

FILED 04 JAN 13 10:19 USDC-ORP

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

MIRANDA B., HANNAH C., JAMIE G,)
JONG K., JOANNE K., JAMES R.,)
GEORGE P., ANTHONY G.,)
LEONARD P., and JUAN S., individually)
and on behalf of all others similarly situated,)

Plaintiffs,)

v.)

THEODORE KULONGOSKI, Governor of)
the State of Oregon, in his official capacity,)
OREGON DEPARTMENT OF HUMAN)
SERVICES, and JEAN THORNE, Director)
of the Oregon Department of Human)
Services, in her official capacity,)

Defendants.)

No. CV00-1753-HU

ORDER CERTIFYING SETTLEMENT
CLASS AND PRELIMINARILY
APPROVING SETTLEMENT,
APPROVING CLASS NOTICE AND
SCHEDULING FAIRNESS HEARING

HUBEL, Magistrate Judge:

IT IS HEREBY ORDERED:

1. The class consisting of all civilly committed adults in Oregon state hospitals, as of December 1, 2003, who have not been discharged within 90 days of the ready-to-place determination of their Treatment Team and who consent to placement in the community, having met each requirement of Rule 23(a) and Rule 23(b)(2), F.R.Civ.P., is certified as a class for settlement purposes only.

1 - ORDER CERTIFYING SETTLEMENT CLASS AND PRELIMINARILY APPROVING SETTLEMENT,
APPROVING CLASS NOTICE AND SCHEDULING FAIRNESS HEARING

2. The terms of the Settlement Agreement are incorporated into this Order.

3. The Settlement Agreement is preliminarily approved, subject to further consideration thereof at a Fairness Hearing, which shall be held before this Court on MARCH 8, 2004 at 9:30 a.m. in Courtroom 9B of the United States Courthouse, 1000 SW Third Avenue, Portland, Oregon. At the Fairness Hearing, the Court will determine whether the proposed settlement of the class claims in this action on the terms and conditions provided in the Settlement Agreement is fair, reasonable, adequate and made in good faith, and whether final judgment should be entered dismissing the action on the merits except for the retention of court jurisdiction to enforce the terms of the Settlement Agreement.

4. Notice of the proposed settlement and the time and place of the Fairness Hearing is to be given to members of the class by mail or hand delivery, at defendants' expense. As of this date, all members of the class are currently residing in one of Oregon's State Psychiatric Hospitals. The form of the Notice of Pendency and Settlement of Class Action (the "Notice") shall be in the form appended to this Order. At or prior to the Fairness Hearing, counsel shall file proof, by affidavit, of such publication.

5. The Court approves the Notice of Pendency and Settlement of Class Action and finds that the procedures established for distributing such notice meet the requirements of Rule 23, F.R.Civ.P. and due process and that this is the best notice practicable under the circumstances and shall constitute due and sufficient notice to all persons entitled thereto.

6. Any member of the class who objects to the Settlement Agreement may appear at the Fairness Hearing if, on or before February 13, 2004, the class member files and serves on the

parties notice of intention to appear (which shall set forth each objection and the basis therefor) and copies of any papers in support of his or her petition.


7. Any member of the class who does not make his or her objection in the manner provided herein shall be deemed to have waived such objection and shall forever be foreclosed from making any objection to the fairness, adequacy or reasonableness of the proposed settlement.

8. The Court reserves the right to adjoin the Fairness Hearing without any further notice than an announcement at the Fairness Hearing and to approve the Settlement Agreement with modification and without further notice to members of the class.

9. In the event final approval of the Settlement Agreement is not obtained from the Court, or for any reason the parties fail to obtain a final judgment, then, in either of such events, the Settlement Agreement shall become null and void and of no further force and effect. In such event, the Settlement Agreement shall be withdrawn without prejudice to the rights of any and all parties thereto, who shall be restored to their respective positions existing as of the date of the Settlement Agreement, and all negotiations and proceedings relating thereto shall be inadmissible.

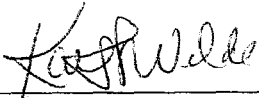
APPROVED AND SO ORDERED.

DATED this 13th day of JANUARY, 2004.



Dennis J. Hubel
United States Magistrate Judge

Prepared by:



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