IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	
vs.	)	Cause Number: 13-CH-49
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center	)	
Respondents.	)	

AMENDED PETITION FOR APPOINTMENT OF GUARDIAN AD LITEM, AMENDED PETITION FOR ISSUANCE OF EMERGENCY TEMPORARY RESTRAINING ORDER, PRELIMINARY AND PERMANENT INJUNCTION AGAINST RESPONDENTS, AND AMENDED PETITION FOR WRIT OF MANDAMUS

COME NOW Petitioners, FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and

MONICA SOBCZAK (hereinafter "Petitioners"), by and through their undersigned counsel, John L. Gilbert, Philip J. Lading and W. Wylie Blair of Sandberg Phoenix & von Gontard P.C., and issue their:

A. Amended Petition for Appointment of Guardian Ad Litem;

B. Amended Petition for Issuance of Temporary Restraining Order, Preliminary and Permanent Injunction against Respondents, pursuant to 735 ILCS 5/11-101, et seq.

C. Amended Petition for Writ of Mandamus.

In support, Petitioners state:

INTRODUCTION

1. An action brought by the Illinois League of Advocates for the Developmentally Disabled, as well as legal guardians of adult individuals who qualify under state and Federal law as persons deemed unable to care and provide for themselves ("Federal plaintiffs"), is currently pending in the United States District Court for the Northern District of Illinois, Eastern Division, Case No. 13 C 1300, in which the Federal plaintiffs object to a plan they allege violates Section 504 of the Rehabilitation Act, the Americans with Disabilities Act, and Federal and State Medicaid Law and regulations (the "Federal Suit"). (*See* Plaintiffs' Second Amended Complaint, attached hereto as Exhibit A.)

2. The Federal plaintiffs oppose the State's plan (the "Plan") under which the defendants in the Federal Suit (the "Federal defendants") seek to close all State Operated Development Centers for the Developmentally Disabled ("SODCs"). As part of this plan, the Federal defendants are imminently prepared to close Warren G. Murray Developmental Center ("Murray Center" or "Murray") located in Centralia, Clinton County, Illinois. (A true and accurate copy of the State Plan is attached hereto and incorporated by reference as Exhibit B.)

3. Federal plaintiffs claim Federal and Illinois State laws including, but not limited to, the Americans with Disabilities Act of 1990, as amended, the Rehabilitation Act, and

Medicaid Program regulations require the State of Illinois to continuously provide adequate levels of medically necessary services for disabled individuals regardless of residential setting transitions from an institutional setting to a Community Integrated Living Arrangement (CILA).

4. Further, Federal plaintiffs allege the Federal defendants have, in contravention of these laws, commenced to systematically shut down the SODCs and to limit State-provided residences and medically necessary services. The systematically planned SODC closings and the transition of the Federal plaintiffs to scattered one and two bedroom community residences, which are neither licensed medical facilities nor locations operated or staffed with on-site and licensed medical professionals, have resulted in irreparable and continuing harm to individuals.

5. While the Federal Suit was ongoing, Federal defendants drastically accelerated the closure process of Murray Center and began transferring residents out of the facility to community residences, despite objections from Murray Center employees and other concerned individuals.

6. Respondents herein are ignoring warnings about potentially dire consequences if certain residents are placed together. No safeguards are in place to determine whether individuals with aggressive and dangerous behavior problems are kept apart from the most frail and helpless residents.

7. Respondents are failing to inspect homes and are ignoring warnings relating to potential substandard housing condition in other homes.

8. Respondents are ignoring the procedures for Murray Center transfers, which have been in place for many years, and are freezing Murray Center professional staff out of the transfer process. Respondents are not following Murray Center's standard operating procedure, or indeed, any procedure at all, as they unsafely ship out residents that no one has properly assessed to homes that no one has properly inspected. In many cases pre-transition visits are no longer

done to ease the residents into the new group home environment—instead they are simply transferred and expected to sink or swim.

9. Respondents are lying to effect transfers and dumping residents.

10. The State's plan asserts "[t]he goals are not limited to simply the number of people transitioned. Rather the goals include the improved quality of lives for the people transitioned, the improved quality and capacity of the community, and creating a culture shift that manifests in both the clinical and supports realm, but also in the attitudes and behaviors of those providing those supports and services. We believe that when people actively embrace the community...the above not only **can** happen, but **will** happen." (Ex. B, p. 3.)

11. Respondents are making a mockery of the State's plan's stated goals at the expense of the welfare of the residents of Murray Center.

12. In order to prevent further harm, Federal plaintiffs filed an Emergency Motion for Temporary Restraining Order in the Federal Suit, which was granted and remains in effect to preclude residents from being transferred from Murray Center absent consent of their guardian. (*See* Order Granting TRO, attached as Exhibit C).

13. The Federal Court, however, has determined it does not have Federal jurisdiction to prevent transfer of residents who are wards of the State of Illinois and subject to guardianship of the Illinois Office of State Guardian (OSG). (*See* Federal Court Memorandum Opinion and Order, attached as Exhibit D). At present, there are approximately 23 wards of the State ("OSG Wards") residing at Murray Center subject to imminent transfer.

14. Respondents Freda Omer and the OSG are directed by and agents of the Governor of the State of Illinois and the Department of Human Services whose agenda is to shut down SODC facilities as soon as possible by whatever means necessary without regard for the health and wellbeing of Murray Center residents; there exists a blatant conflict of interest in Respondents Omer and the OSG serving as guardian of OSG Wards.

15. In arriving at its conclusion it does not have Federal jurisdiction concerning the OSG Wards, the Federal Court recognized the same risk of harm that compelled the Federal Court to issue the Temporary Restraining Order is applicable to the OSG Wards but that the Federal Court's hands were tied: the risk of harm to the OSG Wards "does not define the limits of Federal Jurisdiction" and "[i]f [the Federal Courts] have no power to take a particular judicial action, the parties must seek relief in the appropriate forum." (Id. at p. 7-8.)

16. Petitioners herein appear before this Court in accordance with the Federal Court's edict in order to safeguard the OSG Wards from the same risk of harm that compelled the Federal Court to preclude transfer of the balance of the residents.

STATEMENT OF FACTS

A. Identities of the Parties

a. Petitioners

17. Friends for Murray Center Incorporated is an Illinois Corporation with registered agent at 17789 Highline Road, Carlyle, Illinois 62231. The not-for-profit organization is dedicated to saving Murray Center from closure and its residents from transfer to community homes and facilities for which they are not suited, to include the OSG Wards of Murray Center.

18. Jan Monken resides at 27339 West 4th Street Road, Centralia, Clinton County, Illinois 62801, and has been a Murray Center volunteer since close to the time it opened in the 1960s. Ms. Monken was the Director of the Centralia chapter of the Red Cross for 29 years and was a board member for approximately 25 years at St. Mary's Hospital in Centralia. She is currently a trustee for St. Mary's Hospital Foundation. Ms. Monken also represents Clinton County in BCMW. She is over 18 years of age, has never been convicted of a serious crime, and is of sound mind. Ms. Monken is willing to

serve as temporary or permanent guardian of one or more of the OSG Wards in order to ensure their best interests are followed.

19. Mary Jane Hardy is a resident of Centralia, Illinois, and has owned and operated the Audio Hearing Aid Center in Centralia for the past 25 years. Ms. Hardy has served as guardian of a resident of Murray Center for approximately 20 years. She is over 18 years of age, has never been convicted of a serious crime, and is of sound mind. She is willing to serve as temporary or permanent guardian of one or more of the OSG Wards in order to ensure their best interests are followed.

20. Stephanie Waggoner is the daughter of Mary Jane Hardy and has worked for the State of Illinois in the Department of Corrections and currently serves as Supervisor of the Records Department of the Centralia Correctional Facility. She is a volunteer for One Hope, located in Centralia, Illinois, which provides care for foster children. She also runs a food pantry in Wamac, Illinois. She is over 18 years of age, has never been convicted of a serious crime, and is of sound mind. She is willing to serve as temporary or permanent guardian of one or more of the OSG Wards in order to ensure their best interests are followed.

21. Emily Smith is a Qualified Intellectual Disabilities Professional employed by Clinton Manor Living Center in New Baden, Illinois, residing at 91 Rockwood Court, Shiloh, Illinois 62221. She is over 18 years of age, has never been convicted of a serious crime, and is of sound mind. She is willing to serve as temporary or permanent guardian of one or more of the OSG Wards in order to ensure their best interests are followed.

22. Monica Sobczak resides at 11 North 50th Street, Belleville, Illinois 62226, and is a Claims Assistant at Allsup, Inc. Ms. Sobczak served as a Committee Member of

the Murray Parents Association for over a decade. She is over 18 years of age, has never been convicted of a serious crime, and is of sound mind. She is willing to serve as temporary or permanent guardian of one or more of the OSG Wards in order to ensure their best interests are followed.

23. Christie Cistola resides at 324 Linden Avenue, Centralia, Illinois. Ms. Cistola holds a Bachelor's Degree in Special Education and Master's of Divinity. She ran a Big Brothers Big Sisters program out of Cook County Juvenile Court, has a national certification as a licensed chaplain to run support and counseling groups for adults and children in crisis, and has been involved with Murray Center since 1970 in a capacity as an employee, student volunteer, or professional advisor. She is over 18 years of age, has never been convicted of a serious crime, and is of sound mind. She is willing to serve as temporary or permanent guardian of one or more of the OSG Wards in order to ensure their best interests are followed.

b. Respondents

24. The Illinois Department of Human Services (DHS) operates Warren G. Murray Developmental Center in Centralia, Illinois.

25. Kevin Casey is the Director of DHS.

26. Michelle Sadler is the Secretary of DHS.

27. DHS has contracted with Community Resource Associates, Inc., (CRA), a foreign corporation, to transition developmentally disabled individuals living at Murray Developmental Center into 2 or 4 bed CILA.

28. The Illinois Office of the State Guardian acts as guardian of wards of the State and is charged with acting in their best interests.

29. Freda Omer is a guardian employed by the Illinois Office of the State Guardian who serves as guardian of the OSG Wards and is charged with acting in their best interests.

30. Warren G. Murray Developmental Center is a State Operated Development Center for the Developmentally Disabled at which the OSG Wards reside and which is charged with caring for the OSG Wards.

31. Jamie Veach is the Director of Murray Center and charged with its daily operation, to include care of the OSG Wards.

32. Richard "Rick" Starr is the Assistant Director of Murray Center and charged with its daily operation, to include care of the OSG Wards.

c. OSG Wards

33. Petitioners were ordered pursuant the Temporary Restraining Order of July 29, 2013, to amend their Petition to identify the 23 OSG Wards, along with the county and cause number of any probate action regarding the OSG Wards.

34. Respondents identified 10 OSG Wards for Petitioners on Monday, August 5, 2013, along with corresponding county of probate action and cause number. Petitioners object to Respondents using identifying information in the Amended Petition. Respondents identify these 10 OSG Wards only by initial out of abundance of caution pending further direction of the Court and provide the Court copies of the identities, counties, and cause numbers for these individuals under separate cover.

a. T. G. K.

b. C. P.

c. R. S.

d. M. C.

e. E. D.

f. C. R.

g. J. H. W.

h. C. H.

i. M. R.

j. R. H.

35. Respondents refuse to identify the other 13 OSG Wards that were the subject of the TRO despite requests from Petitioners and Guardian Ad Litem Freeman.

B. Characteristics of Murray Residents.

36. The vast majority of Murray residents have profound developmental disabilities. The Illinois Department of Human Services concedes that as of December 31, 2012, there were 261 residents of Murray, of which 84% had "Severe or Profound M.R. range," and 68% had a "behavior intervention program, often requiring higher levels of staff supervision." See Murray Developmental Center Profile, http://www.dhs.state.il.us/page.aspx?item=58719.

37. Similarly, as of March 29, 2013, there is no dispute that 192 of the private/non OSG guardians did not give consent to the State to community placement, and the State admitted that another 50 residents had "medical and/or behavioral needs preventing transition to the community at this time." See SODC Census and Tier Report, http://www.dhs.state.il.us/page.aspx?item=58786.

C. Historical Safeguards During Transition and Standard Operating Procedures.

38. The Murray discharge process is governed by the Standard Operating Policies and Procedures ("SOPP"), attached as Ex. E. The SOPP governs the entire discharge process for

Murray Residents pursuant to the Illinois Administrative Code, 59 Ill. Admin. Code 125 (providing for discharge procedures recipient rights).

39. Historically, in order to transition a resident out of Murray, several steps were taken to facilitate a smooth transition process and ensure the safety and well-being of the resident.

40. First, there would be a team meeting consisting of all the people on a "team" for the resident, i.e., the social worker, psychologist, nurse, QMRP, cottage director, occupational therapist, physical therapist, etc. (Hester, Aff., Ex. F, ¶ 4.)

41. At the meeting, the team would identify whether the resident was appropriate for placement. (Id.)

42. If the answer was yes, the social worker would contact homes. (Id.)

43. Once a home was selected, there would be, over the course of weeks, temporary pre-placement visits, first for a lunch or dinner, then for an overnight visit. (Id.)

44. On average, each resident being transitioned out of Murray would receive three pre-placement visits to ensure a smooth transition process. (Id.)

45. During these visits, the resident's belongings were not moved out of Murray because the visit was temporary. (Id.)

46. Following this would be a transition staff meeting to work closely with the staff at the home in terms of programs, needs and medical issues. (Id.)

47. There would also be a series of tests done on the resident, as discussed in the SOPP. (Id.)

48. On the day before the transfer, there would be a conference with the home to identify any remaining issues and discuss the move and transfer of belongings. (Id.)

49. Finally, the transfer would occur, and this would be followed with weekly visits for about 30 days from Murray staff, and then monthly visits. (Id.)

50. For certain issues, Murray staff would work directly with people at the home and provide services to identify problems and make the transition process smooth. (Id.)

51. The complete transition process out of Murray for each resident would take on average at least three weeks and possibly longer than a month. (Id., ¶ 5); (Davis Aff., Ex. G, ¶ 6.)

