

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

J.H., by and through his mother and next friend,  
N.H.; I.B., by and through his parents and next  
friends, A.B. and I.B., on behalf of themselves  
and all others similarly situated,

Plaintiffs-Petitioners,

-against-

JOHN BEL EDWARDS, et al.,

Defendants-Respondents.

CIVIL ACTION NO. 3:20-cv-00293-JWD-  
EWD

CLASS ACTION

**PLAINTIFFS-PETITIONERS' MOTION PURSUANT TO FEDERAL RULE OF CIVIL  
PROCEDURE 23(D)**

NOW INTO COURT COME Plaintiffs-Petitioners in the above-captioned matter, through undersigned counsel, who move this Honorable Court to compel Defendants-Respondents to provide putative class members with reasonable confidential telephonic or video access to Plaintiffs-Petitioners' counsel.

This motion is brought pursuant to Fed. R. Civ. P. 23(d). Under Rule 23(d), district courts have broad discretion to fashion appropriate orders governing the conduct of parties in class action litigation. For the reasons set forth in Plaintiffs-Petitioners' Memorandum in Support of this Motion, putative class members have an established right to a reasonable opportunity to seek and receive the assistance of attorneys, including Plaintiffs-Petitioners' counsel, and Defendants-Respondents have employed obstructive tactics to prevent putative class members from so contacting Plaintiffs-Petitioners' counsel. Plaintiffs accordingly respectfully request that this Court order Defendants to provide all putative class members with immediate and ongoing access to communicate confidentially with Plaintiffs' counsel by video

or telephone. Specifically, Plaintiffs request that this Court order Defendants to 1) provide Plaintiffs' counsel with a process by which counsel can reliably schedule phone calls with specific clients or class members, and 2) allow all putative class members the ability to affirmatively access Plaintiffs' counsel through the secure phone line that has already been set up and funded through the Securus Technologies system.

Respectfully submitted this 19th day of June, 2020.

/s/ Mercedes Montagnes

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*Attorneys for Plaintiffs*

### **CERTIFICATE OF SERVICE**

I hereby certify that on June 19, 2020, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the court's electronic filing system.

/s/ Nishi Kumar

Nishi Kumar, La. Bar No. 37415

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

J.H., by and through his mother and next friend,  
N.H.; I.B., by and through his parents and next  
friends, A.B. and I.B., on behalf of themselves  
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Plaintiffs-Petitioners,

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CIVIL ACTION NO. 3:20-cv-00293-JWD-  
EWD

CLASS ACTION

**MEMORANDUM IN SUPPORT OF MOTION PURSUANT TO FEDERAL RULE OF  
CIVIL PROCEDURE 23(D)**

**INTRODUCTION**

Defendants continue to deny many of the confined children in OJJ's four secure care facilities the opportunity to communicate confidentially with legal counsel. Throughout the course of this litigation, Defendants have obstructed putative class members from contacting Plaintiffs' counsel, or at the very least, have been dilatory and evasive in facilitating the request for the children to do so. Plaintiffs' counsel has repeatedly requested that Defendants permit the children to call Plaintiffs' counsel through the use of a secure phone line from OJJ's four secure care facilities. Despite Defendants' initial promise that OJJ was working diligently to open up Plaintiffs' counsel's secure phone line, and raising no policy objection to arranging the requested attorney communication possible, Defendants have now made an about-face and taken the position that the putative class members have no right to access Plaintiffs' counsel and will not be permitted to do so until the Court grants Plaintiffs' motion for class certification.

Consequently, Plaintiffs respectfully request that OJJ be ordered immediately to provide putative class members with reasonable confidential telephonic or video access to Plaintiffs' counsel.<sup>1</sup>

### **FACTUAL BACKGROUND**

Plaintiffs filed their class action complaint on May 14, 2020. Since then, OJJ has repeatedly stalled and obstructed Plaintiffs' counsel's attempts to communicate with current clients and putative class members. On or around April 30, 2020, Plaintiffs' counsel set up a secure phone line through an existing paid account with Securus Technologies, the prepaid calling system used by the OJJ facilities, in order to: provide children the opportunity to speak with Plaintiffs' counsel about the facts underlying this litigation; facilitate the flow of pertinent, real-time information about the conditions within OJJ's secure care facilities; and engage additional clients as appropriate. At the May 20, 2020 Telephone Conference, counsel for Plaintiffs advised the Court that, despite it being established, the children in the facilities had not been permitted to access the designated phone line. The Court thus instructed the parties to discuss as part of their meet and confer conversations. During phone conversations with Defendants' counsel *approximately a month ago* – on May 21 and May 22 – Plaintiffs' counsel requested that the children be able to call the secure phone line through the existing Securus phone system in order to access counsel. Butler Snow responded that they would talk to OJJ to address the issue and Plaintiffs' counsel indicated they would confirm there were no issues with the Securus Technologies account or phone number. Butler Snow also indicated in those calls with Plaintiffs' counsel that a phone line had been previously authorized by OJJ through Securus Technologies for the nonprofit law office Louisiana Center for Children's Rights ("LCCR") and confirmed that that account was open and working.

