translated into real systemic changes. After the court refused to

rule on plaintiffs' request for emergency relief, in May 1997, plaintiffs petitioned the Court of Appeals for the Seventh Circuit. The Seventh Circuit also declined to rule. The district court subsequently denied plaintiffs' request for a preliminary injunction.

In January 1998, the state took over the child welfare system. The district court requested briefing on the enforcement of Title IV-E claims in response to the Supreme Court's ruling in *Blessing v. Freestone*, 520 U.S. 329 (1997). On January 30, 1998, the district court found the statute enforceable only as to case plan and review requirements. The court dismissed all remaining claims against the county defendants as moot due to the state's takeover of the system.

After a six-month investigation, plaintiffs concluded that the state in its new role was failing to protect children. After the court dismissed a supplemental complaint re-alleging substantive due process claims, in December of 2000, plaintiffs filed an Amended Supplemental Complaint, adding five new named plaintiffs and a new claim that the Bureau of Milwaukee Child Welfare (BMCW) was violating the federal Adoption and Safe Families Act of 1997 (ASFA) by not moving children towards mandated permanent legal placements.

In December 2002, the Court approved a Settlement Agreement, calling for significant systemic reform, including performance measures for expediting permanency for foster children; performance measures governing the investigation and substantiation of abuse-in-care allegations to ensure the safety of children in BMCW; a caseload cap of eleven families for each case manager; and disciplinary action for BMCW case management sites that do not meet 90% compliance with monthly face-to-face visits of foster children by their case manager.

In November 2003, the parties agreed to a minor modification of the settlement, and plaintiffs continued to monitor compliance.

In March 2005, the Settlement Monitoring and Comprehensive Case Review Reports for 2004 were released. The reports documented continuing improvements to the system, as well as growing problems. BMCW submitted a corrective action plan to address non-compliance on six settlement performance measures and related issues: (1) children being subjected to an increasing number of placement moves while in state custody; (2) children not having their adoptions finalized quickly enough; (3) children not being reunified quickly enough; (4) too many children being maltreated while in custody; (5) a spike in caseload averages at one of the case management sites; and (6) lengthy stays in adolescent stabilization and assessment centers.

In July 2005, plaintiffs determined that the proposed action plan was inadequate due to lack of funding to address staff turnover, and submitted the case to binding arbitration. Subsequently, the governor issued an executive order requiring DHFS to budget over \$1.65 million over the next two years for the necessary caseworker retention and training initiatives. Plaintiffs' arbitration submission was resolved amicably.

Plaintiffs continue to monitor monthly progress.

JOSEPH AND JOSEPHINE A. v. BOLSON

(also known as *Joseph and Josephine A. v. Ingram* and *Joseph and Josephine A. v. N.M. Dept. of Human Services*)

FILE NO.,
COURT, AND
DATE FILED: 80-623 JB (D.N.M., July 25, 1980)

CITATIONS: 575 F. Supp. 346 (D.N.M. 1982), *vacated*, 69 F.3d 1081 (10th Cir. 1995), *reh'g denied*, (Dec. 14, 1995), *cert. denied*, 517 U.S. 1190; 262 F.3d 1113 (10th Cir. 2001), *superseded by* 275 F.3d 1253 (10th Cir. 2002)

CLEARINGHOUSE
REVIEW NO.: 31,172

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ISSUES: This action, based on Title IV-E of the Social Security Act, was filed on behalf of children in New Mexico Department of Human Services (DHS) custody who were victims of foster care “limbo.” The case sought to establish their rights to reasonable and fair decision-making with regard to access to adoption, permanence, stability, and a family life.

HISTORY AND
STATUS: The district court ruled that while plaintiff children had no inherent constitutional liberty interest in permanence, stability, or placement for adoption, they may have constitutionally protected due process rights based upon property interests arising from their entitlements under federal or state law.

On September 23, 1983, the court approved a consent decree. The consent decree set forth a detailed scheme for restructuring New Mexico’s foster care system to establish permanent plans for foster children within six months of their entry into care. In addition, the decree contained provisions governing employee

qualifications, social worker training, case planning, caseload size, adoptions, computerized records, citizen review boards, and monitoring of compliance.

Under constant monitoring pressure, DHS increased compliance, and in 1988 sought to be relieved from court supervision. The monitor's January 1991 report revealed serious noncompliance in critical areas. In March 1991, the court held a hearing on two contempt motions. Despite DHS's incorporation of the decree into state regulations, the court ruled that monitoring would continue until DHS had actually institutionalized the reforms in the New Mexico child welfare system.

The parties submitted findings of fact and conclusions of law to the Special Master in Fall 1992. On April 30, 1993, the Special Master found that defendants had substantially complied with the consent decree. On September 14, 1993, the district court adopted the findings of the Special Master and terminated the decree. On June 30, 1994, the court denied plaintiffs' motion for reconsideration.

On July 18, 1994, plaintiffs appealed to the Tenth Circuit. On November 9, 1995, the court ruled in plaintiffs' favor and reinstated the consent decree. The Tenth Circuit denied a petition for rehearing *en banc*, and, on May 13, 1996, the Supreme Court denied defendants' petition for *certiorari*.

In January 1997, on plaintiffs' motion, the Special Master revised his ruling and recommended that the court hold the state agency in contempt. In February 1998, the court entered a stipulated Exit Plan replacing the prior consent decree and setting forth additional improvements. A neutral monitor was appointed whose decisions were final and unappealable during 1998 and 1999. For the first time in this lawsuit, the monitor not only read case records, but also interviewed management and field staff.

After concluding that defendants were not committed to complying with the Exit Plan, plaintiffs filed a motion for contempt in October 1999. In response, defendants filed a motion to dismiss, arguing that the settlement was unenforceable due to Eleventh Amendment sovereign immunity and the doctrine of *Younger* abstention. The district court ruled in defendants' favor dismissing the case. Plaintiffs appealed. The Tenth Circuit Court of Appeals affirmed and reversed in part, dismissing some claims based on the Eleventh Amendment and *Younger* abstention. In response to plaintiffs' petition for rehearing, the court reversed itself and remanded the case to the district court, which reaffirmed the settlement's enforceability.

In September 2003, the court approved a new Stipulated Settlement Agreement that encompassed a memorandum of understanding between the parties focused on finding permanent families for children with the goal of adoption. The agreement created Adoption Resource Teams that will meet with caseworkers to develop adoption plans until the child is adopted.

In November 2003, the court signed a new Stipulated Exit Plan (SEP) based upon the memorandum of understanding the parties signed in September. The SEP was focused on the state's efforts to find adoptive homes and finalize adoptions for children who need to be adopted. External Expert Consultants met with case managers every 60 days in cases where a child's permanency goal is adoption, to ensure adequate efforts are being made to recruit adoptive homes, finalize adoptions, and find permanent families for children who need them.

In February 2005, court oversight ended, and the case was concluded.

JUAN F. v. RELL

(also known as *Juan F. v. O'Neill* and *Juan F. v. Rowland*)

FILE NO.,
COURT, AND

DATE FILED: Civ. No-H-89-859 (D.C. Conn., Dec. 19, 1989); 93-7714 (2d Cir. Oct. 13, 1994)

CITATIONS: 37 F.3d 874 (2d Cir. 1994), *cert. denied*, 515 U.S. 1142 (1995); 2000 WL 3319474 (D.C. Conn. Dec. 22, 2000) (unreported); 2001 WL 263395 (D.C. Conn. Feb. 9, 2001) (unreported); 2004 WL 288804 (D.C. Conn. Feb. 10, 2004) (unreported)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: This class action lawsuit charged that the Connecticut Department of Children and Families (DCF) was grossly underfunded and understaffed, child abuse complaints were not investigated, high caseloads overwhelmed social workers, and the dwindling supply of foster parents were underpaid and inadequately trained.

Plaintiffs brought claims under the reasonable efforts provisions of Title IV-E, the Due Process Clause, and the "right to liberty and family integrity" protected by the First, Ninth, and Fourteenth amendments.

HISTORY AND

STATUS: Shortly after the lawsuit was filed, the court established a mediation panel that

interviewed department employees, examined documents, and held public hearings to determine how to solve DCF's problems. The panel agreed on a settlement in January 1991. Detailed manuals to guide implementation were incorporated into the consent decree in September 1992. Two months later, the court appointed a monitor to oversee implementation of the decree.

In spring 1993, a major obstacle to implementation arose when the legislature severely cut the funding requested by the agency. Plaintiffs invoked the dispute resolution process set forth in the consent decree.

The monitor, after a hearing, found that defendants did not have a plan that would achieve substantial compliance, given the level of funding available. After a hearing in June 1993, the court adopted the monitor's report and recommendations and ordered certain provisions of the consent decree enforced. The Second Circuit rejected defendants' appeal of this order.

In 1995, in response to increased caseloads, plaintiffs and the Court Monitor forced the state to hire an additional 200 social workers. In early 1996, plaintiffs returned to the Court Monitor and to the court to enforce compliance after DCF failed to implement promptly a plan to expand resources such as foster care, day treatment, respite care, and crisis counseling.

In 2000, Ray Sirry assumed the role of Court Monitor. After a number of reports, in February 2002, the parties entered into an agreement intended to allow defendants to exit the consent decree. Nonetheless, in July 2003, the monitor released findings and recommendations that concluded that defendants had failed to comply with the decree in fundamental areas.

On October 7, 2003, the parties agreed to another modification to the decree. The change created a three-person transition task force, composed of the Court Monitor, the Commissioner of DCF, and the Secretary of the Office of Policy Management. Disagreements would be appealed to the governor with the court being the final arbiter. In January 2004, the court approved a Final Exit Plan. The Plan measures defendants' performance based on 22 outcome measures, and anticipates exit by November 2006.

Weeks later, defendants filed a motion for reconsideration, questioning the legality of parts of the Plan. Plaintiffs opposed, and the court denied the motion.

In 2004, the court monitor and task force began implementation of structural changes, including reducing headquarter staff and creating a new system of neighborhood-based service delivery. The legislature also approved 40 million additional dollars for meeting exit plan requirements.

In September and October of 2005, the monitoring structure was further revised by court order, following the resignation of Ray Sirry. Ray Mancuso, the former Deputy Court Monitor, is now the Court Monitor, and continues to report on the state's performance under the Exit Plan. The court's order also created a Technical Advisory Committee consisting of three national experts. This committee advises DCF regarding major problem areas and advises the monitor regarding data collection and methodologies used in reporting the state's compliance. Plaintiffs continue to monitor compliance with the terms of the Exit Plan.

K.J. v. DIVISION OF YOUTH AND FAMILY SERVICES

FILE NO.,
COURT, AND

DATE FILED: L002-895-04 (N.J. Supr. Ct., Camden County, May 26, 2004);
04-3553 (SSB) (D.N.J., Jul. 23, 2004)

CITATIONS: 363 F. Supp. 2d 728 (D.N.J. 2005)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: Three minor brothers filed suit against the State of New Jersey and its Division of Youth and Family Services for allowing them to be “systematically starved” in a state-approved foster home. The suit claimed that defendants failed to monitor adequately the boys’ safety and well-being or provide for their basic needs and treatment while in their care.

HISTORY AND

STATUS: The suit was filed on May 26, 2004, with a simultaneous filing of a petition for appointment of Marcia Lowry, Executive Director of Children’s Rights, Inc., to serve as the children’s advocate. The fourth and oldest brother, who is nineteen years old, was represented separately and filed a separate suit.

On July 23, 2004, the case was removed to federal court. Subsequently, defendants filed motions to vacate Ms. Lowry's appointment as guardian *ad litem* and to dismiss the case. On April 7, 2005, the court ruled that the damages lawsuit could proceed, denying the State's motion to dismiss the federal constitutional claims, statutory claims under the New Jersey Child Placement Bill of Rights, and the state negligence claims.

On October 3, 2005, the state settled with the three younger boys for \$7.5 million. The oldest brother's case was settled separately for \$5 million. The settlement is one of the largest damages awards ever paid by New Jersey.