D. Inappropriate Placement into Group Homes

52. Murray nursing and therapeutic staff have, based on their experience and particular knowledge of specific Murray residents, concluded that residents' placements into group homes have been inappropriate, given the needs of the resident. (Hester Aff., Ex. F, ¶ 7; Kiselewski Aff., Ex. H, ¶ 10; Gibson Aff., Ex. I, ¶5; Howell Aff., Ex. J, ¶¶ 4, 7-8; Creed Aff. #1, Ex. K, ¶ 4.)

E. Dangerous Pairings

53. On May 6, 2013, Respondents informed Murray staff that two OSG residents were being transferred to a group home together. (Barton Aff., Ex. L, ¶3.)

54. One of the residents is very passive, has profound MR, suffers from PICA Disorder and uses a wheelchair for distances, while the other resident has a history of violence and aggression. (Howell Aff., Ex. J, ¶ 3; Gibson Aff., Ex. I, ¶ 8; Rech Aff., Ex. M, ¶ 5, Henson Aff., Ex. N, ¶¶ 8-9; Kiselewski Aff., Ex. H, ¶ 7.)

55. Murray staff objected to placing these two residents in a home together, as it was unsafe and would jeopardize their health and safety. (Howell Aff., Ex. J, ¶ 3; Kiselewski Aff., Ex. H, ¶¶ 9-10.)

56. Respondents still went ahead with the transfer. The residents were placed in a van to go to visit the home but never even made it out of Murray's parking lot before the violent resident attacked the non-violent resident. (Howell Aff., Ex. J, ¶ 5; Henson Aff, Ex. N, ¶ 11.)

57. Despite this incident, Respondents still planned to move these two residents into a 2-4 bed home together. (Howell Aff., Ex. J, ¶ 7; Henson Aff., Ex. N, ¶ 11.) Currently, only the

non-violent has been transferred to the CILA home while the other resident remains at Murray Center.

58. Murray staff who have worked closely with these residents do not believe they are fit to be placed in a community home at all, let alone together. (Howell Aff., Ex. J, ¶ 3; Creed Aff. #1, Ex. K, ¶ 4.)

59. Additionally, Respondents had planned to place another three residents together in a group home. (Gibson Aff., Ex. I, ¶ 10.)

60. One of these residents has a "history of sexual acts." (Id.)

61. Another had "very violent aggression" that requires a high level of supervision. (Id.)

62. In fact, this resident broke an individual's nose while out in the community. (Id.)

63. The third resident is in a wheelchair, is passive and has no mobility. (Id.)

64. Murray staff members believe (and have conveyed to others) that placement of these three residents together would have jeopardized the health and safety of these residents. (Id.)

F. Failure to Inspect the Home/Unsafe Home Conditions

65. There is compelling evidence that Respondents are not inspecting group homes prior to transfer. On May 15, 2013, Murray staff members were directed to gather all of the personal belongings of a resident and take it to a new group home and that the resident would be following right behind them in a car. (Kelly Aff., Ex. O, ¶ 3; Hendricks Aff., Ex. P, ¶ 3.)

66. When Murray staff members arrived at the home, it was "still under construction" and had construction materials scattered around. (Kelly Aff., Ex. O, ¶ 4; Hendricks Aff., Ex. P, ¶ 4.)

67. The construction workers were still working on the plumbing and dry wall and said that the condition of the home was a "nightmare" and not ready to accept residents. (Kelly Aff., Ex. O, ¶ 5; Hendricks Aff., Ex. P, ¶ 5.)

68. Immediately, the staff members informed their superior at Murray not to send the resident because the home was not ready. (Kelly Aff., Ex. O, ¶ 6; Hendricks Aff., Ex. P, ¶ 6.) Both staff members believe that nobody inspected this home. (Kelly Aff., Ex. O, ¶7; Hendricks Aff., Ex. P, ¶ 7.)

69. When confronted about this by the staff, Murray Assistant Director Rick Starr said the problems with the transfer were "on the provider, not on me." (Kelly Aff., Ex. O, ¶ 7; Hendricks Aff., Ex. P, ¶ 8.)

70. During a pre-placement visit of another resident, the Murray social worker noticed weak floors in the laundry room to such an extent he felt if he applied pressure with his foot, it would go through the floor. (Henson Affidavit, Ex. N, ¶ 5.)

71. This social worker was informed the home had a history of water problems due to an underground spring. (Id.)

72. He informed Community Resources Alliance (CRA)[1] and the home provider about this floor situation and the potential presence of mold. (Id.,¶ 6.)

73. In another instance, a resident had a history of elopement (where the resident attempts to run away). (Rech Aff., Ex. M, ¶ 3.)

74. Despite the objections of Murray employees, this resident was transferred on short notice to a group home that did not have a fence. (Id.)

75. In yet another instance, Murray employees objected to the placement of a resident with elopement issues in a home next to a busy road. (Creed Aff. #1, Ex. K, ¶ 5.)

[1] CRA has been hired by the State to facilitate the discharge of SODC residents.

G. Failure of the OSG to Participate on Behalf of Her Wards.

76. In order to be discharged to a group home, residents that are wards of the OSG require the consent of the OSG Representative, Respondent Freda Omer. Ms. Omer has not participated in any meaningful way during transition meetings, and has never taken a position that a resident placement was improper. (Gibson Aff., Ex. I, ¶ 12.)

77. Ms. Omer has given consent to the discharge of various residents, despite being present at meetings where frightening concerns were raised:

a. as to the placement of a wheelchair resident with a violent resident (Henson Aff., Ex. N, ¶¶ 8-12; Rech Aff., Ex. M; ¶ 3; Creed Aff., Ex. K, ¶ 3; Kiselewski Aff., Ex. H, ¶ 7);

b. as to the placement of a resident with elopement issues in a home next to a busy road (Creed Aff., Ex. K, ¶ 5; Rech Aff., Ex. M; ¶ 3; and

c. as to placement of a resident in a home with evidence of suspected water damage. (Henson Aff., Ex. N, ¶¶ 4-7.)

78. Ms. Omer has also admitted to employees that she did not visit certain group homes, going as far as to tell one employee that she did not visit the group home where the resident was being placed and would not visit the home "since the State would not pay for her to visit the home because it was in another OSG Representative's district." (Stratemeyer Aff., Ex. Q, ¶ 5; see also Kiselewski Aff., Ex. H, ¶ 5, Demijan Aff., Ex. R, ¶ 5.) ((*See* 755 ILCS 5/13-5 (b), "placement of a ward outside of the ward's home may be made only after the public guardian or his representative has visited the facility in which placement is proposed.")

79. Furthermore, and in response to concerns raised about the short notice for "team" meetings (on top of the fact team members had been habitually left out of the "team" meetings), Ms. Omer has admitted to at least one employee that she was just doing what she "had been told to do." (Demijan Aff., Ex. R, ¶ 4.)

80. Ms. Omer also admitted she was "finding out about the meetings about the same time" that the employee was. (Id.)

H. Threats and Retaliation against Murray Staff.

81. Murray staff members have been threatened with termination if they object to any transfers or interfere with CRA's transfer process. (Koppen Aff., Ex. S, ¶ 4) ("At another meeting with Jamie [Veach] about a month ago, and again dealing with labor matters, he told me that if I interfered with the transition process, or 'try to slow it down in any way,' that I would be fired.")

82. Also, they have been instructed not to tell the private guardians the truth regarding whether a group home is appropriate for their wards, or they will be fired. (Id.)

83. Murray's social workers have even been barred from making any home visits as a direct result of the social worker's complaint about the safety of a home with potential water damage. (See Henson Aff., Ex. N, ¶¶ 13-16.)

I. Failure to Follow the Standard Operating Procedures and Historical Safeguards.

84. Several Murray employees can attest to the current failure to follow the Murray mandated Standard Operating Procedures and historical safeguards discussed above. (Hester Aff., Ex. F, ¶ 6; Henson Aff., Ex. N, ¶ 18.)

85. As previously alleged, one of Murray's social workers was completely barred from making visits to CAIL homes as a direct result of the social worker's complaint about the safety of a home with potential water damage. (See Henson Aff., Ex. N, ¶¶ 13-16.)

86. The SOPP mandates that social workers make home visits and discusses in depth the role of the social worker in the transition process. (Id., ¶ 18; SOPP, Ex. B.)

87. Murray employees can attest to numerous instances where the opinions of the resident were directly ignored. In one instance, Respondents scheduled a transition meeting for a resident (and with the resident's attendance), despite the fact that they had been warned the

resident's electronic communication device was being repaired and the resident could not communicate without it. (Stratemeyer Aff., Ex. Q, ¶ 4.) There can be no greater insult to the integrity of the statutorily mandated duties through which the interests of the resident are to be respected than where the resident's speech is stifled.

88. The meeting was eventually rescheduled at the behest of a Murray employee, but not before that employee was told by Respondent Rick Starr that she "was trying to interfere with the CRA process." (Id.)

89. Additionally, several employees can attest to the fact the pre-transition visit process (whereby a resident is slowly integrated into a group home) has been bypassed entirely. (Kelly Aff., Ex. O, ¶ 3; Gibson Aff., Ex. I, ¶ 4; Stratemeyer Aff., Ex. Q, ¶ 9.)

90. In two instances, residents were moved to homes that neither the residents nor the staff had ever visited and was three hours away from Murray. (Stratemeyer Aff., Ex. Q, ¶ 7.)

91. Furthermore, several employees can attest to meetings being set on short notice (or no notice at all) and employees given inadequate time to prepare for addressing the resident's needs during transition. (See Rech Aff., Ex. M, ¶ 4 ("This [transition] team was given less than 24 hours by CRA and Murray to get everything ready and prepare for a transition meeting.... This process was accelerated to a degree that potentially compromised the well-being of the residents").

92. In at least one instance, no employees from the resident's cottage (and who knew the resident best) attended the transition meeting. (Kiselewski Aff., Ex. H, ¶ 8.)

93. The Murray employee who raised this issue was chastised by her boss, Respondent Rick Starr, the Assistant Director of Murray, shortly after raising this issue. (*See* id.) ("I was then told by Rick Starr to come with him. We went to an empty room. I was told by Rick that this was the second time that I had called him out about not being notified about meetings...").

94. A CRA representative has even admitted to one Murray employee that if it was up to the representative, more time would be taken for resident needs, but that there was a tremendous amount of pressure being put on the representative "to get the residents all out of Murray now." (Rech Aff., Ex. M, ¶ 7.)

95. In another instance, on May 6, 2013, the group provider admitted to a Murray employee that the home had not received the key documents that contain a resident's medical and behavioral information, the Behavioral Intervention Plan or the Individual Service Plan, despite the fact the resident was already scheduled to be transferred to this home on May 15, 2013. (Barton Aff., Ex. L, ¶ 3.)

J. Refusal to Disclose Public Information.

96. On May 6, 2013, the Illinois Department of Public Health ("IDPH") followed up on an investigation of a complaint at Murray. (*See* IDPH Website printout, attached as Exhibit T.) Dan Levad, the IDPH monitor charged with inspecting Murray, told Dr. Karen Kelly that he had been made aware that the Murray staff was being excluded from the transition process. (Dr. Kelly Aff., Ex. U, ¶ 4.)

97. On May 10, 2013, Dr. Kelly requested copies of all violations cited by IDPH against Murray for the past few months ("IDPH Reports") from Respondent Rick Starr, the Assistant Director of Murray. (Id., ¶ 5.)

98. Mr. Starr told Dr. Kelly he had been directed by Respondent DHS that he was not to disclose the IDPH Reports and that she could make a Freedom of Information Act ("FOIA") request. (Id.)

99. The same day, Dr. Kelly spoke to Respondent Jamie Veach, Director of Murray, requesting the IDPH Reports. Mr. Veach told her if he gave them to her, he would lose his job. (Id., ¶ 6.)

100. All IDPH inspection reports and violations are required to be made public in the facility by postings alongside the facility license. 77 Ill. Admin. Code 350.230 requires facilities post or make available all documents pertaining to IDPH inspections, including violations and the most recent survey.

101. When, however, a Murray Registered Nurse attempted to make a complaint to the IDPH, she was told that she could not make a complaint against Respondent CRA (a/k/a ACCT) but that complaints against CRA must be directed to the Governor's office. (Creed Aff. #1, Ex. K, ¶ 6).

K. The Dangerous Effects of Mass Transfers (Jacksonville).

102. Respondents are following the same accelerated process as used in the closure of Jacksonville Developmental Center ("Jacksonville") in November 2012, when Respondents State Department of Human Services and CRA abruptly moved (without evaluation or thought to proper placement) approximately 30 residents to other facilities in a matter of days prior to the December 3, 2012 closure.[2]

103. Since Jacksonville's accelerated closure in 2012, there have been 204 incidents involving former Jacksonville residents. These incidents include, among other things, police involvement, elopements, behavior management (which includes injury to self or others), hospital or emergency room visits, psychiatric hospitalizations, temporary re-admission to an SODC, and even death. (See JDC Monitoring Tracker, Transitions effective April 1, 2012—March 31, 2013, attached as Exhibit V).[3]

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[2] In September 2012, DHS called in the Bureau of Transitional Services, which then abruptly moved over 160 residents in less than three months—30 residents were moved in September, 42 in October, and an astounding 96 were moved in November, with approximately 35 residents being moved on November 29, 2012 to other SODCs.

[3] The 204 incidents involve 94 separate individuals of the 180 who were removed.

L. Most Recent and Continuing Disregard for the Safety and Welfare of OSG Wards.

104. On July 24, 2013, an OSG Ward was moved to a CILA home. (Martin Aff., Ex. W, ¶ 2).

105. A Licensed Practicing Nurse at Murray Center who has worked at the facility for the past 13 years received a call from a worker at the CILA home in which the OSG ward had been placed within two hours of her placement. (Id. ¶ 3).

106. The caller advised the LPN the caller did not know how the OSG Ward's medications were to be administered. (Id. ¶ 3).

107. The caller did not know how to feed the OSG Ward – she had no idea that the OSG Ward's food must be pureed or that the OSG Ward must be fed with a mothercare spoon. (Id. ¶ 3).

108. The caller did not know that if the OSG Ward attempted to feed herself she would stuff everything into her mouth at once presenting a choking hazard. (Id. ¶ 3).

