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The Honorable Barbara J. Rothstein

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT SEATTLE**

D.S. by and through her next friend  
TARA URS; *et al.*,

Plaintiffs,

v.

WASHINGTON STATE  
DEPARTMENT OF CHILDREN,  
YOUTH, AND FAMILIES; *et al.*,

Defendants.

NO. 2:21-cv-00113-BJR

STIPULATION AND ORDER  
REGARDING DEFINITION OF  
CLASS ACTION AND  
AMENDMENT TO  
SCHEDULING ORDER

**I. STIPULATION**

The parties, by and through their respective attorneys of record, hereby stipulate to the following:

1. The parties agree that this matter is appropriate to proceed as a class action under Fed. R. Civ. P. 23(a) and (b)(2). The parties stipulate to certification of a class defined as:

Individuals who are or in the future will:

- a. Be under the age of 18; AND

1 b. Be in DCYF's placement during a dependency proceeding under Wash. Rev.  
2 Code 13.34 until the proceeding is dismissed; AND

3 c. ONE OR MORE OF THE FOLLOWING:

- 4 i. Have experienced five (5) or more placements, excluding trial return  
5 home, in-home dependencies, and temporary placements. Temporary  
6 placements under this stipulation and order shall mean any of the  
7 following: overnight stay with a parent, hospital, respite care, youth  
8 camps, on runaway status, or detention. Temporary placements do not  
9 include a hotel stay, an office stay, or a night-to-night foster care  
10 placement. But an individual shall not be counted to have five (5) or more  
11 placements under this section if they have been in the same placement for  
12 the last twelve or more months, except if that placement was in a Qualified  
13 Residential Treatment Program (QRTP); OR
- 14 ii. Have been referred for or are in out-of-state group care placement; OR
- 15 iii. Have experienced a hotel or office stay in the past six (6) months; OR
- 16 iv. Are awaiting a Children's Long-Term Inpatient Program (CLIP) bed.

17 2. The parties stipulate that the individuals who meet the above definition are too  
18 numerous for joinder to be practicable and share common questions of law and fact. The Named  
19 Plaintiffs' claims are typical of the class, and none of them have interests in material conflict  
20 with the class. The Named Plaintiffs and their Counsel will adequately protect the interests of  
21 the class. The parties further agree any injunctive or corresponding declaratory relief would be  
22 appropriate with respect to the class as a whole.

23 3. The parties reserve the right to amend the order below under Fed. R. Civ. P. 23,  
24 including the ability to seek decertification of the class.

25 4. The parties agree that the current pretrial schedule (Dkts. # 22, 61 and 67) should  
26 be amended as follows:

- a. Discovery is stayed until October 26, 2021;
- b. Reports from expert witnesses under Fed. R. Civ. P. 26(a)(2) are to be served on or by January 7, 2022;
- c. Initial deadline for completed discovery (from Dkt. # 22) is February 7, 2022;
- d. All dispositive motions are to be filed on or by March 8, 2022;
- e. Opposition for dispositive motions (per Dkt. # 16 briefing schedule) is to be filed on or by March 29, 2022; and
- f. Replies for dispositive motions (per Dkt. # 16 briefing schedule) are to be filed on or by April 12, 2022;

5. The parties agree that this Court should enter an order that approves and adopts this stipulation.

RESPECTFULLY SUBMITTED this 17th day of September, 2021.

