

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF INDIANA
INDIANAPOLIS DIVISION

C.H., <i>et al.</i> ,)	
)	
Plaintiffs,)	
)	
v.)	No. 1:09-cv-01574-SEB-JMS
)	
JAMES W. PAYNE,)	
)	
Defendant.)	

MOTION FOR CLASS CERTIFICATION

COME NOW Plaintiffs, by counsel, and requests that this Court certify this case as a class action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure. In support of this Motion, the plaintiffs state as follows:

1. The plaintiffs bring this action on their own behalf and on behalf of four (4) classes of those similarly situated pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure.

Class A

2. Class A is represented by parents C.H. and R.H., and is defined as:
- all foster parents who are receiving, or will receive, foster care maintenance payments from the Indiana Department of Child Services pursuant to 42 U.S.C. § 672.
3. As defined, Class A meets all the requirements of Rule 23(a) of the Federal Rules of Civil Procedure. Specifically:
- a. The class is so numerous that joinder of all members is impractical. At this point the current size of the class is not known, but it is believed to be large, consisting of hundreds if not thousands of foster parents.

- b. There are questions of law or fact common to the class: whether the unilateral reduction of foster care maintenance payments violates federal law.
 - c. The claims of the representative parties are typical of those of the class.
 - d. The representative parties will fairly and adequately protect the interests of the class.
4. The further requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure are met in this cause in that the defendant, at all times, has acted or has refused to act in a manner generally applicable to the class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole.

Class B

5. Class B is represented by children J.J. #1, J.J # 2, J.J # 3, and is defined as:
all children in foster care, or who will be in foster care, for whom foster care maintenance payments are being made, or will be made, through the Indiana Department of Child Services pursuant to 42 U.S.C. § 672.
6. As defined, Class B meets all the requirements of Rule 23(a) of the Federal Rules of Civil Procedure. Specifically:
- a. The class is so numerous that joinder of all members is impractical. At this point the current size of the class is not known, but it is believed to be large, consisting of hundreds if not thousands of children in foster care.
 - b. There are questions of law or fact common to the class: whether the unilateral reduction of foster care maintenance payments violates federal law.
 - c. The claims of the representative parties are typical of those of the class.
 - d. The representative parties will fairly and adequately protect the interests of the class.
7. The further requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure are met in this cause in that the defendant, at all times, has acted or has refused to

act in a manner generally applicable to the class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole.

Class C

8. Class C is represented by parents C.H., R.H., D.S. and J.S., and is defined as:

all adoptive parents who are receiving adoption assistance payments through the Indiana Department of Child Services pursuant to 42 U.S.C. § 673

9. As defined, Class C meets all the requirements of Rule 23(a) of the Federal Rules of Civil Procedure. Specifically:

a. The class is so numerous that joinder of all members is impractical. At this point the current size of the class is not known, but it is believed to be large, consisting of hundreds if not thousands of adoptive parents.

b. There are questions of law or fact common to the class: whether the unilateral reduction of adoption assistance payments violates federal law.

c. The claims of the representative parties are typical of those of the class.

d. The representative parties will fairly and adequately protect the interests of the class.

10. The further requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure are met in this cause in that the defendant, at all times, has acted or has refused to act in a manner generally applicable to the class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole.

Class D

11. Class D is represented by children S.H. #1, S.H. # 2, A.H., B.H, N.M.S., and N.J.S., and is defined as:

all adoptive children for whom adoption assistance payments are being made through the Indiana Department of Child Services pursuant to 42 U.S.C. § 673

12. As defined, Class D meets all the requirements of Rule 23(a) of the Federal Rules of Civil Procedure. Specifically:
 - a. The class is so numerous that joinder of all members is impractical. At this point the current size of the class is not known, but it is believed to be large, consisting of hundreds if not thousands of adoptive children.
 - b. There are questions of law or fact common to the class: whether the unilateral reduction of adoption assistance payments violates federal law.
 - c. The claims of the representative parties are typical of those of the class.
 - d. The representative parties will fairly and adequately protect the interests of the class.
13. The further requirements of Rule 23(b)(2) of the Federal Rules of Civil Procedure are met in this cause in that the defendant, at all times, has acted or has refused to act in a manner generally applicable to the class, thereby making final injunctive and declaratory relief appropriate with respect to the class as a whole

All Classes

14. The plaintiffs' counsel should be appointed to represent the classes pursuant to Rule 23(g) of the Federal Rules of Civil Procedure.
15. In further support of this Motion, the plaintiffs separately file their supporting memorandum of law.

WHEREFORE, the plaintiffs respectfully request that this case be certified as a class action pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, with the classes as defined above, and request all other proper relief.

/s/ Gavin M. Rose

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*Attorneys for Plaintiffs and the
Putative Classes*

CERTIFICATE OF SERVICE

I hereby certify that on this 22nd day of December, 2009, a copy of the foregoing was filed electronically with the Clerk of this Court. The parties may access this filing through the Court's system. I further certify that on the 22nd day of December, 2009, a copy of the foregoing was sent to the following persons by first-class U.S. mail, postage pre-paid.

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/s/ Gavin M. Rose

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