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13 SUPERIOR COURT, STATE OF CALIFORNIA

14 COUNTY OF LOS ANGELES

15
16 BENITO R., a minor, by and through his Guardian Ad Litem,
PATRICIA R., on behalf of himself and all others similarly
17 situated; NICOLE M., a minor, by and through her Guardian
Ad Litem, BRENDA M., on behalf of herself and all others
18 similarly situated; ADAM B., a minor, by and through his
Guardian Ad Litem, SANDRA B., on behalf of himself and
19 all others similarly situated; ERNESTO G., a minor, by and
through his Guardian Ad Litem, MARGARITA G., on behalf
20 of himself and all others similarly situated; and CRUZ F., a
minor, by and through his Guardian Ad Litem, JOCABED G.,
21 on behalf of himself and all others similarly situated;
ANTONIO H., a minor, by and through his Guardian Ad
22 Litem, LAURA H., on behalf of himself and all others
similarly situated; VINCE G., a minor, by and through his
23 Guardian Ad Litem, ALMA G., on behalf of himself and all
others similarly situated;

24 Plaintiffs,

25 v.

26 EASTERN LOS ANGELES REGIONAL CENTER;
27 GLORIA WONG, in her official capacity.

28 Defendants.

CASE NO. BC429819

Assigned to the Honorable
Anthony J. Mohr, Dept. 309

CLASS ACTION

**[PROPOSED] SETTLEMENT
AGREEMENT AND ORDER
FOR FINAL INJUNCTION**

**COMPLAINT FILED:
January 14, 2010**

1 **[PROPOSED] SETTLEMENT AGREEMENT AND ORDER FOR FINAL**

2 **INJUNCTION**

3 [Evidence Code § 1152]

4 **I.**

5 **INTRODUCTION**

6 1. This [Proposed] Settlement Agreement and Order for Final Injunction (“Settlement
7 Agreement”) is agreed to and entered into between (1) Benito R., a minor, by and through his
8 Guardian *ad Litem*, Patricia R.; Nicole M., a minor, by and through her Guardian *ad Litem*, Brenda
9 M.; Adam B., a minor, by and through his Guardian *ad Litem*, Sandra B.; Ernesto G., a minor by and
10 through his Guardian *ad Litem*, Margarita G.; Cruz F., a minor, by and through his Guardian *ad*
11 *Litem*, Jocabed G.; Antonio H., a minor, by and through his Guardian *ad Litem* Laura H.; and Vince
12 G., a minor, by and through his Guardian *ad Litem*, Alma G. (“Class Representatives”), on their own
13 behalf and on behalf of a class of similarly situated individuals; and (2) Defendants Eastern Los
14 Angeles Regional Center (“ELARC”) and Gloria Wong, in her official capacity, subject to final
15 approval of the Court.

16 **II.**

17 **SUMMARY OF ACTION**

18 2. Beginning in or around July 2009, the Defendants terminated funding for any and all
19 Developmental, Individual Difference, Relationship-based treatment programs (“DIR treatment
20 program(s)”), pursuant to their interpretation of the so called “Trailer Bill,” the relevant sections of
21 which are codified at California Welfare & Institutions Code §§ 4646(a)(15) and 4648.5 (the “Trailer
22 Bill”).

23 3. On January 14, 2010, Class Representatives, all of whom are children who have been
24 diagnosed or provisionally diagnosed with autism, commenced this Class Action in Los Angeles
25 Superior Court, on their own behalf and on behalf of a class of similarly situated individuals, alleging
26 that Defendants failed to fulfill their obligations pursuant to the Lanterman Act, as well as other state
27 statutory and constitutional rights.

28 4. On January 19, 2010, the case was assigned to the Honorable Anthony J. Mohr in the
Central Civil West Courthouse, Department 309. On January 22, 2010, Class Representatives, on
behalf of themselves and on behalf of those similarly situated, filed a Motion for Preliminary
Injunction. Because the Class Plaintiffs in this case are minors, the Court, on February 3, 2010,
appointed Guardians *ad Litem* for the children in this matter and granted Plaintiffs’ Motion to

1 Proceed Under Fictitious Names, in order to protect the minors' identities. In addition to taking these
2 precautions to protect the interests of the minors in this case, filings and court proceedings in this
3 matter have been placed under seal whenever such precautions were necessary.