K.L. v. STATE OF NEW MEXICO

(also known as *J.B. v. Valdez*)

FILE NO.,
COURT, AND
DATE FILED: CIV-93 1350 (D.N.M., Nov. 17, 1993)

CITATIONS: 167 F.R.D. 688 (D.N.M. 1996); 186 F.3d 1280 (10th Cir. 1999), *reh'g and reh'g en banc denied*, (Nov. 3, 1999)

CLEARINGHOUSE
REVIEW NO.: 52,608

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ISSUES: This is a class action lawsuit on behalf of all children in New Mexico with mental and/or developmental disabilities who are in state custody as a result of abuse or neglect, are known to the state due to an abuse/neglect report, have been alleged to be delinquent, or have otherwise been determined by the state to be in need of services. The case challenged the state's failure to provide plaintiffs with appropriate services, care, treatment, education, and access to the judicial system.

Plaintiffs resided in a variety of placements, including: psychiatric hospitals, detention facilities, other highly restrictive settings, relative homes, foster homes, and at home. Many of these children had experienced multiple changes in placement, as well as crises in their families, schools, and communities,

due to lack of appropriate care and treatment.

The case included claims under the Americans with Disabilities Act, the Medicaid/EPSDT statutes, § 504 of the Rehabilitation Act, the National Mental Health Planning Act, and the Individuals with Disabilities Education Act. Plaintiffs sought declaratory and injunctive relief. The case also raised constitutional claims, including substantive due process claims regarding adequate treatment and family integrity, and First and Sixth Amendment claims regarding access to the judicial system.

HISTORY AND STATUS:

In March 1994, plaintiffs moved for class certification, which the court denied on June 26, 1996. In the meantime, the state filed a total of six motions to dismiss, raising numerous issues including failure to state a claim, *res judicata*, collateral estoppel, and abstention.

On April 11, 1997, the court granted the state's motion to abstain, and dismissed the claims of all children who had experienced state abuse/neglect, holding that pursuant to the doctrine of *Younger v. Harris*, the court could not hear these claims. The court also dismissed the claims of children in the delinquency system after the named plaintiffs turned eighteen.

Plaintiffs appealed the dismissal and denial of class certification. On August 12, 1999, the Tenth Circuit affirmed the lower court in a split decision upholding the denial of class certification, and holding that *Younger* abstention was warranted.

On November 3, 1999, plaintiffs' petition for rehearing *en banc* was denied. Plaintiffs decided not to seek *certiorari* to the United States Supreme Court.

KATIE A. v. BONTÁ

FILE NO.,
COURT, AND
DATE FILED: CV-02-05662 (C.D. Cal., July 18, 2002)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: 54,846

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ISSUES: This class action lawsuit was filed against Los Angeles County’s Department of Children and Family Services (DCFS) and California’s Department of Social Services and Department of Health Services to end statutory and constitutional violations of the rights of California’s foster children. The suit challenges these county and state agencies for neglecting their duties to provide necessary and legally mandated health care services to treat the mental health conditions of children. Plaintiffs seek declaratory and injunctive relief under provisions of the

Medicaid Act, the Due Process Clause of the Fourteenth Amendment, the Americans with Disabilities Act, the Rehabilitation Act, and other state statutes. Plaintiffs seek the establishment and implementation of a community-based mental health service delivery system for children in foster care or at imminent risk of out-of-home placement.

**HISTORY AND
STATUS:**

DCFS and plaintiffs entered into negotiations and settled in March of 2003. The settlement commits the county to a number of comprehensive reforms, including improved identification of mental health needs, enhancement of permanency planning, and prompt provision of individualized services designed to promote stability and ensure quality care for children in custody. Plaintiffs also succeeded in committing the county to offering family-based wraparound services to children with mental, emotional, or behavioral issues with the aim of facilitating family reunification and reducing multiple and arbitrary placements. Finally, the settlement mandated the immediate closure of the MacLaren Children's Center and the re-routing of its funding to family- and community-based programs.

Plaintiffs continue to monitor implementation of the settlement agreement with DCFS. On September 15, 2005, plaintiffs invoked the dispute resolution process set forth in the settlement agreement and requested to meet with the county regarding compliance with the terms of the agreement. On October 5, 2005, plaintiffs met with DCFS and other county stakeholders regarding various compliance concerns.

The state agencies did not participate in the settlement. Accordingly, the lawsuit against them is on-going. On June 19, 2003, the Court granted class certification. Fact discovery against the state agencies closed in late 2004. Expert discovery continues, and no deadlines have yet been set by the court. On September 9, 2005, plaintiffs filed a preliminary injunction motion to compel the state agencies to make wraparound services and therapeutic foster care available to all class members on a consistent statewide basis through the Medi-Cal program or other means. A hearing on the motion was set for October 31, 2005. The court has taken the motion under submission.

KENNY A. v. PERDUE

FILE NO.,
COURT, AND
DATE FILED: 02-CV-1686 (N.D. Ga., June 6, 2002)

CITATIONS: 218 F.R.D. 277 (N.D. Ga. 2003); 356 F. Supp. 2d 1353 (N.D. Ga. 2005)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This lawsuit against Georgia's Department of Children and Family Services (DCFS) in Fulton and DeKalb Counties sought to end statutory and constitutional violations of the rights of approximately 3,000 children and to ensure that DCFS provides proper protection and care for these children.

HISTORY
AND STATUS: The conditions in the counties' foster care shelters were so harmful that, on July 1, 2002, the court ordered expedited fact-finding for the DeKalb and Fulton County shelters. On September 9, 2002, plaintiffs filed a motion for preliminary injunction requesting the closure of DeKalb and Fulton County shelters. Discovery began that month on claims concerning the entire system.

At a mid-November 2002 hearing on the motion for preliminary injunction, defendants promised to close both shelters by March 2003. As a result, on December 12, 2002, the court denied plaintiffs' motion for preliminary injunction without prejudice to allow plaintiffs to return to Court if defendants did not close the shelters as promised. The Fulton and DeKalb County shelters closed on

December 27, 2002, and February 14, 2003, respectively.

In addition, defendants instituted a pilot initiative that substantially increases the reimbursement rates for private foster care providers with intentions to expand the project statewide. DeKalb County has also increased the number of attorneys hired to represent foster children by 150%.

On February 8, 2005, the court denied the defendants' motions for summary judgment on plaintiffs' claims of inadequate legal representation in juvenile court proceedings. Significantly, the court ruled that abused children have a constitutional and statutory right to an attorney and to adequate legal representation at every major stage while in state custody.

On July 5, 2005, the parties announced that they had reached a settlement. On October 28 2005, the court approved the settlement following a public fairness hearing. Components of the settlement include: caseload limits, increasing payments to foster parents, guaranteeing ongoing planning processes to meet foster children's needs, finding new homes and other places for foster children to live, preventing overcrowding and warehousing of children, and reducing the amount of time children spend in foster care. Defendants must also meet 31 outcome measures in areas such as timely and thorough investigations of reports of abuse, ensuring frequent visits of foster children by their case workers, ensuring that children are kept in safe and stable foster homes, and ensuring that children are either returned safely to their parents or moved quickly into another permanent home. Under the parties' agreement, two independent joint monitors will provide public reports on defendants' performance every six months. Plaintiffs continue to monitor defendants' compliance with the terms of the settlement agreement.

L.J. v. MASSINGA

FILE NO.,
COURT, AND
DATE FILED:

JH-84-4409 (D. Md., Dec. 8, 1984); 87-2156 (4th Cir. 1988)

CITATIONS:

838 F.2d 118 (4th Cir. 1988), *cert. denied*, 488 U.S. 1018 (1989); 699 F. Supp. 508 (D. Md. 1988); 778 F. Supp. 253 (D. Md. 1991)

CLEARINGHOUSE
REVIEW NO.:

43,403

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ISSUES:

Plaintiffs filed this civil rights action against Maryland's Department of Human Services (DHS) on behalf of approximately 2,500 Baltimore foster children, seeking injunctive relief for class members and damages for the five named plaintiffs.

Plaintiffs based their allegations of widespread, systemic abuses in the Baltimore foster care system in part on a random study that reviewed 149 cases, concluding that 25% of children were likely to have been mistreated in foster care. The study, with other evidence, documented major systemic problems, including inappropriate placement of children; low foster care payments; an insufficient number of homes combined with a lack of recruitment efforts; inadequate health care; failure to train foster parents and caseworkers; infrequent caseworker visits; and failure to provide services to children placed with relatives.

HISTORY AND STATUS:

In July 1987, the federal district court issued a preliminary injunction, and denied defendant's claim of qualified immunity. The Fourth Circuit, in February 1988, upheld the preliminary injunction and affirmed the denial of immunity. The Supreme Court denied defendant's petition for *certiorari*. Shortly thereafter, the state and named plaintiffs agreed to settlements in the damages cases totaling more than \$800,000.

In September 1988, the parties settled the class claims and the court approved a consent decree. The consent decree provided for relief in a wide range of areas including caseload standards; foster parent and caseworker training; provision and monitoring of health care; reporting of suspected abuse or neglect of foster children to child's counsel; and a study of the quality of kinship care provided by relatives with whom the state places children. In October 1991, the court approved the parties' modification of the decree, extending protections to children in kinship care.

Plaintiffs have monitored the decree, but obtaining compliance with numerous provisions has been difficult. On March 5, 2004, DHS submitted its 31st Compliance Report. Recently, defendant has agreed to make additional changes. Plaintiffs are monitoring defendant's efforts to determine whether the department is making good faith efforts toward improvement.

LASHAWN A. v. WILLIAMS

(also known as *LaShawn A. v. Barry* and *LaShawn v. Dixon*)

FILE NO.,
COURT, AND
DATE FILED: 89-CV-1754 (D.D.C., June 20, 1989)

CITATIONS: 762 F. Supp. 959 (D.D.C. 1991), *aff'd.*, 990 F.2d 1319 (D.C. Cir. 1993), *cert. denied*, 510 U.S. 1044 (1994), *appeal after remand*, 69 F.3d 556 (D.C. Cir. 1995), *vacated*, 74 F.3d 303 (D.C. Cir. 1996) (en banc), *reh'g granted*, 87 F.3d 1389 (D.C. Cir. 1996) (en banc), *aff'd.*, 107 F.3d 923 (D.C. Cir. 1996), *cert. denied*, 520 U.S. 1264 (1997)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This civil rights class action was brought on behalf of children placed in foster care under the supervision of the District of Columbia's Department of Human Services (DHS), and abused and neglected children who are (or should be) known to DHS by virtue of abuse or neglect. The complaint charged violations of Title IV-E of the Social Security Act, due process, the District of Columbia Prevention of Child Abuse and Neglect Act of 1977, the Child Abuse Prevention and Treatment Act, and the District of Columbia Youth Residential Facilities Licensor Act of 1986.

HISTORY AND
STATUS: After a trial and a judgment of liability in August 1991, the court approved a negotiated remedial order. The consent decree directed DHS to develop policies and procedures in the areas of protective services; family preservation and preventive services; child placement; case reviews; adoption; staffing

(qualifications, training, and caseload standards); resource development (foster homes, adoptive homes, and community based services); contracts with private providers and agencies; and development of a uniform computerized information system.

In October 1994, in response to plaintiffs' contempt motion, the court ordered the creation of a limited receivership to address specific problems. In 1995, the judge found defendants in contempt of court and granted plaintiffs' request for appointment of a general receiver.

In June 2001, plaintiffs and the court agreed to terminate the receivership for a probationary period (January 2003) in return for additional reforms including DHS's creation of a new agency, the Child and Family Services Agency (CFSA), with cabinet-level control of child welfare matters and consolidated jurisdiction over neglect and abuse cases. DHS also agreed to fund additional lawyers to represent the CFSA in Superior Court and a variety of child welfare reforms.

