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Class Counsel

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK
SHEEHEY, RAYNETTE AH
CHONG, individually and on behalf of
the class of licensed foster care
providers residing in the state of
Hawai`i,

Plaintiffs,

vs.

PANKAJ BHANOT, in his official
capacity as the Director of the Hawai`i
Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC
(Class Action)

**PLAINTIFFS' MOTION FOR FINAL
APPROVAL OF AMENDED CLASS
ACTION SETTLEMENT;
DECLARATION OF CLAIRE WONG
BLACK; EXHIBITS "A" – "G";
CERTIFICATE OF SERVICE**

Final Fairness Hearing

Date: May 21, 2018, 9:45 a.m.
Judge: Honorable Leslie E. Kobayashi

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**HAWAII APPLESEED CENTER FOR
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**PLAINTIFFS' MOTION FOR FINAL APPROVAL OF
AMENDED CLASS ACTION SETTLEMENT**

I. INTRODUCTION

After four years of hard-fought litigation and a prior settlement that was thwarted by key legislators, the parties in this action (Federal Action) and parallel litigation in the First Circuit Court, State of Hawai`i (State Action) reached an amended global settlement of both lawsuits. Defendants agreed to provide benefits totaling more than \$70 million over the next ten years to resolve claims by foster families and children arising out of the State's decades-long refusal to acknowledge inflation, Hawaii's high cost of living, and federal law requiring states to fully reimburse foster families for the costs (and cost of providing) basic necessities to children in Hawaii's Child Welfare System. The settlement represents significant and lasting benefits to foster families and children. Significantly, although thousands of notices were sent, no Class Member has objected to the 2018 settlement.

On March 30, 2018, this Court preliminarily approved the Amended Federal Lawsuit Class Action Settlement Agreement (Amended Federal Settlement) and the parties' plan for providing notice of the Amended Federal Settlement to Class Members. Dkt. 389 (Preliminary Approval Order). The Court also scheduled a Fairness Hearing for May 21, 2018. Dkt. 389 at PageID#:10708-

09. The Court further directed Plaintiffs or Defendant to file a motion for final approval of the settlement by May 3, 2018. *Id.*, PageID#:10717.

Accordingly, Plaintiffs, individually and on behalf of the class of licensed foster care providers residing in the State of Hawai`i,¹ by and through Class Counsel, respectfully request that the Court grant final approval of the Amended Federal Settlement, including the agreed-upon award of attorneys fees' and costs of \$850,000.00 and \$5,000 service awards to each named plaintiff (which amounts shall be deducted from the award of attorneys' fees and costs).

II. SUMMARY OF COMPLIANCE WITH CLASS NOTICE PROCEDURES AND RULE 23 REQUIREMENTS

A. The notice requirements of the Preliminary Approval Order have been satisfied.

The Court approved the parties' proposed program for notifying Class Members of the amended settlement. Dkt. 389. The parties have complied with the notice and procedural requirements of the Court's Preliminary Approval Order. *See generally* Dkt. 394 (Declaration of Caron M. Inagaki Regarding Class Action Notice). Notices were sent out to 2,840 class members, beginning April 3, 2018. *See* Dkt. 394 at ¶¶ 6, 10; Dkt. 389 ¶¶ 7(a), 7(c) (appointing DHS Notice Administrator and ordering notices sent). It appears that Notices were delivered to

¹ The Court certified a class of "all currently licensed foster care providers in Hawai`i who are entitled to received foster care maintenance payments pursuant to the Children Welfare Act when they have foster children placed in their homes" and appointed class counsel on August 17, 2015. Dkt. 156.

approximately 99.3% of the Class, or 2,821 Class Members. Dkt. 394 ¶ 18. DHS filed a summary of the scope, methods, and results of the notice program on April 23, 2018. Dkt. 394; *see* Dkt. 389 ¶ 7(d) (Order requiring DHS to file information concerning notice program).

DHS also complied with the Class Action Fairness Act, notifying appropriate federal and state officials of the proposed Amended Federal Settlement pursuant to 28 U.S.C. § 1715. Dkt. 394 ¶¶ 20-27.

B. The parties have complied with the deadlines set forth in the Preliminary Approval Order.

On March 30, 2018, Class Counsel filed a separate motion for approval of the agreed-upon award of \$850,000.00 in attorneys' fees and costs and modest Service Awards for the three Named Plaintiffs, Ms. Ah Chong, and Mr. and Mrs. Sheehey. Dkt. 390 (Unopposed Motion for Award and Approval of Amended Settlement Regarding Attorneys' Fees and Costs and Service Awards). *See also* Dkt. 389 ¶ 17(b) (requiring motion relating to attorneys' fees and costs and service awards to be filed by March 30, 2018). DHS does not oppose the motion for attorneys' fees and service awards. Dkt. 390 at PageID#:10721 n.1. And no Class Member has objected to Plaintiffs' request for fees, costs, or to the proposed Service Awards. Dkt. 395.

Class Counsel has continued to maintain the website informing Class Members of the terms of the federal (and state) settlement agreements, their rights

under the state and federal settlements, applicable deadlines, and related information: <http://www.hawaiiclassaction.com/fostercare/>. Declaration of Claire Wong Black ¶ 3; *see* Dkt. 389 ¶ 7(b) (requiring website to be maintained through December 31, 2019).

To date, Class Counsel has not received any written objections to the Amended Federal Settlement; nor have any of the notice recipients who have called with inquiries regarding the settlement complained about or objected to the Amended Federal Settlement. Black Decl. ¶¶ 4, 5; *see* Dkt. 389 ¶¶ 10(d); 11 (Order allowing counsel for the parties to respond to objections by May 3, 2018 and requiring counsel to file with the Court and promptly furnish to each other copies of any and all objections). And, as of the time of the filing of this motion, no Class Member has submitted objections to the Amended Federal Settlement or the Unopposed Motion for Award and Approval of Amended Settlement Regarding Attorneys' Fees and Costs and Service Awards to Named Plaintiffs. Dkt. 395 (Court Order Regarding the Submission of Class Member Objections). One Class Member submitted objections to the 2017 Federal Settlement Agreement and requested that she not be listed in any class action lawsuit. Dkt. 356. By order dated June 23, 2017, the Court expressed its inclination to grant the relief requested by the objecting class member. Dkt. 357. Plaintiffs agree with the Court's inclination.

III. SUMMARY OF THE TERMS OF THE GLOBAL SETTLEMENT

The Amended Federal Settlement is part of a global settlement that resolves parallel state and federal court litigation over the foster care maintenance payment rate, calculation, and related benefits made available to foster families and for the benefit of children and young adults in Hawaii's foster care system. Unless both lawsuits settle on the terms set forth in their respective settlement agreements, neither the Federal Action nor the State Action will be settled. Black Decl., Ex. A (Amended Federal Settlement Agreement, Dkt. 386-3) at p. 2 ¶ 3. And if the Legislature refuses, as it did in 2017, to appropriate funds to increase the Basic Board Rate, pay the State Settlement Amount, and pay Class Counsel's fees and costs as approved by this Court, the global settlement will be null and void. *Id.*, Sections II.6, VI.4.

A. The Amended Federal Settlement

The terms of the Amended Federal Settlement are nearly identical to the 2017 Federal Settlement preliminarily approved by the Court last year. The key terms of the Amended Federal Settlement and 2017 Federal Settlement were summarized in DHS's motions for preliminary approval and in the detailed Class Notices approved by the Court and sent to Class Members in 2017 and 2018. *See* Dkt. 389 (Order Preliminarily Approving Amended Settlement); Dkt. 386 (DHS Motion for Preliminary Approval of Amended Settlement); Black Decl., Ex. A at

Dkt. 386-3 (Class Notice attached to Amended Federal Settlement Agreement); Dkt. 345 (Amended Order Preliminarily Approving 2017 Settlement); Dkt. 340 (DHS Motion for Preliminary Approval of 2017 Settlement) at Dkt. 340-3 (Class Notice attached to 2017 Federal Settlement Agreement). Generally, the Amended Federal Settlement provides for increased foster care maintenance payments to Class Members (subject to appropriation of funds by the Legislature of the State of Hawai`i) and prospective non-monetary relief enforceable by the Class for a period of ten years. Black Decl., Ex. A (Amended Federal Settlement Agreement, Dkt. 386-3) at Sections IV.4, IV.5. Specifically, pursuant to the Amended Federal Settlement Agreement, DHS will:

- (1) increase the Basic Board Rate to all resource families to \$649 for children ages 0-5; \$742 for children ages 6-11; and \$776 for children and young adults ages 12+ (Amended Federal Settlement Agreement Section II.1(a));
- (2) increase the annual Clothing Allowance made available to children in to the Child Welfare System from \$600 per child per year to \$810 for children ages 0-5; \$822 for children ages 6-11, and \$1026 for children and young adults ages 12+ (*id.*, Section II.1(b));
- (3) conduct periodic reviews of its Basic Board Rate and Clothing Allowance by calculating benchmark Basic Board Rates and Clothing Allowances based on procedures and criteria set forth in Section II.2 and II.3 of the Amended Federal Settlement Agreement (*id.*, Section III.1);
- (4) seek appropriations from the Hawaii Legislature sufficient to increase the Basic Board Rate and Clothing Allowance to the Benchmark Rates whenever the difference between the the-existing rates and Benchmark Rates is more than 5% (*id.*, Section III.2, III.3);

- (5) waive the current 120-hour limitation on Difficulty of Care of DOC payments to resource caregivers (i.e., foster and adoptive families) for providing extra service/support to children who require a higher level of care in appropriate circumstances (*id.*, Section IV.1);
- (6) provide (in cooperation with Class Counsel) a short summary of the payments and benefits that DHS purportedly makes available to resource caregivers that will be provided to all newly-licensed resource caregivers and existing resource caregivers at least semi-annually (*id.*, Section IV.2);
- (7) agree to an award of \$850,000.00, inclusive of all attorneys' fees, costs, non-taxable expenses, and taxes (*id.*, Section VI).

In exchange, the members of the Class agree to release Defendant in the federal action from claims that were alleged against him in his official capacity in this federal action. *Id.*, Section V. Within 14 days after DHS issues the first payments based on the newly-established Basic Board Rates, the parties will submit a stipulated dismissal with prejudice. *Id.*, Section II.7.

The two material changes to the Amended Federal Settlement are (1) extension of the Legislative Enactment Date and other deadlines to effectuate the settlement; and (2) the voluntary reduction of the agreed-upon award of attorneys' fees and costs from \$1.1 million to \$850,000.00. Black Decl., Ex. A (Amended Federal Settlement Agreement) at PageID#:10604, Section VI.1. The further compromise was made in the hopes of securing long-awaited relief for foster families, who, prior to this litigation, had been waiting for the State to increase foster board rates since 1990.

B. The Amended State Settlement

Under the Amended State Settlement Agreement, the State of Hawai`i will provide a settlement fund totaling \$2,341,103.10 (the “Class Settlement Amount”). Black Decl., Ex. B (Amended State Settlement Agreement). The Class Settlement Amount was calculated by multiplying the number of foster children, children in permanent custody/legal guardianship, adoptive children with special needs, and former foster youth receiving Higher Education Board Payments for whom HDHS made monthly payments for the time period July 1, 2013 to June 30, 2014 (the State’s fiscal year for the year prior to the filing of the State Lawsuit), by \$35.00 per month. The net proceeds of the state settlement fund will be distributed to eligible members of the two settlement classes: the Parent Settlement Class and Higher Education Settlement Class (young adults who received higher education stipends). Members of both the Parent Settlement Class and the Higher Education Settlement Class will be eligible to receive payment if they received a monthly payment from DHS during the time period from July 1, 2013 to June 30, 2014 only (Payment Recipients). This means that there are members of the State Settlement Classes who are not Payment Recipients and will not receive any payments under the terms of the Amended State Settlement.

To date, Class Counsel has not received written objections to the Amended State Settlement and has received eight (8) opt out letters from Class

Members in the State Action who are not designated as Payment Recipients. Black Decl., ¶¶ 4, 6. Although some Class Members in the State Action who have called to inquire about the notices for the Amended State Settlement have noted that the calculation of the Class Settlement Amount is “pennies on the dollar,” none of these Class Members have objected to the settlement. Black Decl., ¶ 7. The overwhelming sentiment expressed by Class Members is surprise that the State would agree to pay anything at all given their historically shoddy treatment of foster families and children. *Id.*

As with the Amended Federal Settlement, the First Circuit Court, State of Hawai`i will retain jurisdiction to enforce the State Settlement Agreement. Black Decl., Ex. B, Amended State Settlement Agreement, Section VII.9. Named State Plaintiffs and State Settlement Class Members agree to release the State from claims that were alleged, sought, or litigated against the State in the State Lawsuit. Within 14 days after distribution of settlement funds, the parties in the State Action will submit a stipulated dismissal with prejudice of class claims, and a dismissal of Plaintiff T.B.’s individual claims.

C. Current Status of Legislative Appropriations

As of the date of the filing of this Motion, the bill that includes appropriations for settlements of lawsuits and judgments against the State has

passed out of conference committee with amounts relating to both the State and Federal Actions intact:

5. DEPARTMENT OF HUMAN SERVICES:

Ah Chong, et al. v. McManaman Civil No. 13-00663 LEK-KSC, USDC	\$ 850,000.00 Settlement
Kalili v. Department of Human Services, et al., Civil No. 13-1-0171, Third Circuit	\$ 115,000.00 Settlement
Lahti, et al. v. State of Hawaii, et al. Civil No. 08-1-0132(3), Second Circuit	\$ 500,000.00 Settlement
Sheehey, et al. v. State of Hawaii Civil No. 14-1-1709-08 VLC, First Circuit	\$ 2,341,103.10 Settlement
<hr/>	
SUBTOTAL:	\$ 3,806,103.10
TOTAL (SECTION 5):	\$ 3,806,103.10

Black Decl., Exs. C and D. Similarly, the Executive Budget, which contains appropriations necessary to increase the Basic Board Rate, passed final reading and was transmitted to the Governor on April 25, 2018, with amounts to increase the Basic Board Rate intact.

<p>100-001</p> <p style="text-align: right;">4,634,292 A 2,495,388 N</p> <p>SUPPLEMENTAL REQUEST: ADD FUNDS FOR INCREASED FOSTER BOARD RATES FOR CHILD PROTECTIVE SERVICES PAYMENTS(HMS303/WP). (/A; /4,634,292A) (/N; /2,495,388N) ***** HOUSE CONCURS.</p> <p>DETAIL OF GOVERNOR'S REQUEST: FOSTER CARE BOARD RATE INCREASE(4,634,292A/2,495,388N)</p>		<p style="text-align: right;">4,634,292 A 2,495,388 N</p> <p>SUPPLEMENTAL REQUEST: ADD FUNDS FOR INCREASED FOSTER BOARD RATES FOR CHILD PROTECTIVE SERVICES PAYMENTS(HMS303/WP). (/A; /4,634,292A) (/N; /2,495,388N) ***** SENATE CONCURS.</p> <p>DETAIL OF GOVERNOR'S REQUEST: FOSTER CARE BOARD RATE INCREASE(4,634,292A/2,495,388N)</p>
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Black Decl., Exs. E, F, and G.

IV. THE AMENDED SETTLEMENT IS FAIR, REASONABLE, AND ADEQUATE AND SHOULD BE APPROVED

A. The applicable factors weigh heavily in favor of final approval of the Amended Federal Settlement.

Courts grant final approval of proposed class action settlements where the settlement is “fair, reasonable, and adequate.” Fed. R. Civ. P. 23(e)(2). When examining the fairness of a proposed settlement, courts consider: (1) the strength of the plaintiffs’ case; (2) the risk, expense, complexity, and likely duration of further litigation; (3) the risk of maintaining class action status throughout the trial; (4) the amount offered in settlement; (5) the extent of discovery completed and the stage of the proceedings; (6) the experience and views of counsel; (7) the presence of a governmental participant; and (8) the reaction of class members to the proposed settlement. *Churchill Vill., LLC v. Gen Elec.*, 361 F.3d 566, 575 (9th Cir. 2004); *Torrisi v. Tucson Elec. Power Co.*, 8 F.3d 1370, 1375 (9th Cir. 1993). Not all of these factors will apply to every class action settlement, and under certain circumstances one factor alone may prove determinative in finding sufficient grounds for court approval. *Torrisi*, 8 F.3d at 1376. In evaluating fairness, courts must consider the settlement as a whole, rather than its component parts. *Hanlon v. Chrysler Corp.*, 150 F.3d 1011, 1026 (9th Cir. 1988). Each of the *Churchill* factors except for the first (strength of the plaintiffs’ case) weighs in favor of approval of the Amended Federal Settlement.

B. An evaluation of Plaintiffs' case in light of the costs and duration of continued litigation weigh in favor of final approval.

The State conceded long ago that its foster care maintenance payments were inadequate. Dkt. 293-2 (House Resolution 209) (“the current monthly board payment rate ... is insufficient to raise a child because costs for food, housing, utilities, clothing, and other necessities have increased”). While DHS claimed that additional foster care related payments were **available** to foster families, the database of **actual** payments made by DHS to foster families, produced by DHS in litigation, established that most foster families did not receive these payments (either because they were unaware of the existence of available funds or because their requests for reimbursement were denied by DHS). On the other hand, this Court ruled that the term “shelter” under the Child Welfare Act did not include mortgage payments, rent, property taxes or similar expenses—or, as DHS’s expert put it—shelter costs did not include “putting a roof over” a foster child’s head. It is DHS’s position that the Court’s ruling on the “shelter expense” significantly lessened Plaintiffs’ chances of prevailing on the issue of underpayment. Black Decl., Ex. A (Amended Federal Settlement Agreement) at n.3. Indeed, DHS’s position going into trial was that the State was **overpaying** foster families by hundreds of dollars. While Plaintiffs are confident that they would have prevailed at trial or on appeal, the risk and expense of trial (in

particular, expert fees for both parties) and the near-certainty of an appeal weigh in favor of approving the Amended Federal Settlement.

Relatedly, no matter which side ultimately prevailed in the Federal Action, the State Action was stayed prior to extensive motions practice or discovery pending the Federal Action. Litigating both the Federal Action and State Action through both trials and appeals would be long, expensive, and complex. Therefore, despite the strength of Plaintiffs’ claims, the likely expense, risks, and duration of further litigation weigh heavily in favor of approving the Amended Federal Settlement in order to effectuate the global settlement.

C. The amount offered in settlement also weighs in favor of final approval.

DHS has agreed to increase monthly board payments and annual clothing allowances. If the settlement is approved, foster families will begin to receive increases of \$73 to \$100 each month, depending on the age of their foster child, beginning in August 2018 (board payments are made in arrears):

Ages	Current Monthly Board Rate	New Monthly Board Rate
0-5	\$576	\$649
6-11	\$650	\$742
12+	\$676	\$776

Ages	Current Clothing Allowance	New Clothing Allowance
0-5	(\$600 + \$125 for special circumstances)	\$810
6-11		\$822
12+		\$1026

Black Decl., Ex. A (Amended Federal Settlement Agreement) at Exhibit 1 (Class Notice), page 2. First, as the Budget Bill demonstrates, the board rate increase

amounts to more than \$7 million in direct benefits to foster families each year for the next ten years even *before* accounting for the increase in the Clothing Allowance. Second, the Amended Federal Settlement incorporates additional potential monetary benefits by (1) requiring Periodic Review of the basic board rates according to specific benchmarks to ensure that increases in costs of living and inflation are accounted for; (2) requiring DHS to request funding from the Legislature to increase board rates when the 5% benchmark increase is triggered; and (3) waiving the 120-hour limitation on calculating Difficulty of Care payments to foster parents of children that require higher levels of care. Third, the Amended Federal Settlement also provides for greater access to information about available foster care related payments and benefits, which is expected to lead to more foster families applying for and receiving foster care related payments and benefits. These non-monetary relief provisions further increase the value of the settlement to the Class.

D. The settlement was the product of vigorous, arm's-length negotiations, aided by Federal Magistrate Judge Chang.

The settlement was the product of protracted, arm's-length negotiations. DHS renewed settlement overtures on the eve of trial—after class certification and after extensive discovery and thorough factual investigation, including multiple expert reports from each of the parties. Consequently, the parties were well aware of the strengths and weaknesses of their claims and

defenses at the time the settlement was negotiated. The final settlement negotiations began with a face-to-face meeting between then-DHS director Rachael Wong, Ms. Ah Chong (class representative in the Federal Action), and Ms. Sheryl Campagna (named plaintiff in the State Action) and continued under Judge Chang's supervision. Class Counsel and the Deputy Attorneys General bargained vigorously over each element of the settlement—particularly the Benchmark Rates in the Federal Action and Class Settlement Amount in the State Action. Importantly, settlement negotiations were focused on the relief to Plaintiffs and Class Members in the State Action and Federal Action. Class Counsel—each with extensive experience handling class action lawsuits²—determined that the settlement is fair, reasonable, and adequate. The judgment of experienced class counsel regarding the fairness of a settlement agreement is entitled to great weight. *Officers for Justice v. Civil Serv. Comm'n of San Francisco*, 688 F.2d 615, 625 (9th Cir. 1982).

And, when the essential terms of the settlement were entered on the record on August 26, 2016 (Dkt. 327), the parties had only agreed that Plaintiffs

² See Dkt. 348-2 (Declaration of Paul Alston in support of 2017 motion for approval of attorneys' fees) (extensive experience suing State of Hawai'i on behalf of large classes); Dkt. 348-4 (Declaration of Gavin Thornton) (same); Dkt. 348-5 (Declaration of James Hancock) (describing experience, including Morrison & Foerster's experience as counsel of record in two class actions concerning foster care maintenance payments, *California State Foster Parent Association et al., v. Wagner*, Case No. 07-5086 (N.D. Cal.) and *New York State Citizens' Coalition for Children v. Carrion*, Civil No. 10-3485 (E.D.N.Y.)).

would provide defense counsel with materials supporting requested attorney's fees and costs for review and that the parties would attempt in good faith to reach an agreement on fees and costs consistent with applicable case law. If the parties were unable to reach an agreement, the amount of Plaintiffs' attorney's fees and costs would have been decided by the Court in accordance with applicable law upon motion. In other words, the terms of the settlement were negotiated without any agreement as to the amount of attorneys' fees, which negates any potential concerns (that no one has raised to date) about the possibility of a collusive settlement. *Compare* Dkt. 327 (8/26/16 Settlement on the Record) *with* Dkt. 337 (3/7/17 EO setting settlement conference on issue of attorneys' fees).

E. Based on communications to date, Class Members overwhelmingly support the proposed settlement.

Finally, the reaction of the Class Members supports final approval of the Amended Federal Settlement. *Nat'l Rural Telecommcn's Coop. v. DirectTV, Inc.*, 221 F.R.D. 523, 525-26 (C.D. Cal. 2004) (citing *Torrissi*, 8 F.3d at 1376) ("It is established that the absence of a large number of objections to a proposed class action settlement raises a strong presumption that the terms of a proposed class settlement action are favorable to the class members."). Here, the reaction of Class Members to both the 2017 Settlement and the 2018 Amended Federal Settlement has been overwhelmingly positive. Notices were delivered to approximately 2,821 Class Members in the Federal Action in 2018. Dkt. 394 ¶ 18. In 2017, more than

6,900 notices were sent in the State Action and it is likely that a similar number received notices about the Amended State Settlement. Black Decl. ¶ 8.

The Notice sent to Class Members in the Federal Action described the settlement terms, including the amount of the increases to the Basic Board Rate and Clothing Allowances, the Periodic Review provision, and the Difficulty of Care limitation waiver. The Settlement Agreements and other pleadings describing the calculation of the Benchmark Rates (and calculation of the State Settlement Amount) were made available on the class website in 2017, were updated in 2018, and are still available today. Black Decl. ¶ 3. The Notice also informed Class Members of their right to object to the Settlement and explained the procedure and deadlines to do so. Black Decl., Ex. A, Dkt. 386-3 at PageID#:10616-17. One Class Member objected to the 2017 Federal Settlement (Dkt. 356) and, as of the date of this Motion, no Class Member has objected to the Amended Federal Settlement (Dkt. 395). The undersigned has personally spoken with hundreds of Notice Recipients in both the Federal Action and the State Action and the response has been overwhelmingly favorable—even from Class Members in the State Action Class who are *not* Payment Recipients. Black Decl. ¶ 5. The absence of objections to the Amended Federal Settlement is another important factor weighing heavily in favor of final approval of the settlement.

F. The Court should approve Plaintiffs' Unopposed Motion for fees and costs, including service awards.

The Court should also approve the Parties' agreed-upon amount of \$850,000.00 in attorneys' fees and costs and approve Service Awards to Named Plaintiffs, which awards will be deducted from the award of fees and costs. Although district courts have an independent obligation to ensure that agreements on attorneys' fee awards are reasonable, "since the proper amount of fees is often open to dispute and the parties are compromising precisely to avoid litigation, the court need not inquire into the reasonableness of the fees at even the high end with precisely the same level of scrutiny as when the fee amount is litigated." *Laguna v. Coverall North America, Inc.*, 753 F.3d 918, 922 (9th Cir. 2014) (vacated and dismissed as moot because the parties subsequently reached a settlement regarding the appeal, 772 F.3d 608 (9th Cir. 2014)) (*quoting Staton v. Boeing Co.*, 327 F.3d 938 (9th Cir. 2003)).³ Plaintiffs submitted contemporaneous billings for attorneys' fees, costs, and expert fees and costs totaling more than \$3 million for over four years of contentious litigation. The agreed-upon amount of \$850,000.00 is a fraction of the fees and costs incurred by Class Counsel, even if hours billed and

³The Ninth Circuit's reasoning in *Laguna* may be instructive here. There, the Court of Appeals affirmed an attorneys' fee award of \$994,800.00 as appropriate for a case contentiously litigated for over **two** years. Using Plaintiffs' billings showing hours billed and rates, the district court calculated a lodestar amount of almost \$3 million. The Ninth Circuit held that "at a third of the lodestar amount, the district court soundly concluded that the attorneys' fee award of \$994,800 was reasonable."

hourly rates were adjusted to *only* take into account key timekeepers at rates awarded by courts within the District of Hawai`i in years past. *See* Dkt. 390-1, Black Decl., at ¶¶ 9-13.

As a cross-check, the alternative percentage-of-recovery method supports the award of \$850,000.00 in attorneys' fees and costs as manifestly reasonable. Generally, courts use a benchmark figure of 25% to gauge the reasonableness of an award under the percentage-of-recovery method. *In re Mercury Interactive Corp. Sec. Litig.*, 618 F.3d 988, 992 (9th Cir. 2010).

The full monetary value of the settlement cannot be calculated because some provisions of the settlement (*e.g.*, Periodic Review and Benchmark Rates) are contingent monetary benefits. Other provisions are likely to result in greater access to or requests for foster care related reimbursements, but those reimbursements will vary depending upon the expenditures of foster families and DHS's response to the requests for reimbursements. However, at the very low end, the increased Basic Board Rates amount to more than \$7 million each year and the Federal Settlement Agreement, if approved, will remain in effect for 10 years. The agreed-upon award of \$850,000.00 in attorneys' fees and costs is far less than 25% of even one year's worth of settlement benefits to the Class. Consequently, the requested attorneys' fee award is well within the bounds of reasonableness.

Finally, Service Awards of \$5,000 to each of named Plaintiffs Raynette Ah Chong, Patricia Sheehey, and Patrick Sheehey are also reasonable and should be approved. *E.g., Aarons v. BMW of North America, LLC*, Civ. No. 11-7667 PSF (CWX), 2014 WL 4090564, *18 (C.D. Cal. Apr. 29, 2014) (the fact that class representatives will not receive benefits beyond other class members weighs in favor of an award).

