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DECLARATION OF MAILING/DELIVERY

The undersigned certifies under penalty of perjury under the laws of State of Washington, that on the below date, I mailed, or caused delivery of, a true copy of the foregoing on: Jeff Friemund at the regular office or residence thereto

DATED this 11 day of July, 2009.

Christa Coleby

**IN THE SUPERIOR COURT FOR THE STATE OF WASHINGTON
IN AND FOR THE COUNTY OF WHATCOM**

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JESSICA BRAAM, a minor child, by and)
Tire-cdgh her guardians, Dale and Vickie)
Braam; JENNEIVA BURSCH, a minor child,)
by and through her guardians, Greg & Sherry)
Bursch; CASSIDEE BURSCH, a minor child, by))
and through her guardians Greg & Sherry)
Bursch; DESI MORGAN, a minor child, by)
and through her guardians, Lori Morgan)
and Lonnie Morgan; PATRICK MORRIS, a)
minor child, by and through his guardians,)
Kathy and David Morris; TIM OLSON a)
minor child, by and through his guardians,)
David and Diane Olson; SHAUN SANCHEZ,)
a minor child, by and through his court)
appointed GAL, Shawn Hosford; AMIE)
ANDERSON, a minor child, by and through)
her court appointed GAL, Jim Haynes,)
ROBYN BRANDON, a minor child, by and)
through her guardian, E. Sparrowhawk Brandon;))
BETH HARDIN, a minor child, by and through)
her guardians, David and Mary Hardin;)
ERYK HARDIN, a minor child, by and through)
his guardians, David and Mary Hardin;)
IVORY HARDIN, a minor child, by and through)
her guardians, David and Mary Hardin;)
EBONY HARDIN, a minor child, by and through)
her guardians, David and Mary Hardin,)

Plaintiffs,)

v.)

STATE OF WASHINGTON and the)
DEPARTMENT OF SOCIAL AND)
HEALTH SERVICES, and LYLE QUASIM,)
Individually, and as Secretary of the)
Department of Health and Human Services)

Defendants.)

No.982015701

MOTION TO CERTIFY
AS CLASS ACTION
PURSUANT TO CR 23

David A. Nichols

Come now the Plaintiffs, by and through their counsel Brett & Daugert, PLLC,

Timothy C. Farris of counsel, and The National Center for Youth Law, William Grimm

MOTION TO CERTIFY AS
CLASS ACTION PURSUANT
TO CR 23 - PAGE 1

BRETT & DAUGERT, PLLC
ATTORNEYS AT LAW

300 NORTH COMMERCIAL . P O BOX 5008
BELLINGHAM, WA 98227-5008
TELEPHONE 1360) 703.0212 . F/V((3601 647 "ii)?

1 Esq. of counsel, and move the Court to certify certain claims as a class action under Civil
2 Rule 23. Specifically, the Plaintiffs move the Court to certify certain claims on behalf of
3 the following class:

4 All children who are now, or who in the future will be, in the custody of the
5 Department of Health and Social Services as a result of either a voluntary
6 placement by their parent(s) or guardian, or an involuntary removal from their
7 parents' or guardians' home pursuant to RCW 13.34.050, 13.34.130, or
8 13.34.210, and who while in state custody are moved by DSHS from one home
9 or facility to another without notice and the opportunity to be heard on the
change in placement, and/or without their individual case plan being amended
to reflect how the new placement is, among other things, in their best interests.

10 Plaintiffs further move the Court to certify, pursuant to CR 23 c(4)(A), the following
11 issues on behalf of the designated class of plaintiffs.

- 12 • Whether the Defendants' practice of shuttling children from placement to
13 placement, and the resulting harms to class members, violate class
14 members' rights under Washington statutes and regulations and to
15 substantive due process under the Fourteenth Amendment to the
16 Constitution of the United States.
- 17 • Whether Defendants' failure to provide notice and an opportunity to be
18 heard prior to a change in placement violates class members' rights to
19 procedural Due Process under the Fourteenth Amendment to the
20 Constitution of the United States.
- 21 • Whether Defendants' failure to provide notice of a change in placement to
22 the child, the child's parent(s), the child's legal representative, court-
23 appointed special advocate, or guardian ad litem, and an opportunity to be
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heard prior to the move, violates 42 U.S.C. §675 (5)(C).

- Whether Defendants' failure to revise a child's case plan to take into account the new placement after a child is moved from one home or facility to another violates 42 U.S.C. @671 (a)(16) and 675 (1).

This Motion to Certify as Class Action Pursuant to CR 23 is based upon the Brief in Support of the Motion, Declaration of Kathleen Westover, M.A., Declaration of Jon Conte Ph.D., Declaration of Vickie Braam, Declaration of Shawn Hosford, Declaration of Royce Roberts, Declaration of Deborah Lippold, Declaration of David Olson, Declaration of Rebecca Perbix Mallos, Declaration of Carl Plonsky M.D., Declaration of Lawrence J. Lyon, Ph.D., Declaration of Cynthia Novotny, Deposition of Suzanne Peterson, with exhibits attached, and the records and files herein;

DATED this ⁴ day of July, 2000.

BRETT & DAUGERT, PLLC



 Timothy C. Farris, WSBA #7264
 Of Attorneys for Plaintiffs

BRETT & DAUGERT, PLLC
ATTORNEYS AT LAW

RECEIVED
JUL 18 2000
NORTH COMMERCIAL
FOR YOUR LAW

DEAN BRETT
LARRY DAUGERT
TIMOTHY C. FARRIS
J. BRUCE SMITH
BREEAN L. BEGGS
PHILIP J. BURI
GABRIELLE G. GALLEGOS
RAND JACK
SIMON BROVNJE
KARIN U. McMICHAEL
K-----B---ONWE-GKT
CARPJI COPPINGER CARTER

July 10,2000

Honorable David A. Nichols
Whatcom County Superior Court
3 11 Grand Avenue
Bellingham, WA 982254048

Re: *Braam, et al. v. State of Washington, et al.*
Cause No. 98 2 01570 1

Dear Judge Nichols:

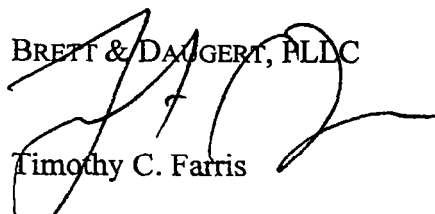
Attached find a copy of a *Motion to Certify as Class Action Pursuant to CR23*, which includes declarations from:

- | | |
|---------------------|---------------------------|
| ▪ Kathleen Westover | ▪ Timothy C. Farris |
| ▪ Jon Conte, Ph.D. | ▪ David Olson |
| ▪ Vickie Braam | ▪ Rebecca Perbix Mallos |
| ▪ Shawn Hosford | ▪ Carl Plonsky, M.D. |
| ▪ Royce Roberts | ▪ Lawrence J. Lyon, Ph.D. |
| ▪ Deborah Lippold | ▪ Cynthia Novotny |

and the Deposition of Suzanne Peterson, along with the referenced exhibits.

A *Brief in Support of the Motion* and *Note for Motion* setting this matter for July 21,2000, are also attached for your information and review.

Very truly yours,

BRETT & DAUGERT, PLLC

Timothy C. Farris
TCF/tp
Enclosures

