

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
NORTHERN DIVISION**

OFFICE OF STATE PUBLIC DEFENDER;
ANDRÉ DE GRUY; and
JENNIFER MORGAN, BRENDA LOCKE,
and A. ARMAN MIRI, individually and on
behalf of all others similarly situated,

Plaintiffs,

v.

KATHARINE SURKIN, DIRECTOR OF
THE ADMINISTRATIVE OFFICE OF THE
COURTS, in her official capacity,
Defendant.

Case No.: 3:26-cv-00458-HTW-LGI

MEMORANDUM OF LAW IN SUPPORT OF MOTION TO CERTIFY CLASS

Through this lawsuit, Plaintiffs have sued Katharine Surkin, Director of the Administrative Office of Courts (hereafter, “AOC” or “Defendant”), to provide Youth Court attorneys and their clients with access to all Youth Court case records in AOC’s control. Plaintiffs seek certification under Rules 23(a) and 23(b)(2) of the Federal Rules of Civil Procedure of a class defined as “all attorneys who currently represent or will represent clients in Youth Court cases in Mississippi.” The motion should be granted because Plaintiffs easily satisfy the requirements.

I. FACTUAL BACKGROUND

A. Defendant Violates The Procedural Due Process Rights of Parents and Children in Youth Court By Denying Them Access to Youth Court Records.

In Mississippi, cases involving children whose parents are accused of abuse or neglect, or who are themselves accused of delinquent acts or of being a child in need of supervision (“CHINS”), are heard in Youth Court. Dkt. 3-1 (Declaration of André de Gruy) ¶ 10. Youth Court hearings are complex. *Id.* ¶ 15. All parties are entitled to counsel at most stages, and the rules of

evidence govern most proceedings. *Id.* Judicial officers apply a range of discretionary legal standards to the facts and are responsible for considering and resolving factual and legal questions that implicate the fundamental liberty interests of children and parents. *Id.*; Dkt. 3-4 (Declaration of A. Arman Miri) ¶ 5. Each one of the hearings that occurs within any Youth Court case is adversarial in nature and involves the substantive consideration of evidence, factfinding on disputed questions by a neutral arbiter, application of legal standards and precedent, the interplay of statutory and constitutional law, and the exercise of immense discretion by the judge. Dkt. 3-1 ¶ 15. The outcomes of these hearings change the trajectory of people’s lives, and the impacts of those decisions last for generations. *Id.* ¶ 16; Dkt. 3-4 ¶ 5. The importance of the rights at stake and the complexity of the hearings require Defendant to afford Plaintiffs’ clients with fundamentally fair procedures, consistent with due process.¹ Dkt. 3-1 ¶ 16; Dkt. 3-4 ¶ 6.

Under Mississippi law, files and records related to any proceedings in Youth Court, are strictly confidential, *see* Miss. Code Ann. §§ 43-21-251–43-21-265, subject only to certain statutory exceptions set forth in § 43-21-261. Dkt. 3-1 ¶¶ 19–20. Those exceptions authorize the Administrative Office of Courts (“AOC”) to give Plaintiffs, other Youth Court attorneys, and their clients access to the records and information that are necessary for attorneys to do their jobs and for their clients to receive basic procedural due process. *Id.* ¶ 20. They also permit judges to require AOC to disclose Youth Court records to service providers, foster placements, schools, and medical and mental health care providers. *Id.* Any unauthorized disclosure of confidential material is punishable by civil contempt or criminal prosecution. Miss. Code Ann. § 43-21-267; Dkt. 3-1 ¶

¹ *Stanley v. Illinois*, 405 U.S. 645, 658 (1972) (requiring notice and a hearing “when the issue at stake is the dismemberment of [a] family”); *Santosky v. Kramer*, 455 U.S. 745, 753–54 (1982) (“When the State moves to destroy weakened familial bonds, it must provide the parents with fundamentally fair procedures.”); *In re Gault*, 387 U.S. 1, 30–31 (1967) (holding that delinquency proceedings must comport with due process).

21. Judges and prosecutors routinely threaten Plaintiffs and their clients that if they say anything about what happens in Youth Court or share records, they could be criminally charged or held in civil contempt. *Id.*

Obtaining access to documents related to Youth Court cases is difficult. Dkt. 3-4 ¶ 7; Dkt. 3-1 ¶¶ 58, 60–62. Documents related to a delinquency, CHINS, dependency, or termination case are generated throughout the life of the case and must be uploaded to the Youth Court case management filing system, which is administered by the Administrative Office of the Courts. Dkt. 3-4 ¶ 8; Dkt. 3-1 ¶¶ 56–57, 59; Dkt. 3-3 (Declaration of Brenda Locke) ¶ 21. These documents are essential for Youth Court attorneys to represent their clients. Dkt. 3-4 ¶ 9; Dkt. 3-3 ¶ 22; Dkt. 3-2 ¶ 26. Even when attorneys can view these documents, there are limits on access. Dkt. 3-4 ¶ 10. Sometimes, counsel is required to review the documents in the clerk’s office under the watchful eye of a Child Protective Services employee, which destroys attorney-client privilege and work-product protections. *Id.* Youth Court clients are also routinely denied access to their own documents. *Id.* ¶ 13. In fact, youth have no right under Mississippi law to view their records. Miss. Code Ann. § 43-21-261(4); Dkt. 3-3 ¶ 21.

