

# FOR IMMEDIATE RELEASE

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## Class Action Lawsuit Seeks an End to Segregated Sheltered Workshops

PORTLAND, ORE. – Jan. 25, 2012 – Advocates for individuals with intellectual and developmental disabilities today filed a class action lawsuit challenging Oregon’s failure to provide supported employment services to more than 2,300 state residents who are segregated, in sheltered workshops where they perform mundane tasks, such as folding UPS bags.

The lawsuit, filed in U.S. District Court, charges state officials with violating the Americans with Disabilities Act and the Rehabilitation Act by confining individuals with disabilities to segregated settings where they have little – if any – interaction with non-disabled peers. Moreover, they are paid far below the state’s minimum wage of \$8.80 for doing rote tasks that offer no training, no skills, and no advancement.

For more than a decade, lead plaintiff Paula Lane, 48, has had the same request: “Find me an outside job.” Instead, she and 137 other people with disabilities package gloves or put parts into boxes on assembly lines in a noisy and crowded sheltered workshop in Beaverton. Despite her request for competitive employment and her high performance scores, her individualized service plan has no goals related to employment. She lives in an apartment with staff support, and would like to go to a country music concert or attend an Upward Bound camp, but her resources are limited. Over a 12-month period in 2010-11, she made a high -of 66 cents an hour.

Another plaintiff, Lori Robertson, 51, performs mundane tasks at a sheltered workshop in Gresham. She has been assigned to these segregated settings since 1981. Robertson earned \$126.15 for 53.9 hours of work in December 2011 – which works out to \$2.34 an hour. She lives in a group home and would like to earn at least minimum wage in an integrated job in the community. She also would like to go bowling or horseback riding, but has little money left after paying her bills.

According to the lawsuit, Oregon currently spends \$30 million a year confining individuals with disabilities to sheltered workshops. The plaintiffs contend it would much cheaper to fund programs that promote integrated, supported employment. They cite a 2010 Call for Action Report issued by the state’s Office of Developmental Disability Studies that recognized “cumulative costs generated by sheltered employees may be as much as three times higher than the cumulative costs generated by supported employees – \$19,388 versus \$6,618.”

The plaintiffs are represented by Disability Rights Oregon, Miller Nash, Perkins Coie, and the Center for Public Representation.

“The Americans with Disabilities Act recognizes that discrimination against individuals with disabilities includes intentional segregation and relegation to lesser service jobs,” said Bruce Rubin, partner at Miller Nash. “This law protects individuals with developmental disabilities, like the named plaintiffs in this lawsuit.”

Ironically, throughout the 1980s, Oregon was in the forefront of a national movement to reduce the number of sheltered workshops and increase opportunities for integrated and supported employment. However, beginning in the mid-1990s, the state changed course, and the raw number and percentage of people served in sheltered workshops more than doubled, while the number and percentage served in supported employment has almost halved. This reversal, ascribed to a lack of commitment to expanded supported employment programs and to a drop-off in federal monies for such programs, coincided with the 1999 U.S. Supreme Court ruling in *Olmstead v. L.C.* that ordered states to develop concrete, measurable plans to integrate disabled persons into the general population.

“Requiring integration in employment is the next natural step for obeying the integration mandate required by the U.S. Supreme Court and the U.S. Department of Justice,” said Steven Schwartz, litigation director at the Center for Public Representation.

“It is time to require that the State of Oregon follow the law,” said Bob Joondeph, executive director of Disability Rights Oregon.

“We want the state to provide supported employment programs in integrated employment settings and to develop measurable plans that describe modifications to the state’s employment service system,” said Lawrence Reichman, partner at Perkins Coie.

Joondeph cited the plaintiffs’ segregation and inequitable wages, and added, “They deserve better.” For example, 28-year-old Sparkle Green wants “a community job,” but no one has discussed integrated employment options with her or offered her supported employment services. She has almost perfect performance scores at the Beaverton sheltered workshop, but earned less than 46 cents an hour in August, 39 cents an hour in September, and 29 cents an hour in October.

Gretchen Cason, 27, was referred to a sheltered workshop that purported to provide employment services, but instead offered only crafts projects, and she spent three years watching television or coloring. If she ever has the chance, she would work in a music store or an ice cream parlor. What she wants is “a job that’s not boring.”

Andres Paniagua, 32, works with 66 other individuals with disabilities in a sheltered workshop that cuts steel. Mr. Paniagua has worked in every department from the machine shop to the front office. Despite his demonstrated ability, interest, and repeated requests for outside integrated employment, he has not been afforded any community-based options. Rather, the goal outlined in his “individualized” service plan calls for more segregation: “opportunities in employment in a workshop setting and for activities and socialization with other people with disabilities.”

The other named plaintiffs are ~~Annette Elder, 48, who independently boards a Tri-Met bus to travel to the Beaverton sheltered workshop that she has attended since 1991;~~ Angela Kehler,

48, who has been forced to remain in sheltered workshops since she was laid off from a successful job placement at a drugstore; ~~Chris Lacayo, 24, who spends a significant amount of his meager workshop wages on transportation to the workshop;~~ Elizabeth Harrah, 32, who previously worked at McDonald's and Safeway, and now is at a sheltered workshop while waiting for her case manager to help her return to competitive employment; and Xavier Kinville, 27, who is stuck at a sheltered workshop, awaiting an opportunity for integrated community employment. Kinville has volunteered in the community, where his favorite job was reading to children.

United Cerebral Palsy of Oregon and Southwest Washington (UCP), which serves adults, children, and families experiencing cerebral palsy and intellectual and developmental disabilities, is an organizational plaintiff in the lawsuit. UCP executive director Ann Coffey said its efforts to increase supported employment programs have been frustrated by the state's diversion of resources into sheltered workshops. As alleged in the lawsuit, thousands of individuals with disabilities are unable to get supported employment services because the Department of Human Services (DHS) administers and funds an employment system that relies primarily on sheltered workshops.

The plaintiffs are asking the court to direct the state to end their needless segregation in sheltered workshops and to provide supported employment services to enable them to participate in competitive employment in integrated settings as mandated by federal law.

The lawsuit, *Lane v. Kitzhaber*, names as defendants Governor John Kitzhaber; Erinn Kelley-Siel, DHS director; Mary Lee Fay, administrator of the Office of Developmental Disability Services; and Stephanie Parrish Taylor, administrator of the DHS Office of Vocational Rehabilitation Services.

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