

1 KAMALA D. HARRIS
Attorney General of California
2 ISMAEL A. CASTRO
Supervising Deputy Attorney General
3 MELINDA VAUGHN
Deputy Attorney General
4 State Bar No. 120446
1300 I Street, Suite 125
5 P.O. Box 944255
Sacramento, CA 94244-2550
6 Telephone: (916) 324-7873
7 Fax: (916) 324-5567
E-mail: Melinda.Vaughn@doj.ca.gov
8 *Attorneys for Defendant*

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9 IN THE UNITED STATES DISTRICT COURT
10 FOR THE CENTRAL DISTRICT OF CALIFORNIA

12 EMILY Q., et al.,	CV 98-4181 AHM (AJWx)
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14 Plaintiffs,	[PROPOSED] ORDER ADOPTING SPECIAL MASTER’S FINDINGS AND RECOMMENDATIONS AND TERMINATING JURISDICTION
15 v.	
16 DIANA BONTA, et al.,	[No Hearing Required]
17 Defendant.	Judge: The Honorable A. Howard Matz Courtroom: 14

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19 **ORDER ADOPTING SPECIAL MASTER’S FINDINGS AND**
20 **RECOMMENDATIONS AND TERMINATING JURISDICTION**

21 The Special Master, Richard Saletta, filed a Final Report in Response to
22 Court’s Order Appointing Special Master (Final Report). (Docket No. 629.) The
23 matter was heard before the Honorable A. Howard Matz on June 15, 2011.
24 Appearing for the Plaintiffs were Melinda Bird, Disability Rights California, Robert
25 D. Newman, Western Center on Law and Poverty, and James Preis, Mental Health
26 Advocacy Services. Appearing for the Defendant was Melinda Vaughn, Deputy
27 Attorney General, for Kamala D. Harris, California Attorney General. The Special
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1 Master was present for the hearing. There were no objections to the Special
2 Master’s Final Report.

3 Plaintiffs filed with the Court a proposal for use of certain unclaimed monies
4 from a fund that was established by the Amended Judgment and Permanent
5 Injunction (Amended Judgment) for “special services” to youth between the ages of
6 21 and 25 who were former class members (Special Services Fund). (Docket Nos.
7 291, 631.) The Court considered Defendant’s objection to Plaintiffs’ proposal,
8 namely, that monies in the Special Services Fund should be returned to the State
9 General Fund.

10 The Court finds:

11 1. As a result of the Court’s order appointing Richard Saletta as Special
12 Master (Docket No. 531), a Nine Point Plan (Plan) was approved by the Court on
13 November 14, 2008. (Docket No. 552.) Under the Plan, Defendant agreed to do
14 the following: Point One - reduce administrative requirements for providing
15 Therapeutic Behavioral Services (“TBS”); Point Two - clarify eligibility
16 requirements for TBS; Point Three – establish an accountability process and
17 structure for TBS planning and decision-making; Point Four – establish a TBS best
18 practices approach by developing a manual on TBS coordination of care and best
19 practices; Point Five – promote a multi-agency coordination strategy that includes a
20 strategy to engage youth and families; Point Six – develop a statewide TBS training
21 program; Point Seven – develop and promote technical assistance manuals on TBS
22 documentation and best practices; Point Eight – develop an outreach strategy using
23 the Emily Q./TBS web page on the website of California Department of Mental
24 Health (“CDMH”); Point Nine – develop an exit plan and criteria for termination of
25 jurisdiction.

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1 2. Point Nine of the Plan, the criteria for court exit from jurisdiction, was
2 approved by the Court on April 23, 2009. (Docket No. 573.) The Exit Criteria
3 required that the 27 large and medium-sized Mental Health Plans (MHPs) engage in
4 a significant effort to increase TBS utilization and improve TBS quality, and
5 engage decision-makers and stakeholders. The Exit Criteria set a TBS utilization
6 benchmark of four percent, calculated based on the number of youth receiving TBS
7 (or equivalent services) divided by the number of youth receiving EPSDT mental
8 health services, and required that two-thirds (18) of the large and medium-sized
9 MHPs meet the four percent benchmark. The Exit Criteria could be satisfied if a
10 county was on a trajectory to reach the four percent benchmark no later than
11 June 30, 2012.

12 3. In his Final Report, the Special Master found that Defendant has
13 successfully implemented and completed the requirements in the first eight points
14 of the Plan. The Special Master also found that 18 of the 27 large and medium-
15 sized MHPs had met or were on a trajectory to meet the 4% TBS benchmark based
16 on increases in TBS or TBS equivalent services. The Special Master certified that
17 these MHPs also met other requirements, including a showing that these increases
18 are sustainable. Although the Exit Criteria did not call for statewide attainment of
19 the four percent benchmark, the Special Master found that TBS utilization had
20 increased from 1.68% in 2005 to 3.81% in 2010, which reflects the statewide effort
21 of all 56 MHPs to increase TBS utilization.

22 4. In conjunction with Point Nine of the Plan, CDMH filed a transition plan
23 with the Court, describing its plan for continued post-termination activities.
24 (Docket No. 622.)

25 5. Defendant and the California Department of Mental Health have
26 completed the requirements of the Nine-Point Plan and the terms of the Amended
27 Judgment have been satisfied.
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1 6. The purposes of Paragraph 19 of the Amended Judgment will be served
2 by adopting Plaintiff’s proposal for the Special Services Fund, that the monies be
3 used to support statewide Therapeutic Behavioral Services (TBS) trainings, quality
4 improvement activities, data review, and continued maintenance of public TBS data
5 dashboards.

6 7. It is appropriate for the Court to terminate jurisdiction, with the exception
7 of matters related to Plaintiffs’ attorneys’ fees and costs, and the Special Master’s
8 amended budget.

9 **GOOD CAUSE HAVING BEEN SHOWN, THE COURT ORDERS:**

10 1. The Court adopts the findings and recommendations of the Special
11 Master in his Final Report.

12 2. Defendant Director of the Department of Health Care Services, and the
13 director or directors of any successor entity or entities, shall continue to comply
14 with the post-termination terms of the Nine Point Plan and transition plan. Nothing
15 in this order shall preclude subsequent litigation regarding the obligations of
16 counties and county mental health plans to provide TBS.

17 3. Monies remaining in the Special Services Fund in the approximate
18 amount of \$198,394.63 shall remain on deposit with the California Institute for
19 Mental Health (“CIMH”), for use by CDMH, or any successor entity, to support
20 TBS trainings, quality improvement activities, data review, and continued
21 maintenance of public TBS data dashboards. CDMH, or any successor entity, shall
22 have discretion over use of the monies in the Special Services Fund, provided that
23 they are used solely for one or more of the following activities pertaining to TBS:
24 trainings, quality improvement activities, data review, and continued maintenance
25 of public TBS data dashboards. Plaintiffs’ counsel shall provide a copy of this
26 Order to CIMH.
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4. Jurisdiction over this matter is terminated, except that the Court reserves jurisdiction over issues pertaining to Plaintiffs' attorneys' fees and costs, and the Special Master's final amended budget.

Date: September 14, 2011



A. Howard Matz
United States District Judge

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