In May 2003, the monitor issued a post-Receivership Implementation Plan, a comprehensive outline for reform negotiated among plaintiffs, CFSA, the District mayor, and the court monitor. The Plan envisions that by December 2006 defendants will fully comply with the district court's 1991 remedial order.

The monitor continued to assess defendants' progress in 2004 and 2005. At one point during this period, the District failed to maintain an adequate number of attorneys on staff, and this failure apparently led to a severe case backlog for children who had a permanency goal of adoption. CFSA addressed the backlog, and is now required to ensure that such a backlog is not allowed to occur again.

Plaintiffs and the monitor are actively tracking the District's compliance with the Implementation Plan.

LAURIE Q. v. CONTRA COSTA COUNTY

FILE NO.,
COURT, AND
DATE FILED: 96-3483 (N.D. Cal., Sept. 25, 1996)

CITATIONS: 973 F. Supp. 925 (N.D. Cal. 1997); 304 F. Supp. 2d 1185 (N.D. Cal. 2004)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: A class of special-needs foster children, committed to the care and custody of Contra Costa County, alleged that the county failed to comply with provisions of the Social Security Act and misapplied state-set formulae for making foster care maintenance payments required under Title IV-E.

HISTORY AND
STATUS: Plaintiffs filed suit on September 25, 1996. On May 22, 1997, the district court dismissed plaintiffs' claims against the Commissioner of the Social Security Administration for lack of subject matter jurisdiction, leaving only the claims against the County. Plaintiffs filed a second amended complaint on

December 19, 1997. The district court dismissed plaintiffs' second, fourth, and fifth causes of action on August 17, 1998.

On February 17, 2004, the district court ruled on the county's motion to dismiss plaintiffs' remaining claims. The court granted in part and denied in part. The court concluded that the county was not entitled to Eleventh Amendment immunity. However, the judge ruled that *Younger* abstention was warranted on the claim seeking injunctive relief requiring compliance with the Adoption Assistance and Child Welfare Act and that named plaintiffs' claims for prospective injunctive relief were moot because they had been adopted.

In 2005, the individual plaintiffs' claims were resolved for substantial damages, attorneys' fees, and prospective relief.

LOFTON v. SECRETARY OF THE DEPARTMENT OF CHILDREN & FAMILY SERVICES

(also known as *Lofton v. Kearney* and *Lofton v. Butterworth*)

FILE NO.,
COURT, AND

DATE FILED: 99-10058 (S.D. Fla., Key West Division, May 26, 1999)

CITATIONS: 93 F. Supp. 2d 1343 (S.D. Fla. 2000); 157 F. Supp. 2d 1372 (S.D. Fla. 2001),
aff'd., 358 F.3d 804 (11th Cir. 2004), *reh'g en banc denied*, 377 F.3d 1275 (11th
Cir. 2005), *cert. denied*, 125 S. Ct. 869 (2005)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES:

Plaintiffs sued the Attorney General and the Department of Children and Families (DCF) to enjoin them from enforcing a Florida statute prohibiting gays and lesbians from adopting children. Adult plaintiffs include: Lofton, who had been a foster parent of a nine year old almost since birth; Houghton, who had been a legal guardian of a child for several years; Smith and Gilmore, two individuals who wish to adopt but are precluded; and the Bradleys, a married couple who wish to provide for the testamentary guardianship of their minor child by Smith. Child plaintiffs are John Roe and John Doe, the children of Lofton and Houghton.

Plaintiffs sued under the substantive due process and equal protection clauses of the U.S. Constitution.

HISTORY AND
STATUS:

Defendants moved to dismiss plaintiffs' complaint. In 2000, the court granted dismissal in part based on lack of standing. On August 30, 2001, the court granted defendants' summary judgment motion, upholding as constitutional Florida Statute § 63.042(3), which prevents "practicing homosexuals" from adopting children.

Plaintiffs appealed to the Eleventh Circuit Court of Appeals. On January 28, 2004, the Eleventh Circuit upheld the Florida law as constitutional. Plaintiffs applied for a rehearing *en banc*, which was denied in July 2004. In upholding the constitutionality of the law, the court found that (1) there was no fundamental right to adopt or be adopted; (2) there was no fundamental right to homosexual intimacy (under *Lawrence v. Texas*); and (3) homosexuals were not a suspect class for purposes of Equal Protection analysis.

On January 10, 2005, the U.S. Supreme Court declined to hear the case.

M.E. v. BUSH

(also known as *M.E. v. Chiles* and *M.E. v. Williams*)

FILE NO.,
COURT AND
DATE FILED: 90-1008-CIV (S.D. Fla., Apr. 16, 1990)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: 45,828

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ISSUES: Plaintiffs alleged that the Department of Children and Families (DCF) failed to provide necessary therapeutic services for dependent and delinquent children in state custody in violation of federal substantive and procedural due process, the ADA, § 504 of the Rehabilitation Act, Title XIX and Title IV-E of the Social Security Act, and the Juvenile Justice Delinquency Prevention and Treatment Act.

**HISTORY AND
STATUS:**

On March 6, 1992, the court approved a negotiated stipulation staying the litigation pending compliance with certain conditions and implementation of a plan entitled “Building Futures for Florida’s Children.”

In late 1994, the court lifted the stay. In February 1996, plaintiffs filed an updated motion for class certification and a second amended complaint. On April 3, 1997, the court granted plaintiffs’ motion for class certification and denied defendants’ motion for abstention.

On September 3, 1997, plaintiffs filed a third amended complaint and an updated motion for class certification. Defendants again filed a motion to abstain. The court granted certification on January 21, 1998, and denied defendants' motion to abstain on April 9, 1998.

The parties eventually negotiated a settlement. After DCF and the Department of Juvenile Justice audits of 100 files showed sufficient improvement, the settlement became final. The court dismissed the case in November 2003.

M.W. v. DAVIS

FILE NO.,
COURT AND
DATE FILED: 98-3547 (S.D. Fla., Sept. 12, 1998)

M.W. v. Davis, Case No. SC 95, 443 (Florida Supreme Court);

Amendment to the Rules of Juvenile Procedure, Fla. R. Juv. P. 8.350, Case No. SC-00-2044

CITATIONS: 722 So.2d. 966 (Fla. 4th D.C.A. 1999), *reh'g denied*, 729 So.2d. 481 (Fla. 4th D.C.A. 1999), *aff'd*, 756 So.2d 90 (Fla. 2000); *Amendment to the Rules of Juvenile Procedure*, Fla. R. Juv. P. 8.350, 804 So.2d 1206 (Fla. 2001); *Amendment to the Rules of Juvenile Procedure*, Fla. R. Juv. P. 8.350, 842 So.2d 763 (Fla. 2003)

CLEARINGHOUSE
REVIEW NO.: 54,641

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ISSUES: This case addresses whether a foster child in the legal custody of Florida's Department of Children and Families (DCF) is entitled to a hearing under the Florida Mental Health Act, and the due process and right to privacy guarantees of Florida's Constitution before the state commits the child to a long-term, locked psychiatric institution.

HISTORY AND
STATUS: The petitioner, M.W., was in the custody of DCF. On October 27, 1998, by writ of *habeas corpus*, the Fourth District Court of Appeal granted M.W.'s release from a locked psychiatric facility on the grounds of South Florida State Hospital. On defendants' motion for rehearing, rehearing *en banc* and certification, the district court withdrew its earlier opinion and denied the child's relief.

M.W. moved for rehearing, rehearing *en banc*, and certification. The district court denied the motions for rehearing and rehearing *en banc*, but certified as a matter of great importance the following question: "Is a hearing which complies with the requirements of Sections 39.407(4) and 394.467(1), Florida Statutes,

necessary when a court orders that a child be placed in a residential facility for mental health treatment, where the child has been committed to the legal custody of the Department of Children and Family Services and the Department is seeking residential treatment?" M.W. filed in the Fourth District a timely notice to invoke discretionary review by the Florida Supreme Court.

In October 2001, the Florida Supreme Court, by a 6-1 vote, proposed an amendment to the Florida Rules of Juvenile Procedure mandating that foster children must have a "meaningful opportunity to be heard" before the state can commit them to a residential psychiatric facility against their will, including affording legal counsel and a hearing.

On March 6, 2003, the Supreme Court issued its opinion and adopted a final rule, mandating hearings and paid counsel for foster children facing involuntary commitment to psychiatric facilities. The decision is the Court's first recognition that a foster child has the right to be heard through paid appointed counsel, and it may permit reconsideration of an earlier decision that foster children are not constitutionally entitled to counsel.

MARK A. v. WILSON

FILE NO.,
COURT AND
DATE FILED:

CIV-S-98-0041 LKK DAD (E.D. Cal., Jan. 8, 1998)

CITATIONS: None

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: Plaintiffs brought this class action on behalf of all children who are now or will be in foster care in California. Plaintiffs sought declaratory and injunctive relief pursuant to the Due Process Clause and the federal Adoption Assistance Program (AAP).

Plaintiffs attacked defendant's policy of applying a "means" test to an adoptive family to determine whether a child is eligible for an Adoption Assistance payment. Federal law expressly prohibits the use of an income eligibility test. Plaintiffs alleged that the state imposed unlawful restrictions on the availability of funds that provide support to families who adopt foster children. The suit further alleged that defendants terminate AAP support to families arbitrarily and without their agreement. Federal law states that an Adoption Assistance agreement is final once it is signed and can only be modified with the concurrence of the family.

HISTORY AND

STATUS: The state filed a complaint to join the federal Department of Health and Human Services (DHHS) as a third party defendant on February 20, 1998.

The state and plaintiffs filed cross motions for summary judgment on April 23, 1999. On July 14, 1999, DHHS, as a third party defendant, filed a response to the parties' cross motions for summary judgment agreeing with plaintiffs that California utilizes a means test prohibited by federal statute.

The parties filed a Stipulated Settlement on November 2, 1999. As a result of the settlement, there will be no means test used to determine an adoptive family's benefits under the AAP and the adoption assistance benefits will be a negotiated amount based on the needs of the child and the circumstances of the family.

Attorneys for plaintiffs also co-sponsored legislation to implement the settlement. The State has implemented new regulations, and plaintiffs continue to monitor their compliance with the terms of the settlement.

MARISOL v. PATAKI

(also known as *Marisol v. Giuliani*)

COURT AND

DATE FILED: 95-Civ-10533 (S.D.N.Y., Dec. 13, 1995)

CITATIONS:

929 F. Supp. 660 (S.D.N.Y. 1996); 929 F. Supp. 662 (S.D.N.Y.1996), *aff'd*, 26 F.3d 372 (2d Cir. 1997); 104 F.3d 524 (2d Cir. 1996), *cert. denied*, 520 U.S. 1211 (1997); 1998 WL 199927 (S.D.N.Y. Apr. 23, 1998) (unreported); 1998 WL 265123 (S.D.N.Y. May 22, 1998) (unreported); 1998 WL 274472 (S.D.N.Y. May 27, 1998) (unreported); 185 F.R.D. 152 (S.D.N.Y. 1999), *aff'd*, *Joel A. v. Giuliani*, 218 F.3d 132 (2d Cir. 2000); 111 F. Supp. 2d 381 (S.D.N.Y. 2001); 157 F. Supp. 2d 303 (S.D.N.Y. 2001)

CLEARINGHOUSE

REVIEW NO.: 50,954

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ISSUES:

Plaintiffs charged that New York City's failure to care for and protect children in its custody (or those reported to be in danger of abuse and neglect), jeopardized their health, education, safety, stability, permanency, and developmental well-being. The lawsuit sought to reform all aspects of the system.

HISTORY AND

STATUS:

In June 1996, the court certified a class of children in foster care and those reported to be abused or neglected. The court also denied defendants' motion to

dismiss, interpreting children's constitutional right to protection from harm to include harm that results from unnecessary separation from parents and from extended stays in foster care without a permanent family. On September 26, 1997, the Second Circuit affirmed the district court's certification of the plaintiff class and directed that the district judge divide the classes into subclasses for organizational and management purposes.