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<sup>1</sup> In light of the ongoing COVID-19 pandemic, Plaintiffs' counsel does not at this time seek in-person visitation with the children.

Accepting Butler Snow's representations at face value, Plaintiffs' counsel waited while assuming OJJ was working to resolve the issue. Plaintiffs' counsel simultaneously took the initiative to coordinate with LCCR to add Plaintiffs' counsel's secure phone line to its account. By May 27, 2020, Securus Technologies confirmed that Plaintiffs' counsel's secure phone line had been successfully added to LCCR's valid, current, and funded account. Nevertheless, putative class members at all four facilities thereafter have reported through their parents that although they have attempted to contact Plaintiffs' counsel on the secure phone line through the Securus Technologies system, they were blocked from doing so.

On May 28, 2020, administrative staff for Plaintiffs' counsel spoke telephonically with a representative from Securus Technologies about the secure phone line. The Securus Technologies representative informed that staff member that the secure phone line was in working order and that the above-reported access issues were the result of OJJ restricting phone access.

On Saturday, May 30, just four days before the hearing on Plaintiffs' Motion for a TRO and after repeated attempts to resolve the issues with the secure phone line, Plaintiffs' counsel again contacted Butler Snow by email requesting an update on the secure phone line and requesting that OJJ coordinate special telephonic meetings with two putative class members who had been attempting to contact Plaintiffs' counsel on the secure phone line: D.M. and H.C.<sup>2</sup> After several follow up emails from Plaintiffs' counsel, Butler Snow permitted Plaintiffs' counsel to directly set up phone calls with D.M. and H.C. through staff and on staff phone lines at the OJJ facilities.

On the evening of Sunday, May 31, H.C. was allowed to call Plaintiffs' counsel for the

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<sup>2</sup> Ex. 2 at 1-3, May 30, 2020 Email from Nishi Kumar to Kyle Miller and Lem Montgomery.

first time, but OJJ limited this call to just 15 minutes. Neither Plaintiffs' counsel nor H.C. had any advance notice of this call, and OJJ provided no assurances to H.C. or counsel that the call was private. Worse still, Plaintiffs' counsel was prohibited from speaking to H.C. for any length of time until Tuesday, June 2, thereby preventing Plaintiffs' counsel from presenting live testimony from H.C., and instead necessitating that they offer H.C.'s declaration dated June 2, 2020 at the hearing on Plaintiffs' Motion for a TRO.<sup>3</sup> Plaintiffs' counsel spoke to D.M. for the first time on Monday June 1 and was permitted one additional call on Tuesday June 2.<sup>4</sup>

Plaintiffs' counsel contacted Butler Snow by email again on June 1 in an attempt once and for all to resolve the ongoing issues with Plaintiffs' counsel's secure phone line.<sup>5</sup> In their response, rather than reiterate its previous assurances that the phone line had been approved and that OJJ was working on it, Defendants' counsel replied, bafflingly, that "no request has been sent from Securus to OJJ to have a hotline established."<sup>6</sup> Butler Snow added further—for the first time—that "OJJ has agreed to add [Plaintiffs' counsel's phone number] for I.B. and J.H. because those are the two named plaintiffs" and instructed that other "[a]ny other Youth that wants to contact you should complete the [attorney request] form and have you added to their contact list."<sup>7</sup> Of course, Plaintiffs' counsel have since attempted to have children do just that through communications with those parents with whom counsel are in touch. Yet, as OJJ is well aware, Plaintiffs' counsel has no direct access to the children until in-person visitation is resumed or phone call access is provided.

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<sup>3</sup> See June 3, 2020 TRO Hearing Tr. Part 1 at 100:6-102:2 (sustaining Defendants' objection to the admissibility of the declaration of H.C. dated June 1, 2020).

<sup>4</sup> Plaintiffs' counsel additionally requested calls with Named Plaintiffs I.B. and J.H., which were never provided. See Ex. 1 at 9, June 2, 2020 Email from Nishi Kumar to Kyle Miller and Lem Montgomery.

<sup>5</sup> *Id.* at 11, June 1, 2020 Email from Laura Aronsson to Kyle Miller and Lem Montgomery.

<sup>6</sup> *Id.* at 10, June 1, 2020 Email from Kyle Miller to Laura Aronsson, et al.

