

U.S. District Court Eastern
District of New York

Case No: 1:09 -cv-1777-ENV-
MDG

S.W., by and through his guardian, RENEE MARQUIS-ABRAMS; R.E., T.G., and J.L., by and through their next friend, MILDRED DEL GROSSO; S.B. by and through his guardian, PATRICIA BALDWIN; L.J. and J.G., by and through their guardian, KEVIN HENDRICKSON; J.B., C.B., and T.L.,

Plaintiffs,

vs.

CITY OF NEW YORK, a municipal corporation; ADMINISTRATION FOR CHILDREN'S SERVICES, f/k/a CHILD WELFARE ADMINISTRATION; ST. JOSEPH SERVICES FOR CHILDREN, INC., f/k/a CATHOLIC CHILD CARE SOCIETY OF THE DIOCESE OF BROOKLYN, INC., a New York corporation; HEARTSHARE HUMAN SERVICES, f/k/a CATHOLIC GUARDIAN SOCIETY OF THE DIOCESE OF BROOKLYN, INC., a New York corporation; SCO FAMILY OF SERVICES, f/k/a ST. CHRISTOPHER-OTILIE, a New York corporation,

Defendants

PLAINTIFFS' AMENDED MOTION TO APPROVE COSTS

COMES NOW the Plaintiffs, by and through their undersigned attorneys, and hereby file their Amended Motion to Approve Costs and state as follows:

This case is now completely settled. The total of all costs for all attorneys on the first settlement with the City of New York were \$1,595,158.17. Of that amount 25% or a

total of \$341,947.54 was held in the trust account pursuant to the Order of Judge Vitaliano of December 18, 2012 [D.E.# 385].

The total costs requested with respect to the Agency Defendants was \$462,252.00. Plaintiffs believe this amount was reasonable and necessary in order to properly prosecute this case. All of these costs have been approved multiple times by the Honorable Judge Dwight Geiger and by the Guardians. This Court has jurisdiction to approve the settlement only with respect to five of the Plaintiffs, three of whom remain under guardianship, the remaining two incompetent Plaintiffs are not involved in the second settlement.

At the request of the Court, Plaintiffs' attorneys have reviewed all costs in this case. In light of the suggestions made by Magistrate Marilyn Go, Plaintiffs have reduced the request for approval of costs by the following amounts. These calculations encompass every question raised by Magistrate Go with the exception of expert fees. No reduction has been made with respect to the expert fees because Plaintiffs had no control over what the experts charged and the total of all expert fees were a small fraction of the amount spent on experts by the Defendants. Plaintiffs' attorneys negotiated, and in many cases reduced, the fees charged by these experts and the case could not have been prosecuted for a lesser amount. While Magistrate Go only raised a question about the extent of the following categories, rather than the total of those categories, in large part, we have eliminated the entire amounts.

While the Court's jurisdiction is limited to only the five Plaintiffs indicated previously, Plaintiffs' attorneys will reimburse all Plaintiffs pro rata as to all costs

withdrawn after deducting one-third attorneys' fees because Plaintiffs' attorneys feel it would be unfair to charge different amounts to different clients.

1. All coding	\$71,039.85
2. All document research done by Lansler, Kubitschek and Schaffer	\$13,509.85
3. 50% of all travel of any form done by all attorneys and their employees in this case	\$103,429.28
4. All Federal Express charges	\$11,896.46
5. All copies whether in-house or by unrelated companies	\$62,967.95
6. All paralegal charges	\$2,396.31
7. All long-distance telephone charges	\$1,359.04
8. 50% of all on-line research	\$13,755.67
TOTAL	\$280,354.41

The above charges, which are being withdrawn, subject to this Court's approval of the remaining costs, constitute a 13.6% reduction in costs to all clients. Plaintiffs have attempted to eliminate any concern on the Court's part concerning the costs requested in large part eliminating any costs requested to be justified by Magistrate Go.

This Court previously approved \$1,196,368.63 constituting 75% of the \$1,595,158.17 previously requested as costs leaving a balance in the Plaintiffs' attorneys' trust account of \$398,789.54. This has earned \$997.52 in interest. When this is added to the \$462,252.00 requested as costs in the settlement with the Agency

Defendants, the total at issue is \$862,039.06. Plaintiffs are requesting that the Court approve costs in the amount of \$581,684.65.

The Court was also concerned about the allocation of the costs as to L.J. and J.G., the two Plaintiffs who did not take part in the settlement with the Agencies. In accordance with Plaintiffs' previously filed Motion to Approve Settlement and Costs [D.E.# 490], the costs were recalculated and there was a reallocation of these costs in a manner proportionate to the pro rata recovery of each Plaintiff. The excess amount paid by L.J. and J.G. has been returned to them by the remaining Plaintiffs and that issue is no longer extant.

