



**NOTICE OF SETTLEMENT OF CLASS ACTION LAWSUIT**  
**United States District Court Southern District of New York**  
**Josefina S. v. The City of New York**  
**Case No. 17-CV-7661**

**IMPORTANT NOTICE**

**To all parents who have or may have intellectual or developmental disabilities and who are or will be involved with the New York City Administration for Children's Services ("ACS")**



If you are a parent with intellectual or developmental disabilities who has been reported to the Statewide Central Register of Child Abuse and Maltreatment and, as a result of that report, investigated by ACS, you are a member of the plaintiff class in a lawsuit against the City of New York. This notice concerns a settlement that may affect your rights. Please read it carefully.

**If you are a member of the Plaintiff Class and are satisfied with the terms of the Settlement described below, you do not need to take further action.** If you wish to object to this settlement, please review the instructions below.

**PURPOSE OF THIS NOTICE**

This Notice is to inform you of the proposed settlement in a class action lawsuit called Josefina S. v. The City of New York, Case No. 17-cv-7661-VEC ("Settlement"). The Settlement is between the Plaintiffs, **all parents with actual or suspected intellectual or developmental disabilities who have been reported to the New York Statewide Central Register of Child Abuse and Maltreatment, and who have been or will be investigated by ACS pursuant to such report**, and the City of New York. A federal court in New York City is now considering approving the Settlement and has approved this Notice. This Notice

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describes the case and what the City of New York has agreed to do to improve services and other help provided by ACS to parents with intellectual or developmental disabilities in New York City. Please read the detailed notice for more information.

## **QUESTIONS OR MORE INFORMATION**

If you have questions after reading this notice, or you would like a copy of the settlement agreement, you may call the lawyers who represent the parents in this lawsuit: the New York Legal Assistance Group and Davis Polk & Wardwell LLC, at **212-514-4266**, or visit the website <https://nylag.org/josefina/>. The lawyers representing the parents will NOT charge any money for giving you advice.

## **BRIEF DESCRIPTION OF THE LAWSUIT**

The named plaintiffs in this case are five parents with known or suspected intellectual or developmental disabilities in New York City ("Named Plaintiffs") who have been investigated by the Administration for Children's Services (ACS). In October 2017, the Named Plaintiffs on behalf of themselves and similarly situated parents (the "Plaintiff Class" or "Class Members") filed a lawsuit against the Defendants, The City of New York. The Named Plaintiffs filed this lawsuit on behalf of themselves and all other Class Members in federal court in New York City seeking to end discrimination against parents with intellectual or developmental disabilities. The lawsuit claims that the Defendant has violated the Americans with Disabilities Act by failing to offer reasonable accommodations, failing to make its services accessible to parents with intellectual or developmental disabilities, and discriminating against these parents by assuming that they are not capable of parenting. By filing this lawsuit, the Plaintiffs sought a court order that would require the City to tailor its services to the needs of these parents so that they could benefit from ACS's services in the same manner as non-disabled parents. Plaintiffs do not seek any money from the Defendant for the alleged discriminatory conduct.

## **THE PLAINTIFF CLASS**

The Plaintiff Class is defined as "All parents with actual or suspected intellectual or developmental disabilities who have been reported to the New York Statewide Central Register of Child Abuse and Maltreatment, and who have been or will be investigated by ACS pursuant to such report." This means that you are a Class Member if you are a parent with an intellectual or developmental disability and you have been or will be investigated by ACS and, as a result of that investigation, ACS has placed your child or children in foster care pending a determination of their permanent custody arrangement.

## **THE PROPOSED SETTLEMENT**

Plaintiffs (representing themselves and all other Class Members) and the City of New York have agreed to a Settlement they believe is fair to all Class Members. In settling the lawsuit, the City of New York does not admit to any wrongdoing, and this Settlement should not be viewed as confirming the truth of any claims made in the lawsuit. The proposed Settlement must be approved by the Court before it can be final. So far, the Court has only approved

this Notice to provide this information to the Plaintiff Class. If the Court gives final approval to the proposed Settlement, all of the terms of the Settlement will apply to everyone in the Plaintiff Class. This proposed Settlement was negotiated in many sessions, between the parents' lawyers (NYLAG and Davis, Polk & Wardwell LLC), and the City's lawyers (the New York City's Law Department).

