ROBERT D. NEWMAN, SBN 86534
KIMBERLY LEWIS, SBN 144876
RICHARD A. ROTHSCHILD, SBN 67356
WESTERN CENTER ON LAW & POVERTY
3701 Wilshire Boulevard, Suite 208
Los Angeles, California 90010
Telephone: (213) 487-7211
Facsimile: (213) 487-0242

Attorneys for Plaintiffs

RAYMOND G. FORTNER, JR., County Counsel
ANDREW W. OWENS, Assistant County Counsel
BRANDON T. NICHOLS, Senior Deputy County Counsel (SBN 187188)
648 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012-2713
Telephone: (213) 974-1938
Facsimile: (213) 687-4745

Attorneys for County Defendants

UNITED STATES DISTRICT COURT

CENTRAL DISTRICT OF CALIFORNIA

KATIE A., by and through her next friend, Michael Ludin; MARY B., by and through her next friend, Robert Jacobs; JANET C., by and through her next friend Dolores Johnson; HENRY D., by and through his next friend Gillian Brown; and GARY E., by and through his next friend, Michael Ludin, individually and on behalf of other similarly situated,

Plaintiffs,

v.

DIANA BONTA, Director of California Department of Health Services; LOS ANGELES COUNTY; LOS ANGELES COUNTY DEPARTMENT OF CHILDREN AND FAMILY SERVICES; ANITA BOCK, Director of the Los Angeles County Department of Children and Family Services; RITA SAENZ, Director of the California Department of Social Services; and DOES 1 through 100, Inclusive,

Defendants.

CASE NO. CV-02-05662 AHM (ShX)

FINDINGS OF FACTS AND CONCLUSIONS OF LAW RE SETTLEMENT AGREEMENT BETWEEN PLAINTIFFS AND COUNTY; ORDER THEREON

The Court's changes to the [Proposed] Findings and Conclusions that the parties lodged on October 30, 2006 are in bold typeface. In certain instances the Court has issued a ruling (e.g., "OVERRULED"), but in other instances the Court's response to the objection is reflected in changes to the text.

SCANNED

I. Background on Settlement Agreement[1]

1. In July 2002, Plaintiffs Katie A., et al. ("Plaintiffs") filed this lawsuit against defendants Los Angeles County ("County"), Los Angeles County Department of Children and Family Services ("DCFS"), and Marjorie Kelly, then interim DCFS Director (collectively referred to as "County Defendants"). The lawsuit also was brought against the then current Directors of the California Department of Health Services and California Department of Social Services (collectively referred to as "State Defendants"). The original complaint alleged claims for violations of the Early and Periodic Screening, Diagnosis and Treatment ("EPSDT") provisions of the Medicaid Act [42 U.S.C. § 1396 et seq.], substantive due process under the Fourteenth Amendment of the U.S. Constitution, Americans with Disabilities Act [42 U.S.C. § 12132 et seq.], Section 504 of the Rehabilitation Act [29 U.S.C. § 701 et seq.], substantive due process under Article I, § 7(a) of the California Constitution, and California Government Code § 11135 et seq.

2. Shortly after the filing of this lawsuit, Plaintiffs and the County Defendants entered into settlement negotiations. After protracted negotiations, Plaintiffs and County Defendants entered into a Settlement Agreement ("Agreement"). They sought Court approval for the Agreement in May of 2003.

---

[1]Plaintiffs and County Defendants have not provided specific evidentiary references or citations to any findings of fact and conclusions of law where the parties are in agreement, unless such finding of fact offers or references new evidence not already before this Court. Where specific findings are in dispute, the specific references or citations to support such findings or objections are provided.

3. On July 16, 2003, following notice and a fairness hearing, the Court approved the Agreement as being fair, reasonable and adequate as to a Countywide class. The Stipulated Order provides that "[t]he Court shall retain jurisdiction to enforce the accompanying Settlement Agreement between the parties until the case has been dismissed pursuant to the terms of the Settlement Agreement." Stipulated Order at ¶4; *see also* Agreement at ¶5 (Agreement is "binding and enforceable").

4. The definition of the Countywide class, as refined by the Court on February 23, 2004, includes children and young adults who:

(a) are in the custody of DCFS or in foster care or are at imminent risk of foster care placement by DCFS; and

(b) are eligible for services under the Early and Periodic Screening, Diagnosis and Treatment ("EPSDT") program of the Medicaid Act as defined in 42 U.S.C. § 1396 et seq.; and

(c) have a mental illness or condition that is documented or, had an assessment been completed, could have been documented; and

(d) need individualized mental health services, including [listing services] . . . and other medically necessary services in the home or in a home-like setting, to treat or ameliorate their illness or condition.

5. The central provision of the Agreement is Paragraph 6, which states that the "objectives of this Agreement are that members of the class shall":

(a) promptly receive necessary, individualized mental health services in their own home, a family setting or the most homelike setting appropriate to their needs;

(b) receive the care and services needed to prevent removal from their families or dependency or, when removal cannot be avoided, to facilitate reunification, and to meet their needs for safety, permanence, and stability;

(c) be afforded stability in their placements, whenever possible, since multiple placements are harmful to children and are disruptive of family contact, mental health treatment and the provision of other services; and

(d) receive care and services consistent with good child welfare and mental health practice and the requirements of federal and state law."

6. Paragraph 7 of the Agreement spells out some specific obligations to which the County agreed, "*inter alia*," to "fulfill the objectives" of Paragraph 6. Among the County's specific obligations are to "ensure that the needs of members of the class for mental health services are identified and that such services are provided to them," to "expand Wraparound Services," and to "enhance permanency planning, increase placement stability and provide more individualized, community based emergency and other foster care services to foster children . . ."

7. Pursuant to the Agreement, the parties appointed a six-member expert advisory panel (" Panel"). Among other tasks, the Panel was to "determine whether the County has met the objectives set forth in Paragraph 6, and implemented the plans set forth in Paragraph 7." The Panel was also required to make regular written reports to the parties and Court of its findings and recommendations. At the end of the two years, the Panel was required to determine "whether the County Defendants have fulfilled the objectives in Paragraph 6 and have met their obligations under Paragraph 7, and are likely to continue to do so for the following twelve months." If it was determined that the County had not complied with the Agreement, the County was obliged to confer with the Panel to "develop a plan to address all areas of non-compliance and to set deadlines for obtaining such compliance."

II. The First Two Years of Implementing the Agreement

8. In July of 2005, County Defendants stipulated to extension of the Panel's operations for at least one additional year.