<sup>7</sup> *Id.*

Plaintiffs' counsel's two follow-up emails on June 2 and June 4 went unanswered.<sup>8</sup> On June 16, Plaintiffs' counsel again informed Butler Snow by email that children were still unable to affirmatively contact Plaintiffs' counsel through the secure phone line set up through the Securus system.<sup>9</sup> Plaintiffs' counsel stated clearly that "[w]e understand your position that the children should seek to have us added to an approved contact list for attorneys, and some of them have attempted to go through that process, but what we are separately requesting is that the Securus phone line be accessible for all children who are seeking to reach us, as previously requested."<sup>10</sup> Butler Snow instead directed Plaintiffs' counsel once again to "provide [] the names of [our] clients" so that they could "confirm that [our] name and number have been added to the phone list."<sup>11</sup> Plaintiffs' counsel then sent over the names of eleven children that they know had been trying to contact them, but as of filing have yet to receive a single call from any one of those children.<sup>12</sup>

On June 19, 2020 Plaintiffs' counsel again reached out to Butler Snow telephonically in a final attempt to resolve the dispute. Butler Snow responded—for the first time—that OJJ did not in fact need to permit the children access to Plaintiffs' counsel's secure phone line because these children were merely "putative" class members. Plaintiffs' counsel again explained to Butler Snow that which Butler Snow and OJJ already knew: the children cannot affirmatively contact Plaintiffs' counsel in any manner whatsoever because OJJ has blocked the children from calling that number through the Securus system.

Plaintiffs bring this motion because Defendants' cycle of delay and obfuscation must

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<sup>8</sup> *Id.* at 7-9, June 2, 2020 and June 4, 2020 Emails from Nishi Kumar to Kyle Miller and Lem Montgomery.

<sup>9</sup> *Id.* at 6, June 16, 2020 Email from Nishi Kumar to Kyle Miller and Lem Montgomery.

<sup>10</sup> *Id.*

<sup>11</sup> *Id.* at 4, June 18, 2020 Email from Kyle Miller to Nishi Kumar et al.

<sup>12</sup> *Id.* at 3, June 18, 2020 Email from Nishi Kumar to Kyle Miller and Lem Montgomery.



stop. OJJ and its counsel are well aware that the children cannot list Plaintiffs' counsel on their attorney call lists *unless and until* the children are able to have some contact with Plaintiffs' counsel in the first instance. As a consequence of Defendants' improper foreclosing of this avenue of communication, Plaintiffs' counsel is unable to speak with putative class members or other witnesses to the true conditions within the four OJJ facilities at issue in this case. This Court has the power to remedy the situation. *See, e.g., Tellis v. LeBlanc*, No. 18-CV-0541, [2019 WL 1103420](#) (W.D. La. Mar. 8, 2019).

### ARGUMENT

Under [Federal Rule of Civil Procedure 23\(d\)](#), district courts have broad discretion to fashion appropriate orders governing the conduct of parties in class action litigation. [Fed. R. Civ. P. 23\(d\)](#); *In re Nissan Motor Corp. Antitrust Litig.*, [552 F.2d 1088, 1102](#) (5th Cir. 1977) (Rule 23(d) authorizes district courts to “enter whatever orders are necessary to the conduct of the action”). Courts routinely order defendants to provide class counsel reasonable access to contact detained putative class members. *See, e.g., Tellis*, [2019 WL 1103420](#), at \*1–2 (“[T]he interests of justice are best served by allowing Plaintiffs' counsel reasonable access for in-person confidential interviews with members of the proposed class.”). This is particularly true in a class action where there exists a “potential for abuse,” *Gulf Oil Co. v. Bernard*, [452 U.S. 89, 100](#) (1981), and it is even more important in the incarceration context where there is a significant imbalance of power. *See generally Tellis*, [2019 WL 1103420](#), at \*1–2; *Olson v. Brown*, No. 4:09-CV-AS-PRC, [2009 WL 799531](#), at \*2–3 (N.D. Ind. Mar. 23, 2009) (permitting plaintiffs' counsel to contact prisoner putative class members).

Putative class members, including incarcerated putative class members, have a First Amendment right to a “reasonable opportunity to seek and receive the assistance of attorneys,”

*Procunier v. Martinez*, [416 U.S. 396, 419](#) (1974), *overruled on other grounds by Thornburgh v. Abbott*, [490 U.S. 410](#) (1989), including the right to consult attorneys, *Cassels v. Stalder*, [342 F. Supp. 2d 555](#) (M.D. La. 2004) (finding disciplining an incarcerated person for their family member’s attempt to retain legal counsel to be an unconstitutional restriction); *Tellis*, [2019 WL 1103420](#), at \*2. In analyzing access to counsel in this context, courts have generally considered “the interests of justice,” including “the unique features of [the] litigation” and “the characteristics of the members of the proposed class.” *Tellis*, [2019 WL 1103420](#), at \*2.

Here, the “unique features of [the] litigation” and the “[c]haracteristics of the members of the proposed class” weigh heavily in favor of relief. *Id.* The putative members of the proposed class—children in OJJ’s custody—are entirely at the mercy of OJJ, even under ordinary circumstances. During the unprecedented COVID-19 pandemic, they have been isolated even further from the outside world. Putative class members have had no access to in-person visitation since March, so they cannot (as would normally be the case) provide information to Plaintiffs’ counsel through such in-person visitation. And, as OJJ and its counsel clearly understand, it is impossible for the children to know to add Plaintiffs’ counsel to their attorney call list without the opportunity to affirmatively contact Plaintiffs’ counsel in the first instance.<sup>13</sup> These factors weigh heavily in favor of ordering immediate access to telephonic or video communication with class counsel. *See id.*

