UNITED STATES DISTRICT COURT FOR THE NORTHERN DISTRICT OF ILLINOIS EASTERN DIVISION

ETHEL WILLIAMS, *et al.*,	)	
	)	
Plaintiffs,	)	Case No. 05 C 4673
	)	
vs.	)	Judge Hart
	)	Magistrate Judge Denlow
PATRICK QUINN, *et al.*,	)	
	)	
Defendants.	)	

STATEMENT OF INTEREST OF THE UNITED STATES OF AMERICA

The United States files this Statement of Interest, pursuant to 28 U.S.C. § 517, because this litigation implicates the proper interpretation and application of the integration mandate of Title II of the Americans with Disabilities Act ("ADA"), 42 U.S.C. § 12101, et. seq. *See Olmstead v. L.C.*, 527 U.S. 581 (1999). The Department of Justice has authority to enforce Title II, 42 U.S.C. § 12133, and to issue regulations implementing the statute, *id.* at § 12134. The United States has a strong interest in the resolution of this matter.[1]

This lawsuit alleges that defendants rely on large Institutions for Mental Disease ("IMDs") to provide long-term care services for individuals with mental illness while failing to offer services in community-based settings. This practice, plaintiffs claim, violates the integration mandate of Title II of the ADA and Section 504 of the Rehabilitation Act. (Second Am. Compl. ¶ 104, 117).

Plaintiffs are a certified class of Illinois residents who: (a) have a mental illness; (b) are institutionalized in a privately owned Institution for Mental Disease; and (c) with appropriate supports and services may be able to live in an integrated community setting. (Mem. Op. &

[1]The Obama Administration's commitment to realizing the goals of community integration as set forth in *Olmstead* has led the United States to file briefs in a number of *Olmstead* enforcement cases in Connecticut, Virginia, North Carolina, New York, Illinois, Georgia, Arkansas, Florida, and California.

Order, Nov. 13, 2006, at 12-13). Following extensive discovery, including reports from two individual experts and a team of experts from Yale University, quantitative studies, and over 30 depositions, the parties began settlement discussions and eventually reached an agreement in principle regarding the consent decree to be entered by the Court. (Joint Status Report, Feb. 18, 2010). The parties jointly moved this Court to grant preliminary approval of their Proposed Consent Decree and Notice Plan. (Prop. Consent Decree.) In advance of this Court's preliminary approval, which would lead to procedural protections such as class notice and a fairness hearing, two IMD residents filed papers raising concerns about the Proposed Consent Decree.[2] The class members raised four primary concerns about the Consent Decree: (1) it lacks sufficient detail concerning the Implementation Plan, which should be developed before the Consent Decree is approved; (2) it does not provide medical professionals a large enough role in determining which individuals are appropriate for community placements; (3) it lacks sufficient detail concerning how much the proposed settlement will cost and how those costs will be funded; and (4) its provisions on attorneys' fees and costs are not sufficiently explained. (*Id*. at 5-7). Both plaintiffs and defendants have separately addressed these concerns in subsequent filings. (*See* Pls.' Reply in Supp. of Consent Decree; Defs.' Resp. to Objectors' Memo.)

The United States supports the Joint Motion for Preliminary Approval of the Consent Decree because it advances the important public interest in community integration. The Consent Decree adequately addresses Plaintiffs' allegations that the defendants systemically violate federal law by denying class members services in the most integrated setting. The Consent Decree offers an appropriate class-based remedy for the alleged systemic discrimination and is consistent with remedies fashioned by federal courts in cases alleging similar discrimination.

[2] This group of objectors grew to a total of 17 class members, which included the original objectors, in the sur-reply filed on May 13, 2010. (Class Members' Sur-reply. at 1.)

Moreover, Defendants, working together with plaintiffs, are in the best position to determine the details of such a systematic reform. *DAI v. Paterson*, 653 F. Supp. 2d 184, 312 (E.D.N.Y. 2009) (on appeal) ("[C]ourts are ill-equipped for formulation and day-to-day administration of detailed plans to assure compliance with the law.") (internal citations omitted).

The Proposed Consent Decree offers the promise of significant advancement in *Olmstead* enforcement in Illinois.[3] The proposed reform aligns with the Administration's commitment to community integration. Accordingly, this Court should grant the Joint Motion for Preliminary Approval of the Consent Decree and Approval of Notice Plan.

