

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF WISCONSIN

JEANINE B., BY HER NEXT FRIEND
ROBERT BLONDIS, et al.,

Plaintiffs,

v.

Case No. 2:93-CV-000547

TONY EVERS, et al.,

Defendants.

**NOTICE OF PROPOSED TERMINATION OF
THE MODIFIED SETTLEMENT AGREEMENT AND CONSENT DECREE
PURSUANT TO JOINT MOTION OF THE PARTIES**

PLEASE TAKE NOTICE:

**TO: All Children Who are in Foster Care
in Milwaukee County or Who Come
into Foster Care in Milwaukee County**

Legal Representatives of the Children Described Above

I. BACKGROUND INFORMATION.

This notice involves a lawsuit known as *Jeanine B., et al. v. Tony Evers, et al.*, which concerns the rights of children described above. **If you are one of these children, or if you are the legal representative of one or more of these children, then you should read this notice.**

The *Jeanine B.* lawsuit was filed in June 1993 in the United States District Court for the Eastern District of Wisconsin (“the Court”). In the lawsuit, the

plaintiff children alleged that the foster care system in Milwaukee County failed to comply with its duties to these children under the United States Constitution and certain federal statutes. Supplemental Complaints were filed in 1999 and 2000, after the State of Wisconsin assumed direct responsibility for administering the child welfare system in Milwaukee County effective January 1, 1998.

The Court certified this lawsuit as a class action. That means that the lawsuit involves the rights of all members of the class.

The lawyers for the parties negotiated a Settlement Agreement, which required the state-administered foster care system in Milwaukee County to meet or exceed certain performance measures that were phased in over a three-year period. The Court approved the Settlement Agreement in December 2002 in a Consent Decree.

The Settlement Agreement established interim performance measures to be met by the state Bureau of Milwaukee Child Welfare (“BMCW”) for the first and second years of the Settlement Agreement implementation period. The Settlement Agreement also established final performance measures to be met by the end of the third year of the implementation period, or until thereafter satisfied for two consecutive six-month periods.

The original Settlement Agreement has been modified twice, in 2003 and 2012. The resulting Modified Settlement Agreement now governs the parties.

BMCW became a subdivision of the Wisconsin Department of Children (“DCF”) and families in 2008, and was reconfigured as DCF’s Division of Milwaukee

Child Protective Services (“DMCPS”) in 2015. DMCPS and Governor Tony Evers, by automatic substitution from the original defendants, are the current defendants in the lawsuit.

Defendants have met, and been released from, all but one of the final performance measures included in the Modified Settlement Agreement. The performance measure that has not been met is Section I.D.9., related to placement stability, which is described in the next section.

The parties now have agreed to request that the Court approve termination of the Settlement Agreement and Consent Decree based on substantial compliance with the provisions of the Modified Settlement Agreement and the tremendous progress made by the defendants in serving class members since the original Settlement Agreement was approved by the Court in 2002.

II. *PROPOSED TERMINATION OF THE SETTLEMENT AGREEMENT AND CONSENT DECREE AGREED TO BY THE PARTIES.*

The remaining provision of the Settlement Agreement from which the defendants have not been released is Section I.D.9., which measures the placement stability of children taken into custody by DMCPS. Defendants have made substantial progress on placement stability and have come close, but not met the Settlement Agreement benchmark.

The current Section I.D.9. placement stability benchmark requires calculation of the percentage of children in BMCW custody who have had three or fewer placements during the previous 36 calendar months of their current episode

in BMCW custody. The Settlement Agreement provides for defendants to be released from enforcement from each benchmark when the Period 3 standard for that benchmark is met for two successive six-month periods. For the Section I.D.9. placement stability benchmark, the Period 3 standard is 90%. Since 2013, annual performance for this metric has met or exceeded 87% in each year, reaching a high of 89.2% placement stability in year 2019. The parties believe that defendants have achieved substantial compliance with the intent of the I.D.9. placement stability benchmark, and that the time has come to terminate the Settlement Agreement and Consent Decree.

To accomplish this termination of the Settlement Agreement and Consent Decree, counsel for the plaintiff class of children and the defendants in this lawsuit have filed a Joint Motion to Terminate the Modified Settlement Agreement and Consent Decree on Basis of Substantial Compliance (“Joint Motion”). If the Court grants the Joint Motion, defendants will be released from the Modified Settlement Agreement and Consent Decree.

United States District Judge Pamela Pepper is presiding over this lawsuit. Judge Pepper has authorized distribution of this Notice pursuant to a plan agreed to by the parties, and has approved the public review and comment procedures described below. The proposed release from the Settlement Agreement and Termination of the Consent Decree will become effective if Judge Pepper so orders at the conclusion of these review and comment procedures.

