

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

-----		X
A.M., <i>et al.</i> ,		:
	Plaintiffs,	:
	-against-	:
John B. Mattingly, in his official capacity as Commissioner of the New York City Administration for Children Services,		:
	Defendant.	:
-----		X

**STIPULATION AND
ORDER FOR CLASS
CERTIFICATION**

10 CV 2181 (BMC)

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

WHEREAS, the defendant denies each allegation contained in the Complaint; and

WHEREAS, no admission or finding of liability has been made; and

WHEREAS, the parties have agreed to the following terms to certify a plaintiff class;

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

1. The Court, upon stipulation by the parties hereto, may order the certification, pursuant to Rule 23(a) and (b)(2) of the Federal Rules of Civil Procedure, of the following plaintiff class:

“Children under the age of 18 who are in the custody of the New York City Administration for Children’s Services (“ACS”) and who are currently admitted or will be brought to and admitted to acute psychiatric hospitals and who, once admitted and deemed ready for discharge, are not moved by ACS and/or one of its contract agencies to the least restrictive setting appropriate to their needs.”

2. The plaintiff class is so numerous that joinder of all members is impracticable.

3. There are questions of law or fact common to the class.

4. The claims or defenses of the representative parties are typical of the claims or defenses of the class.

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

6. Plaintiffs allege that the defendant has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.

7. This Stipulation and Order is solely for the purpose of resolving class certification and is without prejudice to the parties' legal and equitable rights and defenses in this action.

Dated: New York, New York
June 8, 2010

THE LEGAL AID SOCIETY
Steven Banks, Attorney-in-Chief
Kimberly Forte, of counsel
Attorney for Plaintiffs
199 Water Street, 3rd Floor
New York, NY 10038
(212) 577-3300

MICHAEL A. CARDOZO
Corporation Counsel of the
City of New York
Attorney for Defendant
100 Church Street
New York, New York 10007
(212) 788-0923

By: /s/ Nancy Rosenbloom
Nancy Rosenbloom

By: /s/ Martha Calhoun
Martha Calhoun
Assistant Corporation Counsel

PATTERSON BELKNAP WEBB & TYLER LLP
Attorney for Plaintiffs
1133 Avenue of the Americas
New York, New York 10036-6710
Telephone: (212) 336-2000

By: /s/ Lisa E. Cleary
Lisa E. Cleary

SO ORDERED: s/Hon. Brian M. Cogan
Hon. Brian M. Cogan, U.S.D.J.