Statutory and Regulatory Background

Congress enacted the ADA in 1990 "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." 42 U.S.C. § 12101(b)(1). Congress found that "historically, society has tended to isolate and segregate individuals with disabilities, and, despite some improvements, such forms of discrimination against individuals with disabilities continue to be a serious and pervasive social problem." 42 U.S.C. § 12101(a)(2). For those reasons, Congress prohibited discrimination against individuals with disabilities by public entities.

> [N]o qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity.

42 U.S.C. § 12132.

As directed by Congress, 42 U.S.C. § 12134, the Attorney General issued regulations implementing Title II, which are based on regulations issued under section 504 of the

[3] Recent litigation has highlighted the State of Illinois' heavy reliance on segregated, institutional settings to serve people with disabilities, contrary to the national trend of serving people with disabilities in the community. *See Ligas v. Maram*, No. 05-C-4331 (N.D. Ill.). Although the *Ligas* litigation also involves the State's administration of services for people with disabilities, it is distinguishable from *Williams* for several reasons. *See* Pls.' Reply in Supp. of Consent Decree at 12-13).

Rehabilitation Act.[4] *See* 42 U.S.C. § 12134(a); 28 C.F.R. § 35.190(a); Executive Order 12250, 45 Fed. Reg. 72995 (1980), *reprinted in* 42 U.S.C. § 2000d-1. The Title II regulations, 28 C.F.R. § 35.130(d), require public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." The preamble discussion of the "integration regulation" explains that "the most integrated setting" is one that "enables individuals with disabilities to interact with nondisabled persons to the fullest extent possible." 28 C.F.R. § 35.130(d), App. A, at 571 (2009).

Eleven years ago, the Supreme Court applied these authorities and held that Title II prohibits the unjustified segregation of individuals with disabilities. *Olmstead*, 527 U.S. at 586. *Olmstead* held that public entities are required to provide community-based services for persons with disabilities who would otherwise be entitled to institutional services when a) treatment professionals reasonably determine that such placement is appropriate; b) the affected persons do not oppose such treatment; and c) the placement can be reasonably accommodated, taking into account the resources available to the entity and the needs of others who are receiving disability services from the entity. *Olmstead*, 527 U.S. at 607.

[4] Title II was modeled closely on Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794, which prohibits discrimination on the basis of disability in federally conducted programs and in all of the operations of public entities that receive federal financial assistance. Title II provides that "[t]he remedies, procedures, and rights" set forth under Section 504 shall be available to any person alleging discrimination in violation of Title II. 42 U.S.C. § 12133; *see also* 42 U.S.C. § 12201(a) (ADA must not be construed more narrowly than Rehabilitation Act). The ADA directs the Attorney General to promulgate regulations to implement Title II and requires those regulations to be consistent with preexisting federal regulations that coordinated federal agencies' application of Section 504 to recipients of federal financial assistance and interpreted certain aspects of Section 504 as applied to the federal government itself. 42 U.S.C. § 12134(a)-(b). Title II thus extended Section 504's pre-existing prohibition against disability-based discrimination in programs and activities (including state and local programs and activities) receiving federal financial assistance or conducted by the federal government itself to all operations of state and local governments, whether or not they receive federal assistance. The ADA and the Rehabilitation Act are generally construed to impose the same requirements. *See Radaszewski ex rel. Radaszewski v. Maram*, 383 F.3d 599, 607 (7th Cir. 2004); *Washington v. Indiana High School Athletic Ass'n, Inc*., 181 F.3d 840, 845 n.2 (7th Cir. 1999). This principle follows from the similar language employed in the two acts. It also derives from the Congressional directive that implementation and interpretation of the two acts "be coordinated to prevent[ ] imposition of inconsistent or conflicting standards for the same requirements under the two statutes." *Baird ex rel. Baird v. Rose*, 192 F.3d 462, 468 (4th Cir. 1999) (citing 42 U.S.C. § 12117(b)) (alteration in original). *See also Yeskey v. Com. of Penn. Dep't of Corrections*, 118 F.3d 168, 170 (3d Cir. 1997) ("[A]ll the leading cases take up the statutes together, as we will."), aff'd, 524 U.S. 206 (1998).