9. In August 2005, the Panel issued a two-year report finding that the County had not complied with the terms of the Agreement. The Panel reported, *inter alia*, that class members "are not receiving necessary mental health services because their needs for those services are not being assessed . . .and because existing services are insufficient or inadequate" and that there "has been little or no expansion of home and community based mental health services for the plaintiff class ." The Panel also found that the County lacks reliable information on the size of the Plaintiff class or the extent to which their mental health needs are being met. And, the Panel stated that the County has no means for tracking outcomes for the class, such as the number of class members who are currently stable or are currently receiving sufficient mental health services. With respect to the County initiatives under Paragraph 7 related to mental health care, the Panel found them to be "either quite small in scope or at the early planning stages and as a result, affect only a small portion of class members."

III. County's Compliance Plan

10. The County subsequently developed the County Plan, which it contended will "achieve full compliance with the obligations of the Agreement."

11. In October 2005, however, the Panel informed the County that the County Plan falls short of the requirements of Paragraph 19 of the Agreement. On December 6, 2005, the County responded in writing. The parties held a teleconference with the Panel on December 12, 2005, to discuss the County's response. On January 18, 2006, the Panel reiterated its concerns about the County Plan. Despite a few areas of agreement, the Panel highlighted "many areas of disagreement between the Panel and the County regarding the content, scope and/or detail of the County's plan." "It underestimates the number of class members needing intensive home-based services, fails to commit to sufficient expansion of services to meet their needs and throughout lacks the level of detail about strategies needed for the Panel to judge its efficacy." It "describes aspirations, not strategies."

IV. Motion to Compel Compliance with Settlement Agreement

12. On February13, 2006, Plaintiffs filed a Motion to Compel Compliance with the Settlement Agreement ("Motion").

13. On February 27, 2006, the County filed an opposition to the Motion as well as a proposed order.

14. On June 15, 2006, the Court entered an Order.

15. On July 31, 2006, each party filed a response to the Order of June 15, 2006 addressing the contemplated modifications to the County Plan.

16. On September 6, 2006, a Status Conference was held. Melinda Bird and Kimberly Lewis appeared on behalf of the Plaintiffs and Brandon T. Nichols appeared on behalf of the County. Paul Vincent, chair of the Panel, was also present. On October 18, 2006, the Court entered a subsequent order.

V. Screening and Assessment of Class Members

17. There are almost 40,000 children in the County receiving child welfare services from DCFS, of whom approximately 23,000 are in out-of-home care.

18. Currently, six medical hubs are operational in some capacity throughout the County to screen the needs of children who have been newly detained, i.e. removed from their homes and in DCFS' custody. The hubs are not currently screening all children who are newly detained for mental health needs. (Supplemental Declaration ("Decl.") of Dr. Charles Sophy at ¶4). Some children who are already in out-of-home placements are screened through Team Decision- Making[2] meetings within DCFS regional offices. In addition, mental health staff who have been located in units within the DCFS offices in charge of "D-rate homes" have been assigned the responsibility for screening and re-certifying foster children who have been placed in those homes; a D-rate home is paid an enhanced rate for serving a child with severe

[2]A description is provided in the Glossary.

mental health needs. As of June 2006, the D-rate unit staff had reviewed 152 newly designated D-rate cases and referred 441 new and existing cases to mental health services; this unit had also reviewed 392 existing D-rate cases (re-certification services) to assess the need for additional mental health services and to provide case management. (Exhibit ("Exh.") 300, attached to Supplemental Decl. of Dr. Charles Sophy).

19. The County plans to screen every child who now enters foster care to determine the child's need for mental health services but has not provided a clear timeline for accomplishing this task.

20. The County initially proposed, as benchmarks for compliance with the Agreement, that 80 % of the children entering foster care be screened for mental health needs within 60 days of their detention from their families, and that 80% of the children who have been screened positively – i.e. identified as needing mental health services – be formally assessed within 90 days of their detention from their families (or no more than 30 days after the screen). Citing numerous factors it claims are beyond its control, the County subsequently proposed benchmarks of screening 90% of children" some time shortly after detention" and formally assessing 90% of children "some time after a positive screen."

21. The foregoing benchmarks for compliance are inadequate. **In principle,** the objectives of the County Plan should be full compliance**, which would require the** County Plan to: (a) screen all [100%] of the children who are entering foster care within 60 days of their detention from their families, and (b) assess all [100%] of the children who have been identified as needing mental health services within 30 days of their screening. **Unless the County can demonstrate that there are reliable methods to ascertain that certain new "entrants" into the foster care system are not in need of immediate screening and assessment and unless the County can demonstrate that it could identify who they are, 100% screening and assessment will be necessary.**

VI. Mental Health Needs of Children Who Have Not Been Removed from Their Homes

22. The Countywide class includes children and youth who are "at imminent risk of foster care placement by DCFS." While the Agreement does not define what is meant by "imminent risk of foster care placement," the Court has supplied such a definition for the statewide class in this lawsuit. For the statewide class, the Court has defined "imminent risk of foster care placement" to mean that "within the last 180 days a child has been participating in voluntary family maintenance services or voluntary family reunification placements and/or has been the subject of either a telephone call to the Child Protective Services hotline or some other documented contact with the local Child Protective Services agency regarding suspicions of abuse, neglect or abandonment."

23. There are approximately 17,000 children who are receiving child welfare services in the County but who have not been removed from their homes.

24. The County has not presented the Court with any data regarding the incidence of mental disorders among these 17,000 children and, in the absence of evidence to the contrary, it is reasonable to assume that their mental health needs are comparable to the mental health needs of children already in out-of-home placements.

25. The County Plan does not provide for the screening and assessment of these class members so long as they remain in their own homes. Nor does the County Plan provide for any mental health services to these children.

26. One of the stated objectives of the Agreement is that members of the class shall "receive the care and services needed to prevent removal from their families or dependency . . ." The Panel has stated that the County cannot accomplish this objective unless it first identifies class members who live at home and assess their needs, rather than waiting until their conditions deteriorate and their needs become obvious.

27. County Defendants have offered no argument that the County Plan should not include provisions for these 17,000 children.

28. The County's Plan should be amended to identify and address the needs of class members who have not been removed from their homes, including both those with Serious Emotional Disturbance ("SED") and those with mental health needs who have not been identified as SED.

VII. Mental Health Needs of Children Who Have Been Placed in Foster Family Agencies

29. The Countywide class includes children and youth who have been removed from their homes and placed with Foster Family Agencies ("FFAs"). Placements in FFAs are common in the County, comprising approximately 40% of all foster home (out-of-home) placements. According to County Defendants, 6,177 children had been placed in FFAs in the County as of November 2005.