109. The caller did not know the OSG Ward suffered from PICA. (Id. ¶ 3).

110. The caller had to be informed the OSG Ward eats paper towels and is a wanderer. (Id. ¶ 3)

111. The caller did not know that the OSG Ward has night terrors and must sleep only in a pull-up or there will be trouble. (Id. ¶ 4).

112. The caller did not know the OSG Ward needs a fan year round. (Id. ¶ 5).

113. The caller knew virtually nothing about the OSG Ward despite the caller's responsibility for the OSG Ward's care. (Id. ¶ 3-6).

114. On that same day, another Qualified Intellectual Disabilities Professional (QIDP) at Murray voiced her concerns to Respondent Rick Starr over the placement of another OSG Ward in an unsuitable CILA. (Winter Aff. Ex. X, ¶ 6).

115. The QIDP voiced her concern via email that, based upon her visit, the CILA would not meet the requirements of the OSG Ward to be maneuvered in his wheelchair due to the size of the wheelchair, size of the patient, and narrow hall way of the CILA that would not allow for enough turning room for the wheelchair to enter the OSG Ward's bedroom or living room or for the OSG Ward to even extend his arms outside the width of the chair when traveling down the hallway. (Id.; *see* emails exchanged with Respondent Rick Starr, attached as Ex. Y).

116. In those emails, Respondent Starr scolded the worker because it was the "second time [she had] written [Starr] regarding problems at CILA" and that the worker "needed to stick to objective concerns rather than subjective." (Id.)

117. What Respondent Starr views as a "subjective concern," the QIDP views as a serious and potentially life threatening impediment to getting the OSG Ward out of the home in the event of a fire. (Ex. X, ¶ 13).

118. Respondent Starr went on to advise in a follow up email he was simply "passing on concerns for the [Respondent Department of Human Services] and Governor's office." (Ex. Y, email of 1:41 p.m. on 7/24/23).

119. On July 25, 2013, a Registered Nurse employed by Murray Center advised Respondent Starr the OSG Ward's doctor had advised that the OSG Ward was suffering from and being treated for a urinary tract infection and it was the opinion of the doctor it was not safe for the OSG Ward to be transferred if the CILA could not provide the ordered follow up service. (Creed Aff., Ex. K, ¶ 7).

120. The OSG Ward nonetheless was moved to that CILA on July 25, 2013, based upon "an email from [Respondent] Freda" received by Respondent Starr without reference to whether the CILA could provide the ordered follow up care. (Creed Aff. #2, Ex. K ¶ 8-10).

121. Another OSG Ward that has a history of aggression coupled with serious disease is scheduled to be transferred to another SODC on Tuesday, July 30, 2013. (Perchez Aff. Ex. Z,

¶¶ 10, 12). This OSG Ward has medical conditions that put him at risk of life and limb and require corrective surgery in the near term. (Perchez Aff., Ex. Z, ¶ 10).

122. This particular OSG ward has a long-standing history of being unable to make it for more than a matter of weeks or months at any facility other than Murray Center, where he has in total resided for over a decade. (Perchez Aff., Ex. Z, ¶¶ 4-6).

123. When transferred to other facilities in the past the OSG ward has threatened suicide, sabotaged his treatment, and become violent. (Perchez Aff., Ex. Z, ¶ 5-6).

124. Knowing of this history and clearly knowing transfer to another SODC is not in the best interest of the OSG Ward, an Educator and Qualified Intellectual Disability Professional (QIDP) advised via certified letter to Respondent Starr of her concerns transfer presents to the health and welfare of the OSG Ward. (Perchez Aff., Ex. Z, ¶ 12).

125. A parent and guardian of a resident at Murray Center was at the facility on July 20, 2013, visiting her daughter. (Miller Aff., Ex. AA, ¶¶ 1-6).

126. As a regular visitor, this parent and guardian was familiar with the OSG Ward and had been told by the OSG Ward on numerous prior occasions the OSG Ward did not want to move but had been told by Respondent Freda Omar he had to move and he had no choice. (Miller Aff., Ex. AA, ¶ 4).

127. On the July 20, 2013, visit the parent and guardian observed the OSG Ward sobbing, in response to which Rep. Naomi Jakobsson asked him what was wrong – the OSG Ward explained, "I have to move. They are making me move. I don't want to but I'm OSG and my OSG guardian says I have to leave." (Miller Aff., Ex. AA, ¶ 6).

128. Rep. Jakobsson went on to ask the OSG Ward "Don't you have a choice?" to which the OSG Ward responded, "No, my OSG guardian says I have to move. I've told her I don't want to move but she says I have to," at which point he went to the other end of the cottage and continued to sob. (Miller Aff., Ex. AA, ¶ 7).

129. Ten minutes later the OSG Ward came back and was still crying and saying, "I don't want to leave" and told Rep. Jakobsson and Rep. Charlie Meier "I don't want to move. I want to stay here, but I don't have a choice." (Miller Aff., Ex. AA, ¶ 9).

130. In the longstanding experience of the QIDP with this OSG Ward, this individual has a history of changing his mind of whether he wants to go to another facility, but ultimately upon transfer would quickly grow homesick, become aggressive, make suicidal threats, sabotage his treatment regimen, and ultimately be returned to Murray Center. (Perchez Aff. Z, ¶¶ 5-9).

131. Subsequently, the OSG Ward was taken to a closed door meeting with Respondent Starr, Respondent Omer, and Ms. Omer's attorney, from which the QMRP was excluded. (Perchez Aff. Z, ¶¶ 2a.-i.).

132. Upon return from the meeting the OSG Ward was upbeat about transferring, referencing the fact that Respondent Starr told him he would be taken to Cubs and White Sox games if he transferred to the specified SODC in Kankakee, Illinois (despite limitations imposed by his wheelchair and limited away time making him a high unlikely candidate to be transported 60-plus miles to attend a game). (Id.).

133. The OSG Ward later returned to the QMRP and advised he had changed his mind about moving and he had not felt comfortable in the meeting. (Perchez Aff. Z, ¶ Id.).

134. It is the QIDP's professional opinion it is not in the OSG Ward's best interest to be moved from Murray Center and the planned transfer, which had been scheduled for Tuesday, July 30, 2013, prior to entry of the Temporary Restraining Order, could have profound or even fatal consequences. (Perches Aff. Z, ¶¶ 10-12.)

135. One member of the Centralia community living next to a CILA where OSG Wards have been transferred has witnessed dereliction of duties by those charged with caring for the OSG Wards, seen substandard housing conditions, and continuous transfer of residents in and out of the CILA. (Border Aff. BB, ¶¶ 2-14).

136. One caregiver was seen to take four smoke breaks within approximately four hours. (*Id.*, ¶ 4). The same worker was seen to take a break for approximately half an hour while outside talking to an acquaintance. (*Id.*, ¶ 5)

137. In another instance, two caretakers were found to be outside arguing amongst themselves. (*Id.*, ¶ 6)

138. The neighbor believes the residents are being left along inside the CILA. (*Id.*, ¶ 7)

139. The back patio of the CILA is dug up and in place of it is a three-foot deep hole. (*Id.*, ¶ 12 and attached photo #1). The entrance where the wheelchair ramp had been is now cordoned off by yellow caution tape. (*Id.*, attached photos #2, #4).

140. After residents were moved into the CILA, a tarp was placed over the roof to try to prevent leakage following heavy rain. (*Id.*, ¶ 13 and attached photo #3)

141. It is the neighbor's understanding this is to be a two-bed CILA, but there are often times three or four residents. (*Id.*, ¶ 8) It also appears some night the CILA is occupied, while other nights it is not occupied. (*Id.*, ¶ 9)

142. Residents seems to be transferred to a different location for a period of days and then back to the CILA. (*Id.*, ¶ 10)

143. In one instance a disabled person ran from the CILA during a transfer and a caretaker had to run him down. (*Id.*, ¶ 14) This particular person is not a permanent resident, he is brought to the home with a duffle bag periodically, stays for a few nights, and then is taken somewhere else. (*Id.*) He is clearly not one of the two female OSG Wards reported to have been moved into the CILA who are walker and wheelchair bound, respectively. *See* http://www.mywithersradio.com/centralia/?p=5924.

COUNT I
PETITION FOR APPOINTMENT OF GUARDIAN AD LITEM

144. Petitioners hereby incorporate by reference paragraphs 17 through 143.

145. Venue is proper pursuant 755 ILCS 5/11a-7 of the Probate Act of 1975 because the OSG Wards at issue are all residents of the Murray Center, Clinton County, Illinois.

146. The Court previously considered whether the Petitioners should be required to proceed in each County with pending probate actions involving the OSG Wards and determined such action would be inefficient and could lead to inconsistent results.

147. This Court is vested with the power to appoint a Guardian Ad Litem to investigate whether the best interests of the OSG Wards are being adequately protected. Likewise, this Court has authority to limit the duties of Respondents Omer's and the Office of State Guardian's guardianship of the OSG Wards pending the results of the Guardian Ad Litem's investigation.

148. A request for modification of the terms of guardianship may be made "by the ward or any other person on the ward's behalf." 755 ILCS 5/11a-20(b).

149. "[U]pon the filing of a petition by or on behalf of a disabled person or on its own motion, the court may... modify the duties of the guardian." 755 ILCS 5/11a-20.

150. "[T]he court may appoint a temporary guardian upon a showing of the necessity therefor for the immediate welfare and protection of the alleged disabled person or his or her estate on such notice and subject to such conditions as the court may prescribe." 755 ILCS 5/11a-4.

151. "The immediate welfare of the alleged disabled person...shall be of paramount concern, and the interests of the petitioner, any care provider, or any other party shall not outweigh the interests of the alleged disabled person." *Id.*

152. Accordingly, the interest of the State of Illinois and Respondents in preparing to close down Murray Center is immaterial to the Court's present inquiry.

153. The Office of State Guardian, like any other guardian, has a legal responsibility to seek the best interests of its wards. *See* Office of State Guardian Website, http://gac.state.il.us/osg/osgfaq.html

154. OSG is further required to fulfill the duties of a guardian as set forth in the Probate Act. *See* Office of State Guardian Website, http://gac.state.il.us/osg/osgfaq.html

155. Respondents Freda Omer and the Office of State Guardian have flagrantly and systematically disregarded statutorily mandated guidelines for residential placement decisions set forth in 755 ILCS 5/11a-14.1, to wit:

a. that the guardian shall make decisions in conformity with the preferences of the ward unless the guardian is reasonably certain that the decisions will result in substantial harm to the ward or to the ward's estate;

b. that when the preferences of the ward cannot be ascertained or where they will result in substantial harm to the ward or to the ward's estate, the guardian shall make decisions with respect to the ward's placement which are in the best interests of the ward;

c. the guardian shall not remove the ward from his or her home or separate the ward from family and friends unless such removal is necessary to prevent substantial harm to the ward or to the ward's estate;

d. the guardian shall have a duty to investigate the availability of reasonable residential alternatives;

e. the guardian shall monitor the placement of the ward on an on-going basis to ensure its continued appropriateness, and shall pursue appropriate alternatives as needed.

156. Respondents Freda Omer and the Office of State Guardian have ignored statutorily mandated guidelines for decision making by a guardian on behalf of a ward set forth in 755 ILCS 5/11a-17(e), to wit:

a. the guardian shall make decisions on behalf of a ward by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian;

b. where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with the preference of the ward;

c. where the ward's wishes are unknown, and remain unknown after reasonable efforts to discern them, the decision shall be made on the basis of the ward's best interests as determined by the guardian;

d. In determining the ward's best interests, the guardian shall weigh the reason for and nature of the proposed action, the possible risks and other consequences of the proposed action, and any available other consequences of the proposed action, and any available alternatives and their risks, consequences and benefits, and shall take into account any other information, including the views of family and friends, that the guardian believes the ward would have considered if able to act for herself or himself.

157. Respondents are depriving the OSG Wards their rights to adequate and humane care pursuant Section 2-102(a) of the Mental Health and Developmental Disabilities Code and the Illinois and United States Constitution.

158. In similar fashion, the Murray Standard Operating Policies and Procedures for resident discharge pursuant the Illinois Administrative Code, 59 Ill. Admin. Code 125, have been abandoned without objection from Respondents Freda Omer and the Office of State Guardian.

159. "The court may...enter such...orders the court deems necessary to provide for the best interest of the disabled person." 755 ILCS 5/11a-17. This includes removal of the OSG as guardian. 755 ILCS 5/23-2(a).

WHEREFORE, Petitioners implore this Court to extend its prior Order appointing Mr. Stewart Freeman Guardian Ad Litem over the 23 OSG Wards until Mr. Freeman can investigate and report to the Court whether the 23 OSG Wards' best interests are being protected by Respondents Freda Omer and the Office of State Guardian with respect to transfer from the Murray Center facility, upon which time the Court may enter such further orders it deems necessary to provide for the best interests of the ward. Petitioners further request that in the meantime the Court's prior Order remain in place prohibiting the State of Illinois, and each of its subdivisions, from transferring any of the 23 OSG Wards from Murray Center without the consent of Guardian Ad Litem Freeman until further order of this Court.

COUNT II
COMPLAINT FOR ISSUANCE OF EMERGENCY TEMPORARY RESTRAINING ORDER, PRELIMINARY AND PERMANENT INJUNCTION AGAINST RESPONDENTS

160. Petitioners hereby incorporate by reference paragraphs 17 through 143.

161. Venue in this Court is appropriate as the OSG Wards reside in Clinton County at Murray Center.

162. The Court previously considered whether the Petitioners should be required to proceed in each County with pending probate actions involving the OSG Wards and determined such action would be inefficient and could lead to inconsistent results.

163. This Court has jurisdiction pursuant to 755 ILCS 5/11a of the Probate Act. Section 11a-20 of the Probate Act expressly provides that "[u]pon the filing of a petition by or on behalf of a disabled person or on its own motion, the court may terminate the adjudication of disability of the ward, revoke the letters of guardianship of the estate or person, or both."

164. A request for modification of the duties of guardianship may be made "by the ward or any other person on the ward's behalf." 755 ILCS 5/11a-20(b).

165. Respondent Freda Omer of the Office of State Guardian acts as guardian of the remaining approximately 23 OSG Wards of the state at Murray Center.

