

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF
ILLINOIS EASTERN DIVISION**

B.H., et al.,)	
)	
Plaintiffs,)	
)	No. 88 C 5599
vs.)	
)	Judge John F. Grady
CYNTHIA TATE, Acting Director)	
of the Illinois Department of Children)	
and Family Services,)	
)	
Defendant.)	
)	

**PLAINTIFFS’ EMERGENCY MOTION
TO ENFORCE CONSENT DECREE**

Plaintiffs, a certified class of children in the custody of the Defendant Illinois Department of Children and Family Services (“DCFS” or “the Department”), move for entry of an Order requiring that DCFS comply with the Consent Decree entered in this action (the “Decree”). *See* Dkt. 383 (Restated Consent Decree), document available at Dkt. 456, Ex. A.

As set forth more fully below, DCFS is in gross violation of numerous, critically important provisions of the Decree. While the Decree requires that DCFS maintain a system of placements, services and resources that are sufficient to meet Plaintiffs’ needs, both in substance and timeliness, severe shortages of necessary services and placements for children have risen to crisis proportions. Thousands of Plaintiffs are suffering serious and irreversible harm as a result. DCFS is placing children, many of whom were made state wards because of abuse and neglect in their own homes, in dangerously inadequate residential treatment facilities where they once again are subjected to abuse and neglect. Children are being warehoused in temporary shelters, psychiatric hospitals and correctional facilities for extended periods of time, long after those

responsible for their care acknowledge that the children need to be moved to appropriate settings. And hundreds of children are languishing, waiting months and even years to receive the essential mental health services and specialized placements that DCFS itself has determined they need.

This is not the first time DCFS – whether by design or as a consequence of devastating budget cuts – has committed violations of the Decree so severe that entry of a Supplemental Order¹ or Court-approved compliance plan² has been needed. In the past, the parties in most cases were able to negotiate the terms of a supplemental compliance plan, and to present that plan jointly to the Court. Unfortunately, that is not the case now. Since October of 2014, Plaintiffs have been attempting to negotiate the terms of a mutually agreeable, curative plan to address the service and placement resource crisis in which DCFS currently is embroiled. But on Friday, February 6, 2015, DCFS informed Plaintiffs that it could not commit at this time to the proposed plan the parties have been crafting for the last four months. Plaintiffs now seek relief from this Court, and in support hereof state as follows:

The BH Class and Entry of the Decree

1. Plaintiffs' class consists of all children in the custody of DCFS who have been placed somewhere other than the home of their parents. Plaintiffs sued DCFS under 42 U.S.C. §1983 for violating their rights under the Fourteenth Amendment to the United States

¹ See, e.g., Dkt. 461. Plaintiffs unilaterally sought and successfully obtained this Court's intervention in June, 2009, when devastating cuts to the Department's budget would have left DCFS with insufficient resources even to feed and clothe the children in the State's care, much less provide essential health, mental health, and other services to which those children are entitled under both the U.S. Constitution and the terms of the BH Decree. See Dkt. 456. Following an evidentiary hearing on that motion, the Court entered a Supplemental Order prohibiting the reductions in services and the increase in caseloads that would have resulted from the budget cuts. See Dkt. 461.

² See, e.g., Dkt. 468. This agreed compliance plan, which was approved by the Court, addressed Plaintiffs' assertion that the Department was violating Decree provisions limiting caseloads to levels consistent with accepted social work practice. See Dkt. 465.

Constitution and the Adoption Assistance and Child Welfare Act of 1980, 42 U.S.C. §§ 620-28, 670-79(a). Plaintiffs alleged, among other things, that they repeatedly were subjected to serious damage to their psychological and physical well-being because DCFS failed to provide them with safe and stable placements, an adequate education, or appropriate mental health and other medical care, and also needlessly institutionalized them in facilities where they were subjected to further neglect and abuse. *See* Decree at pp. 2-3.

2. In an earlier, frequently-cited decision in this action, this Court made clear the State's obligation to Plaintiffs. *B.H. v. Johnson*, 715 F. Supp. 1387, 1395 (N.D. Ill. 1989). When the state removes a child from her parents' custody in the name of protecting her, and assumes control of her life, the state has an obligation to make sure the child is safe and has food, clothing, shelter, medical services, and reasonable care. *Id.* at 1395-96 (1989); *see also DeShaney v. Winnebago County Dept. of Social Servs.*, 489 U.S. 189, 198 (1989) ("in certain limited circumstances the Constitution imposes upon the State affirmative duties of care and protection with respect to particular individuals") (relying on *Youngberg v. Romeo*, 457 U.S. 307 (1982)).