Mississippi’s confidentiality scheme, and especially the criminal penalties for violating it, silences parents and children. Dkt. 3-1 ¶ 22. It prevents them from seeking support during some of the most traumatic moments of their lives because they fear prosecution or that they will never be reunited with their children. *Id.* It also prevents them from identifying witnesses and evidence that could be important for their defense and sometimes chills defense lawyers from seeking technical assistance from OSPD, Plaintiff Morgan, and/or Plaintiff Locke. *Id.*

On July 1, 2026, the system’s secrecy will become even more extreme because the discretionary and patchwork denial and delay of access for Plaintiffs and their clients will become

mandatory and uniform. *Id.* ¶ 28. On July 1, 2026, the exceptions in Section 261 will be automatically repealed, and there will be no exceptions to the mandatory confidentiality provisions in the Mississippi code. *Id.* ¶ 29. Representatives of AOC, youth court judicial officers, CPS, and DHS have stated publicly and privately that they will consider themselves to be barred from providing records or information to *anyone*, including Plaintiffs, other Youth Court attorneys, and their clients. *Id.* Across the entire state, parents who are bound by Youth Court orders involving their children will not have access to those orders. *Id.* ¶ 30. CPS will not be able to provide records and information about children in CPS custody to health insurance providers like Medicaid, children's advocacy centers, medical and mental health providers, schools, foster parents, relatives offering support, and even the youth courts. *Id.* And CPS may not be able to draw down federal funding because it will not be able to provide the files and information required for auditing purposes. *Id.*

If Subsection (24) goes into effect, Plaintiffs and other Youth Court attorneys will be categorically denied access to Youth Court records, and it will be impossible for them to meet the basic standards of practice that are required by state and federal law—particularly in cases where Plaintiffs and their clients are denied complete access to records. *Id.* ¶ 32. Without information about CPS's investigation, allegations, and evidence against their clients, Youth Court attorneys cannot provide effective representation. *Id.* ¶ 34. They are unable to prepare effectively for hearings. *Id.* They cannot counsel their clients on their options, prepare a litigation strategy, assess factual disputes, conduct a meaningful investigation, hire relevant experts, or otherwise provide competent representation to their clients consistent with basic ethical rules of professional responsibility. *Id.* Additionally, parents and children will no longer be permitted *any* access to their case files, including, for example, court orders telling parents what they must do to reunite with

their children, or telling children what court-ordered conditions they must comply with in a delinquency case. *Id.* ¶ 41. Parents whose children are involved in delinquency proceedings will not be permitted to view their children’s case files. *Id.* Children in delinquency proceedings will no longer be permitted to access any discovery or information about the allegations against them, even through their lawyers. *Id.* Without any access to documents, case files, and other information about ongoing cases, and without even an attorney who has access to those documents and information, parents and children will be completely in the dark about why the government is trying to destroy their family or lock up a child. *Id.* ¶ 42.

As of July 1, it will be impossible for parents and children to receive adequate notice or to have fair hearings in legal cases impacting fundamental liberty interests, like a parent’s right to raise their child, a child’s reciprocal right to be raised by their natural parents, and a child’s right to be free from state custody, whether as a dependent or delinquent child. *Id.* ¶ 43.

B. Defendant Controls Access to Youth Court Records.

In 2015, the Supreme Court issued an order requiring Youth Courts to use the Mississippi Youth Court Information Delivery System (“MYCIDS”) for filing and docket management and to ensure all documents associated with a Youth Court case are uploaded to MYCIDS. *Id.* ¶ 56. AOC, led by Defendant Surkin, controls access to MYCIDS. *Id.* ¶ 57. Defendant’s current policy and practice is to deny MYCIDS access to any Youth Court attorney and all parents and children with Youth Court cases, absent a court order, even though the statute does not require a court order. *Id.* ¶ 23. Under current practices, when a parent or child, through counsel or on their own, requests access to certain records or information related to their own case, judicial officers exercise broad discretion to decide whether and what to share. *Id.* ¶ 24. Judicial officers routinely exercise their discretion to delay access or deny it entirely to children, parents, and attorneys involved in Youth

Court cases.² *Id.* Without a Youth Court order requiring AOC to grant access to MYCIDS, children, parents, and their attorneys cannot access any records for their cases. *Id.* ¶ 25. There is no way to obtain access to MYCIDS—and the Youth Court case files that are required to be filed in that system—without obtaining a username and password from AOC. *Id.* ¶ 60. Ultimately, AOC is the custodian of the Youth Court documents and controls physical access to those documents. *Id.*

