IN THE CIRCUIT COURT OF THE SECOND JUDICIAL CIRCUIT,
IN AND FOR LEON COUNTY, FLORIDA

MARION COUNTY, FLORIDA, and POLK COUNTY, FLORIDA, political subdivisions of the State of Florida,

Plaintiffs,

v.

CASE NO. 2014-CA-001885

CHRISTINA DALY, in her official capacity as SECRETARY of the STATE OF FLORIDA, DEPARTMENT OF JUVENILE JUSTICE and JIMMY PATRONIS, in his official capacity as CHIEF FINANCIAL OFFICER of the STATE OF FLORIDA,

Defendants.
_____/

SEMINOLE COUNTY, FLORIDA, a political subdivision of the State of Florida,

Plaintiff,

v.

CASE NO. 2016-CA-000849

CHRISTINA K. DALY, in her official capacity as SECRETARY of the STATE OF FLORIDA, DEPARTMENT OF JUVENILE JUSTICE and JIMMY PATRONIS, in his official capacity as CHIEF FINANCIAL OFFICER of the STATE OF FLORIDA,

Defendants.
_____/

ORDER GRANTING FINAL SUMMARY JUDGMENT IN FAVOR OF MARION COUNTY, POLK COUNTY AND SEMINOLE COUNTY, DENYING THE MOTION FOR SUMMARY JUDGMENT OF THE DEPARTMENT OF JUVENILE JUSTICE AND DENYING THE MOTION TO DISMISS OF THE CHIEF FINANCIAL OFFICER

THIS CAUSE having come to be heard upon the Motions for Final Summary Judgment filed by Plaintiffs Marion County, Polk County, and Seminole County (collectively the "Plaintiff Counties")[1], Defendant Secretary of the Department of Juvenile Justice, Christina Daly's (the "Department") Motion for Final Summary Judgment, and Defendant Chief Financial Officer Jimmy Patronis's[2] ("the "CFO") Motion to Dismiss directed to the Complaint of Seminole County.[3] The Court having considered the motions filed by the parties, the various responses to those motions, the materials filed in support of the respective motions and the argument of counsel determines that there are no material facts in dispute and that Plaintiffs Marion County, Polk County and Seminole County are entitled to the entry of a Final Summary Judgment. The Court makes the following determinations:

FACTUAL BACKGROUND

1. Over the years, there has been extensive litigation between counties and the Department of Juvenile Justice concerning the sharing of secure juvenile detention costs. The pending action was initiated by Marion, Polk and several other counties[4] asserting that they

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[1] Plaintiffs Marion and Polk County are Plaintiffs in Case No. 2014-CA-001885. Seminole County filed a separate action, as Case No. 2016-CA-000849; however these cases are traveling together and were heard at the same time for purposes of summary judgment. As such, this Order is entered in each of the above-styled cases.

[2] Jimmy Patronis, in his official capacity as the current Florida Chief Financial Officer is automatically substituted for the former Florida Chief Financial Officer, Jeff Atwater.

[3] Polk, Marion and Seminole Counties and Secretary Daly, on behalf of the Department, each filed a Request for Judicial Notice. As no objections have been received to those Requests, they are granted.

[4] All of the other counties to the original proceeding subsequently dismissed their claims in response to legislation adopted during 2016 legislative session.

overpaid to the Department of Juvenile Justice their share of the cost for the funding of secure juvenile detention required under the provisions of section 985.686, Florida Statutes, during Fiscal Years ("FY") 09-10, 10-11 and 11-12.[5] Seminole County separately instituted an action, also asserting that it had overpaid the amounts due to the Department during the years in question. Those actions were consolidated by this Court.

2. All three of the Plaintiff Counties had previously been part of the State detention system but elected to provide detention care for preadjudicated juveniles as authorized by section 985.686(10), Florida Statutes. As a result, these Plaintiff Counties currently provide their own secure juvenile detention services for the period prior to final court disposition and no longer contribute funding to the State system. Marion County left the State system in November, 2010; Polk County in October 2011; and Seminole County in April 2012.

3. Plaintiff Counties assert four claims for relief:

Count I: Action for Declaratory Judgment under section 215.26, Florida Statutes.