4 5. Hearing on Plaintiffs' Motion for Preliminary Injunction was held on February 19 and
5 22, 2010, whereafter Judge Mohr granted said motion, thereby requiring that the Defendants: (1)
6 continue funding DIR treatment programs until final resolution of the matter; (2) reinstate funding for
7 those children whose services have been already terminated; and (3) suspend any pending statutory
8 "fair hearings" dealing with said terminations. The Court imposed a bond of \$25,000, which was
9 filed with the Court on February 25, 2010.

10 6. Since the day the Order granting Plaintiffs' Motion for Preliminary Injunction was
11 issued, both parties, through their respective counsel, have been engaged in negotiations to settle the
12 case, including by convening in person on several occasions and conducting multiple additional
13 settlement discussions by phone. The parties have agreed to enter into this Settlement Agreement, as
14 no further disputes as to the legal rights and remedies at issue here in this case still exist. The
15 signatures of counsel and the parties at the end of this document confirm that this is the full and final
16 agreement between the parties with respect to this matter, subject to the order of this Court.

17 III.

18 DEFINITIONS

19 7. The following terms when used in this Settlement Agreement, in addition to the terms
20 defined elsewhere in this Settlement Agreement, shall have the following meanings:

21 a. "Agreement" and/or "Settlement Agreement" means this document, containing
22 the terms of the Proposed Settlement Agreement and the Order for Final Injunction, subject to court
23 approval.

24 b. "Class Action" means the civil action titled *Benito R., et. al. v. Eastern Los*
25 *Angeles Regional Center, et. al.*, Case No. BC429819, currently pending in the Superior Court of the
26 State of California for the County of Los Angeles.

27 c. "Class Counsel" means (i) the law firm of Gibson, Dunn & Crutcher LLP, 333
28 South Grand Avenue, Los Angeles, California 90071; and (ii) Public Counsel Law Center, 610 South
Ardmore Avenue, Los Angeles, California 90005.

d. "Class Member(s)" means an individual(s) who is a member of the Settlement
Class.

1 e. "Class Notice" means notice of the proposed class action settlement to be
2 directed to Class Members pursuant to the terms of the Preliminary Approval Order attached hereto
3 as Exhibit A.

4 f. "Class Representatives" means Benito R., a minor, by and through his
5 Guardian *ad Litem*, Patricia R.; Nicole M., a minor, by and through her Guardian *ad Litem*, Brenda
6 M.; Adam B., a minor, by and through his Guardian *ad Litem*, Sandra B.; Ernesto G., a minor by and
7 through his Guardian *ad Litem*, Margarita G.; Cruz F., a minor, by and through his Guardian *ad*
8 *Litem*, Jocabed G.; Antonio H., a minor, by and through his Guardian *ad Litem* Laura H.; and Vince
9 G., a minor, by and through his Guardian *ad Litem*, Alma G.

10 g. "Court" means the Superior Court of the State of California for the County of
11 Los Angeles, Central Civil West.

12 h. "Defendants" means Eastern Los Angeles Regional Center and Gloria Wong.

13 i. "DIR treatment program" means any program that is based, in whole or in part,
14 upon the Developmental, Individual Difference, Relationship-based Model of treating autism. This
15 includes, but is in no way limited to programs that utilize Floortime methods of treatment.

16 Furthermore, programs that are formally referred to as either DIR/Floortime or simply Floortime are
17 included within the scope of this definition and this Settlement Agreement. The vendor code under
18 which a particular treatment or service is classified is in no way relevant to anything contained
19 herein. Examples of current DIR treatment programs that are intended to be covered by this
20 Settlement Agreement include, but are in no way limited to, Teen Club provided by Pasadena Child
21 Development Associates ("PCDA"), Social-Emotional Developmental Intervention ("SEDI")
22 provided by PCDA, Socialization Skills Training Program provided by PCDA, Developmental-
23 Behavioral Consultation provided by PCDA, Floortime Development Play Therapy provided by
24 Holding Hands Pediatric Therapy & Diagnostics, Inc., Social Skills Group Therapy provided by
25 Holding Hands Pediatric Therapy & Diagnostics, Inc., Social Skills Playgroup for Children provided
26 by Dr. Andrea Davis, Adaptive Skills Training provided by Dr. Andrea Davis, clinical psychology
27 services provided by Dr. Mona Delahooke, and the Adaptive Skills Training provided by Dr. Mona
28 Delahooke.

j. "Final Approval Date" means the date that the Court enters its final approval of
the Settlement Agreement.

k. "Implementation Schedule" means the agreed-upon dates for implementing the
Settlement Agreement, as set forth in Exhibit B attached hereto.