Sometimes a judicial officer will issue an order authorizing disclosure of one part of the record. *Id.* ¶ 26. In those cases, AOC’s policy and practice is to refuse to issue a username and password, thus barring *all* access, because it is not possible to give a person access to only part of a case record on MYCIDS. *Id.* The person could try to obtain paper copies of the portions of the record that were ordered disclosed from the clerk’s office, but many clerks’ offices maintain files only on MYCIDS, per the Supreme Court’s Order. *Id.* In those cases, login information from the AOC is the only way to access the records covered by the court order, and AOC will not grant access. *Id.*

C. The Named Plaintiffs and Their Clients Have Been and Will Be Denied Access to Youth Court Records.

Plaintiffs Miri, Locke, Morgan and their clients routinely face difficulty accessing Youth Court documents due to Defendant’s policies and practices, including delays and denials of access. Dkt. 3-4 ¶¶ 7, 10–13, 20; Dkt. 3-3 ¶ 21; Dkt. 3-2 ¶ 24. Without access, attorneys representing parents or children cannot prepare effectively for hearings, counsel clients on their options, prepare a litigation strategy, assess factual disputes, conduct a meaningful investigation, or hire relevant

² Members of the public certainly cannot obtain records from the proceedings—even with redactions or other safeguards to protect the identities of those involved in the proceedings. *Id.* ¶ 24 n.4.

experts. Dkt. 3-2 ¶ 26; Dkt. 3-3 ¶ 22; Dkt. 3-4 ¶ 9, 11, 13. They cannot challenge psychological evaluations, drug tests, forensic reports, or the witnesses' credibility. Dkt. 3-2 ¶ 25; Dkt. 3-4 ¶ 9. As Plaintiff Locke explains, without records, she cannot effectively contest the government's arguments for transferring my client to adult court, identify potentially exculpatory information, or counsel her client about what they must do, for example, to avoid detention or challenge whatever restrictions are imposed. Dkt. 3-3 ¶ 22. Attorneys cannot file an appeal without transcripts, orders, and evidence. *Id.*; Dkt. 3-4 ¶ 9; Dkt. 3-2 ¶ 25. When Defendant denies or delays Youth Court attorneys access to MYCIDS, the attorneys do not even know when something is filed, when an order is issued, when a deadline is set, or when a hearing is scheduled. Dkt. 3-1 ¶ 27. The named Plaintiffs are all subject to Defendant's policies and practices and are able to access Youth Court records only if Defendant permits them access. Dkt. 3-1 ¶¶ 56–62; Dkt. 3-2 ¶ 24; Dkt. 3-3 ¶ 21; Dkt. 3-4 ¶ 7. After July 1, 2026, Defendant's practice will be to deny *all* access to records for the named Plaintiffs, *every* other Youth Court attorney, and every parent or child with a Youth Court case. Dkt. 3-1 ¶¶ 28–30, 32, 41; Dkt. 3-2 ¶ 24.

D. Plaintiffs Seek Classwide Prospective Relief.

Defendant's policies and practices violate Plaintiffs' and similarly situated individuals' substantive due process right to occupational liberty (Count Two) and their clients' procedural due process rights (Count One). Plaintiffs request classwide declaratory and injunctive relief and certification of the following class: All attorneys who currently represent or will represent clients in Youth Court cases in Mississippi (the "Youth Court Attorney class")

II. Plaintiffs Satisfy the Prerequisites for Certification of a Rule 23(b)(2) Class for Prospective Relief

A. Legal Standard

A plaintiff whose suit satisfies the requirements of Federal Rule of Civil Procedure 23 has a “categorical” right “to pursue his claim as a class action.” *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 398 (2010). The “suit must satisfy the criteria set forth in [Rule 23(a)] (*i.e.*, numerosity, commonality, typicality, and adequacy of representation), and it also must fit into one of the three categories described in subdivision (b).” *Id.* A party seeking classwide prospective relief under Rule 23(b)(2) must further show that “the party opposing the class has acted or refused to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole[.]” Fed. R. Civ. P. 23(b)(2).

When considering whether the party seeking class certification has satisfied the prerequisites, the Court must accept the substantive allegations contained in the Complaint as true. *Abrams v. Kelsey-Seybold Medical Grp., Inc.*, 178 F.R.D. 116, 128 (S.D. Tex. 1997) (citing *Blackie v. Barrack*, 524 F.2d 891, 901 n.17 (9th Cir. 1975)). “In determining the propriety of a class action, the question is not whether the plaintiff or plaintiffs have stated a cause of action or will prevail on the merits, but rather whether the requirements of Rule 23 are met.” *Miller v. Mackey Int’l., Inc.*, 452 F.2d 424, 427 (5th Cir. 1971); *see also In re Deepwater Horizon*, 739 F.3d 790, 811 (5th Cir. 2014). Courts must “err in favor of certification,” *Horton v. Goose Creek Indep. Sch. Dist.*, 690 F.2d 470, 487 (5th Cir. 1982), and “must” read Rule 23(a) “liberally in the context of civil rights suits.” *Jones v. Diamond*, 519 F.2d 1090, 1099 (5th Cir. 1975); *accord Zeidman v. J. Ray McDermott & Co.*, 651 F.2d 1030, 1038 (5th Cir. 1981) (quoting *Jones*, 519 F.2d at 1099 (holding courts should not apply rules about the burden of proof “rigidly or blindly” in civil rights cases)). The prerequisites for class action are easily each met in this case.

