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U.S. Magistrate Judge J. Kelley Arnold

**UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF WASHINGTON  
AT TACOMA**

THE ARC OF WASHINGTON STATE,  
INC., ET AL.,

Plaintiffs,

v.

LYLE QUASIM, ET AL.,

Defendants.

NO. C99-5577 JKA

SETTLEMENT AGREEMENT

**I. INTRODUCTION**

**A. Conditions of Agreement and Recitals**

1. The parties in *The Arc of Washington State, et al. v. Quasim, et al.*, Cause No. C99-5577 JKA, enter into this Settlement Agreement (“Agreement”) of claims brought by or on behalf of The Arc of Washington State and the named individuals, about programs operated by defendants Department of Social and Health Services (DSHS), Aging and Disability Services Administration, Division of Developmental Disabilities (DDD).

2. The terms of this Settlement Agreement apply to the State of Washington, Department of Social and Health Services (DSHS) current Home and Community Based Services (HCBS) waiver programs, any successor programs and any of DSHS, DDD Medicaid

1 funded programs or services. The terms of this Agreement do not limit the ability of DSHS to  
2 legally modify, revise, or terminate the HCBS waiver programs, or other Medicaid funded  
3 programs, consistent with federal Medicaid law, the Americans with Disabilities Act, the  
4 Rehabilitation Act, Due Process or other applicable laws.

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6 3. In Fiscal Year (FY) 2003, consistent with a draft class settlement agreement  
7 proposed by the parties but not approved by the Court, the Washington State Legislature  
8 appropriated \$7,300,000 for new services to persons with developmental disabilities who were  
9 within the proposed settlement class. The parties also acknowledge that that the tentative  
10 agreement provided that subsequent funds appropriated to continue these services were:  
11 \$8,200,000 in FY2004, \$8,400,000 in FY2005, and \$8,100,000 in FY2006. Expenditures were  
12 carried forward in the maintenance level budget, creating a "bow wave" for expenditures in  
13 subsequent years.

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15 4. Since 2003, the parties engaged in additional settlement discussions, including  
16 mediation, in an effort to reach a mutually agreeable resolution to the remaining issues. The  
17 parties' latest series of settlement discussions began in summer 2006 when Plaintiffs proposed  
18 that a commitment by the Governor to request that the 2007 Washington State Legislature  
19 increase funding for an array of services, covering both clients on a DSHS HCBS waiver and  
20 those not on a HCBS waiver, and her good faith commitment to support such increases, would  
21 be a sufficient basis on which to settle. After review, the Governor agreed to request the  
22 increased funding outlined in the Governor's proposed 2007-2009 biennial budget and the  
23 2007 supplemental budget, and for her and appropriate state employees to use good faith  
24 efforts to secure this requested funding.  
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1           5.     This Agreement is not intended to supersede or interfere with the settlement  
2 agreement reached in the *Boyle v. Arnold-Williams*, No. C-01-5687 JKA, finalized on  
3 December 15, 2006.  
4

5   **II.     TERMS OF AGREEMENT**

6           **A.     Definitions**

7           1.     “Plaintiffs” means the Arc of Washington State, Olivia Murguia, Guadalupe  
8 Cano and Lorianne Ludwigson.

9           2.     “Defendants” means the State of Washington, Department of Social and Health  
10 Services (DSHS), Aging and Disability Services Administration, Division of Developmental  
11 Disabilities (DDD) and any of its Secretaries, agencies, agents, employees or successors.  
12

13           **B.     Defendants’ Obligations to Request Additional Funding From The Legislature for  
                Additional Services**

14           1.     Pursuant to the prior tentative settlement agreement, Defendants requested and  
15 expended funds for individuals with developmental disabilities.  
16

17           2.     In accord with this Agreement, the Governor requested the amounts identified  
18 below in the FY2007 Supplemental Budget and in the FY2007-09 Biennial Budget, and she  
19 and appropriate state employees will use their best efforts to try and secure the funding of these  
20 amounts by the 2007 Washington State Legislature. This Agreement is not contingent on the  
21 2007 Legislature adopting the Governor’s proposed budget.

