

1 Jeff Davidson (State Bar No. 143633)  
2 Tony Richardson (State Bar No. 126230)  
3 Joseph M Graham (State Bar No. 169192)  
4 Christopher J. Heck (State Bar No. 174647)  
5 **KIRKLAND & ELLIS**  
6 777 So. Figueroa Street, Suite 3700  
7 Los Angeles, CA 90017  
8 Telephone: (213) 680-8400 ♦ (213) 680-8500  
9 Email: check@kirkland.com

10 Eve Hill (State Bar No. 202178)  
11 Paula D. Pearlman (State Bar No. 109038)  
12 Carolyn R. Young (State Bar No. 193387)  
13 **WESTERN LAW CENTER FOR**  
14 **DISABILITY RIGHTS**  
15 919 South Albany Street  
16 Los Angeles, California 90015-1211  
17 Telephone: (213) 736-1031 ♦ Fax: (213) 736-1428

18 Robert Newman (State Bar No. 86534)  
19 Kimberly Lewis (State Bar No. 144879)  
20 **WESTERN CENTER ON LAW AND POVERTY**  
21 3701 Wilshire Blvd # 208  
22 Los Angeles, California 90010-2809  
23 Telephone: (213) 487-7211 ♦ Fax: (213) 487-0242

24 Attorneys for Plaintiffs  
25 [Additional counsel appear on next page]

26 **UNITED STATES DISTRICT COURT**  
27 **CENTRAL DISTRICT OF CALIFORNIA**

28 **SUSAN RODDE, KENNETH**  
**YOUNGER, AND ANTONIO**  
**GAXIOLA, et al.,**

Plaintiffs,

v.

**DIANA BONTA, R.N., DR. P.H.,**  
Director of the State Department of  
Health Services, an Individual in Her  
Official Capacity; **COUNTY OF LOS**  
**ANGELES,** a public entity; **THOMAS**  
**L. GARTHWAITE, M.D.,** Director and  
Chief Medical Officer of Defendant  
County's Department of Health  
Services; an individual in his official  
capacity; and **DOES 1-10,** inclusive,  
individual Defendants are sued in their  
official capacities,

Defendants.

Case No. CV 03-1580 FMC (PJWx)

**ORDER GRANTING  
PRELIMINARY APPROVAL OF  
CLASS SETTLEMENT, APPROVAL  
OF FORM AND MANNER OF  
NOTICE TO CLASS, AND  
SCHEDULING FAIRNESS  
HEARING**

[Honorable Florence-Marie Cooper]

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**ORDER GRANTING PRELIMINARY APPROVAL OF CLASS SETTLEMENT, APPROVAL  
OF FORM/MANNER OF NOTICE TO CLASS, SCHEDULING FAIRNESS HEARING**

**Additional Counsel:**

1 Gerald A. McIntyre (State Bar No. 181746)  
2 **NATIONAL SENIOR CITIZEN LAW CENTER**  
3 3435 Wilshire Blvd # 2860  
4 Los Angeles, CA 90010-1938  
5 Telephone: (213) 639-0930 ♦ FAX: (213) 639-0934

6 Melinda Bird (State Bar No. 102236)  
7 Marilyn Holle (State Bar No. 61530)  
8 Maria F. Iriarte (State Bar No. 150704)  
9 **PROTECTION AND ADVOCACY, INC.**  
10 3580 Wilshire Blvd # 902  
11 Los Angeles, California 90010-2512  
12 Telephone: (213) 427-8747 ♦ Fax: (213) 427-8767

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1 The Court, having read and considered the Settlement Agreement regarding the  
2 claims in this lawsuit between plaintiffs Susan Rodde, Kenneth Younger, Antonio  
3 Gaxiola, and the Plaintiff Class, as defined in the Settlement Agreement (collectively  
4 "Plaintiffs") and defendants County of Los Angeles and Thomas L. Garthwaite, M.D.,  
5 current Director and Chief Medical officer of Los Angeles County Department of  
6 Health Services (collectively, the "County Defendants"), the Stipulated Order, and the  
7 Motion by the Plaintiffs for an Order Setting Fairness Hearing on the Settlement of  
8 the Claims in this Lawsuit between these Parties and Directing Notice to the Plaintiff  
9 Class,

10 **IT IS HEREBY ORDERED**

11 1. The Court gives preliminary approval to the proposed Settlement of this  
12 lawsuit between Plaintiffs and County Defendants, and to the related Stipulated  
13 Order.