As set forth below, the proposed Youth Court Attorney class satisfies all four of the Rule 23(a) requirements. In addition, Defendant will “act[] or refuse[] to act on grounds that apply generally to the class, so that final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole,” as required under Rule 23(b)(2). “[A] single injunction or declaratory judgment would provide relief to each member of the class,” and therefore certification is appropriate under Rule 23(b)(2). *See Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 360 (2011); *see also Yates v. Collier*, 868 F.3d 354, 367 (5th Cir. 2017).

A. Numerosity: Joinder of All Proposed Class Members is Impracticable

Plaintiffs’ proposed class is sufficiently numerous to make joinder impracticable. Fed. R. Civ. P. 23(a)(1). There is no fixed number of class or subclass members required for a finding of numerosity, but courts routinely presume joinder is impracticable when the class exceeds forty individuals. *See Mullen v. Treasure Chest Casino, LLC*, 186 F.3d 620, 624 (5th Cir. 1999) (citing Newberg on Class Actions § 3.05). Instead, the key question is “whether joinder of all members is practicable in view of the numerosity of the class and all other relevant factors,” *Zeidman*, 651 F.2d at 1038 (citation modified), including “the geographical dispersion of the class, the ease with which class members may be identified, the nature of the action, and the size of each plaintiff’s claim.” *Id.* The Fifth Circuit has held that “[t]he general rule encouraging liberal construction of civil rights class actions applies with equal force to the numerosity requirement of Rule 23(a)(1).” *Jones*, 519 F.2d at 1100.

The proposed Youth Court Attorney class satisfies the numerosity requirement. There are over 100 attorneys across the state who have fulfilled the statutory training requirements to represent clients in Youth Court. Dkt. 3-1 ¶ 17. Because Mississippi Youth Courts are closed to the public and there is no public roster of attorneys who take Youth Court cases, it is impossible

to know the exact number of attorneys who practice in Youth Court at any given moment, or for Plaintiffs to identify all attorneys with active Youth Court cases at any given time. *Id.* However, the number of attorneys with active cases in the state far exceeds forty, by any count, and could be ascertained through the Youth Court records in Defendant's possession.

Moreover, there is an indeterminate future stream of class members who will suffer the same injury, absent injunctive relief. Given that new attorneys regularly complete the required training and decide to start taking Youth Court cases, while others regularly lose their certification and/or decide not to take Youth Court cases, *id.* the precise composition of the Class changes from time to time. Thus, traditional "joinder" is not practicable. *Pederson v. Louisiana State Univ.*, 213 F.3d 858, 868 n.11 (5th Cir. 2000). ("[T]he fact that the class includes unknown, unnamed future members also weighs in favor of certification."); *Jack v. Am. Linen Supply Co.*, 498 F.2d 122, 124 (5th Cir. 1974) (finding the numerosity requirement satisfied where the class included "unnamed, unknown future" class members rendering joinder "certainly impracticable").³ These considerations were the foundation of the Supreme Court's decision to hear a similar class action brought by two post-arrest inmates in *Gerstein v. Pugh*, 420 U.S. 103 (1975). In cases like this one, which involve transitory classes, the numerosity requirement is met because the putative class seeks declaratory and injunctive relief against an ongoing policy, a resolution will affect numerous people in the future, and the composition of the class is fluid and unknown. *Jones*, 519 F.2d at 1100 (granting liberal construction of numerosity prong in a case seeking injunctive relief on

³ See *Moore's Federal Practice* § 23.22(f) ("Class-action plaintiffs seeking injunctive or declaratory relief frequently seek to define a class to include people who might be injured in the future. Courts in these cases often find that joinder would be impracticable because those who have not yet been injured, or who do not know that they have been injured, are unlikely to join a lawsuit."); *Jones v. Diamond*, 519 F.2d 1090, 1100 (5th Cir. 1975) ("Smaller classes are less objectionable where . . . the plaintiff is seeking injunctive relief on behalf of future class members as well as past and present members.").

behalf of future class members because “[t]he general rule encouraging liberal construction of civil rights class actions applies with equal force to the numerosity requirement of Rule 23(a)(1).”).

In addition to the future stream of Youth Court attorneys suffering the same violations, other factors highlight the undesirability of individual lawsuits here. In assessing the impracticability of non-class joinder, “courts should take a common-sense approach which takes into account the objectives of judicial economy and access to the legal system.” *Bradley v. Harrelson*, 151 F.R.D. 422, 426 (M.D. Ala. 1993) (citation modified). The judicial resources that would be expended in repeated litigation and discovery, and the potential for multiple or conflicting judgments inherent in many more individual cases concerning the same scheme, point strongly toward the advantages offered by the class-action vehicle in this case. *See Zeidman*, 651 F.2d at 1039; *Jones*, 519 F.2d at 1098. A class action is superior when “classwide litigation of common issues will reduce litigation costs and promote greater efficiency.” *Valentino v. Carter-Wallace, Inc.*, 97 F.3d 1227, 1234 (9th Cir. 1996). Resolving the key facts and legal issues relating to Defendant’s policies and practices in one judicial proceeding is far preferable to numerous individual suits.