22                         a.     Family Support. The Governor’s budget requests \$2,269,000 in GF-S  
23 funding for families on the Family Support wait list, which will provide service to an  
24 additional estimated 940 families in the 2007-09 biennium.  
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1           b.     Employment for High School Transition Graduates. The Governor's  
2 budget requests \$5,057,000 GF-S in funding for long-term employment for young adults  
3 turning 21, which, together with a federal match of an estimated \$2,384,000 will provide  
4 services to an estimated 750 high school graduates.  
5

6           c.     Additional Community Residential Placements and Support. The  
7 Governor's budget requests 45 new community residential placements in the supplemental  
8 budget, at an estimated GF-S cost of \$1,003,000, plus an estimated federal match of \$873,000.  
9 In addition, the Governor requests \$6,700,000, plus a federal match estimated at \$6,970,000, in  
10 the supplemental budget for enhanced utilization of adult supported living and other  
11 community residential services. Finally, the Governor requests 81 new community placements  
12 in the 2007-09 biennium, at an estimated GF-S cost of \$4,653,000, plus a federal match  
13 estimated at \$4,686,000.  
14

15           d.     Additional Medicaid Personal Care Funds. The Governor's budget for  
16 FY 2007-09 requests funding to provide 2,400 DDD clients with Medicaid Personal Care  
17 funding at a cost of \$11,123,000 in GF-S funds, plus an estimated \$11,766,000 in federal  
18 matching funds.  
19

20 **C.     Fees and Costs**

21           Within 30 days of signing this Agreement, Defendants agree to pay Plaintiffs sixty-four  
22 thousand dollars (\$64,000.00) in attorney fees and costs to be disbursed by the Defendants  
23 among the four law firms who participated in this litigation on behalf of Plaintiffs as directed  
24 by the attorneys signing below for the Law Offices of Larry A. Jones.  
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1 **D. Dismissal of Claims**

2 1. Nothing in this Agreement shall be considered an admission of liability by any  
3 party. And, except as limited by the terms of this Agreement and the agreement in *Boyle v.*  
4 *Arnold-Williams*, Cause No. C-01-5687 JKA, nothing in this Agreement shall preclude the  
5 individually named Plaintiffs from pursuing other causes of action or seeking remedies in  
6 district or superior court, or administrative fair hearings under RCW 71A.10.050, 74.08.080 or  
7 any other law for any other alleged violations of law. Defendants do not waive any defenses  
8 regarding any administrative claims, appeals or lawsuits filed as a result of this Settlement  
9 Agreement or any other legal matter.  
10

11 2. The individually named Plaintiffs-Olivia Murguia and Guadalupe Cano-are on  
12 one of the DDD waiver programs and they are currently members of the settlement class in  
13 *Boyle v. Arnold-Williams*, Cause No. C-01-5687 JKA. Plaintiff Lorianne Ludwigson is no  
14 longer a waiver client and is not currently a *Boyle* settlement class member, because in August  
15 2004 she became a resident of the state facility--Lakeland Village. As to Plaintiffs Murguia  
16 and Cano, and Ludwigson if she again becomes a waiver client and *Boyle* settlement class  
17 member before the expiration of the *Boyle* settlement agreement, some of these Plaintiffs'  
18 claims and requests for relief in this lawsuit overlap the claims and requests for relief brought  
19 in *Boyle v. Arnold-Williams*, Cause No. C-01-5687 JKA. As to Plaintiffs Murguia and Cano,  
20 and Ludwigson if she becomes a waiver client and *Boyle* settlement class member before the  
21 expiration date of the *Boyle* settlement agreement, the claims and requests for relief related to  
22 (c) and (e) on pages 17 & 18 of *The Arc of Washington State, et al. v. Quasim, et al.*, Cause  
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1 No. C99-5577-JKA, are controlled by the class settlement agreement reached in *Boyle v.*  
2 *Arnold-Williams*, Cause No. C-01-5687 JKA.

3 3. As to all of Plaintiff The Arc of Washington State and Plaintiff Ludwigson's  
4 (unless she becomes a waiver client and *Boyle* settlement class member, before the expiration  
5 of the *Boyle* settlement agreement at which time paragraph 2 above will become applicable)  
6 claims and requests for relief in the *The Arc of Washington State, et al. v. Quasim, et al.*, Cause  
7 No. C99-5577-JKA, and all of Plaintiff Murgia and Cano's claims and requests for relief in  
8 *The Arc of Washington State, et al. v. Quasim, et al.*, Cause No. C99-5577-JKA except as  
9 limited by paragraph 2 above for which all covered matters must be pursued through the *Boyle*  
10 settlement agreement, this Settlement Agreement is binding, and *The Arc of Washington State*  
11 *et al. v. Quasim, et al.*, Cause No. C99-5577 JKA, is to be dismissed with prejudice.  
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14 4. Except as limited by paragraphs 1, 2, and 3 in this subsection, Plaintiffs agree  
15 not to sue Defendants for claims raised in *The Arc of Washington State, et al. v. Quasim, et al.*,  
16 Cause No. C99-5577-JKA, and are barred from litigating any of these same kinds of claims  
17 based on new facts prior to the expiration of the settlement agreement in *Boyle v. Arnold-*  
18 *Williams*, Cause No. C01-5687 JKA, as currently written, and not as may be further amended  
19 by those parties.  
20

21 5. Within five (5) days of filing of this Settlement Agreement and payment of  
22 agreed attorney fees and costs, Plaintiffs shall voluntarily dismiss this lawsuit with prejudice.