A public entity's duty to provide integrated (i.e., community-based) services, however, is not absolute. A public entity is required only to make reasonable modifications that do not "fundamentally alter the nature of the service, program, or activity." 28 C.F.R. § 35.130(b)(7) (2009). Thus, a public entity violates Title II if it segregates individuals in institutions when those individuals could be served in the community through reasonable modifications to its program, unless it is able to demonstrate that doing so would result in a "fundamental alteration" of its program. *Olmstead*, 527 U.S. at 595-596.

Argument

I. The Consent Decree Meets the Legal Standard for Preliminary Approval.

The Proposed Consent Decree merits preliminary approval because it is "within the range of possible approval" that ultimately could be given final approval as it is "fair, reasonable, and adequate." *See* Fed. R. Civ. P. 23(e)(2); *Kaufman v. American Exp. Travel Related Services Co., Inc.*, No. 07-1707, 2009 WL 5166229, *7-8 (N.D. Ill. Dec. 22, 2009); *Kessler v. American Resorts Intern.'s Holiday Network, Ltd.*, No. 05-5944, 2008 WL 687287, *3 (N.D. Ill. March 12, 2008) (citing *Armstrong v. Bd. of School Directors of the City of Milwaukee*, 616 F.2d 305, 312 (7th Cir. 1980), *overruled on other grounds by Felzen v. Andreas*, 134 F.3d 873 (7th Cir. 1998)). The Consent Decree adequately addresses Plaintiffs' allegations of systemic discrimination and sets forth an appropriate class-based remedy. Because the settlement meets the standard for preliminary approval, it should therefore proceed to the second step in the review process, the fairness hearing. At the fairness hearing, objectors will be afforded standard procedural protection and will have ample opportunity to raise concerns about the settlement.

II. The ADA's Integration Mandate Would Be Advanced by the Consent Decree.

Title II of the ADA prohibits discrimination in access to public services by requiring that "no qualified individual with a disability shall, by reason of such disability, be excluded from participation in or be denied the benefits of the services, programs, or activities of a public entity, or be subjected to discrimination by any such entity." 42 U.S.C. § 12132. The ADA's integration mandate requires that persons with disabilities receive services in the "most integrated setting appropriate to their needs." 28 C.F.R. § 35.130(d) ("[a] public entity shall administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities."). The "most integrated setting" is defined as "a setting that enables individuals with disabilities to interact with non-disabled persons to the fullest extent possible." 28 C.F.R. pt. 35 app. A at 571 (2009); *Olmstead*, 527 U.S. at 592.

In *Olmstead*, the Supreme Court construed the ADA's integration mandate and concluded that the discrimination forbidden under Title II of the ADA includes "unnecessary segregation" and "[u]njustified isolation" of the disabled. *Olmstead*, 527 U.S. at 582, 600-601 (1999). "Unjustified isolation of the disabled" amounts to discrimination because it "perpetuates unwarranted assumptions that persons so isolated are incapable or unworthy of participating in community life" and "severely diminishes everyday life activities of individuals, including family relations, social contacts, work options, economic independence, educational advancement, and cultural enrichment." *Id.* at 560-61. The integration mandate thus advances one of the principal purposes of the ADA – ending the isolation and segregation of people with disabilities.

A plaintiff can successfully allege a Title II violation if a state fails to provide services to a qualified individual in a community-based setting, and cannot show that providing those

services in a community-based setting would fundamentally alter the state's delivery of services. *See Long v. Benson*, No. 4:08cv26, 2008 WL 4571903 (M.D. Fla. Oct. 14, 2008).

A state's budgetary shortages do not alleviate its duties under *Olmstead*. "If every alteration in a program or service that required the outlay of funds were tantamount to a fundamental alteration, the ADA's integration mandate would be hollow indeed." *Fisher v. Oklahoma Health Care Auth.*, 335 F.3d 1175, 1183 (10th Cir. 2003). Further, "that [a state] has a fiscal problem, by itself, does not lead to an automatic conclusion" that providing the community services to plaintiffs would be a fundamental alteration. *Fisher*, 335 F.3d at 1181.

Though eleven years have passed since *Olmstead* was decided, the same goals underlying that case and the ADA remain unmet today: "full participation, independent living, and economic self-sufficiency" for people with disabilities." 42 U.S.C. 12101(a)(8). The Court's approval of the Proposed Consent Decree would bring these laudable goals one step closer to realization by increasing the options available to individuals with mental illness in Illinois who wish to live in community settings.