In addition, a class action does not present any insurmountable difficulties in management—the class is easily ascertainable from records in the Defendant’s possession, and the class is relatively limited in geographic scope to only attorneys in the state of Mississippi. Separate individual lawsuits would likely result in far greater manageability problems. Finally, certifying a class here promotes judicial efficiency by preventing individuals throughout the state from needing to file the same, duplicative litigation on the same constitutional questions.

B. Commonality: Claims by the Proposed Class Raise Common Questions That Will Generate Common Answers

The proposed Youth Court Attorney class satisfies Rule 23(a)(2), which requires that there be “questions of law or fact common to the class.” Fed. R. Civ. P. 23(a)(2). To meet this requirement, Plaintiffs must demonstrate that class members’ claims “depend upon a common contention” such that “determination of its truth or falsity will resolve an issue that is central to the validity of each one of the claims in one stroke.” *Dukes*, 564 U.S. at 350. The threshold for satisfying the commonality prerequisite is “not demanding.” *Mullen*, 186 F.3d at 625; *Lightbourn v. County of El Paso*, 118 F.3d 421, 426 (5th Cir. 1997). “To satisfy the commonality requirement under Rule 23(a)(2), class members must raise at least one contention that is central to the validity of each class member’s claims.” *Deepwater Horizon*, 739 F.3d at 810. Courts generally “find[] common questions of law to be at a high level of generality . . . and questions of fact similarly broad.”¹ *Newberg & Rubenstein on Class Actions* § 3:19 (6th ed.2026) . Commonality also requires these common questions “to generate common *answers* apt to drive the resolution of the litigation.” *Dukes*, 564 U.S. at 349 (emphasis in original) (quoting Richard A. Nagareda, *Class Certification in the Age of Aggregate Proof*, 84 N.Y.U. L. Rev. 97, 132 (2009)). These “common answers” may be answers about the “defendant’s injurious conduct.” *Deepwater Horizon*, 739 F.3d at 811. Traditionally, the Rule asks whether the disputed questions are capable of classwide proof or resolution, and claims need not be identical to satisfy this requirement. *Simms v. Jones*, 296 F.R.D. 485, 497 (N.D. Tex. 2013) (“Even a single common question of law or fact can suffice.”) (citing *Dukes*, 564 U.S. at 359); *Baby Neal ex rel. Kanter v. Casey*, 43 F.3d 48, 56 (3d Cir. 1994); *Prado-Steiman ex rel. Prado v. Bush*, 221 F.3d 1266, 1279 n.14 (11th Cir. 2000).

Although there need not be *both* common issues of law and fact under Rule 23(a), here the entire case is pervaded by critical and dispositive issues of both law and fact that are common to the class. Among the most important, but not the only, common questions of fact are:

- Whether Youth Court records are accessible on a case management system that the AOC manages;
- Whether AOC has the technical ability to provide access to Youth Court records to Plaintiffs and their clients;
- Whether AOC refuses to provide access to Youth Court records to Youth Court attorneys and their clients; and
- Whether attorneys can comply with the Rules of Professional Responsibility and other ethical and legal obligations without records.

Among the most common questions of law with respect to the Class are:

- Whether procedural due process requires parents, children, and their attorneys in Youth Court proceedings to have access to their case records, including written notice of the allegations against them, court orders, and the state's evidence;
- Whether attorneys can provide effective assistance of counsel without case records; and
- Whether substantive due process protects Youth Court lawyers' right to practice their profession competently and ethically.

This case exemplifies the Supreme Court's explanation of commonality in *Wal-Mart Stores, Inc. v. Dukes*, 564 U.S. 338, 349–51 (2011). As the Court noted, there must be factual or legal questions the “answers” to which or the “resolution” of which help to advance the legal claims of the Plaintiffs. *Id.* at 350. In this case, the fundamental common questions of fact and law listed above are the dispositive issues necessary to determine Defendant's liability as to all class members. To put it simply, Defendant has standard policies and practices relating to confidentiality of Youth Court records. This litigation turns on the factual questions about what those practices are, and the legal question of whether those practices are unlawful. The answers to these common questions—as well as to other related factual and legal questions—will determine, for the class as a whole, whether the Defendant is violating the Class's rights.