Count II: Action for Declaratory Judgment under section 985.686, Florida Statutes.

Count III: Action for Unjust Enrichment.

Count IV: Action for Account Stated.

At the hearing on the pending motions, Plaintiffs have withdrawn Count III, for unjust enrichment.

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[5] Marion County's challenges pertain only to FY 2009-10 and 2010-11, as Marion County was not part of the cost sharing system for FY 2011-12.

4. Section 985.686, Florida Statutes, sets forth the respective obligations for the funding of secure juvenile detention costs between the counties and the State of Florida. Under its provisions, non-fiscally constrained counties are responsible for the payment of the actual costs of detention for juveniles who reside in that county for the period "prior to final court disposition." The State is responsible for all other costs, including the cost for fiscally constrained counties. The statute sets forth a process whereby each county is provided an estimate of the annual cost for the upcoming fiscal year by the Department and those counties are then required to pay that estimated cost to the Department on an equal monthly basis. Under section 985.686(5), Florida Statutes, at the end of the state fiscal year, "[a]ny difference between the estimated costs and actual costs shall be reconciled. . ." Id. (emphasis added). The guiding principle of this statutory process under section 985.686, Florida Statutes, is to allocate the respective costs and to assure that counties will only pay their "actual costs" toward secure juvenile detention.

5. The statute also mandates that the Department shall develop an accounts payable system to allocate costs that are payable by the counties. To collect the payments, the Shared County/State Juvenile Detention Trust Fund (the "Shared Trust Fund") was established by the State specifically as a depository for these funds, which are only to be used for the payment of the costs of predisposition juvenile detention. See § 985.6015, Fla. Stat. The only funds that are deposited into the Shared Trust Fund are those funds received from the non-fiscally constrained counties and the State's general revenue contribution to support the financial obligation of fiscally-constrained counties and all other costs for the predisposition detention of juveniles. The Department, as the State agency receiving or collecting these moneys into a trust fund, is responsible for their proper expenditure. See § 215.32, Fla. Stat.

6. As part of its implementation of the annual process, the Department adopted Rules to reconcile the differences between the beginning estimate and the actual costs of each county following the conclusion of the fiscal year. The process adopted and incorporated by the Rules of the Department utilizes a system of credits and debits. Under this process, the Department either credits the county for overpayment, or debits and bills the county for underpayment. It is through this use of credits and debits that the Department adjusts for the amounts already paid by the county to arrive at the actual amount owed.

7. During FY 2009-10, FY 2010-11 and FY 2011-12, each of the Plaintiff Counties[6] made all required monthly payments to the Department for secure juvenile detention based on the Department's initial estimate. For each of those years, the Department published its annual reconciliation purporting to represent each county's actual share of the year-end cost of secure juvenile detention, and assigned each paying county a debit or credit for any underpayment or overpayment. The reconciliation for FY 2009-10 was published on January 11, 2011, the reconciliation for FY 2010-11 was issued on October 24, 2011, and for FY 2011-12 on October 22, 2012. Challenges were brought to the annual reconciliation by Polk County for FY 2009-10, 2010-11, and 2011-12, and Marion County and Seminole County for FY 2009-10 and 2010-11, along with others, and Final Hearings were scheduled in each case (the "Annual Year Challenges"). Additionally, several of the counties also filed challenges to the Rules on which the Annual Reconciliations for these three years were calculated on the basis that they constituted an invalid exercise of delegated legislative authority (the "Rule Challenge").

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[6] Marion County was not a part of the cost sharing system for FY 2011-12, and, therefore, did not make any payments pertaining to FY 2011-12.

8. On July 17, 2012, the Administrative Law Judge in the Rule Challenge issued a Final Order invalidating the Rules as an invalid exercise of delegated legislative authority and determining that as a result the Department had overcharged the counties. The Final Order determined that the Department had inappropriately charged counties more than their actual costs and utilized those payments to fund the State's obligations. That Final Order was upheld by the First District Court of Appeal by a written decision issued on June 5, 2013. Department of Juvenile Justice v. Okaloosa County, Case No. 1D12-3929, 113 So. 3d 1074 (Fla. 1st DCA 2013).