14 2. A fairness hearing shall be held on Jan. 30, 2006, ~~2006~~ in  
15 Courtroom <sup>150</sup> ~~760~~ of this Court, at 11:00 a.m. ~~1:00~~, to hear the objections, if any  
16 are made, by Plaintiff Class members to the approval of the Settlement and entry of  
17 the Stipulated Order; and to determine whether: (a) the proposed Settlement is fair,  
18 reasonable and adequate to Plaintiff Class members; (b) the proposed Settlement  
19 should be finally approved by the Court; (c) the Stipulated Order, as provided in the  
20 Settlement, should be entered herein; and (d) the payment of attorneys' fees, costs and  
21 expenses to Plaintiffs' counsel, as provided in the Settlement, should be approved.  
22 The Court may adjourn or continue the fairness hearing without further notice to  
23 Plaintiff Class members.

24 3. Any member of the Plaintiff Class or his or her attorney may appear at  
25 the fairness hearing and show cause, if he or she has any, as to why: (a) the proposed  
26 Settlement is not fair, reasonable and adequate to Plaintiff Class members; (b) the  
27 proposed Settlement should not be finally approved by the Court; (c) the Stipulated  
28 Order, as provided in the Settlement, should not be entered herein; and/or (d) the

1 payment of attorneys' fees, costs and expenses to Plaintiffs' counsel, as provided in  
 2 the Settlement, should not be approved; provided that such class member, no later  
 3 than ~~thirty (30) days before the fairness hearing~~, *December 19, 2005*, has submitted an objection, either (1)  
 4 by telephone or (2) in writing, setting forth his or her full name and address and his or  
 5 her bases for objecting to the Settlement, the Stipulated Order and/or the payment of  
 6 attorneys' fees, costs and expenses. Objections made by telephone must be made to a  
 7 toll-free phone number set forth in the written notice, and all calls to this number shall  
 8 be recorded and transcribed by Plaintiffs' counsel. Copies of the transcripts shall be  
 9 provided to County Defendants' counsel and to the Court within ten (10) days of  
 10 close of the objection period, and copies of the recordings shall be provided to County  
 11 Defendants' counsel within ten (10) days of close of the objection period. Objections  
 12 made in writing must be served by first class mail on Paula D. Pearlman, Western  
 13 Law Center for Disability Rights, 919 Albany Street, Los Angeles, California 90015,  
 14 and Alisa Morgenthaler Lever, Christensen, Miller, Frank, Jacobs, Glaser, Weil &  
 15 Shapiro LLP, 10250 Constellation Boulevard, 19<sup>th</sup> Floor, Los Angeles, California  
 16 90067, and filed with the Clerk of the Court with proofs of service on the above  
 17 attorneys. Whether made by telephone or in writing, objections must state whether  
 18 the class member and/or his or her attorney intends to appear at the fairness hearing.

