

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF NEW YORK

C.K. through his next friend P.K.; **C.W.** through her next friend P.W.; **C.X.** through her next friend P.X.; **C.Y.** through his next friend P.Y., for themselves and those similarly situated,

Plaintiffs,

Case No.: 2:22-cv-01791 (NJC)(JMW)

-against-

James V. McDonald, in his official capacity as Commissioner of the New York State Department of Health; **Ann Marie T. Sullivan**, in her official capacity as Commissioner of the New York State Office of Mental Health,

Defendants.

**SUPPLEMENTAL JOINT STIPULATION OF SETTLEMENT, GENERAL RELEASE,
AND ORDER OF DISMISSAL REGARDING ATTORNEYS' FEES AND COSTS**

WHEREAS this Supplemental Stipulation is made by and between C.K. through his next friend P.K.; C.W. through her next friend P.W.; C.X. through her next friend P.X.; C.Y. through his next friend P.Y., for themselves and those similarly situated ("Named Plaintiffs"), individually and on behalf of all persons similarly situated (together with Named Plaintiffs, "Plaintiffs"), and Defendants James V. McDonald, in his official capacity as Commissioner of the New York State Department of Health, and Ann Marie T. Sullivan, in her official capacity as Commissioner of the New York State Office of Mental Health;

WHEREAS, the claims and allegations asserted in the above-captioned action, together with all related filings and proceedings, constitute “the Action”;

WHEREAS, on August 8, 2025, the Parties filed a Motion for Preliminary Approval of Class Action Settlement Agreement and for Other Relief, ECF No. 77, along with a Settlement Agreement dated August 8, 2025, ECF No.77-2;

WHEREAS, the Settlement Agreement provides for “reasonable attorneys’ fees and costs awarded by the Court on application by Plaintiffs,” ECF No.77-2 ¶ 124;

WHEREAS, on August 19, 2025, the Court preliminarily approved the proposed Settlement Agreement and directed Plaintiffs to file their application for an award of attorneys’ fees and costs on or before November 10, 2025, ECF No. 79; and

WHEREAS, the Parties have now negotiated a resolution to Plaintiffs’ claim for attorneys’ fees and costs pursuant to Paragraph 124 of the Settlement Agreement.

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the Parties, in consideration of the mutual promises, covenants, representations, and other consideration contained in the Settlement Agreement, and subject to the approval of the United States District Court for the Eastern District of New York pursuant to Federal Rule of Civil Procedure 23(h), as follows:

1. **Payment to Plaintiffs’ Attorneys.** For and in consideration of Plaintiffs’ execution of this Supplemental Stipulation, their agreement to be bound by its terms, and their undertakings as set forth in the Settlement Agreement, including the dismissal of the Action with prejudice, the Court’s retention of jurisdiction over the judgment and order to monitor compliance with and enforce the Settlement Agreement, and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and subject to any other taxes,

liens or setoffs as set forth in Paragraphs 4 and 5 herein, Defendants shall pay the total sum of five million three hundred thousand dollars and zero cents (\$5,300,000.00), for which the Office of the New York State Comptroller shall issue any and all appropriate Internal Revenue tax forms, to Children's Rights, the National Health Law Program, Disability Rights New York, and Proskauer Rose LLP ("Class Counsel"), as follows:

a. Defendants shall pay the gross sum of five million three hundred thousand dollars and zero cents (\$5,300,000.00) in full and complete satisfaction of any and all claims, allegations, or causes of action for attorneys' fees, costs, disbursements, and expenses incurred by Plaintiffs or Class Counsel for any and all counsel who have at any time represented or assisted Plaintiffs in the Action, or in connection with any other proceeding, administrative, judicial, or otherwise, and any other claim or action arising from, related to, based upon, or alleging any of the acts, transactions, occurrences, or omissions asserted or purportedly asserted in the Action.

b. The foregoing payment shall be made pursuant to information to be provided to Defendants and payable to:

<u>Organization</u>	<u>Amount</u>
Children's Rights	\$5,300,000.00

2. **State Approval of Payments.** Payment of the amount specified in Paragraph 1 of this Supplemental Stipulation is conditioned upon and subject to the approval of all appropriate state officials in accordance with N.Y. Public Officers Law § 17, and approval will not be unreasonably withheld. Class Counsel agree to execute and deliver all necessary and appropriate vouchers and other documentation requested with respect to obtaining such approval and effectuating payment.

