

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

A.M., *et al.*,

10 CV 2181 (BMC)

Plaintiffs,

-against-

STIPULATION AND ORDER

John B. Mattingly, in his official capacity as
Commissioner of the New York City Administration
for Children's Services,

Defendant.

WHEREAS, plaintiffs commenced the instant lawsuit on May 12, 2010, alleging that the defendant violated federal and state law by confining improperly plaintiffs and a proposed class of plaintiff children who are in foster care, in acute care psychiatric hospitals;

WHEREAS, plaintiffs moved by Order to Show Cause for preliminary injunctive relief on May 14, 2010;

WHEREAS, no finding of liability has been made; and

WHEREAS, the parties have agreed to the following terms that avoid the need to adjudicate plaintiffs' May 14 Order to Show Cause for preliminary injunctive relief;

IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned, as follows:

1. Defendant, together with its contract agency Coalition for Hispanic Family Services, has matched Plaintiff A.M. with a potential foster home operated by SCO Family of Services. Visitation between A.M. and her potential foster family has commenced. A.M.'s anticipated discharge date from the hospital to this foster home is May 21, 2010. If the Administration for Children's Services (ACS) and/or its contract agency the Coalition for

Hispanic Family Services, amend the plan for A.M.'s discharge from the hospital, ACS shall immediately contact Plaintiffs' attorneys and inform them of a new discharge plan for A.M.

2. Defendant has arranged for Plaintiff M.M. to be placed at a Residential Treatment Center ("RTC") operated by Children's Village. M.M.'s anticipated discharge date from the hospital is May 21, 2010. ACS, together with Children's Village, will continue to explore step down options such as a therapeutic foster boarding home as appropriate while he is at the RTC. If ACS and/or its contract agency, Little Flower Children and Family Services, amends M.M.'s discharge plan, ACS shall immediately contact Plaintiffs' attorneys and inform them of a new discharge plan for M.M.

3. Defendant's contract agency SCO Family of Services has matched Plaintiff S.M. with a potential family-based treatment home under the auspices of the New York State Office of Mental Health. Visitation has commenced among S.M., his legal guardian, and his potential family care home. S.M.'s anticipated discharge date from the hospital is May 24, 2010. If ACS and/or its contract agency, SCO Family of Services, amends S.M.'s discharge plan, ACS shall immediately contact Plaintiffs' attorneys and inform them of a new discharge plan for S.M.

4. During the pendency of this action, upon notice from Plaintiffs' attorneys that a potential class member child is in an acute psychiatric hospital and deemed ready for discharge, ACS will make best efforts to find, as soon reasonably possible, the least restrictive placement consistent with the recommendation of the child's hospital treatment team. ACS will communicate its efforts in writing to Plaintiffs' attorneys.

5. Plaintiffs' May 14 motion for preliminary injunctive relief is withdrawn without prejudice.

6. This Stipulation is solely for the purpose of settlement of Plaintiffs' Order to Show Cause for preliminary injunctive relief and is without prejudice to the parties' legal and equitable rights and defenses in this action.

Dated: New York, New York
May 19, 2010

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