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DECLARATION OF MAILMIDELIVERY

The undersigned certifies under penalty of pejury under the laws of State of Washington, that on the below date, I mzfled, or caused delivery of, a true copy of the foregoing on: Jeff Friemund & Kelly Con. at the regular office or resi ence thereof.

DATED this 31, day of m " j ,2001.

Lonnie Clement

**IN THE SUPERIOR CqURT FOR THE STATE OF WASHINGTON
IN AND FOQ THE COUNTY OF WHATCOM**

JESSICA BRAAM, a minor child, by and)
Through her guardians, Dale and pidkie)
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 minoi child, by)
and through her guardians, Lori Morgan)
and Lonnie Morgan; PATRICK MORRIS, a)
minor child, by and through his gdardians,)
Kathy and David Morris; TIM OL!SON, a)
minor child, by and through his guardians,)
David and Diane Olson; SHAUN SANCHEZ,)
a minor child, by and through his cburt)
appointed GAL, Shawn Hosford; AMIE)
ANDERSON, a minor child, by a& through)
her court appointed GAL, Jim Hades,)
ROBYN BRANDON, a minor chil'd, 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 land through)
his guardians, David and Mary Hardin;)
IVORY HARDIN, a minor child, by and through)
her guardians, David and Mary Ha∈)
EBONY HARDIN, a minor child, bb and through)
her guardians, David and Mary Hardin,)

No.98 **201570** 1

. AMENDED
MOTION TO CERTIFY
AS CLASS ACTION
PURSUANT TO CR 23

David A. Nichols

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

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)
	Plaintiffs,)
v.		>
		>
STATE OF WASHINGTON and the)
DEPARTMENT OF SOCIAL &D)
HEALTH SERVICES, and LYqE QUASIM,)
Individually, and as Secretary ofT the)
Department of Health and Human Services)
)
Defendants.)
		>

Come now the Plaintiffs, by and through their counsel Brett & Daugert, PLLC, Timothy C. Fan-is of counsel.+nd The National Center for Youth Law, William Grimm of counsel, and move the Court to certify certain claims as a class action under Civil Rule 23. Specifically, the Plaintiffs move the Court to certify certain claims on behalf of the following class:

All children who are now (or who in the titure will be) in the custody of the Department of Health and Social Services foster care system who have been placed by the Defendants in three or more placements and those children in the foster care system who are at risk to be placed in three or more placements by the Defendants.

This amended class description more specifically defines and narrows the targeted class of foster care children who are the subject to multiple placements and the Complaint filed in this case.

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

- Whether by Defendants’ practice of placing children in multiple placements while in foster care Defendants violate a child’s right to’be free from harm.

MOTION TO CERTIFY AS CLASS ACTION
PURSUANT TO CR 23 - PAGE 2

- Whether the Defendants’ violations of different state and federal laws cause harmful multiple placements of children in foster care.
- Whether the Defendants’ violations “singly or in combination” cause the multiple placements.

These violations of state and federal laws include but are not limited to:

1. Whether, by failing to provide assessments of children within 30 days of placement in care, Defendants violate RCW 74.14A.050(3) which requires such assessments within thirty days.
2. Whether by not petitioning the court for the appointment of a GAL, Defendants violate RCW 13.34.100 which requires the appointment of Guardian ad Litem for each child in foster care
3. Whether by placing dependent children in unsafe homes, including placing children in shelters, children sleeping in DSHS offices, children left unsupervised during the day and placing children in the homes where another child or parent has a history of sexually acting out, of physical assaults or abuse or neglect, Defendants violate RCW 13.34.020 which establishes the right of children to safe, stable and permanent homes
4. Whether by failing to adequately inform foster parents about the child prior to being placed in the home Defendants violate WAC 388-73-212.
5. Whether by not mandating that caseworkers visit the child at home not less than every ninety days, Defendants violate WAC 388-73-212 which requires that the child’s caseworker have at least one home visit within that time period.

MOTION TO CERTIFY AS CLASS ACTION
PURSUANT TO CR 23 - PAGE 3

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6. Whether by failing to provide mental health care recommended by the child's health care providers (including therapy, proper placement in a therapeutic group home or residential treatment facility) and by placing children in foster homes where the foster parent has not been trained to care for a child with mental health problems, Defendants violate the rights of children to needed and necessary health care
7. Whether by the Defendants' failure to develop an "effective program" which "effectively address[es] the educational, physical, emotional, mental, and medical needs of children and youth" in "long term care" and "Multiple foster care placements," the Defendants violate RCW 74.14A.050.
8. Whether by failing to adequately notify foster parents of dependency hearings, Defendants violate SSB 59 16, which requires such notification.
9. Whether by failing to provide "the right of a child's basic nurturing that includes the right to a safe, stable and uermanent home and a speedy resolution of any proceeding" under the dependency proceedings Defendants violate RCW 13.34.020 which protects that right.
10. Whether by the Defendants' practice of shuttling children from placement to placement, and the resulting harms to class members, violate class members' rights under Washington statutes and regulations and to substantive due process under the Fourteenth Amendment to the Constitution of the United States.
11. Whether by 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

MOTION TO CERTIFY AS CLASS ACTION
PURSUANT TO CR 23 - PAGE 4

violates 42 U.S.C. §5671 (a)(16) and 675 (1).

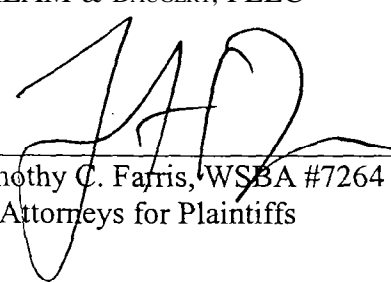
1 12. Whether the state is in violation of state and federal law and policies with regard
2 to completion of passport\$ for children in care.

3 Plaintiffs seek a, permanent injunction on behalf of the class specifically enjoining
4 Defendants from causing harm to! the children in DSHS's care by the multiple placements
5 of children. Plaintiffs further1 seek a detailed and thorough permanent injunction
6 enjoining the Defendants from f&her violations of state and federal law which contribute
7 to the multiple placements of chi&ren and cause harm to children. Finally, plaintiffs ask
8 this court to preside over the Defendants' compliance with the injunctive relief issued by
9 the Court.
10

11 This Motion to Certify as class Action Pursuant to CR 23 is based upon the Brief
12 in Support of the Motion, Declaration of Kathleen Westover, M.A., Declaration of Jon
13 Conte Ph.D., Declaration of Vickii Braam, Declaration of Shawn Hosford, Declaration of
14 Royce Roberts, Declaration of, Deborah Lippold, Declaration of David Olson,
15 Declaration of Rebecca Perbix Mtillos, Declaration of Carl Plonsky M.D., Declaration of
16 Lawrence J. Lyon, Ph.D., DeclaFation of Cynthia Novotny, Deposition of Suzanne
17 Peterson, with exhibits attached, qd the records and files herein.
18

19 DATED this 30th day of May, 2001.

21 BREAM & DAUGERT, PLLC

22 
23 Timothy C. Farris, WSBA #7264
24 Of Attorneys for Plaintiffs

25 MOTION TO CERTIFY AS CLASS ACTION
26 PURSUANT TO CR 23 - PAGE 5

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