



DSS

Serving Children and Families

V. SUSAN ALFORD
STATE DIRECTOR

NIKKI R. HALEY
GOVERNOR

July 12, 2016



000975 (1/3)
MR. ROBERT HOMER
700 AUGUSTA PLANTATION DRIVE
MYRTLE BEACH SC 29579

**ATTENTION: Notice of Proposed Class Action Settlement
in *Michelle H., et.al. v. Haley, et.al.***

Dear Sir or Madame:

You are receiving this Notice because you have been identified as an individual or entity that should receive notice of the Settlement in a lawsuit affecting children in foster care in South Carolina. Your receipt of the Notice does not mean that you are a party to the lawsuit. Rather, the Department of Social Services' goal is to ensure those children and adults who interact with the foster care system in South Carolina are aware of the proposed settlement and the opportunity to be heard.

The Notice provides information to Class Members, child advocates, family courts, private providers, children's service agencies and community partners concerning settlement of the *Michelle H., et.al. v. Haley, et.al.* lawsuit which was initiated in January of 2015. On **October 4, 2016**, United States District Judge Richard M. Gergel will preside over a hearing to determine whether the Settlement Agreement should be approved. The attached Notice provides information concerning the right to attend the hearing and the opportunity to be heard regarding approval of the settlement agreement which outlines systemic reforms to South Carolina's foster care system.

Please prominently and immediately post the enclosed *Notice of Proposed Class Action Settlement* in a location where foster children and their representatives are most likely to see it. This Notice should remain posted until October 4, 2016.

Over the last year-and-a-half, DSS has engaged in reform efforts to improve the quality of foster care in South Carolina. The Department recognizes there is significant work in continuing to reform DSS' policies and practices to improve its foster care system. Entering into the Settlement Agreement allows DSS to avoid prolonged, expensive litigation and focus in the coming years on continued implementation of reforms focused on meeting federal standards of care and improving the welfare of children in foster care in South Carolina.

Thank you for your assistance.

Sincerely,

V. Susan Alford
State Director



IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH CAROLINA
CHARLESTON DIVISION

MICHELLE H., et al,
Individually, and on behalf of all other
similarly situated children.
Plaintiffs,
v.
NIKKI HALEY, in her official capacity as
Governor of the State of South Carolina, and
SUSAN ALFORD, in her official capacity as
Acting State Director of the South Carolina
Department of Social Services.
Defendants.
C/A No. 2:15-cv-00134-RMG

NOTICE OF PROPOSED CLASS ACTION SETTLEMENT

This Notice may affect you. Please read it carefully.

TO ALL CHILDREN WHO ARE IN SOUTH CAROLINA DEPARTMENT OF SOCIAL SERVICES
FOSTER CARE IN THE PHYSICAL OR LEGAL CUSTODY OF DSS AND TO THE LEGAL
REPRESENTATIVES OF THESE CHILDREN:

This notice concerns a proposed settlement of this class action lawsuit for systemic reforms
to South Carolina’s child welfare system. If you are one of the children described above, or if
you are the legal representative of one or more of these children, then you should read this
notice.

Please note that this case does not concern any individual child’s case, or any case
involving the parents of individual children in DSS custody. This case concerns only the
South Carolina child welfare system as a whole.

I. Background of the Class Action Lawsuit

This class action lawsuit was filed in January 2015, in the United States District Court for
the District of South Carolina, by several children alleging to be similarly situated to all children
who are involuntarily placed in DSS foster care in the physical or legal custody of DSS either now
or in the future (together they are called the “Plaintiffs” or the “Class”) against the Governor of
South Carolina and the State Director of the South Carolina Department of Social Services
(“DSS”), in their official capacities (together they are called the “Defendants”). This lawsuit

alleges that South Carolina's child welfare system is failing to adequately protect and provide necessary services to children in the Class in violation of their federal constitutional and statutory rights. *This lawsuit involves court-ordered changes to South Carolina's child welfare system and does not involve an award of money damages for any children.*

Plaintiffs and Defendants have negotiated a proposed class action settlement of the lawsuit that has been set forth in a proposed Settlement Agreement. The parties have asked the federal district judge assigned to the case to approve the Settlement Agreement. The terms of the Settlement Agreement are described below in Section V.

You have the right to review the entire Settlement Agreement if you choose. You also have the right to make written comments or to attend the final hearing and testify at that hearing or to do both about what you think before the judge decides whether to approve the Settlement Agreement.

II. Notice of Hearing

There will be a hearing where the Court will hear evidence and argument to determine whether the Settlement Agreement is fair, reasonable, and adequate, and whether the Settlement Agreement should be approved by the Court.

THE HEARING WILL TAKE PLACE BEFORE UNITED STATES DISTRICT JUDGE RICHARD M. GERGEL ON October 4, 2016, AT 10:00 A.M. IN A COURTROOM TO BE DETERMINED AT THE J. WATIES WARING JUDICIAL CENTER (CHARLESTON FEDERAL COURTHOUSE), 83 MEETING STREET, CHARLESTON, SOUTH CAROLINA 29401.