3. **Accrual of Interest.** In the event that payment of the amount specified in Paragraph 1 of this Supplemental Stipulation has not been made by the ninetieth (90th) day after receipt by the Office of the New York State Attorney General (“OAG”) of “So Ordered” copies of the Settlement Agreement and this Supplemental Stipulation, entered into the record by the Clerk of Court, together with all other documentation required under Paragraph 2 of this Supplemental Stipulation, interest on any part of the settlement amount not paid by the ninetieth (90th) day shall accrue at the statutory rate prescribed by 28 U.S.C. § 1961, commencing on the ninety-first (91st) day after receipt by the OAG of all documentation required under Paragraph 2 of this Supplemental Stipulation.

4. **Responsibility for Taxes.** It is understood and agreed that any taxes, or interest or penalties on taxes, which may attach to the payment specified in Paragraphs 1 and 3 of this Supplemental Stipulation, by operation of law or otherwise, shall be the sole and complete responsibility of Plaintiffs and respective Class Counsel upon their respective actual receipt of such payments, and that, upon their respective actual receipt of such payments, Plaintiffs and Class Counsel shall have no claim, right, or cause of action against Defendants or the State of New York (including, but not limited to, any and all present and former agencies, departments, divisions, subdivisions, subsidiaries, administrators, principals, officers, employees, directors, members, agents, attorneys, insurers, and assigns, whether in an individual or official capacity) on account of such taxes, interest or penalties.

5. **Responsibility for Liens and Setoffs.** It is understood and agreed that any liens, setoffs, deductions, or recoupments of any kind (including, but not limited to, any and all workers’ compensation, tax, Medicare, Medicaid, unemployment compensation or benefits, or child support liens) that may attach to the payment specified in Paragraph 1 of this Supplemental

Stipulation, by operation of law or otherwise, shall be the sole and complete responsibility of Plaintiffs and respective Class Counsel upon their respective actual receipt of such payments, and that, upon their respective actual receipt of such payments, Plaintiffs and Class Counsel shall have no claim, right, or cause of action against Defendants or the State of New York (including, but not limited to, any and all present and former agencies, departments, divisions, subdivisions, subsidiaries, administrators, principals, officers, employees, directors, members, agents, attorneys, insurers, and assigns, whether in an individual or official capacity) on account of such taxes, interest, or penalties.

6. **Release for Attorney's Fees, Costs, Disbursements, and Expenses.** For and in consideration of the obligations specified in the Settlement Agreement and this Supplemental Stipulation and other good and valuable consideration, the sufficiency of which is hereby acknowledged, and except for the rights and obligations set forth in this Supplemental Stipulation, Plaintiffs, on behalf of themselves, their heirs, executors, administrators, successors, and assigns, hereby release and forever discharge the State of New York and Defendants, together with their present and former agencies, departments, divisions, subdivisions, subsidiaries, administrators, principals, officers, employees, directors, members, agents, attorneys, insurers, and assigns, whether in an individual or official capacity, or any of them, or all of them from all claims, causes of action, rights, or administrative charges for attorneys' fees, costs, disbursements, or expenses incurred in connection with this Action, up to and including the date of the Court's Order granting Final Approval of the Settlement Agreement.

7. **Future Fees and Costs Related to Monitoring.** During the term of the Settlement Agreement, it is anticipated that Class Counsel will incur certain legal fees, and other costs and disbursements related to monitoring Defendants' compliance with the Settlement

