

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

T.H., et al.,

Plaintiffs,

v.

DeKalb County School District, et  
al.,

Defendants.

Civil Action No. 1:19-cv-03268-TWT

**ORDER OF PRELIMINARY APPROVAL OF CLASS SETTLEMENT  
AS TO DEKALB COUNTY SCHOOL DEFENDANTS, APPOINTING  
CLASS COUNSEL, DIRECTING NOTICE TO SETTLEMENT CLASS,  
AND SETTING HEARING FOR FINAL APPROVAL**

This matter came before the Court on the Plaintiffs' Motion for Preliminary Approval of Class Settlement as to DeKalb County School Defendants, Appointment of Class Counsel, Direction for Notice to the Settlement Class, and Request for Hearing for Final Approval ("Motion for Preliminary Approval").<sup>1</sup> The proposed class settlement is between the Plaintiff Class, on the one hand, and Defendants DeKalb County School District and Cheryl Watson-Harris, in her official capacity as DeKalb County

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<sup>1</sup> The Motion is not opposed by the DeKalb County School Defendants who are parties to the Settlement, DeKalb County School District and Cheryl Watson-Harris in her official capacity as DeKalb County School District Superintendent.

School District Superintendent, on the other. The proposed class settlement with the DeKalb School District and its Superintendent constitutes a settlement of Plaintiffs' claims against some, but not all, of the defendants in this action.

Pursuant to Rule 23 of the Federal Rules of Civil Procedure, Plaintiffs have applied for an order (a) granting preliminary approval of the settlement agreement; (b) granting conditional certification of a class and subclass for settlement purposes; (c) appointing class counsel; (d) authorizing and approving the form and manner of Notice of a Proposed Class Action Settlement to be sent to Class Members and their representatives, who wish to be heard in favor of or in objection to the Settlement Agreement; (e) setting the date for a hearing in accordance with Rule 23(e).

The Court has reviewed the Motion for Preliminary Approval, the brief in support of the motion and additional supporting materials filed therewith, the proposed settlement agreement, and the Proposed Notice to the Settlement Class. Having done so, the Court GRANTS the Motion, preliminarily approving the settlement, subject to the final approval process outlined below. The Court RULES, ORDERS, and DIRECTS as follows:

1. ***Proposed Settlement.*** The Settlement Agreement is a partial settlement; class claims against the remaining defendants<sup>2</sup> remain pending.

The Court preliminarily approves the Settlement as fair, just, reasonable and adequate as to the members of the Class and Subclass, subject to further consideration at the Fairness Hearing described below.

Pursuant to Federal Rules of Civil Procedure (a) and 23(b)(2), and for the purposes of Settlement only and contingent on the Settlement being finally approved, this action is hereby certified as a class action. The “Class” and “Subclass” are defined as:

The IDEA Class: All youth detained at the DeKalb County Jail with a disability, as defined by the IDEA.

The Discrimination Subclass: All members of the IDEA Class who are qualified individuals with a disability, as defined by the Americans with Disabilities Act, 42 U.S.C. § 12101, *et seq.*, or Section 504 of the Rehabilitation Act, 29 U.S.C. § 701 *et seq.*

For the purposes of Settlement, the Court finds that the requirements of a class action under Rules 23(a) and 23(b) of the Federal Rules of Civil Procedure have been satisfied for both the IDEA Class and Discrimination Subclass in that: (a) the number of Class and Subclass members is so

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<sup>2</sup> The remaining defendants who are not parties to the settlement agreement are the following: Georgia Department of Education, Richard Woods in his official capacity as State School Superintendent, and Melody Maddox in her official capacity as DeKalb County Sheriff.

numerous that joinder of all members thereof is impracticable; (b) there are questions of law and fact common to the Class and to the Subclass; (c) the claims of the Plaintiffs are typical of the claims of the Class and Subclass they seek to represent; (d) the Plaintiffs will fairly and adequately represent the interests of the Class and Subclass; and (e) final injunctive relief is appropriate respecting the Class and Subclass.