9. In September 2013, the Department, in response to the decision of the First District, issued recalculations of its final reconciliation statements to the counties for FYs 2009-10, 2010-11 and 2011-12. The recalculations were based upon the Department's revised policies and practices prepared to comply with the First District's decision. As a result of the recalculations, the Department determined that there had been large overpayments for these fiscal years by non-fiscally constrained counties, including the Plaintiff Counties. The Department notified the counties of the revised reconciliation and the extent of overpayments made by them. It also made the revised reconciliation available to the public at large on the Department's website.

10. In December 2013, in an effort to resolve the Annual Year Challenges, the parties entered into Joint Stipulations of Facts and Procedure to resolve a variety of issues, including that these "recalculations" set forth the actual amount overpaid or underpaid by each of the counties for FYs 2009-10, 2010-11, and 2011-12. A separate Joint Stipulation was entered into for each of the three years and was virtually identical except for the amount overpaid or underpaid for that year. The recalculation prepared by the Department was incorporated as part

of each Joint Stipulation as the amounts overpaid or underpaid by each county. For the years in question, the amounts overpaid by the Plaintiff Counties, as established by the Joint Stipulations and the recalculation, were as follows:

COUNTY	AMOUNTS ESTABLISHED IN JOINT STIPULATIONS			
	2009-2010	2010-2011	2011-2012	Total
MARION	$ 502,656.56	$ 164,175.28	0	$ 666,831.84
POLK	$1,759,258.57	$2,476,765.89	$546,175.30	$4,782,199.76
SEMINOLE	$1,362,557.19	$1,748,435.61	$957,704.75	$4,068,697.55

11. As part of the Joint Stipulations, the Department also acknowledged that the Plaintiff Counties were no longer part of the state cost sharing system, as they had opted out as authorized by section 985.686(10), Florida Statutes. The Department further stipulated that the system of credits and debits incorporated into the Rule would not be an appropriate remedy for the Plaintiff Counties. As set forth in the Joint Stipulations, a Final Order was to be entered by the Department incorporating the provisions consistent with the terms of the Joint Stipulations. The Joint Stipulations were filed with the Division of Administrative Hearings in each of the Annual Year Challenges and the parties filed a Joint and Consented Motion for Relinquishment of Jurisdiction for the purpose of the Department entering a Final Order consistent with the Joint Stipulations. That motion was granted.

12. On January 9, 2014, Marion and Polk Counties filed their applications for refunds under the provisions of section 215.26, Florida Statutes, for overpayments incorrectly assessed by the Department's Final Reconciliations. For Marion County, applications were filed as to FYs 2009-10 and 2010-11; for Polk County, applications were filed as to FYs 2009-10, 2010-11,

and 2011-12. The applications reflected amounts identical to those contained in the recalculation of the Department and as established by the parties in the Joint Stipulations.

13. On June 19, 2014, the Department responded to the applications of Marion and Polk Counties by rejecting the request for refunds. Pursuant to section 215.26(2), Florida Statutes, the Department responding to the application is required to set forth the reason for any denial. The Department, in its response, denied the applications on the rationale that the payments by the Plaintiff Counties were not taxes and, therefore, the provisions of section 215.26, Florida Statutes, were not applicable. It also denied the applications on the basis that a county was not a "person" for the purpose of relief under the statute. The Department did not assert as a basis for its denial that there were not funds available, that an appropriation was required, or that the applications were untimely. Significantly, the Department also failed to assert as a basis for its denial that the amounts requested as refunds were incorrect or disputed by the Department.

14. Seminole County filed its application for refund under section 215.26, Florida Statutes, on February 25, 2014 as to Fiscal Years 2009-10, 2010-11, and 2011-12. The application was filed with the CFO and no response was ever issued. Throughout this same period, the Department was responding to other applications for refunds from counties utilizing the same basis for denial as contained in the response to Polk and Marion Counties.