Agreement. Plaintiffs and Class Counsel agree to cap all such attorneys' fees, costs, and disbursements at \$200,000.00 per year, calculated on the basis of a 365-day year, beginning on the date of Final Approval of this Settlement Agreement and ending on the date this Settlement Agreement expires ("Annual Cap"). During the term of the Settlement Agreement, Class Counsel agree to submit invoices to Defendants' counsel twice yearly for any such attorneys' fees, costs, and disbursements. These invoices will reflect each attorney's contemporaneous time records, billing rate, and a brief description of work performed during the time period (omitting any privileged material). Defendants reserve the right to object to any invoices submitted by Plaintiffs and to withhold payment for any fees that Defendants in good faith designate as excessive, duplicative, or inappropriate. In the event that Defendants object to any part of the submissions for payment by Class Counsel, the Parties will make best efforts to resolve the dispute among themselves prior to seeking Court intervention. Defendants agree to reimburse Class Counsel within ninety (90) days of receipt of vouchers or from the date fees are ordered to be paid by the Court. If payment is delayed beyond ninety (90) days, Defendants will also pay interest at the rate set forth in 28 U.S.C. § 1961, which shall accrue beginning on the 91st day. The foregoing payment(s) shall be made payable to Children's Rights and sent to 88 Pine Street, Suite 800, New York, NY 10005, or in the event its mailing address is modified from this mailing address, relocated to its then current mailing address.

8. **Exclusions from Annual Cap.** The Annual Cap described in Paragraph 7 does not include legal fees, and other costs and disbursements related to work performed pursuant to Paragraph 113 of the Settlement Agreement, ECF No. 77-2 ¶ 113, or any enforcement motion filed with the Court to enforce the terms of the Settlement Agreement. To seek fees and expenses for any such work, Plaintiffs would be required to demonstrate that the work was necessary to

enforce the Settlement Agreement and that the Court ruled in their favor. Defendants retain all rights to challenge the requested amount of such fees and expenses.

9. **Authority.** Each signatory to this Supplemental Stipulation hereby represents and warrants that they have the requisite authority to enter into this Supplemental Stipulation and have not previously assigned or transferred any rights or interests with respect to the matters covered by this Supplemental Stipulation.

10. **Voluntary Agreement.** Plaintiffs represent that they have executed and delivered this Supplemental Stipulation voluntarily after being fully informed of its terms, contents, and effect, and acknowledge that they understand its terms, contents, and effect. Plaintiffs acknowledge that no compromise or representation of any kind, other than as set forth or referred to herein, has been made to any Party or anyone acting on behalf of any Party.

11. **Negotiated Agreement.** The Parties acknowledge that each Party has cooperated in the drafting and preparation of this Supplemental Stipulation. The language in all parts of this Supplemental Stipulation shall be in all cases construed according to its fair meaning and not strictly for or against any Party.

12. **Binding Effect on Successors and Assigns.** The terms and conditions of this Supplemental Stipulation shall inure to the benefit of, and be binding upon, the successors and assigns of each Party hereto.

13. **Entire Agreement.** This Supplemental Stipulation constitutes the entire agreement between the Parties hereto pertaining to the subject matter hereof, and (except with respect to the Settlement Agreement, ECF No. 77-2) supersedes and embodies, merges, and integrates all prior and current agreements and understandings of the Parties hereto, whether written or oral, with respect to the subject matter of this Supplemental Stipulation, and may not

be clarified, modified, changed, or amended except in a writing duly executed by the Parties hereto or an authorized representative of the Parties hereto.

14. **Governing Law.** The terms of this Supplemental Stipulation shall be governed by, and construed in accordance with, the laws of the State of New York applicable to contracts to be performed wholly within the State of New York, except to the extent that federal law may apply to Plaintiffs' release and waiver of federal claims pursuant to Paragraph 127 of the Settlement Agreement.

15. **Court Approval.** This Supplemental Stipulation is subject to the approval of the United States District Court for the Eastern District of New York pursuant to Federal Rule of Civil Procedure 23(h). If the Court disapproves of any material part thereof, or if this Supplemental Stipulation is modified or reversed in any material aspect by an order or decision that is final and unappealable, then this Supplemental Stipulation shall be canceled and deemed null and void, and the Parties shall revert to their respective positions as of the date prior to their signing of this Supplemental Stipulation.

16. **Severability.** With the exception of Paragraphs 1 (Payment to Plaintiffs' Attorneys), 2 (State Approval of Payments), 4 (Responsibility for Taxes), 5 (Responsibility for Liens and Setoffs), 7 (Future Fees and Expenses Related to Monitoring), and 8 (Exclusions from Annual Cap) of this Supplemental Stipulation, if any other provision of this Supplemental Stipulation shall be held by a court of competent jurisdiction to be invalid, void, or unenforceable in whole or in part, such decision shall not invalidate the remaining provisions or affect their validity.

