

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF TENNESSEE  
WESTERN DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff, and	)	
	)	
PEOPLE FIRST OF TENNESSEE, <u>et al.</u> ,	)	
	)	
Plaintiffs-Intervenors,	)	
	)	
v.	)	Civil Action
	)	No. 92-2062 D/P
STATE OF TENNESSEE, <u>et al.</u> ,	)	
	)	
Defendants, and	)	
	)	
WEST TENNESSEE PARENT- GUARDIAN ASSOCIATION	)	
	)	
Defendant-Intervenors.	)	
	)	

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**JOINT MOTION COMBINED WITH MEMORANDUM IN SUPPORT TO SET AN  
INFORMAL STATUS CONFERENCE TO PLAN FOR THE HEARING; TO SET AN  
EVIDENTIARY HEARING ON THIS MOTION; AND TO APPROVE AGREEMENT  
RESOLVING VARIOUS PENDING MATTERS**

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Come now intervenors/plaintiffs People First of Tennessee, Inc. ("People First"), plaintiff the United States ("United States"), and defendants the State of Tennessee, et al. ("State"), by and through undersigned counsel and respectfully move for an order: (1) setting an informal status conference to establish the procedures for briefing, noticing, and hearing this motion; (2) setting an evidentiary hearing on this motion; and (3) approving the Agreement attached hereto as Exhibit "A." In support of the motion, these parties state as follows:

## DISCUSSION

The parties to this litigation, including intervenor West Tennessee Parent Guardian Association (“PGA”), have been engaged in extensive and protracted negotiations in an effort to reach an agreed resolution of a number of pending matters. People First, the United States, and the State have reached an agreement that is intended to resolve these pending matters (“Agreement”). The Agreement has been approved by the State, the United States, and People First, on behalf of the Class.

While the PGA actively participated in the negotiations leading up to the completion of the Agreement and, indeed, helped shape the Agreement, it was unwilling to become a signatory to the Agreement. People First, the United States, and the State believe that the Agreement is in the best interests of their respective clients and the members of the Class and request the Court to approve the Agreement notwithstanding PGA's decision not to sign it.

If approved, the Agreement would resolve the following:

1. Stipulation of Settlement and Order of Provisional Approval of Mediated Settlement Agreement, filed February 13, 2002 [Dkt. #1566];
2. Order Denying the Approval of Mediation Settlement Agreement, entered February 21, 2003 [Dkt. #1698];
3. Motion by People First for an Order Requiring Defendants to Show Cause, filed September 30, 2003 [Dkt. #1774];
4. Order Granting People First's Motion for Order Requiring Defendants to Show Cause, entered April 5, 2004 [Dkt. #1871];
5. Motion to Set Aside/Suspend without Prejudice Order Requiring Defendant to Appear and Show Cause, filed December 15, 2004 [Dkt. #1942];

6. Motion for Temporary Restraining Order, for Order Disapproving Settlement Agreement and for Injunctive Relief by PGA, filed December 28, 2004 [Dkt. #1951];

7. Mandate of the United States Court of Appeals (to reconsider the Mediation Settlement Agreement), entered August 18, 2005 [Dkt. #2038]; and

8. Order Regarding Scope of the Class Definition, entered July 17, 2000 [Dkt. #1302].<sup>1</sup>

The State has made the policy decision to close Arlington Developmental Center (“ADC”). The parties to the Agreement support the State’s decision and agree that the State has the authority to make this policy decision. The Court’s approval of the attached Agreement will ensure an orderly and careful closure of the ADC, the safe transition of Class Members presently living at ADC to community residences, and the accelerated development of a comprehensive network of services and supports for Class Members as they enter and live in the community. The parties to the Agreement believe that the Agreement is historic in scope and heralds a new day for the delivery of an array of progressive services to each member of the Class in the least restrictive environment appropriate to each Class Member’s needs. The Court’s Monitor supports the Agreement and will testify in favor of its approval.

### **RELIEF REQUESTED**

People First, the United States, and the State request the following relief:

1. Entry of an order setting an informal status conference to discuss a schedule for the hearing and to set deadlines for briefing and other pre-hearing activities;
2. Entry of an order setting an evidentiary hearing to approve the Agreement;

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<sup>1</sup> The issues concerning the scope of the at-risk Class are presently on appeal. United States v. State of Tennessee, et al., No. 00-6120, argued July 2005 (the “at-risk Appeal”). If the Agreement is approved and a new interpretation of the at-risk class adopted as set forth therein, the at-risk Appeal will be dismissed. See Agreement Sec. X. A.

3. Entry of an order approving the Agreement<sup>2</sup> following an evidentiary hearing concerning its particulars; and

4. All other, further, and general relief to which the parties may be entitled.

Respectfully submitted,

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<sup>2</sup> Consistent with Section X. B. of the Agreement, in conjunction with the approval of the Agreement, the Court also is requested to vacate the Order of July 17, 2000 regarding the scope of the “at risk” class [Dkt. #1302] and issue a substitute Order that the class definition in People First v. Arlington Developmental Center, No. 2:92cv2213, that reads “all persons at risk of being placed at Arlington Developmental Center,” shall be construed as set forth in paragraph XI of the Agreement; and, vacate the Order Requiring Defendants to Appear and Show Cause, which was entered on April 5, 2004 [Dkt. #1871].

UNITED STATES

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**CERTIFICATE OF SERVICE**

I certify that on behalf of the Joint Movants, the foregoing Joint Motion Combined with Memorandum in Support to Set an Informal Status Conference to Plan for the Hearing; to Set an Evidentiary Hearing on This Motion; and to Approve Agreement Resolving Various Pending Matters was served via electronic case filing and first class mail, postage prepaid, on the 16<sup>th</sup> day of May, 2006 to the following individuals:

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