

**LAWSUIT CHALLENGING THE WAREHOUSING OF
INDIVIDUALS WITH MENTAL ILLNESS IN NURSING HOMES CLEARS ITS
FIRST HURDLE**

NEW YORK, NY---April 23, 2008—This week a lawsuit filed on behalf of hundreds of individuals with mental illness cleared its first major hurdle. Magistrate Judge Steven Gold of the federal District Court for the Eastern District of New York recommended that the suit be allowed to go forward over objections made by the New York State Department of Health and the state Office of Mental Health.

The lawsuit was filed in 2006 to put an end to New York State's practice of discharging adults with mental illnesses from state psychiatric institutions and hospital psychiatric wards into nursing homes. Hundreds of individuals, including the named plaintiffs in the lawsuit, Joseph S. and Steven W., have been discharged to nursing homes in New York City, New Jersey and Massachusetts instead of being placed in supportive community-based settings, as required under federal law. Many have been languishing in these nursing homes for years. These individuals do not have physical or medical conditions requiring care in a nursing home environment and are usually much younger than the rest of the nursing home population. Once in the nursing homes, they are not allowed to move around freely and frequently do not receive the mental health services they need to complete a full recovery. The nursing homes, which are often far from the residents' original homes in New York City, essentially serve as warehouses for human beings.

The suit was filed by Disability Advocates, Inc. (DAI), Mental Hygiene Legal Services (MHLS), New York Lawyers for the Public Interest (NYLPI) and the law firm of Schiff Hardin.

Plaintiffs argue that the State's practice violates, among other laws, the American with Disabilities Act and the Rehabilitation Act, which require that people with mental illness be treated in community-based settings appropriate to their needs. Defendants, Governor Paterson, the New York State Office of Mental Health, the Department of Health and their respective Commissioners, had asked the court to dismiss the lawsuit on a number of grounds. In a comprehensive and carefully reasoned decision, issued Monday, the court rejected the Defendants' arguments.

"We are very pleased with Magistrate Gold's Recommendation," said Cliff Zucker, Executive Director of Disability Advocates, Inc. "It sends a clear signal that a state policy that leads to the warehousing of people with mental illness in nursing homes is a violation of law," he added.

Dennis Feld, Deputy Director of Special Litigation and Appeals for MHLS, Second Judicial Department, said that MHLS is "pleased by the Report and Recommendation issued by Magistrate Judge Gold for addressing the inappropriate discharge of thousands of individuals from State psychiatric centers and licensed

psychiatric units to highly restrictive, and often far away, nursing homes, and for acknowledging MHLS' specific State mandate and obligation to seek to remedy this clear violation of the rights of persons with mental disabilities and to help assure their receipt of appropriate treatment in the least restrictive settings.”

“This Recommendation is an important victory for plaintiffs,” said Sandra Del Valle, staff attorney with NYLPI. “Defendants must address the housing needs of people with mental illness and not simply discharge them into nursing homes without appropriate care or a plan of discharge.”

Lori Greendorfer, a counsel at Schiff Hardin, a private law firm, stated that “the wrongs committed against these individuals that led to the filing of this lawsuit still have not been addressed by Defendants. Judge Gold’s Recommendation is the first step in the vindication of their rights.”

Magistrate Gold’s Report and Recommendation is not binding unless it is adopted by Judge Brian Cogan, the federal judge assigned to the lawsuit.

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