

Richard N. Goldsmith, Mediator
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UNITED STATES DISTRICT COURT

DISTRICT OF ARIZONA

J.K., a minor by and through R.K., *et al.*,
on behalf of themselves and all others
similarly situated,

Plaintiffs,

vs.

WILL HUMBLE, in his official capacity
as Interim Director of the Arizona
Department of Health Services; DR.
LAURA NELSON, in her official
capacity as Director, Division of
Behavioral Health Services, Arizona,
Department of Health Services;
ANTHONY D. RODGERS, in his
official capacity as Director, Arizona
Health Care Cost Containment System,

Defendants.

No. CIV 91-261 TUC JMR

REPORT OF MEDIATOR

(Honorable John M. Roll)

I am the mediator selected by the parties pursuant to paragraph 61 of the Settlement Agreement (the "Agreement"). I was also the mediator in 2006. I have now met with the lawyers representing the parties, have reviewed their confidential mediation statements, and had several confidential telephone calls.

It is now obvious to me that a mediated settlement is not possible at this time. The parties are too far apart in their positions. Each party holds its position in good faith. It

1 is my independent judgment that further mediation efforts would not be productive.

2 Neither party has asked me to terminate the mediation. It is my own conclusion.

3 I find and conclude that both parties have engaged in the dispute resolution process
4 in a good faith attempt to resolve the matter without judicial involvement, all as required
5 by paragraph 57 of the Agreement.

6
7 **RESPECTFULLY SUBMITTED** this 13th day of August, 2009.

8 \s\ R. Goldsmith -- 003409

9 Richard N. Goldsmith, Mediator

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11 CERTIFICATE OF SERVICE

12 I hereby certify that on August 13, 2009, I electronically transmitted the attached
13 document to the clerk of the U.S. District Court using the CM/ECF system for filing and
14 transmittal of a Notice of Electronic Filing to the following parties, and the copies of the
15 same mailed to the parties below on June 30, 2009:

16 COPY of the foregoing mailed
17 the 30th day of June, 2009, to:

18 Anne Ronan
19 Arizona Center of Law
20 in the Public Interest
21 202 East McDowell, Suite 153
22 Phoenix, Arizona 85004

23 Ira Burnim
24 Bazelon Center for Mental Health Law
25 1101 Fifteenth Street N.W., Suite 1212
26 Washington, D.C. 20005-5002

27 Gregory Honig
28 Assistant Attorney General
1275 West Washington
Phoenix, Arizona 85007

1 Logan T. Johnston
2 Johnston Law Offices
3 1402 E. Mescal Street
4 Phoenix, Arizona 85020

5 \s\ Sheila D. Marshall
6 Sheila D. Marshall
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