1 l. "Necessary" means that one of the following situations has occurred: (1) an
2 existing vendor of DIR treatment programs has elected of its own accord not to renew its vendor
3 contract; (2) any Class Member seeking DIR treatment services is put on a waiting list with an
4 expected wait time exceeding forty-five (45) days; or (3) for any other reason Class Members require
5 the solicitation and vendorization of additional DIR treatment providers.

6 m. "Preliminary Approval Date" means the date on which the Court preliminarily
7 approves the Settlement Agreement and authorizes issuance of Class Notice.

8 n. "Preliminary Approval Order" means the Court's Order preliminarily
9 approving the Settlement Agreement and approving the form of the Class Notice and the plan for its
10 distribution, filed concurrently herewith.

11 o. "Settlement Class" means all children who (1) have been, are currently, or will
12 hereafter become, consumers of ELARC and eligible to receive regional center services pursuant to
13 Cal. Welf. & Inst. Code § 4512(a) and (d); and Cal. Regs. Tit. 17, §§ 54000(a), 54010(b) (2008); and
14 (2) have been, or will hereafter be diagnosed or provisionally diagnosed with autism.

15 p. "Settlement Fairness Hearing" means the hearing to follow appropriate notice
16 to the Settlement Class and opportunity for Class Members to object to the Settlement Agreement, at
17 which time the Parties will request that the Court approve the fairness, reasonableness and adequacy
18 of the terms and conditions of the proposed Settlement Agreement, enter the Order and Final
19 Injunction, and take other appropriate action.

20 IV.

21 **CERTIFICATION OF SETTLEMENT CLASS**

22 8. The Class Representatives and Defendants agree and stipulate to certification of the
23 Settlement Class.

24 9. The Settlement Class is defined without prejudice and does not define or limit any
25 plaintiff class which has been or may be proposed by Class Counsel, or opposed by Defendants or
26 others, should this Settlement Agreement fail to be approved by the Court.

27 V.

28 **SCOPE AND TERMS OF THE FINAL INJUNCTION**

10. All provisions of the Final Injunction, unless otherwise indicated, shall apply, on the
one hand, to Defendants, their affiliates, subsidiaries, officers, employees, agents, assigns, and/or
successors in interest in the ownership and/or operation of ELARC, and on the other hand, to the
Class Members.

1 11. Upon Final Approval of the Settlement Agreement:

2 a. Defendants, together with their respective affiliates, subsidiaries, officers,
3 employees, agents, assigns, successors in interest in the ownership and/or operation of ELARC, and
4 those persons in active concert or participation with them are permanently and finally enjoined from:

5 (i) Terminating or denying funding for DIR treatment programs, or failing
6 to make DIR treatment programs available to any and all Class Members.

7 (ii) Classifying, characterizing, identifying or labeling DIR treatment
8 programs as “experimental,” “non-medical therapy,” “specialized recreation,” or “social recreational”
9 as those terms are used in the Trailer Bill.

10 (iii) Asking, pressuring, conditioning, or otherwise requiring any Class
11 Member to give up, forego, barter, eliminate, trade away or otherwise reduce or terminate another
12 service already contained within their Individual Program Plan (“IPP”), or for which they have been
13 assessed as needing, in order to receive DIR treatment services or programs.

14 (iv) Offering any form of incentive(s) to Class Members to forego DIR
15 treatment programs in favor of an alternate methodology, including but not limited to, Alternative
16 Behavioral Analysis (“ABA”). Incentives can take any form, including but not limited to, offers of
17 monetary incentives to forego DIR, offers to authorize additional hours of ABA (or other) services in
18 exchange for not using DIR, or offers to authorize other services in exchange for not using DIR. Nor
19 shall Defendants institute or create any disincentives for using DIR treatment programs as opposed to
20 an alternate methodology. Disincentives may be explicit or may be more subtle, such as making the
21 receipt of DIR treatment programs more difficult than receipt of alternate services, such as ABA.

22 (v) Terminating, refusing to renew, or denying applications for vendor
23 contracts based on the fact that the vendor in question provides DIR treatment programs, or by virtue
24 of the fact that the vendor in question provides or provided DIR treatment programs to a Class
25 Member or Class Representative. Nor shall Defendants institute a policy, official or otherwise, of not
26 referring Class Members to a vendor based on the fact that it provides DIR treatment programs.