V. CONCLUSION

For the foregoing reasons, Plaintiffs respectfully request that the Court grant final approval of the Amended Federal Settlement as fair, reasonable, and adequate at or after the Fairness Hearing on May 21, 2018, including the agreed-upon award of \$850,000.00 in attorneys' fees and costs, and the unopposed request for Service Awards to each of Plaintiffs Raynette Ah Chong, Patricia Sheehey, and Patrick Sheehey.

Dated: May 3, 2018

Respectfully submitted,

By: /s/ Claire Wong Black

PAUL ALSTON
J. BLAINE ROGERS
CLAIRE WONG BLACK

VICTOR GEMINIANI
GAVIN THORNTON

MARC D. PETERS
ALESSA Y. HWANG
JAMES R. HANCOCK

Class Counsel

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK SHEEHEY, RAYNETTE AH CHONG, individually and on behalf of the class of licensed foster care providers residing in the state of Hawai'i,

Plaintiffs,

vs.

PANKAJ BHANOT, in his official capacity as the Director of the Hawai'i Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC

**DECLARATION OF
CLAIRE WONG BLACK**

DECLARATION OF CLAIRE WONG BLACK

I, CLAIRE WONG BLACK, declare under penalty of perjury that the following is true and correct to the best of my knowledge:

1. I am an attorney in the law firm of Alston Hunt Floyd & Ing (AHFI), and one of Class Counsel of record for Plaintiffs in the above-captioned matter as well as Class Counsel of record in the State Action.

2. I make this Declaration in support of Plaintiffs' MOTION FOR FINAL APPROVAL OF AMENDED CLASS ACTION SETTLEMENT based on my personal

knowledge. I am competent to testify about the matters contained in this Declaration.

3. Class Counsel (AHFI) has continued to maintain the website informing Class Members of the terms of the federal (and state) settlement agreements, their rights under the state and federal settlements, applicable deadlines and related information. The settlement agreements and other pleadings describing the calculation of the Benchmark Rates and calculation of the State Settlement Amount were made available in 2017 and are updated periodically.

4. To date, Class Counsel has not received any written objections to the Amended Federal Settlement.

5. I have personally responded to hundreds of calls from Class Members. None of the notice recipients who have called with inquiries regarding the settlement have complained about or objected to the Amended Federal Settlement, the proposed amount of attorneys' fees and costs in the Federal Action (either the \$1.1MM amount in the 2017 Settlement or the current \$850,000.00 in the Amended Settlement), or the proposed Service Awards in the Federal Action. The response from members of the State Action settlement classes and Federal Action Class Members has been overwhelmingly favorable—even from Class

Members in the State Action Settlement Classes who are *not* identified as Payment Recipients.

6. AHFI has received eight (8) opt out letters in connection with the Amended State Settlement from Class Members who are not designated as Payment Recipients in the State Action.

7. Although some Class Members in the State Action who have called to inquire about the notices for the Amended State Settlement noted that the calculation of the Class Settlement Amount is “pennies on the dollar,” none of these Class Members have objected to the settlement, the amount of attorneys’ fees and costs, or the proposed Service Awards in the State Action. The overwhelming sentiment expressed by Class Members is surprise that the State would agree to pay anything at all given their historically shoddy treatment of foster families and children.

8. On March 14, 2017, Deputy Attorney General Donna Kalama provided me with a cost estimate for mailing the class notices in the State Action based on 6,975 notices being sent out to members of the settlement classes in that lawsuit.

9. Attached hereto as Exhibit “A” is a true and correct copy of the Amended Federal Class Action Settlement Agreement and exhibits thereto,

previously filed in this action as an exhibit to Defendant's motion for preliminary approval (Dkt. 386-3).

10. Attached hereto as Exhibit "B" is a true and correct copy of the Amended State Class Action Settlement Agreement and exhibits thereto, including Class Notices and a proposed order granting preliminary approval of the settlement in the State Action.

11. Attached hereto as Exhibit "C" is a true and correct copy of the most recent version (Conference Draft) of SB2740 SD1 HD2 CD1, entitled "Making Appropriations for Claims against the State, its Officers, or its Employees," commonly referred to as the ATG1 Bill, which I accessed from the Hawai'i State Legislature's website, capitol.hawaii.gov, on May 2, 2018. It reflects the Legislature's approval for payment of judgments and settlements against the Department of Human Services (and its officers and employees), including a settlement of \$850,000.00 (the amount of the agreed-upon attorneys' fees and costs) in the Federal Action, and \$2,341,103.10 (the Class Settlement Amount) in the State Action. The Conference Draft is also available online at https://www.capitol.hawaii.gov/session2018/bills/SB2740_CD1_.HTM

12. Attached hereto as Exhibit "D" is a true and correct copy of the measure status of the ATG1 Bill, which I accessed from the Hawai'i State

Legislature's website, capitol.hawaii.gov, on May 2, 2018. It is also available at: https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=SB&billnumber=2740&year=2018.

13. Attached hereto as Exhibit "E" is a true and correct copy of excerpts from the Executive Budget worksheets, which reflect line item appropriations in the Governor's Budget, which I accessed from the Legislature's website on May 2, 2018. Page 145 of the budget worksheets reflect DHS's supplemental request to add funds for increased foster board rates for child protective services, designated as Program ID HMS303 (Child Protective Services Payments). The entire budget worksheet is also available online at: <https://www.capitol.hawaii.gov/session2018/worksheets/HB1900-EXEC-AGREES.pdf>.

14. Attached hereto as Exhibit "F" is a true and correct copy of excerpts from the most recent version (Conference Draft) of HB1900 CD1, entitled "Relating to the State Budget," commonly referred to as the Budget Bill, which I accessed from the Legislature's website on May 3, 2018. The Conference Draft of the Budget Bill is also available online at: https://www.capitol.hawaii.gov/session2018/bills/HB1900_CD1_.HTM.

15. Attached hereto as Exhibit "G" is a true and correct copy of the measure status of the Budget Bill, which I accessed from the Legislature's website

on May 3, 2018. The measure status is also available online at:
https://www.capitol.hawaii.gov/measure_indiv.aspx?billtype=HB&billnumber=1900&year=2018.

I declare under penalty of perjury that the foregoing is true and correct.

Executed in Honolulu, Hawai`i on May 3, 2018.

/s/ Claire Wong Black
CLAIRE WONG BLACK

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

PATRICIA SHEEHEY, PATRICK SHEEHEY, RAYNETTE AH CHONG, individually and on behalf of the class of licensed foster care providers residing in the state of Hawai'i,

Plaintiffs,

vs.

PANKAJ BHANOT, in his official capacity as the Director of the Hawai'i Department of Human Services,

Defendant.

Case No. CV13-00663 LEK-KSC

**AMENDED FEDERAL LAWSUIT
CLASS ACTION SETTLEMENT
AGREEMENT**

**AMENDED FEDERAL LAWSUIT CLASS ACTION
SETTLEMENT AGREEMENT**

This Amended Federal Lawsuit Class Action Settlement Agreement (“**Federal Settlement Agreement**”) is entered into by and between Raynette Ah Chong (the “Named Plaintiff”), on behalf of herself and members of the class certified by the United States District Court for the District of Hawai'i, and Patrick Sheehey and Patricia Sheehey, on the one hand (collectively “**Plaintiffs**”), and Pankaj Bhanot, in his official capacity as the Director of the Hawaii Department of Human Services¹ (“**Defendant**”), on the other hand. Plaintiffs and Defendant are collectively referred to as the “**Parties**.”

¹ The Federal Lawsuit named Defendant Patricia McManaman, in her official capacity as the then-Director of the Hawai'i Department of Human Services. Pankaj Bhanot is the current Director of Human Services, and has been automatically substituted as Defendant pursuant to Fed. R. Civ. P. Rule 25(d).

Subject to Court approval as required by the Federal Rules of Civil Procedure (“FRCP”) Rule 23, the Parties hereby stipulate and agree that, in consideration of the mutual promises, covenants, and consideration set forth in this Federal Settlement Agreement, the above-captioned action shall be settled and compromised in accordance with the terms herein.

The Parties acknowledge and agree that although this Federal Settlement Agreement sets forth the terms and conditions by which the Federal Lawsuit will be settled, this Federal Settlement Agreement is part of a larger settlement that includes the State Lawsuit (defined below), and that unless both Lawsuits settle on the terms set forth in their respective settlement agreements, neither lawsuit will be settled.

The Parties further acknowledge and agree that the settlement of the Federal Lawsuit and the State Lawsuit is contingent upon the appropriation of funds to make the payments described herein and in the State Settlement Agreement. If such legislation is not enacted on or before the Legislation Enactment Deadline as defined in this Federal Settlement Agreement and the State Settlement Agreement, unless such date is mutually agreed to be extended by the parties to both Agreements, this Federal Settlement Agreement shall automatically become null and void and trial in the Federal Lawsuit shall resume.

RECITALS

WHEREAS, on December 3, 2013, Plaintiff Raynette Ah Chong filed a class action complaint for declaratory and permanent injunctive relief against Patricia McManaman, in her official capacity as the Director of the Hawaii Department of Human Services, entitled *Ah Chong v. McManaman*, Civ. No. 13-00663 LEK-KSC, in the United States District Court for the District of Hawai`i (the “**Federal Lawsuit**”); and

WHEREAS, a First Amended Complaint was filed in the Federal Lawsuit on April 30, 2014, adding Patricia Sheehey and Patrick Sheehey as Plaintiffs; and

WHEREAS, the First Amended Complaint asserts a single claim under 42 U.S.C. § 1983, seeking a declaratory ruling that Defendant is failing to pay the proper amounts owed to resource caregivers (foster parents) in Hawai`i under the Adoption Assistance and Child Welfare Act of 1980, as amended, codified as Title IV-E of the Social Security Act, 42 U.S.C. §§ 670-679c (the “**Child Welfare Act**”) and injunctive relief prohibiting Defendant from allegedly continuing to violate the rights of resource caregivers under the Child Welfare Act by (1) failing to make

foster care maintenance payments adequate to cover the costs enumerated under the Child Welfare Act, (2) failing to set appropriate foster care maintenance payment rates; and (3) failing to update the foster care maintenance payment rates to assure their continuing appropriateness; but does not seek damages, and

WHEREAS, Plaintiffs and others, on behalf of a separate putative class of Hawaii-licensed foster care providers and children, also filed a Complaint for Damages against the State of Hawaii in the First Circuit Court, State of Hawai`i, in an action entitled *Sheehey, et al. v. State of Hawaii*, Civ. No. 14-1-1709-08 VLC (the “**State Lawsuit**”), asserting claims for damages on behalf of resource caregivers and children and young adults who were removed from their home and placed under DHS’ care, based on alleged inadequate foster care maintenance payment rates under contract and state law; and

WHEREAS, some of the issues in the State Lawsuit overlap with the issues in the Federal Lawsuit (primarily, whether DHS provides foster care maintenance payments adequate to cover the cost of and the cost of providing basic necessities to children in Hawaii’s foster care system); and

WHEREAS, the Child Welfare Act defines “foster care maintenance payments” as payments sufficient to “cover the cost of (and the cost of providing) food, clothing, shelter, daily supervision, school supplies, a child’s personal incidentals, liability insurance with respect to a child, reasonable travel to the child’s home for visitation, and reasonable travel for the child to remain in the school in which the child is enrolled at the time of placement” (42 U.S.C. § 675(4)(A)), and Plaintiffs contend that DHS is required by federal law to make sufficient foster care maintenance payments and conduct periodic reviews to assure the continuing appropriateness of foster care maintenance payment rates (42 U.S.C. § 671(a)(11)); and

WHEREAS, from approximately 1990 until June 2014, Hawaii’s basic foster board rate was \$529 per child, per month for all foster children; and

WHEREAS, effective July 1, 2014, DHS increased the basic foster board rate (“**Basic Board Rate**”), based on the age of the foster child, to: \$576 (children ages 0-5); \$650 (children ages 6-11); and \$676 (children ages 12+); and

WHEREAS, in addition to the Basic Board Rate, there are additional payments and benefits available for the care of foster children (“**Foster Care Related Payments and Benefits**”), depending on the needs of the child; and

WHEREAS, DHS' position is that its existing system of a Basic Board Rate plus Foster Care Related Payments and Benefits complies with the Child Welfare Act, and DHS also takes the position that having certain payments or benefits available only if the child needs them, and requiring resource caregivers (foster parents) to apply for certain payments and benefits complies with the Child Welfare Act; and

WHEREAS, Plaintiffs' position is that the DHS' Basic Board Rates are still inadequate because they were set in 2014 using a 2011 government study (USDA report) on the cost of raising children across the United States (and used cost estimates for families living in the Urban West region rather than Hawai'i), and because the Basic Board Rates utilized less than 100% of the estimated costs of food; housing; and miscellaneous expenses rather than all eight items listed in the Child Welfare Act; and

WHEREAS, Plaintiffs' position is that DHS' system of providing Foster Care Related Payments and Benefits is inadequate because the payments and benefits (1) are not provided to all foster children, (2) are subject to eligibility requirements, (3) are subject to availability of funds, and (4) many foster families simply are not aware that these additional payments and benefits exist or that DHS is required to cover certain costs that DHS claims are covered through the Foster Care Related Payments and Benefits; and

WHEREAS, the Parties to the Federal Lawsuit do not agree on (1) the extent of DHS' obligations under the Child Welfare Act; (2) the sufficiency of the Basic Board Rates; (3) the value or adequacy of the Foster Care Related Payments and Benefits; (4) whether DHS provides adequate information to resource caregivers regarding the availability of the Foster Care Related Payments and Benefits; (5) whether DHS provides adequate opportunity for resource caregivers to apply for the Foster Care Related Payments and Benefits; and (6) whether DHS conducts periodic reviews that assure the continuing appropriateness of its foster care maintenance payment rates; and

WHEREAS, the Parties have engaged in substantial discovery (including depositions, the production of thousands of pages of documents, as well as expert discovery); and

WHEREAS, in August 2015, the Federal Court certified a class of all currently licensed foster care providers in Hawai'i who are entitled to receive foster care maintenance payments pursuant to the Child Welfare Act when they have foster

children placed in their homes (the “**Class**”)² and appointed the Hawai‘i Appleseed Center for Law and Economic Justice, Alston Hunt Floyd & Ing, and Morrison & Foerster LLP as counsel for the class (“**Class Counsel**”); and

WHEREAS, in December 2015, the Federal Court ruled that federal law did not prohibit DHS’ system of providing foster care maintenance payments through a Basic Board Rate plus additional Foster Care Related Payments and Benefits, and that the foster care maintenance payment system could possibly be sufficient if DHS provides resource caregivers with sufficient information about the foster care related payments and benefits and sufficient opportunities to apply for them; and

WHEREAS, the Federal Court also ruled that the “shelter” expense in the Child Welfare Act’s definition of “foster care maintenance payments” need not include mortgage payments, rent, property taxes, or other similar expenses³; and

WHEREAS, the Federal Court did not rule on certain key issues, and saved them for trial, including:

- (1) whether DHS adequately conducts periodic reviews of the foster care maintenance payments to assure their continuing appropriateness;
- (2) whether DHS provides adequate information to resource caregivers about the Foster Care Related Payments and Benefits;

² The Class was certified under Fed. R. Civ. P. 23(b)(2) and Class Counsel appointed by order filed August 17, 2015. Dkt. 156 at 24-25, 33-34. No notice of class certification was provided to class members at the time of certification, nor was notice required, because of the nature of the class and the relief sought, which is solely prospective injunctive relief.

³ It is Defendant’s position that the Federal Court’s ruling on “shelter expense” significantly lessened Plaintiffs’ chances of prevailing on their assertion that DHS does not pay enough for the items enumerated in the Child Welfare Act because, while the ruling confirmed that DHS need not pay for rent, mortgage, or similar expenses, DHS’ calculation of the Basic Board Rates in fact took such costs into account because a large portion of the “housing” category of the USDA report includes such costs.

(3) whether DHS provides adequate opportunities to resource caregivers to apply for the Foster Care Related Payments and Benefits;

and, if the Court answered (2) and (3) in the affirmative⁴, then

(4) whether DHS' foster care maintenance payment system of Basic Board Rate-plus-Foster Care Related Payments and Benefits adequately covers the cost of (and the cost of providing) the items enumerated in the Child Welfare Act; and

WHEREAS, in July and August 2016, shortly before trial in the Federal Lawsuit was scheduled to commence, the Parties engaged in settlement discussions through their respective counsel, with the assistance of the Honorable Kevin S.C. Chang, Magistrate Judge of the United States District Court for the District of Hawai'i; and

WHEREAS, the Parties reached a proposed comprehensive settlement of the State and Federal Lawsuits and, on August 26, 2016, the Parties in the Federal Lawsuit and the parties in the State Lawsuit agreed to the essential terms of a valid and binding settlement agreement, which was placed on the record before the Honorable Kevin S.C. Chang; and

WHEREAS, the settlement placed on the record on August 26, 2016, was subsequently memorialized in written settlement agreements dated effective March 14, 2017; and

WHEREAS, those written settlement agreements stated that the settlement was contingent upon the appropriation of funds to make the payments described therein, and if such legislation was not enacted on or before June 30, 2017, unless such date was mutually agreed to be extended by the parties, the agreements shall automatically become null and void; and

WHEREAS, the Hawaii Legislature did not appropriate the funds for the settlement on or before the June 30, 2017 deadline; and

⁴ If the Court found at trial that DHS did not provide all resource caregivers with sufficient information about and opportunities to apply for the Foster Care Related Payments and Benefits, then it is Plaintiffs' position that DHS would only be able to rely upon the Basic Board Rates, and not the Foster Care Related Payments and Benefits, to demonstrate the adequacy of its foster care maintenance payment rates.

WHEREAS, the Parties desire to extend the deadline by which the Hawaii Legislature may fund the settlement as amended by this Federal Settlement Agreement and the Amended State Lawsuit Class Action Settlement Agreement; and

WHEREAS, Defendant denied and continues to deny any and all liability and damages to Plaintiffs with respect to the claims or causes of action asserted in the Federal Lawsuit and the State Lawsuit, but nonetheless acknowledges that bringing the cases to a close now through settlement—rather than after years of litigation and appeals, with uncertain outcomes and concomitant attorneys’ fees and costs that would be incurred by both sides—would help move the Parties toward a better working relationship for the benefit of all children in Hawaii’s foster care system, and the relief Defendant agrees to provide under this Federal Settlement Agreement is offered solely as a compromise, and not because Defendant believes DHS has any obligation to Plaintiffs to provide said relief; and

WHEREAS, Plaintiffs and Class Counsel have analyzed, evaluated, and extensively litigated the merits of the claims made against Defendant in the Federal Lawsuit and the impact of settlement (as well as the impact of not settling) on Plaintiffs and the members of the Class, and, recognizing the substantial risks of continued litigation—including the possibility that the Federal Lawsuit, if not settled now, might result in an outcome that is less favorable or that a fair and final judgment may not occur for several years—Plaintiffs and Class Counsel are satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate, and that this Agreement is in the best interests of the Class;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this Federal Settlement Agreement, as well as the good and valuable consideration provided for herein, the Parties hereto agree to a full and complete settlement of the Federal Lawsuit on the following terms and conditions:

TERMS OF AGREEMENT

I. Definitions

In addition to the definitions contained in the Recitals, the following definitions shall apply.

- A. “**Administration Costs**” shall mean the reasonable cost to typeset, print, and mail the Class Notice to the Class.
- B. “**Class Members**” shall mean the members of the Class.

- C. “**Class Notice**” shall mean a document substantially in the form of the Notice attached hereto as Exhibit 1 which has been agreed to by the Parties subject to Court approval and which the Notice Administrator will mail to each Class Member explaining the terms of the Settlement and the objection process.
- D. “**Class Representative**” shall mean Plaintiff Raynette Ah Chong. The Class Representative is also referred to as the “**Named Plaintiff**.”
- E. “**Contact Information**” shall mean the most current information DHS then has available of a Class Member’s name and mailing address.
- F. “**Day**” shall mean a calendar day.
- G. “**Fairness Hearing**” shall mean the hearing on the Motion for Final Approval of Settlement.
- H. “**Federal Court**” shall mean the United States District Court for the District of Hawaii, the Honorable Leslie E. Kobayashi, presiding.
- I. “**Final Approval**” shall mean the occurrence of the following:
Following the Fairness Hearing, the Federal Court has issued an order approving the Settlement, and
- i. The time for appellate review has expired, and no notice of appeal has been filed; or
 - ii. If appellate review is sought, after any and all avenues of appellate review have been exhausted, and the order approving settlement has not been modified, amended, or reversed in any way.
- J. “**Legislation Enactment Deadline**” shall mean June 30, 2018, or such later time period as the Parties may agree to in writing.
- K. “**Motion for Final Approval of Settlement**” shall mean the motion to be filed by Defendant seeking the Federal Court’s final approval of the Settlement.
- L. “**Notice Administrator**” shall mean DHS (or, if DHS is unable or unwilling to perform the duties of the Notice Administrator, such other mutually agreed-upon entity). The Notice Administrator shall be responsible for sending the court-approved Class Notice to the Class, and may utilize the services of a copy/ mailing vendor.
- M. “**Preliminary Approval**” shall mean that the Court has entered a Preliminary Approval Order.

- N. **“Preliminary Approval Order”** shall mean an order entered by the Federal Court substantially in the form attached hereto as Exhibit 2 preliminarily approving the terms set forth in this Federal Settlement Agreement, including the manner and timing of providing notice to the Class, the time period for objections, and the date, time and location for a Fairness Hearing.
- O. **“Releasees”** shall mean Defendant, DHS, the State of Hawai`i, other Hawaii departments, agencies, directors, officers, agents, employees, representatives, insurers, attorneys, administrators, and all other persons acting on behalf of the State of Hawaii.
- P. **“Resource caregiver”** shall mean an individual or couple licensed by the DHS as a resource caregiver or resource family pursuant to Hawaii Administrative Rules chapter 17-1625, as may be amended from time to time.
- Q. **“Settlement”** means the compromise and settlement of the Federal Lawsuit as contemplated by this Federal Settlement Agreement.
- R. **“USDA Report”** means the report periodically published by the United States Department of Agriculture titled Expenditures on Children by Families.
- S. **“CPI”** means the Consumer Price Index for All Urban Consumers (CPI-U) for the U.S., as reported by the Bureau of Labor Statistics, United States Department of Labor.

II. Payment Amounts Starting Next State Fiscal Year

1. The Federal Lawsuit shall be administratively closed⁵ (until the end of June 2018, or such later time as the Parties may agree to in writing) while DHS, with support and cooperation from the Class and Class Counsel, requests appropriations from the Hawaii Legislature in the DHS budget for state fiscal year 2019 (July 1, 2018 to June 30, 2019 sufficient to fund:

- (a) an increase in the monthly basic foster care maintenance board rates (the “Basic Board Rates”) to the following amounts: \$649 for ages 0-5, \$742 for ages 6-11, and \$776 for ages 12+; and

⁵The Parties understand that administrative closure may include dismissal of the case by the Court, with the ability to reopen the case if the Settlement is not completed.

(b) an increase in the annual clothing allowance to the following amounts: \$810 for ages 0-5, \$822 for ages 6-11, and \$1026 for ages 12+. These amounts are in lieu of the current clothing allowance of \$600 per year plus \$125 for special circumstances. At DHS' option, it may choose to increase the clothing allowance without seeking an additional appropriation if it has determined that such an increase can be funded with its existing budget.

2. The increases in the Basic Board Rates were calculated by using 95% of the 2013 USDA report, overall United States, middle income category, expenditures on Food, Housing, and Miscellaneous, with an adjustment for inflation to January 2016 dollars using changes in the CPI⁶ from the year of the USDA report (2013), with an adjustment equal to the average of the 2014 Regional Price Parity Index (“RPP”), as reported by the Bureau of Economic Analysis, United States Department of Commerce, for (a) Hawaii (“Hawaii RPP”) (116.8) and (b) Hawaii Metropolitan Statistical Area (“Hawaii-Metro”) (120.2), which is referred to herein as the “Average Hawaii RPP” (118.5).

3. The increases in the clothing allowance were calculated by using 100% of the 2013 USDA report, overall United States, middle income category, expenditures on Clothing, with an adjustment for inflation to January 2016 dollars using changes in the CPI⁷ from the year of the USDA report (2013), with an adjustment based on the Average Hawaii RPP.

4. Collectively, paragraphs II.1(a) and II.1(b) are referred to herein as the “**Budget Request.**” DHS has exercised its option to increase the clothing allowance in State fiscal year 2019 without seeking an additional appropriation, having determined that such an increase can be funded with its existing budget. The amount necessary to fund the increase for the Basic Board Rates has been submitted to the 2018 Legislature as part of the Executive Budget.

5. DHS will take all reasonable steps available to it as an executive agency to recommend, promote, and endorse the Budget Request.

⁶The Housing CPI series was used to calculate the Housing adjustment. The Food CPI series was used to calculate the Food adjustment. An average of the Recreation and Personal Care CPI series was used to calculate the Miscellaneous adjustment.

⁷The Apparel CPI series was used to calculate the Clothing adjustment.

6. If DHS fails to submit a Budget Request in accordance with paragraph II.1, above, or if funds as requested in the Budget Request are not appropriated by the Legislation Enactment Deadline, Plaintiffs shall reopen the Federal Lawsuit, trial to commence immediately on a date set by Judge Kobayashi prior to the administrative closure. To the extent permitted by the Federal Court, the Parties agree that, prior to trial, they may update pre-trial submissions (including expert reports and written direct testimony statements) consistent with ongoing obligations under the Federal Rules of Civil Procedure and consistent with the Court's existing pre-trial rulings, and as necessary to account for the passage of time and changes to the facts and law, if any.

7. If the Budget Request is appropriated, the Parties will submit to the Federal Court a stipulated dismissal with prejudice, which shall be filed no later than 14 days after DHS issues the first payments based on the newly-established Basic Board Rates described in paragraph II.1(a), above.

III. Periodic Review

1. Defendant agrees that DHS will conduct periodic reviews of its Basic Board Rates and the annual clothing allowance, consistent with its administrative rules, using the following review process:

DHS shall calculate benchmark rates based on procedures outlined in paragraph II.2, above, using the most recent USDA report, with an adjustment for inflation based on changes in the CPI for the U.S. from the year of the USDA report to the most recently available month, and an adjustment using the most recent Average Hawaii RPP ("**Benchmark Rates**").

DHS shall calculate a "**Benchmark Clothing Allowance**" rate based on procedures outlined in paragraph II.3, above, using the most recent USDA report, with an adjustment for inflation based on changes in the CPI for the U.S. from the year of the USDA report to the most recently available month, and an adjustment using the most recent Average Hawaii RPP.

2. DHS shall seek appropriations from the Hawaii Legislature sufficient to increase the Basic Board Rates to the Benchmark Rates if the difference between the then-existing Basic Board Rates and the Benchmark Rates is more than 5%. DHS shall notify Class Counsel of its intent to seek appropriations prior to the start of the legislative session to enable the Class to prepare testimony to the Legislature supporting DHS' budget request.

3. Similarly, DHS shall seek appropriations from the Hawaii Legislature sufficient to increase the clothing allowance to the Benchmark Clothing Allowance rate if the difference between the then-existing clothing allowance and the Benchmark Clothing Allowance is more than 5%. DHS shall notify Class Counsel of its intent to seek appropriations prior to the start of the legislative session to enable the Class to prepare testimony to the Legislature supporting DHS' budget request.