30. In pleadings, the County had stated that the County Plan includes provisions addressing class members who are placed in FFAs. However, the documents which comprise the County Plan make no express reference to providing mental health services to these children.

31. The Panel has repeatedly said that "it is concerned about the inadequacy of intensive services for children in FFAs (where there is a high multiple placement rate and a high rate of movement to residential care, indicating that the children's needs and foster parents' needs are not met)." "There are many children with trauma-linked behavior problems, which do not yet constitute serious emotional disturbance, that make children unmanageable for the inadequately trained and supported relatives and FFA foster parents. These children and their caretakers need much more attention" from the mental health system than they are currently receiving, attention that usually amounts to only about one hour per week from a mental health professional with 30-35 clients.

32. In its defense, the County has contended that "children in FFAs do not typically require intensive services," citing the study by the County's own mental health expert, Dr. John Lyons. In that study, Dr. Lyons found that a low overall percentage [10.6%] of children in FFA placements are eligible for therapeutic foster care ("TFC"). Dr. Lyons attributed this finding to the fact that many children in FFA placements are newborns, infants and toddlers.

33. The Court, however, gives greater weight to the additional findings by Dr. Lyons that the percent of children in FFA placements in the County who have "actionable behavioral needs" at the time of initial placement ranged from more than 30% for the 6-9 years age group to more than 50% for the 16-17 years age group. Similarly, the number of children who would be better served in TFC ranged from 10% of the 6-9 year olds to more than 35% of the 16-17 year olds.

34. Another credible, undisputed finding by Dr. Lyons is that "there was infrequent evidence of much actual treatment" for foster children in the FFAs "other than regular social work visits that appear to consist primarily of monitoring."

35. The County Plan, as currently written, is inadequate in its failure to provide for the mental health needs of class members who are placed in FFAs.

VIII. Mental Health Needs of Children in Congregate Care

36. Congregate care is residential care for foster children provided in group or institutional settings, as opposed to care for these children provided at home or in their communities. Congregate care is often referred to as"group homes." Group homes in California are classified into Rate Classification ("RCL") Levels of 1-14, using a point system designed to reflect the level of care and services they provide. The State of California's monthly foster care payments per child are $5613 for a RCL 12 facility and $6371 for a RCL 14 facility.

37. As of the Fall of 2004, more than 100 young children below the age of eight had been placed in group homes. While the County subsequently made

efforts to reduce the number of young children in group care, 405 children ages 12 and younger were still in group care at the end of August 2005.

38. As of November 2005, there were 1,832 children in group homes in the County. More than half of the children in group homes have been placed in RCL facilities of 12 and above.

39. According to Dr. Lyons, more than half of the foster children who are in RCL 12 and 14 facilities could be served in family settings if they received intensive home-based services (e.g. wraparound).

40. The County Plan does not explain how the approximately 2,000 children in congregate care will receive the "new" intensive mental health services when the County Plan only calls for 1,220 new intensive mental health services slots. Nor does the County Plan explain how the County intends to modify the existing services to the 2,080 children/youth that it claims are already receiving intensive mental health services.

41. The County Plan also does not clearly describe when and how foster children in group care will be transitioned to family or home-based settings.

42. The County Plan, as currently written, is inadequate in that it does not clearly describe how it provides for home and community-based intensive mental health services, as alternatives to congregate care, especially for children who are ages 12 and younger and those children placed in RCL facilities of 12 and above.

IX. Mental Health Needs of Children in D-Rate Homes

43. One concern of the Panel "has been the lack of sufficiently intensive services to meet the needs of class members in D-rate homes which are foster homes paid an enhanced rate (a "D-rate"). By definition and by County policy, these homes are only to be used for children "with severe and persistent emotional and/or behavioral problems".

44. There are approximately 2,600 children living in D-rate homes. Under the County Plan, half of the children in the D-Rate homes will receive "intensive-level mental health services."

45. In its County Plan, the County admits that "virtually all of the 2,000 children now in congregate care can be better served through a more intensive mental health services model and that half of the 2,600 children in D-rate homes can also be better served through a similar approach."

46. One concern of the Panel "has been the lack of sufficient intensive services to meet the needs" of these class members in D-rate homes.

47. The County Plan assumes that many of the children in D-rate homes have been inappropriately placed there and as a consequence only "half of the children receiving the higher D-Rate foster care payment" will require "intensive-level mental health services."

48. Only recently did Plaintiffs and the Panel receive a copy of the above-mentioned declaration dated October 19, 2006, of Dr. Charles Sophy.[3]

49. Based upon "his background, training, and experience," Dr. Charles Sophy, DCFS' Medical Director, has now submitted a declaration in which he expresses the opinion that the children in D-Rate homes "have historically been subject to inconsistent, and variable quality mental health assessments" and that, "if properly assessed approximately 50% of the children subject to D-rate payments would be found to be better served through other means than intensive mental health services." (Supplemental Decl. of Dr. Charles Sophy at ¶5)

The Court OVERRULES Plaintiffs' objection to this paragraph, which merely paraphrases accurately what Dr. Sophy stated. The Court recognizes, however, that his statement lacks evidentiary support.

---

[3]Plaintiffs did not have the opportunity to present evidence to respond to the assertions contained in this new round of declarations from County officials, such as Dr. Dr. Charles Sophy. Nor was the Panel afforded an opportunity to comment on these declarations.

50. The County Plan does not explain how the one-half of the children (1,300) in D-rate homes will receive the "new" intensive mental health services when the County Plan only calls for 1,220 new intensive mental health services slots. Nor does the County Plan clearly explain how the County intends to modify the existing services to the 2,080 children/youth that it claims are receiving intensive mental health services.

51. The County Plan, as currently written, is inadequate in that it does not clearly describe how it will provide for the intensive mental health needs of children who have been placed in D-rate homes.

X. Overall Mental Health Needs of Class Members

A. Estimates of Need

52. In general, the County plan has assumed that 50% of the 23,000 children currently in out-of-home placement (foster care) need mental health services. Hence, the County Plan provides for 11,500 foster children to receive such services.

53. With regard to all the class members in out-of-home placement, the County has conducted no assessment or study to determine what percentage of them need mental health services.