15. The use of the refund procedures of section 215.26, Florida Statutes, had been utilized by the Department previously to provide refunds of overpayments made by the Plaintiff Counties. During the years that each of the Plaintiff Counties withdrew from the State system, it was determined that they had made overpayments for the partial year they were still in the system. As each of the Plaintiff Counties were no longer part of the State system, the granting of

credits was no longer available as a remedy for the overpayment. To resolve these overpayments by these Plaintiff Counties, the Department utilized the procedures of section 215.26, Florida Statutes, and refunded those overpayments to each of the Plaintiff Counties from the Shared Trust Fund. Marion County was refunded $686,925.08 on April 11, 2011; Polk County was refunded $904 in November 2012; and Seminole County was refunded $417,861 in October 2012. For each of these refunds, though made during the course of a different fiscal year, the Department did not require or seek an appropriation from the Legislature and only sought approval from the Department of Financial Services.

16. On January 9, 2015, the Department issued Final Orders for each of the three years subject to the Annual Year Challenges. Each of the three Final Orders rejected the recalculations contained within the Joint Stipulations and arrived at a new set of amounts overpaid by the Plaintiff Counties. These amounts still reflected an overpayment by all Plaintiff Counties.[7] The Department has failed to assert an argument or submit any evidence of fraud, misrepresentation or mistake which would form a sufficient basis to withdraw from the Joint Stipulations. Rather, the sole justification asserted by the Department was that it had arrived at a new interpretation of the term "prior to final court disposition" than had been utilized by it in its prior recalculation, which was incorporated into the Joint Stipulations of the parties.

17. The Final Orders issued by the Department were appealed to the Florida First District Court of Appeal. During the pendency of this proceeding, the First District reversed the Final Orders of the Department. Marion County v. Department of Juvenile Justice, 215 So. 3d 621 (Fla. 1st DCA 2017). In so ruling, the First District determined that the parties are bound by

[7] The amount of overpayments by Polk and Seminole Counties were substantially greater in the Joint Stipulations than in the Final Order. The amount of overpayment by Marion County was actually greater under the issued Final Orders.

the Joint Stipulations, and that the Department has a duty to provide a reconciliation to the Plaintiff Counties to assure that they only paid their actual costs. Id. The First District further determined that by recognizing an overpayment and then failing to take any steps to remedy the overpayment, the Department has not performed its duties under the statute.

18. Funding for the State's obligation toward the cost of secure juvenile detention is paid from General Revenue (among other sources). Funding for the counties' obligations is paid through the Shared Trust Fund. The overpayments made by the Plaintiff Counties into the Shared Trust Fund were used by the Department to fund the cost of the State's obligation for secure juvenile detention, which would normally have been paid from General Revenue. During the Fiscal Years at issue, and in the years since, the Department has made large reversions of funds from its General Revenue to the State Treasury. These amounts represent all of the General Revenue budgeted and disbursed to the Department, but not expended by the end of the Fiscal Year. At the same time these reversions were occurring, the Department was asserting it had no funds to credit or refund the counties for overpayments.

19. The reversion amounts for the time period at issue from the Department's General Revenue are set forth in the below table:

Fiscal Year	Reversions From Detention Program	Reversions From Entire Department
FY 2008-09	$1,018,095.00	$9,975,999.00
FY 2009-10	$784,753.00	$13,349,648.00
FY 2010-11	$3,092,041.00	$22,634,870.00
FY 2011-12	$996,531.00	$14,990,967.00
FY 2012-13	$10,401.00	$27,182,119.00
FY 2013-14	$608,346.00	$30,896,188.00

20. Though General Revenue appropriations are required to be reverted back to the State at the end of the fiscal year, the Department has the ability to seek a budget amendment to access those funds for other purposes or request authorization from the Governor to use these funds, and is required to avoid reversion of appropriated funds when an incurred obligation exists. See §§ 215.18, 216.181, 216.301, Fla. Stat. However, the Department has made no effort to access the surplus funds. Nor has the Department ever sought additional funding from the Legislature to address the overpayments by the Plaintiff Counties for FYs 2009-10, FY 2010-11, and FY 2011-12.