3. After extensive discovery, numerous pretrial proceedings, a detailed report from a Court-appointed panel of experts, and a hearing pursuant to Fed. R. Civ. P. 23(e), this Court approved the original Consent Decree entered in this case. *See* Dkt. 211. Several modifications to the Decree later were approved by the Court, and the parties thereafter filed a restated version of the Decree reflecting those modifications. *See* Restated Decree, Dkt. 383; document available at Dkt. 456, Ex. A.

4. The Decree requires DCFS to address the systemic deficiencies that the Court-appointed expert panel identified in DCFS' performance of its basic mission. It addresses

essential components of a basic program of child care, such as the need for safe and stable foster homes and facilities with adequate staffing and oversight, and reasonable efforts to find permanent homes for children. *Id.* at ¶¶ 4-5.

5. The Decree also requires that DCFS protect the Plaintiff children from foreseeable and unreasonable physical and psychological harm and provide them with at least minimally adequate food, shelter, clothing and health services, including mental health care adequate to address their serious psychological needs. *See id.* at ¶¶ 4-5. To bring DCFS to that basic level of performance, DCFS is obligated under the Decree to:

- a. Limit the duration of a child's stay in a shelter to no more than 30 days (*id.* at ¶ 35);
- b. promptly identify class members' medical, mental health and developmental needs and provide timely access to adequate services to meet those needs (*id.* at ¶¶ 5, 7, 13);
- c. maintain children in the least restrictive, most homelike appropriate setting pending reunification, adoption or provision of another permanent home (*id.* at ¶¶ 34, 35);
- d. ensure that all services specified in the case plan for each child be provided within the time necessary to accomplish their purpose (*id.* at ¶¶ 5, 17); and
- e. develop sufficient foster homes, therapeutic or "specialized" foster homes, residential treatment centers, and independent living programs to meet the placement needs of the children in care (*id.* at ¶¶ 5, 37).
- f. ensure that children requiring psychiatric hospitalization are not hospitalized beyond medical necessity (*see id.* at ¶ 34);
- g. adequately and appropriately monitor service providers, including residential facilities and psychiatric hospitals where wards are placed (*see id.* at ¶ 59; *see also* the Order entered herein on June 30, 2009, at para. 3 (Dkt. 461); and
- h. develop and maintain data systems sufficient to permit the Department to evaluate its performance on behalf of the children in care (*see* Decree at ¶ 40).

6. As reported by the Children and Family Research Center at the University of Illinois, the Plaintiff Class currently consists of approximately 15,000 children in substitute care (relative care, traditional or specialized foster care, or institutions / group homes).³

The Department Has Been Aware of Dangerous Service and Placement Shortages Since August 2014

7. Over the first half of 2014, Plaintiffs' counsel received increasingly alarming reports from experts, providers, caregivers and clients that the placement and service resources DCFS has relied on to serve the thousands of Plaintiffs in its care with mental health needs were dangerously inadequate. The reports indicated, among other things, that many children identified as needing specialized placements and services languished on waiting lists for months, often living in temporary shelters, psychiatric hospitals and other inappropriate settings while their mental health deteriorated. They further signaled the need for urgent relief for these children.

8. On August 1, 2014, pursuant to ¶ 68 of the Decree, Plaintiffs advised the Department of their concern regarding its violations of the Decree. Plaintiffs asked DCFS to provide current data regarding children on waiting lists for various services and placements, children left in locked psychiatric hospitals after physicians had determined they were ready for discharge, and children trapped for extended periods of time in shelters, correctional facilities, or other inappropriate settings solely because the Department had nowhere else to put them.⁴ In addition, Plaintiffs asked DCFS to provide data regarding the placement resources available to the Department, its assessment of its current need for service and resource development, and its plans to meet those needs.

³ The Children and Family Research Center at the University of Illinois prepares an annual report providing a broad overview of DCFS' performance under the Decree. The Research Center's reports can be found at <http://www.cfrc.illinois.edu/outcomesmonitoring.php>.

⁴ See 8/1/14 Correspondence from H. Dalenberg, attached as Exhibit 1.