## **SUMMARY OF THE PROPOSED SETTLEMENT**

If approved by the Court (see the following section) the Settlement's provisions will be enforceable in Court, if necessary, for three years from the date the Court approves the Settlement, and may continue to be enforceable for a further period of time if the Plaintiffs' lawyers believe, and prove to the Court, that the City of New York is systemically failing to do what it is required to do under the Settlement terms. The City may also continue providing the benefits outlined in the Settlement to Class Members voluntarily, even after that three-year period ends.

While the Settlement is in effect, Class Members and their representatives will not be able to bring new class-wide claims for systemwide court orders against the City that raise similar claims to those in Plaintiffs' Complaint ("Similar Case Prohibition"). However, individual parents can litigate on their own behalf regarding their own individual, case-specific claims for discrimination under the Americans with Disabilities Act. The Settlement does not limit any claims that parents may make or any actions they may seek in their individual cases in the Family Court.

For the Settlement, the City of New York has agreed to take the following steps regarding the handling of cases involving parents with intellectual disabilities, including:

- Provide special parenting classes and one-on-one coaching tailored to the needs of parents with intellectual/developmental disabilities, and refer Class Members to those services when appropriate, with limits on the length of time any parent must wait to begin those services;
- Employ a Parent Resource Manager within ACS's Developmental Disabilities Unit to advise and support ACS staff and foster care / preventive agency case planners;
- Utilize special protocols before taking certain adverse actions in Class Members' cases;
- Send a communication to child protective specialists and case planners when they indicate that a parent may have an intellectual/developmental disability, or when they are first assigned to such a case, to remind them of the resources available and the obligations of the Settlement;
- Utilize an individual relief process for parents who believe they have been discriminated against;
- Train their staff, and the case planners at foster care and prevention agencies, on how to better handle cases involving parents with intellectual or developmental disabilities.

## **HOW TO OBJECT TO THE SETTLEMENT**

The Settlement is not final yet. It will only become final if the Court approves it after holding a Fairness Hearing where the Judge will consider objections from Class Members. The Fairness Hearing is a public hearing at which the Judge will hear testimony about whether

the proposed settlement is fair, reasonable and adequate. **The Court will hold this hearing to consider the proposed settlement on January 18, 2024 at 10:30am, in Courtroom 443 of the United States District Court for the Southern District of New York, 40 Foley Square, New York, New York.**

Before the Fairness Hearing, Class Members can let the Court know whether they agree or disagree with the proposed Settlement. You can do this yourself or you can have your legal representative do it for you.

If the Court approves the Settlement, you and all other Class Members will be entitled to the benefits of the Settlement, but you will also be bound, as noted above, by the Settlement's three-year Similar Case Prohibition. If **you agree with the proposed settlement, you do not need to take any action.** If you would like to object to the proposed settlement, you may do so in the following ways:

- Call the Plaintiffs' attorneys at **212-514-4266**, provide your name and address, and explain the basis of your objection;
- Write to Plaintiffs' attorney at **joefina@nylag.org**. If you write, you must include your name and address;
- Attend the Fairness Hearing on **January 18, 2024 at 10:30am** in **Courtroom 443** of the United States District Court for the Southern District of New York, **40 Foley Square, New York, New York** and tell the Court why you object to the settlement.

**You must let Class Counsel know about your objection by January 4, 2024.**

If you are an attorney representing a Class Member, you can submit an objection on their behalf. Please submit your objection in writing to **joefina@nylag.org** and provide the name and address of the Class Member. Please indicate in your correspondence whether you would also like to speak at the Fairness Hearing. The deadline to submit any objection is **January 4, 2024.**

If you have questions after reading this Notice, or you would like a copy of the Settlement, you may call the lawyers who represent the parents at **212-514-4266**. You can also find a copy of the Settlement at **<https://nylag.org/joefina/>**.

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