
Reforming a System That Cannot Reform Itself: Child Welfare Reform by Class Action Lawsuits

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Class action lawsuits have become an increasingly common way to facilitate institutional reform. The purpose of this article is to provide an introduction to social workers of child welfare reform by class action lawsuits and subsequent consent decrees. The authors provide an overview of class action lawsuits, with a focus on their role in implementing systematic change in the United States. They highlight consent decrees as a means of settling class action lawsuits. They illustrate the current state of the child welfare system and how child advocacy groups have used class action lawsuits to initiate reform. Authors provide two case examples of child welfare reform by consent decree and engage in comparative analysis to investigate similarities and differences in the two cases. Finally, they note implications for social work practice and education and provide recommendations to equip and train social workers involved in child welfare services.

KEY WORDS: *child welfare; class action lawsuits; consent decrees; social work education; social work practice*

A tool available to social justice advocates who seek institutional and systemic reform is collective or aggregate litigation known as class action lawsuits (Sandler & Schoenbrod, 2003). *Class action lawsuits* are a nontraditional litigation procedure that permits a representative to begin a lawsuit or defend against one on behalf of a larger class of individuals sharing similar situations. Class actions are especially useful when members of the class are so many that it is impractical to bring cases individually (C. H. Miller, 2009). The class action case is typically filed by several named plaintiffs—known as class representatives—on behalf of a large group called the class. Sometimes the class representatives are said to be “standing in the shoes” of the larger group. The advantage of this legal mechanism is that claims do not need to be litigated on a case-by-case basis and that the larger class does not need to appear before the court to be included in the final outcome.

Class actions are most common in product liability cases. A recent consumer protection example is the defective airbags produced by Takata (Takata Airbag Restitution Fund, 2018). In this case, many individuals were injured in accidents due to defective Takata airbags. These individuals drove a variety of vehicles produced by a half-dozen car manufacturers. A large number of consumers and manufacturers made individual litigations inef-

ficient, expensive, and impractical. Yet each consumer and car manufacturer shared common complaints about the defective airbags. Class actions offered a way to consolidate these claims into a larger lawsuit.

CLASS ACTION LAWSUITS IN PURSUIT OF SOCIAL JUSTICE

Social justice advocates have borrowed the procedural tools and principles of the class action lawsuit and applied them to issues such as environmental justice, civil rights enforcement, and prison and education reform (Sandler & Schoenbrod, 2003). A case well known to social workers is *Brown v. Board of Education*, which was the result of consolidating several individual lawsuits brought by black students who shared a similar claim of being denied entry into white schools (National Archives, n.d.). Students collectively challenged the constitutionality of legal segregation known as Jim Crow. The U.S. Supreme Court's decision in *Brown* led to the dismantling of legalized segregation in the South and spawned a generation of education litigation. Relatedly, advocates used the legal reasoning of *Brown* and class action procedures in *Pennsylvania Association for Retarded Children v. Commonwealth of Pennsylvania* and *Mills v. Board of Education* to challenge the practice of excluding children with emotional and physical disabilities from public

school education (Yell, Rogers, & Rogers, 1998). This case eventually resulted in sweeping public education reform and increasing educational access for children with special needs.

In 2008, a class action *Floyd v. City of New York* was filed against the New York City Police Department for unlawful search and seizure practices targeting black and Latinx citizens. In the case of *Lavender v. Skilled Healthcare Group* (2010), advocates for the elderly in California won a major victory against a for-profit company that ran assisted-living and senior housing facilities. Another area that has seen a flurry of class action lawsuits is child welfare. Dozens of states have been sued for systemic deficiencies in their child protective service systems (Alvarez, 2011; Farber & Munson, 2010; Lowry, Freundlich, & Gerstenzang, 2002). Collectively, these examples suggest that class action lawsuits can serve as a potentially powerful tool in social reform efforts. However, the use and role of class action litigation are not well understood by social workers. In this article, we provide an introduction to the use of class action lawsuits, especially in the context of reforming the child welfare system.

CLASS ACTION CHARACTERISTICS AND OUTCOMES

Class actions are governed by Rule 23 of the Federal Rules of Civil Procedure. Three types of class actions are identified in Rule 23. The first is when “prosecuting separate actions . . . would create a risk” of inconsistent legal judgments, which in turn would result in incompatible standards for the defendant. The second is when a party has “acted or refused to act on grounds that apply generally to the class” (for example, when child welfare administrators act or fail to act in a way that causes harm to a group of children under care). The third is when questions of law or facts common to members of the class are dominant over issues applying to the individuals separately, making class actions the “superior” method for solving the shared problem in a fair and an efficient manner (Federal Rules of Civil Procedure, n.d.).