The burden on Defendants is non-existent. Indeed, courts have ordered “reasonable *in-person* visits of Plaintiffs’ counsel.” *Id.* Here, Defendants need only coordinate with Securus Technologies to approve a single phone number to the children’s call lists across the facilities. If

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<sup>13</sup> Due to the ongoing lack of access, Plaintiffs’ counsel is also unable to obtain consent to submit Third-Party ARPs on behalf of the children who are over the age of 18. Because these children are over the age of 18, their parents cannot consent to their signature; the child must consent.

there is a technical issue with Securus Technologies, Defendants can simply direct Securus Technologies to resolve the issue. Plaintiffs' counsel will pay for the calls through their existing Securus account. Accordingly, the Court should exercise its discretion under the unique circumstances presented here to order Defendants to provide all putative class members with immediate and ongoing access to communicate confidentially with Plaintiffs' counsel by video or telephone.

### CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that this Court order Defendants to provide all putative class members with immediate and ongoing access to communicate confidentially with Plaintiffs' counsel by video or telephone. Specifically, Plaintiffs request that this Court order Defendants to 1) provide Plaintiffs' counsel with a process by which counsel can reliably schedule phone calls with specific clients or class members, and 2) allow all putative class members the ability to affirmatively access Plaintiffs' counsel through the secure phone line that has already been set up through the Securus Technologies system.

Respectfully submitted this 19th day of June, 2020.

/s/ Mercedes Montagnes  
Mercedes Montagnes, La. Bar No. 33287  
Nishi Kumar, La. Bar No. 37415  
Rebecca Ramaswamy, *pro hac vice*  
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Mariam Kamran, *pro hac vice*  
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*Attorneys for Plaintiffs*

### **CERTIFICATE OF SERVICE**

I hereby certify that on June 19, 2020, a copy of the foregoing was filed electronically with the Clerk of Court using the CM/ECF system. Notice of this filing will be sent to all counsel of record by operation of the court's electronic filing system.

/s/ Nishi Kumar  
Nishi Kumar, La. Bar No. 37415

**Aronsson, Laura S.**

---

**From:** Nishi Kumar <NKumar@defendla.org>  
**Sent:** Friday, June 19, 2020 6:23 PM  
**To:** Kyle Miller  
**Cc:** Aronsson, Laura S.; Lem Montgomery; Sarnoff, Stuart M.; mlevick@jlc.org; jnadcock@gmail.com  
**Subject:** Re: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

[EXTERNAL MESSAGE]

Thank you, Kyle. We appreciate that update.

My question below was not in reference to the previous request regarding the 11 children trying to add us to their attorney call lists.

Did OJJ indicate whether they will stop blocking the 200-plus children in the facilities from calling PJI through the Securus system - the "paid call system" as you referred to it earlier today?

Thank you,

**Nishi Kumar**  
Director of Civil Litigation  
The Promise of Justice Initiative  
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On Jun 19, 2020, at 5:14 PM, Kyle Miller <Kyle.Miller@butlersnow.com> wrote:

We had a call with the client this afternoon. They are checking with the facilities to ascertain whether the Youth you have identified have requested to have the phone number added and, if so, the status of same. I'll let you know what I hear.

**Kyle V. Miller**  
**Butler Snow LLP**

D: (601) 985-4514 | F: (601) 985-4500  
1020 Highland Colony Parkway, Suite 1400, Ridgeland, MS 39157  
P.O. Box 6010, Ridgeland, MS 39158-6010

[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com) | [vCard](#) | [Bio](#)

<image001.png>

[Twitter](#) | [LinkedIn](#) | [Facebook](#) | [YouTube](#)

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**From:** Nishi Kumar <NKumar@defendla.org>  
**Sent:** Friday, June 19, 2020 4:52 PM  
**To:** laronsson@omm.com  
**Cc:** Kyle Miller <Kyle.Miller@butlersnow.com>; Lem Montgomery <Lem.Montgomery@butlersnow.com>; ssarnoff@omm.com; mlevick@jlc.org; jnadcock@gmail.com  
**Subject:** Re: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

Hi Kyle and Lem,

Hope you are well. Do you have a response from your client to our request that they stop blocking all of the kids in the facilities from calling PJI through the securus phone system, as discussed on our call this morning?

Thank you,

Nishi Kumar  
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On Jun 18, 2020, at 3:24 PM, Aronsson, Laura S. <[laronsson@omm.com](mailto:laronsson@omm.com)> wrote:

Thanks, Kyle. Let's please speak at 11am CT tomorrow.

Laura S. Aronsson  
O: +1-212-728-5841  
M: +1-802-578-3431

[laronsson@omm.com](mailto:laronsson@omm.com)

---

**From:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>  
**Sent:** Thursday, June 18, 2020 2:55 PM  
**To:** 'Nishi Kumar' <[NKumar@defendla.org](mailto:NKumar@defendla.org)>; Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** Sarnoff, Stuart M. <[ssarnoff@omm.com](mailto:ssarnoff@omm.com)>; [mlevick@jlc.org](mailto:mlevick@jlc.org); [jnadcock@gmail.com](mailto:jnadcock@gmail.com); Aronsson, Laura S. <[laronsson@omm.com](mailto:laronsson@omm.com)>  
**Subject:** RE: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

[EXTERNAL MESSAGE]

Sorry. I'm not available this afternoon. But can generally be available after 10:30 a.m. tomorrow. Just let me know what works for you.