4. Defendant cannot and does not agree to raise the Basic Board Rates or the clothing allowance automatically when the 5% benchmark threshold is met. Moreover, the 5% threshold is a figure agreed upon for settlement purposes only. Nothing in this Federal Settlement Agreement constitutes an admission by Defendant that 5% represents the threshold for substantial compliance with the Child Welfare Act. In other words, by agreeing to seek an increase when the 5% threshold is met, Defendant in no way admits that should the Legislature choose not to fund a requested increase, then Defendant is in violation of the Child Welfare Act. On the contrary, it is the Defendant's position that Defendant is in compliance with the Child Welfare Act, and that the payment increases agreed upon for purposes of this Settlement are not required by law.

IV. Other Terms

1. **Difficulty of Care ("DOC") Payments:** Subject to the promulgation of any required administrative rule and/or internal policy change, as of the date the Federal Court approves the Settlement Agreement, DHS agrees that the monthly DOC cap of 120 hours may be waived by DHS in appropriate circumstances until it implements planned changes to the current DOC system, which may require rulemaking. DHS agrees to take all reasonable steps necessary to implement this paragraph (including reasonable steps in advance of the Fairness Hearing). Any requests by resource caregivers to increase the number of hours over 120 per month will be subject to DHS procedures (other than the 120-hour cap) and can be approved only if it is in the best interest of the foster child and other children in the resource family home to do so. Nothing in this Federal Settlement Agreement shall impair the ability of DHS to impose conditions on the receipt of DOC payments that it deems appropriate for the protection of foster children or other children in a resource caregiver's home.

2. **Availability of Resources:** The Parties agree to work cooperatively on providing a short summary of the payments and benefits (including a mileage log reimbursement form, DOC calculation information, and information about foster parent liability insurance) available to resource caregivers, to be provided at least

semi-annually and to all newly-licensed resource caregivers. The summary may be sent to resource caregivers by DHS' contractors and will be made available on Class Counsel's website.

3. **Court Enforcement:** The Federal Court retains jurisdiction to enforce the terms of this Federal Settlement Agreement. If a Class Member believes the Defendant to be in material breach of this Federal Agreement, the Class Member, through Class Counsel, will provide the Defendant notice and a reasonable opportunity to cure prior to enforcing the agreement in Federal Court. The Parties will agree on a time period for cure depending on the particular nature of the claimed breach.

4. **Termination of this Agreement:** This Federal Settlement Agreement will terminate 10 years from the effective date of this Agreement, at which time it will no longer be enforceable.

5. **No Admission of Liability.** This Federal Settlement Agreement is not an admission of liability or wrongdoing by Defendant. Nor is it an admission by the Class regarding the sufficiency or appropriateness of the payments and procedures agreed to for purposes of this Settlement.

Defendant asserts that he has meritorious defenses in response to Plaintiffs' allegations. Furthermore, nothing in this Federal Settlement Agreement shall be construed as an admission of liability under any legal or factual theory propounded by the Plaintiffs. Defendant enters into this Federal Settlement Agreement solely for the purposes of settling, compromising, and terminating Plaintiffs' claims, and avoiding the expense and diversion of resources caused by protracted litigation.

6. **Subject to Federal Law.** This Federal Settlement Agreement is subject to any changes in applicable federal law. The State is not required to do more than federal law mandates and may make adjustments to its payments, policies, or procedures consistent with federal law.

7. **Court Approval and Legislative Appropriations.** Settlement of the Federal Lawsuit and the State Lawsuit and the obligation of Defendant to make the payments provided for herein are conditioned on (1) approval of the Federal Settlement Agreement and the State Settlement Agreement by both the United States District Court for the District of Hawaii and the Circuit Court of the First Circuit, State of Hawaii, respectively, and (2) appropriation of funds by the Legislature of the State of Hawaii to fund the amounts required to be paid under the Federal Settlement Agreement and the State Settlement Agreement.

8. **Notice under CAFA.** Within 10 days of submission of the Motion for Preliminary Approval to the Federal Court, Defendant shall serve any notices to federal and state officials required under 28 U.S.C. § 1715.

V. Releases

1. The Plaintiffs, including all Class Members, hereby release, acquit, and discharge Releasees from any and all claims, causes of action, rights, obligations, liabilities, penalties, demands, damages, costs (other than those costs to be paid pursuant to this Federal Agreement), requests for declaratory relief, or requests for injunctive relief of any and every kind that were alleged, sought, or litigated, or that could have been alleged, sought, or litigated against Defendant in the Federal Lawsuit. The foregoing does not preclude any Class Member from enforcing this Federal Agreement in Federal Court (after notice and opportunity to cure as set forth in paragraph IV.3, above) or commencing any other litigation concerning the claims alleged in the Federal Lawsuit after the termination of this Federal Settlement Agreement (paragraph IV.4, above).

VI. Attorneys' Fees and Costs

1. Class Counsel has provided defense counsel with materials supporting requested attorneys' fees and costs for review. The Parties have met and conferred in good faith and, subject to Federal Court approval, hereby agree to an award of \$850,000, inclusive of all attorneys' fees, costs, non-taxable expenses, and taxes.

Plaintiffs shall seek the Federal Court's approval of such amounts by renewing and updating Plaintiffs' Notice of Unopposed Motion and Unopposed Motion for Award and Approval of Settlement Regarding Attorneys' Fees and Service Awards (Dkt. 348) pursuant to FRCP Rule 23(h), which shall be filed no later than 7 days after the Motion for Preliminary Approval is filed or by such other date as the Court may direct. Notice shall be provided to the Class informing Class Members of the right to object. Such notice shall be given as part of the Class Notice described below. Defendant will not object to the motion so long as it does not seek attorneys' fees and costs in excess of the amounts set forth in this paragraph VI.1.

No separate award of attorneys' fees and costs shall be sought by or made to Plaintiffs or their counsel for claims not certified for class treatment in the Federal Lawsuit.

2. The payment of the amount of attorneys' fees and costs approved by the Federal Court is subject to the Hawaii Legislature's appropriation process. No

interest shall accrue on an award of attorneys' fees and costs. Any award of attorneys' fees and costs shall be paid within a reasonable time after the start of the state fiscal year following the legislative session during which the appropriation is made, in accordance with the State's policies and procedures for payments by the State of appropriated settlements.

3. Class Counsel agree that they are responsible for allocating the attorneys' fees and costs approved or awarded by the Federal Court among themselves and any other counsel that may have any other agreement with them. Class Counsel warrant and represent that there are no liens on the amounts to be paid pursuant to the terms of this Federal Settlement Agreement and that no assignments of the claims to be released or the attorneys' fees and costs to be paid pursuant to this Federal Settlement Agreement have been made or attempted.

Named Plaintiffs may seek the Court's permission to be paid a service award of up to \$5,000 each, provided that if any such payment is approved, it shall only come from any attorneys' fees and costs approved by the Court and appropriated by the Legislature, and under no circumstances will Defendant or the State be responsible for paying any moneys whatsoever to Plaintiffs.

4. In the event the Federal Court approves the motion for attorneys' fees and costs in an amount less than the amount requested by Class Counsel, that shall not be a basis for rendering the entire Settlement or this Federal Settlement Agreement null, void, or unenforceable. If the Legislature refuses to appropriate Class Counsel's fees and costs as approved by the Federal Court, the Settlement shall be null and void.

VII. Court Approval of Settlement; Process for Objections by Class Members

1. **Motion for Preliminary Approval.** Defendant shall file an updated motion for preliminary approval of the Settlement and this Federal Settlement Agreement by the Federal Court and attach a copy of this Federal Settlement Agreement and such other documents Defendant determines are necessary for the Federal Court's consideration. The motion shall request preliminary approval of the Settlement and approval of the Class Notice and notice procedure, and shall request that the Federal Court specify the procedure required for the Federal Court's final consideration of the Settlement, including the scheduling of the Fairness Hearing. Although Defendant is responsible for filing the motion, it is intended that Plaintiffs will have reviewed the motion before it is filed and that the motion will be unopposed.

2. **Class Notice.** By such date as the Court shall direct, the Notice Administrator, in cooperation with Class Counsel and defense counsel, shall send the approved Class Notice to each Class Member by U.S. mail postage prepaid in accordance with the terms of the Preliminary Approval Order. DHS shall provide the Notice Administrator (if not DHS) and Class Counsel with Contact Information for each Class Member. DHS shall pay the Administrative Expenses incurred in copying and mailing the Class Notice to the Class Members. For purposes of generating the mailing list for the Class Notice, DHS will identify Hawaii licensed resource caregivers for the time period August 17, 2015 through a cut-off date that is approximately two to three weeks prior to the date on which Class Notice is mailed, or as otherwise determined by the Court.

3. **Content of Class Notice.** The Class Notice shall contain: the definition of the certified Class; a general description of the Federal Lawsuit and its claims, issues, and defenses; material terms of this proposed Federal Settlement Agreement; Class Counsel's request for attorney's fees and costs; Plaintiffs' request for a Service Award; options available to Class Members, including the manner, time limits, forum and form of an objection to this Settlement; the right of any Class Member to enter an appearance *pro se* or through an attorney to object to the Federal Agreement or any of its terms; the website address for the website required to be maintained by Class Counsel; the date, time, and location of the Fairness Hearing; a statement that Class Members cannot opt out of the Class; and the binding effect of the Federal Agreement on Class Members. The notice shall also inform Class Members that they may also be members of the settlement class certified in the State Lawsuit and state that members of the settlement class in the State lawsuit may opt out of that class.

4. **Establishment of Website.** Class Counsel shall, at their own expense, publish information regarding the Settlement on a website, including information on how to object to the Settlement of the Federal Lawsuit and the deadline to do so. The website shall also include a copy of this Federal Agreement, the motion for attorneys' fees and costs, the motion for service award; key pleadings, and information regarding the State Lawsuit and State Agreement. The web address for the website shall be included in the Class Notice. The website shall remain available starting 7 days after Preliminary Approval through at least December 2019.

5. **Objections.** A Class Member who wishes to object to this Federal Settlement Agreement, the Settlement, Class Counsel's motion for attorneys' fees and costs, or the motion for service award must timely submit to Judge Kobayashi

a statement of their objection, and whether the Class Member intends to appear at the Fairness Hearing.

Any Class Member may appear at the Fairness Hearing to object to any aspect of this Federal Agreement, the Settlement, Class Counsel's motion for attorneys' fees and costs, or the motion for service award.

Class Members may act either on their own or through counsel employed at their own expense.

To be considered timely, a Class Member's objection must be postmarked or received on or before the date determined by the Court.

Class Members who fail to submit timely written objections or who do not appear at the Fairness Hearing and make objections shall be deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

6. **No Right to Opt Out.** Class Members do not have the right to request exclusion from (opt out of) the Settlement. All Class Members are bound by the Settlement and by this Federal Settlement Agreement if approved by the Federal Court and if the other conditions of this Federal Settlement Agreement are met.

7. **Fairness Hearing.** On a date to be determined by the Federal Court, the Federal Court shall hold a Fairness Hearing. At the Fairness Hearing, the Parties will request that the Court:

- a. Consider any objections by Class Members;
- b. Give Final Approval to the Settlement as fair, reasonable, adequate, and binding on all Class Members;
- c. Determine whether to award reasonable attorneys' fees and costs for Class Counsel and/or service awards for Plaintiffs, and if so, the amount thereof.

Defendant shall file a Motion for Final Approval of Settlement no later than the date established by the Federal Court.

8. **Effect of Failure to Grant Final Approval.** In the event the Settlement and this Federal Settlement Agreement are not granted Final Approval, they shall be deemed null, void, and unenforceable and shall not be used or admissible in any subsequent proceedings against the Parties either in Federal Court or in any other

judicial, arbitral, administrative, investigative, or other forum. In the event the Settlement and this Federal Agreement are not approved by the Federal Court, or otherwise fail to become effective and enforceable, the Parties will not be deemed to have waived, limited, or affected in any way their claims, objections, or defenses in the Federal Lawsuit.

VIII. Additional Provisions

1. The rule of construction that an agreement is to be construed against the drafting party is not to be applied in interpreting this Federal Settlement Agreement. The Class Representative, Plaintiffs, and Defendant acknowledge that they have each read this Federal Settlement Agreement, that they understand its meaning and intent, that they have executed it voluntarily and with opportunity to consult with legal counsel, and have participated and had an equal opportunity to participate in the drafting and approval of drafting of this Federal Settlement Agreement. No ambiguity shall be construed against any party based upon a claim that the party drafted the ambiguous language. This Federal Settlement Agreement contains all essential terms of the settlement the Parties have reached. While other documents may be prepared hereafter to further effectuate the provisions hereof, the Parties intend that this Federal Settlement Agreement is a valid, binding agreement, enforceable by the Court.

2. **Cooperation Between the Parties.** The Parties shall cooperate fully with each other and shall use their best efforts to obtain the Federal Court's approval of this Federal Settlement Agreement and all of its terms.

3. **No Third-Party Beneficiaries.** This Agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party as a beneficiary of this Agreement.

4. The respective signatories to this Federal Settlement Agreement each represent that they are fully authorized to enter into this Federal Settlement Agreement and bind the respective Parties to its terms and conditions. This Agreement may be executed in counterparts.

SIGNATURES

Wherefore, intending to be legally bound in accordance with the terms of this Agreement, the Parties hereby execute this Agreement, effective on Friday, March 16, 2018, which is the date on which the last signatory signed this Federal Settlement Agreement.

FOR PLAINTIFFS:



Alston Hunt Floyd & Ing,
Class Counsel

Hawai'i Appleseed Center
for Law and Economic Justice,
Class Counsel

Morrison & Foerster LLP,
Class Counsel


FOR DEFENDANT:

Donna H. Kalama
Caron M. Inagaki
Deputy Attorneys General

FOR PLAINTIFFS:

FOR DEFENDANT:

Alston Hunt Floyd & Ing,
Class Counsel



Hawai`i Appleseed Center
for Law and Economic Justice,
Class Counsel

Donna H. Kalama
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Class Counsel



Morrison & Foerster LLP,
Class Counsel

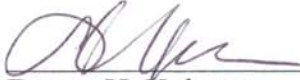
FOR PLAINTIFFS:

Alston Hunt Floyd & Ing,
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for Law and Economic Justice,
Class Counsel

Morrison & Foerster LLP,
Class Counsel

FOR DEFENDANT:



Donna H. Kalama
Caron M. Inagaki
Deputy Attorneys General

UNITED STATES DISTRICT COURT FOR THE DISTRICT OF HAWAII
The federal court authorized this notice. This is not a solicitation from a lawyer.

NOTICE OF AMENDED SETTLEMENT OF THE FEDERAL FOSTER CARE PAYMENTS LAWSUIT

In 2017, a notice was sent to Hawaii-licensed foster care providers about a settlement in a federal class action lawsuit over Hawaii’s foster care payments. The 2017 settlement would have increased the monthly basic board rates and annual clothing allowance starting July 1, 2017; required DHS to ask for money to raise the board rates when certain costs of living increased by 5% or more; and provided other benefits to foster families. The 2017 settlement failed because the Hawaii Legislature did not provide the money needed to fund the settlement.

In March 2018, the Parties agreed to amend the settlement. The 2018 settlement is similar to the 2017 settlement in that:

- It increases the amounts to be paid to resource caregivers for the monthly basic board rates and for the annual clothing allowance starting July 1, 2018.
- It requires that, over the next ten years, DHS periodically monitor increases in Hawaii’s cost of living, and ask the Hawaii Legislature for funds to increase the basic board rates when those costs increase 5% or more.
- DHS will increase Difficulty of Care payments in appropriate circumstances by waiving the current cap of 120 hours per month.

There are two main changes in the 2018 settlement. First, the 2018 settlement increases the board rate and clothing allowance beginning in July 2018 instead of July 2017. Second, Class Counsel (the attorneys for the foster parents) agreed to reduce their attorneys’ fees to \$850,000.00.

The settlement does not require the Legislature to provide money for the settlement. If the Legislature chooses not to fund the settlement again, the lawsuit will continue.

You may object to the 2018 settlement if you disagree with any of the terms, which are described below and available at a website created by Class Counsel: <http://www.hawaiiclassaction.com/fostercare>. Deadlines to object and other important information are described in this Notice.

Differences Between this Lawsuit (the Federal Lawsuit) and the State Lawsuit

This lawsuit (in federal court) focuses on how DHS should calculate and increase the foster board rates *going forward* and how much DHS should pay foster parents *in the future*. There is a separate lawsuit in Hawaii state court that focuses on the adequacy of payments made to foster and adoptive families and children in the past. The state lawsuit has also settled. *If* you are also part of the state lawsuit, you will receive another notice describing that settlement. **Your legal rights and options in the federal lawsuit and the state lawsuit are different.** If you receive both notices (federal and state), please carefully note the differences.

Summary of Your Legal Rights and Options in the Amended Federal Settlement	
DO NOTHING	If the 2018 settlement is approved by the Court and money is provided by the Legislature, the increased payments will take effect July 1, 2018.
OBJECT TO THE SETTLEMENT	Tell the Court about your concerns and objections to the settlement by sending a letter postmarked by MM/DD/YYYY.
GO TO THE COURT HEARING	Tell the Court that you want to speak at the Court hearing on MM/DD/YYYY about the fairness of the proposed settlement by sending a letter postmarked by MM/DD/YYYY.

Your legal rights are affected whether or not you act. Read this notice carefully.

QUESTIONS? CALL (808) 524-1800 OR VISIT <http://www.hawaiiclassaction.com/fostercare>

BACKGROUND INFORMATION

What is this federal lawsuit about?

Foster parents filed this lawsuit claiming that DHS violates federal law because:

- The foster care maintenance payments paid by DHS to resource caregivers are too low;
- DHS does not conduct adequate periodic reviews of its foster care maintenance payments; and
- DHS does not provide enough information to resource caregivers about the kinds of additional payments and benefits that are available to support foster children.

Plaintiffs calculated that if DHS had increased its foster payments to keep up with changes in Hawaii’s cost of living, the payments would be over \$1,000 per month. Plaintiffs asked the Court to require DHS: (1) to increase the payments going forward; and (2) to change the way DHS calculates its payments going forward.

DHS contends that the way Plaintiffs are calculating the amount of the payments is flawed. DHS believes it is complying with the law and has no legal obligation to increase the payments, change the way it periodically reviews the payments, or change the way it provides information to resource caregivers about payments and benefits for foster children.

The name of this lawsuit is *Ah Chong v. Bhanot*, Civ. No. 13-00663 LEK-KSC. Judge Leslie E. Kobayashi, of the United States District Court for the District of Hawaii (the Court), is overseeing this case.

You received this notice because DHS’ records show that you were licensed as a resource caregiver between the time period relevant for this case, August 17, 2015, to _____, 2018, even if you don’t have any foster children in your care now.

What does the Settlement provide?

The settlement will do two main things:

- (1) Beginning July 1, 2018, the monthly basic board rate and clothing allowance paid to resource caregivers for the care of foster children will increase.

Monthly board payments are paid **after** the month of care provided. Therefore, the new increased board rate payments below will begin with the payments that are made at the beginning of August 2018 for care provided in July 2018.

Ages	Current Monthly Board Rate	New Monthly Board Rate
0-5	\$576	\$649
6-11	\$650	\$742
12+	\$676	\$776

The annual clothing allowance will increase from a single rate of \$600 per year plus \$125 for special circumstances for foster children of all ages to an age-tiered system. The settlement does not change the ways that a clothing allowance can be obtained from DHS.

Ages	Current Clothing Allowance	New Clothing Allowance
0-5	\$600 (+ \$125 for special circumstances)	\$810
6-11		\$822
12+		\$1026

- (2) The proposed settlement also requires DHS to conduct periodic reviews of the basic board rates, and to ask the Legislature for additional money to increase the board rates if Hawaii’s cost of living increases five percent or more. The settlement requires DHS to do this for ten years. And even though DHS must ask the Legislature to provide money to raise the board rates, the Legislature could refuse to fund any increases that DHS requests.

QUESTIONS? CALL (808) 524-1800 OR VISIT <http://www.hawaiiclassaction.com/fostercare>

In addition, DHS will work with the Class Representative and Class Counsel to provide more information to resource caregivers about the kinds of payments and benefits that are available to help support foster children.

Separate from this lawsuit, DHS has been looking into changing its difficulty of care (DOC) payments. Until it implements the changes, DHS has agreed to waive the current DOC payment cap of 120 hours per month in appropriate circumstances. Resource caregivers must request an increase in the number of hours over 120 per month, requests will be subject to current DHS procedures, and requests can be approved only if it is in the best interest of the foster child and other children in the resource family home.

Will I be paid any money under the Federal Settlement for foster children currently in my care or for foster children I cared for in the past?

No. This settlement sets future monthly basic board rates and clothing allowances beginning July 1, 2018. It does not increase payments right now for foster children currently in your care, and does not provide any payments for foster children who were in your care in the past. This settlement provides for what is called prospective, or future, relief only.

There is a possibility that you may be entitled to a payment for foster children you cared for in the past under a different lawsuit in state court. If you are part of the state lawsuit, you will receive a separate notice about that lawsuit and settlement. **The state lawsuit notice will tell you whether or not you will receive back payments.** Information about the state lawsuit is available at <http://www.hawaiiclassaction.com/fostercare>.

Are there any conditions to this Settlement?

This settlement will not become final until the federal court approves this settlement, the state court approves the settlement of the state lawsuit, and the Hawaii Legislature approves the money that will be needed to pay for both settlements.

BEING PART OF THE SETTLEMENT

Do I need to do anything to get the benefits of the Settlement?

No. You do not have to do anything to be part of the Class or to get the benefits of the settlement of this federal lawsuit. If you have received this notice, you are part of the Class and automatically part of the settlement.

What if I don't want to be in the Settlement?

By law, you cannot exclude yourself from this settlement. But you can object to the settlement. If the Court approves this settlement, you will not be able to sue the State (including DHS) about the adequacy of the prior and current foster care maintenance payments, or the increased payments embodied in the Parties' settlement agreement, for the 10 years that this settlement remains in effect.

THE LAWYERS REPRESENTING THE CLASS

Do I have lawyers in the case?

Yes. The Court has appointed these lawyers to represent you and other Class Members as Class Counsel:

Paul Alston J. Blaine Rogers Claire Wong Black Alston Hunt Floyd & Ing 1001 Bishop Street, Ste. 1800 Honolulu, HI 96813	Victor Geminiani Gavin Thornton Hawaii Appleseed Center for Law and Economic Justice 119 Merchant St., Ste. 605 Honolulu, HI 96813	Marc D. Peters James R. Hancock Alessa Hwang Morrison & Foerster LLP 755 Page Mill Road Palo Alto, CA 93404
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You will not be charged personally for these lawyers. If you want to be represented by another lawyer to object to the proposed settlement, you may hire one to appear in Court for you at your own personal expense.

QUESTIONS? CALL (808) 524-1800 OR VISIT <http://www.hawaiiclassaction.com/fostercare>

How will the lawyers be paid? Do the plaintiffs get paid?

Plaintiffs will apply to the Court for an award of attorneys' fees, costs, and expenses (the "Fee Application") of not more than \$850,000.00. Copies of the Fee Application will be made available online at <http://hawaii.classaction.com/fostercare>.

You may object to the request for attorneys' fees and costs. After considering the objections of Class Members, the Court will determine the amount of attorneys' fees and costs to be paid to Class Counsel.

Neither you nor any other member of the Class is or will be personally liable for the Attorneys' Fee Award.

Class Counsel will ask the Court to allow Service Awards for the plaintiffs who brought this lawsuit. These Service Awards are intended to recognize the Named Plaintiffs for the extensive services they performed for the class, the time they spent on this case, and the risks they assumed in connection with this litigation. The amount of the Service Awards, if any, will be deducted from any award of attorneys' fees and costs by the Court.

OBJECTING TO THE SETTLEMENT

How can I object to the Settlement?

You may send a letter to the Court objecting to the settlement if you don't like any part of it. This includes the amount of the basic board rate increase, the clothing allowance increase, the Fee Application, or the Service Award for the Class Representative and Named Plaintiffs. The Court will consider your views.

Send objections to: The Honorable Leslie E. Kobayashi
United States District Court for the District of Hawai'i
300 Ala Moana Boulevard, Room C-338
Honolulu, HI 96850-0338

Your objection must include the following information:

Title: Objection to Class Settlement in *Ah Chong v. Bhanot*, Civil No. 13-00663 LEK-KSC

Contact Information: your name, address, and telephone number or email.

Objections: Tell the Court the reasons why you object to the settlement.

Deadline: Your objection must be **postmarked no later than _____, 2018.**

THE FAIRNESS HEARING

When and where will the Court decide whether to approve the Settlement?

The Court will hold a Fairness Hearing on _____, at _____, at the United States District Court for the District of Hawaii, 300 Ala Moana Boulevard, Honolulu, Hawaii, in Courtroom Aha Nonoi on the fourth floor. The hearing may be moved to a different date or time without additional notice, so it is a good idea to check Class Counsel's website (<http://www.hawaii.classaction.com/fostercare>) or the federal court's calendar (<http://www.hid.uscourts.gov/base.cfm?pid=0&mid=2>) before you attend in person. You must bring government issued photo ID in order to get into the Courthouse.

At this hearing, the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Judge will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take.

Do I have to come to the Fairness Hearing?

No. Class Counsel will answer questions the Judge may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend on your behalf, but it's not necessary.

QUESTIONS? CALL (808) 524-1800 OR VISIT <http://www.hawaii.classaction.com/fostercare>

May I speak at the Fairness Hearing?

You may ask the Court for permission to speak in person or through a lawyer at the Fairness Hearing by sending a letter to Judge Kobayashi (at the same address you can send objections) saying that it is your “Notice of Intention to Appear in *Ah Chong v. Bhanot*, Civil No. 13-00663 LEK-KSC.” Be sure to include your name, address, and telephone number, and if a lawyer will attend for you, also include your lawyer’s name, address, and telephone number. Your Notice of Intention to Appear must be **postmarked** no later than _____.

GETTING MORE INFORMATION

How do I get more information?

This notice summarizes the proposed settlement. You can call Class Counsel at (808) 524-1800; email Class Counsel at fostercare@ahfi.com; or visit Class Counsel’s website for this litigation at <http://www.hawaiiclassaction.com/fostercare>, where you will find other information about the federal lawsuit and the proposed settlement.

PLEASE DO NOT CALL THE COURT WITH YOUR QUESTIONS.

March __, 2018

QUESTIONS? CALL (808) 524-1800 OR VISIT <http://www.hawaiiclassaction.com/fostercare>

**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF HAWAII**

PATRICIA SHEEHEY, PATRICK SHEEHEY, RAYNETTE AH CHONG, individually and on behalf of the class of licensed foster care providers in the state of Hawai‘i,

Plaintiffs,

vs.

PANKAJ BHANOT, in his official capacity as the Director of the Hawai‘i Department of Human Services,

Defendant.