166. Under 755 ILCS 5/11a-14.1, "[i]n making residential placement decisions, the guardian shall make decisions in conformity with the preferences of the ward unless the guardian is reasonably certain that the decisions will result in substantial harm to the ward."

167. Respondent Freda Omer and OSG neither questioned nor objected to any part of Respondents' actions in moving OSG Wards out of Murray Center despite readily apparent problems jeopardizing the safety and welfare of the residents being transferred. Respondents have removed OSG Wards because there was never a question or objection raised. The OSG is merely another arm of the State, which also seeks to close the SODCs. The State is controlling placement change of OSG Wards. In other words, the right arm offers the placement while the left arm accepts it.

168. In fact, it took the filing of the Federal Suit by Federal plaintiffs to prompt Respondent Omer to rescind patently inappropriate decisions she had made to place individuals with intense behavioral and medical challenges in 2-4 bed homes, instead deciding (independent of the Murray Center team) to place them in other SODCs.

169. To preserve the *status quo* until the Court can render a decision on the preliminary injunction, this Court should enjoin Respondents' haphazard and reckless transfer of OSG Wards to ensure the OSG Ward residents' safety.

170. The actions of the Respondents in haphazardly transferring these residents are causing, and will continue to cause, injury and irreparable harm to the OSG Wards in the event that injunctive relief is not granted.

171. The threat to the health and wellbeing of these OSG Wards is imminent and subject to an ongoing process of transfer.

172. There is no adequate remedy at law for the damages the OSG Wards will suffer as the result of the Respondents' actions.

173. Plaintiffs in the Federal Suit have already demonstrated a reasonable likelihood of success on the merits; Petitioners herein have likewise demonstrated a reasonable likelihood of success.

174. The hardship borne by the OSG Wards should this injunction not be granted greatly outweighs any potential hardship of the Respondents associated with the entry of the requested Order and relief, in that OSG Wards would continue to be transferred to facilities ill equipped to offer proper care.

WHEREFORE, Petitioners pray this Honorable Court enter a Preliminary Injunction as follows:

A. Enjoining the Respondents from acting to change the status quo by their accelerated program of transferring Office of the State Guardian residents of the Murray Developmental Center;

B. Require the transition process, if any, during the pending of this Temporary Restraining Order, to include the input of Murray Center professional and therapeutic staff and to be conducted under Murray Standard Operating Policies and Procedures 181. (Protocol for Transition to the Community, Exhibit E);

C. Enjoining the transfer of any of the 23 Office of the State Guardian Wards from Murray Center without the consent of Guardian Ad Litem Freeman until further order of this Court.

D. For such other and further relief as this Court deems just and equitable under the circumstances.

COUNT III
PETITION FOR WRIT OF MANDAMUS

175. Petitioners hereby incorporate by reference paragraphs 17 through 143.

176. Respondents Freda Omer, Department of Human Services, Kevin Casey, and Michelle Sadler are statutorily mandated to follow guidelines for residential placement decisions set forth in 755 ILCS 5/11a-14.1, to wit:

a. the guardian shall make decisions in conformity with the preferences of the ward unless the guardian is reasonably certain that the decisions will result in substantial harm to the ward or to the ward's estate;

b. when the preferences of the ward cannot be ascertained or where they will result in substantial harm to the ward or to the ward's estate, the guardian shall make decisions with respect to the ward's placement which are in the best interests of the ward;

c. the guardian shall not remove the ward from his or her home or separate the ward from family and friends unless such removal is necessary to prevent substantial harm to the ward or to the ward's estate;

d. the guardian shall have a duty to investigate the availability of reasonable residential alternatives;

e. the guardian shall monitor the placement of the ward on an on-going basis to ensure its continued appropriateness, and shall pursue appropriate alternatives as needed.

177. Respondents Freda Omer and the Office of State Guardian are statutorily mandated to follow guidelines for decision making by a guardian on behalf of a ward set forth in 755 ILCS 5/11a-17(e), to wit:

a. the guardian shall make decisions on behalf of a ward by conforming as closely as possible to what the ward, if competent, would have done or intended under the circumstances, taking into account evidence that includes, but is not limited to, the ward's personal, philosophical, religious and moral beliefs, and ethical values relative to the decision to be made by the guardian;

b. where possible, the guardian shall determine how the ward would have made a decision based on the ward's previously expressed preferences, and make decisions in accordance with the preference of the ward;

c. where the ward's wishes are unknown, and remain unknown after reasonable efforts to discern them, the decision shall be made on the basis of the ward's best interests as determined by the guardian;

d. In determining the ward's best interests, the guardian shall weigh the reason for and nature of the proposed action, the possible risks and other consequences of the proposed action, and any available other consequences of the proposed action, and any available alternatives and their risks, consequences and benefits, and shall take into account any other information, including the views of family and friends, that the guardian believes the ward would have considered if able to act for herself or himself.

178. Respondents are required to provide the OSG Wards adequate and humane care pursuant Section 2-102(a) of the Mental Health and Developmental Disabilities Code and the Illinois and United States Constitution.

179. Respondents are required to follow the Murray Standard Operating Policies and Procedures enforced pursuant the Illinois Administrative Code, 59 Ill. Admin. Code 125, governing resident discharge.

180. Respondents Murray Center, Rick Starr, and Jamie Veach, are required to post alongside the Murray Center facility license all IDPH inspection reports and violations pursuant 77 Ill. Admin. Code 350.230.

181. Respondents are not following these statutory mandates.

182. Respondents' departure from compliance with these mandates is such a substantial departure from accepted professional judgment, practice and standards that the Respondents are not basing their decisions on any such professional judgment, practice or standards.

183. Where the object is the enforcement of a public right, the people are regarded as the real party, and the relator need not show that he has any legal interest in the result. It is enough that he or she is interested as a citizen in having the laws properly executed. *Hill v. Butler*, 437 N.E.2d 1307, 1311 (1982) (citing *Retail Liquor Dealers Protective Association v. Schreiber*, 47 N.E.2d 462, 464 (Ill. 1943)).

184. As residents of Clinton County and the State of Illinois Petitioners have a personal interest which warrants this application for mandamus.

185. Petitioners have a right to relief that the guidelines for residential placement decisions set forth in 755 ILCS 5/11a-14.1 and transfers laid out in Murray Standard Operating Policies and Procedures be followed with respect to placement of the OSG Wards.

186. Petitioners have a right to relief that the guidelines for decision making by a guardian on behalf of a ward set forth in 755 ILCS 5/11a-17(e) are followed by the Respondents.

187. Petitioners have a right to relief that Respondents provide the OSG Wards adequate and humane care pursuant Section 2-102(a) of the Mental Health and Developmental Disabilities Code and the Illinois and United States Constitution.

188. Petitioners have a right to proper publication of all IDPH inspection reports and violations pursuant 77 Ill. Admin. Code 350.230.

189. Respondents have a clear duty in their capacity as public officials and public bodies to act in compliance with all of these statutory and constitutional mandates.

190. Respondents have authority to comply with the terms of the requested writ directing Respondents to strictly comply with the aforesaid laws and policies.

WHEREFORE, Petitioners respectfully request this Court issue a Writ of Mandamus requiring Respondents to strictly comply with the aforesaid statutes and policies, as well as all other statutes, policies and duties to which they are subject and which relate to the operation of or involvement with the Murray Center and the safety, health and wellbeing of its residents.

RESPECTFULLY SUBMITTED,

By: _____

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Certificate of Service

The undersigned certifies that a copy of the foregoing was sent via facsimile and U.S. Mail, this 7th day of August, 2013, to the following counsel of record:

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for Freda Omer and the Office of the State Guardian

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Assistant Attorney General
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Kevin Case, Michelle Saddler,
Warren G. Murray Developmental Center,
Jamie Veach, and Richard Starr

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The undersigned certifies that a copy of the foregoing was sent via email this 7th day of August, 2013, to the following counsel of record:

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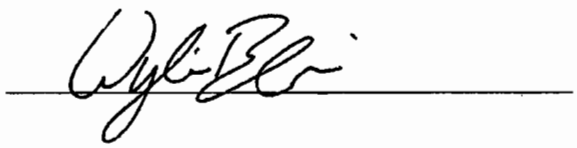


IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ILLINOIS LEAGUE OF ADVOCATES FOR THE DEVELOPMENTALLY DISABLED; *and* **MURRAY PARENTS ASSOCIATION, INC.;** *and* ***INDIVIDUALLY AND ON BEHALF OF ALL PERSONS SIMILARLY SITUATED:*** **RITA WINKELER,** *as Guardian for Mark Schomaker and Mark Winkeler;* **KAREN KELLY,** *as Guardian for Eric Schutzenhofer;* **LAUREEN STENGLER,** *as Guardian for Wayne Alan Stengler;* **STAN KRAINSKI,** *as Guardian for Steven Edward Krainski;* **ELIZABETH GERSBACHER,** *as Guardian for Charlie Washington and Linda Faye Higgins;* **BARBARA COZZONE-ACHINO,** *as Guardian for Robert Metullo;* **ROBYN PANNIER,** *as Guardian for Benjamin Pannier;* **JEANINE L. WILLIAMS,** *as Guardian for John L. Fuller, Jr.;* **DAVID IACONO-HARRIS,** *as Guardian for Jonathon P. Iacono-Harris;* **DR. ROBERT POKORNY,** *as Guardian for Robert James Pokorny;* and **GAIL K. MYERS,** *as Guardian for Mark Andrew Wymore.*

Plaintiffs,

vs. Govenor

PATRICK QUINN, *as Governor of the State of Illinois,* **ILLINOIS DEPARTMENT OF HUMAN SERVICES, MICHELLE R.B. SADDLER,** *in her official capacity as Secretary of the Illinois Department of Human Services,* **KEVIN CASEY,** *in his official capacity as Director of Developmental Disabilities of the Illinois Department of Human Resources,* and **COMMUNITY RESOURCE ALLIANCE,**

Defendants.

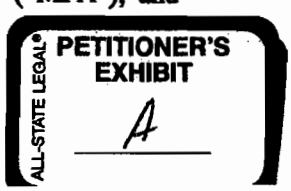
Case No. 13-cv-01300

Hon. Marvin E. Aspen

JURY DEMAND

SECOND AMENDED COMPLAINT FOR DECLARATORY, INJUNCTIVE & OTHER RELIEF

Plaintiffs, the ILLINOIS LEAGUE OF ADVOCATES FOR THE DEVELOPMENTALLY DISABLED; MURRAY PARENTS ASSOCIATION ("MPA"); and



individually and on behalf of all persons similarly situated, RITA WINKELER, *as Guardian for Mark Schomaker and Mark Winkeler;* KAREN KELLY, *as Guardian for Eric Schutzenhofer;* LAUREEN STENGLER, *as Guardian for Wayne Alan Stengler and Linda Faye Higgins;* STAN KRAINSKI, *as Guardian for Steven Edward Krainski;* ELIZABETH GERSBACHER, *as Guardian for Charlie Washington;* BARBARA COZZONE-ACHINO, *as Guardian for Robert Metullo;* ROBYN PANNIER, *as Guardian for Benjamin Pannier;* JEANINE L. WILLIAMS, *as Guardian for John L. Fuller, Jr.;* DAVID IACONO-HARRIS, *as Guardian for Jonathon P. Iacono-Harris;* DR. ROBERT POKORNY, *as Guardian for Robert James Pokorny;* and GAIL K. MYERS, *as Guardian for Mark Andrew Wymore,* by their undersigned attorneys, state as follows for their Second Amended Complaint for Declaratory, Injunctive & Other Relief against Defendants, Patrick Quinn, as Governor of the State of Illinois, Illinois Department of Human Services, Michelle R. B. Saddler, in her official capacity as Secretary of the Illinois Department of Human Resources, Kevin Casey, in his official capacity as Director of Developmental Disabilities of the Illinois Department of Human Resources, and Community Resources Alternatives, Inc. ("CRA") (collectively "Defendants"):

I. INTRODUCTION & OVERVIEW

1. The individual Plaintiffs are the legal guardians of adult individuals who qualify under state and Federal laws as persons deemed unable to care and provide for themselves including, but not limited to, the ability to live independently due to severe and profound mental and/or physical disabilities (hereinafter, the "Individual Plaintiffs"). The Individual Plaintiffs sue as legal guardians on behalf of their disabled charges and on behalf of all disabled persons similarly situated.

2. Additionally included as a Plaintiff in this action are two Illinois non-profit advocacy organizations, the Illinois League of Advocates for the Developmentally Disabled, Inc., and the Murray Parents Association. These organizations support individuals with severe and profound mental and/or physical disabilities, and also oppose the State's plan (the "Plan") under which the Defendants' seek to close all State Operated Developmental Centers for the Developmentally Disabled ("SODCs") and, to that end, have already removed all the residents of one such facility (the Jacksonville Developmental Center) and are imminently prepared to close another (the Murray Developmental Center), with more to follow shortly thereafter. A true and accurate copy of the State Plan is attached hereto and incorporated herein by reference as Exhibit A.[1]

3. Collectively, the Individual Plaintiffs and Plaintiff-Class Members oppose the Plan because it is being undertaken against the legal guardians' will and against the will of the guardian-charges' current caretakers. The State's Plan is an ill-conceived and predetermined "cookie-cutter" outcome process that results in the profoundly disabled Individual Plaintiffs' and Plaintiff-Class Members' eviction from their safe and secure homes of many years at SODCs, such as Murray Development Center, and thrusts them into unsupervised, and in many cases, unlicensed community placements where they have and will continue to suffer irreparable harms, including but not limited to risk of abuse and neglect, serious injury, and even death.

4. The Individual Plaintiffs and Plaintiff-Class Members thus respectfully seek relief from this Court to issue the declaratory relief detailed below, and to immediately and permanently enjoin the Defendants from completing the unilateral and imminent closure of all SODCs across Illinois, including but not limited to those SODCs in which each of the named

[1] Exhibit A is a version of the State's Plan, date February 2012, which currently appears on the State's public website. To the extent that there are alleged to have been changes, updates or other modifications to this Plan, they are not available to Plaintiffs.