III. The Consent Decree is Warranted Under Both the Standard for Preliminary Approval Generally and the Framework Established in Disability Advocates, Inc. v. Paterson.

The applicable standard for preliminary approval requires a showing that the Consent Decree is "fair, reasonable, and adequate." *See* Fed. R. Civ. P. 23(e)(2). Accordingly, all the Court need determine here is that the terms of this agreement are reasonable. Even through the more exacting lens of the recent decision in *Disability Advocates, Inc. v. Paterson*, 653 F. Supp. 2d 184 (E.D.N.Y. 2009) ("*DAI*"), the agreement easily passes muster. There, the court found after a five-week bench trial that New York State was liable under Title II for denying thousands of individuals with mental illness the opportunity to receive services in the most integrated

setting appropriate to their needs.[5] Because the facts and issues of *Williams* are similar to those presented in *DAI*, four critical inquiries set forth by the *DAI* court should also be considered with regard to the reasonableness of the remedies proposed by the Consent Decree.

a. Class Member IMD Residents Are Not in the Most Integrated Setting Appropriate to Their Needs.

In Illinois, Institutions for Mental Disease ("IMDs") are hospitals, nursing facilities, or other facilities of more than 16 beds that are primarily engaged in providing diagnosis, treatment or care of persons with mental disease. (D. Jones at 6.) Contrary to objectors' descriptions of their experiences of living in "vibrant communities" in IMDs, expert reports submitted in this case conclude that IMDs are institutions where residents are subject to restrictive rules and policies, including limits on their ability to leave the facility and interact with people without disabilities. (*Id*. at 13-14.) The expert reports demonstrate that objectors' descriptions do not typify the experience of the majority of IMD residents.

Like IMDs in Illinois, Adult Homes in New York State are a type of adult care facility authorized to provide long-term care to large numbers of individuals with mental illness. *DAI*, 653 F. Supp. 2d at 193. The *DAI* court concluded that "Adult Homes are institutions: segregated settings that impede residents' community integration." (*Id*. at 202.) Because much of residents' daily lives take place inside Adult Homes, residents have limited access to their neighborhoods and opportunities to interact with people who do not have disabilities. (*See id*.) The court also determined that Adult Homes are segregated institutions because they discourage residents from

[5] Plaintiff Disability Advocates, Inc., a protection and advocacy organization, brought this action on behalf of individuals with mental illness residing in, or at risk of entry into, Adult Homes with more than 120 beds and in which twenty-five residents or 25% of the resident population (whichever is fewer) have a mental illness. In New York State, Adult Homes are for-profit residential adult care facilities licensed by the State of New York (the "State"). *DAI*, 653 F. Supp. 2d at 187.

engaging in activities of daily living, foster "learned helplessness," and provide mental health programs and services that contribute little to community integration. (*Id*. at 211-216.)

b. Virtually All Class Members Could Be Better Served in Supported Housing

Experts in *Williams* have concluded that virtually all IMD residents could move to supported housing and would choose to do so if given the opportunity. (D. Jones at 5; E. Jones at 6-7). Experts in this case agree that 99% of IMD residents have no medical reason to remain in institutions and could be safely served in the community. (Yale Report at 24-25; D. Jones Report at 15-16). In fact, these experts report that the mental health and medical needs of the class members are indistinguishable from those individuals who thrive in community-based placements throughout the country.[6] (Yale Report at 6; D. Jones Report at 14-16).

In *DAI*, the court similarly determined that virtually all Adult Homes residents could be appropriately served in supported housing. Relying on the testimony of numerous experts, the court concluded that "[f]or virtually all of DAI's constituents, nothing about their disabilities necessitates living in the Adult Homes as opposed to supported housing, nor would they require services that are not already provided to people living in supported housing." *DAI*, 653 F. Supp. 2d at 256. Indeed, the court emphasized that there were no material differences between adult home residents and supported housing residents. *Id.*

Objectors in *Williams* have expressed concern that IMDs are part of a "continuum of care" that should be preserved in order to promote choice for individuals with mental illness. (Class Memb. Resp. at 3-4.) This same argument was advanced in the *DAI* case and was rejected by the Court as "self-serving and inaccurate testimony." *DAI*, 653 F. Supp. 2d at 251. The