CIVIL NO. CV13-00663 LEK-KSC

ORDER PRELIMINARILY APPROVING AMENDED CLASS ACTION SETTLEMENT, APPROVING NOTICE PLAN, AND SCHEDULING DATE FOR FAIRNESS HEARING

ORDER PRELIMINARILY APPROVING AMENDED CLASS ACTION SETTLEMENT, APPROVING NOTICE PLAN, AND SCHEDULING DATE FOR FAIRNESS HEARING

Upon consideration of the unopposed Motion for Preliminary Approval of Amended Class Action Settlement filed by Defendant, Dkt ____ (the “Motion”), the hearing before this Court on _____, and the entire record herein, the Court grants preliminary approval of the Settlement embodied in the Amended Federal Lawsuit Class Action Settlement Agreement, Exhibit A to the Motion (hereinafter the “Federal Settlement Agreement”), upon the terms and conditions set forth in this Order. Capitalized terms and phrases in this Order shall have the same meaning as they have in the Federal Settlement Agreement.

Exhibit 2

The Court makes the following FINDINGS OF FACT:

1. Defendant Pankaj Bhanot, in his official capacity as the Director of the Hawaii Department of Human Services (“DHS”), filed the unopposed Motion on _____.

2. Plaintiff Ah Chong filed the complaint herein against Defendant on December 3, 2013, in the United States District Court for the District of Hawaii (the “Federal Lawsuit”). On April 30, 2014, Plaintiffs Ah Chong and Patrick Sheehey and Patricia Sheehey filed a First Amended Complaint. Dkt 47.

3. Plaintiffs bring this case pursuant to 42 U.S.C. § 1983, seeking declaratory judgment and injunctive relief on the grounds that DHS’ foster care maintenance payments and adoption assistance payments are inadequate, which they allege violates the Child Welfare Act, Title IV-E of the Social Security Act, §§ 670-679c. Dkt 47, First Amended Complaint at ¶¶ 1-3.

4. By order entered August 17, 2015, this Court certified the following class:

[A]ll currently licensed foster care providers in Hawai‘i who are entitled to receive foster care maintenance payments pursuant to the Child Welfare Act when they have foster children placed in their homes – (“the Class”)[.]

Dkt 156 at 33.

5. Plaintiff Ah Chong was appointed as representative of the Class. Dkt 156 at 34.

6. The attorneys from Hawaii Appleseed Center for Law and Economic Justice; Alston, Hunt, Floyd & Ing; and Morrison & Foerster LLP who are the current attorneys of record for Plaintiffs were appointed as Class Counsel. Dkt 156 at 34.

7. The Court denied a request to certify an adoption assistance subclass, and all claims not prosecuted by the Class were ordered to be prosecuted on behalf of the Named Plaintiffs only. Dkt 156 at 33-34.

8. The Named Plaintiffs, along with other individuals, also filed a putative class action lawsuit in the Circuit Court of the First Circuit, State of Hawaii, titled *Sheehey, et al. v. State of Hawaii*, Civ. No. 14-1-1709-08 VLC (the “State Lawsuit”). The State Lawsuit claims that the State did not pay enough for monthly foster care maintenance payments, permanency assistance, adoption assistance, and higher education payments. The plaintiffs in the State Lawsuit contend that they are entitled to damages equal to the shortfall between the amounts they claim DHS should have paid them, and the amounts DHS actually paid.

9. In this case, the Parties conducted an extensive and thorough investigation and evaluation of the relevant laws, facts and allegations to assess the merits of the potential claims to determine the strength of defenses and liability asserted by the Parties.

10. As part of their investigation, Class Counsel engaged in substantial discovery about the cost of caring for children in Hawaii, DHS' foster care maintenance payment rates, DHS' process for setting and increasing those rates, additional benefits and payments that are available for the benefit of children in foster care and how many resource caregivers actually request or receive these additional benefits and payments, and the number of people affected by DHS' foster care maintenance payment rates.

11. Class Counsel received over 10,000 pages of hard copy documents from DHS and electronic databases with hundreds of thousands of payments made by DHS to resource caregivers. Both the Class Representative and Plaintiff Patricia Sheehey were deposed. Named Plaintiffs responded to written discovery requests from DHS.

12. Class Counsel was advised by various consultants and experts, including individuals with expertise in Hawaii's cost of living, and with expertise in foster care maintenance payment costs, payment systems, and payment rates in other States. Numerous expert reports were generated in this case, and depositions of the Parties' experts were taken.

13. On August 26, 2016, the Parties placed the essential terms of a binding settlement of both the Federal Lawsuit and the State Lawsuit on the record before Magistrate Judge Kevin S.C. Chang. Dkt 327. The settlement was

subsequently memorialized in written settlement agreements filed with this Court on March 14, 2017 (referred to collectively herein as the “original settlement”). Dkt 340-3 and 340-4.

14. The original settlement was conditioned on funding of required settlement payments by the Hawaii Legislature by a deadline of June 30, 2017. The Parties reported to the Court that the Legislature did not appropriate the required funds by that date.

15. The Parties subsequently agreed to amend the terms of the settlement to extend the Legislative Enactment Deadline by one year, to reduce the amount of attorneys’ fees to be sought by Class Counsel, and to make other conforming changes to the dates and deadlines previously agreed upon.

16. On March 7, 2018, the Parties placed the essential terms of the amended settlement on the record before Magistrate Judge Kevin S.C. Chang. Dkt 384.

17. The Parties have now executed an Amended Federal Lawsuit Class Action Settlement Agreement (“Federal Settlement Agreement”), Exhibit A to the Motion, in which the Parties formally document the settlement, as amended, of this Federal Lawsuit, subject to the approval and determination by the Court as to the fairness, reasonableness, and adequacy of the Settlement, which, if approved, will result in dismissal of the Federal Lawsuit with prejudice. A copy of the Amended

State Lawsuit Class Action Settlement Agreement (“State Settlement Agreement”), Exhibit B to the Motion, was also provided to the Court.

18. Because the proposed Settlement is a global settlement of both this Federal Lawsuit and the State Lawsuit, the parties to the State Lawsuit are separately seeking the State Court’s consent to the settlement of the State Lawsuit.

19. Under the terms of the Settlement, unless both Lawsuits are finally settled and approved by the respective courts, neither Lawsuit will be settled.

20. Because the State of Hawaii, through its designated DHS official in this Federal Lawsuit and as party-Defendant in the State Lawsuit, must seek appropriations from the Hawaii Legislature to pay for certain of the payments provided for under the Federal Settlement Agreement and the State Settlement Agreement, this Lawsuit will not be settled if the described appropriations are not made.

The Court having reviewed the Federal Settlement Agreement, and being familiar with the prior proceedings herein, and having found good cause based on the record, IT IS ORDERED, ADJUDGED, AND DECREED as follows:

1. Stay of the Action. All non-settlement-related proceedings in this Federal Lawsuit are hereby stayed and suspended until further order of the Court.
2. Class, Class Representative, Class Counsel. The Class previously certified by this Court shall continue to be the Class for purposes of the Settlement.

Raynette Ah Chong shall continue to serve as Class Representative. Previously appointed counsel shall continue to serve as Class Counsel.

3. Preliminary Settlement Approval. The Court preliminarily approves the Settlement set forth in the Federal Settlement Agreement (Exhibit A to the Motion) as being within the range of possible approval as fair, reasonable, and adequate within the meaning of Rule 23 and the Class Action Fairness Act of 2005, subject to final consideration at the Fairness Hearing provided for below.

Accordingly, the Federal Settlement Agreement is sufficient to warrant sending notice to the Class.

4. Jurisdiction. The Court has subject-matter jurisdiction over this action pursuant to 28 USC § 1331 and has personal jurisdiction over the Parties before it. Additionally, venue is proper in this District pursuant to 28 USC § 1391.

5. Fairness Hearing. A Fairness Hearing will be held on _____, at _____, at the United States District Court for the District of Hawaii, 300 Ala Moana Boulevard, Honolulu, Hawaii, in Courtroom Aha Nonoi on the fourth floor, to determine, among other things: (a) whether the settlement of the Federal Lawsuit should be finally approved as fair, reasonable, and adequate pursuant to Rule 23(e); (b) whether the Federal Lawsuit should be dismissed with prejudice pursuant to the terms of the Federal Settlement Agreement; (c) whether Class Members should be bound by the releases set forth

in the Federal Settlement Agreement; (d) whether Class Members and related persons should be permanently enjoined from pursuing lawsuits based on the transactions and occurrences at issue in the Federal Lawsuit; (e) whether the request of Class Counsel for attorneys' fees and costs should be approved pursuant to Rule 23(h); and (f) whether the application of the Named Plaintiffs for a Service Award should be approved.

6. Administration. The Parties are authorized to establish the means necessary to administer the proposed Settlement in accordance with the Federal Settlement Agreement.

7. Class Notice. The proposed Class Notice and the notice methodology described in the Federal Settlement Agreement are hereby approved.

a. DHS is appointed Notice Administrator, meaning only that it is responsible for generating the mailing list of Class Members, based on its records, who are to be sent the Class Notice, and for mailing the approved Class Notice to Class Members. DHS may utilize the services of a copy/ mailing service to copy and mail the approved Class Notice, at its expense. The following persons shall be sent a copy of the Class Notice: DHS-licensed foster care providers in Hawaii who were licensed between August 17, 2015 (the date of entry of the order granting class certification) through _____ (the date on which the mailing list was generated by DHS).

b. Class Counsel shall continue to maintain the internet website relating to the Settlement, which shall inform Class Members of the terms of the Federal Settlement Agreement, their rights, dates and deadlines, and related information. The website shall include (but not be limited to), in Portable Document Format (“PDF”), materials agreed upon by the Parties and as further ordered by this Court. Class Counsel will also provide a telephone number that Class Members may call for information about the Settlement. Both the website and telephone number shall continue to be made available by Class Counsel through at least December 31, 2019.

c. Beginning not later than _____, 2018, and subject to the requirements of this Order and the Federal Settlement Agreement, DHS shall commence sending the Class Notice by U.S. mail to each Class Member described in paragraph 7.a., above, as identified through DHS’ records, at the Class Member’s last known address reflected in DHS’ records. DHS shall: (a) re-mail any Class Notices returned by the U.S. Postal Service with a forwarding address that are received by DHS within ten (10) days of receipt of the returned Class Notices that contain a forwarding address; and (b) by itself or using one or more address research firms, as soon as practicable following receipt of any returned Class Notices that do not include a forwarding address, research any such returned

mail for better addresses and promptly mail copies of the Class Notices to the addresses so found.

d. Not later than _____, 2018, counsel for DHS shall file with the Court details outlining the scope, methods, and results of the notice program, and compliance with the obligation to give notice to each appropriate State and Federal Official, as specified in 28 U.S.C. § 1715.

8. Findings Concerning Notice. The Court finds that the form, content, and method of giving notice to the Class as described in paragraph 7 of this Order: (a) will constitute the best practicable notice; (b) are reasonably calculated, under the circumstances, to apprise the Class Members of the pendency of the Federal Lawsuit, the terms of the proposed Settlement, including but not limited to the right to object to the proposed Settlement and other rights under the terms of the Federal Settlement Agreement; (c) are reasonable and constitute due, adequate, and sufficient notice to all Class Members and other persons entitled to receive notice; and (d) meet all applicable requirements of law, including but not limited to 28 U.S.C. § 1715, Rule 23(c) and (e), and the due process clause of the United States Constitution. The Court further finds that the Class Notice is written in simple terminology, is readily understandable by Class Members, and is materially consistent with the Federal Judicial Center's illustrative class action notices. Non-

material changes and corrections may be made to the Class Notice as the Parties deem appropriate or necessary.

9. No Exclusion from Class. Class Members cannot exclude themselves from the Settlement. The Class was certified under Rule 23(b)(2), and both the relief sought by Plaintiffs, and the payments and other terms under the Federal Settlement Agreement, are prospective in nature. Exclusion of individual Class Members is not consistent with the prospective, injunctive nature of the relief to be provided.

10. Objections and Appearances. Any Class Member or counsel hired at any Class Member's own expense who complies with the requirements of this paragraph may object to any aspect of the proposed Settlement. Class Members may object either on their own or through an attorney retained at their own expense. Any Class Member who fails to comply with the provisions of this paragraph 10 shall waive and forfeit any and all rights he or she may have to object, and shall be bound by all terms of the Federal Settlement Agreement, this Order, and by all proceedings and orders, including but not limited to the release in the Federal Settlement Agreement.

a. Any Class Member who wishes to object to the fairness, reasonableness, or adequacy of the Federal Settlement Agreement, the proposed Settlement, the request for attorneys' fees and cost, or the proposed Service

Awards to Plaintiffs, must submit the objection to the Court, with a postmarked date of no later than _____, 2018. The Court will provide copies of any such objection to counsel for the Parties.

b. The written objection must include: (i) the name and current address of the objector, and a caption or title that identifies it as “Objection to Class Settlement in *Ah Chong v. McManaman*, Civil No. 13-00663 LEK-KSC”; (ii) a written statement of objections, as well as the specific reasons for each objection. It shall be the responsibility of DHS to verify for the Court that an objector is a Class Member.

c. Any Class Member, including Class Members who file and serve a written objection as described above, may appear at the Fairness Hearing, either in person or through personal counsel hired at the Class Member’s expense, to object to or comment on the fairness, reasonableness, or adequacy of the Federal Settlement Agreement or proposed Settlement, or to the request for attorneys’ fees and costs or the proposed Service Awards to the Plaintiffs. Class Members who intend to make an appearance at the Fairness Hearing must submit a “Notice of Intention to Appear” to the Court, listing the name, address, and phone number of the attorney, if any, who will appear, with a postmarked date of no later than _____, 2017, or as the Court may otherwise direct.

d. Class Counsel and Defendant shall have the right to respond to any objections no later than _____, 2018, or as the Court may otherwise direct. The Party so responding shall file a copy of the response with the Court, and shall serve a copy, by regular mail, hand or overnight delivery, to the objecting Class Member or to the individually-hired attorney for the objecting Class Member; to all Class Counsel; and to counsel for Defendant.

11. Disclosures. Counsel for the Parties shall promptly furnish to each other copies of any and all objections that might come into their possession.

12. Termination of Settlement. This Order shall become null and void and shall not prejudice the rights of the Parties, all of whom shall be restored to their respective positions existing immediately before this Court entered this Order, if: (a) the Settlement is not finally approved by the Court, or does not become final, pursuant to the terms of the Federal Settlement Agreement; or (b) the Settlement does not become effective as required by the terms of the Federal Settlement Agreement for any other reason. In such event, the Settlement and Federal Settlement Agreement shall become null and void and be of no further force and effect, and neither the Federal Settlement Agreement nor the Court's orders, including this Order, relating to the Settlement, shall be used or referred to for any purpose.

13. Stay and Preliminary Injunction. Other than the State Lawsuit, which is not affected by this paragraph, effective immediately, any actions or proceedings pending in any state or federal court in the United States involving the State of Hawaii's foster care maintenance payments or components thereof are stayed pending the final Fairness Hearing and the issuance of the order of final approval and an order dismissing the Federal Lawsuit with prejudice. Other than the State Lawsuit, the Parties are not aware of the existence of other pending actions or proceedings.

In addition, pending the final Fairness Hearing and the issuance of a final order and dismissal with prejudice, all members of the Class are hereby preliminarily enjoined from filing, commencing, prosecuting, maintaining, intervening in, participating in (as class members or otherwise), or receiving benefits from any other lawsuit, arbitration or administrative, regulatory, or other proceeding or order in any jurisdiction arising out of or relating to the State of Hawaii's foster care maintenance payments or any component thereof or the claims at issue in this Federal Lawsuit, except that nothing in this paragraph shall affect the State Lawsuit.

Under the All Writs Act, the Court finds that issuance of this nationwide stay and injunction is necessary and appropriate in aid of the Court's jurisdiction

over this action. The Court finds that no bond is necessary for issuance of this injunction.

14. Effect of Settlement Agreement and Dismissal with Prejudice. Class Counsel, on behalf of the Class, and Defendant entered into the Federal Settlement Agreement solely for the purpose of compromising and settling the disputed claims. This Order shall be of no force and effect if the Settlement does not become final and shall not be construed or used as an admission, concession, or declaration by or against Defendant of any fault, wrongdoing, breach, or liability. The Federal Settlement Agreement, and this Order, are not, and should not in any event be (a) construed, deemed, offered or received as evidence of a presumption, concession or admission on the part of Plaintiffs, Defendant, or any member of the Class or any other person; or (b) offered or received as evidence of a presumption, concession, or admission by any person of any liability, fault, or wrongdoing, or that the claims in the Federal Lawsuit lack merit or that the relief requested is inappropriate, improper, or unavailable for any purpose in any judicial or administrative proceeding, whether in law or in equity.

15. Retaining Jurisdiction. This Court shall maintain continuing jurisdiction over these settlement proceedings to assure the effectuation thereof for the benefit of the Class.

16. Continuance of Hearing. The Court reserves the right to adjourn or continue the Fairness Hearing without further written notice.

17. The Court sets the following schedule for the Fairness Hearing and the actions which must precede it:

a. Plaintiffs or Defendant shall file a Motion for Final Approval of the Settlement by no later than _____, 2018.

b. Plaintiffs shall file their motion for attorneys' fees and costs, and/or the Motion for Service Awards by no later than _____, 2018.

c. Class Members must submit to the Court any objections to the Settlement and the motion for attorneys' fees and costs and/or the Motion for Service Awards postmarked no later than _____, 2018.

d. Class Members who intend to appear at the final Fairness Hearing must submit to the Court a Notice of Intention to Appear at the Final Fairness Hearing postmarked no later than _____, 2018.

e. Counsel for Defendant shall file: (i) the details outlining the scope, methods, and results of the notice program; and (ii) compliance with the obligation to give notice to each appropriate State and Federal official, as specified in 28 U.S.C. § 1715, and any other applicable statute, law, or rule, including, but not limited to the due process clause of the United States Constitution, by no later than _____, 2018.

f. Class Counsel and counsel for Defendant shall have the right to respond to any objection by no later than _____, 2018.

g. The Fairness Hearing will take place on _____, at _____, at the United States District Court for the District of Hawaii, in Courtroom Aha Nonoi.

SO ORDERED.

DATED: Honolulu, Hawai‘i, _____, 2018.

/s/ _____
LESLIE E. KOBAYASHI
United States District Judge

In the United States District Court for the District of Hawaii, *Sheehey, et al. v. Bhanot*, Civ. No. CV13-00663 LEK-KSC; Order Preliminarily Approving Amended Class Action Settlement, Approving Notice Plan, and Scheduling Date for Fairness Hearing.

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT

STATE OF HAWAII

PATRICK SHEEHEY; PATRICIA SHEEHEY; RAYNETTE NALANI AH CHONG; SHERRY CAMPAGNA; MICHAEL HOLM; and TIARE HOLM, *individually, and on behalf of a class of Hawai'i-licensed resource families; B.S.; and T.B., a Minor, by her Next Friend N.A., individually and on behalf of a class of persons similarly situated;*

Plaintiffs,

vs.

STATE OF HAWAII,

Defendant.

CIVIL NO. 14-1-1709-08 VLC
(Civil Action; Contract; Class Action)

AMENDED STATE LAWSUIT CLASS ACTION SETTLEMENT AGREEMENT

HEARING ON PRELIMINARY APPROVAL OF SETTLEMENT

JUDGE: Hon. Virginia L. Crandall
DATE: April 3, 2018

AMENDED STATE LAWSUIT CLASS ACTION SETTLEMENT AGREEMENT

This Amended State Lawsuit Class Action Settlement Agreement ("**State Settlement Agreement**") is entered into by and between Patrick Sheehey, Patricia Sheehey, Raynette Nalani Ah Chong, Sherry Campagna, Michael Holm, Tiare Holm, B.S., and T.B., a minor by her next friend, N.A. (collectively, the "**Named Plaintiffs**"), on behalf of themselves and members of the Classes defined in this Agreement (collectively, "**Plaintiffs**"), on the one hand, and the State of Hawaii, including its departments, agencies, officials, and employees (collectively the "**State**"), on the other hand. Named Plaintiffs and the State are collectively referred to as the "**Parties.**"

Subject to Court approval as required by Rule 23 of the Hawai'i Rules of Civil Procedure ("**HRCP**"), the Parties hereby stipulate and agree that, in consideration of the mutual promises, covenants, and consideration set forth in this State Settlement Agreement, the above-captioned action ("**State Lawsuit**") shall be settled and compromised in accordance with the terms herein.

The Parties acknowledge and agree that although this State Settlement Agreement sets forth the terms and conditions by which the State Lawsuit will be settled, this State Settlement Agreement is part of a larger settlement that includes the Federal Lawsuit (defined below), and that unless

both Lawsuits settle on the terms set forth in their respective settlement agreements, neither Lawsuit will be settled.

The Parties further acknowledge and agree that the settlement of the State Lawsuit and the Federal Lawsuit is contingent on the enactment of legislation by the Hawaii Legislature to authorize the appropriation of funds to make the payments described herein and in the Federal Settlement Agreement. If such legislation is not enacted on or before the Legislation Enactment Deadline as defined in this State Settlement Agreement and the Federal Settlement Agreement, unless such date is mutually agreed to be extended by the parties to both Agreements, this State Settlement Agreement shall automatically become null and void, trial in the Federal Lawsuit shall resume, and the State Lawsuit shall also proceed.

RECITALS

WHEREAS, on August 7, 2014, a Complaint for Damages against the State of Hawaii was filed in an action entitled *Sheehy, et al. v. State of Hawaii*, Civ. No. 14-1-1709-08 VLC (the “State Lawsuit”), a First Amended Complaint for Damages was filed on February 6, 2015, and a Second Amended Complaint for Damages was filed on June 8, 2015; and

WHEREAS, the Second Amended Complaint in the State Lawsuit is pled as a class action lawsuit and asserts claims on behalf of three general categories of people:

- a. individuals who have taken in abused or neglected children by serving as resource caregivers (foster parents) for such children, by adopting such children (these children are referred to under the law as “children with special needs”), or by becoming the permanent custodians/legal guardians for such children, and who were entitled to receive foster care maintenance payments, adoption assistance, or permanency assistance under state or federal law (collectively, referred to herein as the “**Parent Group**”)¹;
- b. former foster youth who receive higher education board allowance payments from the Hawaii Department of Human Services (“**DHS**”) (collectively, the former foster youth are referred to herein as the “**Higher Education Group**”); and

¹ Because of the application of the statute of limitations to any claims by the Parent Group, the Parties acknowledge that the Court presiding over the State Lawsuit, if presented with the issue, would likely have limited the people in the Parent Group to those adults who have provided care to foster children, adoptive children with special needs, or children in permanent custody/legal guardianships on or after August 7, 2012.

c. foster children, adoptive children with special needs, and children in permanent custody/legal guardianships who were under the age of 20 on August 7, 2014 (collectively referred to herein as the “**Beneficiary Group**”); and

WHEREAS, the Second Amended Complaint alleges that the foster care maintenance payments paid by the State (through DHS) to members of the Parent Group who are resource caregivers were and are inadequate under state and federal law, and are flawed because they fail to take into account Hawaii’s cost of living; and further alleges that if the monthly payment rate set in 1990 (and not changed until 2014) had been adjusted to keep up with inflation, the required foster care maintenance payment at the time of the filing of the Complaint would exceed \$950 per month; and

WHEREAS, because by DHS policy the amount of the foster care basic board rate is also the amount paid by the State to adoptive parents of children with special needs, legal guardians/permanent custodians and former foster youth receiving higher education benefits, the Second Amended Complaint also alleges that the payments made to the remaining members of the Parent Group and payments made to the Higher Education Group are also inadequate²; and

WHEREAS, the Second Amended Complaint asserts seven claims for relief, based on the following allegations

a. failure to pay amounts required to be paid under written agreements entered into by the State and individual members of the Parent Group (which agreements require the State to make certain payments to these individuals), resulting in damages suffered by individual members of the Parent Group equal to the shortfall between the amounts required to be paid and the amounts actually paid;

b. failure to pay amounts required to be paid under written agreements entered into by the State and individual members of the Parent Group, resulting in damages to the Beneficiary Group (who are the intended beneficiaries of the written agreements described in the first claim for relief);

c. violation by the State of Chapter 17-1617 of the Hawaii Administrative Rules by failing to pay foster care maintenance payments sufficient to comply with its obligations under the Adoption Assistance and Child Welfare Act of 1980, as amended, codified as Title IV-E of the Social Security Act, 42 U.S.C. §§ 670-679c (the “**Child Welfare Act**”), resulting in damages to resource caregivers and foster children;

² Members of the Beneficiary Group do not directly receive maintenance payments from the State.

d. violation by the State of Chapter 17-1620 of the Hawaii Administrative Rules by failing to pay adequate monthly adoption assistance payments as a result of DHS' policy of limiting its adoption assistance payments to the amount of its foster care maintenance payment rates;

e. violation by the State of Chapter 17-1621 of the Hawaii Administrative Rules by failing to pay adequate permanency assistance payments as a result of DHS' policy of limiting permanency assistance payments to the amount of its foster care maintenance payment rates;

f. violation by the State of Haw. Rev. Stat. § 346-17.4 by failing to pay adequate higher education board payments as a result of DHS' policy and practice of limiting higher education board payments authorized by Section 346-17.4 to the amount of its foster care maintenance payment rates, resulting in damages to eligible members of the Higher Education Group equal to the shortfall in payments; and

g. failure by the State to assure the continuing appropriateness of its foster care maintenance payment rates by conducting periodic reviews but knowingly failing to establish adequate payment rates, resulting in the denial of Plaintiffs' rights under federal and state law; and

WHEREAS, the Second Amended Complaint seeks damages from the State for the alleged contract breaches and statutory and rules-based violations described therein; and

WHEREAS, Raynette Ah Chong, on behalf of a separate putative class of Hawaii-licensed foster care providers, filed a class action complaint for declaratory and permanent injunctive relief against Patricia McManaman,³ in her official capacity as the Director of the Hawaii Department of Human Services, in an action entitled *Ah Chong v. McManaman*, Civ. No. 13-00663 LEK-KSC, in the United States District Court for the District of Hawai'i (the "Federal Lawsuit"), on December 3, 2013, as amended on April 30, 2014; and

WHEREAS, some of the issues in this State Lawsuit overlap with the issues in the Federal Lawsuit (primarily, whether DHS provides foster care maintenance payments adequate to cover the cost of and the cost of providing basic necessities to children in Hawaii's foster care system and whether DHS' periodic review of the foster care maintenance payments results in the establishment of appropriate payment rates); and

WHEREAS, from approximately 1990 until June 2014, Hawaii's basic foster board rate was \$529 per child, per month for all foster children; and

³ Pankaj Bhanot has been substituted as defendant in the Federal Lawsuit pursuant to Federal Rules of Civil Procedure ("FRCP") Rule 25(d).