19 4. The Parties shall undertake the actions set forth in this Paragraph to give  
 20 notice to the members of the Plaintiff Class that the Settlement will be approved and  
 21 the Stipulated Order will be entered unless members of the Plaintiff Class object  
 22 thereto and the Court accepts their objections. Except as specifically provided herein,  
 23 the County Defendants shall pay for the cost of performing the actions set forth in this  
 24 Paragraph. *no later than November 7, 2005*  
 25 ~~At least seventy (70) days prior to the fairness hearing on the proposed~~  
 26 ~~Settlement and Stipulated Order~~, the County Defendants:

27 A. Shall enclose a printed notice substantially in the form set forth in  
 28 Exhibit "A", in English and Spanish ("the printed notice") in a mailing to all persons

1 who, as of the date of the mailing, are inpatients at Rancho Los Amigos National  
2 Rehabilitation Center ("Rancho") or have been inpatients within the preceding 36  
3 months, and who have received such inpatient services at Rancho while they were  
4 Medi-Cal recipients or their Medi-Cal applications were pending. The notice will  
5 contain a statement, in each of Los Angeles County's threshold languages as  
6 identified by the Medical Board of California (Vietnamese, Cantonese, Mandarin,  
7 Other Chinese, Armenian, Russian, Cambodian, Hmong, Tagalog, Korean, and Farsi),  
8 that language assistance is available by contacting Rancho's Language and Cultural  
9 Center;

10 B. Shall enclose the printed notice in a mailing to all persons who, as  
11 of the date of the mailing, are outpatients at Rancho or have been outpatients at  
12 Rancho within the preceding 36 months, and who have received such outpatient  
13 services at Rancho while they were Medi-Cal recipients or their Medi-Cal  
14 applications were pending;

15 C. Shall enclose the printed notice in a mailing to each Independent  
16 Living Center office in Los Angeles County, with a request that the notice be posted  
17 in a prominent location in that office;

18 D. Shall post the written notice in prominent locations throughout  
19 Rancho where patients and their families have access: the administration building, the  
20 outpatient clinic at the 100 Building, the inpatient rehabilitation center, the referral  
21 and admission office, the seating center, the physical and occupational therapy  
22 outpatient clinics, and the health information management office;

23 E. Shall provide sufficient copies of the written notice at each of the  
24 inpatient and outpatient clinics at Rancho for staff to hand out to patients and/or  
25 patients to take on their own;

26 F. Shall post the written notice and the Settlement Agreement, in  
27 electronic format, on Rancho's website: [www.rancho.org](http://www.rancho.org).

28 G. Shall provide the written notice, in electronic format, to the Los

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1 Angeles County In Home Supportive Services and request that such entity post the  
2 notice on its website: [www.ladpss.org/dpss/ihss/ihss\\_title\\_page.cfm](http://www.ladpss.org/dpss/ihss/ihss_title_page.cfm);

3 H. Shall provide the written notice, in electronic format, to the  
4 following on-line forums: the ADAPT LA list, [ADAPTLA@AOL.com](mailto:ADAPTLA@AOL.com); the  
5 California ADAPT list, [ADAPT-CAL@yahoogroups.com](mailto:ADAPT-CAL@yahoogroups.com); and Living Independently  
6 in Los Angeles, <http://lila.ucla.edu> and request that they post the notice on such on-  
7 line forums;

8 I. Shall make the written notice available in alternative formats  
9 accessible to persons with disabilities, including but not limited to Braille, large print,  
10 audio cassette, and an electronic version that can be emailed, to be distributed upon  
11 request;

12 J. Shall set up and pay for the existence of the toll-free phone  
13 number, described in Paragraph 3 above, but shall not be otherwise responsible for  
14 staffing, monitoring or maintaining such toll-free number, the latter responsibilities  
15 shall be undertaken by Plaintiffs' counsel.

16 5. At least seventy (70) days prior to the fairness hearing, Plaintiffs'  
17 counsel shall post the written notice and Settlement Agreement, in electronic format,  
18 on the following websites: Protection and Advocacy, [www.pai-ca.org](http://www.pai-ca.org); Western Law  
19 Center for Disability Rights, [www.wlcdr.org](http://www.wlcdr.org); and Western Center for Law and  
20 Poverty, [www.wclp.org](http://www.wclp.org).

21 6. The Court finds that the notice set forth in the preceding Paragraphs are  
22 reasonably calculated to provide adequate notice to members of the Plaintiff Class of  
23 the proposed Settlement and Stipulated Order, and that the Due Process requirements  
24 of the United States Constitution will be met with respect to the members of the  
25 Plaintiff Class.