9. The Department never provided its assessment of its service or placement development needs or its plan for achieving its development goals. And it provided only a partial response to the remainder of Plaintiffs' request. DCFS acknowledged that much of the data Plaintiffs had requested – information essential to the Department's ability to provide services, evaluate the sufficiency of its placement and service resources, and monitor the safety of children in care – could not be compiled. The Department explained that its data systems were inadequate to generate timely or complete reports of those data.

10. Even the incomplete data (the "August Data") DCFS finally provided in September and October, 2014, however, conclusively confirmed the exigent state of affairs for Plaintiffs identified as having mental health needs requiring the Department's provision of specialized services or placements. Specifically, the Department's August Data showed that:

- a. Hundreds of children were waiting for residential placements sufficient to satisfy their needs for mental health services and supervision. Many had been waiting for several months, and the longest wait time according to DCFS' report was 597 days.
- b. Similarly, there were nearly 150 children wait-listed for a specialized foster care placement. Nearly half of those children had been waiting for more than three months, and several had been wait-listed for ten months or longer.
- c. Children routinely were left in shelters for excessive periods of time. Some children languished in shelters for hundreds of days.⁵

**Plaintiffs Placed DCFS On Notice of its Non-Compliance and
the Consequent Irreparable Harm to Plaintiffs**

11. The August Data produced by DCFS demonstrate a deep, chronic, state-wide shortage of essential resources, and establish that the Department is in violation of each Decree

⁵ Plaintiffs have not appended copies of the August Data here because the materials disclose the names and other private information regarding children in DCFS' care. The materials will be provided promptly to the Court for *in camera* review, however, upon the Court's request.

provision cited at ¶ 5 above. And those violations cannot be characterized as merely technical – it is *harmful and dangerous* to leave a child in a shelter when that child needs the enhanced services and supervision offered by a specialized foster home, or the highly structured environment and care offered at a well-functioning residential treatment facility. The predictable outcomes that result from these failures vary, but all are harmful. Many of the children run away. Others act out with physical aggression and may cause physical harm to themselves or those around them. Still others suffer quieter but equally devastating harm in the form of further deterioration of their mental health and well-being.

12. Based on the August Data, and additional information DCFS provided in October and November, Plaintiffs formally initiated the process specified in the Decree for negotiating a supplemental compliance plan addressing DCFS' non-compliance.⁶ Plaintiffs advised DCFS on November 14, 2014 that the August Data confirmed acute shortages of adequate services and placements for Plaintiffs, resulting in hundreds of children in the State's care being left to languish in psychiatric hospitals, shelters, detention centers and residential treatment centers long after DCFS knew the children needed to be placed elsewhere. *See Ex. 2.* Plaintiffs further advised DCFS that this situation represented a clear violation of the Decree. *Id.* (citing ¶¶ 5, 17, 34(c), 35(b), 37). Plaintiffs asked DCFS to take a number of steps to address these problems, including:

- (i) retaining experts to recommend appropriate reforms;
- (ii) taking immediate action to address the needs of the children who were waiting for appropriate specialized foster care or residential placements and related services; and
- (iii) resuming use of independent clinicians to monitor the adequacy of services and conditions at residential treatment facilities housing State wards. *Id.* at pp. 2-3.

⁶ *See* Decree, ¶ 68(d); H. Dalenberg Letter to B. Greenspan dated 11/14/14, attached here as Ex. 2.

**The Dangerous Conditions at Residential Treatment Facilities
Housing DCFS Wards is Publicly Exposed**

13. In the midst of the parties' discussion of the forgoing non-compliance issues, the *Chicago Tribune* ran a series of investigative reports exposing the dangerous conditions at several residential facilities housing DCFS wards. The "Harsh Treatment" series of articles, the first of which was published on December 3, 2014, reported that conditions in several residential treatment facilities housing some of the most vulnerable members of the Plaintiff class were so dangerous that "children are assaulted, sexually abused and running away by the thousands – yet state officials fail to act on reports of harm and continue sending waves of youths to the most troubled and violent facilities...." See Exhibit 3 at 1.⁷

14. The *Tribune* series documented in detail many of the serious problems Plaintiffs previously had raised with DCFS as Decree violations. It threw into sharp relief the inadequacy of DCFS' service and placement resources. It also highlighted DCFS' patently insufficient internal program for monitoring the safety and adequacy of residential care providers or addressing dangerous conditions at those facilities. External monitoring had worked.⁸ Monitoring by DCFS does not.