Individual Plaintiffs has resided and received medically necessary services for all or most of their lives. Among other relevant factors, the Individual Plaintiffs and Plaintiff-Class members have not ever agreed to relocate from the SODCs to the designated residential settings.

5. As further detailed herein, Federal and Illinois State laws including, but not limited to, the Americans with Disabilities Act of 1990, as amended, the Rehabilitation Act, and Medicaid Program regulations, require the State of Illinois to continuously provide adequate levels of medically necessary services for disabled individuals regardless of residential setting transitions from an institutional setting to a community residence.

6. In contravention of these laws, the Defendants have commenced to systematically shut down the SODCs and to limit State-provided residences and medically necessary services to the Individual Plaintiffs and to the Plaintiff-Class Members. The systematically planned SODC closings and the transition of the Individual Plaintiffs and Plaintiff-Class Members to scattered one and two bedroom community residences, which are neither licensed medical facilities nor locations operated or staffed with on-site and licensed medical professionals, have resulted in irreparable and continuing harms to the Individual Plaintiffs and Plaintiff-Class members

7. The significant and irreparable harms suffered to date by each of the severe and profound medically disabled Individual Plaintiffs and Plaintiff-Class members will continue with the ongoing SODC closings. Those harms include, but are not limited to, the State's complete elimination, without informed consent to parents or guardians, of certain categories of medically necessary services and/or providing woefully inadequate levels of medically necessary services to the Individual Plaintiffs and Plaintiff-Class Members in the community residential settings. While cuts in the State's budget may require fiscal austerity, forcing closure of all SODCs is the wrong priority and, as further detailed herein, Federal and Illinois State laws warrant the

fashioning of immediate and permanent equitable relief for the Individual Plaintiffs and Plaintiff-Class Members.

II. JURISDICTION

8. The United States District Court has jurisdiction over the claims against Defendants pursuant to 28 U.S.C. § 1331 because the claims arise under federal statutes. The Court may also exercise pendant jurisdiction over the state law claims, pursuant to 28 U.S.C. § 1367.

III. VENUE & JURY DEMAND

9. Venue is proper in the Northern District of Illinois pursuant to 28 U.S.C. § 1391(b) because the State's plan effects guardians of developmentally disabled persons residing in the Northern District and also effects those who will be transferred to SODCs and other community settings within the Northern District and across the State of Illinois. Plaintiffs demand a jury trial of this matter.

IV. RELEVANT FEDERAL & STATE STATUTORY FRAMEWORK

Americans with Disabilities Act

10. Congress enacted the Americans with Disabilities Act ("ADA"), as amended, 42 U.S.C. §§ 12101-12181, in 1990 "to provide a clear and comprehensive national mandate for the elimination of discrimination against individuals with disabilities." *Id.* at §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 (emphasis provided).

As directed by Congress, the Attorney General issued regulations implementing Title II, which are based on regulations issued under section 504 of the Rehabilitation Act, 29 U.S.C. § 794(a). The ADA Title II regulations require public entities to "administer services, programs, and activities in the most integrated setting appropriate to the needs of qualified individuals with disabilities." 28 C.F.R. § 35.130(d) (emphasis provided).

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Section 504 of the Rehabilitation Act

11. Section 504 of the Rehabilitation Act, 29 U.S.C. § 794 (hereinafter, "Section 504"), prohibits discrimination against individuals with disabilities by any program or activity, including any department or agency of a State government, receiving Federal financial assistance. 29 U.S.C.§ 794(a) and (b). "No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . ." 29 U.S.C. § 794; 45 C.F.R. §§ 84.4(a), 84.4(b) (1) (i), (iv) and (v99); 84.4(b) (2); 84.52(a)(1), (4) and (5).

12. Section 504 requires that state and local governments afford protected individuals with disabilities related services, programs and activities in "the most integrated setting appropriate to the needs of qualified individuals with disabilities." 28 C.F.R. § 45.51(d) (emphasis added). That is, federally funded state governments and agencies must make reasonable modifications to policies, practices and procedures to avoid discrimination on the

basis of disability, including the elimination of services deemed necessary and appropriate to meet the needs of the qualified individual with disabilities. 29 U.S.C.§ 794(a).

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The U.S. Supreme Court's "Olmstead v. L.C." Requirements for ADA Title II Covered Services to Individuals with Disabilities.

13. Fourteen years ago, the Supreme Court applied the ADA Title II mandates to hold that Title II prohibits the unjustified segregation of individuals with disabilities. *Olmstead v. L.C.*, 527 U.S. 581 (1999). Importantly, the Court held that public entities are required to provide community-based services to persons with disabilities when (a) such services are appropriate; (b) the affected persons do not oppose community-based treatment; and (c) community-based services 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. *Id.* at 607.

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Civil Rights Act, 42 U.S.C. § 1983

14. "Every person who, under color of any statute, ordinance, regulation, custom, or usage, of any State or Territory or the District of Columbia, subjects, or causes to be subjected, any citizen of the United States or other person within the jurisdiction thereof to the deprivation of any rights, privileges, or immunities secured by the Constitution and laws, shall be liable to the party injured in an action at law, suit in equity, or other proper proceeding for redress, except that in any action brought against a judicial officer for an act or omission taken in such officer's judicial capacity, injunctive relief shall not be granted unless a declaratory decree was violated or declaratory relief was unavailable. For the purposes of this section, any Act of Congress

applicable exclusively to the District of Columbia shall be considered to be a statute of the District of Columbia. "

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The Federal Medicaid Program & State Waivers

15. Title XIX of the Social Security Act, 42 U.S.C. §§ 1396-1396 w-2 (hereinafter, Medicaid Act"), establishes the Medicaid Program. The objective of the Medicaid Act is to enable each State to furnish medical assistance to families with children and to aged, blind, or disabled individuals whose incomes and resources are insufficient to meet the costs of necessary medical services and to furnish "rehabilitation and other services to help such families and individuals attain or retain capability for independence or self-care." 42 U.S.C. § 1396.

16. The Medicaid Program typically does not directly provide health care services to eligible individuals, nor does it provide beneficiaries with money to purchase health care directly. Rather, Medicaid is a vendor payment program, wherein Medicaid participating providers are reimbursed by the Program for the services they provide to recipients.

17. Medicaid is a cooperative federal-state program designed to cover necessary medical services for poor people. Participation in the Medicaid program is not mandatory for the states, but once they choose to participate, they must operate their programs in conformity with federal statutory and regulatory requirements. 42 U.S.C. § 1396a.

18. Each state choosing to participate in the Medicaid Program must designate a single state agency which is responsible for administering the Program. 42 U.S.C. § 1396a (a) (5).

19. Medicaid law requires choice. The receipt of Medicaid funding is contingent upon a state offering choice of ICFs/MR or Home and Community Based Services ("HCBS")

waivers. A Medicaid HCBS waiver shall not be granted unless the state provides satisfactory assurances that:

> [S]uch individuals who are determined to be likely to require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded are informed of the feasible alternatives, if available under the waiver, at the choice of such individuals, to the provision of inpatient hospital, nursing facility services or services in an intermediate care facility for the mentally retarded.

42 U.S.C. § 1396n(c)(2)(C).

20. When a recipient is determined to be likely to require the level of care provided in an ICF/MR, the recipient or his or her legal representative must be:

> (1) Informed of any feasible alternatives available under the waiver, and (2) Given the choice of either institutional or home and community-based services.

42 C.F.R. § 441.302.

21. The Plan must furnish CMS with sufficient information to support assurances required by § 441.302, including its "plan for informing eligible recipients of the feasible alternatives...institutional services or home and community-based services." 42 C.F.R. § 441.303(d).

22. Illinois has provided the required assurances to receive HBSC waivers under Medicaid in the Illinois Administrative Code:

Section 120.80 Program Assurances

> In addition to program requirements specified in other Sections of this Part, assurances for the Medicaid home and community-based services waiver program will include:
>
> ****
>
> b) Informing individuals of choice

> All individuals requesting program services shall be given a choice of alternative services through the PASARR process. The choice shall include both ICF/MR and community-based services.

59 Illinois Admin. Code § 120.80.

Additionally, the Illinois Administrative Code's eligibility determinations for its Medicare home and community-based services waiver program provides:

> **Section 120.150 Eligibility Determination**
>
> ****
>
> c) Individuals or guardians shall be given the choice of receiving State-operated developmental center, community ICF/MR or Medicaid home and community-based services.

59 Ill. Admin. Code § 120.150.

In accordance with 42 U.S.C. § 1396n(c)(2)(C) and 42 C.F.R. § 441.302, Illinois gave the required assurances to CMS in its Application for the HCBS Waiver:

> **D. Choice of Alternatives:** The State assures that when an individual is determined to be likely to require the level of care specified for this waiver and is in a target group specified in **Appendix B**, the individual (or, legal representative, if applicable) is:
>
> 1. Informed of any feasible alternatives under the waiver; and,
>
> 2. Given the choice of either institutional or home and community-based waiver services.
>
> **Appendix B** specifies the procedures that the State employs to ensure that individuals are informed of feasible alternatives under the waiver and given the choice of institutional or home and community-based waiver services.

V. THE PARTIES

Institutional Plaintiffs

23. Plaintiff Illinois League of Advocates for the Developmentally Disabled (IL-ADD) is an Illinois Not For Profit Corporation, principally located in River Grove, Illinois, the mission of which is to advocate for and educate the citizens of Illinois about the needs of

severely developmentally disabled persons in the State of Illinois who reside in SODCs. IL-ADD has amongst its membership persons who are guardians and next of kin of persons who reside in the SODCs located in the Northern District of Illinois and who would have the right to bring this action on their own behalf on an individual basis

24. Plaintiff Murray Parents Association ("MPA") is an Illinois Not For Profit Corporation, principally located in Centralia, Illinois, the mission of which is to promote the general welfare of the residents of the Murray Center and foster the development of programs on their behalf. MPA has amongst its membership persons who are guardians and next of kin to persons who reside in the SODCs, are resident in the Northern District of Illinois and would have the right to bring this action on their own behalf on an individual basis.

Individual and Class Representative Plaintiffs

25. Rita Winkeler ("Ms. Winkeler") is a resident of Centralia, Illinois. She is a member of the board of IL-ADD and is a member and the president of the MPA. Ms. Winkeler is also the legal guardian of her brother, Mark Schomaker, and her son, Mark Winkeler. Ms. Winkeler has made her opposition known to IDHS and CRA. She, along with other MDC guardians, has been informed by IDHS and Defendant CRA that if she persists in her opposition they will evict her son from MDC against her will, that she will be responsible for finding alternative placement for him or if she cannot find alternative placement that IDHS will place him in a placement of their choosing whether she agrees or not. (*See* Affidavit of Rita Winkeler, Group Exhibit B attached hereto and incorporated in by reference).

26. Karen Kelly ("Ms. Kelly") is a resident of O'Fallon, Illinois. She is a member of MPA and is the legal guardian of her son, Eric Schutzenhofer. He is 39 years of age and has the mental age of a thirty-month old. He has been a resident of MPA since 1991. Ms. Kelly opposes the placement of Eric into the community because the State cannot adequately provide medically

necessary services to her son in that setting and, additionally, because Eric will be at risk for abuse and neglect given the pervasiveness of his disability. Ms. Kelly has made her opposition known to IDHS and CRA. She, along with other MDC guardians, has been informed by IDHS and Defendant CRA that if she persists in her opposition they will evict Eric from MDC against her will, that she will be responsible for finding alternative placement for him or if she cannot find alternative placement that IDHS will place him in a placement of their choosing whether she agrees or not. (*See* Affidavit of Karen Kelly, Group Exhibit B, attached hereto and incorporated in by reference).

27. Laureen Stengler ("Ms. Stengler") is a resident of Crete, Illinois. She is a member of MPA and is the legal guardian of Wayne Alan Stengler. He is 55 years of age and has the mental age of nine months. He has been a resident of MPA since May of 1965. She opposes the placement of Wayne into the community because the State cannot adequately provide medically necessary services to her son in that setting and, additionally, because Wayne will be at risk for abuse and neglect given the pervasiveness of his disability. Ms. Stengler has made her opposition known to IDHS and CRA. She, along with other MDC guardians, has been informed by IDHS and Defendant CRA that if she persists in her opposition they will evict Wayne from MDC against her will, that she will be responsible for finding alternative placement for him or if she cannot find alternative placement that IDHS will place him in a placement of their choosing whether she agrees or not.

28. Stan Krainski ("Mr. Krainski") is a resident of Niles, Illinois. He is the guardian of Steven Edward Krainski. Steven is 53 years of age and has the mental age of eighteen months. He has been a resident of the Anne Kiley Center since 1975. Mr. Krainski opposes the placement of Steven into the community because the State cannot adequately provide medically

necessary services to his son in that setting and, additionally, because Steven will be at risk for abuse and neglect given the pervasiveness of his disability. Mr. Krainski is informed and believes that the State intends to close Anne Kiley Developmental Center. He is further informed that pursuant to the State Plain for closure, he will have to move Steven to a placement against his will or that he will be responsible for finding alternative placement for him or if he cannot find alternative placement that IDHS will place him in a placement of their choosing whether he agrees or not.

29. Elizabeth Gersbacher ("Ms. Gersbacher") is a resident of Carbondale, Illinois. She has been the legal guardian of Charlie Washington since the 1980s. He is 45 years old has an IQ under 50 and has been a resident of Choate Developmental Center ("CDC") since 1996. Among other manifestations of his disability, Charlie has been diagnosed with aggressive, bipolar and manic behaviors, and has tried and failed in community placement on numerous occasions. Charlie's medical history evidences that he can only be cared for safely and properly in an SODC. Ms. Gersbacher is also the guardian for Linda Faye Higgins who is 44 years of age with an IQ of under 50 and is a resident of CDC. Ms. Gersbacher has tried the community for her wards on numerous occasions in the past and has learned they can only be cared for safely and properly in an SODC. She opposes the placement of Charlie and Linda into the community because the State cannot adequately provide medically necessary services to either of her wards in that setting and, additionally, because they will each be at risk for abuse and neglect given the pervasiveness of their respective disability. Ms. Gersbacher has made her opposition known to IDHS and CRA. She is informed and believes that Defendant DHS and Defendant CRA will next turn the Plan to the Choate Developmental Center and that Defendants will evict Charlie and Linda from CDC against her will, that she will be responsible for finding alternative placement

for them or if she cannot find alternative placement that IDHS will place them in a placement of IDHS' choosing whether she agrees or not.