Similar to any litigation, once a class action case has been filed and the class has been certified, the case can proceed to trial. However, more often than not, these complex cases are settled by the agreement of the parties after the class has been certified and the case parameters have been clearly

defined (Seligman, 2011). The court must approve a final settlement and will do so only after determining that the settlement is fair, reasonable, and adequate (Federal Rules of Civil Procedure, n.d.). Settlements are often embodied in a consent decree, which has the force of a court order such that violations can lead to sanctions against defendants (Seligman, 2011). The net result of a consent decree is a monitoring system that allows the parties to return to court if necessary, for proper enforcement.

CHILD MALTREATMENT AND THE CHILD WELFARE SYSTEM

Child maltreatment, also known as child abuse and neglect, refers to any act or series of commission or omission committed by a parent or another caregiver that results in harm, a potential for harm, or threat of harm to a child (Centers for Disease Control and Prevention [CDC], 2018). The four most common types of child maltreatment are physical abuse, emotional (psychological) abuse, sexual abuse, and neglect (U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children’s Bureau [HHS, ACF, ACYF, CB], 2018). In 2016, approximately 3.5 million children were the subjects of Child Protective Services (CPS) reports, and 676,000 children (9.1 per 1,000) were identified as abused or neglected. That is, the allegations of child abuse and neglect were substantiated subsequent to an investigation by state CPS officials (HHS, ACF, ACYF, CB, 2018). Furthermore, in 2016 close to 23 percent of child victims were removed from their homes, making up a total of approximately 440,000 children in the foster care system nationwide (HHS, ACF, ACYF, CB, 2017, 2018).

Although these statistics are staggering, research suggests that the annual state data may underestimate the scope of child maltreatment. Longitudinal analysis of other national data sources has indicated that 37.4 percent of all U.S. children will experience a CPS investigation (Kim, Wildeman, Jonson-Reid, & Drake, 2017) and 12.5 percent will have a substantiated case of maltreatment by the time they reach age 18 (Wildeman et al., 2014). Child maltreatment has been shown to be linked with aggression, delayed physical development, depression, neurological harm, physical injuries, posttraumatic stress disorder, and death (CDC, 2018).

The child welfare system has been repeatedly criticized for its gross negligence of children in their care and failure to protect them from additional harm (Ryan & Gomez, 2017). State and local child welfare systems are the primary systems tasked with the job of protecting children from child abuse and neglect, but advocates (for example, Children's Rights) argue that deficits in the system prevent child welfare agencies from providing basic services to the nation's most vulnerable children and families. Although state child welfare agencies are subject to federal oversight and state legislatures, such monitoring has lacked the force to bring out comprehensive reform among failing child welfare systems. In response to these concerns, several different types of reform have taken place including the use of torts and civil suits, which primarily focus on demanding monetary compensation for the damages on children and parents injured by a local or state child welfare agency, as well as federal- and state-level policy changes (for example, enacting the Adoption and Safe Families Act in 1997 to reduce barriers to adoption and decrease the length of time children spent in foster care, and changing the legal definition of a perpetrator of child abuse and neglect to include all adults) (Gelles, 2017). A number of child advocacy and lobbying groups have turned to class action lawsuits as a means to hold state and local child welfare systems accountable for carrying out their mandated responsibilities to effectively protect and serve children and families (Meltzer, Joseph, & Shookhoff, 2012; Ryan & Gomez, 2017).

CHILD ADVOCACY GROUPS AND CLASS ACTION LAWSUITS

In response to the systematic failures of the child welfare system, child advocates have used class action lawsuits and federal court orders to reform the child welfare system. One example is from Children's Rights, a national watchdog organization that was founded in the early 1970s. On behalf of maltreated children in the United States, Children's Rights advocates have collaborated with other organizations to bring class action lawsuits against more than a dozen states. The organization has exposed states' failure to protect and serve children in their care. Class action lawsuits by Children's Rights have brought about reforms that require federal monitoring of the state, court-enforceable reform plans, and substantial

efforts to assess states' progress to improve conditions for children involved in the child welfare system (Children's Rights, 2015).