Plaintiffs’ proposed class falls well within the usual parameters for commonality. Named Plaintiffs, class members, and their clients are subject to Defendant’s policies and practices of refusing to provide Youth Court attorneys, parents, and children with access to records. Dkt. 3-4 ¶¶ 7–8, 10, 13; Dkt. 3-3 ¶¶ 24, 25; Dkt. 3-2 ¶¶ 21–22, 24. Every member of the proposed class will be subjected to these policies. Because Defendant applies and enforces a secrecy scheme with the same constitutional flaw for each class member and causes the same harm to each class member, the proposed class satisfies the commonality requirement of Rule 23(a)(2). Because resolving Plaintiffs’ contentions about Defendant’s policies and practices “will resolve an issue that is central to the validity of each one of the claims in one stroke,” *Dukes*, 564 U.S. at 350, the commonality requirement is satisfied

C. Typicality: The Named Plaintiffs’ Claims Are Typical of the Proposed Class

The named Plaintiffs in this case have claims typical of attorneys who practice in Youth Court. “[T]he test for typicality is not demanding.” *Mullen*, 186 F.3d at 625. To meet the typicality requirement, the named plaintiffs’ claims must be “typical of the claims or defenses of the class.” Fed. R. Civ. P. 23(a)(3). “Typicality does not require a complete identity of claims.” *James v. City of Dallas*, 254 F.3d 551, 571 (5th Cir. 2001), *abrogated on other grounds in M.D. ex rel. Stukenberg v. Perry*, 675 F.3d 832, 840 (5th Cir. 2012). The typicality test is satisfied when the class representatives’ claims arise from the same course of conduct and rest on the same legal theories as those of the class. *Angell v. GEICO Advantage Ins. Co.*, 67 F.4th 727, 736 (5th Cir. 2023).

Here, Plaintiffs’ injuries and legal claims are the same as all other class members: Defendant has denied or delayed access to Youth Court records in one or more Youth Court cases for each Plaintiff. Dkt. 3-4 ¶¶ 9–12. Dkt. 3-2 ¶ 21; Dkt. 3-3 ¶ 24. Additionally, each Plaintiff

represents clients in Youth Court who are currently being denied access to their records or who will be subject to Defendant's policies and practices in the future. Dkt. 3-4 ¶ 13; Dkt. 3-2 ¶¶ 21–22, 25; Dkt. 3-3 ¶ 24. Moreover, each Plaintiff will continue to represent clients in Youth Court after July 1, 2026, when Defendant will begin denying *all* Youth Court records to *everyone*. Dkt. 3-4 ¶ 3; Dkt. 3-2 ¶ 5; Dkt. 3-3 ¶¶ 2, 24, 28.

The named Plaintiffs also rely on the same legal theories as the other class members concerning whether the Defendant's Youth Court secrecy scheme is unconstitutional. *Angell*, 67 F.4th at 767 (“If the claims arise from a similar course of conduct and share the same legal theory, factual differences will not defeat typicality.”). Thus, if the named Plaintiffs succeed in their claim that the Defendant's policies and practices concerning access to Youth Court records as alleged in the Complaint are unlawful, then that ruling will likewise benefit every other member of the class. That is the essence of Rule 23(a)'s typicality requirement.

D. Adequacy: The Named Plaintiffs Are Competent and Dedicated Class Representatives

The proposed class satisfies Rule 23(a)(4), which requires that “the representative parties will fairly and adequately protect the interests of the class.” Fed. R. Civ. P. 23(a)(4). This inquiry “serves to uncover conflicts of interest between named parties and the class they seek to represent.” *Amchem Prods., Inc. v. Windsor*, 521 U.S. 591, 625 (1997). The primary factors in evaluating adequacy are: “(1) the zeal and competence of the representatives' counsel; [and] (2) the willingness and ability of the representatives to take an active role in and control the litigation and to protect the interests of absentees.” *Angell*, 67 F.4th 727, 737 (quoting *Slade v. Progressive Sec. Ins. Co.*, 856 F.3d 408, 412 (5th Cir. 2017)).

The named Plaintiffs are adequate class representatives. “Class representatives must be part of the class and possess the same interest and suffer the same injury as the class members.” *In*

re Deepwater Horizon, 785 F.3d 1003, 1015 (5th Cir. 2015) (citation modified). “Differences between named plaintiffs and class members render the named plaintiffs inadequate representatives only if those differences create conflicts between the named plaintiffs’ interests and the class members’ interests.” *Mullen*, 186 F.3d at 625–26. The Fifth Circuit has specified that, while courts should consider class representatives’ “willingness and ability . . . to take an active role in and control the litigation,” the representatives “need not be legal scholars and are entitled to rely on class counsel.” *Feder v. Elec. Data Sys. Corp.*, 429 F.3d 125, 132, 132 n.4 (5th Cir. 2005) (citation modified). “The representative class members are entitled to work with, and rely upon, their counsel in pursuing their claims and navigating the complicated legal and factual issues associated with” complex litigation. *Stoffels v. SBC Commc’ns, Inc.*, 238 F.R.D. 446, 455 (W.D. Tex. 2006). An example of an adequate class representative is one with “commendable familiarity with the complaint and with the concept of a class action.” *Horton*, 690 F.2d at 484.

