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DISTRICT COURT

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IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF WYOMING

ANNA MARIA WESTON, by her)
guardian Barbra Weston, et al.)

Plaintiffs,)

v.)

CIVIL ACTION NO. C90-0004

WYOMING STATE TRAINING SCHOOL,)
et al.)

Defendants.)

**MOTION FOR DEFENDANTS TO PROVIDE IMMEDIATE ACCESS
TO PROTECTION AND ADVOCACY SYSTEM, INC.
TO ALL RECORDS OF CLASS MEMBERS AT
THE WYOMING STATE TRAINING SCHOOL**

COMES NOW, the Plaintiff class above noted, by and through their attorneys respectfully move the Court to grant Protection and Advocacy System, Inc. (P&A) the authority to have access to all records of class



members at the Wyoming State Training School, and in support of said motion states as follows:

1. A complaint was filed in this matter on January 3, 1990 as a class action complaint alleging various statutory and constitutional violations relating to the rights of individuals at the Wyoming State Training School ("WSTS") and for an indeterminate number of individuals with retardations at risk of being placed at WSTS.

2. Plaintiffs moved the Court to certify this action as a class action pursuant to Fed. R. Civil P. 23(a), (b)(1) and (b)(2) on March 16, 1990.

3. On April 30, 1990, the Court directed and certified that this case may proceed as a class action under the provisions of Rule 23 of the Federal Rules of Civil Procedure and that members of the class are adequately represented by the attorneys for the named Plaintiffs.

4. On July 13, 1990, the parties entered into a Stipulation on Immediate Needs Issues to address and implement resolutions of those conditions at WSTS which are considered to be of such risk that they require immediate relief.

5. Pursuant to said Stipulation, Protection and Advocacy System, Inc. is obligated by its terms to provide the primary monitoring of implementation of the agreed upon Immediate Needs Assessment Team's ("INAT") plans and recommendations.

6. Protection and Advocacy System, Inc. is a Wyoming non-profit corporation established pursuant to the Protection and Advocacy for Mentally Ill Individuals of 1986, 42 U.S.C. § 10801 *et seq.* and the

Developmental Disabilities Assistance and Bill of Rights Act, 42 U.S.C. 6000 *et seq.* (the "Acts"), with authority to independently investigate reported or probable instances of abuse and neglect and to pursue administrative, legal and other appropriate remedies to insure protection for its clients.

7. This Motion is intended to ensure that P&A has access to all records of class members and that P&A is able to have rights of visitation with all class members at WSTS based on its own independent authority to have access and based on Plaintiff's attorneys' request to designate P&A and its staff and agents as an arm of the attorneys for Plaintiffs and the named class for access and communication to all class members at WSTS.

8. P&A has a protected First Amendment right to communicate and consult with the population it was created to serve. Robbins v. Budke, 739 F. Supp 1479, 1485 (D.N.M. 1990). P&A's right to access to its clients is both constitutional and statutory.

9. Although the State has no objection to this Motion, it has voiced concerns about confidentiality. P&A is required to maintain confidentiality of such records to the same extent as is required of the provider of such services. 42 U.S.C. § 10806(a); 45 C.F.R. § 1386.21(b)(1).

10. Moreover, the agreements entered into by the parties to date, especially the INAT Stipulation, call for implementation and monitoring by P&A. Implementation and monitoring cannot be effective unless P&A has access to all records of class members at WSTS.

11. In order to ensure that class members obtain the care and treatment called for by INAT, it is imperative that Protection and Advocacy System, Inc., have access to class member records at the WSTS.

12. As counsel for the named Plaintiffs and class members, counsel desires that the Court grant access to all records to P&A including staff and experts and counsel, for the foregoing reasons.

13. In this matter, the Defendants, in essence the State of Wyoming, has expressed that it will not oppose this Motion.

WHEREFORE, the Plaintiffs pray that this Court enter an Order granting Protection and Advocacy System, Inc. access to records and communication to all class members at WSTS.

DATED this 6th day of December, 1990.

Plaintiffs

By:



Michael O'Donnell
Michael Reese
Danny Wilde
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that the foregoing MOTION FOR DEFENDANTS TO PROVIDE IMMEDIATE ACCESS TO PROTECTION AND ADVOCACY SYSTEM, INC. TO ALL RECORDS OF CLASS MEMBERS AT THE WYOMING STATE TRAINING SCHOOL was served on the Defendants by placing true and correct copies in the United States Mail, postage prepaid, on the 6th day of December, 1990, addressed as follows:

Dennis M. Coll
Senior Assistant Attorney General
Tort Litigation Division
State of Wyoming
Barrett Building, 4th Floor
Cheyenne, WY 82002

Lorise A. Anderson