**Kyle V. Miller**  
**Butler Snow LLP**

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<[image001.png](#)>

[Twitter](#) | [LinkedIn](#) | [Facebook](#) | [YouTube](#)

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**From:** Nishi Kumar <[NKumar@defendla.org](mailto:NKumar@defendla.org)>  
**Sent:** Thursday, June 18, 2020 11:54 AM  
**To:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>; Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** [ssarnoff@omm.com](mailto:ssarnoff@omm.com); [mlevick@jlc.org](mailto:mlevick@jlc.org); [jnadcock@gmail.com](mailto:jnadcock@gmail.com); [laronsson@omm.com](mailto:laronsson@omm.com)  
**Subject:** RE: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

Hi Kyle,

Can we get on a call today to discuss the Securus line? We are available any time after 3 pm CST.

The children we know have tried or are trying to add 908-283-1525 to their attorney call list are:

[REDACTED]. There may be others that we do not know about yet because of the obstacles to access.

Best,

Nishi Kumar  
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**From:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>  
**Sent:** Thursday, June 18, 2020 9:38 AM  
**To:** Nishi Kumar <[NKumar@defendla.org](mailto:NKumar@defendla.org)>; Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** [ssarnoff@omm.com](mailto:ssarnoff@omm.com); [mlevick@jlc.org](mailto:mlevick@jlc.org); [jnadcock@gmail.com](mailto:jnadcock@gmail.com); [laronsson@omm.com](mailto:laronsson@omm.com)  
**Subject:** RE: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

Why don't you provide me with the names of your clients, and I'll work to confirm that your name and number have been added to the phone list.

I'm not sure what the standard policy is for Youth to schedule calls with their attorneys, but when I ask to confirm the addition of your name and number, I'll also ask about the scheduling protocol.

**Kyle V. Miller**  
**Butler Snow LLP**

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**From:** Nishi Kumar <[NKumar@defendla.org](mailto:NKumar@defendla.org)>  
**Sent:** Wednesday, June 17, 2020 10:36 PM  
**To:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>; Lem Montgomery



<[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>

**Cc:** [ssarnoff@omm.com](mailto:ssarnoff@omm.com); [mlevick@jlc.org](mailto:mlevick@jlc.org); [jnadcock@gmail.com](mailto:jnadcock@gmail.com); [laronsson@omm.com](mailto:laronsson@omm.com)

**Subject:** RE: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

Hi Kyle,

Thanks for your response. Our most updated information is that our clients have tried or are trying to add PJI's number to their attorney phone lists. We have not yet received any calls so I don't yet have the answers to either of your two questions. Is OJJ putting it on the children to seek out and ask staff members if they can call PJI once the numbers are added to the lists? Or can we instead put in and schedule calls for them?

You again have not responded to my question on the Securus line, which not only would allow for our retained clients to access us during their normal phone time without having to seek out staff members, but also allows for putative class members to seek legal representation, which they have an affirmative right to do. Please set up a call as soon as possible with your client to discuss what process is necessary for OJJ to unblock and allow calls to PJI at 908-283-1525 using the Securus system. Per our June 1st email on this topic, we plan to petition the Court if this issue is not resolved this week.

Best,

Nishi Kumar  
Director of Civil Litigation  
The Promise of Justice Initiative  
[www.justicespromise.org](http://www.justicespromise.org)  
[nkumar@defendla.org](mailto:nkumar@defendla.org)  
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<[image002.jpg](#)>

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---

**From:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>

**Sent:** Tuesday, June 16, 2020 6:42 PM

**To:** Nishi Kumar <[NKumar@defendla.org](mailto:NKumar@defendla.org)>; Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>

**Cc:** [ssarnoff@omm.com](mailto:ssarnoff@omm.com); [mlevick@jlc.org](mailto:mlevick@jlc.org); [jnadcock@gmail.com](mailto:jnadcock@gmail.com); [laronsson@omm.com](mailto:laronsson@omm.com)

**Subject:** RE: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

Please see my prior email below on this request. Any Youth who you represent should complete the required form to have you added to their contact list as their attorney. After this process is completed, the Youth will be able to contact you directly on the

number that the Youth provides. Has any Youth attempted to do add you (or any member of your team) and either (1) not been allowed to have you added or (2) been unable to contact you after being added?