21. The funding of secure juvenile detention is a joint obligation between the counties and the State. § 985.686, Fla. Stat. General revenue is one of the revenue sources appropriated to the detention program, was benefitted by the overpayments made by the Plaintiff Counties by reducing the amount of General Revenue necessary to fund the State's share of secure juvenile detention costs. Therefore, it is appropriate to consider it as an available revenue source from which refunds to the Plaintiff Counties pursuant to section 215.26, Florida Statutes, may be made.

22. Unlike General Revenue, funds held in trust in the Shared County Trust Fund by the Department for the detention program do not revert to the State Treasury at the end of the State's fiscal year; instead the cash balance of the fund rolls into the next fiscal year, which would include amounts counties have paid into the fund in past fiscal years. The amounts accounted for within the Shared Trust Fund are not insignificant. For instance, the balance of the account in July, which is the beginning of the State's fiscal year, is as follows for FY 09-10 to 15-16:

Fiscal Year	Date	Shared Trust Fund Cash Balance
FY 2009-2010	7/9/2009	$7,104,302.00
FY 2010-2011	7/1/2010	$10,548,732.54
FY 2011-2012	7/1/2011	$3,509,334.21
FY 2012-2013	7/1/2012	$8,472,324.56
FY 2013-2014	7/1/2013	$15,369,213.47
FY 2014-2015	7/1/2014	$16,967,108.39
FY 2015-2016	7/1/2015	$17,534,137.00

Although the Department has argued that these funds are maintained in "subaccounts" by year and by county, no evidence was submitted in support of this argument by the Department, and the testimony of the Department's representative specifically refutes this argument. In fact, the undisputed evidence before the Court unequivocally demonstrates that the Department does not maintain subaccounts, and that the Department is unable to attribute funds remaining in the Shared Trust Fund to an individual county.

23. The Department has failed to provide evidence that there are not available funds to repay the overpayments made by the Plaintiff Counties.

CONCLUSIONS OF LAW

1. This Court has jurisdiction of these proceedings.

2. The stay previously entered by this Court's Order entered on September 23, 2016, pending the decision of the First District Court of Appeal in the Marion County v. Department of Juvenile Justice case is hereby lifted.

3. Each of the Plaintiff Counties in this proceeding has filed applications under the provisions of section 215.26, Florida Statutes. The statutory process allows refunds of moneys paid into the state treasury where payments were made by overpayment, where an amount paid

was not due, or payment was made by mistake. The Department has previously utilized this to process and pay refunds to the Plaintiff Counties for overpayments that they have made in regard to the secure detention program. Contrary to the response of the Department, the funds submitted by the Plaintiff Counties under this program are subject to the requirements of section 215.26, Florida Statutes, and the Plaintiff Counties are appropriate entities to seek an application for refund under its procedures. The Court also finds that the applications of the various Plaintiff Counties were timely as to each of the Fiscal Years for which a refund was sought.

4. Seminole County filed an application under section 215.26, Florida Statutes, which has never been responded to by the Department or the Chief Financial Officer. After two years without a response, Seminole County instituted the present action. The Department and CFO suggest that the application is not ripe, as there has been no formal denial. The Court rejects this argument. Initially, there has been no showing that the Department or the CFO were actively reviewing the application. Further, the Department denied several other applications for refunds from other counties during this same period of time utilizing the same rationale as it raised as to the applications of Marion and Polk Counties. The failure to timely respond to the Seminole County application is deemed to constitute a denial of the application.

5. The applications for refund made by the Plaintiff Counties were based on overpayment amounts as set forth and agreed in the Joint Stipulations of the parties and the Department's recalculated amounts incorporated therein. As determined by the First District, the Department was bound by the stipulated overpayment amounts set forth in the Joint Stipulations as to the Plaintiff Counties. Marion County, 215 So. 3d 621. In addition, the First District has also affirmed that under section 985.686, Florida Statutes, the Department has a statutory duty to reconcile the Plaintiff Counties' overpayments to ensure the counties only paid their "actual

costs" for the fiscal years at issue, and this reconciliation must be more than a reconciliation on paper. Id. Inaction by the Department renders the reconciliation process under section 985.686 meaningless. Id.

