

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PRINCESS JANAE PLACE, JULES DONAHUE,
and JAIME MITCHELL,

Plaintiffs,

-against-

OFFICE OF TEMPORARY AND DISABILITY
ASSISTANCE, OFFICE OF TEMPORARY AND
DISABILITY ASSISTANCE COMMISSIONER
MICHAEL HEIN in his official capacity, NEW
YORK STATE DEPARTMENT OF HEALTH,
NEW YORK STATE DEPARTMENT OF
HEALTH COMMISSIONER HOWARD ZUCKER
in his official capacity, NEW YORK STATE, NEW
YORK STATE GOVERNOR ANDREW CUOMO
in his official capacity, NEW YORK CITY, NEW
YORK CITY DEPARTMENT OF SOCIAL
SERVICES, NEW YORK CITY DEPARTMENT
OF SOCIAL SERVICES COMMISSIONER
STEVEN BANKS in his official capacity,

Defendants.

INDEX NO: 153065/2021

NOTICE OF DISCONTINUANCE,
WITHOUT PREJUDICE, AS TO
CITY DEFENDANTS ONLY

Pursuant to the terms of the Stipulation attached as Exhibit A to this Notice of Discontinuance, the above-captioned proceeding is hereby discontinued, without prejudice, as to all claims asserted against New York City, the New York City Department of Social Services, and the New York City Department of Social Services Commissioner Steven Banks (collectively, the “City Defendants”), pursuant to CPLR 3217(a)(1). This notice shall have the

effect of discontinuing the plaintiffs' claims against the City Defendants immediately and without further action required by the Court. The Clerk may take such action as is necessary to effectuate this discontinuance as described herein.

Dated: June 14, 2021
New York, New York

**NEW YORK CIVIL LIBERTIES
UNION FOUNDATION**

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By: /s/Robert Hodgson
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EXHIBIT A

SUPREME COURT OF THE STATE OF NEW YORK
COUNTY OF NEW YORK

PRINCESS JANAE PLACE, JULES DONAHUE,
and JAIME MITCHELL,

Plaintiffs,

-against-

OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE, OFFICE OF TEMPORARY AND DISABILITY ASSISTANCE COMMISSIONER MICHAEL HEIN in his official capacity, NEW YORK STATE DEPARTMENT OF HEALTH, NEW YORK STATE DEPARTMENT OF HEALTH COMMISSIONER HOWARD ZUCKER in his official capacity, NEW YORK STATE, NEW YORK STATE GOVERNOR ANDREW CUOMO in his official capacity, NEW YORK CITY, NEW YORK CITY DEPARTMENT OF SOCIAL SERVICES, NEW YORK CITY DEPARTMENT OF SOCIAL SERVICES COMMISSIONER STEVEN BANKS in his official capacity,

Defendants.

INDEX NO: 153065/2021

**STIPULATION BETWEEN
PLAINTIFFS AND CITY
DEFENDANTS TO DISMISS CITY
DEFENDANTS WITHOUT
PREJUDICE**

WHEREAS, the plaintiffs commenced this action by Summons and Complaint filed March 29, 2021 (NYSCEF Nos. 1 and 2), alleging various claims against the defendants arising from policies and practices that require the misidentification of the gender of nonbinary New Yorkers who are applying for or receiving certain state-run benefits through the State’s computer Welfare Management System (“WMS”);

WHEREAS, in this action, the plaintiffs have named two groups of defendants: the “State Defendants” (the New York State Office of Temporary and Disability Assistance (“OTDA”), OTDA Commissioner Michael Hein, the New York State Department of Health, DOH Commissioner Howard Zucker, Governor Andrew Cuomo, and New York State) and the “City

Defendants” (New York City, the New York City Department of Social Services (“NYCDSS”), and NYCDSS Commissioner Steven Banks);

WHEREAS, none of the defendants have filed a responsive pleading;

WHEREAS, no party herein is an infant or incompetent for whom a committee has been appointed, or conservatee;

WHEREAS, pursuant to the New York State Social Services Law, the State has determined the policies and principles upon which public assistance, services, and care shall be provided within the state, including by the local governmental units such as the NYCDSS, with respect to the State’s WMS;

WHEREAS, the State administers and controls the State’s WMS;

WHEREAS, the NYCDSS does not control or administer WMS; it is a user of WMS. NYCDSS processes applications for public benefits from New York City residents by, among other things, registering their applications in WMS;

WHEREAS, applications for benefits cannot be registered in WMS without a designation of gender, and applications for benefits cannot be registered except through WMS;

WHEREAS, to ensure that New Yorkers in need are able to apply for and access critical benefits while designating a gender category consistent with their gender identity, the NYCDSS requested in 2019 that the State (1) recognize “X” as a valid option when placed in the “Sex” field in the State’s WMS and (2) remove gender-based edits in WMS and other State information systems that may result in unjust restrictions on services, coverage or disbursement of entitlements for non-binary and transgender New Yorkers due solely to their designation in the “Sex” field in WMS;

WHEREAS, to date, the State has not granted the NYCDSS’s request;

WHEREAS, the City Defendants continue to maintain that the State's WMS should accommodate and recognize "X" as described above or provide an alternative method to allow the State system to process applications and distribute benefits and if the State did so, DSS would adhere to that change; and

WHEREAS, upon service of a subpoena or subpoena *duces tecum*, the City Defendants agree to respond to the same extent as a party to this action, reserving all rights to object upon grounds of privilege, relevance, burden and/or any other grounds available to a party to this action;

NOW, THEREFORE, IT IS HEREBY STIPULATED AND AGREED, by and between the undersigned counsel for the plaintiffs and the City Defendants, as follows:

1. Upon execution of this Stipulation, within five (5) business days, the plaintiffs will serve and file a notice of discontinuance as to the City Defendants, without prejudice, as to all claims asserted against the City Defendants, pursuant to CPLR 3217(a)(1), in the form reflected in the Notice of Discontinuance attached as Exhibit 1 to this Stipulation, which shall have the effect of discontinuing the plaintiffs' claims against the City Defendants immediately and without further action required by the Court.

2. This Stipulation contains all of the terms and conditions agreed upon by the parties hereto, and no oral agreement entered into at any time nor any written agreement entered into prior to the execution of this Stipulation regarding the subject matter of this proceeding shall be deemed to exist, or to bind the parties hereto, or to vary the terms and conditions contained herein.

3. The terms of this Stipulation shall be enforceable before the Court in this action.

4. For the purposes of this Stipulation, electronic, facsimile or other electronically-reproduced signatures shall be considered originals.

Dated: June 9, 2021
New York, New York

**NEW YORK CIVIL LIBERTIES
UNION FOUNDATION**

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Assistant Corporation Counsel