15. For example, prior to the *Tribune* series, DCFS monitors had visited and reported on conditions at the Rock River residential facility. The DCFS monitoring report for October, 2014, described some of the deplorable conditions that later surfaced in the *Tribune* series,

⁷ Copies of the "Harsh Treatment" *Tribune* articles are attached hereto as Ex. 3 in the order in which they were published.

⁸ For years, DCFS retained the services of expert clinicians from the Dept. of Psychiatry at the University of Illinois at Chicago to perform this facility monitoring function. In recent years, however, DCFS used those experts' services less and less frequently, and finally stopped using UIC altogether for that function. During the years when effective external monitoring was in place, struggling facilities were identified far sooner, aggressive corrective action was required, and expert assistance was provided to facilities in order to address their failures.

including that one child had to be removed from the facility after she had been attacked eight times, there had been 62 “unusual incident” reports at the facility involving instances of physical aggression, and a staff member had sexually assaulted a ward (an incident observed by another ward).⁹ DCFS’ idea of appropriate oversight was to require further bean-counting and paperwork from the facility. Meanwhile, DCFS continued to send children to Rock River while the dangerous conditions persisted. In December, 2014, DCFS monitors documented that there had been 145 incidents of aggression at Rock River in the months of October and November, 2014. Only after widespread public disclosure of the appalling, unsafe conditions at Rock River did DCFS conclude that children should no longer be placed at Rock River.

16. Sadly, DCFS’ failure effectively to monitor Rock River was not an isolated incident. DCFS’ documentation supports the same inadequate monitoring of other troubled residential treatment facilities and group homes, including the Lawrence Hall, Indian Oaks, Sadie Waterford, ERIC, and Cunningham facilities. For each, DCFS’ own reports document substandard conditions, yet DCFS took no effective steps to remedy these problems and continued to place wards in each until after the *Tribune* series ran.

DCFS’ Decree Non-Compliance is On-Going

17. In spite of repeated requests, DCFS has given Plaintiffs no evidence that it has appropriately addressed or even made material progress toward addressing the profound and systemic failures described above.

18. For example, “updated” data DCFS recently provided regarding the placement status of children identified in the August Data demonstrate the same data retrieval, data integrity

⁹ Copies of DCFS’ October, 2014 and December, 2014 Monitoring Reports for Rock River will be provided for this Court’s *in camera* review upon the Court’s request.

(or lack thereof), and reporting limitations as the August Data.¹⁰ Equally troubling is DCFS' failure to provide Plaintiffs with data regarding children that have been *added* to placement and service wait-lists since August, 2014. Plaintiffs have requested that information again and again, but DCFS either cannot or chooses not to provide it.

19. Similarly, and again despite repeated requests, DCFS has not provided Plaintiffs with data it requested in August, 2014 identifying the wards who have remained in psychiatric hospitals beyond medical necessity and documenting the length of those excessive stays. Initial reports from the Department indicate, however, that more than 150 children suffer such excessive hospital stays each year, and that stays beyond medical necessity routinely exceed 20 days or more.

The Attempt to Negotiate a Reform Plan

20. Plaintiffs have fulfilled their obligation under the Decree to engage in good faith efforts to negotiate a reform plan to address DCFS' non-compliance. Plaintiffs have been meeting with DCFS representatives since October, 2014. On November 17, 2014, Plaintiffs formally initiated the process specified in the Decree for negotiating a supplemental compliance plan. *See* ¶ 12, *supra*. From that date onward, the parties have held numerous meetings to develop and ultimately draft a plan for DCFS' reform.

21. After Plaintiffs initiated the compliance plan negotiation process, DCFS retained experts familiar with the Illinois child welfare and mental health systems. Those experts, Dr. Alan Morris¹¹ and Deann Muehlbauer,¹² are affiliated with the University of Illinois at Chicago

¹⁰ As with the August Data, these updated reports have not been appended to this Motion because they disclose the names and other private information of Plaintiff class members. The materials will be made available immediately for the Court's *in camera* review, however, should the Court wish to review them.

¹¹ *See* CV of Dr. Alan Morris, attached hereto as Ex. 4.

Department of Psychiatry (the “UIC Experts”). The UIC Experts were asked to evaluate Plaintiffs’ allegations about deficiencies in the Department’s mental health services and placements and make reform recommendations.

22. The UIC Experts delivered a report of their initial findings, along with a summary of supporting data, in mid-December, 2014.¹³ The UIC Experts concluded that there were glaring deficits of appropriate placements and services for the plaintiff children, exacerbated by system gridlock preventing youth from getting what they needed. They pointed to several dramatic illustrations of the deficiencies in the DCFS system, including the fact that 20% of the youth in residential treatment run away from their placements, and many more have other negative outcomes. *Id.* at 5.