30. Barbara Cozzone-Achino ("Ms. Cozzone-Achino") is a resident of Cherry Valley, Illinois and is the legal guardian of Robert Metullo, who is 40, and Michael Metullo who is 43. Both have an IQ below 50 and have been residents of Mabley Developmental Center ("Mabley") since 1998. Ms. Cozzone-Achino has tried the community for her wards on numerous occasions in the past and has learned they can only be cared for safely and properly in an SODC due to the nature and extent of their respective disabilities. Ms. Cozzone-Achino opposes the placement of Robert and Michael into the community because the State cannot adequately provide medically necessary services to her wards in that setting and, additionally, because each of her wards will be at risk for abuse and neglect given the pervasiveness of their respective disability. Ms. Cozzone-Achino has made her opposition known to IDHS and CRA. She is informed and believes that Defendant IDHS and Defendant CRA will eventually turn the Plan to Mabley and that Defendants will evict Robert and Michael from Mabley against her will, that she will be responsible for finding alternative placement for them or if she cannot find alternative placement that Defendants will place them in a placement of their choosing whether she agrees or not.

31. Robyn Pannier ("Ms. Pannier") is a resident of Peoria, Illinois and the legal guardian of Benjamin Pannier, a developmentally disabled adult who was residing at the Jacksonville Developmental Center (JDC) during the time period relevant to this second amended complaint. She was forced to transfer her ward into a community setting in spite of the fact he has not been successful therein before. Ms. Pannier knows that the State cannot adequately provide medically necessary services to her ward in that setting and, additionally,

knows that Benjamin will be at risk for abuse and neglect given the pervasiveness of his disability.

32. Jeanine L. Williams ("Ms. Williams") is a resident of St. Louis, Missouri and the legal guardian of John L. Fuller, Jr., a developmentally disabled adult who was residing at the JDC during the time period relevant to this second amended complaint. Ms. Williams' ward was transferred away from the JDC to a CILA (Community Integrated Living Arrangement) located in Illinois, but thereafter was returned to JDC after the CILA refused to retain him following a behavioral incident (the aforementioned clients of JDC are referred to herein as the "JDC Clients"). Ms. Williams' ward subsequently has been transferred out of JDC against his will; pursuant to Defendants' plan her ward will again be forced into the community where he will be at risk for abuse and neglect.

33. David Iacono-Harris ("Mr. Iacono-Harris") is a resident of Springfield, Illinois and is the legal guardian of Jonathon P. Iacono-Harris, a developmentally disabled adult who was residing at the JDC during the time period relevant to this second amended complaint. Mr. Iacono-Harris was forced to transfer his ward into a community setting in spite of the fact he has not been successful therein before. Mr. Iacono-Harris believes that Defendants' Plan has put his ward at risk for abuse and neglect.

34. Dr. Robert Pokorny ("Dr. Pokorny") is a resident of Aurora, Illinois and is the legal guardian of Robert James Pokorny, a developmentally disabled adult who was residing at the JDC. He was forced to transfer his ward into a community setting in spite of the fact he has not been successful therein before and she believes that Defendants' Plan has put her ward at risk for abuse and neglect.

35. Gail K. Myers is a resident of Elburn, Illinois and is the legal guardian of her son, Mark Andrew Wymore, a 46 year-old developmentally disabled adult who has resided at Fox Developmental Center ("FDC") for 32 years. She has tried the community for her son on numerous occasions in the past and has learned he can only be cared for safely and properly in an SODC. She opposes the placement of Mark into the community because he will be at risk for abuse and neglect and has made her opposition known to IDHS and CRA. She is informed and believes that Defendant IDHS and Defendant CRA will eventually turn the Plan to FDC and that Defendants will evict Mark from FDC against her will, that she will be responsible for finding alternative placement for Mark or if she cannot find alternative placement that Defendants will place her son in a placement of their choosing whether she agrees or not.

Defendants

36. Defendant Illinois Department of Human Services, Division of Developmental Disabilities ("IDHS") is a state agency organized under the laws of Illinois responsible for the provision of services to the developmentally disabled in Illinois. It must provide those services pursuant to the laws of Illinois and the United States and regulations promulgated thereunder and also pursuant to the Illinois State Medicaid Plan and the Waiver as to the provision of services for the developmentally disabled as approved by the Center for Medicare and Medicaid Services of the United States. IDHS is the agency which has created and is attempting to implement the State Plan. Attached hereto as Exhibit A is a version of the Plan dated February 12, 2012. The Plan as written and as implemented violates various Federal and Illinois State laws and regulations.

37. Defendant Patrick Quinn is the Governor and chief executive officer of the State of Illinois. He is responsible for directing, supervising and controlling the executive departments of state government. Governor Quinn is ultimately responsible for ensuring that Illinois operates

its long-term care system for people with disabilities in conformance with federal and state laws. Governor Quinn is sued in his official capacity.

38. Defendant Michelle R.B. Saddler is the Secretary of the Illinois Department of Human Services. Ms. Saddler is sued in her official capacity. As Secretary, Ms. Saddler is ultimately responsible for ensuring that Illinois operates its delivery of services to individuals with disabilities in conformity with the United States Constitution, the ADA, the ADA's implementing regulations, Section 504 of the Rehabilitation Act of 1973 as amended, and Section 504's implementing regulations.

39. Defendant Kevin Casey is the Director of Developmental Disabilities of the Illinois Department of Human Services. Mr. Casey runs the department of the IDHS that is tasked with implementing the State Plan to close SODCs. Mr. Casey is sued in his official capacity.

40. Defendant Community Resource Alliance is a business entity hired by Defendant IDHS to develop and implement the Plan pursuant to which Defendant IDHS seeks to close all the SODCs in Illinois and to terminate all institutional services in provided thereby to the developmentally disabled.

VI. CLASS ACTION ALLEGATIONS

41. Pursuant to Fed. R. Civ. P. 23(a), (b)(2), (b)(3) and (c)(4), the Class Representative Plaintiffs bring this action on behalf of themselves and all other persons similarly situated.

42. The proposed class consists of: All severe and profound developmentally delayed adult individuals who reside presently, or resided in the past, in a State Operated Developmental Center ("SODC") at any time since January 1, 2011, or at any time during this litigation, who

oppose any transfer from their SODC to a community housing setting (hereinafter collectively referenced as the "Plaintiff-Class Members").

43. Joinder of the entire Class is impracticable because the Plaintiff-Class Members are numerous, and are persons with severe or profound developmental disabilities. Virtually all Plaintiff-Class Members are unable to give their consent except through guardians or family members.

44. Plaintiffs' claims are typical of the claims asserted on behalf of the Class.

45. Plaintiffs do not have any interests that are adverse or antagonistic to any claims or potential claims of the Class.

46. Plaintiffs will fairly and adequately protect the interests of the members of the Class.

47. Plaintiffs are committed to the vigorous prosecution of this action and have retained counsel competent and experienced in this type of litigation.

48. Plaintiffs do not seek monetary damages. Hence, the burden and expense of prosecuting this litigation makes it unlikely that members of the Class would or could prosecute individual actions. If individual actions were pursued by Plaintiff-Class Members, prosecution of those individual claims would be impracticable and inefficient.

49. There are many questions of law and fact common to the Class, which predominate over any questions which may affect individual members. The predominant common questions of law and fact include, among other things:

(a) Whether Defendants are liable for violations of the Americans with Disabilities Act, 42 U.S.C. § 12132;

(b) Whether Defendants are liable for violation of § 504 of the Rehabilitation Act, 20 U.S.C. § 794 ("Section 504"), and the waiver of state sovereign immunity enacted in 42 U.S.C. § 2000d-7(a)(1);

(c) Whether Defendants are liable for violation of various Medicaid federal statutes and regulations incorporated into Illinois law;

(d) Whether Defendants are liable for violations of the Civil Rights Act, 42 U.S.C. § 1983;

(e) Whether Plaintiffs and Plaintiff-Class Members are entitled to equitable and injunctive relief.

50. A class action is superior to all other available methods for the fair and efficient adjudication of this controversy.

51. Plaintiffs seek declaratory and injunctive relief, attorneys' fees and expenses as permitted by law, on behalf of themselves and the Class.

VII. BACKGROUND FACTS

52. In February, 2012, as a means to contend with the State's $13 billion deficit, Governor Quinn announced his intention to close two SODCs by October 31, 2012 (the Jacksonville Developmental Center ("Jacksonville" or "JDC") in Jacksonville, Illinois), and by October 31, 2013 (Murray Developmental Center ("Murray" or "MDC") in Centralia, Illinois), and on information and belief, to close all remaining SODCs soon thereafter.

53. On June 14, 2012, Governor Quinn signed a package of legislation which included $1.6 billion worth of Medicaid cuts endangering the poorest and neediest of the State's residents, and in particular, individuals with severe and profound developmental disabilities.

54. The signing of the "Save Medicaid Access and Resources Together ("SMART") Act, Public Act 097-0689, slashed an annual $240 million that provided critical funding to State nursing homes and hospitals and results in the planned closure of SODCs in Illinois.

55. On October 30, 2012, the Illinois Health Facilities and Services Review Board ("IHFSRB"), over objections from the Individual Plaintiffs, and representatives of other

similarly situated individuals with developmental disabilities, and against the recommendations of IHFSRB's own staff, issued its decision to close JDC.

56. In the weeks that followed the decision, IDHS first requested and received an extension of the closure date from November 21, 2012 to December 3, 2012. Unable to meet even the revised closure date (by completing all the steps in its own process), IDHS instead fast-tracked the process to relocate all of the remaining JDC residents to other locations – despite having emphatically testified to the IHFSRB that the original November 21st closure date provided enough time and that if necessary, they were prepared to follow the IHFSRB's procedures to keep the facility open – with appropriate staff – as long as necessary to ensure the safe, sound and reasonable transitions.

57. Instead, IDHS abruptly moved 30+ residents, inclusive of the Individual Plaintiffs' and Plaintiffs' Class Members, to other SODCs in a matter of days prior to the December 3, 2012 closure, many as temporary admissions, thus ensuring continued infliction of transfer trauma in the future, when they will undoubtedly be moved again.

58. Critically, the budget cuts implemented as of July 1, 2012, have caused and will cause the eventual elimination of services for the Individual Plaintiffs and Plaintiffs' Class Members, as well as the imminent closure of all Illinois SODCs. Indeed, on information belief, it is the State's intention to close all of Illinois' SODCs despite the fact that Illinois residents now living in SODCs, inclusive of the Individual Plaintiffs' and Plaintiffs' Class Members, will have no appropriate placement.

59. In the absence of an injunction, the individual Plaintiffs and Plaintiffs' Class members will be irreparably harmed by the closure of SODCs. Many residents of SODCs, including the individual Plaintiffs and Plaintiffs' Class members, are incapable of living

independently in community-based settings. *See* Affidavits, attached as Group Exhibit B and incorporated herein by reference. Additionally, documents provided by the JDC Closure Advisory Committee indicate that as of mid-September 2012, 47 individuals, inclusive of the individual Plaintiffs and Plaintiffs' Class member, had been moved out of JDC. Among those 47, over a two month period there were 4 police encounters, or 8.5%. Over a 4 month period, there were 14 hospital admissions and/or ER visits-- nearly 30% of the transitioned.

60. The harm in this instance is particularly irreparable and imminent. On information and belief, the closure of JDC and the imminent closure of MDC show that Defendants plan is to push ahead to close all Illinois SODCs without adequate replacement services.

61. Services offered by the SODCs are necessary and critical to the residents' physical well-being. An interruption in care, even if temporary, is more likely than not to have serious consequences on the health and well-being of the profoundly disabled. While alternative services may be available to replace the SODC services at issue, Defendants have admitted that if their community-based placement fails, residents may have to seek services in other states and they (the Defendants), can only speculate about whether that State will be able to provide equivalent services as mandated by federal laws.

62. Defendants have not met their legal burden under applicable federal and state laws, as further detailed below, to ensure that more than a theoretical availability of replacement services will exist if they eliminate all SODC services. While Defendants' plan may provide some alternative services, CRA has not demonstrated that its community-based setting approach will be adequate for the severely and profoundly disabled in the following ways:

(a) Defendants have not demonstrated any assurance of an adequate transition of available and necessary services to Plaintiffs and others similarly situated, by transitioning to properly staffed and licensed homes;

(b) Defendants have not demonstrated that the State is able to, and will, provide equivalent or adequate local licensed providers in transitioning from SODCs to community settings;

(c) Defendants have not demonstrated that the State is able to, and will, inform Plaintiffs' guardians in advance of transition and, afterwards, provide Plaintiffs with a coordinated program of supervision in its plan for community placement. At best, Defendants have vaguely alluded to Plaintiffs' guardians that licensed and/or unlicensed providers will "come and go" as needed, not taking into account for the almost certain level of emergencies that will arise when individuals used to very strict regiments are placed in a freer less supervised setting;

(d) Defendants have not demonstrated that the State is able to, and will, accommodate Plaintiffs and others similarly situated with placement in an ICFDD, where following transition it is evident that they cannot survive and thrive in a community-based setting.

(e) Defendant has not demonstrated that the State is able to, and will, ensure that individuals who cannot survive and thrive in a community-based setting will have a safety net option to return to a facility with equivalent services in Illinois.

(f) Finally, Defendants have not demonstrated that the State is able to and will ensure that money will be available for the payment of the providers of such services in the community beyond one year after placement.

VIII. PLAINTIFFS' CLAIMS

COUNT I:
VIOLATION OF THE AMERICANS WITH DISABILITIES ACT OF 1990, as amended
(Against all Defendants)

63. The Individual Plaintiffs and Plaintiff-Class members incorporate by reference the allegations in paragraphs 1-62 of the Second Amended Complaint, above, as if set forth in Count I.

64. The ADA was enacted 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)(I)). 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).

