

The Honorable Barbara J. Rothstein

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

D.S.; D.Y. by and through his next friend
JULIE KELLOGG-MORTENSEN; H.A.
by and through his next friend KRISTEN
BISHOPP; and DISABILITY RIGHTS
WASHINGTON, a nonprofit membership
organization for the federally mandated
Protection and Advocacy Systems,

Plaintiffs,

v.

WASHINGTON STATE
DEPARTMENT OF CHILDREN,
YOUTH, AND FAMILIES; and ROSS
HUNTER, in his official capacity as
Secretary of the Washington State
Department of Children, Youth, and
Families,

Defendants.

NO. 2:21-cv-00113-BJR

ORDER GRANTING
PRELIMINARY APPROVAL TO
CLASS ACTION SETTLEMENT
AND DIRECTING NOTICE TO
THE CLASS

This matter comes before the Court on the parties' Joint Motion for Preliminary Approval of Class Action Settlement and Approval of Form and Manner of Class Notice (the "Joint Motion"). The parties request that the Court: (a) grant preliminary approval of the Settlement Agreement; (b) approve the form and manner of the Notice of Proposed Class Action Settlement to be sent to Class members and their representatives; (c) set the deadline

1 for Plaintiffs' submission regarding fees and costs; (d) set the deadline for written submissions
 2 from Class members or their legal representatives who wish to be heard in favor of or in
 3 objection to the Settlement Agreement; and (e) set the date for a final fairness hearing pursuant
 4 to Federal Rules of Civil Procedure 23(e)(2).

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 6 The Court has reviewed the Joint Motion, the Settlement Agreement, the Notice of
 7 Proposed Class Action Settlement, the Proposed Order, and all declarations and exhibits
 8 submitted with the Motion. The Court GRANTS the Motion and ORDERS as follows:

- 9 1. Based on the record before it, the Court tentatively finds, pursuant to Federal Rule
 10 of Civil Procedure 23(e), that the terms of the Settlement Agreement, attached as
 11 Exhibit A to the Declaration of Susan Kas, are fair, reasonable, and adequate for the
 12 Class. The Court finds that: (a) the Settlement Agreement resulted from arm's
 13 length negotiations; (b) there is no evidence of fraud, collusion, or overreaching or
 14 that the rights of Class members were disregarded; and (c) counsel has sufficient
 15 experience in similar litigation to propose the Settlement Agreement. The Court's
 16 preliminary approval is subject to change pending the outcome of the final
 17 settlement approval hearing established herein.
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- 19 2. The Court finds that the Notice of Proposed Class Action Settlement ("Notice"),
 20 attached as Exhibit B to the Declaration of Susan Kas, meets the requirements of
 21 Federal Rule of Civil Procedure 23, due process, and applicable law. The Notice
 22 (a) describes the terms of the Settlement Agreement; (b) gives notice of the time
 23 and place of the Fairness Hearing; and (c) describes how a Class member may
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comment on, object to, or support the Settlement Agreement. The Notice is approved.

3. The Court finds that the Notice Plan submitted in connection with the Joint Motion is reasonably calculated to provide adequate notice to Class members of the proposed Settlement Agreement and satisfies the requirements of due process and Federal Rule of Civil Procedure 23. The Court authorizes and directs the parties to enact the Notice Plan. The parties shall be authorized to make non-material changes to the Notice Plan, so long as Class Counsel and Defendants' counsel agree and one of the parties notifies the Court of the change before the Final Approval Hearing. Neither the insertion of dates nor the correction of typographical or grammatical errors shall be deemed a change to the Notice Plan. In accordance with the Notice Plan, Defendants shall translate the written Notice, post the Notice prominently in the locations detailed in the Notice Plan, and disseminate the Notice to the individuals and organizations detailed in the Notice Plan. Plaintiffs shall maintain a dedicated email address and toll-free number available to people with questions about the Settlement Agreement, review the content of the proposed Settlement Agreement with any Class members and their families, and answer any questions they may have. Defendants and Class Counsel will submit declarations to the Court confirming their compliance with the class notice procedures within three weeks of the date of this Order.
4. The Court will hold a Fairness Hearing to determine if the proposed Settlement Agreement is fair, reasonable, and adequate, and should receive final approval on

September 7, 2022 at 1 pm PT in Courtroom 16A at the Seattle Courthouse for the Western District of Washington, 700 Stewart Street, Seattle, WA 98101. On the same date and time, the Court will also consider Plaintiffs' submission regarding an award of attorney's fees, costs, and expenses. The Motion for Final Approval of the Settlement and Plaintiffs' Submission regarding Attorneys' Fees and Costs shall be filed on or by August 5, 2022.

5. A Class member who wishes to comment on or object to the Settlement Agreement must submit written comments and/or objections by U.S. Mail, email, or phone on or before August 12, 2022 to Disability Rights Washington, 315 5th Ave. S., Suite 850, Seattle, WA 98104, DSSettlement@dr-wa.org, 206-324-1521 or 1-800-562-2702.
6. Class members, or their legal representatives, may be heard orally in support of or in opposition to the proposed Settlement Agreement at the Final Approval Hearing.
7. Unless otherwise ordered by the Court, no objection to or other comment concerning the Settlement Agreement shall be heard unless timely filed in accordance with the guidelines specified above.
8. Any Class member who does not make his or her objection in the manner provided in this Order shall be deemed to have waived any such objection and shall forever be barred from making any objection to the Settlement Agreement.
9. Class Counsel will provide Defendants' counsel a copy of any objections, support, or comments received from Class Members, their legal representatives, or any other

1 person, entity, or interested party regarding the proposed Settlement Agreement
2 within seven days of receipt.

3 10. Class Counsel will submit to the Court all written submissions received from Class
4 Members, their legal representatives, or other interested parties, along with any
5 written responses from Class Counsel to such submissions, on or before August 22,
6 2022.

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8 11. Class Counsel and counsel for Defendants shall be prepared at the Fairness Hearing
9 to respond to objections filed by Class members, or their legal representatives, and
10 to provide other information, as appropriate, bearing on why the Settlement
11 Agreement should be approved.

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13 12. The Court reserves the right to change the date or location of the Fairness Hearing
14 without further notice to Class members, and it retains jurisdiction to consider all
15 further issues arising out of or connected to the Settlement Agreement. The Court
16 may approve the Settlement Agreement, with such modification as may be agreed
17 to by the Parties, if appropriate, without further notice to Class members.

18 13. The Trial and Pretrial Schedule in this matter are STRICKEN.

19 IT IS SO ORDERED.

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21 DATED this 24th day of June, 2022.

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24 BARBARA J. ROTHSTEIN
25 United States District Judge
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1 Presented by:

2
3 **DISABILITY RIGHTS WASHINGTON**

4 /s/ Susan Kas

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