**Kyle V. Miller**  
**Butler Snow LLP**

D: (601) 985-4514 | F: (601) 985-4500  
1020 Highland Colony Parkway, Suite 1400, Ridgeland, MS 39157  
P.O. Box 6010, Ridgeland, MS 39158-6010  
[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com) | [vCard](#) | [Bio](#)

[<image001.png>](#)

[Twitter](#) | [LinkedIn](#) | [Facebook](#) | [YouTube](#)

---

**From:** Nishi Kumar <[NKumar@defendla.org](mailto:NKumar@defendla.org)>  
**Sent:** Tuesday, June 16, 2020 6:37 PM  
**To:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>; Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** [ssarnoff@omm.com](mailto:ssarnoff@omm.com); [mlevick@jlc.org](mailto:mlevick@jlc.org); [jnadcock@gmail.com](mailto:jnadcock@gmail.com); [laronsson@omm.com](mailto:laronsson@omm.com)  
**Subject:** RE: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

Hi Kyle and Lem,

I hope this email finds you both well. I am raising to your attention yet again our ongoing issues accessing the children in the OJJ facilities. Aside from the calls with H.C. and D.M. that were set up through the alternative means in the few days before the June 3 TRO hearing, we have not been able to reach the children or have them reach us through the Securus phone system, despite us repeatedly asking you to bring this to your client's attention. This has been a concern we raised on multiple calls and in emails dating back to mid-May. In the weeks that followed, children in all four facilities have repeatedly tried to reach us using Securus and have been prevented from doing so. We again request that you set up a time for us to meet with your client and figure out what the problem is or we will have to bring this issue to the Court's attention. We understand your position that the children should seek to have us added to an approved contact list for attorneys, and some of them have attempted to go through that process, but what we are separately requesting is that the Securus phone line be accessible for all children who are seeking to reach us, as previously requested. As I stated before, I have never encountered an issue with someone trying to contact anyone at my office on a Securus phone line from any other prison or jail that uses that system.

Best,

Nishi Kumar  
Director of Civil Litigation  
The Promise of Justice Initiative  
[www.justicespromise.org](http://www.justicespromise.org)  
[nkumar@defendla.org](mailto:nkumar@defendla.org)  
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---

**From:** Nishi Kumar  
**Sent:** Thursday, June 4, 2020 7:57 PM  
**To:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>; [laronsson@omm.com](mailto:laronsson@omm.com); Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** [ssarnoff@omm.com](mailto:ssarnoff@omm.com); [mlevick@jlc.org](mailto:mlevick@jlc.org); [jnadcock@gmail.com](mailto:jnadcock@gmail.com)  
**Subject:** Re: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

Hi Kyle and Lem,

Hope you are well. Can we get on a call tomorrow with whatever OJJ staff you think is necessary after we are done with Court to figure out the phone line issue? I need to know if there is anything they could possibly need from our end to get the 908 number approved so we can ensure we have access to our clients. At least one child tried calling again today and wasn't able to get through for the same blocking issues we flagged weeks ago.

Could you also send me the email addresses for the ARP coordinators at Swanson Monroe and Swanson Columbia? If you would prefer for me to reach out directly to your clients for this information, I am happy to do so.

Thank you,

Nishi Kumar  
Director of Civil Litigation  
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[nkumar@defendla.org](mailto:nkumar@defendla.org)  
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On Jun 2, 2020, at 12:21 AM, Nishi Kumar  
<[NKumar@defendla.org](mailto:NKumar@defendla.org)> wrote:

Hi Kyle and Lem,

Hope you all are healthy, safe, and well. I just wanted to provide some clarity on the facts surrounding this situation. As I explained on previous calls, I have years of experience using the Securus system in jails and prisons across the state and have never encountered these types of access issues. Parents have been trying for weeks to have their children in the secure care facilities call us. Usually, once a Securus account is active and funded (and PJI consistently maintains an account that we get dozens of phone calls on each day) and a receiving phone number is on the account, anyone in any facility contracting through Securus should be able to call that receiving number through the Securus system as a sort of "collect call" mechanism. I have received hundreds calls from jails and prisons throughout the state over the years using this system and nobody has ever mentioned paperwork that needs to be sent from Securus to the facilities. We originally tried to open a line of communication with a 504 google voice number that was tied to one of my colleague's cellphones and that the kids were trying to call us on. When that didn't work, we flagged for you all and also added my colleague's actual cellphone number (the 908-283-1525 number below), in case it was the google voice number that was the problem. Kids were also not able to use the 908 number and when we brought it up, you all mentioned that LCCR's Securus "hotline" was still open and working according to OJJ. PJI office staff then got permission from LCCR to access that Securus account, which LCCR has not been actively using and which no longer had an active phone number listed, and added the 908 number there as well. Kids were still not able to get through, which we flagged for you all again. At that point, Securus confirmed that the block on kids calling the numbers was completely on OJJ's end. I offered to get on the phone with you and your client and you indicated you would check with OJJ to see what the hold up was. We did not repeatedly reject an opportunity to straighten this out, but rather made sure to clear up any possible issues that could be preventing access on our end or on Securus' end through multiple avenues. This is the first time you are telling us that the children need to be filling out some sort of form, which would normally be a process for adding relatives or friends to

their call lists, and that we believe only goes through the approval process on a quarterly basis, with the potential exception of expedited requests for parents or attorneys of record. With in-person visitation suspended indefinitely, the only access we have to our clients and class members is over the phone, and with the 908 number not being accessible to children, we have had to resort to scheduling calls through individual case managers that are not guaranteed to happen within any specific time frame or guaranteed to be private. We should be able to speak with children trying to call us through the regular Securus system and on an unmonitored line without any impediment to access, particularly given the tight time frame on the TRO hearing. If this isn't resolved, we intend to advise the court that – despite what seemed to be good faith efforts by you all as defense counsel – that OJJ failed to provide adequate access. If there is something we are missing in this back-and-forth, please let me know and I will make every effort to resolve it.