PLAINTIFFS' COUNSEL

ROBERT W. FERGUSON  
Attorney General

s/ Susan Kas  
 SUSAN KAS, WSBA No. 36592  
 Disability Rights Washington  
 CHRISTOPHER CARNEY,  
 WSBA No. 30325  
 Carney Gillespie PLLC  
 LEECIA WELCH, WSBA No. 26590  
 POONAM JUNEJA, CA Bar ID No.  
 300848, *admitted pro hac vice*  
 FREYA PITTS, CA Bar ID No. 295878,  
*admitted pro hac vice*  
 JEAN STROUT, CA RLSA No. 804338,  
*admitted pro hac vice*  
 National Center for Youth Law  
 LAURA LIN, CA Bar ID No. 281542,  
*admitted pro hac vice*  
 ELIZABETH DOUGLAS, CA Bar ID  
 No. 331031, *admitted pro hac vice*  
 Munger, Tolles & Olson, LLP

s/ Daniel J. Judge  
 DANIEL J. JUDGE, WSBA No. 17392  
*Senior Counsel*  
 WILLIAM MCGINTY, WSBA No. 41868  
 JAMES M. RICHARDSON III,  
 WSBA No. 45095  
*Assistant Attorneys General*

*Attorneys for Defendants*

*Attorneys for Plaintiffs*

**II. ORDER**

IT IS HEREBY ORDERED that:

The stipulation of the parties is APPROVED AND ADOPTED as follows:

1. Under Fed. R. Civ. P. 23(a) and (b)(2), the Court certifies a class defined as:

Individuals who are or in the future will:

- a. Be under the age of 18; AND
- b. Be in DCYF's placement during a dependency proceeding under Wash. Rev. Code 13.34 until the proceeding is dismissed; AND
- c. ONE OR MORE OF THE FOLLOWING:
  - i. Have experienced five (5) or more placements, excluding trial return home, in-home dependencies, and temporary placements. Temporary placements under this stipulation and order shall mean any of the following: overnight stay with a parent, hospital, respite care, youth camps, on runaway status, or detention. Temporary placements do not include a hotel stay, an office stay, or a night-to-night foster care placement. But an individual shall not be counted to have five (5) or more placements under this section if they have been in the same placement for the last twelve or more months, except if that placement was in a Qualified Residential Treatment Program (QRTP); OR
  - ii. Have been referred for or are in out-of-state group care placement; OR
  - iii. Have experienced a hotel or office stay in the past six (6) months; OR
  - iv. Are awaiting a Children's Long-Term Inpatient Program (CLIP) bed.

2. Based on the foregoing parties' stipulation, the Court finds:

- a. The Class is so numerous that joinder of all members is impracticable;

- b. There are questions of law and fact common to the Class;
- c. The claims of the Named Plaintiffs are typical of those of members of the Class;
- d. The Named Plaintiffs and Plaintiffs' Counsel will fairly and adequately represent and protect the interests of the members of the Class; and
- e. Final injunctive relief and any corresponding declaratory relief is appropriate with respect to the Class as a whole.

3. The Court appoints D.Y., by and through his Next Friend Julie Kellogg Mortensen, H.A., by and through his Next Friend Kristen Bishopp, and D.S., by and through her Next Friend Tara Urs, as Class Representatives. Disability Rights Washington, National Center for Youth Law, Carney Gillespie PLLP, and Munger, Tolles and Olson LLP are appointed Class Counsel.

4. The parties reserve the right to amend this order under Fed. R. Civ. P. 23, including the ability to seek decertification of the class.

5. The pretrial schedule (Dkts. # 22, 61 and 67) should be AMENDED as follows:

- a. Discovery is stayed until October 26, 2021;
- b. Reports from expert witnesses under Fed. R. Civ. P. 26(a)(2) shall be served on or by January 7, 2022;
- c. Initial deadline for completed discovery (from Dkt. # 22) is February 7, 2022;
- d. All dispositive motions shall be filed on or by March 8, 2022;
- e. Opposition for dispositive motions (per Dkt. # 16 briefing schedule) shall be filed on or by March 29, 2022; and
- f. Replies for dispositive motions (per Dkt. #16 briefing schedule) shall be filed on or by April 12, 2022;

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1 The Clerk is directed to forward copies of this Order to the parties in this matter.

2 Entered this 22nd day of September, 2021.

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BARBARA J. ROTHSTEIN  
5 UNITED STATES DISTRICT JUDGE

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