

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK, PART 62

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D.B., E.M., L.R., T.M., ON BEHALF OF
THEMSELVES AND ALL OTHERS
SIMILARLY SITUATED,

Plaintiffs,

Index. No. 402759/11
Justice Wright

-against-

**ORDER AND FINAL
JUDGMENT**

RONALD E. RICHTER, in his official capacity as
Commissioner of The New York City Administration for
Children's Services, and THE CITY OF NEW YORK

Defendants.
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WHEREAS, Plaintiffs commenced the instant lawsuit on October 17, 2011 in the Supreme Court of the State of New York, County of New York (the "Action"), alleging that Defendants violated and continue to violate New York law by unlawfully discharging youth from foster care to homelessness or other housing conditions deemed unsuitable under applicable New York law and regulations; failing to provide youth with assistance in identifying and securing adequate post-foster care housing; and failing to provide post-discharge supervision until the youths' 21st birthdays;

WHEREAS, the parties have entered into a proposed Stipulation and Order of Settlement (the "Stipulation"), setting forth the terms of a proposed settlement of the Action (the "Settlement"), which was submitted to and preliminarily approved by the Court on November 17, 2011 in accordance with Article 9 of New York Civil Practice Law and Rules (the "CPLR");

WHEREAS, on November 17, 2011, the Court entered a Preliminary Approval and Scheduling Order (the “November 17 Order”), which, among other things, certified the Class (as defined below), certified the Class representatives (as defined below), and preliminarily approved the Settlement as fair, reasonable, and adequate, and in the best interest of the Class; and

WHEREAS, the Court has read and considered the Stipulation and the submissions by the parties, and the parties to the Stipulation have consented to certification of the Class (as defined below) and entry of this Order and Final Judgment.

NOW, THEREFORE, this ____ day of _____, 2012, upon application of the parties:

IT IS HEREBY ORDERED that:

1. Unless otherwise defined herein, all defined terms shall have the meanings as set forth in the Stipulation.

2. The Court reconfirms that the Class (as defined below) satisfies each of the prerequisites to a class action set forth in CPLR § 901. Specifically, the Court reconfirms that the Class satisfies CPLR § 901(a)(1) because the Class is comprised of hundreds of young people every year, and thus is so numerous that joinder of all members is impracticable. Based on the annual reports of the New York City Administration for Children’s Services (“ACS”), approximately 800-1,100 children are discharged with a permanency goal of “another planned permanent living arrangement” in any given year. The Class changes in size, as young people enter and leave foster care but, at any given time, the Class comprises hundreds of youth. There are questions of fact and law common to all members of the Class sufficient to satisfy CPLR § 901(a)(2), including whether Defendants have (1) failed to carry out their duties to assist Plaintiffs in locating and securing

appropriate housing alternatives and to supervise all Plaintiffs until they turn age 21, and/or (2) engaged in a pattern and practice of discharging Plaintiffs into homelessness or to other inadequate housing conditions. The claims of the named representatives of the Class are typical of the claims of absent members of the Class in that they all arise from the same allegedly wrongful course of conduct and are based on the same legal theories, thereby satisfying CPLR § 901(a)(3). The parties are not aware of any conflicts among members of the Class, and Plaintiffs' counsel are well-regarded and accomplished counsel with extensive experience litigating class actions and various litigations on behalf of young people in foster care. Accordingly, Plaintiffs are adequate representatives of the Class and their counsel will fairly and adequately represent the interests of the Class, thereby satisfying CPLR § 901(a)(4). The Action satisfies CPLR § 901(a)(5) as it is superior to all other available methods for the fair and efficient adjudication of this controversy. The prosecution of separate actions by individual members of the Class would create a risk of inconsistent adjudications which would establish incompatible standards of conduct for Defendants, and, as a practical matter, the disposition of this Action will influence the disposition of any pending or future identical cases brought by other members of the Class.