YOU ARE WELCOME TO ATTEND THE HEARING TO PRESENT ANY FAVORABLE COMMENTS OR OBJECTIONS REGARDING THE SETTLEMENT AGREEMENT TO THE JUDGE. YOU ARE NOT, HOWEVER, REQUIRED TO ATTEND THE HEARING OR CONVEY ANY COMMENTS TO THE COURT.

Please note that this case and this hearing do not concern any individual child's case, or any case involving the parents of individual children in DSS custody. This case and the hearing concern only the South Carolina child welfare system as a whole.

III. WANT MORE INFORMATION OR HAVE QUESTIONS?

For a copy of the Settlement Agreement, go to the DSS website at <https://dss.sc.gov/> and SC Appleseed Legal Justice Center's website at <http://scjustice.org/>. If a computer is not available, please call and ask for the "South Carolina Federal Court Settlement" from DSS at SCDSS Office of General Counsel, (803) 898-7368 (Attention: Amanda Whittle, Assistant General Counsel), Post Office Box 1520, Columbia, SC 29202.

For any other questions, please contact:

Dione Brabham
SC Appleseed Legal Justice Center

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SC Appleseed Legal Justice Center



(803) 779-1113, extension 112;

Email Children's Rights at DSSsettlement@childrensrights.org,

Or contact Amanda Whittle at DSS
amanda.whittle@dss.sc.gov or (803) 898-7368.

****Please do not call Judge Richard M. Gergel or the Clerk of the United States District Court.**** They will not be able to answer your questions about the class action lawsuit or the Settlement Agreement. However, you may review the materials that have been filed with the Court in this case by going to the Office of the Clerk of the United States District Court for the District of South Carolina at the Charleston Federal Courthouse, 85 Broad Street, Charleston, South Carolina. The Clerk's Office is open on Monday through Friday from 8:30 a.m. to 4:30 p.m. To review materials in the public record in this case, refer to Civil Action Number 2:15-cv-00134-RMG.

IV. How to Submit Comments, Objections or Support to the Court, and How to Request to Speak at the Hearing.

You may submit written comments, objections or support regarding the proposed Settlement Agreement by mailing a letter to Class Counsel at:

SC Appleseed Legal Justice Center
Attn: Stephen Suggs
P.O. Box 7187
Columbia, SC 29202

In order to be considered by the Court, your letter must be received no later than September 5, 2016. You must sign your letter and also print your name, address, and telephone number on the letter.

If, in addition to submitting a letter as discussed above, you also would like to speak at the hearing, then please add this request to your letter and briefly describe what you want to speak about. **In order to be heard by the Court at the hearing on October 4, 2016, you must submit your comments in writing to the above address no later than September 5, 2016.**

Class Counsel will share your written letter with Defendants' counsel within five (5) days of receipt and the parties will share any written submissions with the Court fifteen (15) days before the hearing.

Unless otherwise ordered by the Court, any Class Member who does not make his or her objection in the manner provided will have waived all objections.

V. The Settlement Agreement

This Settlement Agreement, if approved by the Court, will resolve this case without a trial. Under the Settlement, (i) DSS is required to implement certain changes and meet some required improvements in the foster care system, and (ii) progress on the changes and required

improvements will be evaluated and reported by two independent, court-appointed monitors. The specific terms and requirements relate to:

- (1) A Workload Study (to study caseloads) and Workload Limits (maximum allowable caseloads) for any employee of DSS that provides direct case management, supervision, or provides permanency services to a Class Member, or investigates one or more Accepted Reports of Abuse or Neglect about a Class Member;
- (2) Visitation between DSS Workers and Class Members;
- (3) Investigations of suspected Abuse or Neglect of any Class Members while in DSS custody;
- (4) An evaluation of the number and type of placements DSS has for meeting the needs of all Class Members and implementing the recommendations of that evaluation;
- (5) Limits on placing Class Members in non-family group placement;
- (6) Elimination of placing Class Members in DSS offices and hotels;
- (7) Limits on moving Class Members between multiple placements;
- (8) Placing sibling Class Members together;
- (9) Providing foster care placements for Class Members exiting the juvenile justice system;
- (10) Providing more specialized or “therapeutic” foster care assessments, placements and services for Class Members;
- (11) Visitation between sibling Class Members who are not placed together;
- (12) Visitation between Class Members and their parents who have a goal of reunification; and
- (13) A Health Care Improvement Plan with improvements in providing health care screens and treatment services for Class Members.

The Settlement Agreement does not constitute an admission by Defendants of any liability concerning any of the claims and allegations in the Complaint.

This Notice Has Been Approved For Distribution By:

The Honorable Richard M. Gergel
United States District Court Judge
District of South Carolina

Please do not contact Judge Gergel or the Court directly about this Settlement Agreement or this Notice. Instead, follow the directions in this Notice.

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