27 (vi) Terminating, refusing to renew, or denying applications for vendor
28 contracts involving DIR providers and/or DIR treatment programs for any reason other than those
articulated in Title 17 C.C.R. section 54370. Furthermore, none of the reasons given for said action
can be in any way pretextual or retaliatory in nature.

(vii) Engaging in behavior that could be construed as a reprisal against any
Class Member, family member, advocate, or person otherwise associated with a Class Member, for

1 his or her participation in this Class Action, either through refusing to authorize services, authorizing
2 fewer services, or in any way making receipt of services more difficult, including through general
3 harassment.

4 (viii) Instituting any policy, official or otherwise, that seeks to circumvent
5 the terms of this Settlement Agreement by any means, including but not limited to, discouraging
6 service coordinators from recommending or approving DIR treatment programs, discouraging
7 consumers from selecting DIR treatment programs, making the receipt of DIR treatment programs
8 more difficult, or engaging in a phase-out of DIR treatment programs by any methods not explicitly
discussed herein.

9 (b) Defendants together with their respective affiliates, subsidiaries, officers,
10 employees, agents, assigns, successors in interest in the ownership and/or operation of ELARC, and
those persons in active concert or participation with them, shall:

11 (i) To the extent not already done, reinstate funding for all Class Members
12 whose DIR treatment programs have been terminated as a result of Defendants' interpretation of the
13 Trailer Bill unless the Class Member, in writing using the relevant portions of the Letter Regarding
14 Final Injunction, attached hereto as Exhibit C, expressly declines reinstatement of the Class
15 Member's DIR treatment programs. Reinstatement shall be automatic and Defendants shall not
16 require any action on the part of the Class Members for reinstatement to occur. On the date specified
17 in the Implementation Schedule, Defendants will file certification with the Court regarding how
18 many, if any, Class Members expressly declined reinstatement of their DIR treatment programs and
19 provide the Court and Class Counsel with the aforementioned written, signed forms. In accordance
20 with the timeline set forth in the Implementation Schedule, Defendants shall distribute the Letter
Regarding Final Injunction, to all Class Members and ELARC employees.

21 (ii) Within thirty (30) working days of the issuance of the Final Injunction,
22 Defendants shall review the files of all Class Members, and, to the extent not already done, (1)
23 identify children who but for ELARC's termination of funding of DIR treatment beginning in or
24 around July 2009, would have been referred for and received such services for reasons including, but
25 not limited to, because of written or oral requests made by families to have DIR services added to
26 their child's IPP during this period and (2) within seven (7) working days after the files have been
27 reviewed, either offer to assess those children so identified to determine if DIR treatment programs
are needed or provide and fund DIR treatment programs for those Class Members. Within seven (7)

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1 working days of the assessment, Defendants shall begin funding DIR treatment for Class Members
2 who have been determined to be in need of DIR treatment based on the aforementioned assessment.

3 (iii) In good faith, offer and continue to make funding for DIR treatment
4 programs available to any and all Class Members. This includes referring these children to DIR
5 treatment programs, making information regarding these programs available to parents, and providing
6 clear guidance for any ELARC employees as to the policy and practice of funding DIR treatment
7 programs.

8 (a) Evidence of such good faith efforts shall include that, on the
9 dates specified in the Implementation Schedule, Defendants shall provide Class Counsel with
10 statistics regarding the number of consumers who had DIR treatment programs added to their IPPs
11 during the months of July 2007 – June 2008; July 2008- June 2009, and prospectively for July 2009 –
12 June 2010; July 2010 – June 2011; July 2011– June 2012; July 2012 – June 2013; and July 2013 –
13 June 2014.

14 (b) Evidence of such good faith efforts shall include that, for two
15 years following the Final Approval Date, Defendants shall provide attached Exhibit D (“DIR
16 Informational Notice”) and attached Exhibit E (“Informal Complaint”) to any and all Class Members
17 at their IPP meetings and obtain signatures from any and all Class Member’s parent(s), guardian(s),
18 or authorized representative, as applicable, acknowledging receipt and understanding of these
19 materials. Defendants shall provide a copy of any and all signed DIR Informational Notices to Class
20 Counsel on a quarterly basis for three years.