WHEREAS, effective July 1, 2014, DHS increased the basic foster care board rate (“Basic Board Rate”), based on the age of the foster child, to: \$576 (children ages 0-5); \$650 (children ages 6-11); and \$676 (children ages 12+); and

WHEREAS, in addition to the Basic Board Rate, there are additional payments and benefits available for the care of foster children (“Foster Care Related Payments and Benefits”), depending on the needs of the child; and

WHEREAS, DHS’ position is that its existing system of a Basic Board Rate plus Foster Care Related Payments and Benefits complies with the Child Welfare Act, and DHS also takes the position that having certain payments or benefits available only if the child needs them, and requiring resource caregivers (foster parents) to apply for certain payments and benefits complies with the Child Welfare Act; and

WHEREAS, Plaintiffs’ position is that the DHS’ Basic Board Rates are still inadequate because they were set in 2014 using a 2011 government (USDA) study on the cost of raising children across the United States (and used cost estimates for families living in the Urban West region rather than Hawai`i), and because the Basic Board Rates utilized less than 100% of the estimated costs of food; housing; and miscellaneous expenses rather than all eight items listed in the Child Welfare Act; and

WHEREAS, Plaintiffs’ position is that DHS’ system of providing Foster Care Related Payments and Benefits is inadequate because the payments and benefits (1) are not provided to all foster children, (2) are subject to eligibility requirements, (3) are subject to availability of funds, and (4) many foster families simply are not aware that these additional payments and benefits exist or that DHS is required to cover certain costs that DHS claims are covered through the Foster Care Related Payments and Benefits; and

WHEREAS, the Parties do not agree on (1) the extent of DHS’ obligations under the Child Welfare Act; (2) the sufficiency of the Basic Board Rate; (3) the value or adequacy of the Foster Care Related Payments and Benefits; (4) whether DHS provides adequate information to resource caregivers regarding the availability of the Foster Care Related Payments and Benefits; (5) whether DHS provides adequate opportunity for resource caregivers to apply for the Foster Care Related Payments and Benefits; and (6) whether DHS conducts periodic reviews that assure the continuing appropriateness of its foster care maintenance payment rates; and

WHEREAS, because of the overlapping issues in the State Lawsuit and the Federal Lawsuit, the State Lawsuit was placed on hold while the parties in the Federal Lawsuit extensively litigated the issue of the adequacy of DHS’ foster care maintenance payments (among other things, engaging in substantial

discovery, including production of thousands of pages of documents, depositions, and expert discovery); and

WHEREAS, in December 2015, the Federal Court ruled that federal law did not prohibit DHS' system of providing foster care maintenance payments through a Basic Board Rate plus additional Foster Care Related Payments and Benefits, and that the foster care maintenance payment system could possibly be sufficient if DHS provides resource caregivers with sufficient information about the Foster Care Related Payments and Benefits and sufficient opportunities to apply for them; and

WHEREAS, the Federal Court also ruled that the "shelter" expense in the Child Welfare Act's definition of "foster care maintenance payments" need not include mortgage payments, rent, property taxes, or other similar expenses;⁴ and

WHEREAS, the Federal Court did not rule on certain key issues, and saved them for trial in the Federal Lawsuit, including:

- (1) whether DHS adequately conducts periodic reviews of the foster care maintenance payments to assure their continuing appropriateness, as required by law;
- (2) whether DHS provided and provides adequate information to resource caregivers about the Foster Care Related Payments and Benefits;
- (3) whether DHS provided adequate opportunities to resources caregivers to apply for the Foster Care Related Payments and Benefits;

and, if the Court answered (2) and (3) in the affirmative, then

- (4) whether DHS' foster care maintenance payment system of Basic Board Rate-plus-Foster Care Related Payments and Benefits adequately covered the cost of (and the cost of providing) the basic necessities of children in Hawaii's foster care system, as required by the Child Welfare Act; and

WHEREAS, Plaintiffs in the Federal Lawsuit strenuously disagreed with the Federal Court's rulings and strongly believe that these rulings would be reversed on appeal; and

⁴ It is Defendant's position that the Federal Court's ruling on "shelter expense" significantly lessened Plaintiffs' chances of prevailing on their assertion that DHS does not pay enough for the items enumerated in the Child Welfare Act because, while the ruling confirmed that DHS need not pay for rent, mortgage, or similar expenses, DHS' calculation of the Basic Board Rates in fact took such costs into account because a large portion of the "housing" category of the USDA report includes such costs.

WHEREAS, the State's position is that if Plaintiffs in the Federal Lawsuit could not show that the foster care maintenance payments were inadequate, then the Parent Group and Higher Education Group in the State Lawsuit also could not show that their respective payments were inadequate; and

WHEREAS, the State's position is that discovery in the Federal Lawsuit indicated that even if resource caregivers could prove that the foster care maintenance payments were inadequate, the Beneficiary Group were unlikely to be able to prove damages separate from the resource caregivers (because resource caregivers likely supplemented the shortfall in the State's alleged inadequate foster care maintenance payments from their own income in order to lessen the damages suffered by their foster, adoptive, and permanency placements due to the alleged inadequate payments); and

WHEREAS, the State believes it has meritorious defenses, including sovereign immunity, failure of the Plaintiffs to state a claim upon which relief can be granted, statute of limitations, and lack of standing; and

WHEREAS, the ultimate outcome of the Federal Lawsuit was uncertain and the Parties disagree on the impact and effect of the Federal Court's rulings on the State Lawsuit; and

WHEREAS, shortly before trial in the Federal Lawsuit was scheduled to commence on August 23, 2016, the Parties engaged in settlement discussions through their respective counsel, with the assistance of the Honorable Kevin S.C. Chang, Magistrate Judge of the United States District Court for the District of Hawai'i; and

WHEREAS, the State insists that both the Federal Lawsuit and State Lawsuit must be resolved together; and

WHEREAS, the State denied and continues to deny any and all liability and damages to Plaintiffs with respect to the claims or causes of action asserted in the State Lawsuit and the Federal Lawsuit, but nonetheless acknowledges that bringing the cases to a close now through settlement—rather than after years of litigation and appeals, with uncertain outcomes and concomitant attorneys' fees and costs that would be incurred by both sides—would help move the Parties toward a better working relationship for the benefit of all children in Hawaii's foster care system, and the relief Defendant agrees to provide under this State Settlement Agreement is offered solely as a compromise, and not because Defendant believes DHS has any obligation to Plaintiffs to provide said relief; and

WHEREAS, in light of the Federal Court's rulings and their uncertain impact on the State Lawsuit, the opinions of the parties' experts, and the attorneys' fees and costs that all Parties would continue to expend, and in the interest of bringing these matters to a resolution, the Parties and counsel agree that a

limited, one-time payment to be made only to certain Settlement Class Members (the Payment Recipients), is an appropriate means of settling this case; and

WHEREAS, Plaintiffs and their counsel have analyzed, evaluated, and extensively litigated the merits of the claims made against Defendants in the State Lawsuit and the Federal Lawsuit and the impact of settlement (as well as the impact of not settling) on Plaintiffs, the members of the Federal Class, and members of the putative State Class and—recognizing the substantial risks of continued litigation, including the possibility that the State Lawsuit, if not settled now, might result in an outcome that is less favorable or that a fair and final judgment may not occur for several years—Plaintiffs and their counsel are satisfied that the terms and conditions of this Agreement are fair, reasonable, and adequate, and that this Agreement is in the best interests of all the members of the putative class; and

WHEREAS, the Parties reached a proposed comprehensive settlement of the State and Federal Lawsuits and, on August 26, 2016, the Parties in the State Lawsuit and the parties in the Federal Lawsuit agreed to the essential terms of a valid and binding settlement agreement, which was placed on the record before the Honorable Kevin S.C. Chang at a hearing held in the Federal Lawsuit; and

WHEREAS, the settlement placed on the record on August 26, 2016, was subsequently memorialized in written settlement agreements dated effective March 14, 2017; and

WHEREAS, the written settlement agreements stated that the settlement was contingent upon the appropriation of funds to make the payments described therein, and if such legislation was not enacted on or before June 30, 2017, unless such date was mutually agreed to be extended by the parties, the agreements shall automatically become null and void; and

WHEREAS, the Hawaii Legislature did not appropriate the funds for the settlement on or before the June 30, 2017 deadline; and

WHEREAS, the Parties desire to extend the deadline by which the Hawaii Legislature may fund the Settlement, as amended by this State Settlement Agreement and the Amended Federal Lawsuit Class Action Settlement Agreement;

NOW, THEREFORE, in consideration of the mutual covenants and promises set forth in this State Settlement Agreement, as well as the good and valuable consideration provided for herein, the Parties hereto agree to a full and complete settlement of the State Lawsuit on the following terms and conditions:

TERMS OF AGREEMENT

I. Definitions

A. In addition to the definitions contained in the foregoing Recitals, the following definitions shall apply:

1. **“Administration Costs”** shall mean only the reasonable cost to typeset, print, and mail the Class Notice to the Settlement Classes; the reasonable cost to process requests to opt-out of the Settlement Classes; and the reasonable cost to prepare and mail Settlement Payments to the Payment Recipients.

2. **“Amount Payable to Each Payment Recipient”** shall mean the amount prescribed in section IV.b. below.

3. **“Class Counsel”** shall mean:

Alston Hunt Floyd & Ing, 1001 Bishop Street, Suite 1800,
Honolulu, Hawaii 96813; and

Hawaii Appleseed Center for Law and Economic Justice, 119
Merchant Street, Suite 605, Honolulu, Hawaii 96813.

Plaintiffs’ counsel shall request that the Court appoint them as class counsel (or order that they continue to serve as class counsel) pursuant to HRCF Rule 23 to represent the Settlement Classes for purposes of this State Settlement.

4. **“Class Notice”** shall mean a document substantially in the form of the Notice attached hereto as Exhibit 1 which has been agreed to by the Parties subject to Court approval and which the Notice Administrator will mail to each Settlement Class Member explaining the terms of the Settlement, and the opt-out and objection processes.

5. **“Class Settlement Amount”** shall mean an amount no greater than \$2,341,103.10. The Class Settlement Amount is based on \$35 per month per foster child, child in permanent custody/legal guardianship, adoptive child with special needs, and former foster youth in the higher education program, for whom DHS made monthly payments for the time period July 1, 2013 to June 30, 2014 (which is the State’s 2014 fiscal year), pro rated for actual days in care. The Class Settlement Amount is the maximum amount the State is required to pay under this State Settlement Agreement.

6. **“Contact Information”** shall mean the most current information DHS then has available of a Settlement Class Member’s name and mailing address.

7. **“Court”** shall mean the Circuit Court of the First Circuit, State of Hawaii, the Honorable Virginia L. Crandall, presiding (or her successor).

8. **“Day”** shall mean a calendar day.

9. **“Fairness Hearing”** shall mean the hearing on the Motion for Final Approval of Settlement.

10. **“Federal Settlement Agreement”** shall mean the Amended Federal Lawsuit Class Action Settlement Agreement that embodies the terms of the settlement of the Federal Lawsuit.

11. **“Federal Court”** shall mean the United States District Court for the District of Hawaii. The presiding Judge in the Federal Lawsuit is the Honorable Leslie E. Kobayashi.

12. **“Final Approval”** shall mean the occurrence of the following:

Following the Fairness Hearing, the Court has issued an order approving the Settlement, and

- i. The time for appellate review and review by petition for certiorari has expired, and no notice of appeal has been filed; or
- ii. If appellate review or review by petition for certiorari is sought, after any and all avenues of appellate review have been exhausted, and the order approving settlement has not been modified, amended, or reversed in any way.

13. **“Legislation Enactment Deadline”** shall mean June 30, 2018, or such later time period as the Parties may agree to in writing.

14. **“Monthly Adoption Assistance Payments”** shall mean monthly subsidy payments made by DHS to adoptive parents of children with special needs under 42 U.S.C. § 673(a) and/or under Haw. Admin. R. § 17-1620-9.

15. **“Monthly Foster Care Maintenance Payments”** shall mean monthly payments made by DHS to licensed resource caregivers under 42 U.S.C. § 672 and/or under Haw. Admin. R. § 17-1617-3.

16. **“Monthly Higher Education Payments”** shall mean monthly payments made by DHS to or on behalf of eligible former foster youth under Haw. Rev. Stat. § 346-17.4

17. **“Monthly Permanency Assistance Payments”** shall mean monthly payments made by DHS to legal guardians or permanent custodians under 42 U.S.C. § 673(d) or Haw. Admin. R. § 17-1621-9.

18. **“Motion for Final Approval of Settlement”** shall mean the motion to be filed by Plaintiffs, the State, or the Parties jointly, seeking the Court’s final approval of the Settlement, which shall include a report on requests to opt-out of and on objections to the Settlement.

19. **“Named Plaintiffs”** shall mean the named plaintiffs in the State Lawsuit: Patrick Sheehey, Patricia Sheehey, Raynette Nalani Ah Chong, Sherry Campagna, Michael Holm, Tiare Holm, B.S., and T.B., a minor, by her Next Friend N.A.

20. **“Net Settlement Amount”** shall mean the Class Settlement Amount minus the combined total of any attorneys’ fees and costs approved by the Court and actual Administration Costs. The Net Settlement Amount is the amount that shall be distributed to Payment Recipients on a pro rata per child/per day basis pursuant to section IV, below.

21. **“Notice Administrator”** shall mean DHS (or, if DHS is unable or unwilling to perform the duties of the Notice Administrator, such other mutually agreed-upon entity). The Notice Administrator shall be responsible for sending the court-approved Class Notices to the Settlement Classes, and may utilize the services of a copy/mail vendor.

22. **“Opt-Out Letter”** refers to a written request to opt-out or exclude oneself from the Settlement sent by any Settlement Class Member who elects to be excluded from a Settlement Class. A Settlement Class Member must submit a valid and timely Opt-Out Letter to exclude himself or herself from the Settlement and from the release of claims pursuant to this Settlement.

23. **“Parties”** shall mean the Named Plaintiffs, Settlement Class Members, and the State.

24. **“Payment Administrator”** shall mean the Hawaii Department of Accounting and General Services, the agency that the Parties agree will issue checks for Settlement Payments to each Payment Recipient under this State Agreement (unless DAGS determines the funds should be distributed through some other entity)

25. **“Payment Recipients”** shall mean those Settlement Class Members who have not opted out of the Settlement and who are entitled to receive a payment pursuant to section IV below.

26. **“Preliminary Approval”** shall mean that the Court has entered a Preliminary Approval Order or orally granted Plaintiffs’ Motion for Preliminary Approval.

27. **“Preliminary Approval Order”** shall mean an order entered by the Court substantially in the form attached hereto as Exhibit 2 preliminarily

approving the terms set forth in this State Settlement Agreement, including the manner and timing of providing notice to the Classes, the time period for opting out or for submitting objections, and the date, time and location for a Fairness Hearing.

28. **“Releasees”** shall mean the State of Hawaii, DHS, the Director of Human Services, other Hawaii departments, agencies, directors, officers, agents, employees, representatives, insurers, attorneys, administrators, and all other persons acting on behalf of the State of Hawaii.

29. **“Settlement”** shall mean the compromise and settlement of the State Lawsuit as contemplated by this State Settlement Agreement.

30. **“Settlement Classes”** shall mean the two classes identified for the purposes of this State Agreement: the Parent Settlement Class and the Higher Education Settlement Class, subject to class certification by this Court.

31. **“Settlement Class Members”** shall mean the members of the Settlement Classes.

32. **“Settlement Payment”** shall mean the pro rata portion of the Net Settlement Amount that is to be paid to each Payment Recipient pursuant to this State Settlement Agreement.

33. **“State Settlement Agreement”** shall mean this Amended State Lawsuit Class Action Settlement Agreement.

II. Settlement Classes

There shall be two Settlement Classes: the Parent Settlement Class, and the Higher Education Settlement Class. Although the Second Amended Complaint does not set forth a Higher Education Class, the Higher Education class is separately established because the interests of the Higher Education Settlement Class are different from the interests of the putative class of beneficiaries pleaded in the Second Amended Complaint in that the Higher Education Settlement Class members are likely to be Payment Recipients.

1. Parent Settlement Class

The Parent Settlement Class shall consist of

- (a) all licensed resource caregivers in Hawaii (foster parents) who received Monthly Foster Care Maintenance Payments from DHS from August 7, 2012 (two years prior to the filing of the State Lawsuit) through March 20, 2018; and

(b) all legal guardians and permanent custodians who received Monthly Permanency Assistance from DHS from August 7, 2012 through March 20, 2018; and

(c) all adoptive parents of children with special needs who received Monthly Adoption Assistance Payments from DHS from August 7, 2012 through March 20, 2018.

The representatives of the Parent Settlement Class shall be Patrick Sheehy, Patricia Sheehy, Raynette Nalani Ah Chong, Sherry Campagna, Michael Holm, and Tiare Holm. Plaintiffs' counsel shall seek the Court's appointment (or the continued appointment) of these individuals to be the representatives of the Parent Settlement Class.

2. Higher Education Settlement Class

The Higher Education Settlement Class shall consist of all individuals who received Monthly Higher Education Payments from DHS from August 7, 2012 (two years prior to the filing of the State Lawsuit) through March 20, 2018.

The representative of the Higher Education Settlement Class shall be Brittany Sakai, the individual identified in the Second Amended Complaint by the initials "B.S." Class Counsel shall seek the Court's appointment (or the continued appointment) of Ms. Sakai to be the representative of the Higher Education Settlement Class.

The Parties and Class Counsel agree that, if approved, certification (or the continued certification) of the Settlement Classes is a conditional certification for settlement purposes only, and if for any reason the Court does not grant final approval of the Settlement, or if for any other reason the Settlement does not become effective, the certification of the Settlement Classes for settlement purposes shall be deemed null and void without further action by the Court or any of the Parties, each Party shall retain their respective rights and shall be returned to their relative legal positions as they existed prior to execution of this State Settlement Agreement, and neither this Agreement nor any of its accompanying exhibits or any orders entered by the Court in connection with this Agreement shall be admissible or used for any purpose in the State Lawsuit or the Federal Lawsuit.

The Parties and Class Counsel agree that, if approved, certification of the Settlement Classes for settlement purposes is in no way an admission by the State that class certification is proper in any other litigation against the State.

III. Legislation

The Parties agree that this State Settlement Agreement is contingent on the enactment of legislation by the Hawaii Legislature to authorize the

appropriation of monies to fund the Class Settlement Amount in order to fund the Settlement Payments to the Payment Recipients pursuant to this State Settlement Agreement. The Parties agree that enactment of this legislation is material and essential to this Agreement and that if such legislation is not enacted into law by the Legislation Enactment Deadline, unless such date is mutually agreed by the Parties in writing to be extended, the global settlement of the State Lawsuit and the Federal Lawsuit shall automatically become null and void, trial in the Federal Lawsuit shall commence, and the State Lawsuit shall also proceed. In the event this State Settlement Agreement becomes null and void, nothing herein may be used against any Party for any purpose.

IV. Payments

1. Subject to other terms and conditions of this State Settlement Agreement, and in consideration of the releases and dismissals set forth in this Agreement, and subject to Court approval, the State agrees that the Class Settlement Amount shall be a maximum of \$2,341,103.10, which shall be paid as follows:

- a. Attorneys' fees and costs approved by the Court and Administration Costs shall first be deducted from the Class Settlement Amount to determine the Net Settlement Amount.
- b. The Net Settlement Amount shall be paid to the following individuals who have not validly and timely opted out of this Settlement in the following amounts: those members of the Parent Settlement Class and the Higher Education Settlement Class who received monthly foster care maintenance payments, monthly adoption assistance payments, monthly permanency assistance payments, or monthly higher education payments from DHS during the time period July 1, 2013 to June 30, 2014, prorated by actual days that the foster child, adoptive child, or child in permanent placement/legal custody was in care or a young adult was receiving higher education payments. The records of DHS shall be the source of information to determine which Settlement Class Members are eligible to receive payments under this State Agreement. The individuals eligible to receive payments pursuant to this sub-paragraph are referred to as the Payment Recipients. In the event a child was placed in the care of more than one person (e.g., a married couple) at a given time, nevertheless notice shall only be provided and any payments shall be made solely to the individual who is listed in DHS' records as the payee for that household (i.e., the person to whom checks are made payable when made to that household). Negotiation of the payment

check by one shall constitute a full and final discharge of the State's responsibility to both persons in that household.

- c. Payment checks issued to Payment Recipients pursuant to this State Settlement Agreement shall remain negotiable for the amount of time stated on the check. Any checks not negotiated within the time stated on the check will be subject to DAGS' usual procedures for handling uncashed checks. Payment Recipients who fail to negotiate their check(s) in a timely fashion shall, like all Settlement Class Members who did not validly and timely opt out of the Settlement, remain subject to the terms of the Settlement, including the releases set forth herein.

2. Other than the Settlement Payments described in sub-paragraph IV.1.b, above, no other payments to Settlement Class Members shall be made. ***In other words, there are members of the Settlement Classes who will not receive any payments under the terms of this Settlement.***

V. Releases

The Plaintiffs, including all Settlement Class Members, hereby release, acquit, and discharge Releasees from any and all claims, causes of action, rights, obligations, liabilities, penalties, demands, damages, costs (other than those costs to be paid pursuant to this State Settlement Agreement), requests for declaratory relief, or requests for injunctive relief of any and every kind that were alleged, sought, or litigated, or that could have been alleged sought, or litigated against the State in the State Lawsuit.

VI. Attorneys' Fees and Costs

1. By such date as the Court directs, Class Counsel may file a motion for an award of attorneys' fees and costs, which shall be paid from the Class Settlement Amount. Class Counsel may include the request for fees and costs within the Motion for Preliminary Approval. The State shall not oppose Class Counsel's application for an award of attorneys' fees and costs so long as it does not exceed 20% of the Class Settlement Amount, which amount is intended to cover all attorneys' fees and costs necessary to settle the State Lawsuit and administer this Settlement. The amount of attorneys' fees and costs that may be requested by Class Counsel is based on the agreement between Class Counsel and Plaintiffs ("**Retainer Agreement**"), a true and correct copy of which is attached as Exhibit 3, and does not exceed said agreement in that it reflects 20% of the Class Settlement Amount, whereas the Retainer Agreement expressly sets 25% of the total recovery as the presumptive "benchmark" against which the value of Class Counsel's services is to be

evaluated. See Exhibit 3 at Statement of Client Service and Billing Policies in Contingency Litigation Matters at Section A.

2. Class Counsel agree that they are responsible for allocating the attorneys' fees and costs approved by the Court among themselves and any other counsel that may have any other agreement with them. Class Counsel warrant and represent that there are no liens on the amounts to be paid pursuant to the terms of this State Agreement and that no assignments of the claims to be released or the attorneys' fees and costs to be paid pursuant to this State Agreement have been made or attempted.

In addition to class member relief, Named Plaintiffs may request approval to be provided reasonable service awards for themselves and former named plaintiff T.B. in recognition of the services each rendered on behalf of the class ("Service Award"). These Service Awards are intended to recognize the Named Plaintiffs for the extensive services they performed for the class, the time they spent on this case, and the risks they assumed in connection with this litigation. The amount of the Service Awards will be deducted from the Court's award of attorneys' fees and costs to Class Counsel. In other words, the Service Awards will not reduce the Net Settlement Amount. Defendant will not in any way be responsible for making any service payments or other payments to the Named Plaintiffs.

3. In the event the Court does not approve in full the amount requested by Class Counsel for attorneys' fees and costs, that finding shall not be a basis for rendering the entire Settlement or this State Settlement Agreement null, void, or unenforceable.

VII. Court Approval of Settlement; Processes for Settlement Class Members to Opt-Out of or Object to Settlement

1. **Motion for Preliminary Approval.** Plaintiffs shall file a motion for preliminary approval by the Court of the Settlement and this State Settlement Agreement at such time as the Court may direct, and attach a copy of this State Settlement Agreement and such other documents the Parties determine are necessary for the Court's consideration. The motion shall request preliminary approval of the Settlement, the State Settlement Agreement, and the Class Notice, and shall request that the Court certify the Settlement Classes, appoint the Class Representatives and Class Counsel, and specify the procedure required for the Court's final consideration of the Settlement, including the scheduling of the Fairness Hearing. The motion for preliminary approval may, but need not, include Class Counsel's request for attorneys' fees and costs.

Although Plaintiffs are responsible for filing the motion, it is intended that the Defendant will have reviewed the motion in advance and that the motion will be unopposed.

2. **Class Notice.** Within a reasonable time after Preliminary Approval, the Notice Administrator, in cooperation with Class Counsel and defense counsel, shall send the approved Class Notices to each Settlement Class Member by U.S. mail postage prepaid in accordance with the terms of the Preliminary Approval Order. DHS shall provide the Notice Administrator (if not DHS) and Class Counsel with Contact Information for all Settlement Class Members in each Settlement Class (the “Class List”).

DHS shall send to Payment Recipients and non-Payment Recipients a different form of Class Notice, depending on which category the Class Member falls into.

In the event a child was placed in the care of more than one person (e.g., a married couple) at a given time, Class Notice shall be sent to one address addressed to the person who is designated in DHS’ records as the payee, i.e., the person to whom payments are made when checks are issued by DHS to that household. Notice to the one member of a two-person household shall constitute sufficient and adequate notice to the household.

The determination of who is within each Settlement Class (and therefore entitled to notice) shall be made by DHS based on the data kept by DHS in the ordinary course of its business. The Parties agree that the contents of the Class List are confidential and shall not be shared with third parties other than the Notice Administrator (if not DHS) and any vendor retained by DHS to perform copying and mailing functions, and shall not be filed in Court unless the Court so orders.

Prior to mailing the Notices, the Notice Administrator shall process the Class List against the National Change of Address Database maintained by the United States Postal Service (“USPS”). If a Notice is returned as undeliverable, and if a forwarding address is provided by the USPS, the Notice Administrator shall re-mail the Notice within three (3) business days. If an undeliverable Notice is returned without a forwarding address, the Notice Administrator need attempt to obtain updated addresses only for Payment Recipients by using skip tracing services agreed to by Class Counsel and defense counsel. All re-mailings to skip traced Payment Recipients must be completed no later than 20 days prior to the Opt-Out deadline. Notices shall only be re-mailed once.

Reasonable Administrative Costs incurred in typesetting, printing, and mailing the Class Notice to Settlement Class Members, processing the Class List by USPS, and performing skip tracing services shall be deducted from the Class Settlement Amount.

3. **Content of Class Notice.** The Class Notice shall contain: the definitions of the certified Settlement Classes; a general description of the State Lawsuit and its claims, issues, and defenses; material terms of this proposed State Settlement Agreement including who will and will not be Payment Recipients; Class Counsel's request for attorneys' fees and costs; Service Awards; options available to Settlement Class Members, including the manner, time limits, forum and form of an objection to this Settlement; the right of any Settlement Class Member to enter an appearance *pro se* or through an attorney to object to the State Settlement Agreement or any of its terms; the manner, time limits, and forum and form of a request to opt out of this Settlement; the website address required to be maintained by Class Counsel; the date, time, and location of the Fairness Hearing; and the binding effect of the State Settlement Agreement on Settlement Class Members who do not opt out of the Settlement. The notice shall also inform Class Members that they may also be members of the class certified in the Federal Lawsuit, which has different opt out provisions.

4. **Establishment of Website.** Class Counsel shall, at their own expense, publish information regarding the Settlement on a website, including information on how to object to or opt out of the Settlement of the State Lawsuit and the deadline to do so. The website shall also include a copy of this State Settlement Agreement, the motion for attorneys' fees and costs including a copy of the agreement between Class Counsel and Plaintiffs, key pleadings, and information regarding the Federal Lawsuit and Federal Settlement Agreement. The web address for the website shall be included in the Class Notice. The website shall remain available starting 7 days after Preliminary Approval through December 31, 2019.

5. **Opt-Out Process.** A Settlement Class Member not wanting to participate in this Settlement and not wanting to release claims pursuant to this Settlement shall submit a valid and timely Opt-Out Letter.

a. To be valid, the Opt-Out Letter shall contain a statement which clearly conveys a request to be excluded from the Settlement Class, the individual's full name, mailing address, telephone number, and must be signed and dated.

b. To be timely, the Opt-Out Letter must be postmarked by the date indicated in the Notice, 45 days after the Notice is first mailed to Settlement Class Members. However, those Settlement Class Members who are mailed a new Notice after their original Notice was returned to sender shall have until the later of 14 calendar days from the date that the new Notice was postmarked or the original opt-out deadline to submit an Opt-Out Letter. No Opt-Out Letter will be honored if postmarked after the deadline set forth in this paragraph.