26 ////

27 ////

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1           7.     At least fourteen (14) days before the fairness hearing, the County  
2 Defendants shall serve and file a declaration reporting to the Court and counsel for  
3 Plaintiffs as to their compliance with the notice provisions set forth above.

4 Dated: Oct 3 2005

*Florence-Marie Cooper*  
5 The Honorable Florence-Marie Cooper  
6 United States District Court Judge

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**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT**  
in  
**Rodde v. Bontá., Case No. CV 03-1580 FMC (PJWx)**  
United States District Court for the Central District of California

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**To the patients of Rancho Los Amigos National Rehabilitation Hospital (“Rancho”)**

**YOU ARE NOT BEING SUED**

**YOU SHOULD READ THIS NOTICE** because it describes the proposed settlement of a class action lawsuit against Los Angeles County (the “County”). Under the Settlement, the County will keep Rancho open and provide services to Medi-Cal recipients until at least \_\_\_\_\_, 2008 unless the County finds a buyer for Rancho. If the County decides to close Rancho after \_\_\_\_\_, 2008, you or other patients can still bring a new lawsuit to keep Rancho open.

**YOU RECEIVED THIS NOTICE** because County records show that you have been a Medi-Cal recipient and a Rancho patient during the last three (3) years. *This Notice does not affect your Medi-Cal benefits in any way.*

**THE COURT WILL HOLD A HEARING TO DECIDE IF IT SHOULD APPROVE THE SETTLEMENT**, described below. *You do not have to do anything unless you object to the Settlement.* If you object, you must file your objection as described below. Whether you object to the Settlement or do nothing, it will not affect your ability to keep going to Rancho.

**I. The Basis of the Rancho Lawsuit**

In January 2003, the County Board of Supervisors voted to close Rancho because of budget problems. On March 6, 2003, three Rancho patients who get Medi-Cal (“plaintiffs”) sued the County under the Americans with Disabilities Act, the Medicaid Act and other laws. Plaintiffs argued that closing Rancho would be discrimination against them and other Medi-Cal patients at the hospital because Rancho is the only rehabilitation hospital in the County primarily serving persons with disabilities. The lawsuit only asked to keep Rancho open; it did not ask for money damages for plaintiffs or any other patients.

On May 8, 2003, the Court issued a preliminary injunction ordering that the County could not close Rancho unless it made sure Rancho patients on Medi-Cal could get treatment elsewhere. The Ninth Circuit Court of Appeals upheld the order on February 5, 2004. Rancho currently remains open under the terms of the preliminary injunction. The Court

has not issued a permanent injunction or made any permanent ruling on the merits of Plaintiffs' action.

The County has denied and continues to deny that it engaged in any wrongdoing or has any liability to Plaintiffs arising from its decision to close Rancho or from any of the conduct, acts or omissions alleged in this lawsuit.

## **II. Who is a Member of the Class**

The Court has certified the case as a class action on behalf of all Medi-Cal recipients (including seniors and children) who live in Los Angeles County, who have disabilities, and who, because of their disabilities, need or will need rehabilitative and other medical services that are provided at Rancho.

## **III. The Proposed Settlement**

Plaintiffs recently agreed to settle the case, rather than go to trial while the County health care system is still facing budgetary problems. The County agreed to the Settlement to save the cost of litigation, but does not admit it has done anything wrong.

The Court has now ordered that this Notice go out to all class members. This Notice is only a summary of the settlement terms. (See Section IX below on how to get a copy of the entire Settlement).

