

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25

ENDORSED
FILED
San Francisco County Superior Court

OCT 1 2001

ALAN CARLSON, Clerk
BY: CRISTINA E. BAUTISTA
Deputy Clerk

SUPERIOR COURT OF CALIFORNIA
COUNTY OF SAN FRANCISCO

ELIEZER WILLIAMS, et al.,) Case No.: 312 236
Plaintiffs,)
vs.) ORDER GRANTING MOTION TO
STATE OF CALIFORNIA, et al.,) CERTIFY A CLASS
Defendants.)

Plaintiffs' motion for class certification came on for hearing September 20, 2001. The Court has reviewed the pleadings and papers filed in this matter, as well as the arguments of counsel, and grants the motion in part.

The Plaintiffs claim that the State of California is required, but has failed, to implement an adequate system of oversight and management of public education. As evidence of that failure, the Plaintiffs allege that some students lack basic educational opportunities to which those students are legally entitled. The Plaintiffs seek generalized equitable relief at the state level, and they do not seek relief specific to particular students, schools, or school districts.

Plaintiffs now move to certify a class of all students who suffer from the various categories of

1 alleged deficiencies in textbooks, facilities, and trained teachers described in their complaint.
2 Plaintiffs also move to certify a sub-class consisting of students who attend certain multi-tracked
3 schools. Defendants oppose class certification on several grounds.

4 First, it is apparent to the Court that common issues of fact and law predominate in this
5 case. All students seek the same state-level relief based on the same alleged state-level
6 deficiencies. The liability issue is whether there is a failure on a state-wide level, not whether any
7 particular individual has suffered, and individual remedies are not sought. As Defendants'
8 counsel conceded at argument, given the limitations on the Plaintiffs' case, both self-imposed
9 and court-ordered, commonality and typicality are satisfied.

10 Second, it is also apparent that the individual plaintiffs and their attorneys can adequately
11 represent the class. Defendants' only serious contrary argument is that Plaintiffs' choice not to
12 pursue individualized or localized remedies or to raise certain issues would compromise rights of
13 absent class members. Plaintiffs respond that their suit is limited in scope, is designed to secure
14 broad relief, and does not give up substantial rights of absent members to other kinds of
15 equitable relief. The Court will not second-guess Plaintiffs' tactical and strategic choices, and
16 the Court need not decide what, if any, rights would survive this lawsuit. For present purposes, it
17 is enough that competent counsel and qualified class representatives have analyzed their options
18 and made a determination as to the best approach to address the alleged problems in California's
19 educational system by correcting what they perceive to be deficiencies in the State's system of
20 oversight and management.

21 The more difficult question is whether Plaintiffs have met their burden of showing that
22 "substantial benefit will result both to the litigants and to the court" from certification of the
23 proposed class. *Blue Chip Stamps v. Superior Court*, 18 Cal. 3d 381, 385 (1976); *City of San*
24 *Jose v. Superior Court*, 12 Cal. 3d 447, 459 (1974). Here the only relief sought is state-wide
25 injunctive and declaratory relief based on the whole set of alleged educational deficiencies. If

1 the Plaintiffs' theory is correct and the Plaintiffs' proof sufficient, any relief would direct
2 changes at the state level that would presumably require changes of some sort to the way the
3 State manages education generally. Unlike *Miller v. Woods*, 148 Cal. App. 3d 862
4 (1983)(seeking injunctive relief with respect to a state regulation concerning payments to
5 individuals), relief would necessarily flow to absent putative class members. It follows that class
6 certification is not necessary to fashion or enforce a remedy.

7 Nonetheless, there are benefits that would accrue from class certification. First,
8 certifying a class would avoid the risk of multiple or duplicative actions brought by third parties
9 seeking the same relief or complaining of the same problems. There is an advantage to having
10 this complex litigation happen only once. See *Reyes v. Board of Supervisors*, 196 Cal. App. 3d
11 1263, 1270 (1987). Although other individuals could seek to intervene in this action, there
12 would be no requirement that they do so. Moreover, requiring intervention could complicate
13 this action, especially if intervenors came with independent counsel or differing strategies.
14 Second, certifying a class would remove any risk that the action would become moot as to any
15 issue presented. See *Cesar v. Pataki*, 2000 U.S. Dist. Lexis 11532, *24 (S.D.N.Y.
16 2000)(finding risk of mootness made certification necessary). Although there are named
17 students who are likely to remain in their school systems for several years, we cannot know for
18 sure how long this case will take to reach the end of the appellate road. Nor can we know that
19 students will not move, drop out of school, or otherwise no longer be appropriate plaintiffs.
20 Although California courts could decide to proceed even if the case became technically moot,
21 there is no guarantee that a trial or appellate court would or should decide to do so when and if
22 the issue arises. Third, as the State recognized, certifying a class would give the State protection
23 from successive suits, if it were to prevail, by binding absent class members to that result.

24 On the other side of the ledger, there does not appear to be any significant downside to
25 class certification. The one issue pointed to by the State was the possibility that more formal

1 discovery would be necessary because the State's lawyers would not be free to talk to students
2 who were within the class definition. Even assuming that is true and that it would be a problem,
3 the Plaintiffs offered at the hearing to stipulate that such conversations could occur so long as
4 Defendants' counsel advised the students that there were class lawyers representing them and
5 notified Plaintiffs' counsel.

6 Taken as a whole, the benefits are sufficiently substantial to meet the test, and there are
7 no significant countervailing disadvantages. Therefore, the Court will certify the class proposed
8 by Plaintiffs. Certifying the class, however, should not affect the scope of the issues, evidence,
9 remedies, or other aspects of this case. Given the current parameters of the case, certification is
10 something of a formality. The benefits by-and-large are related to external events that could
11 impact the manageability of the case as opposed to issues that would be encountered given the
12 current line-up of parties and issues.

13 Turning to the requested sub-class, the Court does not see any significant benefit to
14 certification of a sub-class at this stage of the proceedings. If members of that sub-class are
15 entitled to some relief, there is nothing that would prevent it being awarded as part of the class-
16 wide relief. The Court does not anticipate that there would be separate trials built around the
17 proposed, or any other, sub-class. The class that is being certified would bring members of the
18 sub-class before the Court. Certifying a sub-class now would only add an unnecessary
19 procedural complexity with no corresponding benefit. Of course, class decisions are not set in
20 concrete. If a need for a sub-class arises at some future point, the issue could be raised then—
21 just as the Court could modify or even decertify the class if changed circumstances so required.

22 Needless to say, in making its ruling on this procedural issue, the Court has not
23 considered and makes no judgment on the merits of this litigation. Certifying a class does not
24 imply that there is any liability or any appropriate relief. Nor has the Court made any decision
25

1 that pre-judgment notice to class members is necessary or appropriate. Those are issues for
2 another day.

3

4

5 DATED: October 1, 2001

6


7 JUDGE OF THE SUPERIOR COURT

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25