65. The Defendants' plan violates the Title II of the ADA as follows: (1) Defendants are discriminating against the Individual Plaintiffs, as well as the Plaintiff-Class Members, as illustrated in the attached Plaintiffs' Affidavits attached as Group Exhibit B and incorporated herein by reference, by targeting developmental disabilities for greater reductions in funding than other disabilities; (2) Defendants are preventing the Individual Plaintiffs, as well as the Plaintiff-Class Members, as illustrated in the attached Plaintiffs' Affidavits attached as Group Exhibit B and incorporated herein by reference from receiving services that are as effective as those provided to individuals with other disabilities; (3) Defendants' reduced funding creates a substantial risk that the Individual Plaintiffs, as well as the Plaintiff-Class Members, as illustrated in the attached Plaintiffs' Affidavits attached as Group Exhibit B and incorporated herein by reference, will not be able to live safely in "the most integrated setting;" and (4) Defendants are limiting the number of accessible community residential settings available to the non-ambulatory Individual Plaintiffs and the Plaintiff-Class Members.

66. Defendants' closure of the SODCs leaves Plaintiffs with no comparable and appropriate choice for the safety-net services provided by SODCs. Indeed, the complete closure of all SODCs evidences the Defendants illegal intent and practice to presumptively and unilaterally conclude that all of the Individual Plaintiffs and Plaintiff-Class Members are eligible for community-based placement, rather than services that may only be offered adequately for each individually assessed Plaintiff through an SODC setting.

67. To that end, the Defendants have already closed SODCs in which some of the Individual Plaintiffs and Plaintiff-Class Members previously resided, and continue to do so pursuant to the State's Plan, currently focused on closing MDC, without the construct or implementation of any meaningful and effective process consideration of individualized assessments of their individual service needs.

68. Defendants have proposed, and are currently utilizing at MDC, a purported "assessment process," which on its face is entirely inadequate and incapable of a meaningful and effective implementation with respect to the Individual Plaintiffs and the Plaintiff-Class Members, all of whom are adults with profound developmental disabilities that render them cognitively in the age-range of infant-toddlers or, at best, a young children.

69. The inherent flaw in Defendants' purported assessment process is illustrated as follows: A January 3, 2012 email communication from Mark Doyle ("Doyle"), Transition of Care Project Manager, Office of the Governor, JRTC, to Plaintiff-guardian, Rita Winkeler, described the State's purported assessment process as designed to gain an "understanding of individuals' strengths, desires, hopes and aspirations" and to "maximiz[e] opportunities for individuals to function with as much independence and self-determination as possible." Email dated January 3, 2012, from M. Doyle to R. Winkeler, Attached at Exhibit C hereto and incorporated herein by reference.

70. Further, the January 3, 2012 Doyle email communication from Doyle to Plaintiff-guardian Rita Winkeler provided that the Defendants' assessment process envisions communications with the disabled individual to "learn about their fears, successes and failures. What works and does not work for the persons. Their preference and interest or what excites them." *Id.* The Doyle email also described the goal of the assessment process as "designing the

appropriate supports they will need to be successful and have a fulfilling life in the community." *Id.* This boilerplate descriptive language describing the State's purported assessment process is completely antithetical to the characteristics of profound developmental disabilities with which the Individual Plaintiffs and the Plaintiff-Class Members present. Importantly, by direct result of the specific services rendered through the State-operated SOCDs, the Defendants know of, and have known for some time pre-dating creation of the assessment process, the overall severe and profound diminished cognitive capacity of the Individual Plaintiffs and Plaintiff-Class Members.

71. Notably, a majority of the Individual Plaintiffs and Plaintiff-Class Members are non-communicative verbally, and/or in some cases non-verbally, as well as immobile in some cases, and are far from having the cognitive abilities it would take to live independently (or even semi-independently) or to progress through "self-determination" to have a "fulfilling life in the community." Defendants' proposed closure of SODCs without a meaningful and effective assessment process, or appropriate replacement services, is poorly conceived, reckless and violates Title II of the ADA (42 U.S.C. § 12132) by placing individuals with severe and profound developmental disabilities at unnecessary risk of hospitalization, injury or death.

72. Moreover, closure of SODCs without the development of a meaningful and effective quality of services assessment or process for appeal additionally violates the ADA Title II. The Defendants cannot demonstrate by any objective measure that the Individual Plaintiffs or Plaintiff-Class Members who were or are residents of SODCs will receive equivalent services in the proposed community based placements. The Defendants' plan as carried out by CRA does not guarantee equivalent services or adequate replacement services for the severely and profoundly developmentally disabled because its core strategic priority is flawed – that an integrated setting (community-based placement) is appropriate regardless of the intensity of the

individual's disabilities or the severity of his or her needs. Across-the-board reduction in services attendant to the closure of the SODCs, without provision for adequate replacement services, will unlawfully and irreparably harm the Individual Plaintiffs and Plaintiff-Class Members. Moreover, the Individual Plaintiffs' and Plaintiff-Class Members' severe and profound developmental and related medical conditions, even temporary gaps in service could present serious consequences for them and place them at great risk of hospitalization, injury or death.

73. Additionally, the Defendants have not specified to the Individual Plaintiffs' guardians, despite inquiries, or to the guardians of Plaintiff-Class Members, what services will remain available to them upon transfer from SODCs should the community-based setting approach not work. In fact, there has been no informed choice or consent to any transfer or revision of services to the Individual Plaintiffs or Plaintiff-Class Members in regard to closing the SODCs and the transition to community care based settings. Instead, Defendants have pressured Plaintiffs' guardians to sign consents allowing for hurried, secretive and perfunctory evaluations for placement in the community. In cases where the guardian has refused such a questionable evaluation process and protocol, the Defendants have indicated that CRA will choose the placement, completely taking the parent or guardian out of the process, in violation of federal law which guarantees that the parent or guardian must approve the choice of placement. *See* Affidavits, attached as Group Exhibit B and incorporated herein by reference.

74. For example, despite legal requirements that the State inform guardians about the adequacy of the disabled Individual Plaintiffs' and Plaintiff-Class Members' service options in the community setting, their respective guardians have been told by Defendant CRA that they cannot choose another SODC in lieu of transition to the community setting. *See* Affidavits,

attached as Group Exhibit B and incorporated herein by reference. Moreover, Plaintiffs' guardians have received little assistance, if any, if they choose a private ICF/DD setting. *Id.* Those guardians have had to find an ICF/DD on their own, which is almost impossible because ICF/DDs cannot, or will not, admit individuals with severe and profound disabilities who are currently being treated in SODCs in Illinois. Guardians have received documents from the PAS agency for their signature where the "choice" box is pre-checked for "community." *Id.* Some guardians have been told that SODC or ICF/DD placement may be provided somewhere a great distance away from their family. *Id.*

WHEREFORE, the Individual Plaintiffs and Plaintiff-Class Members respectfully request that this Court, in due course, issue orders of declaratory relief, as well as preliminary and permanent injunctive relief, in favor of the Plaintiffs as follows:

(a) Declaration that the Defendants collectively violated the Americans with Disabilities Act of 1990, as amended, in the manner by which they have commenced to implement the State's Plan to transition the profoundly disabled Plaintiffs from SODCs to community based residential settings without ensuring the adequacy of transitioned medically necessary services;

(b) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, shall be enjoined and restrained from implementing or enforcing the closure of SODCs, or reducing, terminating or modifying SODC services, unless or until equivalent, appropriate replacement services are provided to prevent inappropriate hospitalization, injury or death to residents in violation of the developmentally disabled residents' rights under federal and state laws.

(c) Defendants, Governor Patrick Quinn Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, be ordered to:

(i) Take all actions necessary within the scope of their authority to implement the preliminary and permanent Injunctive orders;

(ii) Provide prompt notice to all SODCs of the terms of the preliminary and permanent injunctive orders;

(iii) Provide prompt notice to all residents of SODCs, their families and guardians, of the terms of the preliminary and permanent injunctive orders; and

(iv) For attorneys' fees and costs, as well as such other relief as this Court deems just and proper.

COUNT II:
VIOLATION OF SECTION 504 OF THE REHABILITATION ACT, 29 U.S.C. § 794
(Against all Defendants)

75. The Individual Plaintiffs and Plaintiff-Class Members incorporate by reference the allegations in paragraphs 1-74 of the Second Amended Complaint, above, as if set forth in Count II.

76. Section 504 prohibits discrimination against individuals with disabilities by any program or activity, including any department or agency of a State government, receiving Federal financial assistance. 29 U.S.C.§ 794(a) and (b). "No otherwise qualified individual with a disability . . . shall, solely by reason of her or his disability, be excluded from participation in, be denied the benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance. . . ." 29 U.S.C. § 794; 45 C.F.R. §§ 84.4(a), 84.4(b) (1) (i), (iv) and (v99); 84.4(b) (2); 84.52(a)(1), (4) and (5).

77. Section 504 requires that state and local governments afford protected individuals with disabilities related services, programs and activities in "the most integrated setting appropriate to the needs of qualified individuals with disabilities." 28 C.F.R. § 45.51(d) (emphasis added). That is, federally funded state governments and agencies must make reasonable modifications to policies, practices and procedures to avoid discrimination on the

basis of disability, including the elimination of services deemed necessary and appropriate to meet the needs of the qualified individual with disabilities. 29 U.S.C.§ 794(a).

78. Similar to violations under the ADA, as set forth above, the Defendants' plan violates Section 504 of the Rehabilitation Act: (1) Defendants are discriminating against the Individual Plaintiffs, as well as the Plaintiff-Class Members, as illustrated in the attached Plaintiffs' Affidavits, attached as Group Exhibit B and incorporated herein by reference, by targeting developmental disabilities for greater reductions in funding than other disabilities; (2) Defendants are preventing the Individual Plaintiffs, as well as the Plaintiff-Class Members, as illustrated in the attached Plaintiffs' Affidavits attached as Group Exhibit B and incorporated herein by reference, from receiving services that are as effective as those provided to individuals with other disabilities; (3) Defendants' reduced funding creates a substantial risk that the Individual Plaintiffs, as well as the Plaintiff-Class Members, as illustrated in the attached Plaintiffs' Affidavits attached as Group Exhibit B and incorporated herein by reference, will not be able to live in "the most integrated setting;" and (4) Defendants are limiting the number of accessible community residential settings available to the non-ambulatory Individual Plaintiffs and the Plaintiff-Class Members.

WHEREFORE, The Individual Plaintiffs and Plaintiff-Class Members respectfully request that this Court, in due course, issue orders of declaratory relief, as well as preliminary and permanent injunctive relief, in favor of the Plaintiffs as follows:

(a) Declaration that the Defendants collectively violated Section 504 of the Rehabilitation Act, in the manner by which they have commenced to implement the State's Plan to transition the profoundly disabled Plaintiffs from SODCs to community based residential settings without ensuring the adequacy of transitioned medically necessary services;

(b) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, shall be enjoined and restrained from implementing or enforcing the closure of SODCs, or reducing, terminating or modifying SODC services, unless or until equivalent, appropriate replacement services are provided to prevent inappropriate hospitalization, injury or death to residents in violation of the developmentally disabled residents' rights under federal and state laws.

(c) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, be ordered to:

(i) Take all actions necessary within the scope of their authority to implement the preliminary and permanent Injunctive orders;

(ii) Provide prompt notice to all SODCs of the terms of the preliminary and permanent injunctive orders;

(iii) Provide prompt notice to all residents of SODCs, their families and guardians, of the terms of the preliminary and permanent injunctive orders; and

(iv) For attorneys' fees and costs, as well as such other relief as this Court deems just and proper.

COUNT III:
VIOLATION OF FEDERALLY RECOGNIZED OLMSTEAD PROVISIONS FOR INTEGRATED COMMUNITY SERVICES
(Against all Defendants)

79. The Individual Plaintiffs and Plaintiff-Class Members incorporate by reference the allegations in paragraphs 1-78 of the Second Amended Complaint, above, as if set forth in Count III.

80. The United States Supreme Court held in *Olmstead v. L.C.*, 527 U.S. 581 (1999) that public entities are required to provide community-based services to persons with disabilities when (a) such services are appropriate; (b) the affected persons do not oppose community-based

treatment; and (c) community-based services 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.

81. Defendants have not demonstrated through an informed consent to the guardians of the Individual Plaintiffs or the Plaintiff-Class Members, that the State's community-based setting approach will be adequate or appropriate for the Individual Plaintiffs or Plaintiff-Class Members who are severely and profoundly developmentally disabled. That is:

(a) Defendants have not demonstrated any assurance of an adequate transition of available and necessary services to the Individual Plaintiffs' or Plaintiff-Class Members' by transitioning to properly staffed and licensed homes;

(b) Defendants have not demonstrated that the State it is able to, and will, provide equivalent or adequate local licensed providers in transitioning from SODCs to community settings;

(c) Defendants have not demonstrated that the State is able to, and will, inform the guardians of the Individual Plaintiffs or Plaintiff-Class Members' in advance of transition and, afterwards, provide them with a coordinated program of supervision in its plan for community placement. At best, Defendants have vaguely alluded to the guardians that licensed and/or unlicensed providers will "come and go" as needed, not taking into account for the almost certain level of emergencies that will arise when individuals used to very strict regiments are placed in a freer less supervised setting;

(d) Defendants have not demonstrated that the State is able to, and will, accommodate the Individual Plaintiffs or Plaintiff-Class Members with placements in an ICFDD, where following transition it is evident that they cannot survive and thrive in a community-based setting.

(e) Defendants have not demonstrated that the State is able to, and will, ensure that Individual Plaintiffs of Plaintiff-Class Members who cannot survive and thrive in a community-based setting will have a safety net option to return to a facility with equivalent services in Illinois.

(f) Defendants have not demonstrated that the State is able to and will ensure that money will be available for the payment of the providers of such services in the community beyond one year after placement.

(g) Defendants also have not, and cannot, demonstrate that the profoundly disabled Individual Plaintiffs or Plaintiff-Class Members, by and through their respective parents or guardians, do not oppose community-based treatment. Indeed, some or all of the guardians were not afforded a meaningful or fully informed opportunity for choice. *See* Affidavits, attached as Group Exhibit B and incorporated herein by reference.

