

54493M

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

SUPERIOR COURT OF WASHINGTON FOR WHATCOM COUNTY

JESSICA BRAAM, a minor child, by and through her guardians, Dale and Vickie Braam, et al.,

Plaintiffs,

v.

STATE OF WASHINGTON, et al.,

Defendants.

No. 98-2-01570-1

DEFENDANTS' OPPOSITION
TO PLAINTIFFS' MOTION TO
CERTIFY AS CLASS ACTION
PURSUANT TO CR 23

I. INTRODUCTION

Plaintiffs' request for class certification is based solely on constitutional and 42 U.S.C. § 1983 claims, all of which the Court dismissed. Plaintiffs claim they have met the requirements of CR 23(b) because they seek injunctive relief. However, the claims on which they request injunctive relief were dismissed on summary judgment. To the extent that Plaintiffs suggest newly referenced state statutes and regulations entitle them to injunctive relief, no such claims have been pled. As such, Plaintiffs have no claims on which to base class certification. Plaintiffs have failed, simply and completely, to establish any basis for class certification under CR 23(b).

Although it is plain that the requested class cannot be certified because Plaintiffs have not met the requirements of CR 23(b), Plaintiffs have also failed to meet the requirements of CR 23(a). Specifically, Plaintiffs have not shown that they are typical members of the class which they seek to represent, or that their individual cases have much

COPY