A related example of an organization using class action lawsuits to reform the child welfare system is the American Civil Liberties Union (ACLU), a nonprofit organization that aims to defend and preserve the individual rights and liberties guaranteed by the U.S. Constitution and laws of the United States. Although the organization was founded in the early 1920s, it was not involved in child welfare reform until the 1970s. One of ACLU's first cases involved bringing a class action lawsuit against Kansas City's foster care system for mistreating and neglecting children in care. After 16 years, ACLU and the Missouri Division of Family Services negotiated a consent decree, mandating reforms to be implemented by Kansas City in its service delivery to children and families in the foster care system. ACLU has brought similar cases against state and county child welfare systems on behalf of children indefinitely left in child welfare institutions due to bureaucracy, lack of funding, and neglect (ACLU, n.d.).

CONSENT DECREES IN CHILD WELFARE REFORM

As alluded to earlier, one outcome of class action lawsuit is a consent decree, which is a settlement that resolves a legal conflict between two parties without admission of guilt or liability (Dabney, 1963). The process involves the plaintiff and defendant asking the court to enter into a settlement agreement in lieu of proceeding to trial. After being approved by the court, a consent decree acts as a contract that binds the plaintiff and defendant to its terms (Child Welfare League of America [CWLA], 2005). The court fully enforces and oversees implementation of the decree between the two parties (Dabney, 1963). The main content of the consent decree describes the specific course of actions defendants are required to take to resolve the identified problem, and the role of plaintiffs in ensuring that all requirements in the consent decree are implemented (CWLA, 2005).

Consent decrees have played a major role in addressing the systematic failures of child welfare agencies (CWLA, 2005). In 2000, the National Center for Youth Law identified 57 child welfare reform lawsuits involving 36 states, and consent decrees governed at least 35 of these lawsuits

(Bursch & Corrigan, 2016). In 2012, approximately 70 class action lawsuits were either pending or governing some aspect of child welfare in 30 states, and approximately 20 states were working to implement consent decrees or other related court orders to reform their child welfare systems (Meltzer et al., 2012). A more recent list of consent decrees compiled by Bursch and Corrigan (2016) indicated that 13 states—Connecticut, Georgia, Illinois, Maryland, Michigan, Mississippi, New Jersey, New York, Ohio, Oklahoma, South Carolina, Tennessee, Wisconsin—and Washington, DC, had consent decrees.

States with consent decrees can be in a variety of stages of compliance, ranging from just having entered the consent decree to proceeding through the final stages of their exit plans (Casey Family Programs, 2018). Some states make measurable progress; others spend many years without much improvement and thus, have to renegotiate their consent decree agreements to adjust the standards they are required to meet (Bursch & Corrigan, 2016). Most recently, Ohio and Tennessee exited their consent decrees in June 2016 and July 2017, respectively (Casey Family Programs, 2018). To date, only six states—Alabama, Kansas, New Mexico, Ohio, Tennessee, and Utah—have successfully exited from their consent decrees (Casey Family Programs, 2018; Ryan & Gomez, 2017). These states spent well over a decade under federal court oversight.

The litigation involved with a consent decree is both costly and time intensive. Federal court oversight ranges widely from less than a year to 39 years, with an average life span of 17 years (Bursch & Corrigan, 2016). It is not surprising that critiques of the use of court-ordered consent decrees include the amount of time and resources state officials must spend in court and the litigation burden consent decrees place on taxpayers (Bursch & Corrigan, 2016). For example, consulting, legal, and monitoring fees have been estimated to exceed over \$15 million across the lifetime of a consent decree (U.S. House Committee on Oversight and Government Reform, 2017). Some may argue that the effectiveness of consent decrees to facilitate sustainable reform in the child welfare system is debatable and that the costs outweigh the benefits. Nevertheless, there is some evidence to suggest that consent decrees can capture the attention of political officials (Gelles, 2017) and put enough

pressure on states (for example, Ohio and Tennessee most recently exited consent decrees) to successfully implement and sustain reform in the child welfare system (Ryan & Gomez, 2017).

Examples of Child Welfare Consent Decrees

Michigan. On August 8, 2006, Children's Rights filed a class action lawsuit against the governor of the state of Michigan (MI) and directors of the Department of Human Services (DHS) Children's Services Administration. The lawsuit alleged that DHS was violating the constitutional statutory and common law rights of the children in foster care through significant system deficiencies and thus, failing to provide for the children's safety, permanency, and well-being (*Dwayne v. Granholm*, 2006). The six named plaintiffs represented children who had experienced multiple placements throughout their time in foster care, inadequate mental and physical health care (that is, overprescribed psychotropic medications), and placement into inadequate or dangerous foster homes, resulting in recurrence of maltreatment.