6. The Department's primary response throughout these proceedings has been that the refund cannot be paid from the funds collected by the Department for the purpose of secure detention because a new fiscal year has occurred, and because the Plaintiff Counties' "subaccounts" do not have a sufficient balance from which a refund can be made. Alternatively, the Department argues that any refund would require a specific appropriation from the Legislature. However, in each of the refunds previously made to the Plaintiff Counties, the Department did not seek an appropriation, nor were the payments made within the same fiscal year, or from a county "subaccount." The Department also did not raise the unavailability of revenues to refund these overpayments as part of its response to the applications for refunds. The evidence submitted in support of the Plaintiff Counties' Motions for Final Summary Judgment established that there was revenue available to have paid these amounts should the Department had the desire to do so, both as to existing balances within the Shared Trust Fund and through surplus General Revenue proceeds at the end of the year. Rather, the Department has taken the position that the entire burden falls upon the Plaintiff Counties to seek relief from the Legislature and ignored its responsibility to administer the statute in a manner so as to assure that counties paid no more than their actual costs. As set forth by the First District in its opinion, contrary to the Department's position, the burden falls squarely on the Department, and not the Counties. Marion County, 215 So. 3d 621.

7. Under section 985.686, Florida Statutes, counties are required to pay only their actual costs of secure juvenile detention relating to the time prior to final court disposition. The

statute also requires that the Department develop a system of accounts payable to assure that only the actual costs are paid by the counties. The Department has chosen to implement this provision by Rule through a system of credits and debits, which continues to exist in the current Rules. The fact that the Department, in adopting its Rules, has implemented a system of credits and debits does not foreclose the availability of other remedies. The Rule was clearly contemplated for the administration of a system where the counties are participating in the State system. However, merely because a county exercises its option to leave the State system, as authorized by statute, does not mean that the statutory requirement that its contributions toward the State system be limited to its actual costs is somehow eliminated, or that it is otherwise deprived of other available equitable remedies. The Department has clearly recognized that its obligation to counties continues beyond their leaving the system by paying refunds in the past.

8. Sovereign immunity has been raised as a defense by the various Defendants. The Court finds that the actions are not barred by sovereign immunity. As to the provisions of section 215.26, Florida Statutes, it has previously been held that sovereign immunity has been waived for the maintaining of an action under its provisions. See Fla. Dep't of Highway Safety & Motor Vehicles v. Rendon, 957 So. 2d 647 (Fla. 3d DCA 2007). The rationale of that decision is equally applicable as to the applicability of sovereign immunity to the action for a declaratory judgment under section 985.686, Florida Statutes. The provisions of section 985.686, Florida Statutes, clearly contemplate the establishment of an accounts payable system by the Department to account for the contributions by counties and to assure that they are limited to only their actual costs. Having established this accounts payable process, the State cannot suggest that any action related to its failure to comply with the statutory mandate is barred. Sovereign immunity to enforce the statutory process and provisions are waived.

9. The Department argues that the Court does not have the authority to order an appropriation. With this position, neither the Plaintiff Counties nor the Court disagrees. However, this is not a matter of appropriation. The Legislature has established a requirement and process for the joint cost sharing of secure juvenile detention and the Department is the responsible entity for the administration of the process. That process requires that the Department administer it so as to limit the contribution of counties to paying only their actual costs. The Department has failed to follow the requirements of the Legislature and not only overcharged Plaintiff Counties but used those revenues to provide funding for those costs that were the responsibility of the State of Florida.

10. The recent decisions of Pinellas Cnty. v. Fla. Dep't of Juvenile Justice, 188 So. 3d 894 (Fla. 1st DCA 2016) and Marion County v. Department of Juvenile Justice, 215 So. 3d 621 (Fla. 1st DCA 2017) affirm that it is the Department's duty to provide a reconciliation between a county's estimated costs and actual costs that constitutes more than a reconciliation on paper. The mandate of the statute is that all counties shall pay no more than their actual costs. Although the judiciary may not direct an executive agency to spend its money in a particular way, the judiciary does have the ability to require a state agency to comply with its statutory duty. As the Department has failed to comply with the statute, this Court has the authority to require compliance with the Legislature's statutory mandate. The State may not "bait and switch" by declaring only after the overpayment is made by the Plaintiff Counties that no postdeprivation remedy exists as contemplated under sections 985.686 and 215.26, Florida Statutes. See Newsweek, Inc. v. Fla. Dep't of Revenue, 522 U.S. 442 (1998).