The named Plaintiffs in this case have agreed to act as class representatives. They have each met with the undersigned counsel, and understand the responsibility of prosecuting an action on behalf of all Youth Court attorneys in Mississippi, and are familiar with the complaint. Further, each named Plaintiff is familiar with the Defendant’s procedures challenged here and with the constitutional protections they seek to vindicate. The named Plaintiffs are prepared to respond to discovery requests in this case, and are dedicated to fulfilling the role and duties of a class representative protecting class members’ fundamental constitutional rights. *See* Dkt. 3-4 ¶ 23. Dkt. 3-2 ¶ 26; Dkt. 3-2 ¶ 30.

In sum, the named Plaintiffs here are part of the class, share the class’s interests, and suffer the same injuries as the class members. There are no known conflicts between the named Plaintiffs’ interests and the interests of the class members. The interests of the named Plaintiffs and class

members are aligned. There are no named Plaintiffs or class members who benefit from the denial of access to Youth Court records. Plaintiffs also have hired counsel who are willing to undertake financial responsibility for this action pro bono, and seek payment of costs and attorney's fees only as permitted under 42 U.S.C. § 1988 and other fee-shifting provisions. Ex. 1, Declaration of Elizabeth Rossi, at ¶ 8. The named Plaintiffs clearly meet the adequacy requirements of Rule 23(a).

A. Class Counsel is Adequate Under Rule 23(g)

Undersigned counsel for the named Plaintiffs seek to be appointed Class Counsel pursuant to Federal Rule of Civil Procedure 23(g). Under Rule 23(g)(4), any order certifying a class must appoint class counsel who will “fairly and adequately represent the interests of the class.” The Court must consider factors including: 1) “the work counsel has done in identifying or investigating potential claims in the action;” 2) “counsel’s experience in handling class actions, other complex litigation, and the types of claims asserted in the action;” 3) “counsel’s knowledge of the applicable law;” and 4) “the resources that counsel will commit to representing the class.” Fed. R. Civ. P. 23(g)(1)(A)(i)–(iv). Plaintiffs’ counsel from Civil Rights Corps, Public Justice, and Carner & Rosemon, PLLC, have extensive experience litigating civil rights cases and are competent and zealous. *See generally* Ex. 1. Counsel meet the requirements of Rule 23(g).

First, counsel has conducted extensive interviews of Plaintiffs and other class members, performed relevant legal research and drafting, and investigated the facts and legal claims raised in this case for a significant period of time. *Id.* at ¶ 5. Second, Plaintiffs’ counsel have significant experience litigating complex civil rights actions and other complex matters, including claims concerning due process, the right to counsel, and confidentiality in juvenile and family courts. *Id.* at ¶¶ 6–7. Third, counsel have litigated constitutional challenges in the Fifth Circuit, and are familiar with the constitutional rights at stake in Youth Court and in connection with sealed

records. *Id.* Finally, Plaintiffs’ counsel are prepared to contribute significant resources to the representation of this class. *Id.* at ¶ 8. Therefore, counsel satisfies the four criteria in Rule 23(g), and they respectfully request appointment as class counsel.

B. Certification for Prospective Relief is Appropriate Under Rule 23(b)(2)

Class certification under Rule 23(b)(2) is appropriate where “the party opposing the class has acted or refused to act on grounds that apply generally to the class,” such that “final injunctive relief or corresponding declaratory relief is appropriate respecting the class as a whole.” Fed. R. Civ. P. 23(b)(2). “This is a simple inquiry in most cases.” Newberg on Class Actions § 4:28 (5th ed.). The requirement of a generally applicable set of actions “ensures that the class’s interests are related in a manner that makes aggregate litigation appropriate . . . and therefore efficient.” *Id.* Thus, “Rule 23(b)(2) applies only when a single injunction or declaratory judgment would provide relief to each member of the class.” *Dukes*, 564 U.S. at 360. As the Fifth Circuit made clear in *Allison v. Citgo Petroleum Corp.*, 151 F.3d 402 (5th Cir. 1998), the underlying premise of a Rule 23(b)(2) class action is that class members suffer from a common injury which is properly addressed by classwide relief. *Id.* at 413. “Thus, if the plaintiffs [seek] only injunctive and declaratory relief, [the] case [can] readily be certified as a class action under Rule 23(b)(2).” *Id.* at 411. As the Fifth Circuit recognized, “[s]uch relief may often be awarded without requiring a specific or time-consuming inquiry into the varying circumstances and merits of each class member’s individual case.” *Id.* at 414.

Civil rights class actions seeking injunctive and declaratory relief are “prime examples” of the types of actions that Rule 23(b)(2) is meant to capture. *Dukes*, 564 U.S. at 361. Rule 23(b)(2) classes seek “an indivisible injunction benefitting all its members at once,” where individualized inquiries into “whether class issues predominate” are unnecessary, and “[p]redominance and

superiority are self-evident.” *Id.* at 363 (emphasizing the importance of classwide relief based on the structure of Rule 23(b)(2) and noting the Rule’s historical basis in civil rights cases).