The class action lawsuit was settled in 2008 after extensive discussion, expert testimonies, and negotiation among the parties pertaining to the final terms and conditions of the consent decree (*Dwayne v. Granholm*, 2008). Federal monitors were assigned to oversee compliance with the consent decree and began meeting with DHS officials to monitor achievements or failures of agreed-on outcomes (*Children's Rights*, n.d.-c). MI's consent decree mandated approximately 240 substantive changes, with the required reforms falling into 12 categories covering actions that would improve children's safety (for example, create a centralized child protection hotline to receive and assign complaints), permanency (for example, develop a program to serve youths who are aging out of foster care by providing additional supports and extending care until age 21), and well-being (for example, monitoring the prescription of psychotropic medications to children in the foster care system) (*Children's Rights*, n.d.-b).

To refine and update the original consent decree, DHS subsequently entered several months of negotiations with Children's Rights. This resulted in the first modified settlement agreement (MSA) approved in 2011 (*Dwayne v. Snyder*, 2011). New provisions in the MSA required DHS to request

sufficient funding to carry out the requirements of the consent decree. It also required the department to improve the data management unit to better track and report outcomes. Believing that it had accomplished major portions of the MSA, DHS filed a motion to vacate or modify the MSA in 2014. This resulted in DHS and Children's Rights renegotiating settlement terms and devising a second MSA known as the Implementation, Sustainability, and Exit Plan (ISEP) (*Dwayne v. Snyder*, 2016).

The ISEP detailed commitments accomplished by DHS but that must still be maintained, as well as additional commitments DHS needed to achieve to exit the consent decree. It set forth 22 commitments pertaining to the departmental structure and governing policies, 14 commitments to be maintained for a year, and 57 other commitments still need to be attained (for example, 95 percent of child protection investigations be commenced within 24 hours). Overall, the requirements of the original and modified consent decrees are not vastly different from each other. Details for achieving and implementing the requirements may vary, but the overarching goals aimed at improving the child welfare system to attain child safety, permanency, and well-being have remained consistent through each settlement negotiation. Twelve years since the class action lawsuit, DHS continues to be monitored pursuant to the consent decree.

Tennessee. On May 10, 2000, Children's Rights filed a class action lawsuit against the governor of the state of Tennessee (TN) and the TN Department of Children's Services (DCS). Plaintiff children represented cases with complaints, including multiple or inadequate foster care placements, separation of siblings and lack of efforts to find placements to keep siblings together, lack of administrative and legal services available to children and families involved in DCS, and abuse and neglect of children while in foster care. On behalf of black children in foster care, the class action lawsuit also brought a claim against DCS that the state failed to provide adequate protection and services to children of color. Specifically, the lawsuit claimed that DCS made less effort to secure appropriate placements and services for black children than it did for white children in state custody (*Brian v. Sundquist*, 2000).

On July 27, 2001, a settlement was reached between the plaintiff children's attorneys from

Children's Rights and DCS. The court approved a consent decree that aimed at making sweeping changes in the DCS infrastructure—including the protocol and system to report child abuse and neglect, availability of regional community-based services, staff caseload and training, placement and supervision of children, management of adoptive and foster parents, statewide information system, and financial development and management—to improve outcomes for children. By 2003, DCS had made little progress and thus the court intervened, requiring the state to work with the Technical Assistance Committee (TAC), a court-appointed panel of child welfare experts whose responsibilities entailed advising the implementation of the consent decree and monitoring DCS's performance and progress (*Children's Rights*, n.d.-a).

Thereafter, DCS made steady progress as measured by key metrics, such as reducing time to permanency through reunification, adoption, and subsidized permanent guardianship; keeping siblings together close to their homes; engaging parents in the case planning process; and stabilizing out-of-home placements (*Meltzer et al.*, 2012). DCS's progress was reflected in a number of modified settlement and exit plans filed by both parties and TAC monitoring reports (for example, *Brian v. Haslam*, 2013; *Cohen, Meltzer, Shookhoff, & Vincent*, 2017). These documents also outlined specific requirements necessary for DCS to successfully exit the consent decree and thus end federal court oversight. In 2015 DCS achieved its court-mandated performance measures and was still required to maintain that performance for another 12 months.

In early 2017, the TAC released a monitoring report noting that DCS had successfully maintained its performance in all areas listed in the consent decree for the required duration (*Cohen et al.*, 2017). On July 18, 2017, a U.S. District Court judge approved DCS's performance and maintenance of such performance (*Tennessee Office of the Governor*, 2017) thus officially ending what turned out to be a more than 16 year-long system-wide child welfare reform. The reform resulted in DCS achieving approximately 140 foster care benchmarks related to time to permanency, parent-child visitations, and staff caseloads.

