

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.: 00-2116-CIV-MORENO/Dubé

FOSTER CHILDREN, et al,

Plaintiffs,

v.

PLAINTIFFS' NOTICE OF FILING
SETTLEMENT AGREEMENT

JEB BUSH, et al,

Defendants.

_____/

Plaintiffs hereby give notice of the filing of a settlement agreement reached between the named Defendants in the case at bar and the Plaintiffs named in the agreement. The agreement settles the claims remaining pending before this Court which were to be repleaded in an amended complaint due no later than February 15. [The settlement agreement does not resolve the constitutional claims in Counts I, II and III or the ASFA claims in Count IV of the August 2000 amended complaint to the extent the claims were filed by foster children still in the Defendants' custody and still under the age of eighteen; those claims are pending before the appellate court].

The effect of the settlement agreement is to make it unnecessary for an amended complaint to be filed on the behalf of the individual youngsters whose claims were not

subject to the abstention and Eleventh Amendment immunity
rulings of this Court.

Respectfully submitted,

GIEVERS, P.A.
Counsel for Plaintiffs

 for
KAREN GIEVERS

Fla. Bar No.: 262005
524 East College Avenue
Suite 2
Tallahassee, FL 32301
T - 850/222-1961
F - 850/222-2153

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was mailed on this 14th day of February, 2002 to Plaintiffs' counsel and counsel on the attached service list.


KAREN GIEVERS
Fla. Bar No. 262005

Co-Lead Counsel for Plaintiffs

Theodore Babbitt, Esquire
Fla. Bar No.: 091146
Babbitt, Johnson and Osborne, P.A.
Suite 100
1450 Centerpark Blvd
West Palm Beach, FL 33401
Mailing address:
P.O. Box 4426
West Palm Beach, FL 33402-4426
T - 561/684-2500
F - 561/684-6308

John B. Ostrow, Esquire
Fla. Bar No.: 124324
Law Offices of
John B. Ostrow, P.A.
Miami Center Bldg
Suite 1380
201 S. Biscayne Blvd.
Miami, FL 33131
T - 305/358-1496
F - 305/371-7999

COUNSEL FOR DEFENDANTS

Cecilia Bradley, Esquire
Asst. Atty. General
Fla. Bar No.: 363790
Jason Vail, Esquire
Asst. Atty. General
Chesterfield Smith, Esquire
Asst. Atty. General
Office of the Attorney General
The Capitol - PL01
Tallahassee, FL 32399-1050
T - 850/414-3300
F - 850/414-9650

Lynn Sharon, Esquire
Asst. Atty. General
Paul Hancock, Esquire
Asst. Atty. General
Stephanie S. Curd, Esquire
Asst. Atty. General
Office of the Attorney General
Civil Litigation Division
110 S.E. 6th Street - 10th Floor
Ft. Lauderdale, FL 33301-5000
T - 954/712-4600
F - 954/712-4700



OFFICE OF THE ATTORNEY GENERAL

DEPARTMENT OF LEGAL AFFAIRS

THE CAPITOL

TALLAHASSEE, FLORIDA 32399-1050

ROBERT A. BUTTERWORTH
Attorney General
State of Florida

Please reply to:

Office of the Attorney General
Suite PL-01
The Capitol
Tallahassee, Florida 32399-1050
(850) 414-3300; FAX: (850) 488-4872

February 7, 2002

Ms. Karen Gievers
524 East College Ave., Suite 2
Tallahassee, FL 32301

re: *Foster Children v. Bush*

Dear Ms. Gievers:

I have enclosed two signed copies of the settlement agreement. Please return a signed copy to me for our records.

I understand that the plaintiffs have no objection to the attached draft policy statement condemning racial discrimination in the delivery of foster care services.

Sincerely,

A handwritten signature in black ink, appearing to read "J. Vail".

Jason Vail
Assistant Attorney General

cc: Josefina Tamayo
Simone Marstiller

**UNITED STATES DISTRICT COURT FOR THE
SOUTHERN DISTRICT OF FLORIDA
Miami division**

**FOSTER CHILDREN BONNIE L.,
et al.,**

Plaintiffs

v.

Case Number: 00-2116-CIV MORENO

JEB BUSH, et al.,

Defendants

_____ /

SETTLEMENT AGREEMENT

The parties enter into this settlement agreement after arms-length negotiation.

1. The claims raised in the amended complaint by plaintiffs Sandra M., Bonnie L., Paul B., and Hugh S. are moot and will be dismissed with prejudice, consistent with paragraphs 6-8.