This case is exactly the kind of class action that Rule 23(b)(2) contemplates. *Id.*⁴ Youth Court attorneys’ interests are sufficiently related to warrant aggregate litigation. Defendant has acted on grounds that apply generally to the class—Defendant’s unconstitutional policies and practices apply in the same way to every attorney practicing in Youth Court. Furthermore, it is far more efficient for this Court to grant injunctive and declaratory relief protecting all class members than to extend that relief piecemeal through individual suits.

Furthermore, Plaintiffs seek only injunctive and declaratory relief that is designed to remedy the deficiencies of the Mississippi Youth Court confidentiality scheme in ways that apply to the class as a whole. A declaration and injunction stating that the Defendants cannot implement and enforce their system of denying Youth Court records to Plaintiffs would provide relief to every member of the class. *See Casa Orlando Apartments, Ltd. v. Fed. Nat. Mortg. Ass’n*, 624 F.3d 185, 198 (5th Cir. 2010) (“Instead of requiring common issues, 23(b)(2) requires common behavior by the defendant towards the class.”).⁵ Because Plaintiffs seek only such “uniform group remedies,” certification under Rule 23(b)(2) is appropriate. *Allison*, 151 F.3d at 414.

⁴ *See Newberg & Rubenstein on Class Actions* § 4:40 (65th ed. 2026) (“While civil rights cases are often maintained against public and private defendants under civil rights *statutes*, many (b)(2) class actions challenge government actions on *constitutional* grounds as well.”) (emphasis in original).

⁵ All of the proof and evidence in this case relevant to whether the Defendants’ policies and practices exist will be common to all Class members and comprise the necessary proof for their claims of Defendants’ liability. The legal claims thus involve the same nucleus of facts about the scheme that the Defendant has constructed and that it applies every day. *See, e.g., In re Ins. Brokerage Antitrust Litig.*, 579 F.3d 241, 269 (3d Cir. 2009) (certifying the class based on a common course of conduct by the defendant). Similarly, the dispositive legal questions in determining liability are identical. Once the common facts are established through common evidence, the question will be whether those facts give rise to the legal violations alleged in the Complaint. Those important constitutional questions concerning liability should be decided in one

Due to “the group nature of the harm alleged and the broad character of the relief sought, [a] (b)(2) class is, by its very nature, assumed to be a homogenous and cohesive group with few conflicting interests among its members.” *Allison*, 151 F.3d at 413. Thus, the Court need not conduct an independent inquiry into the degree to which common issues predominate over those affecting only individuals, as they would with a Rule 23(b)(3) class, for example. *Id.* at 414. Indeed, the Rule 23(b)(3) requirement is “almost automatically fulfilled in actions where the relief sought is primarily injunctive.” *Neff v. VIA Metro. Transit Auth.*, 179 F.R.D. 185, 195 (W.D. Tex. 1998). The central issue common to the entire class is the Defendant’s application and enforcement of policies and practices denying Plaintiffs and their clients access to Youth Court records. As the relief requested in this case makes clear, the requirements of Rule 23(b)(2) are satisfied because “the predominant relief sought is injunctive or declaratory.” *Allison*, 151 F.3d at 411; *see also Ass’n for Disabled Americans, Inc. v. Amoco Oil Co.*, 211 F.R.D. 457, 465 (S.D. Fla. 2002) (finding class certification appropriate when “the Class Plaintiffs sought exclusively injunctive relief based upon their allegations”).

In sum, certification of the class under Rule 23(b)(2) is warranted because the named Plaintiffs and the rest of the members of the putative class are attorneys who currently represent or will represent clients in Youth Court cases. Absent the requested relief, the named Plaintiffs and the putative class members will be subjected to a flagrantly unconstitutional set of policies and practices. Injunctive relief compelling Defendant to comply with the Constitution will protect each member of the class from being subjected to the Defendant’s unlawful policies and practices. The

proceeding rather than in hundreds. *Allapattah Servs., Inc. v. Exxon Corp.*, 333 F.3d 1248, 1261 (11th Cir. 2003).

declaration and injunction Plaintiffs would provide relief to every class member. Therefore, classwide declaratory and injunctive relief is appropriate.⁶

III. Conclusion

For the reasons set forth above, Plaintiffs respectfully request that the court certify the proposed class pursuant to Rule 23 of the Federal Rules of Civil Procedure.

Dated: June 24, 2026

Respectfully Submitted,

/s/ Graham P. Carner

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⁶ To the extent the Court considers there to be an ascertainability prerequisite, Plaintiffs also satisfy it. The Defendant has in their possession the identity of every attorney of record on a Youth Court case, and will come to know the identity of every other attorney who takes Youth Court cases in the future. In any event, ascertainability is likely not a requirement for Rule 23(b)(3) classes. *See e.g., Marcus v. BMW of N. Am., LLC*, 687 F.3d 583, 592–93 (3d Cir. 2012) (noting that the rule has been applied to Rule 23(b)(3) damages classes).

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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2026, I electronically filed the foregoing with the Clerk of the Court using the ECF system, which sent notification of such filing to all counsel of record.

/s/ *Graham P. Carner*

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