21 (iv) In good faith, continue to conduct evaluations and assessments that
22 accurately reflect a child’s need for DIR treatment programs.

23 (v) In good faith, continue to provide DIR treatment programs based on the
24 Class Member’s assessed needs through the IPP process.

25 (vi) In the event that it becomes Necessary to expand the availability of
26 DIR services available in ELARC’s catchment area, ELARC shall “solicit an individual or agency by
27 requests for proposals or other means” within the meaning of Welf. & Inst. Code § 4648(e)(1) and
28 shall enter into vendor contracts with one or more new DIR treatment provider(s), as applicable,
through the process as outlined in the applicable law.

(vii) In good faith, Defendants must ensure that all its employees, including
but not limited to its service coordinators are well-informed about the substance and terms of this
Settlement Agreement. Defendants must distribute to every new employee, including but not limited

1 to any new service coordinators, the Memorandum drafted by Class Counsel and previously
2 circulated (attached hereto as Exhibit F), as attested to in the Declaration signed by Defendant Gloria
3 Wong (attached hereto as Exhibit G).

4 (viii) To the extent not already accomplished, immediately dismiss any
5 pending, noticed, or previously requested fair hearings dealing with the termination of Class
6 Members' DIR treatment programs that occurred as a result of the Trailer Bill legislation. This
dismissal shall not require any affirmative action on the part of any Class Members.

7 (vii) On the date specified in the Implementation Schedule, file written
8 certification with the Court that Defendants mailed all required documents to all Class Members, and
9 have complied with, and, as applicable, will continue to comply with, all other terms of the
10 Settlement Agreement to the Court and Class Counsel.

11 12. The \$25,000 bond shall be exonerated on the Final Approval Date.

12 13. The Preliminary Injunction issued by the Court on or about February 19, 2010, shall
13 remain in full force and effect until the Final Approval Date.

14 14. If the proposed Settlement Agreement is not approved by the Court, the parties shall
15 make good faith efforts to modify the Settlement Agreement so as to gain the Court's approval. If the
16 parties are unable to modify the Settlement Agreement so as to gain the Court's approval, then the
Class Action shall proceed with respect to the parties as if there had been no settlement.

17 VI.

18 **CLASS NOTICE, MONITORING AND VERIFICATION, AND SETTLEMENT FAIRNESS**

19 **HEARING**

20 15. Class Member Identification: Defendants shall mail Class Notice, in both English and
21 Spanish and any other known language of Class Members, to all Class Members following the
procedures discussed herein and as specified on the Implementation Schedule:

22 (a) Defendants shall: (1) identify and mail Class Notice to each and every Class
23 Member whose DIR treatment programs were terminated in or after July 2009, including but not
24 limited to the 121 Class Members served by Pasadena Child Development Agency ("PCDA"); 100
25 Class Members served by Center for Behavior Change ("CBC") Education, Inc.; 4 Class Members
26 served by Real Connections; 4 Class Members served by Andrea Davis; 3 Class Members served by
27 Holding Hands; 3 Class Members served by Dr. Mona Delahooke; and 1 Class Member served by
28 Inter Care Therapy; (2) identify and mail Class Notice to each and every Class Member who sought
DIR treatment programs in or after July 2009, and who had that request denied; (3) identify and mail

1 Class Notice to each and every family with a child who was diagnosed or provisionally diagnosed
2 with autism in or after July 2009, and was not offered DIR treatment programs; and (4) identify and
3 mail Class Notice to each and every family with a Class Member who has had an IPP since July 1,
4 2009, up and until the date specified in the Implementation Schedule.

5 (b) Defendants shall post Class Notice in English and Spanish and any other
6 known language of Class Members on the ELARC website for two (2) months beginning on the date
7 after the Preliminary Approval Date. Class Notice will be made readily accessible through a single
8 link from the main page of ELARC's website throughout the required posting period.

9 (c) Defendants shall post Class Notice, in English and Spanish and any other
10 known language of Class Members, in their reception lobby, prominently visible to members of the
11 public, for two (2) months beginning on the day after the Preliminary Approval Date.

12 16. Monitoring and Verification: Defendants shall allow adequate monitoring and
13 verification measures to ensure all Class Members have been notified, including, but not limited to
14 the following:

15 (a) No later than the date specified on the Implementation Schedule, and upon
16 execution by the parties of an appropriate Protective Agreement, attached hereto as Exhibit H, to
17 protect the confidentiality of Class Members, Defendants shall provide Class Counsel with a list of
18 Class Members who will receive Class Notice ("Class Member List"). The Class Member List shall
19 include the full name and complete contact information, including the phone numbers and addresses,
20 of each and every Class Member.

