

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
SAN FRANCISCO/OAKLAND DIVISION

DAVID OSTER, *et al.*,

Plaintiffs

v.

WILL LIGHTBOURNE, Director of the
California Department of Social Services;
TOBY DOUGLAS, Director of the California
Department of Health Care Services;
CALIFORNIA DEPARTMENT OF HEALTH
CARE SERVICES; and CALIFORNIA
DEPARTMENT OF SOCIAL SERVICES,

Defendants

) Case No.: CV 09-04668 CW
)
)
) **~~PROPOSED~~ ORDER GRANTING**
) **PRELIMINARY APPROVAL OF CLASS**
) **SETTLEMENT AGREEMENT,**
) **DIRECTING NOTICE TO THE CLASS,**
) **AND SETTING A SCHEDULE AND**
) **FAIRNESS HEARING**
)
) Date: April 4, 2013
) Time: 2:00 pm
) Courtroom: 2

Plaintiffs DAVID OSTER, WILLIE BEATRICE SHEPPARD, C.R. by and through his guardian ad litem M.R., DOTTIE JONES, ANDREA HYLTON, HELEN POLLY STERN, CHARLES THURMAN, and L.C. by and through her guardian ad litem M.G., have filed, and all parties support, a Motion for Preliminary Approval of Class Settlement Agreement, Directing Notice to the Class, and Setting a Schedule and Fairness Hearing (hereinafter “Preliminary Approval Motion”). The Court has considered Plaintiffs’ moving papers including the proposed Settlement Agreement, Proposed Notice to Class Members, Proposed Notice Plan, and supporting

1 declarations and exhibits, as well as the arguments of counsel presented at a hearing on Plaintiffs'
2 Preliminary Approval Motion held on Thursday, April 4, 2013. Classes and subclasses in this
3 case have previously been certified under Federal Rule of Civil Procedure 23(b)(2) and need not
4 be amended for purposes of settlement.

5
6 Based on review of these papers, the arguments of counsel, and this Court's familiarity
7 with the case, the Court hereby finds and concludes that:

- 8 1. The Settlement Agreement is the result of serious, informed, non-collusive negotiations
9 between the parties, has no obvious deficiencies, does not improperly grant preferential
10 treatment to class representatives or segments of the class, and falls within the range of
11 possible settlement approval such that notice to the Class is appropriate.
- 12 2. The Proposed Class Notice allows class members a full and fair opportunity to consider
13 the proposed Settlement Agreement and it fairly, plainly, accurately, and reasonably
14 informs Class Members of the nature of this litigation, the identity of Class Counsel,
15 the essential terms of the Settlement Agreement, the Court's procedures for final
16 approval of the Settlement Agreement, class members' right to comment or object if
17 they desire, and how to obtain additional information regarding this litigation and the
18 Settlement Agreement. The Proposed Class Notice thus satisfies the requirements of
19 Federal Rule of Civil Procedure 23 and due process.
- 20 3. The Proposed Notice Plan is a reasonable method to inform class members of the
21 Settlement and satisfies the notice requirements of Federal Rule of Civil Procedure 23
22 as well as all other applicable legal and due process requirements.

23
24
25 IT IS THEREFORE HEREBY ORDERED that:


- 26 1. The Settlement Agreement is preliminarily approved, subject to notice to the class and
27 final review and approval at the Fairness Hearing as provided for below.

- 1 2. The form of the Proposed Class Notice is approved.
- 2 3. The manner of distributing the Proposed Class Notice, as set forth in the Proposed
- 3 Notice Plan, is approved.
- 4 4. The parties shall provide class members with the Proposed Class Notice in the manner
- 5 specified in the Proposed Notice Plan.
- 6 5. The parties shall adhere to the following time schedule:
- 7 (a) Notice to the class shall be distributed and posted in the manner specified in the
- 8 Settlement Agreement no later than April 5, 2013.
- 9 (b) Class members may file objections, under the procedures specified in the
- 10 Settlement Agreement and Preliminary Approval Motion, so long as the
- 11 objections are postmarked or otherwise received by May 3, 2013. Class
- 12 counsel will record the date of receipt of each objection or comment, and will
- 13 file all objections and comments with the Court prior to the Fairness Hearing.
- 14 (c) By May 10, 2013, Plaintiffs shall file a Motion for Final Approval of Class
- 15 Settlement and any parties that elect to do so shall file a response to objections.
- 16 (d) The Court shall conduct a Fairness Hearing on May 23, 2013 at 2:00 p.m. for
- 17 the purpose of adjudging final approval of the Settlement Agreement.
- 18
- 19
- 20

21 IT IS SO ORDERED:

22

23 DATED: April 4, 2013


The Honorable Claudia Wilken
United States District Judge