17. **Effective Date of Supplemental Stipulation.** The terms and conditions of this Supplemental Stipulation shall be deemed effective, and the Parties' obligations, rights and

responsibilities hereunder shall commence, upon an order or judgment granting Final Approval of the Settlement Agreement. In the event an order or judgment approving the Settlement Agreement is reversed or modified upon judicial review or appeal, this Supplemental Stipulation shall be voidable by election of Class Counsel or Defendants, which election shall be provided to counsel for all other Parties and the Court in writing.

18. **Headings.** The headings contained in this Supplemental Stipulation are for convenience of reference only and are not a material part of this Supplemental Stipulation.

19. **Counterparts.** This Supplemental Stipulation may be executed in several counterparts, each of which shall be deemed an original and which, taken together, shall constitute one and the same instrument.

20. **Submission to the Court.** This Supplemental Stipulation shall also be submitted without further notice to the Court on December 19, 2025 with the filing of the Motion for Final Settlement Approval so that the Court can rule on its fairness, reasonableness, and adequacy pursuant to Federal Rule of Civil Procedure 23(h).

WHEREFORE, the Parties hereto acknowledge that they have read this Supplemental Stipulation and accept and agree to the provisions contained herein, and have each executed this Supplemental Stipulation to be effective on the day and date below.

SIGNATURE PAGE FOLLOWS

FOR AND ON BEHALF OF PLAINTIFFS:

By: Brandy L.L. Tomlinson
Brandy L.L. Tomlinson
DISABILITY RIGHTS NEW YORK
279 Troy Road, Ste 9
PMB 236
Rensselaer, NY 12144
518-432-7861
brandy.tomlinson@drny.org

Dated: 11/6/25

By: Daniel Frischer
Harry Frischer
Daniele Gerard
Claire Glasspiegel
Valerie Achille
Eugénie Iseman
CHILDREN'S RIGHTS, INC.
88 Pine Street, Suite 800
New York, New York 10005
212-683-2210
hfrischer@childrensrights.org
dgerard@childrensrights.org
cglasspiegel@childrensrights.org
vachille@childrensrights.org
eiseman@childrensrights.org

Dated: November 6, 2025

By: Kimberly Lewis
Kimberly Lewis (admitted *pro hac vice*)
Jane Perkins (admitted *pro hac vice*)
NATIONAL HEALTH LAW PROGRAM
3701 Wilshire Blvd, Suite 750
Los Angeles, CA 90010
310-204-6010
lewis@healthlaw.org
perkins@healthlaw.org

Dated: Nov. 6, 2025

By: Steven H. Holinstat
Steven H. Holinstat
Jacob Wonn
PROSKAUER ROSE LLP
Eleven Times Square
New York, NY 10036-8299
212-969-3183
sholinstat@proskauer.com
jwonn@proskauer.com

Dated: 11/6/25

FOR AND ON BEHALF OF DEFENDANTS:

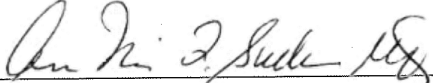
NEW YORK STATE DEPARTMENT
OF HEALTH

By: 

James V. McDonald, M.D.
Commissioner

Dated: 11/6/2025, 2025
Albany, New York

NEW YORK STATE OFFICE OF
MENTAL HEALTH

By: 

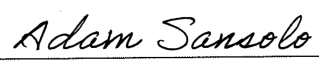
Ann Marie T. Sullivan, M.D.
Commissioner

Dated: November 6, 2025
Albany, New York

LETITIA JAMES

Attorney General
State of New York

Attorney for Defendants

By: 

Adam Sansolo
Yuval Rubenstein
Assistant Attorney General
28 Liberty Street
New York, New York 10005
(212) 416-6165
adam.sansolo@ag.ny.gov

Dated: November 6, 2025
New York, New York

Dated: _____, 2025
New York, New York

SO ORDERED:

Honorable Nusrat J. Choudhury
United States District Judge