In July of 1998, the parties began settlement negotiations. Over the objections of would-be intervenors representing a subclass of gay, lesbian, bisexual, and transgender youths in the custody of the city agency, the court approved separate settlement agreements with the city and the state defendants in 1999. On July 13, 2000, the Second Circuit of Appeals affirmed the district court's approval of both the city and state settlement agreements.

The settlement reached by plaintiffs and New York City required the city to use independent outside child welfare experts to guide and assist it in undertaking systemic reform. The advisory panel had complete access to all aspects of the city's child welfare agency, and was empowered to provide recommendations, issue progress reports on the status of the reform effort, and determine whether the city is acting in good faith in implementing systemic reform. The city settlement was successfully concluded in 2001.

Plaintiffs returned to court in January 2001, seeking an order of noncompliance by the state with specific terms of the state settlement agreement. The areas of noncompliance included the failure to implement a statewide child welfare management information system. After an August 2001 evidentiary hearing, the court decided that the state had not acted with sufficient diligence in implementing the information management system, extended the terms of the agreement in this area, and directed that plaintiffs receive semi-annual reports. Plaintiffs continue to monitor implementation of these terms of the state settlement agreement.

MARTIN A. v. GIULIANI

(also known as *Martin A. v. Gross*; consolidated for disposition with *Cosentino v. Perales*)

FILE NO.,
COURT AND
DATE FILED:

24388/85 (Supreme Court of the State of New York, Oct. 18, 1985)

CITATIONS:

138 Misc.2d 212 (1987); 153 A.D.2d 812, 546 N.Y.S.2d 75 (N.Y. 1989); 171 A.D.2d 491, 567 N.Y.S.2d 56 (N.Y. 1991); 194 A.D.2d 195, 605 N.Y.S.2d 742 (N.Y. 1993)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES:

This case was filed on behalf of children who had been reported as victims of abuse or neglect to New York City's Child Welfare Administration (CWA) (now referred to as the Administration for Children's Services), which failed to provide necessary services or to respond quickly and appropriately to reports of child abuse and neglect.

HISTORY AND
STATUS:

This case was consolidated with *Cosentino v. Perales* because plaintiffs in both suits requested that city and state defendants provide sufficient services to enable families to remain together. State statutes and the constitutional right to family integrity formed the core of both actions.

On April 27, 1987, the court granted relief to the named plaintiffs and issued a preliminary injunction directing the city to develop and implement a plan for delivering preventive services consistent with its constitutional and statutory obligations. Defendants appealed the preliminary injunction. On September 29, 1989, the Appellate Division affirmed the preliminary injunction.

Plaintiffs filed four class certification motions between 1986 and 1992. The trial judge rejected all four without prejudice on the grounds that plaintiffs failed to present enough proof that the circumstances of the named plaintiffs exemplified systemic problems.

In 1994, it became apparent that the process of class certification was going to be extraordinarily protracted, so plaintiffs' counsel proceeded with the damages claims for the individual plaintiffs, and withdrew the injunctive issues (which then became part of *Marisol v. Pataki*). The State Supreme Court then decided to separate the cases of each of the families and try them individually.

In 1996, plaintiffs won an award of \$87,500 in the D case, in which three year-old twins were abused after placement in the infirmary of an adolescent group home because there were no adequate programs for children with AIDS.

The G case was brought on behalf of the surviving siblings of Adam Mann, a five year-old who was beaten to death by his parents in 1990 after the city failed to investigate adequately numerous reports that he and his siblings were being abused. The case was ready for trial in mid-summer 1996, when the city appealed pre-trial rulings. The Court of Appeals granted plaintiffs leave to plead claims under both substantive due process and negligence theories.

On August 31, 1999, the Court of Appeals ruled against plaintiffs' claims, but allowed plaintiffs to submit the same claims in the State Supreme Court. Plaintiffs filed five separate amended complaints on behalf of A, B, C, F and G on October 14, 1999. All of these cases settled in 2000.

NICHOLSON v. WILLIAMS

(also known as *Nicholson v. Scopetta*)

FILE NO.,
COURT AND
DATE FILED:

00-CV-2229, 00-CV-5155, 00-CV-6885 (E.D. N.Y., Apr. 17, 2000)

CITATIONS:

205 F.R.D 92 (E.D.N.Y 2001); 181 F. Supp. 2d 182 (E.D.N.Y. 2002),
supplemented by 203 F. Supp. 2d 153 (E.D.N.Y. 2002) and *supplemented and
modified by* 294 F. Supp. 2d 369 (E.D.N.Y. 2003) and 2004 WL 1304055
(E.D.N.Y. Jun. 14, 2004) (unreported); *question certified to state supreme court by*
344 F.3d 154 (2d Cir. 2003), *cert. accepted by* 1 N.Y.3d 538, 807 N.E.2d 283
(N.Y. 2003), *answered by* 3 N.Y.3d 357, 820 N.E.2d 840 (N.Y. 2004)

CLEARINGHOUSE

REVIEW NO.: 54,616

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ISSUES: This case addressed whether the policy of the New York City Administration for Children’s Services (ACS) to remove or threaten to remove children from homes where there is domestic violence violates the constitutional rights (substantive and procedural due process) of the children and/or their mothers. Defendants are ACS, the State of New York, and New York City.

HISTORY AND STATUS: In August 2001, the court certified two subclasses: battered custodial parents (subclass A) and their children (subclass B). In January 2002, the court issued a preliminary injunction finding that the city “may not penalize a mother not otherwise unfit, who is battered by her partner, by separating her from her children; nor may children be separated from their mother, in effect visiting upon them the sins of their mother’s batterer.” The court amended the injunction in January 2002. The municipal defendants appealed. In September 2003, the court of appeal concluded that the City could be held liable for ACS’s unconstitutional actions. The court also certified to New York’s highest court specific questions regarding interpretation of state child welfare law. In November 2003, the Court of Appeals of New York accepted certification and requested briefing and oral argument.

Pursuant to the preliminary injunction, the court also ordered the establishment of a Review Committee consisting of representatives designated by the parties and a committee chairperson. The Committee heard complaints and determined whether the City was complying with the injunction. The Committee was also charged with making suggestions regarding ACS’s policy in child welfare cases involving domestic violence.

The named plaintiffs also requested and received damages in individual federal actions, ranging from \$100,000 to \$300,000 per child. In April 2003, plaintiffs filed an appeal to the Second Circuit, but withdrew the motion one month later.

In October 2004, the Court of Appeals held that an allegation that a child witnessed domestic violence was not sufficient to conclude that the child had been neglected by the child’s parent. In December 2004, the parties settled the case agreeing that the *Nicholson* decision accurately sets forth the law to be followed by ACS. ACS also agreed to establish a procedure for resolving disputes concerning the decision, to investigate any complaints promptly, and to respond to plaintiffs within ten business days.

NORMAN v. MCDONALD

(also known as *Norman v. Suter*, *Norman v. Johnson*, and *Fields v. Johnson*)

FILE NO.,
COURT AND
DATE FILED: 89 C 1624 (N.D. Ill., Feb. 27, 1989)

CITATIONS: 739 F. Supp. 1182 (N.D. Ill. 1990); 930 F. Supp. 1219 (N.D. Ill. 1996)

CLEARINGHOUSE
REVIEW NO.: 44,465

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ISSUES: This class action was filed on behalf of impoverished parents and legal guardians who have lost, are at risk of losing, or cannot regain custody of their children from the Illinois Department of Children and Family Services (DCFS) because they are homeless or unable to provide food or shelter for their children. Plaintiffs alleged that defendants' policies violated provisions of Title IV-E of the Social Security Act, as well as the First and Fourteenth Amendments.

Plaintiffs sought declaratory and injunctive relief challenging the policies and practices of taking and retaining children of impoverished parents; failing to assist parents to secure food, cash, shelter, and other subsistence through coordination of

services; failing to make reasonable efforts at reunification; and abridging the liberty and property interests of parents in retaining custody of their children while requiring them to maintain the means to support themselves and their families.

HISTORY AND STATUS:

Two class members secured a preliminary injunction, requiring defendants to issue sufficient funds to secure housing and utilities, restore Aid to Families with Dependant Children (AFDC) benefits, and identify all other sources of financial assistance.

On March 28, 1992, the court approved a consent decree, providing for detailed policies and development of new programs for cash and housing assistance, and for extensive monitoring. After defendants failed to meet several deadlines, the parties negotiated the scope of the decree, its implementation, and mandated compliance reports.

On March 10, 1995, the parties entered an agreed order to extend the monitor's term for two years, to have DCFS hire a housing specialist to create a system for ensuring that families are reunified speedily, to investigate a new pre-court "screening" to prevent unnecessary removal of children, and to provide for an ombudsperson to resolve individual class member problems. The court reduced the monitoring period to one year. When DCFS refused an extension at the expiration of the monitor's term, plaintiffs filed a motion for continued monitoring and/or declaratory and injunctive relief for noncompliance.

Defendants argued that the decree was unenforceable after *Suter v. Artist M.* absent a finding of contempt. Defendants also argued that DCFS had "substantially complied" with the decree, and, therefore, the court could neither make a finding of contempt nor grant relief. On April 11, 1996, the court ruled against defendants, ordering continued monitoring on limited issues.

Monitoring continued for one year, and the parties entered into a limited out-of-court agreement for continued monitoring. Counsel for plaintiffs continue to work with impoverished parents to ensure that they are able to access *Norman* services.

OFFICE OF THE CHILD ADVOCATE v. ROSSI

(also known as *Office of the Child Advocate v. State of Rhode Island* and *Office of the Child Advocate v. Picano*)

FILE NO.,
COURT AND
DATE FILED: 1:86-cv-00723-L (D. R.I., Nov. 25, 1986)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This lawsuit against the Rhode Island Department for Children and Families (DCF) challenged the practice of placing children in night-to-night placement in emergency shelters for extended periods of time and the failure to make reasonable efforts to reunify children with their families.

HISTORY AND
STATUS: The parties settled this case in September 1988. In October 1989, the parties agreed to an amended consent decree, under which DCF stipulated to place children in night-to-night placement only in unusual emergencies and to provide additional short-term and long-term foster placement facilities.

Several hundred placements were created pursuant to the amended decree. However, on July 12, 2001, due to continued lack of adequate placements, plaintiffs filed a motion to adjudge DCF in contempt. On August 24,

2001, the parties agreed to a Second Amended Consent Decree, which provided that DCF would (1) transport children in temporary placement to their original school; (2) identify, recruit, and train additional foster parents; and (3) rapidly assess adolescents upon their first entry into care.

Because DCF's February 1, 2002 Compliance Report showed that the agency was not meeting its responsibilities under the decree, plaintiffs initiated contempt proceedings on May 2, 2002. DCF responded with a motion to dismiss the suit and vacate the judgment, which the court denied on January 8, 2004.

In May 2004, the parties entered into a stipulation withdrawing plaintiffs' contempt motion. Plaintiffs continue to monitor compliance with the consent decree.

OLIVIA v. SAMUELS

FILE NO.,
COURT AND
DATE FILED: 03 CH 06843 (Apr. 16, 2003)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This action was brought on behalf of over 200 individual abused and neglected children under the guardianship of the Illinois Department of Children & Family Services (DCFS), all of whom have experienced, are experiencing, or will experience multiple placement disruptions because of failed DCFS policies. Plaintiffs have suffered through at least 2,147 separate moves or approximately 7.4 moves per child. Plaintiffs requested injunctive and declaratory relief to order DCFS and DCFS's guardianship administrator to meet their statutory and constitutional obligations under the Illinois Constitution and statutes.

HISTORY AND
STATUS: The complaint was filed on April 16, 2003, in juvenile court. The court heard defendants' motions to dismiss on July 9, 2003. Though the case was dismissed, the court granted plaintiffs leave to file an amended complaint. Plaintiffs filed an amended complaint on September 10, 2003, which the court again dismissed. Plaintiffs' counsel has filed individual lawsuits to address the issues raised by the case, and has generally been successful in getting the requested relief.