All Opt-Out Letters shall be sent to Class Counsel, who shall compile a list of the persons who have validly and timely opted out and submit the list to the Court under seal prior to the Fairness Hearing, with a copy to counsel for the State. Opt-Out Letters shall be made available for inspection by the Court or counsel for the State promptly upon request.

A Settlement Class Member who is entitled to a payment under this State Settlement Agreement because that person meets the definition of "Payment Recipient" but who submits an Opt-Out Letter shall not be paid, and forever waives their right to receive, a share of the Net Settlement Amount. In the event a child was placed in the care of more than one person (e.g., a married couple) at a given time, the submission of a valid and timely Opt-Out Letter by one of those persons shall constitute the submission of a valid and timely Opt-Out Letter by both persons, and both will be deemed to have waived their right to receive a share of the Net Settlement Amount.

No Opt-Out by any Settlement Class Member shall be the basis for rendering settlement of the State Lawsuit or Federal Lawsuit null and void.

6. Objections to Settlement or to Request for Attorneys' Fees and Costs. A Settlement Class Member who wishes to object to this State Agreement, the Settlement, to Class Counsel's request for attorneys' fees and costs, or to the Service Awards must timely file with the Clerk of the Court and serve on the Parties a statement of their objection, and whether the Settlement Class Member intends to appear at the Fairness Hearing. Settlement Class Members who are minors may submit their objections through Class Counsel, who shall file the objections under seal, and submit the substance of the objections (without identifying information) in a filed document.

Any Settlement Class Member may appear at the Fairness Hearing to object to any aspect of this State Settlement Agreement, the Settlement, or Class Counsel's motion for attorneys' fees and costs. Settlement Class Members may act either on their own or through counsel employed at their own expense.

To be considered timely, a Settlement Class Member's objection must be postmarked on or before the date that is 45 days after the Notice is first mailed to the Settlement Classes. Those Settlement Class Members who are mailed a new Notice after their original Notice was returned to sender shall have the later of 14 calendar days from the date that the new Notice was postmarked, or the original objections deadline, to submit their objections. Nothing in this paragraph requires the Notice Administrator to send a new Notice if the original Notice is returned to sender.

Settlement Class Members who fail to file and serve timely written objections or who do not appear at the Fairness Hearing and make objections shall be

deemed to have waived any objections and shall be foreclosed from making any objections (whether by appeal or otherwise) to the Settlement.

7. **Fairness Hearing.** On a date to be determined by the Court, the Court shall hold a Fairness Hearing. At the Fairness Hearing, the Parties will request that the Court:

- a. Consider any objections by Settlement Class Members;
- b. Give Final Approval to the Settlement as fair, reasonable, and adequate, and binding on those Settlement Class Members who did not validly and timely submit Opt-Out Letters.
- c. Determine the amount of the award of attorneys' fees and costs for Class Counsel;
- d. Determine the Net Settlement Amount to be distributed to Payment Recipients.

8. **Effect of Failure to Grant Final Approval.** In the event the Settlement and this State Settlement Agreement are not granted Final Approval, they shall be deemed null, void, and unenforceable and shall not be used or admissible in any subsequent proceedings against the State either in State Court or in any other judicial, arbitral, administrative, investigative, or other forum; trial in the Federal Lawsuit shall commence, and the State Lawsuit shall proceed. In the event the Settlement and this State Settlement Agreement are not approved by the Court, or otherwise fail to become effective and enforceable, the State will not be deemed to have waived, limited, or affected in any way its objections or defenses to the State Lawsuit.

9. **Court Enforcement:** The State Court retains jurisdiction to enforce the terms of this State Settlement Agreement.

VIII. Distribution Process

1. No claim form shall be required of Payment Recipients to be entitled to payments. Their entitlement to a settlement payment shall be based on DHS' records and eligibility under the definition of "Payment Recipients" set forth herein, provided they do not submit a valid and timely Opt-Out Letter.

2. Payments to Payment Recipients as provided in this State Settlement Agreement shall be dispersed by the State by check within a reasonable time after the funds are appropriated and allotted, if the funds to be paid under this State Settlement Agreement are appropriated, bearing in mind the overall number of checks that must be processed and the time of year, shortly after the start of the new state fiscal year. Payments may be processed in manageable batches, rather than all at once.

3. Likewise, payment to Class Counsel of attorneys' fees and costs that have been approved by the Court shall be dispersed by the State within a reasonable time after the funds have been appropriated, bearing in mind the overall number of checks to be processed for this Settlement and the time of year, shortly after the start of the new state fiscal year. Class Counsel shall deliver to counsel for the State written instructions signed by Class Counsel (by an authorized representative of each law firm) that describe to whom a check for attorneys' fees and costs shall be made payable, and a fully-executed Form W-9 with respect to the entity to whom the attorneys' fees and costs shall be paid (along with other documents or information the Department of Accounting and General Services may require to lawfully effectuate the payment). The State will issue to Class Counsel an IRS Form 1099 for such amounts paid for attorneys' fees and costs under this Settlement. If there is a reduction in the amount of attorneys' fees and/or costs sought by or awarded to Class Counsel, any such reduction shall revert to the Net Settlement Fund.

4. No later than 14 days after the Net Settlement Fund is distributed by the initial mailing of checks to Payment Recipients (whether or not the payment checks are received by or negotiated by Payment Recipients), the Parties will submit to the Court a stipulated dismissal with prejudice, which shall include a dismissal of Named Plaintiff T.B.'s claims, including any claims that are asserted on behalf of a putative class of beneficiaries, which class will not be certified.

5. No interest shall accrue on any payments to be made under this State Settlement Agreement.

IX. Additional Provisions

1. The rule of construction that an agreement is to be construed against the drafting party is not to be applied in interpreting this State Settlement Agreement. The Parties acknowledge that they have read this State Settlement Agreement, that they understand its meaning and intent, that they have executed it voluntarily and with opportunity to consult with legal counsel, and have participated and had an equal opportunity to participate in the drafting and approval of drafting of this State Settlement Agreement. No ambiguity shall be construed against any party based upon a claim that the party drafted the ambiguous language. This State Settlement Agreement contains all essential terms of the settlement the Parties have reached. While other documents may be prepared hereafter to further effectuate the provisions hereof, the Parties intend that this State Settlement Agreement is a valid, binding agreement, enforceable by the Court.

2. **Cooperation Between the Parties.** The Parties shall cooperate fully with each other and shall use their best efforts to obtain the Court's approval of this State Settlement Agreement and all of its terms.


3. **No Third-Party Beneficiaries.** This Agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party as a beneficiary of this State Settlement Agreement.

4. The respective signatories to this State Settlement Agreement each represent that they are fully authorized to enter into this State Settlement Agreement and bind the respective Parties to its terms and conditions. This Agreement may be executed in counterparts.

SIGNATURES

Wherefore, intending to be legally bound in accordance with the terms of this State Settlement Agreement, the Parties hereby execute this State Settlement Agreement, effective on April 3, 2018, 2018, which is the date on which the last signatory signed this State Settlement Agreement.

FOR PLAINTIFFS:



Alston Hunt Floyd & Ing,
Class Counsel

Hawai'i Appleseed Center
for Law and Economic Justice,
Class Counsel

FOR DEFENDANT:

Donna H. Kalama
Caron M. Inagaki
Deputy Attorneys General

3. **No Third-Party Beneficiaries.** This Agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party as a beneficiary of this State Settlement Agreement.

4. The respective signatories to this State Settlement Agreement each represent that they are fully authorized to enter into this State Settlement Agreement and bind the respective Parties to its terms and conditions. This Agreement may be executed in counterparts.

SIGNATURES

Wherefore, intending to be legally bound in accordance with the terms of this State Settlement Agreement, the Parties hereby execute this State Settlement Agreement, effective on _____, 2018, which is the date on which the last signatory signed this State Settlement Agreement.

FOR PLAINTIFFS:

Alston Hunt Floyd & Ing,
Class Counsel



Hawai'i Appleseed Center
for Law and Economic Justice,
Class Counsel

FOR DEFENDANT:

Donna H. Kalama
Caron M. Inagaki
Deputy Attorneys General

3. **No Third-Party Beneficiaries.** This Agreement shall not be construed to create rights in, or to grant remedies to, or delegate any duty, obligation or undertaking established herein to any third party as a beneficiary of this State Settlement Agreement.

4. The respective signatories to this State Settlement Agreement each represent that they are fully authorized to enter into this State Settlement Agreement and bind the respective Parties to its terms and conditions. This Agreement may be executed in counterparts.

SIGNATURES


Wherefore, intending to be legally bound in accordance with the terms of this State Settlement Agreement, the Parties hereby execute this State Settlement Agreement, effective on _____, 2018, which is the date on which the last signatory signed this State Settlement Agreement.

FOR PLAINTIFFS:

Alston Hunt Floyd & Ing,
Class Counsel

Hawai'i Appleseed Center
for Law and Economic Justice,
Class Counsel

FOR DEFENDANT:



Donna H. Kalama
Caron M. Inagaki
Deputy Attorneys General

FIRST CIRCUIT COURT FOR THE STATE OF HAWAII

A state court authorized this notice. This is not a solicitation from a lawyer.

**NOTICE OF AMENDED SETTLEMENT IN THE STATE LAWSUIT
ABOUT FOSTER BOARD PAYMENTS, PERMANENCY ASSISTANCE,
ADOPTION ASSISTANCE, AND HIGHER EDUCATION PAYMENTS**

In 2017, a notice was sent to Hawaii foster care providers, legal guardians/permanent custodians, adoptive parents of children with special needs, and higher education payment recipients about a settlement in a state class action lawsuit over Hawaii's board payments. The 2017 settlement would have provided a \$2.3 million fund to be used to make payments to those class members who received payments from the Hawaii Department of Human Services (DHS) between July 1, 2013 and June 30, 2014 (payment recipients); to pay court-appointed lawyers for investigating the facts, litigating the case, and negotiating the settlement; and to pay certain costs to administer the settlement. The 2017 settlement failed because the Hawaii Legislature did not provide the money needed to fund the settlement.

In March 2018, the Parties agreed to amend the settlement by extending the deadline for the Legislature to fund the settlement to June 30, 2018. This 2018 settlement will still include the \$2.3 million fund, and payments will still be made to class members who are payment recipients. The Legislature is not required to provide money for the settlement. If the Legislature chooses not to fund the settlement again, the lawsuit will continue.

**DHS' RECORDS INDICATE YOU ARE NOT A PAYMENT RECIPIENT, THEREFORE
YOU WILL NOT RECEIVE A PAYMENT UNDER THE SETTLEMENT.**

Your options in response to the proposed 2018 settlement are as follows:

- 1) You may do nothing. If you do nothing, you will be part of the settlement, which means you are giving up any claims you could have brought against the State that were made part of this lawsuit.
- 2) You may object to the 2018 settlement if you disagree with any of the terms. The deadline to postmark your objection letter is **May 28, 2018**. You may also tell the court your objections in person at the fairness hearing scheduled for **June 15, 2018**. You must tell the court in advance that you intend to come to the hearing by sending a notice of intent to appear postmarked by **May 28, 2018**.
- 3) You may exclude yourself from (opt out of) the 2018 settlement. This is the only option that allows you to ever be part of any other lawsuit against the State about the legal claims made in this case. The deadline to postmark your exclusion letter is also **May 28, 2018**.

If you sent in an objection letter or an exclusion letter for the 2017 settlement, you don't have to send another letter for the 2018 settlement.

Your legal rights are affected whether or not you act. Read this notice carefully.

PLEASE DO NOT CALL THE COURT WITH YOUR QUESTIONS

QUESTIONS? CALL 524-1800 OR VISIT <http://hawaiiiclassaction.com/fostercare>.

Differences Between this Lawsuit (the State Lawsuit) and the Federal Lawsuit

This lawsuit (in state court) focuses on the adequacy of board payments made in the past. There is a separate federal lawsuit that focuses on how much DHS should be paying for foster care in the future. *If* you are also part of the federal lawsuit, you will receive another notice describing that settlement. **Your legal rights and options in the state lawsuit and the federal lawsuit are different.** If you receive both notices (state and federal), please carefully note the differences.

BASIC INFORMATION

1. What is this state lawsuit about?

Plaintiffs filed this lawsuit claiming that the State did not pay enough for monthly foster care maintenance payments, permanency assistance, adoption assistance, and higher education payments. They claimed that the payments were too low under federal law, under state law, under DHS' administrative rules, and under the terms of agreements between resource caregivers and DHS. Plaintiffs believe they are entitled to payment for damages they suffered, equal to the shortfall between the amounts DHS should have paid, and the amounts DHS actually paid.

The State denies that its payments were inadequate or that it owes Plaintiffs any compensation.

The name of this lawsuit is *Sheehey v. State of Hawaii*, Civ. No. 14-1-1709-08 VLC. Judge Virginia Lea Crandall, of the First Circuit Court, State of Hawaii (the State Court), is currently overseeing this case.

WHO IS IN THE SETTLEMENT

2. Who are the Members of the Settlement Classes?

There are two settlement classes:

Settlement Class 1 – Parent Settlement Class: (a) all licensed resource caregivers in Hawaii (foster parents) who received monthly foster care maintenance payments from DHS from August 7, 2012 through March 20, 2018; and (b) all legal guardians and permanent custodians who received monthly permanency assistance from DHS from August 7, 2012 through March 20, 2018; and (c) all adoptive parents of children with special needs who received monthly adoption assistance payments from DHS from August 7, 2012 through March 20, 2018.

Class Representatives of the Parent Settlement Class are Patrick Sheehey, Patricia Sheehey, Raynette Nalani Ah Chong, Sherry Campagna, Michael Holm, and Tiare Holm.

Settlement Class 2 – Higher Education Settlement Class: all individuals who received monthly higher education payments from DHS from August 7, 2012 through March 20, 2018.

The Class Representative of the Higher Education Settlement Class is Brittany Sakai.

All Class Members will be bound by the settlement unless they exclude themselves. The process for excluding yourself from the settlement and the lawsuit, also called "opting out," is described below. *Not all Class Members will receive payments under this settlement.*

QUESTIONS? CALL 524-1800 OR VISIT <http://hawaiiiclassaction.com/fostercare>.

3. What Class or Classes am I a member of?

If you were a resource caregiver (foster parent), an adoptive parent of a former foster child, or a legal guardian/permanent custodian, who received payments from DHS between August 7, 2012, and March 20, 2018, then you are a member of Settlement Class 1 – the Parent Settlement Class.

If you are a former foster youth who received higher education program benefits between August 7, 2012, and March 20, 2018, then you are a member of Settlement Class 2 – the Higher Education Settlement Class.

DHS' records show that you are a member of at least one of these classes. Therefore, if you received this notice, you will be part of the Settlement unless you opt out.

The Class Members who are also entitled to a payment are called Payment Recipients. **DHS' RECORDS INDICATE THAT YOU ARE NOT A PAYMENT RECIPIENT.**

4. Who is entitled to payments under the Settlement?

To be entitled to a monetary payment, a Class Member must be in Settlement Classes 1 or 2, **and** must have received one or more of these types of payments from DHS during the time period July 1, 2013 to June 30, 2014:

- monthly foster board payments for foster children in their care
- monthly adoption assistance for their adoptive children with special needs
- monthly permanency assistance for children in their legal guardianship/permanent custody
- monthly higher education board allowance (must have been an eligible former foster youth)

THE SETTLEMENT BENEFITS

5. What does the Settlement provide?

The State has agreed to provide \$2,341,103.10 (Total Settlement Amount) to be divided among the Payment Recipients and to pay for Class Counsel's attorneys' fees and costs and the administrative costs for carrying out the settlement.

The \$2,341,103.10 is based on \$35 per month per foster child, child in permanent custody/legal guardianship, adoptive child with special needs, and former foster youth in the higher education program, for whom DHS made monthly payments for the time period July 1, 2013 to June 30, 2014, pro-rated for actual days in care. The time period represents the one-year period right before the foster board rates were raised in July 2014. The \$35 figure was negotiated in the settlement, and represents a compromise figure agreed to by the Class Representatives and the State.

The amount that each Payment Recipient will receive will be calculated by subtracting the amount of the costs involved in administering this settlement (for example, copying and mailing this notice to, and locating Class Members) and the attorneys' fees and costs awarded by the Court from the Total Settlement Amount of \$2,341,103.10 to arrive at a Net Settlement Amount. This Net Settlement Amount will then be distributed to Payment

QUESTIONS? CALL 524-1800 OR VISIT <http://hawaiiiclassaction.com/fostercare>.

Recipients based on the number of days each eligible child was in care between July 1, 2013 and June 30, 2014.

6. Will I receive a payment under the Settlement?

Based on DHS' records, **you do not meet the criteria in Question 4 and are NOT a Payment Recipient.** Thus, you will not be receiving a payment under this settlement.

7. Why won't all Class Members receive a payment?

This settlement is a compromise between the Plaintiffs and the State. The State strongly believes it has no liability to any of the Class Members and does not owe any of them any money. The State believes its position is supported by court rulings in the federal lawsuit. But the State is willing to provide some money to some of the Plaintiffs as a way to bring an end to the case rather than continue to litigate. Plaintiffs strongly believe the State should be paying more to all of the Class Members, but also understand there are serious risks in continuing to litigate this case, including the possibility that none of the Class Members may get anything. Based on the federal court's rulings, and the risks inherent in any lawsuit, both the Class Representatives and Class counsel agreed to the settlement. Both the Federal Court and State Court preliminarily ruled in 2017 that the compromise is fair.

8. Are there any conditions to this Settlement?

This settlement will not become final until the Court approves this settlement, the federal court approves the settlement of the federal lawsuit, and the Hawaii Legislature approves the money that will be needed to pay for both settlements. If the Legislature does not approve the money needed to pay for both settlements, the settlement will not go forward, and the Plaintiffs in the federal lawsuit will go to trial.

BEING PART OF THE SETTLEMENT

9. Do I need to do anything to be a part of the Settlement?

No. You do not have to do anything to be part of the Settlement Classes.

10. When will payments be made to the Payment Recipients?

The Court will hold a Fairness Hearing on **June 15, 2018**, to finalize the settlement. If the presiding Judge approves the settlement, after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them takes time, perhaps more than a year. The Hawaii Legislature must also approve the funding for the payments. The legislative process lasts several months.

11. Do I give up anything if I am part of the Settlement?

Yes. Unless you exclude yourself, you are staying in the Class and will be part of the settlement even if you don't get a payment, which means you can't sue, continue to sue, or be part of any other lawsuit against the State about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you.

THE LAWYERS REPRESENTING YOU

12. Do I have lawyers in the case?

Yes. The Court has appointed lawyers to represent you and other Class Members. These lawyers are called Class Counsel. Their names are:

Paul Alston Anderson Meyer Claire Wong Black Alston Hunt Floyd & Ing 1001 Bishop Street, Suite 1800 Honolulu, HI 96813	Victor Geminiani Gavin Thornton Hawaii Appleseed Center for Law and Economic Justice 119 Merchant Street, Suite 605 Honolulu, HI 96813
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You will not be charged personally for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own personal expense.

13. How will the lawyers be paid? Do the Class Representatives get paid?

Class Counsel’s fee agreement allows them to ask for up to 25% of any recovery on behalf of the Class Members. However, Class Counsel will ask the Court to approve payment of 20% of the Total Settlement Amount to them for attorneys’ fees and costs. The fees and costs would pay Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. The Court may award less than these amounts. The attorneys’ fees and costs will be deducted from the \$2,341,103.10. The State has agreed not to oppose these fees and costs.

The Court is not bound by any agreed upon or requested amounts. You may object to Class Counsel’s request for attorneys’ fees and costs. After considering the objections of Class Members, the Court will determine the amount of attorneys’ fees and costs in accordance with controlling law.

DHS’ expenses to administer the settlement (for example, the cost to mail out this notice) will also be deducted from the \$2,341,103.10. It is estimated that the administrative expenses will be approximately \$.

Class Counsel reserved the right to provide Service Awards for the Class Representatives. These Service Awards are intended to recognize the Class Representatives for the extensive services they performed for the class, the time they spent on this case, and the risks they assumed in connection with this litigation. The amount of the Service Awards, if any, will be deducted from any award of attorneys’ fees and costs by the Court to Class Counsel. In other words, the Service Award will reduce the amount of money going to Class Counsel, **NOT** the amount of payments to Class Members.

OBJECTING TO THE SETTLEMENT

14. How do I object to the Settlement?

You may object to the settlement if you don’t like any part of it. This includes the attorneys’ fees and cost request for Class Counsel. The Court will consider your views.

To object, you must send a letter saying that you object to *Sheehey v. State*, Civ. No. 14-1-1709-08 VLC. Be sure to include your name, address, telephone number, your signature, the date, and the reasons you object to the settlement. Mail your objection to the following address postmarked no later than **May 28, 2018**:

Sheehey Objections
Clerk of the Court
First Circuit Court, State of Hawaii
Kaahumanu Hale
777 Punchbowl Street
Honolulu, HI 96813

EXCLUDING YOURSELF FROM THE SETTLEMENT

15. How do I get out of the Settlement?

To exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from or opt out of this case. Be sure to include your name, address, telephone number, your signature, and the date. Include the name of the case, *Sheehey v. State*, Civ. No. 14-1-1709-08 VLC. You must mail your exclusion letter postmarked no later than **May 28, 2018** to:

Sheehey Exclusions
c/o Alston Hunt Floyd & Ing
1001 Bishop Street, Suite 1800
Honolulu, HI 96813

If you ask to be excluded, you cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue the State in the future.

16. If I don't exclude myself, can I sue the State for the same thing later?

No. Unless you timely exclude yourself, you give up any right to sue the State for the claims that this settlement resolves. If you have a pending lawsuit that asserts the same or similar claims, speak to your lawyer immediately. You must exclude yourself from *this* Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is **May 28, 2018**.

THE COURT'S FAIRNESS HEARING

17. When and where will the Court decide whether to approve the Settlement?

The Court will hold a hearing, called a Fairness Hearing, to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to. The Court will hold the **Fairness Hearing at 9:00 a.m. on June 15, 2018**, at the **Circuit Court for the First Circuit, 777 Punchbowl Street, Honolulu, Hawaii, in Courtroom 11**. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Judge will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel. After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take. The hearing may be moved to a different date, time, or

courtroom without additional notice, so it is a good idea to visit Class Counsel's website for updates: <http://hawaii.classaction.com/fostercare>.

18. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer questions the Judge may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend on your behalf, but it's not necessary.

19. May I speak at the Fairness Hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Sheehey v. State*, Civ. No. 14-1-1709-08 VLC." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than **May 28, 2018**, and be sent to the Clerk of the Court at the address in Question 14 above. You cannot speak at the hearing if you excluded yourself from the settlement.

IF YOU DO NOTHING

20. What happens if I do nothing?

If you do nothing, you will be part of this lawsuit, and you won't be able to be part of any other lawsuit against the State about the legal issues in *this* case, ever again. Because you are not a Payment Recipient, you will not receive any payment from the Settlement.

GETTING MORE INFORMATION

21. Are there more details about the Settlement?

This notice summarizes the proposed settlement. More details are in an Amended State Lawsuit Class Action Settlement Agreement. You can get a copy of the Settlement Agreement at: <http://hawaii.classaction.com/fostercare>. You may also send questions in writing to Class Counsel c/o Alston Hunt Floyd & Ing, 1001 Bishop Street, Suite 1800, Honolulu, Hawai'i 96813.

22. How do I get more information?

You can call (808) 524-1800; write to Class Counsel at Alston Hunt Floyd & Ing, 1001 Bishop Street, Suite 1800, Honolulu, Hawai'i 96813; or visit the website: <http://hawaii.classaction.com/fostercare> where you will find other information about the State Lawsuit, Federal Lawsuit, and the settlement.

[DATE]

PLEASE DO NOT CALL THE COURT WITH YOUR QUESTIONS

QUESTIONS? CALL 524-1800 OR VISIT <http://hawaii.classaction.com/fostercare>.

FIRST CIRCUIT COURT FOR THE STATE OF HAWAII

A state court authorized this notice. This is not a solicitation from a lawyer.

**NOTICE OF AMENDED SETTLEMENT IN THE STATE LAWSUIT
ABOUT FOSTER BOARD PAYMENTS, PERMANENCY ASSISTANCE,
ADOPTION ASSISTANCE, AND HIGHER EDUCATION PAYMENTS**

In 2017, a notice about a settlement in a state class action lawsuit over Hawaii's board payments was sent to Hawaii foster care providers, legal guardians/permanent custodians, adoptive parents of children with special needs, and higher education payment recipients. The 2017 settlement would have provided a \$2.3 million fund to be used to make payments to certain class members (payment recipients); to pay court-appointed lawyers for investigating the facts, litigating the case, and negotiating the settlement; and to pay certain costs to administer the settlement. The 2017 settlement failed because the Hawaii Legislature did not provide the money needed to fund the settlement.

In March 2018, the Parties agreed to amend the settlement by extending the deadline for the Legislature to fund the settlement to June 30, 2018. The 2018 settlement will still include the \$2.3 million fund, and payments will still be made to class members who are payment recipients. The Legislature is not required to provide money for the settlement. If the Legislature chooses not to fund the settlement again, the lawsuit will continue.

**DHS' RECORDS INDICATE THAT YOU ARE A PAYMENT RECIPIENT AND
WILL RECEIVE A PAYMENT UNDER THE SETTLEMENT.**

The amount of the payment will be determined later.

Your options in response to the proposed 2018 settlement are as follows:

- 1) You may do nothing. If you do nothing, you will receive a payment if the settlement is approved and give up any claims you could have brought against the State that were made part of this lawsuit.
- 2) You may object to the 2018 settlement if you disagree with any of the terms. The deadline to postmark your objection letter is **May 28, 2018**. You may also tell the court your objections in person at the fairness hearing scheduled for **June 15, 2018**. You must tell the court in advance that you intend to come to the hearing by sending a notice of intent to appear postmarked by **May 28, 2018**.
- 3) You may exclude yourself from (opt out of) the 2018 settlement. If you exclude yourself from the 2018 settlement, you will not receive a payment from this settlement. The deadline to postmark your exclusion letter is also **May 28, 2018**.

If you sent in an objection letter or an exclusion letter for the 2017 settlement, you don't have to send another letter for the 2018 settlement.

Your legal rights are affected whether or not you act. Read this notice carefully.

Differences Between this Lawsuit (the State Lawsuit) and the Federal Lawsuit

This lawsuit (in state court) focuses on the adequacy of board payments made in the past. There is a separate federal lawsuit that focuses on how much DHS should be paying for foster care in the future. *If you are also part of the federal lawsuit, you will receive another notice describing that settlement. **Your legal rights and options in the state lawsuit and the federal lawsuit are different.*** If you receive both notices (state and federal), please carefully note the differences.

PLEASE DO NOT CALL THE COURT WITH YOUR QUESTIONS

QUESTIONS? CALL 524-1800 OR VISIT <http://hawaiiiclassaction.com/fostercare>.

BASIC INFORMATION

1. What is this state lawsuit about?

Plaintiffs filed this lawsuit claiming that the State did not pay enough for monthly foster care maintenance payments, permanency assistance, adoption assistance, and higher education payments. They claimed that the payments were too low under federal law, under state law, under DHS' administrative rules, and under the terms of agreements between resource caregivers and DHS. Plaintiffs believe they are entitled to payment for damages they suffered, equal to the shortfall between the amounts DHS should have paid, and the amounts DHS actually paid.