54. The County has explained that the County's assumptions and estimates of the number of class members, and the intensity of their mental health needs, were developed for planning purposes. The County concedes that the actual number of children with mental health needs, and the number of children with intensive versus basic mental health needs, may be higher or lower than the planning-numbers indicate. (Supplemental Decl. of Dr. Charles Sophy at ¶¶ 5-9; and Supplemental Decl. of Gregory Leklitner at ¶¶ 3-6) In fact, officials with the County Department of Mental Health ("DMH") have said that the incidence of mental health needs could range from as low as 35% to as high as 85%.

55. The Panel has reported that a recent federal study estimated that 85% of the children in California's foster care system have developmental, emotional or

behavioral problems and that other studies have shown that 50 to 80% of children in foster care require mental health treatment. Plaintiffs are concerned that the County's projections of overall need for mental health services of children in foster care could eventually prove wrong by as much as **8,050** (85% of 23,000 is 19,550).

56. The Court finds that the above County assumptions and estimates of need are sufficient for initial planning purposes. These projections should, however, be modified soon after further evidence is adduced as to the actual mental health needs of children in foster care.

B. Projections of Need for Basic v. Intensive Services

57. After subtracting the 7,130 foster children who are "already receiving some form of mental health service" from the projected 11,500 foster children who need services, the County has projected a need to provide new services to the remaining 4,370 children in foster care: 1,220 new children will receive intensive-level services and 3,150 new children will receive basic-level services.

58. The County has reached these figures by projecting that the percentage of these 4,370 additional children in foster care who will require basic services versus intensive services will be the same as the percentage of the 7,130 children in foster care who are currently receiving basic services (71%) versus intensive services (29%).

59. The County Plan therefore creates approximately 1,220 new "slots" for intensive in-home mental health services and 3,150 new "slots" for basic level mental health services. None of these slots are intended for the 7,130 foster children who are currently receiving some form of mental health services from the County.

60. The County has not conducted any formal study to confirm that these 7,130 foster children are being adequately served at the present time. And, the County has not conducted any formal study to determine what percentage of children in out-of-home placements need mental health services. Instead, it has relied on its own past experience with this population and published research and reviews.

Supplemental Decl. of Dr. Charles Sophy at ¶¶ 5-9; and Supplemental Decl. of Gregory Lecklitner at ¶¶ 3-6)

61. Only recently did Plaintiffs and the Panel receive copies of the above-mentioned supplemental declarations of Dr. Charles Sophy and Gregory Lecklitner.

62. According to new declarations from County officials, the County anticipates that not every child in congregate care will actually require intensive mental health services and that the County's assumptions and estimates of the number of class members, and the intensity of their mental health needs were developed for planning purposes. The County concedes that the actual number of children with mental health needs, and the number of children with intensive versus basis mental health needs may be higher or lower than the planning-numbers indicate. (Supplemental Del. of Dr. Charles Sophy at ¶¶ 5-9; and Supplemental Decl. of Gregory Lecklitner at ¶¶3-6). **The Court OVERRULES the County's objection to this paragraph, for the reasons stated as to paragraph 49.**

63. The County admits that "there are a number of the 7,130 children/youth who are currently receiving services that lack the intensity, duration, and comprehensiveness that they require."

64. In its Plan documents, the County also admits that "virtually all of the 2,000 children now in congregate care can be better served through a more intensive mental health services model and that half of the 2,600 children in D-rate homes can also be better served through a similar approach."

65. In the Panel's opinion, the County Plan "underestimates the number of class members needing intensive home-based services", "fails to commit to sufficient expansion of services to meet their needs" and has found that 'basic' mental health care is inadequate for most foster children as it lacks intensity, is of limited duration, and does not comprehensively address children's needs.

66. The Panel has similarly found that the mental health services currently provided to children in foster care in the County are inadequate and that most of the 11,500 children/youth that the County has projected to need mental health services "must have intensive services, including home-based services, to be stable and functioning well."

67. The Panel has also found that the County's current mental health data information system is unreliable and inadequate. Further, the Panel has stated that the County does not, in any comprehensive way, currently track which specific mental health services foster children are receiving, whether the children's needs are being met, and whether the children's mental health condition is improving.

68. The County Plan does not adequately describe existing mental health services and apparently asserts that some existing services, such as the RCL 12 and 14 facilities and locked Community Treatment Facilities ("CTFs"), are an adequate substitute for intensive home-based services.

69. The idea that the mental health services provided to foster children in RCL 12 and 14 facilities and CTFs are "equivalent" to the intensive services that could be provided to these children in home-based settings **appears to be** inconsistent with one of the objectives of the Agreement that class members "receive necessary, individualized mental health services in their own home, a family setting or the most homelike setting appropriate to their needs." **It would be the County's burden** to demonstrate that RCL 12 and 14 facilities and CTF's may be the most home-like setting appropriate to the clinical needs of some class members.

70. The County's assumption that none of the foster children currently receiving basic services require more intensive services **currently** is unsupported by any data, evidence or study. The relative percentage of children receiving basic, versus intensive, mental health services **may be** a reasonable estimation, based upon actual experience with the population of children in Los Angeles County, **but** these

numbers **cannot and do not** represent conclusive findings of the Court. **They are, however, permissible factors to consider for planning purposes only.**

71. The Panel concluded that the County Plan "underestimates the number of class members needing intensive home-based service" and "fails to commit to sufficient expansion of services to meet their needs." Exh. 165 (letter) at 1. The Court agrees that the County Plan must be modified to consider the mental health needs of children who are receiving child welfare services from the County but who have not been removed from their homes. **The Court finds, however, that for purposes of plan development only,** the County's estimates regarding the number of class members in out-of -home care who require intensive home-based mental health services are reasonable. The County is on notice that it will not be dismissed from this lawsuit until it has developed sufficient county-wide service capacity to provide intensive mental health services, for those class members who need such services, in the most home-like setting appropriate to each class members' need, whether this number exceeds initial County estimates or not.

XI. Wraparound Services

72. Wraparound services are defined in the Welfare and Institutions Code as "community based intervention services that emphasize the strengths of the child and family and [that] include[] the delivery of coordinated, highly individualized unconditional services to address needs, and achieve positive outcomes in their lives." Welf. & Inst. Code § 18251(d).

73. In granting a preliminary injunction against the State in the case, this Court found that wraparound services include a) a unique assessment and treatment planning process that is characterized by the formation of a child, family, and multi-agency team, b) marshaling of community and natural supports through intensive case management, and c) the availability of an array of therapeutic interventions, which may include behavioral support services, crisis planning intervention, parent coaching and education, mobile therapy, and medication

monitoring and that they may be medically necessary for foster children with mental health care needs. *Katie A.v. Bonta*, 433 F.Supp.2d 1060, 1076-78 (C.D. Cal. 2006).