III. OPPORTUNITY TO REVIEW ADDITIONAL INFORMATION ABOUT PROPOSED RELEASE FROM THE SETTLEMENT AGREEMENT AND TERMINATION OF THE CONSENT DECREE.

Judge Pepper has issued a scheduling order (“Scheduling Order”) providing for the submission of written materials from members of the public for consideration by Judge Pepper, submission of responses by the parties and any additional materials in support of their Joint Motion, and a hearing at which the parties and other interested persons may be heard. The Modified Settlement Agreement, settlement monitoring reports, Joint Motion, Scheduling Order and other materials filed by the parties or other persons pursuant to the Scheduling Order may be viewed at <https://dcf.wisconsin.gov/mcps/settlement>. Key dates established by the Scheduling Order are:

- | | |
|-----------------|--|
| July 28, 2021 | Persons other than parties to the lawsuit who would like to comment on termination of the Settlement Agreement and Consent Decree may submit written comments to the clerk of Court by this date. Written submissions must be sent to the clerk of Court at the address below. |
| August 25, 2021 | The parties may file responses to the written comments filed by non-party persons and any additional materials in support by this date |
| August 25, 2021 | Person other than parties to the lawsuit who would like to speak at the hearing to be held by the Court on the Joint Motion must notify the clerk of Court of in writing at the address below of their desire to speak by this date. Copies of all written notifications to the clerk also must be sent to counsel for the parties at the addresses below. The |

clerk of Court will provide instructions to persons who indicate that they wish to speak.

September 1, 2021 Instructions for persons who wish to observe the Court hearing will be posted on <https://def.wisconsin.gov/mcps/settlement> agreement by this date.

September 29, 2021 The Court will hold a hearing on this date to consider the parties' Joint Motion. The hearing will be conducted by Chief U.S. District Judge Pamela Pepper.

Class members or their legal representatives also may review the related materials that the parties have filed with the Court by going to the Office of the Clerk at the United States District Court for the Eastern District of Wisconsin in Milwaukee, which is located in the United States Courthouse at 517 East Wisconsin Avenue, Milwaukee, Wisconsin. To review materials in the public record of this case, refer to Case No. 2:93-cv-00547. Attorneys with PACER accounts also may view filings on the Court's electronic document case filing ("ECF") system at <https://ecf.wied.uscourts.gov>.

ADDRESSES FOR THE CLERK OF COURT AND COUNSEL FOR THE PARTIES

Clerk of Court
United States District Court for the Eastern District of Wisconsin
United States Federal Building and Courthouse, Room 362
Milwaukee, WI 53202

Counsel for Plaintiffs

Eric Thompson
Children's Rights
88 Pine Street, Suite 800
New York, NY 10005

Counsel for Defendants

Rebecca Paulson
Jennifer R. Remington
Wisconsin Department of Justice
Post Office Box 7857
Madison, WI 53707-7857

Class members or their legal representatives who have questions about proposed termination of the Settlement Agreement and Consent Decree may contact Attorney Eric Thompson. Attorney Thompson represents the class members and works for Children's Rights, Inc., located in New York City. Attorney Thompson's telephone number is (212) 283-2210. Attorney Thompson also may be reached by email at *ethompson@childrensrights.org*.

Members of the public seeking information about proposed termination of the Settlement Agreement and Consent Decree may contact Corey Finkelmeyer, Deputy Division of Legal Services Administrator for the Wisconsin Department of Justice. Deputy Administrator Finkelmeyer's telephone number is (608) 266-7342. Deputy Finkelmeyer also may be reached by email at *finkelmeyercf@doj.state.wi.us*.

PLEASE NOTE: THE JOINT MOTION AS DESCRIBED IN THIS NOTICE AND THE OPPORTUNITY TO PROVIDE RELATED COMMENTS TO THE COURT DO NOT CONCERN ANY INDIVIDUAL CHILD'S CASE THAT IS PENDING IN THE MILWAUKEE COUNTY CHILDREN'S COURT. THIS NOTICE, THE JOINT MOTION, AND THE OPPORTUNITY TO PROVIDE COMMENTS ALL CONCERN ONLY THE PROPOSED TERMINATION OF THE SETTLEMENT AGREEMENT AND CONSENT

DECREE AGREED TO BY THE PARTIES AND DESCRIBED IN SECTION II ABOVE.

V. ORDER.

The Court has reviewed and now approves for distribution the contents of this Notice of Proposed Termination of the Settlement Agreement and Consent Decree.