## **IV. Summary of the Settlement Terms**

- (1) Rancho's core rehabilitation services will stay open for at least three years
  - Unless the County finds a buyer for Rancho, the County will keep Rancho open for at least three years regardless of the County's budgetary problems.
  - During the three year period, Rancho will operate with a total of 162 beds (146 average daily census) for all patients including Medi-Cal recipients.
  - Rancho will keep providing acute inpatient rehabilitation services and related medical services: Adult Brain Injury, Spinal Cord Injury, Major Multiple Trauma, Pediatrics, Neurology, Stroke Gerontology, Pressure Ulcer Management, Rehab Related Medical Surgeries, Intensive Care Unit, and two Operating Rooms.
  - Rancho will keep providing ortho-diabetes and arthritis care.
  - Rancho will keep operating outpatient clinics and providing therapy services.
  - Patients who require chronic intravenous ("IV") antibiotic treatment or who have liver disease will no longer be transferred to Rancho but will continue to receive

care at County facilities.

- (2) Over the next three years, the County will look for a buyer or establish a nonprofit organization to take over Rancho.
- The entity taking over Rancho must agree to keep Rancho as a comprehensive, catastrophic rehabilitation hospital, with both inpatient and outpatient services.
  - The entity taking over Rancho must also agree to accept Medi-Cal and County indigent rehabilitation inpatients and outpatients for treatment under the same admission protocols in place at Rancho in the year prior to the takeover.
- (3) During the three year period, the County will use its best efforts to make Rancho run in the most efficient and economical manner practicable.
- (4) If after three years the County decides to close Rancho, there are things the County must do for Medi-Cal recipients first:
- (a) Prepare discharge plans for inpatients and outpatients who at that time are in a course of treatment, use a ventilator, or have postpolio syndrome.
  - (b) Provide referrals for other outpatients who have received services in the last three years.
  - (c) Create a plan for other County-run facilities to provide the type of inpatient and/or outpatient services provided at Rancho.
  - (d) Survey the facilities in Los Angeles County that accept Medi-Cal and are accredited to provide the types of services provided at Rancho to find out which facilities will accept additional Medi-Cal patients.
  - (e) Arrange for the County's California Children's Services (CCS) program to ensure that Medi-Cal recipients who are also covered by CCS, and who would have received services at Rancho, receive appropriate inpatient and outpatient care.

**IMPORTANT: Nothing in the Settlement prevents plaintiffs or other class members from bringing a new lawsuit to challenge the County's decision to close Rancho or reduce the level of services available after the three year period.**

Plaintiffs and plaintiffs' attorneys believe the Settlement agreement is fair, reasonable and adequate. Experts for plaintiffs and the County estimate that it may take at least three years of diligent efforts by the County to attempt to find an entity to take over Rancho. Experts for the parties also believe that an entity would not be interested in taking over Rancho if this lawsuit were still going on.

## V. Effects of the Settlement

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If the Court approves this Settlement, the current lawsuit will be dismissed without prejudice. Plaintiffs have agreed to not bring any new lawsuits to keep Rancho open so long as the County complies with the terms of the Settlement regarding Rancho's future operations. If, on the other hand, the County violates the terms of the Settlement, plaintiffs or members of the Class can bring a new lawsuit in federal court to enforce the terms of the Settlement. The District Judge for the current lawsuit would be the District Judge for the new lawsuit.

### **VI. Award of Attorneys' Fees and Expenses**

The Settlement provides, subject to the Court's approval, that the attorneys representing plaintiffs will be paid 1.75 million dollars in fees and costs for their services and expenses through to the hearing for the Court's final approval of the Settlement.

### **VII. Hearing on the Fairness of the Settlement**

On \_\_\_\_\_, 2005, the Honorable Florence-Marie Cooper, United States District Judge, preliminarily approved the Settlement. Another hearing, called a "Fairness Hearing," will be held before Judge Cooper on \_\_\_\_\_ at \_\_\_\_\_ at the United States District Court, Edward R. Roybal Federal Building & Courthouse, 255 East Temple Street, Los Angeles, California. The purpose of the Fairness Hearing is to finally determine whether the Settlement is fair, adequate, and proper, and whether the Court should finally approve the Settlement, award attorneys' fees and expenses, and dismiss the case.

