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**Judge Affirms Plaintiff Class of Foster Children with Disabilities Alleging
Incompetence on part of State and City Agencies**
*Case against Administration for Children's Services and NYS Office of Mental Retardation
and Developmental Disabilities moves forward*

New York, NY, February 10, 2009—Today the NYS Appellate Division, First Department affirmed the certification of a class of plaintiffs suing the New York City Administration for Children's Services (ACS) and New York State Office of Mental Retardation and Developmental Disabilities (OMRDD). The case originated in 2004 when ACS filed suit against OMRDD claiming to represent a group of seven plaintiffs in its care and custody. ACS' suit alleged that OMRDD failed to provide services to these individuals because they were in foster care under the purview of ACS. In 2006, New York Lawyers for the Public Interest (NYLPI) along with lawyers from Patterson Belknap Webb & Tyler LLP and Lawyers for Children changed the posture of the case when they intervened on behalf of first one child and eventually 11 children.

The complaint filed by NYLPI, Patterson Belknap and Lawyers for Children added ACS as a defendant and cited both agencies for a refusal to cooperate and coordinate care which had led to 20 years worth of litigation and a broken system of care. As the NYS Supreme Court found in granting intervention: The creation of a broad forum for determining how any individual who interfaces with either ACS or OMRDD should be evaluated cared for and placed "will rescue a generation of disabled children from the stalemate of twenty-five more years of inter-agency disputes."

"The team at Patterson Belknap is pleased that the Court has recognized what ACS and OMRDD have refused to admit for years; the system for providing services to children with developmental disabilities in the NYC foster care system is broken and needs to be fixed without delay. These agencies have failed time and time again to protect the rights of some of society's most vulnerable individuals," said Lisa Cleary, Partner at Patterson Belknap, lead counsel for the plaintiffs in the case. "Our goal is to move forward without further delays so that these individuals will have access to the services that they need and which they are entitled to under the law."

"Kids are being placed in inadequate and inappropriate settings because the state and city agencies can't agree on whose responsibility it is to care for them," said Roberta Mueller, Director of the Deinstitutionalization program at New York Lawyers for the Public Interest (NYLPI), the nonprofit civil rights law firm which serves as a federally mandated Protection and Advocacy agency advocating for New York's residents with disabilities. "This essentially bureaucratic dispute has dragged on for years and required litigation to even get ACS to

acknowledge that a problem exists. We would rather engage in a productive negotiation to fix this terribly broken system so that both agencies can address the issues and get on with providing services to the kids at the center of it.”

Karen J. Freedman, Executive Director of Lawyers For Children a nonprofit organization dedicated to providing free legal and social work advocacy for children in foster care noted, “This decision takes an important step toward ensuring that developmentally disabled children in foster care receive all of the services that they desperately need. For too many years, children have gone without appropriate services both because ACS has failed to properly identify the developmentally disabled children in its care and because OMRDD has refused to provide appropriate services to children in ACS custody.” Ms. Freedman emphasized, “it is our hope that this important decision marks the end of years of fruitless finger pointing and the beginning of serious negotiations on how to solve this critical problem.”

OMRDD is a New York State agency that serves people of all ages with developmental disabilities, providing services ranging from residential placements through its NYS-Cares initiative through case management, day treatment and many other services. ACS is New York City agency charged with ensuring the well being of children and placing them in foster care or other alternative living situations when their parents are unable or unwilling to care for them. The suit alleges that ACS has failed to provide both services and placements to the children with developmental disabilities for whom they are responsible.

The plaintiffs in this case are people who suffer from mental and physical disabilities and often lack access to resources to fight the inefficiencies of the system. The certification of this class of plaintiffs will mean that many more affected individuals will have access to the services they need. It will force a full disclosure of the number of kids who are being warehoused as a result of failures of the agencies charged with providing class members with services. Both OMRDD and ACS agree that there are currently at least 150 kids in ACS custody who are waiting for residential placements with OMRD. With the right resources, children with developmental disabilities can be provided with appropriate services to allow them to be active participants in their communities.

About New York Lawyers for the Public Interest

Founded in 1976, New York Lawyers for the Public Interest is a nonprofit, civil rights law firm that strives for social justice. In partnership with member law firms, corporate law departments, and other organizations, NYLPI helps underrepresented people develop legal strategies to serve their vision for themselves and their communities.

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