For purposes of the Settlement, Plaintiffs T.H. and J.B. are certified as the Class Representatives for the Class and Subclass. Further, the Court is satisfied that Plaintiffs' counsel are adequate and competent to serve as Class Counsel. Therefore, the Court appoints the following attorneys as Class Counsel:

**Christina Wilson Remlin**

Georgia Bar No. 615630

**Aaron Finch**

*admitted pro hac vice*

N.Y. Bar No. 5140033

**Jonathan King**

*admitted pro hac vice*

N.Y. Bar No. 5119847

**Danielle Beth Rosenthal**

*admitted pro hac vice*

D.C. Bar No. 1035562

CHILDREN'S RIGHTS, INC.

1700 Northside Drive

Suite A7 PMB1086

Atlanta, GA 30318

Phone: (646) 831-3543

Facsimile: (212) 683-4015

*cremlin@childrensrights.org*  
*afinch@childrensrights.org*  
*jking@childrensrights.org*  
*drosenthal@childrensrights.org*

**Randee Waldman**

Georgia Bar No. 100107  
BARTON JUVENILE DEFENDER CLINIC  
EMORY UNIVERSITY SCHOOL OF LAW  
1301 Clifton Road  
Atlanta, GA 30322  
Phone: (404) 727-6235  
Facsimile: (404) 727-7851  
*rwaldm2@emory.edu*

**David G.H. Brackett**

Georgia Bar No. 068353

**Amanda Kay Seals**

Georgia Bar No. 502720  
BONDURANT, MIXSON & ELMORE, LLP  
1201 W. Peachtree Street, Suite 3900  
Atlanta, Georgia 30309  
Phone: (404) 881-4100  
Facsimile: (404) 881-4111  
*brackett@bmelaw.com*  
*seals@bmelaw.com*

**Greg Hecht**  
Georgia Bar No. 003860  
**Michael W. Warner**  
Georgia Bar No. 751362  
HECHT WALKER, P.C.  
3340 Peachtree Road  
Suite 1530  
Atlanta, GA 30326  
Phone: (404) 348-4881  
Facsimile: (678) 884-1257  
*greg@hmhwlaw.com*  
*michael@hmhwlaw.com*

The Court believes that this proposed settlement is worthy of the class' consideration, that notice of this proposed settlement should be directed to class members as further directed in this Order, and that a hearing should be conducted to ascertain whether this settlement meets the standards required for final approval pursuant to Federal Rule of Civil Procedure 23(e).

2. ***Hearing.*** A hearing shall be held in the manner published on the Court's docket, either in Courtroom 2108, Richard B. Russell Federal Building and United States Courthouse, 75 Ted Turner Drive, SW, Atlanta, Georgia, or by videoconference, at **9:30 a.m. on Thursday, February 11, 2021**, to consider whether the proposed settlement is fair, reasonable and adequate and should receive the Court's final approval pursuant to Federal Rule of Civil Procedure 23(e), to consider the request of Class Counsel for an award of attorneys fees, costs and expenses in connection with the

Settlement, and to rule on such other matters as the Court may deem appropriate:

- (a) Objections by class members to the proposed settlement will be considered, along with statements in support of the proposed settlement, if filed in writing with the Clerk of the United States District Court for the Northern District of Georgia, Atlanta Division, on or before **Monday, February 1, 2021**.
- (b) At the hearing, class members may be heard orally in support of or in opposition to the proposed settlement, provided such persons file with the Clerk on or before **Monday, February 1, 2021** a written notification of their desire to appear personally, indicating (if in opposition to the settlement) briefly the nature of the objection.
- (c) Counsel for the Class and counsel for the DeKalb County School District and Superintendent Watson-Harris should be prepared at the hearing to respond to objections filed by class members and to provide other information, as appropriate, bearing on whether or not the settlement should be approved.

3. **Notice.** The Notice of Proposed Settlement attached to the Brief in Support of Plaintiffs' Motion for Preliminary Approval is approved and (after the dates of the hearing and related deadlines are filled in) shall be used to notify the class. On or before **Thursday, December 17, 2020**, the DeKalb County School District shall, at its sole expense, take the steps enumerated below to notify class members of the proposed settlement.

The Court finds that this notice plan protects the interest of the parties, is reasonably calculated to apprise the Class and Subclass of the proposed settlement agreement and provides for the best notice practicable under the circumstances. In addition, the Court finds that the notice plan set forth herein is reasonable and constitutes due, adequate and sufficient notice to all persons entitled to receive notice of the proposed settlement and meets all applicable requirements of law, including, but not limited to, Federal Rule of Civil Procedure 23 and the Due Process Clause of the Fourteenth Amendment of the United States Constitution.