74. The County has determined that its wraparound services program is effective. In 2004, the County conducted an outcome study of twelve (12) randomly selected wraparound participants in its program and found that 11 of the 12 to be doing well. Another study of two groups of 52 children - one group that received wraparound services and the other that did not - found the recidivism rate back into group care for the children in wraparound to be only 17% while those without wraparound services had a 74% recidivism rate. The County has found the program to be an extremely effective delivery model to serve children and to maintain them in their homes and community settings, thereby reducing the need to more costly out of home care. Exh. 301 at 4-7, (Minutes from March 20, 2006 General Meeting of the Los Angeles Commission for Children and Families).

75. As of February 28, 2006, there were approximately 539 children enrolled in the Wraparound program. Exh. 302 at 4, (Board of Supervisors Letter, dated April 18, 2006). In April 2006, the County announced an expansion in its wraparound program that had the potential to result in almost 1000 new slots by April 2009. *Id.* DCFS projects enrollment levels to reach approximately 800 by April 30, 2007, 900 by April 30, 2008 and 1000 by April 30, 2009. *Id.*

76. Thirty-four (34) providers offered to contract for a minimum of 25 new wraparound slots each. (Decl. of Michael J. Rauso). Several providers proposed to expand by 100 slots or more. In May 2006, the County initiated a start-up phase permitting providers to start with one Service Planning Area ("SPA") and one team, serving eight (8) children, for an increase of only 262 slots, until the County and provider was comfortable with wraparound model fidelity. (Decl. of Dr. Michel J. Rauso at ¶¶ 2 and 3.)

77. In the first month of the new expansion, new providers, and existing providers moving into new areas of the County, were referred one new child per team by the County. (Decl. of Dr. Michel J. Rauso at ¶ 3.) In the following two months, these providers were each referred two new children per month per team. *Id.* As of August 31, 2006, total wraparound capacity in the County reached 644 slots and as of September 30, 2006 total capacity was at 674 slots. *Id.*

78. On October 1, 2006, the County and the providers started an expansion plan, which allows the providers to increase the number of service slots to contract limits of capacity. (Decl. of Dr. Michel J. Rauso at ¶¶ 2 and 3.)

79. The County has not yet identified how many wraparound slots will be added in the expansion phase, other than what was projected in the Board of Supervisor's April 2006 letter. (Exh. 302).

80. The initial 262 slots will bring overall capacity to 800 wraparound service slots. Exh. 302 at 4. The additional slots are, however, not limited to class members and only include children who are in or at risk of placements at RCL 12 or above.

81. In August of 2005, the Panel recommended an expansion in wraparound services for class members: 500 additional slots for a total of 1000 slots by June 30, 2007 and another 500 by June 30, 2008. The Panel also recommended that the County "should expand eligibility for Wraparound services to include children who do not have intact families and those placed in level 10 and above residential settings."

82. Paragraph 7 of the Agreement expressly requires the County to "expand wraparound services" as one measure to meet the objectives of Paragraph 6 of the Agreement. The County has **begun in good faith to fulfill, but has not completely** fulfilled, these terms of the Agreement by its above-mentioned efforts to expand wraparound services.

83. The Court **adopts** the Panel's recommendation that wraparound services should **ultimately** be **made** available to class members who are in or at risk of placement in facilities of RCL 10 and above and/or who do not have intact families.

84. The Court also **ORDERS** that **the County achieve a further increase of not fewer than** 500 wraparound slots by June 30, 2008. **Such an increase reasonably** reflects the **current** needs of the class and the requirements of the Agreement. The Court further finds that this expansion can be accomplished in a well planned and orderly fashion consistent with high quality and good outcomes.

XII. Therapeutic Foster Care

85. Plaintiffs have given the following description of TFC:

Therapeutic foster care is an intensive, individualized mental health service provided to a child in a family setting, utilizing specially trained foster parents. Therapeutic foster care programs: (a) place a child singly, or at most in pairs, with a foster parent who is carefully selected and matched with the child's needs; (b) create, through a team approach, an individualized treatment plan that builds on the child's strengths; (c) empower the therapeutic foster parent to act as a central agent in implementing the child's treatment plan; (d) provide intensive oversight of the child's treatment, often through daily contact with the foster parent and child; (e) make available an array of therapeutic interventions to the child, the child's family, and the foster family (interventions may include behavioral support services for the child, crisis planning and intervention, coaching and education for the foster parent and the child's family, mobile therapy for the child and child's family, and medication monitoring); and (f) enable the child to successfully transition from therapeutic foster care to placement with the child's family or alternative family placement by continuing to provide therapeutic interventions. *Katie A.v Bonta*, 433 F.Supp.2d at 1072. This Court has previously found that TFC may be medically necessary for foster children with mental health care needs. *Id.* at 1076-78.

86. The Panel has recommended that the County Defendants implement TFC to address the unmet needs of SED children placed in congregate care settings inappropriate to their needs. In August of 2005, the Panel recommended the development of 300 TFC slots by June 30, 2007, with an additional 200 slots by June 30, 2008.

87. The entire County is divided into eight different SPAs. As part of Phase One of the County Plan, on June 30, 2006, the County issued a Request for Services ("RFS") to add 80 Multidimensional Treatment Foster Care slots for Intensive In-home Mental Health Services for DCFS clients in three of the eight SPAs of the County. Supplemental Decl. of Gregory Lecklitner at ¶7. Multidimensional Treatment Foster Care is a particular model of TFC chosen by the County because it is widely recognized as the most proven, highest quality, model. The County has generally committed to further expansion of Multidimensional Treatment Foster Care in Phase Two of the County Plan, but has not yet projected any specific service capacity for this program pending an evaluation of the effectiveness and utility of Multidimensional Treatment Foster Care in Phase One. The County currently has no plans to adopt any other form of treatment foster care. (Supplemental Declaration of Gregory Lecklitner at ¶ 7)

88. Paragraphs 6 and 7 of the Agreement requires the County to "provide more individualized, community-based emergency and other foster care services to foster children," so that class **members** are "afforded stability in their placements," and "promptly receive necessary, individualized mental health services in . . . the most homelike setting appropriate to their needs."

89. The County acknowledges that an increase of just 80 TFC slots alone does not meet the mental health needs of class members and thus does not satisfy the requirements of the Agreement.