21 (b) Within twenty (20) business days of any request by Class Counsel, Defendants
22 shall provide to Class Counsel: (1) any files that have been specifically requested or (2) general
23 access to Defendants' files for Class Members, for purposes of verifying that all individuals who
24 should be provided with Class Notice have been identified.

25 (c) Class Counsel, upon the execution by the parties of an appropriate Protective
26 Agreement to protect the confidentiality of Class Members, will have, on an on-going basis, the right
27 to review the otherwise-confidential full names, contact information and relevant records and
28 documentation of Class Members. Class Counsel agree to maintain the confidentiality of such full
names provided them by Defendants. If, at any time, between the date of execution of this Settlement
Agreement and the Settlement Fairness Hearing the Defendants become aware of any errors in,
omissions in, or new information pertaining to the Class Member List, including but not limited to

1 additional Class Members for the Class Member List, Defendants shall provide Class Counsel with
2 such information within three (3) business days of such discovery.

3 (d) Defendants shall file written certification with the Court attesting to the steps
4 taken to comply with the provisions of Paragraphs 15 and 16 related to Class Member identification,
5 notice, monitoring and verification within the time periods set forth in the Implementation Schedule.

6 17. Informal Complaint Procedures: As part of this Settlement Agreement, the parties
7 agree to the following procedures for individual Class Members who wish to file an Informal
8 Complaint related to the provision or receipt of DIR treatment programs:

9 (a) In the event that a Class Member experiences any dissatisfaction with the
10 provision or receipt of DIR treatment programs they are hereafter afforded the opportunity to file an
11 Informal Complaint. (Attached hereto as Exhibit G.) The Informal Complaint form shall be provided
12 to the Class Member within five (5) business days of the receipt of the Class Member's written or
13 verbal request, complaint or comment. Additionally, as set forth in Paragraph 11(b)(iii)(b) above, the
14 Informal Complaint form shall also be provided to Class Members at their IPP meetings, along with
15 an explanation of the Informal Complaint process and the Class Members' rights associated therewith
16 under this Settlement Agreement. ELARC personnel shall, whenever necessary, assist Class
17 Members in translating or filling out via dictation the Informal Complaint form. However, in the
18 instance that the Informal Complaint is translated or filled out by an ELARC personnel, the Class
19 Member shall also fill out and file an Informal Complaint written in his or her native language. Any
20 Informal Complaint filed by a Class Member shall go directly to Defendant Gloria Wong or
21 whomever holds the position of Executive Director, or his or her designee, on behalf of ELARC, and
22 shall be responded to in writing within five (5) business days of its receipt.

23 (b) Any Informal Complaint filed by a Class Member can be either given to that
24 Class Member's service coordinator or can be mailed, faxed, electronically sent, or personally
25 delivered to ELARC.

26 (c) A copy of the Class Member's Informal Complaint, along with ELARC's
27 written response will be provided to Class Counsel at the time said response is provided to the
28 complainant, thus no later than five (5) business days of ELARC's receipt of the Informal Complaint.

(c) Nothing contained herein at all limits, affects or alters Class Members' rights
to pursue administrative remedies as provided in the Lanterman Act and its implementing
regulations. An unfavorable decision by ELARC with respect to the Informal Complaint shall have

1 no bearing and cannot be used as adverse evidence in any later administrative proceeding or
2 complaint process.

3 18. Settlement Approval Procedures: As part of this Settlement Agreement, the parties
4 agree to the following procedures for obtaining the Court's preliminary approval of this Settlement
5 Agreement.

6 (a) The Class Representatives shall request a hearing date from the Court for
7 preliminary approval of this Settlement Agreement. In conjunction with that request, the Class
8 Representatives shall submit this Settlement Agreement and supporting papers, and shall include the
9 proposed form for the notice and other documents that are necessary to implement this Settlement
10 Agreement.

11 (b) Within the time specified by the Implementation Schedule, the Class
12 Representatives shall request that the Court enter a Preliminary Approval Order certifying the
13 Settlement Class, preliminarily approving the Settlement Agreement, and setting a date for the
14 Settlement Fairness Hearing. The Preliminary Approval Order shall also approve the form and
15 manner of providing notice to the Class Members of the terms of the Settlement Agreement and the
16 schedule for making objections and/or appearing at the Settlement Fairness Hearing.