The State denies that its payments were inadequate or that it owes Plaintiffs any compensation.

The name of this lawsuit is *Sheehey v. State of Hawaii*, Civ. No. 14-1-1709-08 VLC. Judge Virginia Lea Crandall, of the First Circuit Court, State of Hawaii (the State Court), is currently overseeing this case.

WHO IS IN THE SETTLEMENT

2. Who are the Members of the Settlement Classes?

There are two settlement classes:

Settlement Class 1 – Parent Settlement Class: (a) all licensed resource caregivers in Hawaii (foster parents) who received monthly foster care maintenance payments from DHS from August 7, 2012 through March 20, 2018; and (b) all legal guardians and permanent custodians who received monthly permanency assistance from DHS from August 7, 2012 through March 20, 2018; and (c) all adoptive parents of children with special needs who received monthly adoption assistance payments from DHS from August 7, 2012 through March 20, 2018.

Class Representatives of the Parent Settlement Class are Patrick Sheehey, Patricia Sheehey, Raynette Nalani Ah Chong, Sherry Campagna, Michael Holm, and Tiare Holm.

Settlement Class 2 – Higher Education Settlement Class: all individuals who received monthly higher education payments from DHS from August 7, 2012 through March 20, 2018.

The Class Representative of the Higher Education Settlement Class is Brittany Sakai.

All Class Members will be bound by the settlement unless they exclude themselves. The process for excluding yourself from the settlement and the lawsuit, also called "opting out," is described below. *Not all Class Members will receive payments under this settlement.*

3. What Class or Classes am I a member of?

If you were a resource caregiver (foster parent), an adoptive parent of a former foster child, or a legal guardian/permanent custodian, who received payments from DHS between August 7, 2012, and March 20, 2018, then you are a member of Settlement Class 1 – the Parent Settlement Class.

QUESTIONS? CALL 524-1800 OR VISIT <http://hawaiiiclassaction.com/fostercare>.

If you are a former foster youth who received higher education program benefits between August 7, 2012, and March 20, 2018, then you are a member of Settlement Class 2 – the Higher Education Settlement Class.

DHS' records show that you are a member of at least one of these classes. Therefore, if you received this notice, you will be part of the Settlement unless you opt out.

The Class Members who are also entitled to a payment are called Payment Recipients. **DHS' RECORDS INDICATE THAT YOU ARE A PAYMENT RECIPIENT.**

4. Who is entitled to payments under the Settlement?

To be entitled to a monetary payment, you must be in Settlement Classes 1 or 2, **and** you must have received one or more of these types of payments from DHS during the time period July 1, 2013 to June 30, 2014:

- monthly foster board payments for foster children in your care
- monthly adoption assistance for your adoptive children with special needs
- monthly permanency assistance for children in your legal guardianship/permanent custody
- monthly higher education board allowance (must have been an eligible former foster youth)

THE SETTLEMENT BENEFITS – WHAT YOU GET

5. What does the Settlement provide?

The State has agreed to provide \$2,341,103.10 (Total Settlement Amount) to be divided among the Payment Recipients and to pay for Class Counsel's attorneys' fees and costs and the administrative costs for carrying out the settlement.

The \$2,341,103.10 is based on \$35 per month per foster child, child in permanent custody/legal guardianship, adoptive child with special needs, and former foster youth in the higher education program, for whom DHS made monthly payments for the time period July 1, 2013 to June 30, 2014, pro-rated for actual days in care. The time period represents the one-year period right before the foster board rates were raised in July 2014. The \$35 figure was negotiated in the settlement, and represents a compromise figure agreed to by the Class Representatives and the State.

The amount that each Payment Recipient will receive will be calculated by subtracting the amount of the costs involved in administering this settlement (for example, copying and mailing this notice to, and locating Class Members) and the attorneys' fees and costs awarded by the Court from the Total Settlement Amount of \$2,341,103.10 to arrive at a Net Settlement Amount. This Net Settlement Amount will then be distributed to Payment Recipients based on the number of days each eligible child was in care between July 1, 2013 and June 30, 2014.

6. Will I receive a payment under the Settlement?

Based on DHS' records, **you are a Payment Recipient**. We cannot estimate the actual payment amount to each Payment Recipient because the Administrative Costs and attorneys' fees have not yet been determined. The actual amount of your payment will be determined at a later time.

7. Why won't all Class Members receive a payment?

This settlement is a compromise between the Plaintiffs and the State. The State strongly believes it has no liability to any of the Class Members and does not owe any of them any money. The State believes its position is supported by court rulings in the federal lawsuit. But the State is willing to provide some money to some of the Plaintiffs as a way to bring an end to the case rather than continue to litigate. Plaintiffs strongly believe the State should be paying more to all of the Class Members, but also understand there are serious risks in continuing to litigate this case, including the possibility that none of the Class Members may get anything. Based on the federal court's rulings, and the risks inherent in any lawsuit, both the Class Representatives and Class Counsel agreed to the settlement. Both the Federal Court and State Court preliminarily ruled in 2017 that the compromise is fair.

8. Are there any conditions to this Settlement?

This settlement will not become final until the Court approves this settlement, the federal court approves the settlement of the federal lawsuit, and the Hawaii Legislature approves the money that will be needed to pay for both settlements. If the Legislature does not approve the money needed to pay for both settlements, the settlement will not go forward, and the Plaintiffs in the federal lawsuit will go to trial.

BEING PART OF THE SETTLEMENT

9. Do I need to do anything to be a part of the Settlement?

No. You do not have to do anything to be part of the Settlement Classes or to get a payment if you are a Payment Recipient. If you are a Payment Recipient, your payment amount will be calculated for you and sent to you by mail. A claim form is not required.

10. If I am a Payment Recipient when will I get my payment?

The Court will hold a Fairness Hearing on **June 15, 2018**, to finalize the settlement. If the presiding Judge approves the settlement, after that, there may be appeals. It's always uncertain whether these appeals can be resolved, and resolving them takes time, perhaps more than a year. The Hawaii Legislature must also approve the funding for the payments. The legislative process lasts several months.

11. Do I give up anything if I am part of the Settlement?

Yes. Unless you exclude yourself, you are staying in the Class and will be part of the settlement even if you don't get a payment, which means you can't sue, continue to sue, or be part of any other lawsuit against the State about the legal issues in *this* case. It also means that all of the Court's orders will apply to you and legally bind you.

THE LAWYERS REPRESENTING YOU

12. Do I have lawyers in the case?

Yes. The Court has appointed lawyers to represent you and other Class Members. These lawyers are called Class Counsel. Their names are:

Paul Alston Anderson Meyer Claire Wong Black Alston Hunt Floyd & Ing 1001 Bishop Street, Suite 1800 Honolulu, HI 96813	Victor Geminiani Gavin Thornton Hawaii Appleseed Center for Law and Economic Justice 119 Merchant Street, Suite 605 Honolulu, HI 96813
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You will not be charged personally for these lawyers. If you want to be represented by another lawyer, you may hire one to appear in Court for you at your own personal expense.

13. How will the lawyers be paid? Do the Class Representatives get paid?

Class Counsel’s fee agreement allows them to ask for up to 25% of any recovery on behalf of the Class Members. However, Class Counsel will ask the Court to approve payment of 20% of the Total Settlement Amount to them for attorneys’ fees and costs. The fees and costs would pay Class Counsel for investigating the facts, litigating the case, and negotiating the settlement. The Court may award less than these amounts. The attorneys’ fees and costs will be deducted from the \$2,341,103.10. The State has agreed not to oppose these fees and costs.

The Court is not bound by any agreed upon or requested amounts. You may object to Class Counsel’s request for attorneys’ fees and costs. After considering the objections of Class Members, the Court will determine the amount of attorneys’ fees and costs in accordance with controlling law.

DHS’ expenses to administer the settlement (for example, the cost to mail out this notice) will also be deducted from the \$2,341,103.10. It is estimated that the administrative expenses will be approximately \$.

Class Counsel reserved the right to provide Service Awards for the Class Representatives. These Service Awards are intended to recognize the Class Representatives for the extensive services they performed for the class, the time they spent on this case, and the risks they assumed in connection with this litigation. The amount of the Service Awards, if any, will be deducted from any award of attorneys’ fees and costs by the Court to Class Counsel. In other words, the Service Award will reduce the amount of money going to Class Counsel, **NOT** the amount of payments to Class Members.

OBJECTING TO THE SETTLEMENT

14. How do I object to the Settlement?

You may object to the settlement if you don’t like any part of it. This includes the attorneys’ fees and cost request for Class Counsel. The Court will consider your views.

To object, you must send a letter saying that you object to *Sheehey v. State*, Civ. No. 14-1-1709-08 VLC. Be sure to include your name, address, telephone number, your signature, the date, and the reasons you object to the settlement. Mail your objection to the following address postmarked no later than **May 28, 2018**:

Sheehey Objections
Clerk of the Court
First Circuit Court, State of Hawaii
Kaahumanu Hale
777 Punchbowl Street
Honolulu, HI 96813

EXCLUDING YOURSELF FROM THE SETTLEMENT

15. How do I get out of the Settlement?

To exclude yourself from the settlement, you must send a letter by mail saying that you want to be excluded from or opt out of this case. Be sure to include your name, address, telephone number, your signature, and the date. Include the name of the case, *Sheehey v. State*, Civ. No. 14-1-1709-08 VLC. You must mail your exclusion letter postmarked no later than **May 28, 2018** to:

Sheehey Exclusions
c/o Alston Hunt Floyd & Ing
1001 Bishop Street, Suite 1800
Honolulu, HI 96813

If you ask to be excluded, you will not get any settlement payment even if you would be entitled to one if you stayed in the lawsuit. You also cannot object to the settlement. You will not be legally bound by anything that happens in this lawsuit. You may be able to sue the State in the future.

16. If I don't exclude myself, can I sue the State for the same thing later?

No. Unless you timely exclude yourself, you give up any right to sue the State for the claims that this settlement resolves. If you have a pending lawsuit that asserts the same or similar claims, speak to your lawyer immediately. You must exclude yourself from *this* Settlement Class to continue your own lawsuit. Remember, the exclusion deadline is **May 28, 2018**.

THE COURT'S FAIRNESS HEARING

17. When and where will the Court decide whether to approve the Settlement?

The Court will hold a hearing, called a Fairness Hearing, to decide whether to approve the settlement. You may attend and you may ask to speak, but you don't have to. The Court will hold the **Fairness Hearing at 9:00 a.m. on June 15, 2018**, at the **Circuit Court for the First Circuit, 777 Punchbowl Street, Honolulu, Hawaii, in Courtroom 11**. At this hearing the Court will consider whether the settlement is fair, reasonable, and adequate. If there are objections, the Court will consider them. The Judge will listen to people who have asked to speak at the hearing. The Court may also decide how much to pay Class Counsel.

QUESTIONS? CALL 524-1800 OR VISIT <http://hawaiiiclassaction.com/fostercare>.

After the hearing, the Court will decide whether to approve the settlement. We do not know how long these decisions will take. The hearing may be moved to a different date, time, or courtroom without additional notice, so it is a good idea to visit Class Counsel's website for updates: <http://hawaiiclassaction.com/fostercare>.

18. Do I have to come to the Fairness Hearing?

No. Class Counsel will answer questions the Judge may have. But you are welcome to come at your own expense. If you send an objection, you don't have to come to Court to talk about it. As long as you mailed your written objection on time, the Court will consider it. You may also pay another lawyer to attend on your behalf, but it's not necessary.

19. May I speak at the Fairness Hearing?

You may ask the Court for permission to speak at the Fairness Hearing. To do so, you must send a letter saying that it is your "Notice of Intention to Appear in *Sheehey v. State*, Civ. No. 14-1-1709-08 VLC." Be sure to include your name, address, telephone number, and your signature. Your Notice of Intention to Appear must be postmarked no later than **May 28, 2018**, and be sent to the Clerk of the Court at the address in Question 14 above. You cannot speak at the hearing if you excluded yourself from the settlement.

IF YOU DO NOTHING

20. What happens if I do nothing?

If you do nothing, you will be part of this lawsuit, and you won't be able to be part of any other lawsuit against the State about the legal issues in *this* case, ever again. As a Payment Recipient, you will be paid your share of the Net Settlement Payment, as calculated by DHS.

GETTING MORE INFORMATION

21. Are there more details about the Settlement?

This notice summarizes the proposed settlement. More details are in an Amended State Lawsuit Class Action Settlement Agreement. You can get a copy of the Settlement Agreement at: <http://hawaiiclassaction.com/fostercare>. You may also send questions in writing to Class Counsel c/o Alston Hunt Floyd & Ing, 1001 Bishop Street, Suite 1800, Honolulu, Hawai'i 96813.

22. How do I get more information?

You can call (808) 524-1800; write to Class Counsel at Alston Hunt Floyd & Ing, 1001 Bishop Street, Suite 1800, Honolulu, Hawai'i 96813; or visit the website: <http://hawaiiclassaction.com/fostercare> where you will find other information about the State Lawsuit, Federal Lawsuit, and the settlement.

[DATE]

PLEASE DO NOT CALL THE COURT WITH YOUR QUESTIONS

QUESTIONS? CALL 524-1800 OR VISIT <http://hawaiiclassaction.com/fostercare>.

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Attorneys for Plaintiffs

IN THE CIRCUIT COURT OF THE FIRST CIRCUIT
STATE OF HAWAI'I

PATRICK SHEEHEY; PATRICIA
SHEEHEY; RAYNETTE NALANI AH
CHONG; SHERRY CAMPAGNA;
MICHAEL HOLM; and TIARE HOLM,
*individually, and on behalf of a class
of Hawai'i-licensed resource families;
B.S.; and T.B., a Minor, by her Next
Friend N.A., individually and on
behalf of a class of persons similarly
situated;*

Plaintiffs,

vs.

STATE OF HAWAI'I,
Defendant.

CIVIL NO. 14-1-1709-08 VLC
(Contract)
Civil Action; Class Action

**ORDER GRANTING PLAINTIFFS'
UNOPPOSED MOTION FOR
PRELIMINARY APPROVAL OF
AMENDED CLASS ACTION
SETTLEMENT**

HEARING MOTION

JUDGE: The Honorable
Virginia L. Crandall
HEARING DATE: April 3, 2018
HEARING TIME: 1:00 p.m.

ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF AMENDED CLASS ACTION SETTLEMENT

Plaintiffs' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF AMENDED CLASS ACTION SETTLEMENT, filed April 3, 2018 ("Unopposed Motion"), came on for hearing before the Honorable Virginia L. Crandall, Judge of the above-entitled court, on April 3, 2018 at 1:00 p.m. Claire Wong Black appeared on behalf of Plaintiffs and Deputy Attorney General Donna H. Kalama appeared on behalf of Defendant State of Hawai`i.

Having carefully considered the Unopposed Motion, the memorandum, exhibits, and declarations in support, and other filings in support of the Unopposed Motion, argument of counsel, and the records and files herein, IT IS HEREBY ORDERED, ADJUDGED AND DECREED that:

Preliminary Approval of the Amended Settlement Agreement

1. The Court FINDS and CONCLUDES that the settlement and the proposed Amended State Settlement Agreement is fair, adequate, and reasonable; was reached after Class Counsel investigated and litigated the claims; and was the result of extensive, arms-length negotiations between counsel well-versed in the strengths and weaknesses of the claims asserted. The assistance of an experienced federal magistrate judge in settlement negotiations reinforces that the settlement reached is non-collusive.¹ The Court therefore CONCLUDES that the proposed settlement is within the possible range of settlement approval such that notice to the Settlement Classes is appropriate. The Amended State Settlement Agreement is hereby PRELIMINARILY APPROVED subject to final approval of the settlement.

Form and Manner of Distributing Class Notices

2. The Court FINDS that the proposed Class Notices constitute the best notice practicable under the circumstances. The Class Notices clearly and plainly describe:

¹ See *Capsolas v. Pasta Res., Inc.*, Civ. No. 10-5595, 2012 WL 1656920, at *1 (S.D.N.Y. May 9, 2012).

- a. basic information about the nature of this litigation and the Settlement Classes;
 - b. the terms of the proposed settlement, including the nature of class relief;
 - c. the right to opt out of the settlement and applicable opt-out procedures and deadlines;
 - d. Class Counsel's forthcoming application for attorneys' fees and proposed Service Awards to the Named Plaintiffs;
 - e. the right to object to the settlement terms, including attorneys' fees and Service Awards and applicable procedures and deadlines for objections;
 - f. information about the Court's procedures for final approval of the settlement; and
 - g. instructions on how to obtain additional information regarding this litigation and the settlement thereof.
3. Further, the proposed plan for distributing the Class Notices is a reasonable method, calculated to reach all members of the Settlement Class who would be bound by the Settlement.
4. The Court accordingly ORDERS that:
- a. The form of the Class Notices is approved. Non-material changes and corrections may be made to the Class Notices as the Parties deem appropriate or necessary.
 - b. The manner for distributing the Class Notices is approved. Non-material changes to the manner or timing of distribution of notices may be made as the Parties deem appropriate or necessary.
 - c. Class Counsel has already established a website to inform Class Members of the terms of the settlement and related information, which shall remain available until December 31, 2019.
 - d. Following entry of this Order, the Notice Administrator shall prepare final versions of the Class Notices, incorporating the relevant dates and deadlines set forth in this Order and shall,

along with the Parties, take all other actions in furtherance of settlement administration as specified in the Amended State Settlement Agreement.

Deadline to Request Exclusion From Settlement (“Opt Out”)

5. Members of the Settlement Classes may exclude themselves from, or “opt out” of, the settlement. Any request for exclusion or opt out must be in the form of a written, signed statement that clearly conveys a request to be excluded from the Settlement Class and must contain the individual’s full name, mailing address, telephone number and date.
6. To be effective, the exclusion or opt-out statement must be postmarked within forty-five days after the date Class Notices are first mailed to Settlement Class Members, except that Settlement Class Members whose notices are returned to sender will have until the **later** of 14 calendar days from the date that the new Notice was postmarked or the original opt-out deadline to submit a request for exclusion or opt-out statement.
7. Requests for exclusion or opt-out statements shall be sent to Class Counsel at the following address and Class Counsel shall forward to the Court and to defense counsel a list of members who wish to be excluded:

Alston Hunt Floyd & Ing
State Foster Care Settlement Opt-Out
1001 Bishop Street, Suite 1800
Honolulu, Hawai`i 96813
8. Members of the Settlement Classes who already excluded themselves from, or “opted out” of, the settlement during the prior class notice program are not required to submit new “opt out” statements.

Deadline to Object to Settlement, Attorneys’ Fees, Service Awards

9. Members of the Settlement Classes may object to the settlement, the Amended State Settlement Agreement, Class Counsel’s request for

attorneys' fees and costs, or Service Awards. Objections must be timely filed with the Clerk of the Court and served on the Parties and must state whether the objecting Class Member intends to appear at the Fairness Hearing. Objections must be in the form of a written, signed statement that clearly conveys the substance of the objection and must contain the case name, *Sheehey v. State of Hawai'i*, Civil No. 14-1-1709-08 VLC.

10. To be timely, any objections and notices of intention to appear must be postmarked within forty-five days after the date Class Notices are first mailed to Settlement Class Members, except that Settlement Class Members whose notices are returned to sender will have until the **later** of 14 calendar days from the date that the new Notice was postmarked or the original objection deadline to submit an objection and to file the notice of intention to appear.
11. Objections and notices of intention to appear shall be filed with or sent to the Clerk of the Court at:

Clerk of Court,
First Circuit Court, State of Hawai'i
Ka`ahumanu Hale
777 Punchbowl Street
Honolulu, Hawai'i 96813

Fairness Hearing and Final Approval of Settlement

12. The Court hereby schedules a Fairness Hearing to determine whether to grant final approval of the Amended State Settlement Agreement (including the proposed plan of payment to class members, payment of attorneys' fees and costs, and Service Awards to Named Plaintiffs for June 15, 2018 at 9:00 a.m. in the Circuit Court for the First Circuit, State of Hawai'i at Ka`ahumanu Hale, 777 Punchbowl Street, Honolulu, Hawai'i 96813.

Deadline for Submitting Motion Seeking Final Approval

13. A Motion for Final Approval of the Class Action Settlement shall be filed no later than 14 days before the Fairness Hearing.

Schedule and Continuances

14. The Court sets the following schedule for the Fairness Hearing and the actions that must precede it. The Court further reserves the right to adjourn or continue the Fairness Hearing and the following deadlines without further written notice.

Event	Deadline
Notice Administrator to begin mailing of Class Notices	April 12, 2018
Deadline for motion for attorneys' fees, costs, and Service Awards	April 20, 2018
Deadline to object to settlement, attorneys' fees, or Service Awards (date that objections must be postmarked)	May 28, 2018, or, if notice is returned as undeliverable, 14 days after the postmark date of the second mailing of the notice
Deadline to request exclusion from (opt out of) settlement (date that opt out request must be postmarked)	May 28, 2018, or, if notice is returned as undeliverable, 14 days after the postmark date of the second mailing of the notice
Deadline to file notice of intention to appear (date that notice must be postmarked)	May 28, 2018, or, if notice is returned as undeliverable, 14 days after the postmark date of the second mailing of the notice
Deadline to file motion for final approval	May 31, 2018
Final Fairness Hearing	June 15, 2018, 9:00 a.m.

DATED: Honolulu, Hawai'i, _____.

 JUDGE OF THE ABOVE-ENTITLED COURT

APPROVED AS TO FORM:

CARON M. INAGAKI
DONNA H. KALAMA
Deputy Attorneys General

Attorneys for Defendant
State of Hawai`i

Sheehey, et al. vs. State of Hawai`i; Civil No. 14-1-1709-08 VLC; First Circuit Court, State of Hawai`i; ORDER GRANTING PLAINTIFFS' UNOPPOSED MOTION FOR PRELIMINARY APPROVAL OF AMENDED CLASS ACTION SETTLEMENT

THE SENATE
TWENTY-NINTH LEGISLATURE, 2018
STATE OF HAWAII

S.B. NO. 2740
S.D. 1
H.D. 2
C.D. 1

A BILL FOR AN ACT

MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

PART I

SECTION 1. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of accounting and general services or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
1. DEPARTMENT OF ACCOUNTING AND GENERAL SERVICES:	
Carrancho, et al. v. City and County of Honolulu, et al., Civil No. 16-1-0246-02, First Circuit	\$ 52,500.00 Settlement

SUBTOTAL:	\$ 52,500.00
TOTAL (SECTION 1):	\$ 52,500.00

Provided that of legislative appropriation item K-37 for the department of accounting and general services for fiscal year 2017-2018 in section 3 of Act 49, Session Laws of Hawaii 2017, the general fund sum of \$52,500 shall be expended from the 2017-2018 budget (AGS 232, general funds) by the department of accounting and general services for the purposes of this Act.

Exhibit "C"

PART II

SECTION 2. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of education or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
2. DEPARTMENT OF EDUCATION:	
Clark, et al. v. Department of Education,	\$ 35,000.00
et al., Civil No. 15-1-2486-12, First Circuit	Settlement

SUBTOTAL:	\$ 35,000.00
TOTAL (SECTION 2):	\$ 35,000.00

Provided that of legislative appropriation item G-6 for the department of education for fiscal year 2017-2018 in section 3 of Act 49, Session Laws of Hawaii 2017, the general fund sum of \$35,000 shall be expended from the 2017-2018 budget (EDN 500, general funds) by the department of education for the purposes of this Act.

PART III

SECTION 3. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of Hawaiian home lands or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
3. DEPARTMENT OF HAWAIIAN HOME LANDS:	
Arthur, et al. v. State of Hawaii, et al.	\$ 200,000.00

SUBTOTAL:	\$ 200,000.00
TOTAL (SECTION 3):	\$ 200,000.00

Provided that of legislative appropriation item F-24 for the department of Hawaiian home lands for fiscal year 2017-2018 in section 3 of Act 49, Session Laws of Hawaii 2017, the general fund sum of \$200,000 shall be expended from the 2017-2018 budget (HHL 625, general funds) by the department of Hawaiian home lands for the purposes of this Act.

PART IV

SECTION 4. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the department of health or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

**JUDGMENTS AGAINST THE STATE
 AND SETTLEMENTS OF CLAIMS:**

AMOUNT

4. DEPARTMENT OF HEALTH:

Johnson v. Rainbow Rehabilitation Services, Inc., et al., Civil No. 07-1-1855-10, First Circuit	\$ 1,601,536.97 Judgment
---	-----------------------------

SUBTOTAL:	\$ 1,601,536.97
TOTAL (SECTION 4):	\$ 1,601,536.97

Provided that of legislative appropriation item E-16 for the department of health for fiscal year 2017-2018 in section 3 of Act 49, Session Laws of Hawaii 2017, the general fund sum of \$1,601,536.97 shall be expended from the 2017-2018 budget (HTH 460, general funds) by the department of health for the purposes of this Act.

PART V

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SECTION 5. The legislature finds and declares that the following claims for legislative relief recommended for approval as to the following named persons for claims against the State or the department of human services or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amounts set forth opposite their names, are approved for payment:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
5. DEPARTMENT OF HUMAN SERVICES:	
Ah Chong, et al. v. McManaman Civil No. 13-00663 LEK-KSC, USDC	\$ 850,000.00 Settlement
Kalili v. Department of Human Services, et al., Civil No. 13-1-0171, Third Circuit	\$ 115,000.00 Settlement
Lahti, et al. v. State of Hawaii, et al. Civil No. 08-1-0132(3), Second Circuit	\$ 500,000.00 Settlement
Sheehey, et al. v. State of Hawaii Civil No. 14-1-1709-08 VLC, First Circuit	\$ 2,341,103.10 Settlement
SUBTOTAL:	\$ 3,806,103.10
TOTAL (SECTION 5):	\$ 3,806,103.10

Provided that of legislative appropriation item F-1 for the department of human services for fiscal year 2017-2018 in section 3 of Act 49, Session Laws of Hawaii 2017, the general fund sum of \$3,806,103.10 shall be expended from the 2017-2018 budget (HMS 301, general funds) by the department of human services for the purposes of this Act.

PART VI

SECTION 6. The legislature finds and declares that the following claims for legislative relief recommended for approval as to the following named persons for claims against the State or the department of land and natural resources or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amounts set forth opposite their names, are approved for payment:

6. DEPARTMENT OF LAND AND NATURAL RESOURCES:

Claim of Sandra Lee Atkinson Civil No. 13-00663 LEK-KSC, USDC	\$	20,212.30 Settlement
Umberger, et al. v. Department of Land and Natural Resources, Civil No. 12-1-2626-10, Third Circuit	\$	74,491.81 Judgment
Corbett v. Kyo-Ya Hotels & Resorts, LP, et al. Civil No. 17-1-0371-03, First Circuit	\$	75,000.00 Settlement
<hr/>		
SUBTOTAL:	\$	169,704.11
TOTAL (SECTION 6):	\$	169,704.11

Provided that of legislative appropriation item A-23 for the department of land and natural resources for fiscal year 2017-2018 in section 3 of Act 49, Session Laws of Hawaii 2017, the general fund sum of \$169,704.11 shall be expended from the 2017-2018 budget (LNR 141, general funds) by the department of land and natural resources for the purposes of this Act.