2. The claims raised in the amended complaint by plaintiffs Jay and Candice D., Matthew I., and Cathy W. are moot and will be dismissed with prejudice, consistent with paragraphs 6-8.

3. To settle the claims raised in the amended complaint by Leslie F. Melinda, and Karina, the defendants will include in any agreement for continued foster care services or subsidized independent living services offered to them the following provisions, assuming the plaintiffs qualify for services:

- By executing this agreement, the recipient does not waive any state or federal constitutional rights that he/she may have. At the same time, the recipient agrees that the Department is authorized to terminate the

agreement if the recipient fails to comply with any of the terms of the agreement despite the recipient's contention that noncompliance arises from an exercise of a constitutional right if such noncompliance constitutes a danger to self or others.

- (insert the name) is entitled to the confidentiality of his/her medical records. By signing this agreement, (insert the name of the former foster child) authorizes his/her secondary/post-secondary educational program to provide the Department, upon request, access to information and/or to provide a copy of any and all records (other than medical, mental health and therapy records) concerning (insert the name). By this agreement, (insert the name) authorizes the Department to obtain medical, mental health and therapy records when the Department has reason to believe that the recipient may present a risk of harm to self or others. The Department will protect (insert the name)'s privacy rights as required by law.

The claims raised in the amended complaint by Leslie F., Melinda and Karina will be dismissed with prejudice, consistent with paragraphs 6-8.

4. The EPSDT claims raised in the amended complaint by Reggie B. are moot and will be dismissed with prejudice, consistent with paragraphs 6-8.

5. To settle the claims raised in the amended complaint by Laurie S., Lillie S. and Tammy G. for intentional racial discrimination under Title VI, the secretary of the Department of Children and Families will issue a policy statement reemphasizing that it is the department's policy not to discriminate on the basis of race in decisions to provide foster care and adoption services to Florida children in the department's care and custody. The defendants will continue to explore placement options for Tammy G., as provided by law. This claim will be dismissed with prejudice, consistent with paragraphs 6-8.

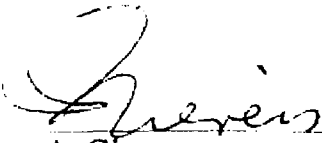
6. Plaintiffs Sandra M., Bonnie L., Paul B., Hugh S., Jay and Candice D., Matthew I., Cathy W., Leslie F., Melinda, and Karina release the defendants from all claims for injunctive or declaratory relief that were or could have been raised in the amended complaint filed in this action in August 2000. Reggie B. releases the defendants from his EPSDT claim for injunctive and declaratory relief. Laurie S., Lillie S., and Tammy G. release the defendants from their Title VI claim for injunctive and declaratory relief. By releasing their respective EPSDT and Title VI claims for injunctive and declaratory relief, Reggie B., Laurie S., Lillie S., and Tammy G. are not releasing their right to continue to pursue their already ongoing constitutional and ASFA claims raised in Counts I through IV of the amended complaint.

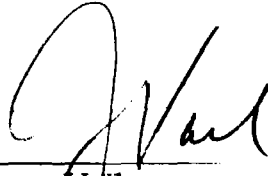
7 This settlement agreement does not settle or compromise any claims for damages.

8. As to Sandra M., Bonnie L., Paul B., Hugh S., Jay and Candice D., Matthew I., Cathy W., Leslie F., Melinda and Karina, this settlement agreement also does not settle or compromise and any claims for injunctive or declaratory relief that may arise after the date of this settlement agreement.

9. No statement in this agreement shall constitute an admission by the defendants.

10. This agreement applies only to the defendants in this suit and to the plaintiffs specifically name herein.


Karen A. Gievers
Gievers P.A.
524 E. College Ave Ste 2
Tallahassee, FL 32301-2529
Counsel for Plaintiff


Jason Vail
Assistant Attorney General
PL-01 The Capitol
Tallahassee, FL 32399
Counsel for Defendants

Date

2/7/2

Date

2/7/02

DEPARTMENT OF CHILDREN AND FAMILIES

Secretary's Policy on Race in Foster Care

It is the express policy of the Department of Children and Families that children in foster care shall not be treated differently because of their race. Decisions about the delivery of services, the setting of permanency goals, and placement shall not be based on a child's race or the color of his or her skin.

The department is committed to achieving positive outcomes for all children in its custody, regardless of their race.

Each department supervisor, employee and contract provider must ensure that this policy is enforced at every level for every child.

Violation of this policy is grounds for discipline, including dismissal.