23. DCFS to date has not challenged the accuracy of the UIC Experts’ assessment of the Department’s critical placement and service resource shortages. Indeed, before her term concluded, then-Acting Director Bobbi Gregg publicly conceded that the Department’s lack of resources has reached crisis proportions during a January 7, 2015 hearing before a joint House/Senate Committee of the Illinois legislature that was prompted by the *Tribune* “Harsh Treatment” articles. In that hearing, Ms. Gregg acknowledged that the “concerns raised by the *Tribune* series...are both appalling and unacceptable.”¹⁴ She conceded that “the current state of child welfare in Illinois is worse than described in the articles because it is not just residential

¹² See CV of Deann Muehlbauer, attached hereto as Ex. 5.

¹³ DCFS has objected to Plaintiffs’ attachment of the UIC Experts’ reports to this Motion. As a matter of courtesy, Plaintiffs have agreed not to place that documentation into the public record at this time, but will provide courtesy copies of the materials if the Court wishes to review them. The documents are entitled “BH Compliance Project Part I: Data and Metrics,” and “BH Compliance Project Part 2: Recommendations.”

¹⁴ Testimony of Acting Director Bobbi Gregg for the Joint Senate & House Committees Hearing conducted on January 7, 2015, attached hereto as Ex. 6, at p. 1.

treatment centers that are a problem; it is the entire array of placement types and treatment alternatives.” *Id.* Then, embracing the key findings of the UIC Experts, Ms. Gregg further observed that “Illinois simply does not have an adequate supply of foster homes equipped to handle older youth and youth with significant mental health issues. Nor does it have the community mental health services required to provide the treatment and support that these children and families need in their local communities.” *Id.* at 2.¹⁵

24. For their recommendations, the UIC Experts urged DCFS to undertake numerous reforms, starting with the basic work of DCFS defining and implementing a comprehensive system of care that would emphasize maintaining children in the most home-like setting possible, and providing appropriate services to the child and his or her caregiver to maintain the safety and the stability of the placement. Other recommended reforms addressed interim actions in several areas to prioritize DCFS’ reform activities and to address the needs of children who were wait-listed for needed placements and resources.

25. Plaintiffs supported each recommendation offered by the UIC Experts. DCFS has not committed to follow those recommendations.

26. Throughout January and into early February of this year, Plaintiffs repeatedly have met with various representatives of the Department in continued efforts to finalize a supplemental compliance plan for DCFS’ reforms. A draft plan was developed through that process, but each of the meetings ended with the Department stating that the Acting Director was

¹⁵ Ms. Gregg informed the legislators that she was working with Plaintiffs’ counsel to develop a plan to address Plaintiffs’ contention that DCFS was committing serious Consent Decree violations. *Id.* at 3.

not “authorized” to sign the draft plan even if the parties came to agreement as to its terms.¹⁶

That situation arose during Acting Director Gregg’s term and persisted after the recent change of administration in the Office of the Governor. Since Governor Rauner took office, DCFS has continued to represent that DCFS is not “authorized” to agree to the proposed plan.

27. Given the parties’ apparent impasse, Plaintiffs recently set a deadline of February 6, 2015 for the Department to state whether it would be in a position to accept or reject the plan under negotiation by February 13, 2015. Plaintiffs were informed on February 6 that DCFS would not be in a position either to accept or reject that draft plan by that date. The parties are in stalemate.

This Court’s Power and Authority

28. DCFS’ own data, the UIC Experts’ report and findings, and the testimony of then-Acting Director Gregg conclusively establish that DCFS is substantially out of compliance with numerous Decree provisions. Nevertheless, DCFS has not committed to any plan for reform. It will not adopt the plan the parties have been negotiating, but offers no alternative plan of its own. Meanwhile, DCFS’ ongoing Decree violations are causing and will continue to cause serious and irreparable harm to members of the Plaintiff Class. *See* ¶¶ 10-20, *supra*. This Court’s enforcement of the Decree accordingly is proper and necessary.

29. The B.H. Consent Decree is an enforceable Order of this Court. *See Frew v. Hawkins*, 540 U.S. 431, 437-38 (2004); *U.S. v. Alshabkhoun*, 277 F.3d 930, 934 (7th Cir. 2002) (“A consent decree is a court order that embodies the terms agreed upon by the parties as a compromise to litigation.”).