[6] Objectors expressed concern that the Consent Decree does not provide medical professionals a large enough role in determining which individuals are appropriate for community placements. (Class Members' Resp. at 6). To the contrary, the Consent Decree includes several provisions emphasizing the role of medical professionals. (*See, e.g.*, Prop. Consent Decree ¶ 4(vii) ("Each evaluation shall include . . . consultation with the Class Member's psychiatrist and/or other professional staff where appropriate.")

court in *DAI* found that to the extent that a continuum of care model existed in New York State that aimed to transfer individuals to less restrictive settings over time, the Adult Homes were not included in that model because institutional settings did not prepare people for community-based living. *DAI*, 653 F. Supp. 2d at 253. ("The evidence shows that Adult Homes are not transitional residences designed to prepare residents for more independent living; rather, they are permanent "destinations.") So too, the IMDs in Illinois fail to prepare class members for community transitions. (Yale Report at 6-7; D. Jones at 14.) Discharge planning at IMDs is "virtually nonexistent." (E. Jones at 6.) IMDs therefore cannot be considered part of a "continuum of care" model. Though the objectors remain free to raise their concerns at a fairness hearing, preliminary approval is appropriate because the remedy proposed is reasonable.

c. Class Members Are Not Opposed to Receiving Services in More Integrated Settings.

Expert testimony in *Williams* indicates that the vast majority of IMD residents have expressed a preference for living independently in the community. (Yale Report at 20; E. Jones at 6). Those residents who expressed reservations about moving to supported housing cited concerns about receiving benefits and support services in a new environment, which are "understandable and not uncommon concerns of institutionalized individuals." (E. Jones at 7). The Consent Decree addresses this concern by requiring that all class members who choose to leave an IMD will be carefully evaluated and will receive all appropriate services they need to live in a community setting. (Prop. Consent Decree at 6-7.)

The *DAI* court found that, like IMD residents, Adult Home residents, "as a whole," were not opposed to living in more integrated settings and, in fact, "have expressed preferences for living in more integrated settings, and there is convincing evidence that many would choose to live in an independent setting such as supported housing if given an informed choice." *DAI*, 653

F. Supp. 2d at 260. In particular, the court found that most Adult Home residents had little to no choice in moving to an institution and were uninformed about alternative housing options. (*Id*.) According to expert testimony at trial, the majority of adult home residents evaluated in the *DAI* assessment project expressed an interest in living elsewhere and continued to express a preference for supported housing. (*Id*. at 262-263). Given the similar expert testimony in this case, the remedies embodied in the Consent Decree are fair and reasonable.

d. Community Integration Would Not Constitute A Fundamental Alteration.

Moving IMD residents to supported housing in the community would not constitute a fundamental alteration of the State of Illinois' services, programs and activities. Community integration would not have a negative fiscal impact on the state budget and would, in fact, result in significant cost-savings for the state. (*See* D. Jones Report at 18-19) (providing estimates of the average state cost of community placements and IMD placements).[7]

In a similar situation, the court in *DAI* determined that the relief requested would not constitute a fundamental alteration of the State's mental health service system where it was less expensive for New York to serve people in the community than in institutional settings. *DAI*, 653 F. Supp. 2d at 300-301. *Williams* presents an even more straight-forward case than *DAI* on the issue of fundamental alteration because unlike in *DAI*, the defendants in *Williams* acknowledge that they can make a reasonable modification to its existing administration of services by choosing to fund care in less costly community settings. The remedies proposed in the Consent Decree are therefore reasonable and deserve preliminary approval.

[7] The cost savings associated with community integration results, in part, from federal matching funds that are available when individuals are served in the community, which are not available to a state for money it spends serving residents in IMDs. (D. Jones Report at 17-18).

IV. Title II Claims May Require Systemic, Class-Based Remedies Like the Reform Embodied in the Consent Decree.

Community integration claims often require systemic reform and federal courts have approved such class-based remedies to address violations of the integration mandate of Title II. In *DAI*, the court approved system-wide relief similar to the remedy provided for in the Proposed Consent Decree in this case. (*DAI*, Remedial Order and Judgment.) The *DAI* court ordered the State of New York to develop a sufficient amount of supported housing for all current and future adult home residents who desire community placement within four years. (*Id*. at *3.) The Court required the State of New York to develop a minimum of 1,500 supported housing beds during each of the first three years and to continue developing them at a rate of 1,500 beds per year until such time as there was sufficient housing beds for all of DAI's constituents who desire community placement. (*Id*. at *5.) Furthermore, the DAI court ordered the defendants to develop infrastructure to administer these community services, provide community-based options for individuals at risk of entry into Adult Homes, and provide for oversight by an independent monitor. (*Id*. at *5-11.)