Comparing the Two States with Consent Decree.

The primary focus and function of the consent decrees—to reform the child welfare system to

achieve safety, permanency, and well-being for children in state custody—were similar in MI and TN. The consent decrees laid out the specific provisions state child welfare agencies were required to meet to achieve institutional reform. Despite this shared focus and function, there are notable differences in MI's and TN's consent decrees that are worthy of mention. For instance, the two states were challenged with different issues, with MI being accused of excessively high caseloads and mismanagement of psychotropic medications for children in the foster care system and TN being condemned for racial discrimination against black children and failing to keep siblings together in placements.

More important, the two states differ in their process of exiting the consent decree and ultimate outcome. Although it took close to two decades, TN was able to successfully exit the consent decree, whereas MI is still being monitored, with the state entering its 13th year of systematic reform. One key factor that may explain this difference is the use of a court-appointed panel of child welfare experts (that is, TAC in TN's case). The TAC was a major asset and thus served the reform well in TN (V. Miller, 2012). The five-member TAC team functioned as monitors, advisers, and mentors to DCS officials. TAC members were trained in child development, social work, and child and family policy and were independent (that is, located at different institutions across the country). MI's child welfare system is also overseen by two court-appointed monitors, but their team does not seem as comprehensive as that of TN, and the two monitors are from a centralized child welfare consulting agency (Public Catalyst, n.d.).

Furthermore, in TN's case, independent data analysis of outcomes, sufficient time built into the consent decree for DCS to develop a strong infrastructure, and supportive political leadership (for example, governor and legislature) were identified as key components that aided the reform and eventual exit from the consent decree (V. Miller, 2012). These points are consistent with Ryan and Gomez's (2017) evaluations of four states—Alabama, Kansas, New Mexico, and Utah—that also exited consent decrees. The researchers noted that sustained and competent leadership, funding from legislature, and data collection and monitoring emerged as factors that allowed all four states to successfully exit their consent decrees. Although MI has made significant

progress over the years, many improvements—especially those related to youths aging out of foster care—have not been sustained. Other limitations have been recently identified, including underreporting the number of child maltreatment cases for children in state custody, inappropriately screening cases out for CPS investigation, and placing children in relative homes that do not meet safety standards (Elliott, 2018). Overall, the specific roles that social workers play in class action lawsuits and, in particular, consent decrees in MI and TN are not well documented, warranting additional investigation by future research. Nevertheless, preliminary evidence suggests that social workers' and supervisors' compliance with and support for changes (for example, collection and analysis of meaningful data, altering practice orientations to focus on establishing relationships with children and families) called by consent decrees contribute to improving the child welfare system (Farber & Munson, 2010; Ryan & Gomez, 2016).

SOCIAL WORK PRACTICE AND EDUCATION IMPLICATIONS

Class action lawsuits and federal consent decrees are responses by child welfare advocates to a system that has failed to protect children. Complaints in class action lawsuits often involve concerns about the abuse of children placed in foster care, heavy caseloads, lack of adequate case oversight by social workers, and racial and ethnic disparities in placement. However, the class action lawsuit approach is not without drawbacks and criticism. States face an enormous cost burden in defending themselves against class action lawsuits and in documenting progress when consent decrees are reached (Bursch & Corrigan, 2016). Often there is no clear pathway out of the consent decree oversight. Some argue that this high burden of cost further deprives an already underfunded child welfare system.

Although cost and time spent on consent decrees are clearly important issues, in this article, we ask a slightly different question regarding whether class action lawsuits and federal oversight through consent decree can serve as effective tools to reform child welfare from a social work and social justice perspective, as well as the potential implications of this strategy for social work practice and education. On the first point, Matthews (1996) noted from a legal perspective that class action lawsuits on behalf of children “are needed to safeguard

the basic civil rights of a group of people who are prevented by discrimination, poverty, disability, or other factors from participating fairly and equally in the political process” (p. 1437). Indeed, because children do not have equal access to initiate such reforms, and thus cannot be expected to act in their “best interest,” it may be interpreted as an ethical responsibility of lawyers and related professionals to act on behalf of children or others who are unable to protect their self-interests.