3. For the reasons set forth herein, the Court reconfirms that the Action is properly certified as a class action, pursuant to CPLR §§ 901, 902, and 903 on behalf of a class consisting of any and all youth in New York City, (1) who either (a) are currently between 17 and 21 years old, inclusive, and who either currently are in, or formerly were in, the custody of Defendants, or (b) are over 21 years old but remain in foster care pursuant to an exception to policy; and (2) who (a) have been discharged or will be discharged from foster care without a residence other than a shelter for adults, shelter for families, single-room occupancy hotel or any other congregate living arrangement

which houses more than 10 unrelated persons and without a reasonable expectation that the residence will remain available to the child for at least the first 12 months after discharge; or (b) have not been provided, are not being provided, or will not be provided with appropriate assistance, as mandated by New York law, in foster care in identifying and securing adequate post-foster care housing as defined in subsection (2)(a) above; and/or (c) have been finally discharged from foster care, but have not been supervised, consistent with the requirements of New York Social Services Law § 398(6)(h) and 18 N.Y.C.R.R. § 430.12(f)(4)(i)(b), until their 21st birthdays.

4. The Court reconfirms the certification of Plaintiffs D.B., E.M., L.R., and T.M. as the Class representatives, and The Legal Aid Society and Lawyers For Children as Class Counsel.

5. The Class has been given notice of the Settlement pursuant to and in the manner directed by the November 17, 2011 Order; proof of the notice provided to the Class has been filed with the Court; and full opportunity to be heard has been offered to all parties, the Class, and persons in interest. The form and manner of the notice is hereby confirmed to have been the best notice practicable under the circumstances and to have been given in full compliance with each of the requirements of Article 9 of the CPLR, due process, and applicable law, and it is further determined that all members of the Class are bound by the Order and Final Judgment herein.

6. The proposed settlement is approved, pursuant to Article 9 of the CPLR, as fair, reasonable, and adequate, and in the best interest of the Class. The parties to the Stipulation are hereby authorized and directed to comply with and to consummate the Settlement in accordance with its terms and provisions, and the clerk is directed to enter and docket this Order and Final Judgment in the Action.

7. The Court adopts, and incorporates by reference, the Stipulation and Order of Settlement preliminarily approved on November 17, 2011.

8. This Court has jurisdiction over the subject matter of the Action, including all matters necessary to effectuate the Settlement and this Final Judgment and over all parties to the Action.

9. The Action is hereby dismissed on the merits. Upon the Effective Date of the Settlement, the parties' obligations, rights and responsibilities under the Stipulation and the Stipulation's terms and conditions, shall commence. Also upon the Effective Date, and binding on all Defendants and their successors, members of the Class, on behalf of themselves, and their past or present legal representatives shall release and forever discharge, and shall forever be enjoined from prosecuting, any claims asserted in the Complaint against any of the Defendants, subject to paragraphs 9, 21, and 24 through 28 of the Stipulation.

10. Without affecting the finality of this Order and Final Judgment in any way, this Court retains jurisdiction over all matters relating to the administration and consummation of the Settlement and all parties hereto for the purpose of construing, enforcing, and administering the Settlement.

New York, NY

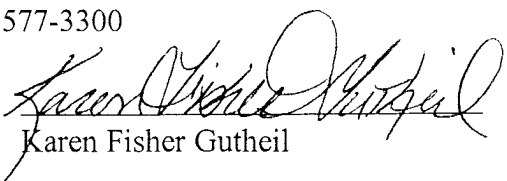
SO ORDERED:

Date: _____

The Hon. Geoffrey D. Wright

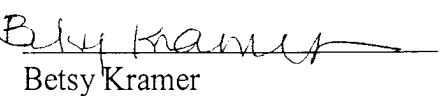
Jointly Executed on March 20, 2012, and Submitted by the Parties:

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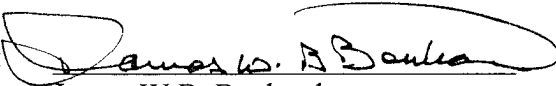
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Counsel to Plaintiffs

New York, NY

SO ORDERED

Date: 3/29/12

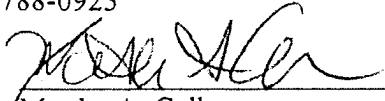
GEOFFREY D. WRIGHT

The Hon. Geoffrey D. Wright

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