In this case, the Proposed Consent Decree would provide exactly the sort of systemic reform that resulted from the *DAI* litigation.[8] The Proposed Consent Decree similarly requires defendants "to ensure the availability of services, supports and other resources of sufficient quality, scope and variety to meet their obligations under the Decree and the Implementation Plan." (Prop. Consent Decree at 9). The Proposed Consent Decree also calls for a court-appointed monitor and describes methods for reaching out to current IMD residents and at-risk individuals in order to educate them about community-based placement options. (*Id*.)

[8] The objectors expressed concern that the Consent Decree lacks sufficient detail. (Class Members' Resp. at 5.) Compared to the Remedial Judgment and Order in *DAI*, however, the Proposed Consent Decree provides significantly more detail. (*See DAI*, Remedial Order & Judgment.)

System-wide relief like this has also been reached through settlement agreements in other cases. For instance, in *Rolland v. Cellucci*, No. 98-cv-30208, 1999 WL 34815562 (D. Mass. Feb. 2, 1999), the court approved a class settlement to resolve allegations that Massachusetts relied on inappropriate nursing home placements to serve individuals with developmental disabilities, in violation of the Nursing Home Reform Amendments to the Medicaid Act and the ADA.[9] Under the settlement, the State successfully moved approximately 1,000 class members from nursing home settings into the community. *Voss v. Rolland*, No. 08-1874, 2010 WL 157475 (1st Cir. Jan. 19, 2010); *Rolland*, 191 F.R.D. 3, 15-16 (D. Mass. 2000).

In *Rolland*, as in this case, a group of parents of individuals with developmental disabilities who desired to remain in nursing homes challenged the settlement and the class certification, objecting that it did not adequately protect class members who wished to remain in nursing homes. The District Court rejected this challenge, and the First Circuit affirmed the District Court's finding that the settlement was fair, reasonable, and adequate. The First Circuit recognized that the settlement agreement reflected a preliminary determination that the class would be appropriate for community placement, but that individualized determinations would be made during the transition planning process that would result in community placement only where appropriate, and would take into consideration the wishes of the class members' families. *Voss*, 2010 WL 157475 at *7. Similarly, the Proposed Consent Decree in this case requires the development of Service Plans that "focus on the Class Member's personal vision, preferences, strengths, and needs …" and would require consultation with "other appropriate people of the Class Member's choosing." (Prop. Consent Decree at ¶¶ 7c, 7d.)

[9] The class certified was of "all adults with mental retardation and other developmental disabilities in Massachusetts who resided in nursing facilities on or after October 29, 1998, or who are or should be screened for admission to nursing facilities pursuant to 42 U.S.C. § 1396r(e)(7) and 42 C.F.R. 483.112 et seq." *Rolland*, 1999 WL 34815562 at *2.

Another analogous case, *Long v. Benson*, No. 4:08-cv-26-RH-WCS (N.D. Fla. Sept. 15, 2009) (Attachment A), involved a state-wide class action brought on behalf of Florida residents who were Medicaid eligible adults with disabilities; were unnecessarily confined to a nursing facility that received Medicaid funds; desired to reside in the community instead of a nursing facility; and could reside in the community with appropriate services. The parties reached a settlement of the class claims requiring the state to serve additional individuals in the community over a 12-month period. The same sort of systemic relief is contemplated by the Proposed Consent Decree before this Court.

Cases like *Long* and *Rolland* demonstrate that class-wide systemic relief is appropriate for alleged violations of the integration mandate in a state's administration of its programs and services. Remedies like the reforms embodied in the Proposed Consent Decree are necessary to ensure that Plaintiffs are able to live in the most integrated setting appropriate to their needs.

Conclusion

For the above stated reasons, the Court should grant preliminary approval of the Proposed Consent Decree. With the Court's permission, counsel for the United States will be present at the hearing scheduled for May 27, 2010.

Dated: May 24, 2010

Respectfully submitted,

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