

Joint PRESS RELEASE

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SETTLEMENT REACHED IN FEDERAL CLASS ACTION LAWSUIT INVOLVING CLAIMS OF RESTRAINT AND SECLUSION OF RESIDENTS WITH DEVELOPMENTAL DISABILITIES AT STATE FACILITY, SUBJECT TO COURT APPROVAL

SAINT PAUL – September 14, 2010 – A \$3 Million settlement has been reached in a federal class action lawsuit brought by three families against the State of Minnesota and other defendants for restraining and secluding residents with developmental disabilities, prior to September, 2008, at Minnesota Extended Treatment Options (METO), a state operated facility. The settlement, reached after a two day mediation ending Monday evening, requires approval by U.S. Federal District Court Judge Donovan Frank.

In the settlement, the State and Plaintiff families agree to work together over the next 60 days to develop appropriate policies and procedures for use at METO and the Minnesota Department of Human Services (DHS). The parties also agree to form a committee to include stakeholders within the developmental disabilities community to study, review and modernize the DHS rule (Rule 40), which governs and protects people with developmental disabilities, to reflect current best practices, including the use of positive and social behavioral supports, and the development of placement plans consistent with the principle of the “most integrated setting” and “person centered planning, and development of an “Olmstead Plan” consistent with the 1999 U.S. Supreme Court’s decision in *Olmstead v. L.C.*, 527 U.S. 582 (1999).

Shamus O’Meara, lead counsel for the families and partner with the law firm of Johnson & Condon, P.A., stated, “This settlement, if approved by the Federal Court, will establish lasting, positive change for the families who have been through so very much in this difficult, emotional situation. The State and the families have jointly agreed to develop effective policies and practices for the treatment and care of people with developmental disabilities, including those who are sent to state operated facilities. We recognize and appreciate the State of Minnesota’s commitment to partner with the families on this extremely important effort.”

He added, “This settlement is a defining moment for the families in this lawsuit, and for all families of people with developmental disabilities in Minnesota.”

The three Plaintiff families named in the lawsuit, who would serve as class representatives should the settlement be approved by the Federal Court, include Jim Brinker/Daren Allen, Elizabeth Jacobs, and Jim and Lorie Jensen, on behalf of their sons, Thomas, Jason, and Bradley, who were METO residents.

Jim Brinker stated, “Thomas was sent to METO for throwing paint at school. It took us a long time to get him out. We are thankful for a settlement with the State and DHS which promises to develop appropriate protections to ensure that the most vulnerable in our communities such as those with developmental disabilities receive the treatment and respect they deserve.”

Jim and Lorie Jensen stated, “Parents of children with developmental disabilities struggle every day to find answers and help. We believe the agreement allows DHS to work with the developmental disabilities community to create the necessary training and resources to help our family and other families who struggle with important decisions for their loved ones.”

Beth Jacobs stated, “My son has been through much over the past three years. I am hopeful that he can be happy and will now receive the appropriate treatment and care he needs for his condition.”

Dr. L. Read Sulik, M.D., assistant commissioner for Chemical and Mental Health Services at DHS, which oversees the METO program, said the department is pleased to reach a settlement and noted the practices described in the lawsuit had ended.

“The Department of Human Services recognizes the vulnerability of individuals with developmental disabilities who are in our care,” Sulik said. “We are fully committed to working with families and the disability community to provide the safest and highest quality care for our most vulnerable citizens and will work to reduce and eventually eliminate the reliance on seclusion and restraints in treatment settings.”

The lawsuit, originally filed in July 2009, contended METO staff routinely restrained residents in a prone face down position and placed them in metal handcuffs and leg hobbles, placed residents in seclusion and isolation rooms for extended time periods, and deprived them of visits from family members, among other claims. The lawsuit sought damages for violations of the federal civil and constitutional rights of residents with developmental disabilities, and asked the Court to enter an injunction against the State to prohibit its restraint and seclusion practices, and to declare them unconstitutional.

The defendants have denied liability for all of the claims.

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