23 6. Plaintiffs hereby release and discharge the State of Washington, Department of  
24 Social and Health Services, Division of Developmental Disabilities, and any Secretaries, heirs,  
25 successors, administrators, employees, and assigns from the causes of action and claims for  
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1 injunctive and other relief regarding the allegations as set forth in the Complaint, Cause No.  
2 C99-5577 JKA, including but not limited to claims under the Americans with Disabilities Act,  
3 the Rehabilitation Act, Medicaid law, state law claims, or any other claim.

4 7. Nothing in this Agreement violates any federal or state statute, rule, regulation  
5 or known common law; but any provision which is found to be invalid or in violation of any  
6 statute, rule, regulation, or common law shall be considered null and void, with the remaining  
7 provisions remaining in full force and effect.  
8

9 **E. Miscellaneous Provisions**

10 1. The parties participated and had an equal opportunity to participate in drafting  
11 and/or approval of drafting of this Agreement. No ambiguity shall be construed against any  
12 party based upon a claim that the party drafted the ambiguous language. The parties represent  
13 and warrant that they have full power and authority to enter into this Agreement and to carry  
14 out all actions required of them to the extent allowed by law. The Arc of Washington's  
15 attorneys declare and warrant that they have been given full authority by the legal guardians of  
16 the individually named Plaintiffs to this lawsuit to enter into this Settlement Agreement. Each  
17 party's signature warrants that each party has fully read and agrees to all the terms contained  
18 herein.  
19

20 2. The parties agree that without prior mutual agreement in writing, all  
21 communications made, and documents prepared and exchanged by the parties in an attempt to  
22 discuss or resolve concerns or disagreements regarding the matters involved in this Settlement  
23 Agreement and that are not made or prepared in the ordinary course of business shall be  
24 designated as "For Fed. R. Evid. 408 purposes only" and neither party may use such  
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1 communications or documents in any subsequent litigation. Nothing in this paragraph  
2 prohibits the use of communications made or documents prepared in the ordinary course of  
3 business, or the underlying data or written information upon which the Fed. R. Evid. 408  
4 designated documents are based. This Settlement Agreement does not prevent either party  
5 from raising any defenses or making any objection as to the validity or admissibility of  
6 evidence concerning communications or documents not covered by the Fed. R. Evid. 408  
7 designation.  
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9 3. The Parties may modify the terms of the Agreement provided that such  
10 agreement to any such modification shall be in writing and signed by all the parties.  
11

12 4. Nothing in this Agreement shall affect the rights of the settlement class  
13 members in the *Boyle v. Braddock, Marr v. Eastern State Hospital, or Allen v. Western State*  
14 *Hospital* lawsuits, except that such class members may receive enhanced funding and services  
15 as a result of this Settlement Agreement.  
16

17 DEPT. OF SOCIAL AND HEALTH SERVICES

18 4-13-07  
19 Date

20 *Robert Arnold Williams* DSHS Secretary  
21 Kathy Leitch, Assistant Secretary  
22 DSHS, Aging and Disabilities Administration *for*

23 ROBERT M. MCKENNA  
24 Attorney General

25 4-13-07  
26 Date


27 *Rochelle E. Jelleff* WSBA 7897, *for*  
28 Carrie-L. Bashaw, WSBA #20253  
29 Assistant Attorney General  
30 Attorneys for Defendants



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THE ARC OF WASHINGTON STATE

4-14-07  
Date

  
Sue Elliot Sharon R York  
~~Executive Director~~ President

LAW OFFICES OF LARRY A. JONES

\_\_\_\_\_  
Date

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Larry A. Jones, WSBA #18948  
Of Attorneys for Plaintiffs

\_\_\_\_\_  
Date

\_\_\_\_\_  
Christine T. Ibrahim, WSBA #28607  
Of Attorneys for Plaintiffs

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THE ARC OF WASHINGTON STATE

Date

4/13/07

Date

4/13/07

Date

Sue Elliott  
Executive Director

LAW OFFICES OF LARRY A. JONES

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Of Attorneys for Plaintiffs

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Of Attorneys for Plaintiffs