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Attorneys for Plaintiffs

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAII

E.R.K., by his legal guardian
R.K.; R.T.D., through his
parents R.D. and M.D.; HAWAII
DISABILITY RIGHTS CENTER,
in a representative capacity on
behalf of its clients and all
others similarly situated,

Plaintiffs,

Case No. 10-00436 SOM-KSC

**PLAINTIFFS' STATUS
REPORT; EXHIBIT A;
CERTIFICATE OF SERVICE**

DATE: October 16, 2015

TIME: 10:00 a.m.

JUDGE: Kevin S. C. Chang

vs.

DEPARTMENT OF EDUCATION,
State of Hawai'i,

Defendant.

**PLAINTIFFS' STATUS REPORT FOR OCTOBER 16, 2015
STATUS CONFERENCE**

Plaintiffs submit the following status report in advance of the October 16, 2015, status conference.

I. CLASS MEMBER SERVICE MATRIX

Plaintiffs are preparing a services matrix for Class Members that will be based on individuals in the Pilot Group, as well as undisputed Class Members.¹ Plaintiffs are using as guideposts the groupings proposed by the DOE in its May 2015 settlement offer.

These groupings were also discussed by the DOE's Rule 30(b)(6) witness, Debra Farmer, in her June 24, 2015, deposition.

Ms. Farmer indicated that her office prepared the groupings as

¹ Plaintiffs' ability to complete this matrix is hampered by the DOE's failure to provide educational records. Plaintiffs have waited months for education records for dozens of other Class Members. Plaintiffs have not received a single education record since July 30, 2015, despite regular requests for these records.

examples of the types of students that could benefit from various settings. For each of these groups, Plaintiffs identify:

- Basic services likely to be needed by individuals in that group. Not every individual will require every service, and some may require more.
- Cost ranges for each of these services on a per person, per year basis.

II. SERVICES FOR PILOT GROUP

Plaintiffs have provided counterproposals for six Pilot Group members on September 28, 2015, and October 6, 2015. Plaintiffs have not received feedback from the DOE regarding any of these.

Plaintiffs have followed up with counsel to the Department of Health and are in discussions to obtain (1) the production of the DOH records for those individuals for whom consents were provided; and (2) face-to-face meetings with case managers for those individuals to go over the current DOH services that are being provided. Once those meetings are held, Plaintiffs will provide counterproposals for the remaining Pilot Group members.

III. OUTREACH TO REMAINING CLASS MEMBERS

Nearly 60% percent of this Class has not yet been reached.

Ward Research confirmed that its quote—which was sent to the DOE on September 1, 2015, and was approved at that time—already included calls to parents and guardians (as is plainly stated on the first page of the quote). See Exhibit A. Ward Research is prepared to finish its work and has advised it will only need approximately a week to do so based on an estimate of 300-400 updated parent/guardian addresses. Lexis is also prepared to move forward with obtaining parent contact information. Plaintiffs request confirmation that the DOE is not withdrawing its approval for the work by Ward and will pay the cost of the Lexis Accurint search.²

IV. STIPULATION RE IDENTITY OF CLASS MEMBERS

As discussed at the last status conference, on September 29, 2015, Plaintiffs provided the DOE a list of the Class Members who have expressed interest as of that date, and marked those who are undisputed. On October 9, 2015, the DOE supplied a list of coded

² The cost of the search for parent contact information, \$2,080, is only **\$580** more than the cost of providing updated information for the 40 guardian names the DOE provided in September 2015, since Lexis will charge its minimum fee of \$1,500 for the job of updating the addresses for the 40 guardian names. The guardian names were not run with the original list because the DOE was unable to provide them by the promised deadline of August 20, 2015.

objections. Plaintiffs are working on adding to that list based on the Ward Research call results. Plaintiffs do not consent to a class member cut-off date of November 30. However, any motion by Defendants to challenge any group of class members should be briefed and heard before that date.

DATED: Honolulu, Hawai`i, October 14, 2015.

/s/ Michelle N. Comeau

PAUL ALSTON

KRISTIN L. HOLLAND

MICHELLE N. COMEAU

Attorneys for Plaintiffs



WARD RESEARCH
I N C O R P O R A T E D

TO: Michelle Comeau
FROM: Becki Ward
DATE: August 31, 2015
SUBJ: Calling Project for ERK vs. Department of Education – Round 3

We are happy to continue working with you on the identification of Special Needs adults who wish to pursue compensatory education services, as a result of the class action suit. This is to confirm our scope of work for the third round of calls for this project:

- You will provide other telephone contact information for the 1,243 Special Needs adults Ward Research was unable to contact during the first two rounds of calling. This may include information from a phone number lookup service. This may also include parent/guardian contact information from the DOE. We understand that multiple phone numbers may be associated with each person and have budgeted accordingly.
- We will administer a script similar to the script used in the first two rounds of calling and enter the answers into our Computer Assisted Telephone Interviewing (CATI) system. The average length of the call will be 10 minutes.
- Ward Research will make 5 attempts for each phone number at different times of day and days of the week (outbound calling only, but with callbacks scheduled through the CATI system). Where possible, we will leave voicemail messages at 1st and 3rd attempts using the message language used in the first two rounds of calling.
- The final deliverable will be four Excel spreadsheets (“Yes, Interested,” “No, Not Interested,” “Maybe/Depends/Need to Know More,” “Did Not Contact/Could Not Reach”) containing the information collected for each person.
- This project will require approximately 3-6 weeks for completion, depending on when the contact information is available. A more detailed schedule will be submitted later.

The cost for our assistance with this project will be \$15,130 plus 4.712% State tax. Please note that the budget consists of a maximum number of interviewing hours (275). If the project is completed prior to expending all budgeted hours, only actual hours will be billed. Conversely, if the project is not yet completed after expending all budgeted hours, the client will be contacted to decide whether to increase the budget or to end interviewing.

EXHIBIT A

Michelle Comeau
Page Two
August 31, 2015

As per standard policy, Ward Research requires prepayment of 50% of the total project cost prior to commencement of data collection, with the remaining balance due upon presentation of the final deliverable.

Please call or email me if you have any questions regarding our scope of work or cost, Michelle. We look forward to assisting you once again with this important research.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the date and method of service noted below, a true and correct copy of the foregoing was served on the following at their last known address:

Served electronically through CM/ECF on October 14, 2015:

Carter K. Siu, Esq.	Carter.K.Siu@hawaii.gov
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Attorneys for Defendant
DEPARTMENT OF EDUCATION

DATED: Honolulu, Hawai`i, October 14, 2015.

/s/ Michelle N. Comeau
PAUL ALSTON
KRISTIN L. HOLLAND
MICHELLE N. COMEAU
Attorneys for Plaintiffs

DONNA AHUNA - Activity in Case 1:10-cv-00436-SOM-KSC P.-K. et al v. Department of Education, State of Hawai'i Status Report

From: <hid_resp@hid.uscourts.gov>
To: <hawaii_cmecf@hid.uscourts.gov>
Date: 10/14/2015 9:52 AM
Subject: Activity in Case 1:10-cv-00436-SOM-KSC P.-K. et al v. Department of Education, State of Hawai'i Status Report
Bc: DONNA AHUNA

This is an automatic e-mail message generated by the CM/ECF system. Please DO NOT RESPOND to this e-mail because the mail box is unattended.

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U.S. District Court

District of Hawaii

Notice of Electronic Filing

The following transaction was entered by Comeau, Michelle on 10/14/2015 at 9:52 AM HST and filed on 10/14/2015

Case Name: P.-K. et al v. Department of Education, State of Hawai'i
Case Number: [1:10-cv-00436-SOM-KSC](#)
Filer: M. D.
R. T. D.
Hawaii Disability Rights Center
E.R. K.

Document Number: [276](#)

Docket Text:

STATUS REPORT by M. D., R. T. D. (through his parents R.D. and M.D., for themselves and on behalf of a class of those similarly situated), R. D., Hawaii Disability Rights Center, E.R. K.. (Attachments: # (1) Exhibit A - Proposal from Ward Research, # (2) Certificate of Service)(Comeau, Michelle)

1:10-cv-00436-SOM-KSC Notice has been electronically mailed to:

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1:10-cv-00436-SOM-KSC Notice will not be electronically mailed to:

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The following document(s) are associated with this transaction:

Document description:Main Document

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1095854936 [Date=10/14/2015] [FileNumber=1989293-0] [1b61a6b5a3920fdd873d7d4142cce945b7e8de82369cc655155b5f3727cc7383f4af603feafc233b491cfeeffaa19c6f791ff5ba236dba38d5d62ddbe0f2f02f]]

Document description:Exhibit A - Proposal from Ward Research

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1095854936 [Date=10/14/2015] [FileNumber=1989293-1] [6c6d1384ce4160db551dfebd297ab39b78f4ab4db8e162d124ec11ebee4b434ea2a6a9344884acfa13e46d8e0435655aba2484898fdf9947a3837b9470841d8e]]

Document description:Certificate of Service

Original filename:n/a

Electronic document Stamp:

[STAMP dcecfStamp_ID=1095854936 [Date=10/14/2015] [FileNumber=1989293-2] [1199f3b64d9d7e119c97c4d4d47dd7ee14bf4bea4955f7ecd48b2bc1029f47f24d20a5550fae142dd1a8bce2d031e449f3c863bd39759ec3f809563cda1e6c93]]