We appreciate your cooperation in scheduling calls with J.H., D.M., H.C., and I.B. through alternative means while your clients resolve the access issues, hopefully on an expedited basis. We have calls with H.C. and D.M. scheduled through the facilities, per your permission, but if you can set up calls with I.B. and J.H. for today at the 908-283-1525 number between 11 am and 6 pm CST, that would be much appreciated. Please let us any know potential timings for those calls as soon as possible.

We are happy to discuss this issue more at any time.

Best,

Nishi Kumar  
Director of Civil Litigation  
The Promise of Justice Initiative  
[www.justicespromise.org](http://www.justicespromise.org)  
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---

**From:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>  
**Sent:** Monday, June 1, 2020 2:56 PM  
**To:** [laronsson@omm.com](mailto:laronsson@omm.com); Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** [ssarnoff@omm.com](mailto:ssarnoff@omm.com); [mlevick@jlc.org](mailto:mlevick@jlc.org); [jnadcock@gmail.com](mailto:jnadcock@gmail.com); Nishi Kumar <[NKumar@defendla.org](mailto:NKumar@defendla.org)>  
**Subject:** RE: J.H. v. Edwards -- Phone Lines [IWOV-ButlerSnow.FID8497864]

First, no one is “blocking” you from speaking with the Youth. OJJ has, frankly, gone above and beyond to provide you access.

Regarding the “hotline,” we do not know what is going on or what conversations you have had with Securus. There are certain hotlines that OJJ has established for the Youth (e.g., a hotline to report allegations of abuse). Securus does not have the authority to establish hotlines. Regardless, no request has been sent from Securus to OJJ to have a hotline established. We offered weeks ago to (and then again multiple times after) to set up a call among you, Securus, and OJJ. That offer was repeatedly rejected.

The Youth, of course, can request to have their attorneys added to their approved contact list, which as I understand it allows the Youth to contact their attorneys free of charge on an unmonitored line. This is typically done by the Youth filing out a form and requesting to have their attorney added. OJJ has agreed to add you for I.B. and J.H. because those are the two named plaintiffs. Let us know the name and phone number of the person(s) you would like added. Any other Youth that wants to contact you should complete the form and have you added to their contact list.

**Kyle V. Miller**  
**Butler Snow LLP**

D: (601) 985-4514 | F: (601) 985-4500  
1020 Highland Colony Parkway, Suite 1400, Ridgeland, MS 39157  
P.O. Box 6010, Ridgeland, MS 39158-6010  
[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com) | [vCard](#) | [Bio](#)

<image003.png>

[Twitter](#) | [LinkedIn](#) | [Facebook](#) | [YouTube](#)

---

**From:** Aronsson, Laura S. <[laronsson@omm.com](mailto:laronsson@omm.com)>  
**Sent:** Monday, June 01, 2020 10:17 AM  
**To:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>; Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** Sarnoff, Stuart M. <[ssarnoff@omm.com](mailto:ssarnoff@omm.com)>; Marsha Levick <[mlevick@jlc.org](mailto:mlevick@jlc.org)>; John Adcock <[jnadcock@gmail.com](mailto:jnadcock@gmail.com)>; Nishi Kumar

<NKumar@defendla.org>

**Subject:** J.H. v. Edwards -- Phone Lines

Kyle and Lem,

I am following up on access to putative class members. As you know, the children have been unable to reach us over the phone (at 908-283-1525 and other numbers). OJJ implemented a "workaround," and yesterday, we did speak to [REDACTED] at Bridge City, but for only fifteen minutes and without confirmation of privacy. We were not able to connect with [REDACTED] at Swanson Monroe until this morning. With the hearing less than 48 hours away, we cannot be blocked from speaking with the children. Can you please let us know immediately if OJJ will (1) immediately open the 908-283-1525 line for children to call, (2) provide us at least one hour today with both [REDACTED] and [REDACTED], and (3) confirm that these phone calls are not recorded or monitored.

We do not want to be forced to petition the Court this evening. We are available to discuss.

