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Major lawsuit settled, helping 7,000 people with developmental disabilities live in the community instead of institutions

OAKLAND – A class action case to expand community living opportunities for approximately 7,000 Californians with developmental disabilities residing in institutions has been settled. On April 24, Judge Robert Freedman granted final approval of the settlement agreement in *Capitol People First et al v. Department of Developmental Services et al.*

David Engberg, president of the self-advocacy organization and lead organizational plaintiff Capitol People First said, "This lawsuit was a voice for people in institutions who couldn't speak for themselves."

The case was litigated by Disability Rights California, with Bingham McCutchen LLP and DLA Piper US LLP as pro bono counsel. Barbara Dickey, lead attorney from Disability Rights California, explained, "The settlement terms spell out coordinated and long-term actions to support each and every institutionalized Californian with developmental disabilities who chooses to live in a smaller, more integrated community setting."

The settlement will benefit all people with developmental disabilities in California who reside in, or are at risk of placement in, institutions-- defined in the lawsuit as public or privately-run facilities for 16 or more individuals. The settlement will continue and improve efforts made by the Department of Developmental Services (DDS) and the 21 Regional Center defendants during the course of the seven-year litigation, which include expansion of funding and opportunities for community living, as well as the recent closure of one state-run institution, Agnews Developmental Center.

The settlement provides for additional funds for case management to assist class members in state-run institutions called developmental centers (DC); improved information to class members and training for DC staff about community living options; increased state-level coordination of services for people diagnosed with developmental and mental health disabilities; and continued funding and program efforts to provide community living alternatives for class members.

Chris O'Connor, attorney with Bingham McCutchen, said of the settlement, "Today caps seven years of work towards finding the best possible ways for the state of California to fulfill the promise made to Californians with developmental disabilities under the state's Lanterman Act, which requires that people with developmental disabilities must have the opportunity to live in community settings where appropriate."

DLA Piper attorney Michael Schwartz added: "We are pleased that this settlement significantly enhances community living options for people with developmental disabilities and also provides improvements to the infrastructure of these programs."

The lawsuit was filed in January 2002, seeking to ensure that Californians with developmental disabilities had access to the services they need to live

in and participate as members of their communities, and avoid unnecessary institutionalization. The class includes the approximately 2,300 children and adults who live in DCs and the 4,500 people who live in privately-owned institutions housing 16 or more, such as skilled nursing facilities and other large congregate facilities.

The lawsuit was brought in Alameda County Superior Court by sixteen individual plaintiffs who resided in, or were at risk of placement in, developmental centers or other institutions; three organizational plaintiffs (Capitol People First, California Alliance for Inclusive Communities, and The Arc of California); and two taxpayer plaintiffs who asserted that the State is spending tax dollars unlawfully by continuing to institutionalize individuals who could live successfully in community homes.

Tony Anderson of The Arc of California said, "This settlement will give consumers and their families more information to make choices about receiving the services they need to live healthy and successful lives in their home communities."

The lawsuit was settled against all defendants, including the State of California; the Departments of Developmental Services (DDS), Health Care Services (DHCS), Mental Health (DMH); and the 21 local non-profit Regional Centers (which contract with DDS). In addition, the Intervenor, California Association of State Hospital Parent Councils for the Retarded (CASH/PCR), California Association for the Retarded (CAR), and several individual DC residents, by way of their family members, also support and have signed the settlement agreement.

For more information and background, go to www.disabilityrightsca.org <<http://www.disabilityrightsca.org/>> .