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3 APR 25 2005

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5 CENTRAL DISTRICT OF CALIFORNIA  
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CLERK U.S. DISTRICT COURT  
CENTRAL DISTRICT OF CALIFORNIA  
SOUTHERN DIVISION AT SANTA ANA  
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8 THIS CONSTITUTES NOTICE OF ENTRY  
AS REQUIRED BY FRCP, RULE 77(d).

9 UNITED STATES DISTRICT COURT  
10 CENTRAL DISTRICT OF CALIFORNIA  
11 SOUTHERN DIVISION

12 RICHARD S., et al.,  
13 Plaintiffs,  
14 vs.

15 DEPARTMENT OF DEVELOPMENTAL  
16 SERVICES, et al.,  
17 Defendants.

Case No. SA CV 97-219 GLT (ANx)  
ORDER ON ATTORNEYS' FEES AND  
COSTS

DOCKETED ON CM  
APR 25 2005  
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18  
19 After extensive proceedings on the recovery of attorneys' fees and  
20 costs, the report of the Special Master, and a full hearing and  
21 briefing, the Court makes the following orders:

22 Defendant's objection to the report of the Special Master is  
23 overruled. The Court approves and adopts the report of the Special  
24 Master filed February 25, 2005. In accordance with the Special Master's  
25 report, the Court finds the accurate and appropriate fees incurred in  
26 this matter and potentially recoverable by each of Plaintiffs' attorneys  
27 is as follows:

28 //

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1	Francis Hardiman	\$228,687.50
2	Margaret Cahill	96,675.00
3	H. Hafif	1,950.00
4	Patricia Lytle	227,075.00
5	Greg Hafif	24,600.00
6	M. Dawson	9,200.00

7 Plaintiffs were prevailing parties to a limited degree because  
8 they entered into a legally enforceable settlement agreement with  
9 Defendant that materially altered the legal relationship between the  
10 parties by modifying Defendant's behavior in a way that directly  
11 benefits Plaintiffs. Plaintiffs also obtained a preliminary injunction  
12 preventing release of Fairview residents into community placements  
13 unless certain conditions are met. Although the results achieved are  
14 significantly less than the relief Plaintiffs originally sought, they  
15 achieved greater safeguards against inappropriate transfers to  
16 community placements and greater input from various health care  
17 professionals into transfer decisions and Superior Court review.

18 It is appropriate for the Court to allocate the portion of  
19 attorneys fees to be awarded Plaintiffs' attorneys based on the degree  
20 of Plaintiffs' success. The degree of Plaintiffs' success was not  
21 nominal or illusory, but was significant. It was less than Plaintiffs  
22 sought, but it was substantial.

23 The Court finds it is inappropriate in this case to attempt  
24 apportion a recoverable fee by dividing the hours expended on a claim-  
25 by-claim basis dependant on the success of that claim. The nature of  
26 the success here -- a preliminary injunction followed by a settlement --  
27 is particularly not susceptible to that form of analysis. The  
28

1 settlement was an over-all result, not necessarily traceable to a  
2 particular claim or cause of action.

3 The Court finds instead, it is appropriate for the Court to assess  
4 the over-all result, in light of the nature and course of the  
5 litigation. This Court fully participated in this case from its  
6 beginning in 1997, and is specifically knowledgeable of all the steps  
7 taken in the case, the nature of the legal work performed, the victories  
8 and defeats, and the nature of the limited success achieved in light of  
9 what was sought. The Court finds it is reasonable and appropriate for  
10 the Court to determine a percentage figure that represents the degree  
11 of Plaintiffs' success.

12 After consideration of all the relevant factors in this case, the  
13 Court finds Plaintiffs' degree of success is 80%, and a fair and  
14 appropriate apportionment of both attorneys fees and costs may be made  
15 on that basis.

16 Based on this finding, Plaintiffs' attorneys are entitled to an  
17 award of attorney fees, before any credit, payable by Defendant in the  
18 following amounts:

19	Francis Hardiman	\$182,950.00
20	Margaret Cahill	77,340.00
21	H. Hafif	1,560.00
22	Patricia Lytle	181,660.00
23	Greg Hafif	19,680.00
24	M. Dawson	7,360.00


25 The fees expended on the special master proceedings are charged to  
26 Hardiman and Cahill. At the Court's order, Defendant deposited \$20,000  
27 to underwrite these fees. A total of \$18,899.86 was expended on the  
28 Special Master's fees, and \$1,100.14 remains undisbursed. The Court

1 will direct the Clerk to pay the remaining \$1,100.14 to the firm of  
2 Hardiman and Cahill as partial payment of their attorneys fee award.  
3 Having advanced the funds for the Special Master, Defendant is entitled  
4 to credit for the advance. Therefore, payment by Defendant to Hardiman  
5 shall be \$172,950.00, and payment to Cahill shall be \$67,340.00.<sup>1/</sup>

6 Total costs have been determined to be \$38,165.57. Defendants are  
7 liable to Plaintiffs for 80% of costs, or \$30,532.46.

8 Defendant is ORDERED to pay the awards stated above, with the  
9 credits stated above.

10  
11 DATED: April 22, 2005

12   
13 GARY L. TAYLOR  
14 UNITED STATES DISTRICT JUDGE

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27 <sup>1/</sup> In the event Hardiman or Cahill contend the allocation of  
28 the Special Master's fee liability between them should be  
something different than equal, they are directed to resolve the  
matter between themselves.