11. Having determined that the Plaintiff Counties have overpaid the amounts due under the statute, the Court finds that supplemental relief is required to provide an equitable

remedy for the violation of the statute by the Department. That supplemental relief is the payment of refunds to bring the Department into compliance with its statutory obligation.

12. The Chief Financial Officer argues that he is not a proper party to these proceedings. The Court believes that his statutory duties and responsibilities and his presence as a party for the potential of refunds is a sufficient basis under Chapter 86 to include the Chief Financial Officer as a party and to ensure the provision of meaningful relief to Plaintiff Counties under any judgment entered in this cause.

13. There are no material facts in dispute and the Plaintiff Counties are entitled to the issuance of a declaratory judgment. The Court finds that supplemental relief in the form of refunds is necessary and proper to provide an equitable remedy.

NOW, THEREFORE, being fully advised in the premises, it is ORDERED AND ADJUDGED as follows:

1. The Court grants declaratory judgment as to Count I and Count II of the Complaints and determines that the Plaintiff Counties during the years FY 09-10, FY 10-11 and FY 11-12 overpaid amounts to the Department of Juvenile Justice under the provisions of section 985.686, Florida Statutes. The Department also is found to have wrongfully utilized those funds to offset the cost of secure juvenile detention responsibilities of the State of Florida, rather than for the actual costs of the respective Plaintiff Counties. The failure of the Department was contrary to the express statutory requirements of section 985.686, Florida Statutes.

2. The parties have timely filed applications under section 215.26, Florida Statutes, and there has been no showing that the relief sought should not be granted. The basis cited by the Department for denial of the refund is without merit. To the extent that the Department now

seeks to raise additional grounds for the denial, then those grounds are waived, as they were not asserted by the Department in its response, and are, in any event, without merit.

3. The Court determines that the amount of overpayments by the Plaintiff Counties during the years in question has been established by the Joint Stipulations of the parties and the recalculation incorporated therein, as affirmed by the First District Court of Appeal, and are determined to be as follows:

COUNTY	**AMOUNTS ESTABLISHED IN JOINT STIPULATIONS**			
	2009-2010	**2010-2011**	**2011-2012**	**Total**
MARION	$ 502,656.56	$ 164,175.28	N/A	$ 666,831.84
POLK	$1,759,258.57	$2,476,765.89	$546,175.30	$4,782,199.76
SEMINOLE	$1,362,557.19	$1,748,435.61	$957,704.75	$4,068,697.55

4. The Department's retention of the above overpayments made by the Plaintiff Counties is contrary to the statutory responsibilities of the Department and contrary to the accounts payable system required under the statute.

5. Having issued its declaratory judgment, the Court finds that supplemental relief is required to be necessary and proper to provide complete relief. The Court finds that it is equitable that the Department refund to the Plaintiff Counties so as to comply with the statutory requirements of section 985.686, Florida Statutes.

6. Summary Final Judgment is hereby entered on behalf of Marion County in the amount of $666,831.84; on behalf of Polk County in the amount of $4,782,199.76; and on behalf of Seminole County in the amount of $4,068,697.55.

7. Pursuant to section 215.26, Florida Statutes, the Department shall refund the amounts set forth in paragraph 6, above, to the respective Plaintiff Counties. The Court determines that the Plaintiff Counties have met all of the statutory requirements under section 215.26, Florida Statutes, and are entitled to a refund of their overpayments to the Department.

8. Plaintiffs are not entitled to summary judgment on the alternative claim of account stated, Count IV.

9. The Motion for Final Summary Judgment filed by Secretary Daly on behalf of the Department is denied. The Motion to Dismiss filed by Chief Financial Officer Patronis is denied.

DONE AND ORDERED in Chambers at Tallahassee, Leon County, Florida, this 25th day of September, 2017.

JOHN C. COOPER
Circuit Judge

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