¹⁶ News reports on February 13, 2015 indicate that Governor Rauner intends to appoint George Sheldon as the Director of DCFS. Assuming the accuracy of those reports, Mr. Sheldon will be the 6th Director or Acting Director for DCFS in the past 15 months.

30. As a unanimous United States Supreme Court unequivocally has stated, “Federal courts are not reduced to approving consent decrees and hoping for compliance. Once entered, a consent decree may be enforced.” *Frew*, 540 U.S. at 440; *see also Jones-El v. Berge*, 374 F.3d 541, 545 (7th Cir. 2004). While contempt citations and penalties are one remedy for violation of a Consent Decree, Plaintiffs are not requesting that relief in this Motion. Of the two forms of equitable orders available to enforce a consent decree – contempt judgment and a supplementary order – a supplementary order is “preferred as less condemnatory than a judgment of contempt.” *Cook v. City of Chicago*, 192 F.3d 693, 695 (7th Cir. 1999).

31. Here, upon a finding that DCFS is in substantial violation of the Decree, Plaintiffs propose that the Court appoint a panel of experts, with all costs to be charged to Defendant, to advise the Court and the parties regarding the long-term reforms DCFS should undertake, the manner in which those reforms should be accomplished, and the timeline for DCFS to accomplish those reforms. *See* F.R.E. 706; *see also* Decree, ¶ 66 (indicating that when the parties disagree about a remedial plan, the Court may appoint “an outside expert to advise the Court and the parties” and that the expenses of the expert “shall be paid by defendant”). In addition, Plaintiffs will request that the Court set a 30-day deadline for the parties to negotiate a proposed plan to be approved by the Court (or competing proposals, if agreement cannot be reached) addressing interim, immediate reform activity the Department will be obligated to undertake pending development of its long-term compliance plan.

32. Several courts in this district, including this Court at an earlier stage in this case, have appointed experts pursuant to Rule 706 of the Federal Rules of Evidence to advise the Court about complex issues involving child welfare services, mental health and similar issues. *See, e.g.*, Dkt. 127 (Order entered 10/29/90 appointing twelve experts to advise the Court in various areas

of child welfare); *see also* *A.N. v. Handy*, No. 88-C-9486, 1995 WL 571828 at *1 (N.D. Ill. Sept. 22, 1995) (referencing court's appointment of an expert to report on conditions at a facility housing children with mental health needs); *R.J. v. Jones*, No. 12-cv-7298 (N.D. Ill.) (Dkt. 34, January 3, 2013 Order appointing experts).

33. The court appointment of experts also has been cited with approval frequently by the U.S. Court of Appeals for the Seventh Circuit where specialized matters are in dispute. *See, e.g., ATA Airlines, Inc. v. Federal Express Corp.*, 665 F.3d 882, 889 (7th Cir. 2012) (suggesting that a court-appointed expert would have assisted the trial judge in assessing the reliability of parties' warring expert reports on damages); *In re High Fructose Corn Syrup Antitrust Litig.*, 295 F.3d 651, 665 (7th Cir. 2002) (recommending that district court appoint a Rule 706 expert to assist the court and the jury in understanding statistical proofs).

Wherefore, Plaintiffs request that this Court require Defendants to respond in seven days to this Motion, and then set this matter for a prompt evidentiary hearing. Thereafter, Plaintiffs will request entry of a Supplemental Order (i) finding the Defendant has violated the Decree; (ii) directing DCFS to comply with the Decree; (iii) directing the parties to nominate experts for appointment under Paragraph 66 of the Decree and Rule 706 of the Federal Rules of Evidence to report to the Court about the issues described here and to recommend solutions; (iv) set a 30-day deadline for the parties to negotiate a proposed plan to be approved by the Court (or competing proposals, if agreement cannot be reached) addressing interim, immediate reform activity the Department will be obligated to undertake pending development of its long-term compliance plan; and (v) imposing such other relief as the Court deems appropriate.

Dated: February 13, 2015

Respectfully submitted:

By: /s/ Heidi Dalenberg_____

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CERTIFICATE OF SERVICE

I hereby certify that on February 13, 2015, a copy of **PLAINTIFFS' EMERGENCY MOTION TO ENFORCE CONSENT DECREE** was served on all counsel of record via the Court's CM/ECF electronic filing system.

By: /s/ Heidi Dalenberg_____