OLIVIA Y. v. BARBOUR

FILE NO.,
COURT AND
DATE FILED: 04-CV-251 (S.D. Miss., Mar. 30, 2004)

CITATIONS: 351 F. Supp. 2d 543 (S.D. Miss. 2004)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES:

This class action lawsuit was brought on behalf of 3,000 foster children who are currently in the custody of the Mississippi Division of Family and Children's Services (DFCS) and the thousands more who are improperly diverted from the system. Plaintiffs allege that DFCS placed thousands of foster children in danger and at risk of harm, and has left many thousands more to fend for themselves in abusive and neglectful homes. Pursuant to 42 U.S.C. § 1983, plaintiffs brought equal protection, substantive due process, and procedural due process claims, as well as claims for violation of the Adoption Assistance and Child Welfare Act.

HISTORY AND STATUS:

Plaintiffs filed the complaint in federal court in Jackson, Mississippi on March 30, 2004. Plaintiffs filed an amended complaint on May 17, 2004, after publicity surrounding the initial complaint yielded numerous additional reports of abuse and neglect within the Mississippi foster care system.

On November 18, 2004, the district court denied defendant's motion to dismiss as to the substantive due process claims of the children in state custody. The court dismissed plaintiffs' procedural due process claim, equal protection claim, and claims under the Adoption Assistance and Child Welfare Act.

On March 11, 2005, the court certified a class of all children in DFCS custody. On September 8, 2005, the court granted defendants' motion for a stay of the litigation for 45 days to allow DHS to deal with the devastation in southern Mississippi resulting from Hurricane Katrina. The court extended the stay through January 1, 2006, upon defendants' motion.

PEOPLE UNITED FOR CHILDREN, INC. v. CITY OF NEW YORK

FILE NO.,
COURT AND
DATE FILED: 99-cv-648 (S.D.N.Y., Jan. 29, 1999)

CITATIONS: 1999 WL 799533 (S.D.N.Y. Oct. 7, 1999) (unreported); 108 F. Supp. 2d 275 (S.D.N.Y. 2000); 214 F.R.D. 252 (S.D.N.Y. 2003); 2003 WL 22056930 (S.D.N.Y. Sep. 10, 2003) (unreported)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs, a non-profit organization and African-American parents affiliated with the organization, brought suit against New York City's Administration for Children's Services (ACS) for alleged system-wide deficiencies in the city's administration of its child welfare program. Plaintiffs alleged that ACS unfairly implemented its policy of resolving ambiguous cases in favor of removing the child from the home until the parents could prove that the home was safe. Plaintiffs claimed that the overwhelming majority of parents impacted by this policy were African Americans.

HISTORY AND
STATUS: Plaintiffs filed suit on January 29, 1999, and the parties conducted discovery and filed various motions. Plaintiffs moved for certification of the case as a class action. The court granted this motion on April 21, 2003, but denied class representative status to two proposed individuals. Both parties filed motions for reconsideration. On September 3, 2003, the district court denied both motions.

On October 24, 2005, the court preliminarily approved the settlement reached by the parties. A fairness hearing on the proposed settlement was scheduled for December 2005.

R.C. v. WALLY

(also known as *R.C. v. Petelos*, *R.C. v. Nachman*, *R.C. v. Hornsby*, and *R.C. v. Cleveland*)

FILE NO.,
COURT AND
DATE FILED: 88-D-1170-N (M.D. Ala., 1988)

CITATIONS: 969 F. Supp. 682 (M.D. Ala. June 16, 1997), *affirmed by* 145 F.3d 363 (11th Cir. 1998); 992 F. Supp. 1328 (M.D. Ala. Oct. 28, 1997); 390 F. Supp. 2d 1030 (M.D. Ala. May 13, 2005)

CLEARINGHOUSE
REVIEW NO.: 45,438

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ISSUES: This case challenges the failure of the Alabama Department of Human Resources (DHR) to preserve the families of and provide treatment to children with emotional or behavior disorders. Plaintiffs alleged that the state agency failed (1) to provide plaintiffs and their families with in-home supports and other services needed to preserve family unity; and (2) to provide plaintiffs with appropriate care, treatment, and services after removal from home. Plaintiffs asserted that DHR violated their constitutional rights to family integrity, proper care while in state custody, adequate mental health care, reasonable efforts toward reunification, and freedom from discrimination on the basis of their disabilities in violation of § 504 of the Rehabilitation Act.

HISTORY AND STATUS:

On April 19, 1989, the district court held that plaintiffs had a private right of action to enforce the federal statutory claims. The court also rejected DHR's assertions of qualified immunity and Eleventh Amendment immunity.

In June 1992, the court approved a consent decree that required the creation of a "system of care" run according to principles emphasizing placement prevention, family reunification, permanency, and home-based and community-based services. The system was designed to assist children (1) with emotional or behavioral disorders who are in foster care; (2) with emotional or behavioral disorders who are at imminent risk of foster care placement; and/or (3) at imminent risk of foster care placement who are at high risk of developing emotional or behavioral disorders.

The system of care is required to provide services to these children and their families to protect the children from abuse and neglect, and to enable the children to live with their families, achieve permanency and stability, and become stable, gainfully employed adults pursuant to an individualized service plan. The decree is structured to ensure that family preservation services are provided to most children at imminent risk of foster placement.

An implementation agreement, incorporated into the decree, describes how the state will achieve compliance with the decree through initiatives in staff training, service development, quality assurance, and advocacy for class members and their families. Implementation began in October 1992. Each year, a group of counties representing 15% of the child welfare caseload were targeted for reform. These counties were required to implement fully the consent decree's requirements by the end of their "conversion" year. The goal was full statewide compliance by October 1, 1999. An independent monitor has been overseeing compliance.

By fall 1993, though the first group of counties had achieved progress, obstacles in compliance remained, and the parties negotiated a new consent order to resolve implementation barriers. The new order required hiring senior-level staff, setting caseload standards, creating a resource development plan, reinvesting cost-savings, and improving the system of contracting with private providers.

Plaintiffs' March 1997 contempt motion was resolved with a consent order extending the time for compliance and granting other relief in February 1999. One year later, the court approved an order to ensure that all child welfare workers were appropriately certified and licensed.

In November 2004, defendant filed a motion for an order terminating the consent decree. In May 2005, the court found that DHR had not submitted evidence sufficient to sustain its burden of demonstrating that DHR is and will remain in substantial compliance with the terms of the consent decree and the implementation plan required for termination of the decree. The court ordered DHR to file a performance report in August 2005.

In August 2005, DHR submitted a performance report and a second motion for an order terminating the consent decree. The court requested that the court monitor file a report responding to the assertions in DHR's second motion and plaintiffs' response to that motion by November 18, 2005. Following submission of the monitor's report, the court ordered the monitor to complete an extensive qualitative and quantitative review process to determine the counties' current compliance with the consent decree.

ROE v. OHIO DEPT. OF HUMAN SERVICES

(also known as *Roe v. Staples*)

FILE NO.,
COURT AND
DATE FILED: C-1-83-1704 (S.D. Ohio, Oct. 20, 1983)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: 41,621

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ISSUES: This class action concerns whether children in foster care and their parents received pre-removal and prompt reunification services consistent with their rights pursuant to federal child welfare statutes and the Fourteenth Amendment. Plaintiffs alleged that the Hamilton County Department of Human Services (HCDHS) failed to comply with Title IV-E, and that the Ohio Department of Human Services (ODHS) failed to properly monitor HCDHS's compliance with federal law.

HISTORY AND
STATUS: In 1986, the parties entered into a consent decree requiring a significant improvement in services to Ohio's foster children. The court's order directed HCDHS to (1) develop a timely written case plan for each child, including a discussion of the appropriateness of the placement and the reasonable efforts made by HCDHS to assist the family, (2) implement heightened procedural protections for parents with respect to changes in placement or visitation, and (3) provide a range of preventive and reunification services to children and families. Moreover, the agency was directed to conduct a comprehensive needs assessment and seek funding to address identified service needs.

Plaintiffs entered into a separate consent decree with ODHS, requiring ODHS to issue administrative regulations within 12 months and to implement improved program standards for children's service agencies that would extend the benefits of the settlement with Hamilton County statewide. In 1990, plaintiffs signed a supplementary agreement with the county focusing on service delivery. In February 1990, plaintiffs filed a contempt action against the state resulting in the appointment of a three-person expert panel to oversee the state's compliance. In August 1996, the county defendants agreed to an amended consent decree.

In 2002, defendants filed a motion to modify the consent decree. The court has stayed this motion pending mediation.

ROSALES v. THOMPSON

(also known as *State of California Department of Social Services v. Thompson* and *State of California Department of Social Services v. Shalala*)

FILE NO.,
COURT AND
DATE FILED: CV-990335 (E.D. Cal., Feb. 24, 1999)

CITATIONS: 115 F. Supp. 2d 1191 (E.D. Cal. 2000); *overruled by* 321 F.3d 835 (9th Cir. 2003)

CLEARINGHOUSE
REVIEW NO.: 54,735

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ISSUES: The California Department of Social Services (DSS) brought suit against the federal Department of Health and Human Services (HHS), seeking a judicial determination that pursuant to Title IV-E, children who were AFDC-eligible in a relative's home on the date of removal to state custody are also eligible for federal Aid to Families with Dependent Children Foster Care Program (AFDC-FC) benefits. After the district court dismissed the action, relatives (as foster parents for children) intervened as plaintiffs and appealed.

**HISTORY AND
STATUS:**

On March 3, 2003, the Ninth Circuit ruled in favor of plaintiffs-intervenors, ("intervenors") concluding that under Title IV-E, children who are AFDC-eligible while living with a relative are similarly AFDC-FC eligible upon removal into foster care.

On February 20, 2004, the district court ordered DSS and HHS to pay retroactive AFDC-foster care benefits to intervenors. Subsequently, intervenors filed a motion to compel performance and DSS filed a motion to extend the date by which it was required to issue an All County Letter informing county welfare departments of the procedures and time line for implementing the court's order. On August 16, 2004, the court reaffirmed judgment in favor of intervenors, ordered DSS and HHS to comply with the Ninth Circuit decision, and created a timeline for preparation and approval of the All County Letter and for making payments to intervenors.

SHEILA A. v. WHITEMAN

(also known as *Sheila A. v. Finney*, *Sheila A. v. Haden*, and *J.D.B. v. Barton*)

FILE NO.,
COURT AND
DATE FILED:

No. 89-CV-33 (Dist. Ct. of Shawnee, Kansas, Division 4, Sept. 1, 1990)

CITATIONS: 253 Kan. 793, 861 P.2d 120 (Kan. 1993); 259 Kan. 549, 913 P.2d 181 (Kan. 1996)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: Plaintiffs alleged that the Kansas child welfare system violated Title IV-E, the federal Child Abuse Prevention and Treatment Act (CAPTA), the Federal Due Process Clause, the Kansas Code for Care of Children, and the Kansas Constitution. The Kansas system had a number of serious deficiencies and had the highest recidivism in the country, with children who had been in foster care and were returned to their parents often returning to the system.

HISTORY AND
STATUS:

In January 1989, a Topeka child guardian filed a class action suit (*J.D.B. v. Barton*) against the Kansas Department of Social and Rehabilitation Services (SRS) that focused on lack of adequate placements for children entering foster care. The ACLU Children's Rights Project entered the lawsuit in September 1989 by filing a motion to amend, which added the governor as a defendant and additional named plaintiffs from throughout the state.

Plaintiffs' motion for class certification was granted, and SRS's motion to dismiss was denied. The lower court held that Kansas children can (1) enforce

provisions of Title IV-E in Kansas state court; (2) seek judicial relief under CAPTA, which requires states to respond to reports of suspected abuse or neglect in a timely and adequate manner; and (3) seek relief for violations of the provisions of the Kansas Code for Children.