PART VII

SECTION 7. The legislature finds and declares that the following claims for legislative relief recommended for approval as to the following named persons for claims against the State or the department of public safety or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amounts set forth opposite their names, are approved for payment:

JUDGMENTS AGAINST THE STATE	AMOUNT
AND SETTLEMENTS OF CLAIMS:	
7. DEPARTMENT OF PUBLIC SAFETY:	
Hopfe v. State of Hawaii, et al. Civil No. 16-1-0645-04, First Circuit	\$ 20,000.00 Settlement
Smith v. State of Hawaii, et al.	\$ 50,000.00

Castro v. Melchor, et al.	\$ 634,465.45
Civil No. 08-1-0901-05, First Circuit	Judgment
SCWC No. 12-0000753	

SUBTOTAL:	\$ 704,465.45
TOTAL (SECTION 7):	\$ 704,465.45

Provided that of legislative appropriation item I-11 for the department of public safety for fiscal year 2017-2018 in section 3 of Act 49, Session Laws of Hawaii 2017, the general fund sum of \$704,465.45 shall be expended from the 2017-2018 budget (PSD 421, general funds) by the department of public safety for the purposes of this Act.

PART VIII

SECTION 8. The legislature finds and declares that the following claim for legislative relief recommended for approval as to the following named person for claims against the State or the Hawaii state public library system or its officers or employees for the payment of judgments or settlements, or other liabilities, in the amount set forth opposite their name, is approved for payment:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
8. HAWAII STATE PUBLIC LIBRARY SYSTEM:	
Woolpert v. State of Hawaii, et al.	\$ 155,000.00
Civil No. 15-1-0923-05, First Circuit	Settlement
<hr/>	
SUBTOTAL:	\$ 155,000.00
TOTAL (SECTION 8):	\$ 155,000.00

Provided that of legislative appropriation item G-14 for the Hawaii state public library system for fiscal year 2017-2018 in section 3 of Act 49, Session Laws of Hawaii 2017, the general fund sum of \$155,000 shall be expended from the 2017-2018 budget (EDN 407, general funds) by the Hawaii state public library system for the purposes of this Act.

SECTION 9. The following sums or so much thereof as may be necessary for fiscal year 2017-2018 are appropriated out of the state highway fund for the purpose of satisfying claims for legislative relief as to the following named persons, for claims against the State or its officers or employees for payments of judgments or settlements, or other liabilities, in the amount set forth opposite their names:

JUDGMENTS AGAINST THE STATE AND SETTLEMENTS OF CLAIMS:	AMOUNT
DEPARTMENT OF TRANSPORTATION, HIGHWAYS DIVISION:	
Van Vleet v. Costales, et al. Civil No. 17-1-0951-06, First Circuit	\$ 70,000.00 Settlement
Claim of Garrison Property and Casualty Insurance Company USAA	\$ 19,312.84 Settlement
Imada v. State of Hawaii, et al. Civil No. 14-1-0401K, Third Circuit and Ocampo v. State of Hawaii, et al. Civil No. 16-1-234K, Third Circuit	\$ 1,300,000.00 Settlement
Amina v. State of Hawaii, et. al. Civil No. 16-1-1080-06, First Circuit	\$ 45,000.00 Settlement
SUBTOTAL:	\$ 1,434,312.84
TOTAL (SECTION 9):	\$ 1,434,312.84

The sums appropriated shall be expended by the department of transportation, highways division, for the purposes of this Act.

PART X

SECTION 10. The sums hereinabove may be paid to the respective persons, or for the satisfaction or settlement of the respectively identified cases, and in several amounts hereinabove set forth or in lesser amounts deemed appropriate, upon checks issued by the comptroller; provided that departments shall obtain the approval of the attorney general before payment of any claim can be made.

SECTION 11. Notwithstanding the sums hereinabove stated as interest upon judgments against the State, payment of interest shall be limited to the period from the date of judgment, if applicable, to thirty days after the effective date of this Act, as provided in section 662-8, Hawaii Revised Statutes, for those cases to which that section applies.

SECTION 12. All unexpended and unencumbered balances of the appropriations made in this Act as of the close of business on June 30, 2019, shall lapse.

SECTION 13. If any provision of this Act, or the application thereof to any person or circumstance, is held invalid, the invalidity does not affect other provisions or applications of the Act that can be given effect without the invalid provision or application, and to this end the provisions of this Act are severable.

SECTION 14. This Act shall take effect upon its approval.

Report Title:

Claims Against the State; Appropriation

Description:

Appropriates funds to satisfy several claims against the State, its officers, or its employees. (CD1)

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

SB2740 SD1 HD2 CD1

Measure Title: MAKING APPROPRIATIONS FOR CLAIMS AGAINST THE STATE, ITS OFFICERS, OR ITS EMPLOYEES.
 Report Title: Claims Against the State; Appropriation (\$)
 Description: Appropriates funds to satisfy several claims against the State, its officers, or its employees. (CD1)
 Companion: [HB2313](#)
 Package: Governor
 Current Referral: JUD, FIN
 Introducer(s): KOUCHI (Introduced by request of another party)

<u>Sort by</u> <u>Date</u>	Status	Text
1/24/2018	S	Introduced.
1/24/2018	S	Passed First Reading.
1/24/2018	S	Referred to JDC, WAM.
1/26/2018	S	The committee(s) on JDC has scheduled a public hearing on 02-01-18 9:00AM in conference room 016.
2/1/2018	S	The committee(s) on JDC recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in JDC were as follows: 5 Aye(s): Senator(s) Taniguchi, K. Rhoads, Gabbard, Kim, L. Thielen; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
2/8/2018	S	Reported from JDC (Stand. Com. Rep. No. 2084) with recommendation of passage on Second Reading, as amended (SD 1) and referral to WAM.
2/8/2018	S	Report adopted; Passed Second Reading, as amended (SD 1) and referred to WAM.
2/27/2018	S	The committee(s) on WAM will hold a public decision making on 03-01-18 10:45AM in conference room 211.
3/1/2018	S	The committee(s) on WAM recommend(s) that the measure be PASSED, UNAMENDED. The votes in WAM were as follows: 8 Aye(s): Senator(s) Dela Cruz, Keith-Agaran, English, Harimoto, Inouye, K. Kahele, Kidani, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 3 Excused: Senator(s) Galuteria, Riviere, Shimabukuro.
3/2/2018	S	Reported from WAM (Stand. Com. Rep. No. 2922) with recommendation of passage on Third Reading.
3/2/2018	S	One Day Notice 03-06-18.
3/6/2018	S	Report adopted; Passed Third Reading. Ayes, 25; Aye(s) with reservations: none . Noes, 0 (none). Excused, 0 (none). Transmitted to House.
3/6/2018	H	Received from Senate (Sen. Com. No. 282) in amended form (SD 1).
3/8/2018	H	Pass First Reading
3/8/2018	H	Referred to JUD, FIN, referral sheet 35
3/12/2018	H	Bill scheduled to be heard by JUD on Wednesday, 03-14-18 2:00PM in House conference room 325.
3/14/2018	H	The committee(s) on JUD recommend(s) that the measure be deferred.
3/19/2018	H	Bill scheduled for decision making on Wednesday, 03-21-18 2:15PM in conference room 325.
3/21/2018	H	The committees on JUD recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 5 Ayes: Representative(s) Nishimoto, San Buenaventura, Morikawa, Takayama; Ayes with reservations: Representative(s) Thielen; Noes: none; and 3 Excused: Representative(s) Brower, C. Lee, McDermott.
3/23/2018	H	Reported from JUD (Stand. Com. Rep. No. 1360-18) as amended in HD 1, recommending passage on Second Reading and referral to FIN.
3/23/2018	H	Passed Second Reading as amended in HD 1 and referred to the committee(s) on FIN with Representative(s) Thielen voting aye with reservations; Representative(s) Har, McKelvey voting no (2) and Representative(s) Belatti, C. Lee, Lowen, McDermott, Souki, Tokioka excused (6).

3/24/2018	H	Bill scheduled to be heard by FIN on Wednesday, 03-28-18 3:00PM in House conference room 308.
3/28/2018	H	The committees on FIN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 14 Ayes: Representative(s) Luke, Cullen, Cachola, DeCoite, Fukumoto, Gates, Holt, Keohokalole, Kobayashi, Lowen, Nakamura, Todd, Yamashita, Ward; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) Tupola.
4/6/2018	H	Reported from FIN (Stand. Com. Rep. No. 1959-18) as amended in HD 2, recommending passage on Third Reading.
4/6/2018	H	Forty-eight (48) hours notice Tuesday, 04-10-18.
4/10/2018	H	Passed Third Reading as amended in HD 2 with none voting aye with reservations; Representative(s) Choy, Har, McKelvey voting no (3) and Representative(s) Belatti excused (1). Transmitted to Senate.
4/10/2018	S	Received from House (Hse. Com. No. 593).
4/12/2018	S	Senate disagrees with House amendments.
4/12/2018	H	Received notice of disagreement (Sen. Com. No. 784).
4/16/2018	H	House Conferees Appointed: Nishimoto, Luke Co-Chairs; Cullen, Thielen.
4/16/2018	S	Received notice of appointment of House conferees (Hse. Com. No. 610).
4/18/2018	S	Senate Conferees Appointed: K. Rhoads Chair; Keith-Agaran Co-Chair; Taniguchi.
4/18/2018	H	Received notice of Senate conferees (Sen. Com. No. 794).
4/23/2018	S	Conference committee meeting scheduled for 04-24-18 2:30PM in conference room 329.
4/24/2018	S	Conference committee meeting to reconvene on 04-26-18 2:30PM in conference room 329.
4/26/2018	S	Conference committee meeting to reconvene on 04-27-18 1:45PM in conference room 329.
4/27/2018	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 3 Aye(s): Senator(s) K. Rhoads, Keith-Agaran, Taniguchi; Aye(s) with reservations: none ; 0 No(es): none; and 0 Excused: none.
4/27/2018	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 4 Ayes: Representative(s) Nishimoto, Luke, Cullen; Ayes with reservations: Representative(s) Thielen; 0 Noes: none; and 0 Excused: none.
4/27/2018	S	Reported from Conference Committee as amended CD 1 (Conf. Com. Rep. No. 166-18).
4/27/2018	S	48 Hrs. Notice (as amended CD 1) 05-01-18.
4/27/2018	H	Reported from Conference Committee (Conf Com. Rep. No. 166-18) as amended in (CD 1).
4/27/2018	H	Forty-eight (48) hours notice Tuesday 05-01-18.
5/1/2018	S	Passed Final Reading, as amended (CD 1). Ayes, 25; Aye(s) with reservations: none . 0 No(es): none. 0 Excused: none.
5/1/2018	H	Passed Final Reading as amended in CD 1 with Representative(s) Thielen voting aye with reservations; Representative(s) Har, McKelvey voting no (2) and Representative(s) Belatti, Takumi excused (2).
5/1/2018	H	Received notice of Final Reading (Sen. Com. No. 849).

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

SB2740 SD1 HD2 CD1

LEGISLATIVE BUDGET SYSTEM
BUDGET COMPARISON WORKSHEET

Program ID: HMS303
Structure #: 060103000000
Subject Committee: HHS

CHILD PROTECTIVE SERVICES PAYMENTS
HEALTH AND HUMAN SERVICES

SEQ #	HOUSE						SENATE					
	Perm	2018 Temp	Amt	Perm	2019 Temp	Amt	Perm	2018 Temp	Amt	Perm	2019 Temp	Amt
			43,131,294			43,131,294 A			43,131,294			43,131,294 A
			23,614,626			23,614,626 N			23,614,626			23,614,626 N
	0.00	0.00	66,745,920	0.00	0.00	66,745,920	0.00	0.00	66,745,920	0.00	0.00	66,745,920

- 1

OBJECTIVE: TO ASSURE AN ADEQUATE STANDARD OF LIVING FOR CHILDREN WHO ARE UNABLE TO BE MAINTAINED IN THEIR FAMILY HOME BECAUSE OF ABUSE, NEGLECT, OR INABILITY OF THE FAMILY TO PROVIDE THEM ADEQUATE CARE AND SUPERVISION BY PROVIDING PAYMENT FOR ROOM AND BOARD, AND COSTS RELATED TO CARE OR ASSISTANCE IN FAMILY PRESERVATION REUNIFICATION OR ADOPTION

OBJECTIVE: TO ASSURE AN ADEQUATE STANDARD OF LIVING FOR CHILDREN WHO ARE UNABLE TO BE MAINTAINED IN THEIR FAMILY HOME BECAUSE OF ABUSE, NEGLECT, OR INABILITY OF THE FAMILY TO PROVIDE THEM ADEQUATE CARE AND SUPERVISION BY PROVIDING PAYMENT FOR ROOM AND BOARD, AND COSTS RELATED TO CARE OR ASSISTANCE IN FAMILY PRESERVATION REUNIFICATION OR ADOPTION

100-001			4,634,292 A			2,495,388 N			4,634,292 A			2,495,388 N
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SUPPLEMENTAL REQUEST:
ADD FUNDS FOR INCREASED FOSTER BOARD RATES FOR CHILD PROTECTIVE SERVICES PAYMENTS(HMS303/WP).
(/A; /4,634,292A)
(/N; /2,495,388N)

SUPPLEMENTAL REQUEST:
ADD FUNDS FOR INCREASED FOSTER BOARD RATES FOR CHILD PROTECTIVE SERVICES PAYMENTS(HMS303/WP).
(/A; /4,634,292A)
(/N; /2,495,388N)

HOUSE CONCURS.

SENATE CONCURS.

DETAIL OF GOVERNOR'S REQUEST:
FOSTER CARE BOARD RATE INCREASE (4,634,292A/2,495,388N)

DETAIL OF GOVERNOR'S REQUEST:
FOSTER CARE BOARD RATE INCREASE (4,634,292A/2,495,388N)

A			4,634,292			CHANGES BY MOF			4,634,292	A			
N			2,495,388						2,495,388	N			
	0.00	0.00	0	0.00	0.00	7,129,680	TOTAL CHANGES	0.00	0.00	0	0.00	0.00	7,129,680
A			43,131,294			47,765,586	BUD. TOTALS			43,131,294			47,765,586
N			23,614,626			26,110,014				23,614,626			26,110,014
			66,745,920			73,875,600	TOTAL BUDGET			66,745,920			73,875,600

A BILL FOR AN ACT

RELATING TO THE STATE BUDGET.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

SECTION 1. This Act shall be known and may be cited as the Supplemental Appropriations Act of 2018.

SECTION 2. This Act amends Act 49, Session Laws of Hawaii 2017, and other appropriations and authorizations effective during fiscal biennium 2017-2019.

SECTION 3. Part II, Act 49, Session Laws of Hawaii 2017, is amended by amending section 3 to read as follows:

"SECTION 3. APPROPRIATIONS. The following sums, or so much thereof as may be sufficient to accomplish the purposes and programs designated herein, are hereby appropriated or authorized, as the case may be, from the means of financing specified to the expending agencies designated for the fiscal biennium beginning July 1, 2017 and ending June 30, 2019. The total expenditures and the number of positions in each fiscal year of the biennium shall not exceed the sums and the number indicated for each fiscal year, except as provided elsewhere in this Act, or as provided by general law.

"A. ECONOMIC DEVELOPMENT

1.	BED100 - STRATEGIC MARKETING AND SUPPORT		10.00*	10.00*
			#	<u>1.00#</u>
	OPERATING	BED	1,417,966A	[1,390,466A] <u>2,525,466A</u>
		BED	1,821,915W	1,821,915W
		BED	700,000P	[0P] <u>700,000P</u>
2.	BED105 - CREATIVE INDUSTRIES DIVISION		11.00*	11.00*
	OPERATING	BED	1,777,374A	[1,327,374A] <u>1,527,374A</u>
		BED	30,000B	30,000B
		BED	200,000P	[0P] <u>400,000P</u>
3.	BED107 - FOREIGN TRADE ZONE		17.00*	17.00*
	OPERATING	BED	2,278,556B	2,278,556B
4.	BED142 - GENERAL SUPPORT FOR ECONOMIC DEVELOPMENT		26.00*	26.00*
			1.00#	1.00#

Exhibit "F"

			0.00*
		3.00#	[3.00#]
			<u>2.00#</u>
	HTH	662,587B	[662,587B]
			<u>484,641B</u>
		3.00*	[3.00*]
			<u>4.00*</u>
	HTH	432,300P	[432,300P]
			<u>342,300P</u>
24. HTH905 - DEVELOPMENTAL DISABILITIES COUNCIL			
		2.50*	2.50*
OPERATING	HTH	230,932A	230,932A
		6.50*	[6.50*]
			<u>5.00*</u>
	HTH	528,666N	[528,666N]
			<u>498,981N</u>
25. HTH907 - GENERAL ADMINISTRATION			
		123.50*	[123.50*]
			<u>124.50*</u>
		5.00#	5.00#
OPERATING	HTH	11,191,939A	[9,615,922A]
			<u>11,023,468A</u>
		5.00#	5.00#
	HTH	913,074P	913,074P
INVESTMENT CAPITAL	AGS	13,920,000C	[0e]
			<u>1,730,000C</u>
	HTH	3,775,000C	[0e]
			<u>1,300,000C</u>
26. HTH908 - OFFICE OF LANGUAGE ACCESS			
		3.00*	[3.00*]
			<u>5.00*</u>
OPERATING	HTH	320,851A	[320,851A]
			<u>399,137A</u>
F. SOCIAL SERVICES			
1. HMS301 - CHILD PROTECTIVE SERVICES			
		219.30*	219.30*
OPERATING	HMS	34,549,692A	[34,549,692A]
			<u>34,629,692A</u>
	HMS	1,007,587B	1,007,587B
		175.20*	175.20*
	HMS	42,164,875N	[42,164,875N]
			<u>42,249,043N</u>
	HMS	106,225P	106,225P
2. HMS302 - GENERAL SUPPORT FOR CHILD CARE			
		25.35*	25.35*
OPERATING	HMS	1,715,547A	1,715,547A
		24.65*	24.65*
	HMS	11,850,965N	[11,850,965N]
			<u>11,869,726N</u>
3. HMS303 - CHILD PROTECTIVE SERVICES PAYMENTS			
OPERATING	HMS	43,131,294A	[43,131,294A]
			<u>47,765,586A</u>
	HMS	23,614,626N	[23,614,626N]
			<u>26,110,014N</u>
4. HMS305 - CASH SUPPORT FOR CHILD CARE			
OPERATING	HMS	25,011,811A	25,011,811A
	HMS	38,530,754N	38,530,754N
5. HMS501 - IN-COMMUNITY YOUTH PROGRAMS			

HB1900 HD1 SD2 CD1

Measure Title: RELATING TO THE STATE BUDGET.
 Report Title: State budget. (\$)
 Description: To adjust and request appropriations for Fiscal Biennium 2017-19 funding requirements for operations and capital improvement projects of Executive Branch agencies and programs.
 Companion:
 Package: Governor
 Current Referral: WAM
 Introducer(s): SAIKI (Introduced by request of another party)

<u>Sort by</u> <u>Date</u>	Status	Text
1/18/2018	H	Pending introduction.
1/19/2018	H	Introduced and Pass First Reading.
1/22/2018	H	Referred to FIN, referral sheet 4
3/2/2018	H	Bill scheduled to be heard by FIN on Wednesday, 03-07-18 11:00AM in House conference room 308.
3/7/2018	H	The committees on FIN recommend that the measure be PASSED, WITH AMENDMENTS. The votes were as follows: 14 Ayes: Representative(s) Luke, Cullen, Cachola, DeCoite, Fukumoto, Gates, Holt, Keohokalole, Kobayashi, Lowen, Nakamura, Todd, Yamashita, Ward; Ayes with reservations: none; Noes: none; and 1 Excused: Representative(s) Tupola.
3/8/2018	H	Reported from FIN (Stand. Com. Rep. No. 1136-18) as amended in HD 1, recommending passage on Second Reading and placement on the calendar for Third Reading.
3/9/2018	H	Passed Second Reading as amended in HD 1; placed on the calendar for Third Reading with none voting aye with reservations; none voting no (0) and Representative(s) Fukumoto, Ing, Ito, Todd, Tokioka excused (5).
3/12/2018	H	Passed Third Reading with Representative(s) Souki voting aye with reservations; none voting no (0) and Representative(s) Fukumoto excused (1). Transmitted to Senate.
3/13/2018	S	Received from House (Hse. Com. No. 384).
3/13/2018	S	Passed First Reading.
3/13/2018	S	Referred to WAM.
3/16/2018	S	The committee(s) on WAM has scheduled a public hearing on 03-22-18 9:30AM in conference room 211.
3/22/2018	S	The committee(s) on WAM deferred the measure until 03-29-18 10:45AM in conference room 211.
3/29/2018	S	The committee(s) on WAM recommend(s) that the measure be PASSED, WITH AMENDMENTS. The votes in WAM were as follows: 10 Aye(s): Senator(s) Dela Cruz, Keith-Agaran, English, Galuteria, Inouye, K. Kahele, Kidani, Riviere, Shimabukuro, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 1 Excused: Senator(s) Harimoto.
4/4/2018	S	Reported from WAM (Stand. Com. Rep. No. 3417) with recommendation of passage on Second Reading, as amended (SD 1) and placement on the calendar for Third Reading.
4/4/2018	S	Report adopted; Passed Second Reading, as amended (SD 1).
4/4/2018	S	48 Hrs. Notice 04-06-18.
4/6/2018	S	Floor Amendment No. 13 offered.
4/6/2018	S	Floor amendment adopted as amended (SD 2).
4/6/2018	S	48 Hrs. Notice 04-10-18.
4/10/2018	S	Report adopted; Passed Third Reading, as amended (SD 2). Ayes, 24; Aye(s) with reservations: none . Noes, 0 (none). Excused, 1 (Senator(s) Harimoto). Transmitted to House.
4/10/2018	H	Returned from Senate (Sen. Com. No. 619) in amended form (SD 2).
4/12/2018	H	House disagrees with Senate amendment (s).

4/13/2018	S	Received notice of disagreement (Hse. Com. No. 608). 11207
4/16/2018	H	House Conferees Appointed: Luke Chair; Cachola, Cullen, DeCoite, Fukumoto, Gates, Holt, Keohokalole, Kobayashi, Lowen, Nakamura, Todd, Yamashita, Tupola, Ward.
4/16/2018	S	Senate Conferees Appointed: Dela Cruz Chair; English, Galuteria, Harimoto, Inouye, K. Kahele, Keith-Agaran, Kidani, Riviere, Shimabukuro, Wakai.
4/16/2018	S	Received notice of appointment of House conferees (Hse. Com. No. 609).
4/16/2018	H	Bill scheduled for Conference Committee Meeting on Tuesday, 04-17-18 2:00PM in conference room 309.
4/16/2018	H	Received notice of Senate conferees (Sen. Com. No. 785).
4/17/2018	H	Conference Committee Meeting will reconvene on Friday 04-20-18 2:00PM in conference room 309.
4/20/2018	H	The Conference Committee recommends that the measure be Passed, with Amendments. The votes were as follows: 14 Ayes: Representative(s) Luke, Cachola, Cullen, DeCoite, Fukumoto, Gates, Holt, Keohokalole, Kobayashi, Lowen, Nakamura, Todd, Tupola, Ward; Ayes with reservations: none; 0 Noes: none; and 1 Excused: Representative(s) Yamashita.
4/20/2018	S	The Conference committee recommends that the measure be PASSED, WITH AMENDMENTS. The votes of the Senate Conference Managers were as follows: 9 Aye(s): Senator(s) Dela Cruz, English, Galuteria, Inouye, K. Kahele, Keith-Agaran, Kidani, Shimabukuro, Wakai; Aye(s) with reservations: none ; 0 No(es): none; and 2 Excused: Senator(s) Harimoto, Riviere.
4/23/2018	H	Reported from Conference Committee (Conf Com. Rep. No. 3-18) as amended in (CD 1).
4/23/2018	H	Forty-eight (48) hours notice Wednesday 04-25-18.
4/23/2018	S	Reported from Conference Committee as amended CD 1 (Conf. Com. Rep. No. 3-18).
4/23/2018	S	48 Hrs. Notice (as amended CD 1) 04-25-18.
4/25/2018	S	Passed Final Reading, as amended (CD 1). Ayes, 25; Aye(s) with reservations: none . 0 No(es): none. 0 Excused: none.
4/25/2018	H	Passed Final Reading as amended in CD 1 with none voting aye with reservations; none voting no (0) and none excused (0).
4/25/2018	H	Transmitted to Governor.
4/25/2018	H	Received notice of Final Reading (Sen. Com. No. 840).
4/26/2018	S	Received notice of passage on Final Reading in House (Hse. Com. No. 676).

S = Senate | **H** = House | **D** = Data Systems | **\$** = Appropriation measure | **ConAm** = Constitutional Amendment

Some of the above items require Adobe Acrobat Reader. Please visit [Adobe's download page](#) for detailed instructions.

HB1900 HD1 SD2 CD1

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the foregoing document was served electronically on the following via CM/ECF on May 3, 2018:

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DATED: Honolulu, Hawai'i, May 3, 2018.

/s/ Claire Wong Black
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J. BLAINE ROGERS
CLAIRE WONG BLACK

VICTOR GEMINIANI
GAVIN THORNTON

MARC D. PETERS
ALESSA Y. HWANG
JAMES R. HANCOCK

Class Counsel

Motions

[1:13-cv-00663-LEK-KSC Ah Chong v. Bhanot](#)

U.S. District Court

District of Hawaii

Notice of Electronic Filing

The following transaction was entered by Black, Claire on 5/3/2018 at 8:38 PM HST and filed on 5/3/2018

Case Name: Ah Chong v. Bhanot

Case Number: [1:13-cv-00663-LEK-KSC](#)

Filer: Raynette Ah Chong

Patricia Sheehey

Patrick Sheehey

Document Number: [396](#)

Docket Text:

Final MOTION for Settlement (*Final Approval of Class Action Lawsuit Settlement*) Claire Wong Black appearing for Plaintiffs Raynette Ah Chong, Patricia Sheehey, Patrick Sheehey (Attachments: # (1) Declaration of Claire Wong Black, # (2) Exhibit A (Amended Federal Settlement Agreement), # (3) Exhibit B (Amended State Settlement Agreement), # (4) Exhibit C (ATG1 Bill Conference Draft), # (5) Exhibit D (ATG1 Measure Status), # (6) Exhibit E (Executive Budget Worksheet HMS303), # (7) Exhibit F (HB1900 Excerpted Budget Bill), # (8) Exhibit G (HB1900 Measure Status), # (9) Certificate of Service)(Black, Claire)

1:13-cv-00663-LEK-KSC Notice has been electronically mailed to:

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1:13-cv-00663-LEK-KSC Notice will not be electronically mailed to:

The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

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Document description:Declaration of Claire Wong Black

Original filename:n/a

Electronic document Stamp:

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Document description:Exhibit A (Amended Federal Settlement Agreement)

Original filename:n/a

Electronic document Stamp:

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Document description:Exhibit B (Amended State Settlement Agreement)

Original filename:n/a

Electronic document Stamp:

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Document description:Exhibit C (ATG1 Bill Conference Draft)

Original filename:n/a

Electronic document Stamp:

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Document description:Exhibit D (ATG1 Measure Status)

Original filename:n/a

Electronic document Stamp:

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Document description:Exhibit E (Executive Budget Worksheet HMS303)

Original filename:n/a

Electronic document Stamp:

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Document description:Exhibit F (HB1900 Excerpted Budget Bill)

Original filename:n/a

Electronic document Stamp:

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Document description:Exhibit G (HB1900 Measure Status)

Original filename:n/a

Electronic document Stamp:

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Document description:Certificate of Service

Original filename:n/a

Electronic document Stamp:

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