17 19. Class Notice: Class Notice shall be provided to Class Members, who shall submit any
18 objections to the Settlement Agreement using the procedures specified in the paragraphs below.

19 (a) Defendants shall, in keeping with the timelines set forth in the Implementation
20 Schedule, undertake the mailing of all Class Notices as set forth herein. Defendants shall be
21 responsible for preparing, printing, and mailing to Class Members the Class Notice, substantially in
22 the form attached hereto as Exhibit A. A translation in Spanish and any other known language of
23 Class Members (prepared by Defendants and approved by Class Counsel) of all materials mailed to
24 Class Members by Defendants, including on the outside of the mailing itself, shall be included as part
25 of the same mailing to each Class Member.

26 (b) Class Notice shall be mailed to Class Members in a stand-alone mailing, which
27 shall not be combined with any other mailing. The outside front of the envelope or mailing surface
28 shall clearly be printed with the phrase "IMPORTANT SETTLEMENT DOCUMENTS
ENCLOSED."

(c) Defendants shall send a copy of the Class Notice to Class Members via first
class mail U.S. mail, postage prepaid, using the most current mailing address available. For any
Class Notice returned to Defendants as non-deliverable within 45-days of the original mailing date,

1 Defendants shall notify Class Counsel and make prompt and reasonable efforts to locate the
2 individual, including, but not limited to, contacting that Class Member's known service providers. If,
3 after making reasonable efforts to locate the Class Member, Defendants are still unable to locate the
4 Class Member, Defendants shall employ a locator service. If new address information is obtained,
5 Defendants shall promptly re-mail the Class Notice to the new address via first class U.S. mail,
6 postage prepaid. Upon request from Class Counsel, Defendants shall submit verification of its
7 prompt and reasonable attempts to locate members of the Settlement Class and mail them Class
8 Notice. In the event the procedures in this Paragraph are followed and the intended recipient does not
9 receive Class Notice, that intended recipient shall nevertheless remain a Class Member and shall be
10 bound by all the terms of this Settlement Agreement and the Order and Final Judgment.

11 20. Objecting to the Settlement: The Class Notice shall provide that those Class Members
12 who wish to object to the settlement prior to the Settlement Fairness Hearing must file with the Court
13 and serve on counsel for both parties a written statement objecting to the settlement no later than the
14 date specified in the Implementation Schedule. Unless timely, written objections are filed, as
15 described herein, no Class Member shall be entitled to be heard at the Settlement Fairness Hearing
16 (whether individually or through separate counsel) or to object to this Settlement Agreement, and no
17 written objections or briefs submitted by any Class Member shall be received or considered by the
18 Court at the Settlement Fairness Hearing. Class Members who fail to file and serve timely written
19 objections in the manner specified above shall be deemed to have waived any objections and shall be
20 foreclosed from making any objection (whether by appeal or otherwise) to this Settlement
21 Agreement.

22 21. Settlement Fairness Hearing: The Settlement Fairness Hearing shall be conducted on
23 the date specified in the Implementation Schedule to determine final approval of the Settlement
24 Agreement and Order for Final Injunction. In connection with the final approval of the settlement by
25 the Court at the Settlement Fairness Hearing, the parties shall present the Settlement Agreement and
26 Order for Final Injunction for its approval and entry. After entry of the Final Injunction, the Court
27 shall have continuing jurisdiction for purposes of addressing settlement administration matters,
28 enforcement and compliance, and such post-final judgment matters as may be appropriate under court
rules or as set forth in this Settlement Agreement.

 22. The parties agree to cooperate in the settlement administration process and to make all
reasonable efforts to facilitate the administration of the settlement.

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VII.

EFFECT OF SETTLEMENT AGREEMENT NOT BECOMING FINAL

23. In the event that the Settlement Agreement as provided for herein does not become final, or does not become effective for any reason, then the Settlement Agreement shall become null and void and of no further force and effect, and all negotiations, proceedings, and statements relating thereto shall be without prejudice as to the rights of any and all parties hereto and their respective predecessors and successors, and all parties and their respective predecessors and successors shall be restored to their respective positions existing prior to the execution of the Settlement Agreement.

VIII.