In June 1992, defendants filed a motion to dismiss plaintiffs' Title IV-E claims, based on *Suter v. Artist M.* The motion was granted in October 1992. Defendant Governor Finney filed a motion to dismiss or for summary judgment on June 15, 1992, which was granted on August 20, 1992. Plaintiffs appealed.

While the appeal was pending, the parties reached a settlement agreement in June 1993. The settlement agreement mandated wholesale changes in the Kansas child welfare system. Implementation of reforms under the settlement began on January 1, 1994. Pursuant to the agreement, an internal departmental quality assurance unit was established to assess compliance and an independent state auditing agency, the Legislative Division of Post Audit, also was charged with conducting ongoing performance audits assessing the Department's compliance with the agreement.

On April 24, 1997, a motion to change the judge was filed. On April 29, 1997, Judge Buchele removed himself from the case. The new judge, Judge Yeoman, appointed a Special Task Force "to facilitate resolution of foster care issues in Kansas."

Because of the State's success in implementing the settlement agreement, the state exited from the agreement on June 30, 2002. SRS and plaintiffs agreed to replace the settlement agreement with internal monitoring from SRS's Quality Assurance Unit. The Unit is responsible for overseeing the quality of SRS's supervision of children.

TIMMY S. v. STUMBO

FILE NO.,
COURT AND
DATE FILED: 80-24 (E.D. Ky., Feb. 19, 1980)

CITATIONS: 537 F. Supp. 39 (E.D. Ky. 1981); 916 F.2d 312 (6th Cir. 1990); 12 F.3d 214 (6th Cir. 1993) (unpublished)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This case was filed on behalf of a seven-year-old child with multiple disabilities and his biological mother and foster parents, alleging the state failed to provide the child with appropriate services, including an adequate foster home. The biological mother found an appropriate foster home, but the state refused placement. The parties sought an administrative hearing. The state refused to provide a hearing and retaliated by closing the foster home.

HISTORY AND
STATUS: As the case progressed, Kentucky changed its system of administrative hearings dramatically. By 1989, the only remaining dispute concerned the right of foster parents to fair hearings. The state argued that foster parents had no such rights.

The district court ruled that foster parents did have a right to hearings under federal statute. Kentucky appealed. In 1990, the United States Court of Appeals affirmed this ruling. In 1992, defendants moved to vacate the order, arguing that the Supreme Court's decision in *Suter v. Artist M.* removed the legal basis for the court's order. The district court denied the motion as untimely. On November 29, 1993, the Sixth Circuit affirmed the district court's denial. This case was dismissed and attorneys' fees awarded on May 2, 1994.

W.R. v. CONNECTICUT DEPARTMENT OF CHILDREN AND FAMILIES

FILE NO.,
COURT AND
DATE FILED: 3:02-CV-00429 (D. Conn., Mar. 8, 2002)

CITATION: 2003 WL 1740672 (D. Conn. Mar. 24, 2003) (unreported); 2004 WL 2377142 (D. Conn. Sep. 30, 2004) (unreported)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs filed this suit on behalf of children with mental and emotional disabilities in custody of the Connecticut Department of Children and Families (DCF). Plaintiffs allege that by denying them community-based residential treatment that meets their special needs, DCF violates their rights under the Americans with Disabilities Act (ADA), Section 504 of the Rehabilitation Act (the Rehabilitation Act), and Connecticut's law and Constitution. Plaintiffs seek injunctive and declaratory relief, as well as money damages (for one named plaintiff).

HISTORY AND
STATUS:

On June 4, 2002, plaintiffs filed an amended complaint. In August, defendants filed a motion to dismiss, arguing that the court should abstain pursuant to the doctrines of *Younger* and *Burford* abstention, that plaintiffs had failed to exhaust administrative remedies, and that money damages were not available. Defendants also argued that they were not liable under the ADA or the Rehabilitation Act.

On March 24, 2003, the court denied most of defendants' motion to dismiss. However, the court dismissed plaintiffs' damages claims.

On September 30, 2004, the court denied without prejudice plaintiffs' motion for class certification. The court rejected plaintiffs' class description as too vague, but left open the possibility of amending the description.

On July 21, 2005, defendants moved for summary judgment. A hearing on defendants' motion has not yet been scheduled.

WARD v. NEAL

(also known as *Ward v. Keller*)

FILE NO.,
COURT AND
DATE FILED: C2-87-1448 (S.D. Ohio, Dec. 10, 1987)
94-1448 (6th Cir. Apr. 27, 1994)

CITATIONS: 774 F. Supp. 439 (S.D. Ohio 1991)

CLEARINGHOUSE
REVIEW NO.: 49,302

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ISSUES: The complaint alleged deficiencies in child welfare services, including: pre-placement services; reasonable efforts to prevent placement; least restrictive placement; lack of fair hearing procedures for parents and other concerned persons to contest the provision, reduction, termination, or adequacy of child welfare services; and inadequate monitoring and supervision of services. The complaint also addressed due process and right to counsel issues in the juvenile court system. Defendants include the state Department of Human Services, Jackson County, and the juvenile court.

HISTORY AND

STATUS: Plaintiffs appealed the court's ruling granting defendants summary judgment on the fair hearing, constitutional, and federal statutory issues to the Sixth Circuit, but voluntarily dismissed the appeal in the face of Sixth Circuit precedent on standing. Plaintiffs settled the class claims with the juvenile court, which agreed to create procedures to protect parents' and other concerned parties' rights. Plaintiffs also reached a settlement with the county defendants providing for an independent review of the local agency. The final report from this review was favorable and resulted in significant improvements in local practice.

After the county prosecutor refused to participate in the settlement in January 1994, the district court concluded that the prosecutors were bound by the terms of the consent decree.

Plaintiffs filed a motion to show cause against the prosecutors for their failure to make good faith efforts to implement the recommendations of the expert evaluation of county children's services activities, conducted pursuant to the terms of the consent injunction with the county. The judge did not rule on this issue and was replaced in the following election. Under the new judge, the court issued new rules in line with state law. Plaintiffs monitored these rules for three years through case reviews and appointments to represent parties in juvenile court. The enforcement period has ended.

Plaintiffs' individual damages claims were settled in early 1994 when the county agreed to pay the Ward family \$45,000.

WARREN v. SAENZ

FILE NO.,
COURT AND

DATE FILED: 317487 (Cal. Supr. Ct., San Francisco County, Dec. 18, 2000)

CITATION: None

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: Plaintiff alleged that the California Department of Social Services (CDSS) violated the Community Care Licensing Act, Health and Safety Code §§ 1500 *et seq.*, by permitting several California counties to house children alleged or adjudicated to be abused or neglected in unlicensed community care facilities. The suit stated that, due to CDSS's failure to comply with the Act, thousands of children each year were subjected to dangerous and detrimental conditions in county-run shelter care facilities, including overcrowding, harsh disciplinary practices, and lack of appropriate care and treatment.

HISTORY AND
STATUS:

Plaintiff filed suit on December 18, 2000, seeking a writ of mandate and injunctive and declaratory relief. On April 17, 2001, the court issued an amended order and statement of decision, finding that defendant has a clear, present, and ministerial duty to require county-operated shelter care facilities to comply with the licensing requirements of the Act. On May 1, 2001, the court issued a writ of mandate, requiring defendant to comply with the Act within a reasonable time.

In July and August 2001, CDSS issued provisional licenses pursuant to Title 22, Cal. Code. Regs. § 84030 for the eight county-operated children's care facilities then in operation.

On March 28, 2002, the parties filed a Stipulated Judgment, settling the remaining due process and equal protection claims. Defendant was required to provide plaintiff with monthly information about the licensing process for each of the eight facilities until each received a regular license, and to notify plaintiff within 10 days of any decision granting or denying a regular license or granting an extension of the provisional license for any of these facilities.

All facilities have received a regular license. Plaintiff continues (1) to monitor compliance with the Community Care Licensing Act and regulations through periodic public records act requests to CDSS and the counties, (2) to track shelter populations, and (3) to identify and address potential licensing violations.

WASHINGTON STATE COALITION FOR THE HOMELESS v. DEPARTMENT OF SOCIAL AND HEALTH SERVICES

FILE NO.,
COURT AND
DATE FILED: 91-2-15889-4 (King Cty. Supr. Ct., July 23, 1991)

CITATIONS: 133 Wn.2d 894 (1997)

CLEARINGHOUSE
REVIEW NO.: 47,062

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ISSUES: The complaint, filed by homeless families with children and the Washington State Coalition for the Homeless, asserted constitutional claims and state and federal statutory claims. The action concerned the state's failure to assist homeless families, including those who need housing assistance to prevent or shorten foster care placement.

HISTORY AND
STATUS: On August 21, 1992, the court granted in part defendants' motion to dismiss plaintiff's federal statutory claims. On December 15, 1992, the court certified a class of all present and future families with homeless children, and all families who needed or would need housing assistance to prevent or shorten their children's foster placement.

On February 16, 1994, the court held that in dependency cases the superior court had the power to order the state agency to provide housing assistance when homelessness is the primary factor for foster placement. The court also held that state law required the agency to implement a plan to assist adequately homeless families.

After a May 31, 1994 trial, the court ruled that the agency's plan was inadequate to address the needs of homeless children. The Department of Social and Health Services (DSHS) appealed the court's final order to submit an adequate plan directly to the Washington Supreme Court. The court heard argument on October 8, 1996.

On December 24, 1997, the Washington Supreme Court affirmed the trial court's decision on all counts, finding that dependency courts have the authority to order DSHS to provide housing assistance to homeless families; that DSHS must

“perform its duty according to professionally accepted procedures and standards”; that an adequate plan must include prevention assistance, emergency shelter assistance, transitional assistance to get children out of shelters and into stable housing, and a process for ongoing monitoring and evaluation; and that DSHS’s planning process must include coordination within DSHS’s divisions and with other state agencies. Washington’s legislature responded to the court’s ruling with legislation codifying the ruling and substantial increases in funding. In 2000, plaintiffs joined the defendants in seeking dismissal of the suit.

WHEELER v. SANDERS

FILE NO.,
COURT AND

DATE FILED: BS089106 (Cal. Supr. Ct., Los Angeles County, Mar. 26, 2004)

CITATIONS: None

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: Plaintiffs' complaint alleged that Los Angeles officials failed to investigate family members before sending children to live with them, thereby endangering children and costing the state millions of dollars in federal funding. The lawsuit sought to enforce compliance with the state statutory mandates agreed to in *Higgins v. Saenz* established to ensure that foster families caring for their relatives' children are certified.

HISTORY AND
STATUS:

Plaintiffs filed suit in December 2003, alleging that Los Angeles County violated state and federal requirements designed to ensure that children are safe because the Los Angeles Department of Children and Family Services (DCFS) failed to approve relative foster homes according to legal standards and to assist relatives in meeting basic health and safety requirements.

The parties settled this case, and are currently awaiting final court approval and dismissal.

WILDER v. BERNSTEIN

(also known as *Wilder v. Sugarman*)

FILE NO.,
COURT AND
DATE FILED: 78 Civ. 957 (S.D.N.Y., June 14, 1973)

CITATIONS: 385 F. Supp. 1013 (S.D.N.Y. 1974) (three-judge court); 499 F. Supp. 980 (S.D.N.Y. 1980); 645 F. Supp. 1292 (S.D.N.Y. 1986), *aff'd*, 848 F.2d 1338 (2d Cir. 1988); 725 F. Supp. 1324 (S.D.N.Y. 1989), *reversed by* 944 F.2d 1028 (2d Cir. 1991), *vacated on rehearing by* 965 F.2d 1196 (2d Cir. 1991), *cert. denied*, 506 U.S. 954 (1992); 1994 WL 30480 (S.D.N.Y. Jan. 28, 1994) (unreported); 153 F.R.D. 524 (S.D.N.Y. 1994), *appeal dismissed by* 49 F.3d 69 (2d Cir. 1995); 975 F. Supp. 276 (S.D.N.Y. 1997), *reconsideration denied by* 982 F. Supp. 264 (S.D.N.Y. 1997); 1998 WL 323492 (S.D.N.Y. Jun. 18, 1998) (unreported); 1998 WL 355413 (S.D.N.Y. Jul. 1, 1998) (unreported)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This class action was filed on behalf of black, Protestant children in need of foster care in New York City. Plaintiffs alleged that religiously-affiliated child care agencies provided foster care services with public funds in violation of the Establishment and Free Exercise Clauses of the First Amendment, and that policies of racial and religious matching of foster children denied equal access to services in violation of the Equal Protection Clause.