Fortunately, social workers have a code of ethics that helps guide the application of social justice principles to practice. One can see clear parallels to Matthews’s (1996) argument in the language of the Preamble to the [National Association of Social Workers’ \(2017\) Code of Ethics](#), which states that “social workers promote social justice and social change with and on behalf of clients” (p. 1). Furthermore, the code states that “social workers also seek to promote the responsiveness of organizations, communities, and other social institutions to individuals’ needs and social problems” (p. 1). In a general sense, the work of child advocates to use legal tools such as class action lawsuits and consent decrees to improve conditions for children within the child welfare system appears to be consistent with the core principles of advocacy and policy reform within the social work profession.

Given the increasingly widespread use of legal tools for child welfare reform, a next question is how best to educate, train, and prepare social workers involved in child welfare. Social work education should involve teaching and learning about what class action lawsuits are, their history in transforming social services institutions, their benefits as well as costs and critiques, outcomes of class action lawsuits (that is, consent decrees), and the role and functioning of consent decrees in facilitating systemic change. Social workers should be educated on how consent decrees imposed on state child welfare systems relate to children’s safety, permanency, and well-being and be trained to collaborate with lawyers, legal experts, and other related professionals (Milner, 2018). Social workers will benefit from learning about how individual states make commitments to ensure that children in their custody are properly protected and serviced.

As a case in point, MI’s child welfare system was accused of overprescribing psychotropic drugs to children in its custody. In many of these instances, such medications were deemed inappro-

priate (*Dwayne v. Granholm*, 2006). The consent decree outlined that DHS create a full-time medical director to oversee the implementation of policies and procedures related to the use of psychotropic medication (*Dwayne v. Snyder*, 2011). These decisions have a day-to-day impact on the practice of CPS and foster care workers. For instance, tracking administration of psychotropic drugs and health records of children, as well as reporting related issues to the medical director, have become tasks carried out by frontline workers. For each foster child prescribed with psychotropic drugs, medication compliance and treatment effects must be addressed by the assigned caseworker during the monthly home visit with the child and caregivers. In addition, any information related to informed consent and prescription of psychotropic medication must be documented by the caseworker in the social contact notes of the case file ([Michigan Department of Health and Human Services](#), 2018).

In addition to being informed about class actions, it would serve well for social work students to be aware of other means and strategies for facilitating enduring change in the child welfare system. Previously, torts and legislative changes were mentioned (Gelles, 2017). Toward the goal of reform, social work scholars have also noted adopting a differential response paradigm in child welfare that involves providing customized responses to families, developing community-based systems of child protection, engaging informal and natural partners, and disseminating quality training to workers and supervisors (Douglas et al., 2015; Waldfoegel, 2000). Social work students will do well to critically think about ways to bridge both legal tools and these alternative strategies so that child welfare reform is a comprehensive effort.

SUMMARY

Class action lawsuits have become a common method to initiate institutional reform. This article provided an overview of child welfare reform by class action lawsuits and subsequent consent decrees. The article highlighted two child welfare states as case examples, briefly compared the two consent decrees, and provided perspectives on existing differences. Overall, child advocates’ efforts to use class action lawsuits and subsequent consent decrees align with the principles of the social work profession. Several recommendations were made for social work practice and education. It was

suggested that social work practitioners should be educated and informed about legal tools used to reform and sustain change in the child welfare system. Such training would aid in ensuring children's safety, permanency, and well-being. **SW**

