



MR-CA-004-014

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DEVELOPMENTAL SERVICES AND FAIRVIEW  
7 DEVELOPMENTAL CENTER

8 **COPY**

9 UNITED STATES DISTRICT COURT

10 CENTRAL DISTRICT OF CALIFORNIA

11

12 RICHARD S., CYNTHIA R., )  
VALDINA R., and ROES 1 through )  
13 800, individually and on behalf )  
of all those similarly situated )  
14 by WILLIAM CABLE, M.D., as )  
Guardian At Litem, )

No.: SACV97-219GLT (EEx)

DECLARATION OF  
JEFFREY HELFER

15 )  
16 Plaintiffs, )

17 v. )

18 DEPARTMENT OF DEVELOPMENTAL )  
SERVICES OF THE STATE OF )  
19 CALIFORNIA, FAIRVIEW )  
DEVELOPMENTAL CENTER, SOUTH )  
20 COAST REGIONAL PROJECT, HARBOR )  
REGIONAL CENTER, REGIONAL CENTER )  
21 OF ORANGE COUNTY, SAN DIEGO )  
REGIONAL CENTER, SOUTH CENTRAL )  
22 LOS ANGELES REGIONAL CENTER, )  
WESTSIDE REGIONAL CENTER, )  
23 DENNIS G. AMUNDSON, as Director )  
of the DEPARTMENT OF DEVELOP- )  
24 MENTAL SERVICES, STATE OF )  
CALIFORNIA, HUGH KOHLER, as )  
25 Executive Director of FAIRVIEW )  
DEVELOPMENTAL CENTER, LILIA )  
26 TAN-FIGUEROA, M.D., as Medical )  
Director of FAIRVIEW DEVELOP- )  
27 MENTAL CENTER, DAWN LEMONDS, )  
as Director of SOUTH COAST )  
28 REGIONAL PROJECT, and DOES 1 )  
through 500, inclusive, )

DATE: March 31, 1997  
TIME: 3:30 p.m.  
DEPT: 2

Defendants. )

1 I, JEFFREY HELFER, declare:

2 1. I am employed by the State of California, Fairview  
3 Developmental Center (Fairview) as the Clients Rights Advocate.  
4 If called to testify in this matter, I could and would testify to  
5 the facts as set forth in this declaration. As Clients Rights  
6 Advocate, I am responsible for assuring Fairview's compliance  
7 with laws and policies relative to residents' rights,  
8 investigating all allegations of denial of such rights, serving  
9 as advocate to individual residents in any matter relating to  
10 their rights, and serving as a consultant to facility staff on  
11 rights issues. I may intervene in any situation where there is  
12 concern of a violation of a resident's rights which is brought by  
13 or on behalf of any resident. To my knowledge, no resident, or  
14 person acting on his or her behalf, has-requested referral to an  
15 independent advocate.

16 2. Residents, their families, legal representatives and  
17 Fairview staff (including physicians) have all been advised of  
18 options regarding the assertion and preservation of residents'  
19 rights. They have also received information from Fairview on how  
20 to contact independent advocacy organizations, such as the local  
21 Area Board (an oversight body), Protection and Advocacy, Inc.  
22 and/or court appointed or independent legal representatives. I  
23 believe that all of the staff physicians, including Dr. Cable,  
24 are aware of my job duties and of my legally imposed obligation  
25 to protect residents' rights. Nonetheless, to my knowledge, Dr.  
26 Cable has not consulted with me on any alleged violation of  
27 residents' rights, nor has he requested the referral of any of  
28 his alleged concerns to an independent advocacy organization for

1 persons with developmental disabilities.

2       3. Pursuant to Title 17, California Code of Regulations,  
3 section 50510(a)(12)(C), a person with developmental disabilities  
4 has a right of access to the courts to inquire into the terms and  
5 conditions of placement in any community care or health facility,  
6 or state hospital, by way of a Writ of Habeas Corpus. As Clients  
7 Rights Advocate at Fairview, pursuant to Title 17, California  
8 Code of Regulations, section 50550(a)(5), I have the obligation  
9 to assist residents in the pursuit of administrative and legal  
10 remedies. If the complaint is against a employee, a policy, or  
11 the operations of the state hospital, I may, as discussed above,  
12 refer the resident to an agency such as Protection and Advocacy,  
13 Inc. which can provide independent representation. Title 17,  
14 California Code of Regulations, sections 50510(a)(12)(C) and  
15 50550(a)(5) are attached as Exhibit "B".