90. The Court finds that the Panel's recommendations are reasonable and **that** the County should provide class members with **not fewer than** 300 TFC slots by **January 1, 2008.**

XIII. Training

91. The Panel has stated that reforming a child welfare system begins with the employees who provide services. The Panel has repeatedly emphasized that the County needs to change the training of front-line staff to implement the Agreement successfully. *See, e.g.*, Fifth Panel Report at 25-28. Meeting class members' needs requires "change in practices among thousands of DCFS, DMH and provider staff." In the Panel's opinion, the County must "undertake a major training initiative, including both skills-based and hands-on training for DCFS and DMH staff, as well as staff at private agencies."

92. The Panel has found that DCFS' efforts to train line staff to implement the Agreement have been "essentially superficial," adding that current DCFS training does not effectively impart the foundations of good practice – engaging families, effective teaming and coordination, thorough assessment of strengths and needs, individualized planning, and effective interventions. Relying heavily upon brief, large-group instruction, the training does not help staff acquire discrete skills. The Panel believes that, as a result, training does little if anything to improve caseworkers' ability to serve children with mental health needs.

93. The County Plan does not provide the training recommended by the Panel. The County contends that it is not obliged by the Agreement to adopt any particular training. The County also contends that the State mandates the current curriculum, and it claims that additional training would wastefully require the allocation of many resources. The Panel noted that there is no "regulatory impediment to improving the current curriculum as long as key State requirements are retained." In the Panel's opinion, "the provisions of Paragraph 6 will not be achieved unless through training or other means, the quality of practice is improved."

94. The County maintains that the Settlement Agreement does not require the adoption of specific training approach and that the current County training process, developed in cooperation with local universities, is adequate to meet the needs of the Class.

95. The County should elicit feedback from those DMH and DCFS workers who have received training to provide the mental health covered by the County Plan, and should share that feedback with the Panel.

96. This gathering of information should be helpful to uncover any limitations of the current training curriculum to provide skills-based training as well as improve front-line practice, as outlined by the Panel. Fifth Panel Report at 25-28. **The Court OVERRULES the County's objection to this paragraph.**

XIV. Funding of Services

97. The County proposes to fund the County Plan primarily with EPSDT funds through Medi-Cal. Approximately $1.8 million of County-only funds out of a total cost of $19,024,000 is being designated for Phase One of the County Plan. The County also proposes to use a portion of its Mental Health Services Act[4] funds, but has yet to provide clarity about the amount of those funds or the use to which they will be put. The County also plans to use the remaining "MacLaren Designation Funds," created by Paragraph 7(g) of the Agreement, and possibly Senate Bill No. 163 funds.[5] The County Plan is similarly unclear about the amount or use of these funds.

98. Based on the information provided by the County, the Panel found that the funds committed by the County Plan are "insufficient to meet the number and

---

[4]Welf. & Inst. Code § 5878.1-5878.3. [See Glossary for description of the Act].

[5]Senate Bill No. 163 ("SB 163"), Stats. 1997, Ch. 795, §§ 1-10. Under SB 163, the funding for wraparound services consists of 40% from the state and 60% from the counties. Under this statutory scheme, a child who is currently placed or would be placed in a RCL facility of 10 or higher is eligible for wraparound services. Welf. & Inst. Code § 18251(c)(3).

needs of plaintiff class members." The Panel also found that: the County has failed to pursue available funding opportunities; the County has not "engaged the FFA's in delivering new, more effective services . . . , is not maximizing Medical/Medicaid reimbursement or IV-E training dollars, and has been slow to consider a comprehensive strategy for reinvesting savings from reduced placement costs into front-end services." The "Panel has identified . . . a significant opportunity to expand mental health services by making more efficient use of the federal Early Periodic Screening, Diagnosis and Treatment (EPSDT) dollars." And, the Panel notes, "[t]he County has access to federal financial resources that could be used to expand intensive home-based services."

99. The Panel has previously made numerous recommendations about ways the County can maximize its funding opportunities, including securing state and federal EPSDT funding and Title IV-E federal reimbursement. For example, the Panel recommended that the County retain consultants to help maximize Title XIX and Title IV-E funding, as well as an expert in clinical utilization management to help the County reduce the needless use of institutional and congregate care. In the Panel's opinion, the County's "use of expert technical assistance [is] vital to [the County's] generating sufficient funds to permit compliance with Paragraph 6 of the Settlement Agreement."

100. The Panel has also recommended that the County reinvest its savings from the reduced reliance on group care and into front-end services.

101. The County has pursued a waiver of regulations restricting how Title IV-E funds may be spent. The waiver will allow the County to utilize federal funds, previously available when children were removed from their homes, to provide some families with services to avoid the need for removal of the child from the home and to keep the family **intact** and the child safe. Examples of these services include: training and intervention to improve parenting skills; mental health and addiction services; and other innovative services that are aimed at keeping families united. The

State and Federal Government have reached agreement on the details of the waiver and the current target date to begin implementation is sometime between October 1, 2006 and January 1, 2007. The County has also adopted some of the Panel's recommendations regarding funding. However, citing a number of concerns, including the risks of audit disallowance, the County has not undertaken to act on several any of the Panel's above-mentioned recommendation or suggestions. Exhibit 302. (Title IV-E Child Waiver Demonstration Project Questions and Answers).

102. The County should continue to evaluate the Panel's proposals to obtain additional or new funding and seriously consider pursuit of any proposals the Panel recommends.

103. The County Plan should be updated to include information about how the County intends to redirect funds saved through the newly approved federal IV-E waiver, which potentially gives the County much greater flexibility to spend funds on services for class members.

XV. IBHIS System

104. The County is acquiring an Integrated Behavioral Health Information System ("IBHIS") to make more clinical information available electronically, such as patient medical records. In April 2006, the County Board of Supervisors approved retention of a consultant to assist the DMH with design specifications and procurement of an IBHIS. The County currently projects IBHIS to begin operation in December, 2008. Decl. of Robert Greenless at ¶ 2.

105. The County Plan states that, in the future, the County will track some information about class members through assigned mental health case managers who are located in the same offices with DCFS case workers. The County Plan also discusses the development of a standardized tool to monitor the status of children receiving services who are determined to be SED ("outcomes measurement tool"). This tool would collect data on a class member's social functioning, educational performance, and mental and physical health which would be centrally stored and

which could be analyzed. In a newly submitted declaration, the County explains that its intended use of this tool has now been expanded to encompass all class member children newly receiving services under the County Plan. (Supplemental Declaration of Gregory Lecklitner at ¶ 9.) The County Plan, as originally written, or as recently described, does not adopt any data collection or class survey recommendations of the Panel, and does not contemplate use of the outcomes measurement tool for children who are already receiving mental health services.