HISTORY AND
STATUS: Plaintiffs settled in 1986 after the parties and an intervening group of non-sectarian agencies agreed on a stipulation that mandated widespread reform of New York City's foster care system to improve the quality of services available to all children. In addition to eliminating discrimination and protecting free exercise

rights, the stipulation required professional evaluations of children when they come into care; rational placement of children on a first come, first served basis; a system for ranking the comparative quality of agencies; and “meaningful access” for foster children to family planning and abortion. The district court approved the settlement on April 28, 1987. On June 8, 1988, over the objections of the sectarian agencies, the Second Circuit upheld the settlement.

Plaintiffs filed a contempt motion on July 14, 1993, citing violations of the settlement. An October 1994 evaluation pilot project resolved one portion of the contempt motion. The court declined to hold defendants in contempt with regard to foster children placed with relatives because it found that these children did not come within the scope of the settlement.

In 1996, plaintiffs used the *Wilder* settlement to block the implementation of a poorly planned managed care system unless and until the city could demonstrate that the plan would not harm foster children.

In 1998, the *Wilder* consent decree obligations were incorporated into a court-ordered settlement agreement reached by the same plaintiffs and the same city defendants in *Marisol v. Pataki*. As part of the *Marisol* settlement regarding New York City’s child welfare system, an advisory panel of child welfare experts monitored the *Wilder* obligations and issued recommendations. The city defendants’ settlement in *Marisol* concluded successfully in 2001. Plaintiffs continue to monitor the state defendants’ compliance with the parties’ settlement agreement.

WILLINGHAM v. MCDONALD

FILE NO.,
COURT AND
DATE FILED: 96-00-00120 (Circuit Court of Cook County, Ill., June 6, 1996)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiffs challenged the practices of the Department of Children and Family Services (DCFS) regarding its use of disability benefits collected on behalf of children with disabilities in foster care. Plaintiffs alleged that DCFS breached its fiduciary responsibility by failing to take proper steps to ensure that Supplemental Security Insurance payments were used for the children's benefit.

HISTORY AND
STATUS: After class certification, the parties proceeded to discovery. On July 23, 1999, plaintiffs filed a motion for summary judgment. The parties reached a settlement, which the Court approved in September 2000. There is no on-going compliance monitoring.

YOUAKIM v. MCDONALD

FILE NO.,
COURT AND
DATE FILED: 95-2575 (N.D. Ill., Apr. 28, 1995)

CITATIONS: 926 F. Supp. 719 (N.D. Ill. 1995); 71 F.3d 1274 (7th Cir. 1995), *reh'g and reh'g en banc denied*, (Jan. 17, 1996), *cert. denied*, 518 U.S. 1028 (1996); 171 F.R.D. 224 (N.D. Ill. 1997)

CLEARINGHOUSE
REVIEW NO.: 15,393

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ISSUES: Plaintiffs (foster parents and children who would lose benefits because their homes were not state licensed) challenged the new licensing requirements of the Illinois Department of Children and Family Services (DCFS), which required relatives taking care of foster children to become licensed. Until the relatives became licensed foster parents, children in relative homes would lose foster care benefits. Plaintiffs alleged the requirements violated the original judgment in *Miller v. Youakim*, 440 U.S. 125 (1979), Title IV-E of the Social Security Act, and the Due Process Clause.

HISTORY AND
STATUS:

The district court enjoined the director of DCFS from terminating benefits, and the director appealed. On December 6, 1995, the Seventh Circuit held that due process requires that the governmental agency provide current recipients the opportunity to establish eligibility under the new standards before eliminating their benefits. Defendant's motions for rehearing *en banc* and *certiorari* were denied. The court entered final judgment requiring compensatory payments to all class members.

DAMAGES CASES

AISHA W. v. AUNT MARTHA'S YOUTH SERVICES CENTER

FILE NO.,
COURT AND

DATE FILED: 00 L 5825 (Circuit Court of Cook County, Ill., Sept. 12, 2000)
1-03-2661

CITATIONS: Unpublished opinion

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: Three-year-old Aisha and her six-year-old brother were placed in a non-relative foster home. Defendants were the social services agency and the assigned case worker. Plaintiffs brought negligence claims alleging that during the four and half month plaintiffs were placed in the foster home, defendants failed to visit them on a monthly basis, failed to speak to the children outside of the presence of their foster parents, and failed to provide the children with the services they required, in violation of DCFS and Aunt Martha's policies and procedures. As a result, defendants never discovered that plaintiffs were being horribly abused, neglected, starved, and, in the case of Aisha, sexually assaulted by her foster parents.

HISTORY AND
STATUS:

At a trial in June 2003, the jury returned a verdict for defendants. In December 2004, plaintiffs won a reversal in the appellate court, and in May 2005, the Illinois Supreme Court refused to hear the case. In July 2005, the parties reached a six-figure settlement.

APOSTOL v. AUNT MARTHA'S YOUTH SERVICES CENTER

FILE NO.,
COURT AND
DATE FILED: 00 L 10433 (Circuit Court of Cook County, Ill., Sept. 12, 2000)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: The public guardian filed this negligence case against a social service agency that placed two children in the foster home of a convicted drug dealer. Plaintiffs were the Cook County Administrator on behalf of the estate of William Jackson and the public guardian as next friend for Develle W. Less than five weeks after placement, two-year-old William was burned to death in a bathtub full of scalding hot water. His younger brother was also horribly abused. Both boys had been severely malnourished. In violation of state law and professional work practices, no one from the agency visited the children during the five weeks they lived in the foster home.

HISTORY AND
STATUS: In September 2003, the parties entered into a high six-figure settlement.

BRAAM v. STATE OF WASHINGTON

FILE NO., COURT

AND DATE FILED: 98-2-01570-1 (Wash. Supr. Ct., Whatcom County, Nov. 3, 1998)

CITATIONS: 81 P.3d 851 (Wash. 2003)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES:

This case was originally brought by thirteen current and former foster children against the State of Washington, the Department of Social and Health Services (DSHS), and the Secretary of DSHS seeking damages for injuries plaintiffs suffered as a result of the state's practice of shuttling them from one foster home and facility to another. In March 2000, the court approved the filing of a Second Amended Complaint in which plaintiffs added claims on behalf of a class of foster children moved to three or more placements while in the state's custody. Plaintiffs alleged in their complaint that federal statutes require that whenever a foster child's placement is changed that (1) the child be afforded procedural safeguards and (2) the child's case plan be amended to reflect the reasons for the

change and how the new placement meets the child's needs. The class sought relief under provisions of Title IV-E, the Due Process Clause of the Fourteenth Amendment, and numerous state statutes and regulations.

**HISTORY AND
STATUS:**

In May 2001, the court granted defendants' motion for partial summary judgment, holding that plaintiffs were not entitled to the procedural protections they sought. The court also dismissed the damages claims under 42 U.S.C. § 1983 against DSHS and the Secretary, but retained the state law claims in support of the damages action.

In late September 2001, the parties agreed to settle the individual plaintiffs' claims for monetary damages. Defendants have agreed to pay \$1.3 million dollars to the 13 individually named plaintiffs. Each child received \$100,000 placed in trust to meet his or her needs for counseling, education, housing, job training, or other useful services.

BOGUTZ v. STATE OF ARIZONA

FILE NO.,
COURT AND
DATE FILED: CV94-04159 (Az. Supr. Ct., Maricopa County., Oct. 1993)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: 42,317

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ISSUES: Plaintiffs filed this action on behalf of (1) a class of all present and future foster children (Class A) and (2) a subclass of children who entered state custody after January 1, 1986, and who suffered sexual abuse in foster care (Class B). The case sought injunctive relief on behalf of the class, and damages for the subclass. Plaintiffs sought to remedy the high instance of neglect, abuse, and sexual molestation of children in foster care, and the state's failure to provide a wide variety of preventative, reunification, and other permanency services. The complaint included constitutional substantive and procedural due process, state statutory, and state tort claims. The case has also raised concerns regarding the state's inherent conflict in opposing the claims of the foster children it must protect, while representing the state employees who harmed the children in their care.

HISTORY AND
STATUS:

Plaintiffs filed this case as a consolidated action on behalf of 36 families. In June 1994, the court ordered plaintiffs to file an amended complaint. In the amended complaint, plaintiffs abandoned all claims on behalf of parents and added class-action allegations.

In 1996, the court appointed University of Arizona Law School Professor Winton Woods as Special Master and charged him with determining whether the state could use its own record-keeping system to identify Class B children so that

they could be compensated monetarily. The Special Master determined that the State's Central Registry System would identify only eighty percent of the abused children (about 210 children). The court ordered discovery, which identified another 92 children who may have been abused. Due to some overlap between the two figures, the number of abused children remained 210.

The court denied class certification for Class A in 1997, but indicated that it might reconsider the issue. Certification for Class B on the issues of duty and standard of care was subsequently denied. In 2000, plaintiffs filed a special petition seeking the Arizona Supreme Court's grant of *certiorari* of a class action. Plaintiffs' petition was denied on June 1, 2004. Subsequently, individual cases were tried by various lawyers with varying results.

K.H. v. DORSEY

FILE NO.,
COURT AND
DATE FILED: 94-C-2157 (Circuit Court of Kanawha Co., W.V., 1994)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This damages lawsuit was brought on behalf of a child against the Department and the individual caseworker alleging that plaintiff had been returned to her father's custody despite defendants' knowledge that she had again been sexually abused by him while in the custody of the Department, and where she was subsequently sexually abused by him when returned to his custody. The issues revolved around statute of limitations; application of equitable estoppel to the statute of limitations; constitutional claims in light of *De Shaney v. Winnebago County DSS*; absolute, qualified, and quasi judicial immunity; and res judicata.

HISTORY AND
STATUS: After a three-week trial, the jury returned a positive verdict in the amount of \$1,250,000 in emotional distress damages.

LETISHA v. MORGAN

FILE NO.,
COURT AND
DATE FILED: 93 J. 4643 (N.D. Ill., Oct. 21, 1993)

CITATIONS: 855 F. Supp. 943 (N.D. Ill. 1994)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: After the James Bank Group Home closed pursuant to the state court class action in *Letisha A. v. Morgan*, eleven children filed this companion case in federal court. Defendants were the state officials responsible for placing the children in the home and for monitoring the children's treatment in the home, the private corporation that owned the home, and various personnel employed by the home. Pursuant to 42 U.S.C. § 1983, the children alleged violations of their substantive due process rights to an adequate and safe placement under the Fourteenth Amendment against the state defendants. Plaintiffs also alleged tort violations under state law against the private defendant.

HISTORY AND
STATUS: After litigation of defendants' motions to dismiss and other pre-trial matters, the case proceeded to discovery. Subsequently, a federal magistrate mediated a settlement agreement for a substantial monetary sum.

MABEL A. v. WOODARD

FILE NO.,
COURT AND
DATE FILED: 97-C-1634 (N.D. Ill., Mar. 11, 1997)

CITATIONS: 1998 WL 42316 (N.D. Ill. Jan. 29, 1998) (unreported); 1998 WL 214711 (N.D. Ill. Apr. 24, 1998) (unreported)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: This is a civil rights case against a DCFS case manager alleging that the case manager took no action in the face of knowledge that foster care children were being abused and neglected. One of the child plaintiffs suffered third degree burns on the soles of his feet.