- (a) DeKalb County School District shall prepare and provide to the DeKalb County Sheriff, copies of the Notice of Proposed Settlement attached hereto ("Notice to Class Members") to be distributed to all detainees in the DeKalb County Jail aged 21 or younger, and request that it be prominently and



immediately posted in the location(s) in which it is most likely to be seen by members of the settlement class and their legal representatives in each Unit of the Jail, and that the notice remain posted until the date of the Hearing set in Section 2, above;

- (b) DeKalb County School District shall send via email (or U.S. Mail if only a mailing address is available) copies of the Notice to Class Members to the judges and clerks of the DeKalb County Superior Court and DeKalb County State Court and ask the clerks to post the Notice where it may be viewed by the public;
- (c) DeKalb County School District shall send via email (or U.S. Mail if only a mailing address is available) copies of the Notice to Class Members to all attorneys or non-attorney advocates that represent students in school discipline or Section 504 proceedings in the DeKalb County School District between the date of this Order and the Hearing set in Section 2, above;
- (d) DeKalb County School District shall send via email (or U.S. Mail if only a mailing address is available) copies of

the Notice to Class Members to the Law Office of the Public Defender, DeKalb County, the Metro Conflict Defender Office, and to the Georgia Public Defender Council (“GPDC”) requesting that the GPDC forward the Notice to attorneys appointed as conflict counsel to represent indigent defendants in DeKalb County;

- (e) DeKalb County School District shall send via email (or U.S. Mail if only a mailing address is available) copies of the Notice to Class Members to the last known address of all students who, according to the records of the School District have withdrawn from school since July 18, 2017 because of incarceration;
- (f) DeKalb County School District shall post this Order and the Notice to Class Members on the DeKalb County School District website and shall maintain that posting until the date of the Hearing set in Section 2, above;
- (g) DeKalb County School District shall send a copy of this Order, the Notice to Class Members, and the Settlement Agreement to any person who requests such information by

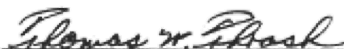
email or first class mail within five (5) business days of receiving the request;

- (h) DeKalb County School District will file with the Clerk on or before the date of the Hearing set in Section 2, above, an affidavit certifying compliance with the notice requirements of this Order.

***4. Retained Jurisdiction.***

The Court retains jurisdiction over this action to consider all further matters arising out of or connected with the Settlement Agreement.

So **ORDERED** this 10 day of November, 2020

  
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Thomas W. Thrash, Jr.,  
Chief Judge,  
USDC Northern District of Georgia

FORM OF ORDER PROPOSED BY ATTORNEYS FOR PLAINTIFFS:

Christina Wilson Remlin  
Georgia Bar No. 615630  
CHILDREN'S RIGHTS, INC.  
1700 Northside Drive  
Suite A7 PMB1086  
Atlanta, GA 30318  
Phone: (646) 831-3543  
Facsimile: (212) 683-4015  
*cremlin@childrensrights.org*

Randee Waldman  
Georgia Bar No. 100107  
BARTON JUVENILE DEFENDER  
CLINIC  
EMORY UNIVERSITY SCHOOL OF  
LAW  
1301 Clifton Road  
Atlanta, GA 30322  
Phone: (404) 727-6235  
Facsimile: (404) 727-7851  
*rwaldm2@emory.edu*

David G.H. Brackett  
Georgia Bar No. 068353  
Amanda Kay Seals  
Georgia Bar No. 502720  
BONDURANT, MIXSON &  
ELMORE, LLP  
1201 W. Peachtree Street, Suite  
3900  
Atlanta, Georgia 30309  
Phone: (404) 881-4100  
Facsimile: (404) 881-4111  
*brackett@bmelaw.com*  
*seals@bmelaw.com*

Greg Hecht  
Georgia Bar No. 003860  
Michael W. Warner  
Georgia Bar No. 751362  
HECHT WALKER, P.C.  
3340 Peachtree Road  
Suite 1530  
Atlanta, GA 30326  
Phone: (404) 348-4881  
Facsimile: (678) 884-1257  
*greg@hnhwlaw.com*  
*michael@hnhwlaw.com*