106. The Panel has found that there is an "urgent need to monitor progress" that "cannot wait until DMH completes its new automated system in 2008." The "ability to track" basic information about the Plaintiff class "is crucial" to determining the County's compliance with the Agreement. The Panel has stated that the County has not implemented these measures. As a result, the Panel has concluded that the County can neither identify accurately the size and needs of the class nor track the impact of initiatives on the class. The Panel concluded that there is "no reliable method for tracking the long term outcomes of the plaintiff class, for assessing the degree to which their current status is acceptable, for evaluating the quality of DCFS and mental health services or the types, intensity and duration of the mental health services they receive."

107. The Panel has previously described the need and use for data to assess progress under the Agreement. Because the DCFS data system cannot identify whether children have been screened or assessed as needing mental health services, the Panel and DCFS had previously agreed that DCFS would track a group of children who were known to have mental health service needs based on characteristics that DCFS could track. This group included, for example, children placed in treatment facilities and children in D-rate homes. While this group is considerably smaller than the total Plaintiff class, it could theoretically provide some basis for tracking and evaluating the County's performance in implementing the Agreement. Although, as agreed, DCFS has provided the Panel with specific data

about this proxy population, the data lacks information about the specific mental health services these children receive or the efficacy of these services. Moreover, DMH lacks such information, making it difficult to assess progress even for this small proxy group.

108. The County's plans are **flawed**. It is unclear how the activities of case managers will result in any actual tracking or evaluation of the plaintiff class because the Plan does not describe how information will be collected and evaluated. While the County's plan to use a standardized tool is promising, it is an incomplete solution. The scope of the County's intended use of the tracking tool remains unclear as is the time line for actual implementation of the tool. Exh. 163 at 3, 6-7.

109. The County has contended that a more formal system for identifying and tracking information about the Plaintiff class is unnecessary because the County intends to screen every child who enters foster care system to determine the child's needs for mental health services. Exh. 170 at 2-3.

110. **Nevertheless,** the fact that County staff are screening children provides no guarantee that children who require services will actually receive them. The entire point of the tracking system recommended by the Panel is to allow the County to determine whether its strategy of screening children is actually working, that is, whether the screening is identifying children with mental health needs and whether the children who are screened actually are appropriately assessed and served. Second, the County's screening strategy is focused on children who will enter foster care, not those already in foster care. The County has not offered any assurances that there will be a system for identifying children already in care who need mental health services and for having them properly assessed and served. Moreover, to the extent the County has any plan to address this need, the County has proposed no way to track whether its plan is working.

111. The County previously agreed with the Panel to track class members and outcome indicators for a subset of class members known to need mental health

services by matching data from both the County DCFS and DMH. Exh. 304 (April 27, 2004 letter from C. Pratt to Paul Vincent). The County **shall attempt in good faith to extend such tracking, using the** previously agreed upon indicators, **to *all*** class members **and the County will be expected to provide reasonably meaningful "outcome indicators" to plaintiffs even before** the IBHIS is fully operational. **Although the Court declines to order the County to require altogether new data collection mechanisms, it expects the County, on an ongoing basis, to evaluate the data it already is collecting to comply with this provision.**

XVI. Qualitative Service Reviews

112. The Panel has stressed the need for an in-depth review of the quality and impact of the mental health services being provided class members. The Panel has urged that DCFS participate in a qualitative service review ("QSR") focusing on 200 class members, selected randomly but stratified according to various characteristics.

113. The Panel has found that the State mandated case review process is different from, and not duplicative of, the QSR and described those differences in detail in its Third Report.

114. The Panel has stated that the QSR process is the primary process used throughout the nation to monitor "service fidelity and client outcomes" in systems serving foster children and children with mental health needs. Such QSRs have been conducted in at least 14 other states. The Panel explained that, in seven of those states, they have been conducted as part of monitoring progress and compliance in class action litigation.

115. According to the Panel, the proposed QSR could "quickly and reliably identify the strengths and weaknesses of [ ] services to the plaintiff class and more importantly, point to the strategies that would enable class members to be served consistently with the settlement agreement."

116. The County objects to such a QSR. Instead, the County asserts that it regularly conducts quality assurance reviews as required by the State and that the review proposed by the Panel would be duplicative. Further, the County claims that the universal-screening and outcomes-measurement-tool features of the County Plan will provide it with reliable and accurate information about the Plaintiff Class.

117. The County has also indicated it plans to contract with a local university to conduct an evaluation of County Defendants' implementation of the County's Plan. The County has indicated that this study will not do any reviews of the actual services provided, as does a QSR.

118. The Panel has explained its views on why the proposed QSR is needed and how it differs from the County's quality assurance reviews. Quantitative data "must be paired with an approach to examine qualitative factors . . . [T]he qualitative review approach helps identify why outcomes are not being achieved, information vital to developing plans for corrective action. It is the opinion of the Panel that [the qualitative review] processes should be in place to measure progress, to identify barriers to progress and to strengthen accountability."

119. **At this time the Court declines to order that** the County develop a QSR.

XVII. Exit Criteria

120. County Defendants believe that establishing measures of compliance with the Agreement is necessary. Exh. 170 at 7-8. To that end, the County had previously proposed the following goals: (1) reduce the percentage of children in congregate care to a level below Philadelphia, New York, and Chicago; (2) demonstrate a 10% increase in the number of children receiving intensive home-based services since entry of the Agreement; (3) place at least 60 children into a treatment foster care program; (4) screen 80% of the children for mental health needs within 60 days of their removal from family; and (5) formally assess 80% of children with a positive screen for mental health needs within 90 days. Citing

numerous factors it claims are beyond its control, the County subsequently proposed benchmarks of screening 90% of children "some time shortly after detention" and formally assessing 90% of children "some time after a positive screen".

121. The County concedes that above-mentioned criteria do not constitute compliance with the Agreement.

122. The Court has found that comparison of the County to other jurisdictions, while acceptable as a relevant factor of consideration, may not serve as a fundamental feature for any plan to measure County progress.

123. The County's suggested goals are unambitious (e.g., a 10% increase from the very low base of the number of children receiving intensive home-based services; placement of only 60 children in TFC in one of the largest counties in the U.S.). The goals also represent what could be described only as preliminary measures (e.g., screening, assessment). The County could meet all these goals and yet still deny most class members the mental health services they need. Exh. 165 (matrix) at 5. Moreover, these targets do not directly address other core objectives of the Agreement, such as preventing children from being removed from their homes, affording stability in placements, and delivering services consistent with good child welfare and mental health practice. Agreement at ¶6(b)-(d) (Exh. 160). The County acknowledges its obligation to develop a more comprehensive monitoring plan than those measures previously proposed to the Court.