HISTORY AND
STATUS: The case was tried to a jury in May of 2001. The jury returned a verdict of \$3,300,000 on behalf of plaintiffs in May of 2001. Subsequently, the parties settled the matter.

MARTIN A. v. GIULIANI

(also known as *Martin A. v. Gross*; consolidated for disposition with *Cosentino v. Perales*)

FILE NO.,
COURT AND
DATE FILED:

24388/85 (Supreme Court of the State of New York, Oct. 18, 1985)

CITATIONS: 138 Misc.2d 212 (1987); 153 A.D.2d 812, 546 N.Y.S.2d 75 (N.Y. 1989); 171 A.D.2d 491, 567 N.Y.S.2d 56 (N.Y. 1991); 194 A.D.2d 195, 605 N.Y.S.2d 742 (N.Y. 1993)

CLEARINGHOUSE

REVIEW NO.: None

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ISSUES: This case was filed on behalf of children who had been reported as victims of abuse or neglect to New York City's Child Welfare Administration (CWA) (currently referred to as the Administration for Children's Services), which failed to provide necessary services or to respond quickly and appropriately to reports of child abuse and neglect.

HISTORY AND
STATUS:

This case was consolidated with *Cosentino v. Perales* because plaintiffs in both suits requested that city and state defendants provide sufficient services to enable families to remain together. State statutes and the constitutional right to family integrity formed the core of both actions.

On April 27, 1987, the court granted relief to the named plaintiffs and issued a preliminary injunction directing the city to develop and implement a plan for delivering preventive services consistent with its constitutional and statutory

obligations. Defendants appealed the preliminary injunction. On September 29, 1989, the Appellate Division affirmed the preliminary injunctions.

Plaintiffs filed four class certification motions between 1986 and 1992. The trial judge rejected all four of these motions without prejudice on the grounds that plaintiffs failed to present enough proof that the circumstances of the named plaintiffs were systemic problems.

In 1994, it became apparent that the process of class certification was going to be extraordinarily protracted, so plaintiffs' counsel proceeded with the damages claims for the individual plaintiffs, and withdrew the injunctive issues (which then became part of *Marisol v. Pataki*). The State Supreme Court then decided to separate the cases of each of the families and try them individually.

In 1996, plaintiffs won an award of \$87,500 in the D case, in which three year old twins were abused after placement in the infirmary of an adolescent group home because there were no adequate programs for children with AIDS.

The G case was brought on behalf of the surviving siblings of Adam Mann, a five-year-old who was beaten to death by his parents in 1990 after the city failed to investigate adequately numerous reports that he and his siblings were being abused. The case was ready for trial in midsummer 1996, when the city appealed pre-trial rulings. The Court of Appeals granted plaintiffs leave to plead claims under both substantive due process and negligence theories.

On August 31, 1999, the Court of Appeals ruled against plaintiffs' claims, but allowed plaintiffs to submit the same claims in State Supreme Court. Plaintiffs filed five separate amended complaints on behalf of A, B, C, F and G on October 14, 1999. All of these cases settled in 2000.

NICHOLSON v. WILLIAMS

(also known as *Nicholson v. Scopetta*)

FILE NO.,
COURT AND
DATE FILED:

00-CV-2229, 00-CV-5155, 00-CV-6885 (E.D. N.Y., Apr. 17, 2000)

CITATIONS:

205 F.R.D 92 (E.D.N.Y 2001); 181 F. Supp. 2d 182 (E.D.N.Y. 2002),
supplemented by 203 F. Supp. 2d 153 (E.D.N.Y. 2002) and *supplemented and
modified by* 294 F. Supp. 2d 369 (E.D.N.Y. 2003) and 2004 WL 1304055
(E.D.N.Y. Jun. 14, 2004) (unreported); *question certified to state supreme court by*
344 F.3d 154 (2d Cir. 2003), *cert. accepted by* 1 N.Y.3d 538, 807 N.E.2d 283
(N.Y. 2003), *answered by* 3 N.Y.3d 357, 820 N.E.2d 840 (N.Y. 2004)

CLEARINGHOUSE

REVIEW NO.: 54,616

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ISSUES:

This case addressed whether the policy of the New York City Administration for Children's Services (ACS) of removing or threatening to remove children from

homes where there is domestic violence violated the constitutional rights (substantive and procedural due process) of the children and/or their mothers. Defendants are ACS, the State of New York, and New York City.

**HISTORY AND
STATUS:**

As part of this class action lawsuit, named plaintiffs also requested and received damages in individual federal actions, ranging from \$100,000 to \$300,000 per child. In April 2003, plaintiffs filed an appeal to the Second Circuit, but withdrew the motion one month later.

S.S. v. MCMULLEN

FILE NO.,
COURT AND
DATE FILED: 4:97-cv-00608-SOW (W.D. Mo., Apr. 27, 1997)

CITATIONS: 186 F.3d 1066 (8th Cir. 1999), *rev'd en banc*, 225 F.3d 960 (8th Cir. 2000), *cert. denied*, 532 U.S. 904 (2001)

CLEARINGHOUSE
REVIEW NO.: None

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ISSUES: Plaintiff, an eight-year-old girl, alleged that three employees of the Missouri Division of Family Services violated her substantive due process right to be reasonably safe from harm. The agency placed plaintiff in her father's custody knowing that he associated with a convicted pedophile. Shortly after plaintiff was placed in her father's custody, that individual sexually assaulted her. Plaintiff argued that the state-created danger theory applies such that the agency employees had a duty to protect her, and they affirmatively placed her in a position of danger that she otherwise would not have faced.

HISTORY AND
STATUS: Plaintiff child brought a § 1983 action against state employees for placing her in her father's custody. The district court dismissed the case, and plaintiff appealed. In July 1999, the Eighth Circuit Court of Appeals reversed. However, in September 1999, the judgment was vacated and rehearing *en banc* was granted. After an *en banc* reversal, plaintiff applied for and was denied a writ of *certiorari* to the United States Supreme Court.

TWO FORGOTTEN CHILDREN v. STATE OF FLORIDA

FILE NO.,
COURT AND
DATE FILED: 95-19835 CA27; 96-05980 (S.D. Fla., Aug. 1995)

CITATIONS: None

CLEARINGHOUSE
REVIEW NO.: None

ATTORNEYS FOR
PLAINTIFFS: Karen Gievers
524 E. College Avenue, Suite 2
Tallahassee, FL 32301
(850) 222-1961

ISSUES: This civil action for damages was brought by two foster children (sisters) against the State for their excessive length of stay (more than 13 years), denial of family, separation from each other, and being subjected to rapes, beatings, psychotropic medications, excessive force, restraints, and isolation.

HISTORY AND
STATUS: The case was filed in August 1995. A jury trial ensued in October 1999, resulting in a verdict in plaintiffs' favor. A total judgment of \$4,425,000 was entered on October 22, 1999. All post trial motions were denied.

Defendants appealed the verdict in 2000, and the appellate court vacated. The case settled in late 2003, with each plaintiff receiving \$260,000.

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A.S.W. v. Mink; Angela R. v. Huckabee; Baby Neal v. Ridge; Bonnie L. v. Bush; Brian A. v. Hattaway; Brown v. Kearney; E.F. v. Scafidi; LaShawn A. v. Williams; Sheila A. v. Whiteman; Timmy S. v. Stumbo; Ward v. Neal; Washington State Coalition for the Homeless v. DSHS

Qualified Immunity; *see* under Immunity

Receiver, Appointment of

LaShawn A. v. Williams

Referees; *see* Special Masters

Regulations, Resolution of case or issues by

Booraem v. Orange Co.; Joseph and Josephine A. v. DHS; Mark A. v. Wilson; Roe v. Ohio DHS

Removal

K.J. v. Division of Youth and Family Services; Kenny A. v. Perdue

Settlements & Consent Decrees

Consent Decrees

Angela R. v. Huckabee; Bonnie L. v. Bush; Aristotle P. v. Samuels; B.H. v. Samuels; Baby Neal v. Ridge; Bates v. McDonald; Brian A. v. Hattaway; Charlie and Nadine H. v. Codey; David C. v. Huntsman; Emily J. v. Weicker; Eric L. v. Bird; Freeman v. Scoppetta; G.L. v. Stangler; Higgins v. Saenz; Hill v. Erickson; Jeanine B. v. Doyle; Joseph and Josephine A. v. DHS; Juan F. v. Rell; Katie A. v. Bontá; Kenny A. v. Perdue; L.J. v. Massinga; LaShawn A. v. Williams; M.E. v. Bush; Marisol v. Pataki; Mark A. v. Wilson; Norman v. McDonald; Office of the Child Advocate v. Rossi; R.C. v. Wally; Roe v. Ohio DHS; Sheila A. v. Whiteman; Ward v. Neal; Warren v. Saenz; Wilder v. Bernstein; Willingham v. McDonald

Damages, Settlement of claims for

Aisha W. v. Aunt Martha's Youth Services Center; Apostol v. Aunt Martha's Youth Services Center; Braam v. Washington; L.J. v. Massinga; Letisha v. Morgan; Martin A. v. Giuliani; Two Forgotten Children v. State of Florida; Ward v. Neal

Expiration; *see* Termination

Modification/Extension

Angela R. v. Huckabee; Aristotle P. v. Samuels; B.H. v. Samuels; Baby Neal v. Ridge; Brian A. v. Hattaway; David C. v. Huntsman; Emily J. v. Weicker; Eric L. v. Bird; G.L. v. Stangler; Jeanine B. v. Doyle; Juan F. v. Rell; L.J. v. Massinga; Marisol v. Pataki; Norman v. McDonald; Office of the Child Advocate v. Rossi; Roe v. Ohio DHS

Monitoring, *see* Monitoring of Relief

Policy Change, Resolution of Case or Issues by

Hill v. Erickson; Timmy S. v. Stumbo

Regulations, Resolution of Case or Issues by

Booraem v. Orange Co.; Joseph and Josephine A. v. DHS; Mark A. v. Wilson; Roe v. Ohio DHS

Termination

Angela R. v. Huckabee; G.L. v. Stangler; Joseph and Josephine A. v. DHS; M.E. v. Bush; Sheila A. v. Whiteman

Voluntary dismissal

Washington State Coalition for the Homeless v. DSHS

Sovereign Immunity; *see* Immunity

Special Masters & Referees

Bates v. McDonald; Bogutz v. Arizona; Cosentino v. Perales; Joseph and Josephine A. v. DHS

“State-Created Danger” Theory

K.H. v. Dorsey; R.C. v. Wally; S.S. v. McMullen

Stays of proceedings

Braam v. State of Washington; E.F. v. Scafidi; M.E. v. Bush

Sanctions

Aristotle P. v. Samuels

Summary Judgment

Defendants—denied

Baby Neal v. Ridge; Brown v. Kearney; Cosentino v. Perales; L.J. v. Massinga; M.E. v. Bush; Martin A. v. Giuliani; R.C. v. Wally; Sheila A. v. Whiteman; Ward v. Neal

Defendants—granted

Baby Neal v. Ridge; Belcher-Dixon v. Saenz; Braam v. State of Washington; Brown v. Kearney; Cosentino v. Perales; Lofton v. Secretary of the Department of Children and Family Services; Sheila A. v. Whiteman; Ward v. Neal

Plaintiffs—denied

Brown v. Kearney

Plaintiffs—granted

Washington State Coalition for the Homeless v. DSHS

Plaintiffs—pending

Willingham v. McDonald; W.R. v. Connecticut Department of Children and Families

Suter issues; *see* Private right of action

Trials

Braam v. State of Washington; Dupuy v. Samuels; K.H. v. Dorsey; Guardianship Estate of Keffeler v. Washington State; G.L. v. Stangler; Joseph and Josephine A. v. DHS; LaShawn A. v. Williams; Mabel A. v. Woodard; Marisol A. v. Giuliani; Norman v. McDonald; Rosales v. Thompson; Two Forgotten Children v. Florida; Washington State Coalition for the Homeless v. DSHS

Venue issues

Bogutz v. Arizona