I HEREBY CERTIFY that a true and correct copy of the foregoing has been furnished to: counsel on the attached list, by eservice, this 2 day of ~~September~~^{OCTOBER}, 2014.

BABBITT JOHNSON OSBORNE &
LECLAINCHE, P.A.
Attorneys for Plaintiffs
1641 Worthington Road, Suite 100
Post Office Box 4426
West Palm Beach, FL 33402
(561) 684-2500; Fax (561) 684-6308
tedbabbitt@babbitt-johnson.com

By 
THEODORE BABBITT
Florida Bar No.: 091146

COUNSEL OF RECORD

COUNSEL FOR PLAINTIFFS

JOHN WALSH, ESQ.,
admitted Pro Hac Vice
Florida Bar No: 0796360
Co-Counsel for Plaintiffs
3067 Commercial Blvd.
Fort Lauderdale, FL 33308
Telephone: (954) 491-3130
Facsimile: (954) 772-2099
jjwalshlaw@gmail.com

MARCIA R. LOWRY
MELISSA COHEN
WILLIAM KAPELL
CHILDREN'S RIGHTS INC.
330 Seventh Avenue
4th Floor
New York, NY 10001
Telephone: (212) 683-2210
Facsimile: (212) 683-4015
mlowry@childrensrights.org
wkapell@childrensrights.org
mcohen@childrensrights.org

HOWARD M. TALENFELD
Florida Bar No. 312398
ANN V. ALPER
Florida Bar No. 748293
Admitted Pro Hac Vice
COLODNY FASS TALENFELD
KARLINSKY & ABATE, P.A.
Co-Counsel for Plaintiffs
23rd Floor
100 S.E. 3rd Avenue
Ft. Lauderdale, FL 33394
Telephone: (954) 492-4010
Facsimile: (954) 492-1144
htalenfeld@cftlaw.com
aalper@cftlaw.com

Bruce Strikowsky, Esq.
Matthew Kelly, Esq.
Carl Schaerf, Esq.
Allison Fihma, Esq.
Schnader Harrison Segal & Lewis LLP
Co-Counsel for Defendants City of New York and
Administration for Children's Services
cschaerf@schnader.com
140 Broadway
Suite 3100
New York, NY 10005
bstrikowsky@schnader.com
mjkelly@schnader.com
cschaerf@schnader.com
afihma@schnader.com

Steven J. Ahmuty, Jr.
Timothy R. Capowski
Jeremy S. Rosof
William G. Spratt, Esq.
Judd Cohen, Esq.
Robert Boccio, Esq.
Adam S. Covitt, Esq.
Ralph Morales, Esq.
Shaub Ahmuty Citrin & Spratt, LLP
Suite 260
1983 Marcus Avenue
Lake Success, NY 11042
Telephone: (516) 488-3300
Fax: (516) 488-2324
sahmuty@sacslaw.com
tcapowski@sacslaw.com
jrosf@sacslaw.com
wspratt@sacslaw.com
jcohen@sacslaw.com
rboccio@sacslaw.com
rmorales@sacslaw.com

Sonya A Smith-Valentine, Esq.
Valentine Legal Group, LLC
sonya@valentinelegal.com
Attorney for Third-Party Defendant
Thelma Bowes
P.O. Box 56
Oxon Hill, MD 20750
(301) 513-9500
(866) 301-9155 (fax)

Richard Eniclerico, Esq.
Thomas A. Catalano, Esq.
Lester Schwab Katz & Dwyer, LLP
Attorney for Third-Party Defendant
Edwin Gould Services for Children
100 Wall Street
New York, NY 10005
RENICLERICO@LSKDNYLAW.COM
TCATALANO@LSKDNYLAW.COM

Cheryl Jack
Appearing Pro Se as Third-Party Defendant
805 SW Regency Dr.
Oak Harbor, WA 98277

Marc J. Citrin
John D. Paterniti
Craig G. Bienstock
Juan C. Gonzalez
Shaub Ahmuty Citrin & Spratt, LLP
Suite 702
77 Water Street
New York, NY 10005
Telephone: (212) 599-8200
Fax: (212) 599-7765
mcitrin@sacslaw.com
jpaterniti@sacslaw.com
cbienstock@sacslaw.com
jgonzalez@sacslaw.com

Ishmatee Nagassar
Appearing Pro Se as Third-Party Defendant
105-12 103rd Rd.
Ozone Park, NY 11417