REFERENCES

- Alvarez, A. (2011). Litigation and public sector reform: Accountability through the courts and case of New Jersey's Division of Family and Youth Services [Student Corner]. *Journal of Multidisciplinary Research*, 3(2), 99–115.
- American Civil Liberties Union. (n.d.). *ACLU history*. Retrieved from <https://www.aclu.org/about/aclu-history>
- Brian v. Haslam. (2013). *September 2013 modified settlement agreement and exit plan*. Retrieved from <https://www.childrensrightrights.org/wp-content/uploads/2013/11/2013-09-19-September-2013-Modified-Settlement-Agreement-and-Exit-Plan-signed.pdf>
- Brian v. Sundquist. (2000). *Complaint—class action for declaratory and injunctive relief*. Retrieved from <https://www.clearinghouse.net/chDocs/public/CW-TN-0001-0001.pdf>
- Bursch, J., & Corrigan, M. (2016). *Rethinking consent decrees: How federal-court decrees in child welfare can harm those they are supposed to help and upset the federal-state balance*. Retrieved from <https://www.aei.org/wp-content/uploads/2016/06/Rethinking-Consent-Decree-online.pdf>
- Casey Family Programs. (2018). *Can you share a summary of child welfare consent decrees?* Retrieved from https://caseyfamilypro-wpengine.netdna-ssl.com/media/SComm_Consent_Decree_Summary.pdf
- Centers for Disease Control and Prevention. (2018). *Child abuse and neglect: Consequences*. Retrieved from <https://www.cdc.gov/violenceprevention/childabuseandneglect/consequences.html>
- Child Welfare League of America. (2005). *Child welfare consent decrees: Analysis of thirty-five court actions from 1995 to 2005*. Retrieved from http://thehill.com/sites/default/files/consentdecrees_0.pdf
- Children's Rights. (2015). *Children Right's works*. Retrieved from <http://www.childrensrightrights.org/wp-content/uploads/2016/01/CR-Works-Brochure-12.9.15-spreads-FINAL.pdf>
- Children's Rights. (n.d.-a). *Class actions: TN - Brian A. v. Haslam*. Retrieved from https://www.childrensrightrights.org/class_action/tennessee/
- Children's Rights. (n.d.-b). *Dwayne B. v. Granholm*. Retrieved from http://www.childrensrightrights.org/wp-content/uploads/2010/02/2009-12-11_mi_dwayne_b_fact_sheet_final.pdf
- Children's Rights. (n.d.-c). *Dwayne B. v. Granholm: Key elements of class action child welfare reform settlement agreement*. Retrieved from <https://www.childrensrightrights.org/wp-content/uploads/2008/07/2008-07-15-mi-settlement-agreement-fact-sheet-revised.pdf>
- Cohen, S. D., Meltzer, J., Shookhoff, A., & Vincent, P. (2017). *Monitoring report of the Technical Assistance Committee in the case of Brian A. v. Haslam*. Retrieved from <https://www.childrensrightrights.org/wp-content/uploads/2017/04/2017.04.04-Dkt.-No.-576-1-MR15.pdf>
- Dabney, S. M. (1963). Consent without consent decrees. *Columbia Law Review*, 63, 1053–1064.
- Douglas, E. M., Gushwa, M., Henry, M. J., Hines, D. A., Aboujaoude, M., & Annie E. Casey Foundation. (2015). *Mission critical: Reforming foster care and child protective services in Massachusetts*. Retrieved from https://wordpress.clarku.edu/dhines/files/2016/10/FINAL-Family_Impact_Report_2015_rev2.pdf
- Dwayne v. Granholm. (2006). *Class action complaint*. Retrieved from <http://www.sado.org/fees/dwayne%20complaint%208-8-06.pdf>
- Dwayne v. Granholm. (2008). *Settlement agreement*. Retrieved from https://www.michigan.gov/documents/dhs/DHS-LegalPolicy-ChildWelfareReform-Settlement_243876_7.pdf
- Dwayne v. Snyder. (2011). *Modified settlement agreement and consent order*. Retrieved from <https://www.clearinghouse.net/chDocs/public/CW-MI-0001-0001.pdf>
- Dwayne v. Snyder. (2016). *Implementation, Sustainability, and Exit Plan*. Retrieved from https://www.michigan.gov/documents/mdhhs/Dwayne_B_Implementation_signed_by_Judge_512787_7.pdf
- Elliott, K. (2018). *State under the gun on broken foster care system*. Retrieved from <https://www.downtownpublications.com/single-post/2018/07/24/State-under-the-gun-on-broken-foster-care-system>
- Farber, J., & Munson, S. (2010). Strengthening the child welfare workforce: Lessons from litigation. *Journal of Public Child Welfare*, 4, 132–157.
- Federal Rules of Civil Procedure. (n.d.). *Rule 23. Class actions*. Retrieved from https://www.law.cornell.edu/rules/frcp/rule_23
- Floyd v. City of New York, 08-cv-01034-SAS (2008). Retrieved from https://cjrjustice.org/sites/default/files/assets/Floyd_Complaint_08.01.31.pdf
- Gelles, R. (2017). *Out of harm's way: Creating an effective child welfare system*. New York: Oxford University Press.
- Kim, H. K., Wildeman, C., Jonson-Reid, M., & Drake, B. (2017). Lifetime prevalence of investigating child maltreatment among US children. *American Journal of Public Health*, 107, 274–280.
- Lavender v. Skilled Healthcare Group, No. DR060264 (Calif. Super. Ct., Humboldt Co.), 2010WL 4926747. (2010). Retrieved from <https://www.sec.gov/Archives/edgar/data/1351051/000119312510206250/dex101.htm>
- Lowry, M. R., Freundlich, M., & Gerstenzang, S. (2002). Class action litigation: Judicial reform of child welfare systems in the United States. *Adoption & Fostering*, 26(3), 50–57.
- Matthews, M. (1996). Ten thousand tiny clients: The ethical duty of representation in children's class-action cases. *Fordham Law Review*, 64, 1435–1471.
- Meltzer, J., Joseph, R. M., & Shookhoff, A. (2012). *For the welfare of children: Lessons learned from class action litigation*. Washington, DC: Center for the Study of Social Policy.
- Michigan Department of Health and Human Services. (2018). *Children's foster care manual*. Retrieved from <https://dhhs.michigan.gov/OLMWeb/ex/FO/Public/FOM/000.pdf>
- Miller, C. H. (2009). The adaptive American judiciary: From classical adjudication to class action litigation. *Albany Law Review*, 72, 117–147.
- Miller, V. (2012). Life under a consent decree: A conversation with Viola Miller. In J. Meltzer, R. M. Joseph, A. Shookhoff (Eds.), *For the welfare of children: Lessons learned from class action litigation* (pp. 131–133). Washington, DC: Center for the Study of Social Policy.
- Milner, J. (2018). *Reshaping child welfare in the United States: Lawyers as partners in prevention*. Retrieved from https://www.americanbar.org/groups/public_interest/child_law/resources/child_law_