16       4. In 1981, the California Supreme Court decided every  
17 person who was not a true voluntary admission to a developmental  
18 center, be entitled to a judicial hearing as to whether, because  
19 of a developmental disability, being gravely disabled, or a  
20 danger to self or others, placement in a state developmental  
21 center was warranted. In re Hop, 29 Cal.3d 82, 171 Cal.Rptr. 721  
22 (1981). Each county where a developmental center was located  
23 decided how to implement this decision. The Orange County  
24 Superior Court requires any new admission to Fairview be placed,  
25 only after a court review, under In re Hop. (This is true unless  
26 there is a Welfare and Institutions Code section 6500 civil  
27 commitment, wherein the court has found that the person poses a  
28 danger to self or others. Pending the hearing on a Section 6500

1 commitment, the court may order the person placed in a state  
2 developmental center pursuant to Welfare and Institutions Code  
3 section 6506.)

4 5. Plaintiff Cynthia R. has a Hop hold and no conservator  
5 or family involvement. Plaintiff Richard S. has a Hop hold and  
6 parents who oppose community placement. I am informed and  
7 believe that DDS will not place a developmental center resident  
8 in the community against a family's wishes, unless court ordered  
9 to do so. Plaintiff Valdina R., who moved to the community on  
10 June 26, 1996, has DDS serving as limited conservator of her  
11 person.

12 6. In January 1992, the Orange County Superior Court  
13 decided it was necessary to ensure that all of Fairview's  
14 residents be afforded their right to a judicial hearing on the  
15 appropriateness of placement. Therefore, since 1992, each  
16 regional center responsible for Fairview residents has been  
17 pursuing the appropriate judicial reviews. Currently, Fairview  
18 has 738 residents. Of that number, 705 persons are adults, with  
19 281 persons having conservators. Forty-four persons are  
20 conserved by the Department of Developmental Services (DDS) via a  
21 regional center nomination, 16 persons are conserved by a  
22 regional center, 220 persons by family/other, and one by the  
23 public guardian. Of the persons living at Fairview: 523 persons  
24 have Hop placements; 100 consumers have Hop holds pending their  
25 Hop review hearing, 78 persons are placed pursuant to Welfare and  
26 Institutions Code section 6500, two persons are held pursuant to  
27 Welfare and Institutions Code section 6506, and only two have not  
28 had a judicial review. The anticipated population of Fairview,

1 once the persons from Camarillo Developmental Center arrive, is  
2 850. Fairview has a licensed bed capacity of 1,228. The new  
3 arriving residents from Camarillo will not require an  
4 acceleration of placements out of Fairview, contrary to Dr.  
5 Cable's allegation.

6 7. The following is a sequential order of events in the  
7 ongoing Hop review proceedings for Fairview residents.

8 a. The regional center case worker identifies the  
9 person to the attorney. (Each regional center hires an  
10 attorney to file Hop petitions.)

11 b. The regional center reviews the person's file,  
12 gathers information, and provides this information to the  
13 attorney.

14 c. The attorney prepares the declaration for the case  
15 worker to sign.

16 d. The declaration becomes part of the Hop petition.

17 e. The attorney files the petition with the court and  
18 a date is set for the hearing.

19 f. A Hop hold order is obtained, allowing Fairview to  
20 retain the person until the hearing.

21 g. A delegation form is prepared by the attorney, and  
22 given to the regional center.

23 h. The regional center forwards this delegation to  
24 the parent or conservator for signature.

25 i. The parent or conservator must sign this  
26 delegation and return it to the regional center, who in turn  
27 forwards it to the attorney prior to the hearing.

28 j. The parents or conservators are not required to

1 attend the hearing, but if they wish to attend, they can  
2 contact either the regional center or Fairview, for the  
3 hearing date and time.

4 k. The Public Defender investigators interview the  
5 person at Fairview, review the file, and make  
6 recommendations to the Public Defender.

7 l. The hearing is held on the specified date.

8 m. The judge reads all materials prior to the  
9 hearing, and makes his or her decision. The judge signs the  
10 Hop order, which is good for one year.

11 8. The following statistical information describes some of  
12 the characteristics of the individuals residing at Fairview:  
13 Ages range from 5 years to 77 years of age; 88% of the ages fall  
14 between 22 and 54 years; 41% are female; 59% are male; 95% have  
15 an intellectual handicap to at least a severe degree; 46% have a  
16 visual impairment; 20% have a hearing impairment; 63% experience  
17 seizures; 49% exhibit behaviors that interfere with their  
18 participation in structured programs; 5% participate in Special  
19 Education; 1% attend community school program; and 31%  
20 participate in paid vocational training.

21 I declare under penalty of perjury under the laws of the  
22 State of California that the foregoing is true and correct.

23 Executed on this \_\_\_\_\_ day of March 1997, at Costa Mesa,  
24 California.

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JEFFREY HELFER  
Clients Rights Advocate  
Fairview Developmental Center