### **VIII. Procedures for Agreement with or Objection to the Settlement**

If you agree with the Settlement, *you do not need to do anything*. You of course are welcome to attend the Fairness Hearing as a member of the audience.

If you disagree with the Settlement, you have a right to object to it. There are three ways to object; *if you do not follow them exactly, the Court will not consider your objection*:

(A) Object in Writing: Write a letter describing what your objection is. You must include in the letter your name, address and telephone number, and the name of the case, "Rodde v. Bontá, and the case number, CV 03-1580 FMC (PJWx)." You must send your letter no later than \_\_\_\_\_, 2005, to: "Clerk of the U.S. District Court, Central District, 312 North Spring Street, Los Angeles CA 90012." You must also send a copy of your letter to all the lawyers (listed on page \_\_\_ ) and state in the letter itself that you did so.

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(B) Object by Telephone: You can call this toll free number – 1-800 \_\_\_\_\_ - \_\_\_\_\_ – by \_\_\_\_\_, 2005, and record your objection. You must state your name, address and telephone number, and what your objection is.

(C) Object at the Fairness Hearing: You also have the right to object in person and to be represented by an attorney at the Fairness Hearing. To do so, you must *first* send in a written objection or object by telephone, following the instructions above, *and* state in that objection that you *also* want to speak at the Fairness Hearing. No one will be allowed to speak at the Fairness Hearing who has not done this.

**IX. More Information**

This Notice only contains a summary of the Settlement. All of the specific terms of the Settlement are posted on these websites: Rancho, [www.rancho.org](http://www.rancho.org); Protection and Advocacy, [www.pai-ca.org](http://www.pai-ca.org); Western Law Center for Disability Rights, [www.wlcdr.org](http://www.wlcdr.org); Western Center for Law and Poverty, [www.wclp.org](http://www.wclp.org); and L.A. County In Home Supportive Services, [www.ladpss.org/dpss/ihss/ihss\\_title\\_page.cfm](http://www.ladpss.org/dpss/ihss/ihss_title_page.cfm).

You can also get a copy of the Settlement, and all other papers filed in the case (Rodde v. Bontá., Case No. CV 03-1580 FMC (PJWx)), by going during regular office hours to the Office of the Clerk, United States Court for the Central District of California, 312 North Spring Street, Los Angeles, California 90012. **DO NOT CALL THE COURT.**

If you need this Notice or the Settlement in an alternative format, such as large print or audio recording, contact \_\_\_\_\_.

Dated: \_\_\_\_\_, 2005

BY THE ORDER OF THE COURT

UNITED STATES DISTRICT JUDGE

**STATEMENT TO BE PUT IN THRESHOLD LANGUAGES:**

**If you cannot read this, please contact the Office of \_\_\_\_\_ at Rancho.**

**ATTORNEYS' ADDRESSES FOR SENDING NOTICE OF OBJECTION**

**Plaintiffs' Attorneys**

MARIA F. IRIARTE  
PROTECTION AND ADVOCACY, INC.  
3580 Wilshire Blvd., Suite 902  
Los Angeles, CA 90010-2515

PAULA D. PEARLMAN  
WESTERN LAW CENTER FOR DISABILITY RIGHTS  
919 Albany Street  
Los Angeles, CA 90015-1211

**County's Attorneys**

LEELA A. KAPUR  
ASSISTANT COUNTY COUNSEL  
SHARON A. REICHMAN  
PRINCIPAL DEPUTY COUNTY COUNSEL  
648 Kenneth Hahn Hall of Administration  
500 West Temple Street, 6th Floor  
Los Angeles, CA 90012-2713

PATRICIA L. GLASER  
ALISA MORGENTHALER LEVER  
CHRISTENSEN, MILLER, FINK, JACOBS, GLASER, WEIL & SHAPIRO, LLP  
10250 Constellation Boulevard, 19th Floor  
Los Angeles, California 90067

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