Thanks,  
Laura

## O'Melveny

**Laura S. Aronsson**

[laronsson@omm.com](mailto:laronsson@omm.com)

O: +1-212-728-5841

M: +1-802-578-3431

---

O'Melveny & Myers LLP  
Times Square Tower  
7 Times Square  
New York, NY 10036  
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**From:** [Nishi Kumar](#)  
**To:** [Kyle Miller](#); [Lem Montgomery](#)  
**Cc:** [jnadcock@gmail.com](#); [mlevick@jlc.org](#); [laronsson@omm.com](#)  
**Subject:** RE: Stip Facts, Witness Lists, and Phone Calls with Kids [IWOV-ButlerSnow.FID8497864]  
**Date:** Saturday, May 30, 2020 4:03:00 PM  
**Attachments:** [image003.png](#)

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Thank you, Kyle. 11 am CST works for me if it works for others. We look forward to reviewing a redline and discussing the witness lists and exhibits.

In addition to checking on the phone number, could you also try to set up those two calls with [REDACTED] at Bridge City and [REDACTED] at Swanson Monroe? OJJ should be able to set up a time for those kids to privately call either the hotline number or my cell phone (404-617-1467) through their case manager's phone.

Thank you! Hope you all are well.

Nishi Kumar  
Director of Civil Litigation  
The Promise of Justice Initiative  
[www.justicespromise.org](http://www.justicespromise.org)  
[nkumar@defendla.org](mailto:nkumar@defendla.org)  
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---

**From:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>  
**Sent:** Saturday, May 30, 2020 3:59 PM  
**To:** Nishi Kumar <[NKumar@defendla.org](mailto:NKumar@defendla.org)>; Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** [jnadcock@gmail.com](#); [mlevick@jlc.org](#); [laronsson@omm.com](#)  
**Subject:** RE: Stip Facts, Witness Lists, and Phone Calls with Kids [IWOV-ButlerSnow.FID8497864]

Nishi,

Sorry, just now seeing this. Let's plan to talk tomorrow morning. How does 11:00 a.m. central work? We'll get you back a redline of the stipulation with our changes and additions.

I'll follow-up with my folks re: the phone number to see if there is any news.

**Kyle V. Miller**

**Butler Snow LLP**

D: (601) 985-4514 | F: (601) 985-4500  
1020 Highland Colony Parkway, Suite 1400, Ridgeland, MS 39157  
P.O. Box 6010, Ridgeland, MS 39158-6010  
[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com) | [vCard](#) | [Bio](#)

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**From:** Nishi Kumar <[NKumar@defendla.org](mailto:NKumar@defendla.org)>  
**Sent:** Saturday, May 30, 2020 1:21 PM  
**To:** Kyle Miller <[Kyle.Miller@butlersnow.com](mailto:Kyle.Miller@butlersnow.com)>; Lem Montgomery <[Lem.Montgomery@butlersnow.com](mailto:Lem.Montgomery@butlersnow.com)>  
**Cc:** [jnadcok@gmail.com](mailto:jnadcok@gmail.com); [mlevick@jlc.org](mailto:mlevick@jlc.org); [laronsson@omm.com](mailto:laronsson@omm.com)  
**Subject:** Stip Facts, Witness Lists, and Phone Calls with Kids

Hi Kyle and Lem,

Hope you are both well. Thanks so much for sending over those exhibits last night. We will let you know any additional objections once we have a chance to review.

We think it makes sense for us to hop on a call this afternoon or tomorrow morning to discuss the stipulated facts and revising of the exhibit and witness lists per the judge's order today. Would 4 pm EST work for you all?

Do you have any updates on kids being able to call us at the 908-283-1525 number? They have continually reported being unable to reach us over the phone for the past few weeks (at this number and other numbers) and securus does not seem to be the issue. In the meantime, would you be able to have your client set up a call for us with [REDACTED] at Bridge City and [REDACTED] at Swanson Monroe? It would be great if you could set up those calls for today or tomorrow, if possible.

Thank you!

Nishi Kumar  
Director of Civil Litigation  
The Promise of Justice Initiative  
[www.justicespromise.org](http://www.justicespromise.org)  
[nkumar@defendla.org](mailto:nkumar@defendla.org)  
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**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF LOUISIANA**

J.H., by and through his mother and next friend,  
N.H.; I.B., by and through his parents and next  
friends, A.B. and I.B., on behalf of themselves  
and all others similarly situated,

Plaintiffs-Petitioners,

-against-

JOHN BEL EDWARDS, et al.,

Defendants-Respondents.

CIVIL ACTION NO. 3:20-cv-00293-JWD-  
EWD

CLASS ACTION

**ORDER**

UPON CONSIDERATION of Plaintiffs-Petitioners' Motion Pursuant to Federal Rule of Civil Procedure 23(d),

IT IS HEREBY ORDERED that Defendants must provide all putative class members with immediate and ongoing access to communicate confidentially with Plaintiffs' counsel by video or telephone. Defendants must 1) provide Plaintiffs' counsel with a process by which counsel can reliably schedule phone calls with specific clients or class members, and 2) allow all putative class members the ability to affirmatively access Plaintiffs' counsel through the secure phone line that has already been set up through the Securus Technologies system.

Baton Rouge, Louisiana this \_\_\_\_\_ day of \_\_\_\_\_ 2020.

---

HON. JOHN W. deGRAVELLES  
UNITED STATES DISTRICT JUDGE  
MIDDLE DISTRICT OF LOUISIANA