- practiceonline/january-december-2018/reshaping-child-welfare-in-the-united-states--lawyers-as-partner/
- National Archives. (n.d.). *Documents related to Brown v. Board of Education*. Retrieved from <https://www.archives.gov/education/lessons/brown-v-board>
- National Association of Social Workers (2017). *Code of ethics of the National Association of Social Workers*. Washington, DC: Author.
- Public Catalyst. (n.d.). *Mediation and monitoring: Michigan child welfare system*. Retrieved from <http://www.public-catalyst.com/our-work/mediation-and-monitoring/>
- Ryan, T. N., & Gomez, R. J. (2016). Trends in state budgets and child outcomes during and post child welfare class action litigation. *Children and Youth Services Review, 62*, 49–57. doi:10.1016/j.childyouth.2016.01.017
- Ryan, T. N., & Gomez, R. J. (2017). What does it take to close a comprehensive child welfare systems reform lawsuit? A case study approach. *Human Services Organizations: Management, Leadership & Governance, 41*, 252–274. doi:10.1080/23303131.2016.1259704
- Sandler, R., & Schoenbrod, D. (2003). *Democracy by decree*. New Haven, CT: Yale University Press.
- Seligman, B. (2011). Using law for change: Litigation to challenge systemic violations. *Clearinghouse Review: Journal of Poverty Law and Policy, 44*(9–10), 483–491.
- Takata Airbag Restitution Fund. (2018). *Takata Airbag Individual Restitution Fund*. Retrieved from <http://www.takataspecialmaster.com/index>
- Tennessee Office of the Governor. (2017). *Department of Children's Services emerges from federal court oversight*. Retrieved from <https://www.tn.gov/governor/news/2017/7/18/department-of-childrens-services-emerges-from-federal-court-oversight.html>
- U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2017). *The AFCARS report: Preliminary FY 2016 estimates as of Oct 20, 2017* (No. 24). Retrieved from <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport24.pdf>
- U.S. Department of Health & Human Services, Administration for Children and Families, Administration on Children, Youth and Families, Children's Bureau. (2018). *Child maltreatment 2016*. Retrieved from <https://www.acf.hhs.gov/sites/default/files/cb/cm2016.pdf>
- U.S. House Committee on Oversight and Government Reform. (2017). *Testimony of David Sanders, executive vice president of systems improvement, Casey Family Programs*. Retrieved from https://oversight.house.gov/wp-content/uploads/2017/07/Sanders_Testimony_Sue-and-Settle-II.pdf
- Waldfoegel, J. (2000). Reforming child protective services. *Child Welfare, 79*(1), 43–57.
- Wildeman, C., Emanuel, N., Leventhal, J. M., Putnam-Hornstein, E., Waldfoegel, J., & Lee, H. (2014). The prevalence of confirmed maltreatment among American children, 2004–2011. *JAMA Pediatrics, 168*, 706–713. doi:10.1001/jamapediatrics.2014.410
- Yell, M. L., Rogers, D., & Rogers, E. L. (1998). The legal history of special education: What a long, strange trip it's been! *Remedial and Special Education, 19*(4), 219–228.

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