124. The Panel has proposed a three-fold measure of compliance: successful completion of a meaningful implementation plan (i.e., a plan approved by the Court), a passing score from a qualitative review, and acceptable progress on outcome indicators. **Before the Court adopts or approves with finality any "Exit Criteria," it will require additional information, such as the impact of this set of findings and conclusions on the County's compliance.**

XVIII. Corrective Measures by the County and the Panel

125. The Agreement provides that the Court will dismiss the Complaint against the County Defendants and terminate its jurisdiction of the claims against them if the "County Defendants have fulfilled the objectives in Paragraph 6 and have met their obligations under Paragraph 7" and "have systems in place that will continue to fulfill the objectives set forth in Paragraph 6 and meet the obligations set forth in Paragraph 7 for the upcoming twelve months." Agreement, at ¶ 19.

126. Although the Agreement took effect more than three years ago, County Defendants have not fulfilled the objectives in Paragraph 6 and have not met their obligations under Paragraph 7. Nor does it appear that they will soon meet these terms of the Agreement. Hence, in July of this year, the Court extended jurisdiction over the claims against County Defendants, and the role of the Panel, for an additional 18 months (or through and including January 16, 2008).

127. The Agreement expressly provides that the County Defendants "shall confer with the Advisory Panel to develop a plan to address all areas of non-compliance and to set deadlines for obtaining such compliance."

128. The Agreement further provides that once this plan has been developed, it shall be reviewed by the Panel and approved by the Court. Neither the Panel nor the Court approves the County Plan in its current form, as it both fails to address all areas of noncompliance and to set deadlines for obtaining such compliance.

129. County Defendants are ordered to confer with the Panel and to amend the County Plan to address all areas of non-compliance, including all the areas discussed above, as soon as possible. County Defendants shall also solicit and consider input from Plaintiffs' counsel on the contents of this corrective action plan. At a minimum, this corrective action plan should set forth the specific activities to be undertaken, including the estimated human resources and funding required. For each activity, the corrective action plan should at least set forth: (a) the County official with direct responsibility for the activity; (b) the expected outcomes; (c) the

projected date for commencement of and completion of the activity; and (d) which of the objectives in Paragraph 6 of the Agreement the activity is intended to meet. County Defendants should try to set deadlines for completion of all these activities that are as expeditious as possible but realistic. This plan shall also include "exit criteria," that is, specific measurable conditions under which County Defendants shall be deemed to have fulfilled the objectives of Paragraph 6 and to have met their obligations under Paragraph 7 of the Agreement.

130. County Defendants and the Panel shall advise the Plaintiffs and the Court when they can expect to receive a final version of this amended plan.

131. This Order shall not be construed as preventing County Defendants from continuing to implement any of their existing measures to comply with this Agreement.

132. Consistent with the Panel's August 30, 2006 letter, County Defendants shall provide monthly progress reports, in the form of a "tracking log," to the Panel, Plaintiffs and the Court detailing its progress in implementing the current County Plan and the future corrective action plan. The first such report shall be due no later than December 1, 2006. The reports shall include, at a minimum, the following information: (a) the specific goals to be achieved; (b) the steps or tasks necessary to achieve those goals; (c) progress in achieving those steps or tasks; (d) a specific timetable for achieving the steps and tasks; (e) provide interim benchmarks with indicators of achievement of developmental steps towards achievement of the task; and (f) specific activities occurring since the last progress report.

133. In addition to the above specific progress report information, the County shall provide the following additional information on a periodic basis, as determined necessary and appropriate by the Panel and County and to the extent it does not require the development of a new tracking system: (g) the relevant scope of resources devoted to the task; (h) barriers impeding completion; and (I) the measure of task achievement.

134. Where data is collected or available, the County shall provide the Panel with the outcome indicators, as agreed to between the Panel and County Defendants, that describe the progress of class members towards achievement of the Agreement objectives, to the extent that it may require the development on new data systems.

135. County Defendants shall set a specific schedule for the next twelve months to meet in person with the Panel and Plaintiffs to discuss activities and progress towards meeting the obligations in the Agreement. The Panel shall provide County Defendants and Plaintiffs with that proposed schedule, as well as any terms or circumstances for such meetings, in writing. County Defendants shall ensure that key high level department officials or representatives are present at the meeting dates and times proposed by the Panel. In addition, County Defendants shall assist the Panel, as necessary, to set up periodic meetings with community stakeholders, including mental health and social services providers, when the Panel requests to do so.

136. The Panel shall continue to provide reports to the Court, as outlined in the Agreement, every six (6) months, starting with another report, on January 15, 2007, and continuing until such time as the Court orders that they be modified or discontinued, or the Panel is no longer authorized to serve in this capacity.

137. County Defendants shall develop a proposal for a formal monitoring plan to measure how and to what extent County Defendants have implemented the County Plan.

138. After implementation of the County Plan, as modified and approved by the Court, the County may move for dismissal of this lawsuit by the Court on the basis that the County has fulfilled its duties under the Settlement Agreement and, that the designated outcome measures of the monitoring plan, discussed more fully herein, have been achieved.

XVIII. Modification of Findings Based Upon Later Ninth Circuit Rulings

139. All parties shall retain the right to seek modifications to any of the findings of facts or conclusions of law that are agreed to or disputed herein, based upon any subsequent rulings on this or any related case.

XIX. Findings of Fact and Conclusions of Law

140. All of the foregoing constitute the Court's findings of fact and conclusions of law. To the extent that factual recitals also constitute legal conclusions and to the extent legal conclusions also constitute factual recitals, such recitals, findings and conclusions shall be so construed.

XX. Attorneys' Fees, Costs and Expenses

141. The Court retains jurisdiction to determine whether Plaintiffs are entitled to recover their reasonable attorneys' fees, costs and expenses in connection with these motions and, if so, the amount of such fees, costs and expense. The parties shall make good faith efforts to resolve their differences over any claim for, and amount of these fees, costs and expenses. If agreement cannot be reached on this issue, then Plaintiffs' counsel may file a motion no later than 90 days from entry of this order. The above deadline to file any such motion shall supercede the previous set filing deadline pursuant to a stipulation between plaintiffs and County Defendants.

DATED:

IT IS SO ORDERED.

Dated: November 20, 2006

HONORABLE A. HOWARD MATZ
UNITED STATES DISTRICT JUDGE