COSTS

24. Defendants shall bear all costs of settlement administration, including, but not limited to, costs of preparing, mailing, and processing the Class Notice.

25. On or before the date specified in the Implementation Schedule, upon approval by the Court, Defendants shall pay any and all allowable costs to Class Counsel.

26. For purposes of settlement only, Class Counsel waive their attorneys' fees. Should this Settlement Agreement not become final for any reason, this waiver becomes null and void.

IX.

DISPUTE RESOLUTION

27. The parties shall endeavor in good faith to resolve informally any differences regarding interpretations of and compliance with this Settlement Agreement prior to bringing such matters to the Court for resolution. However, in the event of a failure by any party, whether willful or otherwise, to perform in a timely manner any act required by this Settlement Agreement or otherwise act in violation of any provision thereof, the burdened party may, after failure of good faith efforts to resolve the matter, move the Court to impose any remedy authorized by law or equity. In its discretion, the Court may award reasonable costs and attorneys' fees to the prevailing party in any such action.

X.

ENTIRE AGREEMENT

28. This Settlement Agreement constitutes the entire agreement among the parties and supersedes all prior agreements, written or oral, between Class Representatives and Defendants. In the event any provision or term of this Settlement Agreement is determined to be or is rendered

1 invalid or unenforceable, all other provisions and terms of this Settlement Agreement shall remain
2 unaffected to the extent permitted by law.

3 **XI.**

4 **MODIFICATION OF AGREEMENT**

5 29. Class Representatives and Defendants shall have the right to seek material
6 modifications of the Settlement Agreement to ensure that its purposes are fully satisfied. If the
7 parties are unable to reach mutual agreement concerning a particular modification, the burden of
8 proof concerning the propriety of modification falls on the party so moving. Any time limits for
9 performance imposed by this Settlement Agreement may be extended by mutual agreement of the
10 parties.

11 **XII.**

12 **CONTINUING JURISDICTION**

13 30. The Court shall have continuing jurisdiction to interpret and enforce the specific
14 provisions of this Settlement Agreement, to effectuate its purposes, and to hear and adjudicate any
15 dispute or litigation arising from the interpretation or application of this Settlement Agreement or the
16 issues of law and facts asserted in the lawsuit.

17 **XIII.**

18 **COUNTERPARTS**

19 31. This Settlement Agreement may be signed in counterparts, and all such executed
20 counterparts shall constitute the Agreement, which shall be binding on the parties.

21 **XIV.**

22 **NO ADMISSION OF LIABILITY**

23 32. All parties to this Settlement Agreement agree that this Settlement Agreement is not to
24 be construed as an admission of liability or wrongdoing by any party to this Settlement Agreement.
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1 Class Action Settlement Agreement: *Benito R., et. al. v. Eastern Los Angeles Regional Center, et. al.*,
2 Case No. BC429819

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4 DATED: By: _____
5 Patricia R., Guardian *ad Litem* for
6 Class Plaintiff Benito R.

7 DATED: By: _____
8 Brenda M., Guardian *ad Litem* for
9 Class Plaintiff Nicole M.

10 DATED: By: _____
11 Sandra B., Guardian *ad Litem* for
12 Class Plaintiff Adam B.

13 DATED: By: _____
14 Margarita G., Guardian *ad Litem* for
15 Class Plaintiff Ernesto G.

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17 DATED: By: _____
18 Jocabed G., Guardian *ad Litem* for
19 Class Plaintiff Cruz F.
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DATED:

By: _____
Laura H., Guardian *ad Litem* for
Class Plaintiff Antonio H.

DATED:

By: _____
Alma G., Guardian *ad Litem* for
Class Plaintiff Vince G.

DATED:

By: _____
Defendant Eastern Los Angeles Regional
Center

DATED:

By: _____
Defendant Gloria Wong

Approved as to Form and Content

DATED:

GIBSON, DUNN & CRUTCHER LLP
John H. Sharer
Katherine M. Marquart

By: _____
John H. Sharer

Attorneys for Class Plaintiffs

DATED:

PUBLIC COUNSEL LAW CENTER
Laura Faer
Brian Capra

By: _____
Laura Faer

Attorneys for Class Plaintiffs

DATED:

Musick, Peeler, & Garrett LPP
Kenneth Katel
Michael Monk

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Christopher Woo
Susannah Galiano

By: _____
Kenneth Katel

Attorneys for Defendants Eastern Los Angeles Regional
Center, et. al.

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