(h) Defendants have not, and cannot, demonstrate that medically necessary services for the profoundly disabled Plaintiffs, and others similarly situated, may be transitioned or otherwise reasonably accommodated in transition from the SODCs to community settings, taking into account the resources available to the State and the needs of others who are receiving disability services from the State.

WHEREFORE, the Individual Plaintiffs and the Plaintiff-Class Members respectfully requests that this Court, in due course, issue orders of declaratory relief, as well as preliminary and permanent injunctive relief, in favor of the Plaintiffs as follows:

(a) Declaration that the Defendants collectively violated the mandate set forth by the United States Supreme Court in *Olmstead v. L.C.*, 527 U.S. 581 (1999), that public entities are required to demonstrate compliance with the following prerequisites before a disabled individual may be transitioned from an institutionalized residential setting to a community-based setting for services: (i) informing the disabled person or the guardian that such services are appropriate; (ii) affording the disabled person or the guardian a choice of whether to accept or oppose community-based treatment; and (iii) evidencing that community-based services can be reasonably accommodated, taking into account the resources available and the needs of others who are receiving disability services from the public entity.

(b) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, shall be enjoined and restrained from implementing or enforcing the closure of SODCs, or reducing, terminating or modifying SODC services, unless or until equivalent, appropriate informed consent as to replacement services are provided to the Individual Plaintiffs' and Plaintiff-Class Members' guardians to prevent inappropriate hospitalization, injury or death to residents in violation of the developmentally disabled residents' rights under federal and state laws.

(c) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, be ordered to:

(i) Take all actions necessary within the scope of their authority to implement the preliminary and permanent Injunctive orders;

(ii) Provide prompt notice to all SODCs of the terms of the preliminary and permanent injunctive orders;

(iii) Provide prompt notice to all residents of SODCs, their families and guardians, of the terms of the preliminary and permanent injunctive orders; and

(iv) For such other relief as this Court deems just and proper.

COUNT IV:
42 U.S.C. §1983-DEPRIVATION OF EQUAL PROTECTION
(Against All; Defendants)

82. The Individual Plaintiffs and Plaintiff-Class Members incorporate by reference the allegations in paragraphs 1-81 of the Second Amended Complaint, above, as if set forth in Count IV.

83. Individual Plaintiffs, as the representatives of Plaintiffs' Class Members, are entitled to assert the individual constitutional and statutory rights of Plaintiffs' Class Members with respect to the harm and injuries suffered as a result of Defendants' actions.

84. At all times relevant, Defendants were acting under color of state law.

85. Defendants' discriminatory actions, against the Individual Plaintiffs and the Plaintiffs' Class Members, were taken pursuant to Defendants' custom, policy or practice.

86. By virtue of the actions set forth above, in implementing the closure of SODCs and the transfer of Individual Plaintiffs and Plaintiffs' Class Members to residential community settings, the Defendants have acted under color of law to deprive the Individual Plaintiffs and the Plaintiffs' Class Members of their civil rights to receive equal medical services in a manner consistent with the equal protection clause of fourteenth amendment in violation of 42 U.S.C. § 1983.

87. By depriving the Individual Plaintiffs and the Plaintiff-Class Members of their rights to equal protection and treating them differently than others who receive medical services from and through the State of Illinois funding, the Defendants have deliberately and intentionally violated the Individual Plaintiffs' and the Plaintiff-Class Members' rights guaranteed by the Fourteenth Amendment to the Constitution of the United States.

88. The Individual Plaintiffs and the Plaintiff-Class Members have suffered damages as a result of Defendants' discriminatory actions, including but not limited to loss of medically

necessary services in a facility (SODC) that is adequately equipped and staffed to provide the necessary services.

89. The Defendants will continue such unlawful deprivation of equal rights in the future unless and until restrained by this Court.

WHEREFORE, the Individual Plaintiffs and Plaintiff-Class Members respectfully request that this Court issue orders of declaratory relief, as well as preliminary and permanent injunctive relief, in favor of the Plaintiffs as follows:

(a) Declaration that the Defendants collectively violated the rights of the Individual Plaintiffs and Plaintiff-Class Members under 42 U.S.C. § 1983 in the manner by which they have commenced to implement the State's Plan to transition the profoundly disabled Individual Plaintiffs and Plaintiff-Class Members from SODCs to community based residential settings without ensuring the adequacy of transitioned medically necessary services;

(b) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, shall be enjoined and restrained from implementing or enforcing the closure of SODCs, or reducing, terminating or modifying SODC services, unless or until equivalent, appropriate replacement services are provided to prevent inappropriate hospitalization, injury or death to residents in violation of the developmentally disabled residents' rights under federal and state laws.

(c) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, be ordered to:

(i) Take all actions necessary within the scope of their authority to implement the preliminary and permanent Injunctive orders;

(ii) Provide prompt notice to all SODCs of the terms of the preliminary and permanent injunctive orders;

(iii) Provide prompt notice to all residents of SODCs, their families and guardians, of the terms of the preliminary and permanent injunctive orders; and

(iv) For attorneys' fees and costs, as well as such other relief as this Court deems just and proper.

COUNT V:
VIOLATION OF FEDERAL & STATE LAWS PERTAINING TO MEDICAID
(Against All Defendants)

90. The Individual Plaintiffs and Plaintiff-Class Members incorporate by reference the allegations in paragraphs 1-89 of the Second Amended Complaint, above, as if set forth in Count V.

91. Medicaid is a cooperative federal-state program designed to cover necessary medical services for poor people. Participation in the Medicaid program is not mandatory for the states, but once they choose to participate, they must operate their programs in conformity with federal statutory and regulatory requirements. 42 U.S.C. § 1396a.

92. Each state choosing to participate in the Medicaid Program must designate a single state agency which is responsible for administering the Program. 42 U.S.C. § 1396a (a) (5).

93. Medicaid law requires choice. The receipt of Medicaid funding is contingent upon a state offering choice of ICFs/MR or Home and Community Based Services ("HCBS") waivers. A Medicaid HCBS waiver shall not be granted unless the state provides satisfactory assurances that:

> [S]uch individuals who are determined to be likely to require the level of care provided in a hospital, nursing facility or intermediate care facility for the mentally retarded are informed of the feasible alternatives, if available under the waiver, at the choice of such individuals, to the provision of inpatient hospital, nursing facility services or services in an intermediate care facility for the mentally retarded.

42 U.S.C. § 1396n(c)(2)(C).

94. When a recipient is determined to be likely to require the level of care provided in an ICF/MR, the recipient or his or her legal representative must be:

> (1) Informed of any feasible alternatives available under the waiver, and (2) Given the choice of either institutional or home and community-based services.

42 C.F.R. § 441.302.

95. The Plan must furnish CMS with sufficient information to support assurances required by § 441.302, including its "plan for informing eligible recipients of the feasible alternatives...institutional services or home and community-based services." 42 C.F.R. § 441.303(d).

96. Illinois has provided the required assurances to receive HBSC waivers under Medicaid in the Illinois Administrative Code:

> **Section 120.80 Program assurances**
>
> In addition to program requirements specified in other Sections of this Part, assurances for the Medicaid home and community-based services waiver program will include:
>
> ****
>
> b) Informing individuals of choice
>
> All individuals requesting program services shall be given a choice of alternative services through the PASARR process. The choice shall include both ICF/MR and community-based services.

59 Illinois Admin. Code § 120.80.

Additionally, the Illinois Administrative Code's eligibility determinations for its Medicare home and community-based services waiver program provides:

> **Section 120.150 Eligibility determination**
>
> ****

> c) Individuals or guardians shall be given the choice of receiving State-operated developmental center, community ICF/MR or Medicaid home and community-based services.

59 Ill. Admin. Code § 120.150.

In accordance with 42 U.S.C. § 1396n(c)(2)(C) and 42 C.F.R. § 441.302, Illinois gave the required assurances to CMS in its Application for the HCBS Waiver:

> **D. Choice of Alternatives:** The State assures that when an individual is determined to be likely to require the level of care specified for this waiver and is in a target group specified in **Appendix B**, the individual (or, legal representative, if applicable) is:
>
> 1. Informed of any feasible alternatives under the waiver; and,
>
> 2. Given the choice of either institutional or home and community-based waiver services.
>
> **Appendix B** specifies the procedures that the State employs to ensure that individuals are informed of feasible alternatives under the waiver and given the choice of institutional or home and community-based waiver services.

97. Here, Defendants have not demonstrated that the Plan to close all SODCs provided any informed choice whatsoever the Individual Plaintiffs' or Plaintiff-Class members' guardians.

98. The Plan, as proposed (and as implemented in the closure of JDC) does not give the Individual Plaintiffs or Plaintiff-Class Members the legally requisite choice—rather it forces all SODC residents to transfer to community-based homes. Thus, the Plan to close the SODCs without adequate information and support requirements, and without appropriate consultations and choice, directly violates Federal Medicaid Program laws and Illinois State regulatory laws related thereto.

WHEREFORE, the Individual Plaintiffs and Plaintiff-Class members respectfully request that this Court, in due course, issue orders of declaratory relief, as well as preliminary and permanent injunctive relief, in favor of the Plaintiffs as follows:

(d) Declaration that the Defendants collectively violated the aforementioned Federal Medicaid Program laws and state law requiring the demonstration of "appropriate [services] consistent with the habilitation needs" of the resident in effecting transition of services to the disabled, see 405 ILCS 5/4-702d (a); and, further, Defendants collectively violated the aforementioned Federal Medicaid Program laws and state law requiring that "[i]ndividuals or guardians shall be given the choice of receiving State-operated developmental center, community ICF/MR or Medicaid home and community-based services." 59 Ill. Adm. Code 120.150 (c).

(e) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, shall be enjoined and restrained from implementing or enforcing the closure of SODCs, or reducing, terminating or modifying SODC services, unless or until equivalent, appropriate replacement services are provided to prevent inappropriate hospitalization, injury or death to residents in violation of the developmentally disabled residents' rights under federal and state laws.

(f) Defendants, Governor Patrick Quinn, Department of Human Services, and its Secretary, Michelle R.B. Saddler, and its Director of Developmental Disabilities, Kevin Casey and CRA, including their successors, agents, officers, servants, employees, attorneys and representatives and all persons acting in concert or participating with them, be ordered to:

(i) Take all actions necessary within the scope of their authority to implement the preliminary and permanent Injunctive orders;

(ii) Provide prompt notice to all SODCs of the terms of the preliminary and permanent injunctive orders;

(iii) Provide prompt notice to all residents of SODCs, their families and guardians, of the terms of the preliminary and permanent injunctive orders; and

(iv) For attorneys' fees and costs, as well as such other relief as this Court deems just and proper.

DATED: May 13, 2013

PLAINTIFFS,
ILLINOIS LEAGUE OF ADVOCATES FOR THE DEVELOPMENTALLY DISABLED; MURRAY PARENTS ASSOCIATION, INC.: INDIVIDUALLY AND ON BEHALF OF ALL PERSONS SIMILARLY SITUATED: RITA WINKELER, KAREN KELLY, LAUREEN STENGLER, STAN KRAINSKI, ELIZABETH GERSBACHER, BARBARA COZZONE-ACHINO, ROBYN PANNIER, JEANNIE L. WILLIAMS, DAVID IACONO-HARRIS, DR. ROBERT POKORNY, and GAIL K. MYERS

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SODC IMPLEMENTATION OUTLINE & KEY FEATURES
PLAN ELABORATION

February 6, 2012

ILLINOIS DEPARTMENT OF HUMAN SERVICES
DIVISION ON DEVELOPMENTAL DISABILITIES

ALL-STATE LEGAL
PETITIONER'S EXHIBIT
B

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A. Resident Needs Evaluation Flow Chart
B. Request for Information & Request for Application Flow Chart
C. Person Specific Transition Plan Process Flow Chart
D. DHS Announcement Letter January 26, 2012
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SODC Implementation Outline & Key Features
Plan Elaboration

I. Scope of Service

Utilizing an Independent Person-Centered approach is critical to securing critical information for planning for the transition of care of the individual into the community; securing critical clinical information and various additional assessments; develop and coordinate individuals' transition plans to alternative services; in ensuring successful transitions to new community residential settings; supporting the families/guardians involvement through this stressful and major life change placement; and formal resident follow up/monitoring of the transition of care.

Among the numerous challenges faced in this process is the need to do simultaneous service and support design and implementation necessary to enable transition on a person-specific basis. At the same time it is necessary to correct and/or mitigate identified deficiencies within the overall transition/service system and developing services and supports which will be necessary for long-term success and which do not currently exist in many locations. The goals are not limited to simply the number of people transitioned.

Rather, the goals include the improved quality of lives for the people transitioned, the improved quality and capacity of the community, and creating a culture shift that manifests in both the clinical and supports realm, but also in the attitudes and behaviors of those providing those supports and services. We believe that when people actively embrace the community, such as demonstrated in the 5 Star Quality Model (see Appendix 1), the above not only can happen, but will happen.

Person-Centered Approach Responsibilities

1. Conduct Independent Person-Centered Assessment and Planning Process for each SODC resident to secure critical information for planning for the transition of care of the individual into the community.

Secure Critical Clinical Information & Additional Assessments

2. Gather clinical information from SODC staff & prepare Clinical Transition Plan
    a. Electronic entering into Clinical Transition Plan
    b. Clinical data entered into database

3. Arrange & secure additional necessary independent assessments as part of the Resident Needs Evaluation
    a. Medical, Dental, Psycho-pharmacologic, and Psychiatric Assessments
    b. Psycho-Social Assessment
    c. Communication Assessment
    d. Physical Therapy Assessment
    e. Occupational Therapy Assessment
    f. Sensory Integration Assessment
    g. Other as determined necessary

SODC Implementation Outline & Key Features
Plan Elaboration

Develop and Coordinate Individuals' Transition Plans

4. Gather critical resident independent evaluation information for planning and preparing Transition Plans.
    a. Person-centered descriptions from Person-Centered Assessment and Planning Process
    b. Clinical Transition Plan
    c. Various needs assessments

5. Draft Transition Plans for transition of care

Ensuring Successful Transitions to New Residential Settings

6. Collaborate with the Illinois Association of Microboards and Cooperatives in supporting Resident/Families/Guardian interest in forming a Microboard that assists the resident in exerting greater control over their day-to-day lives. This is done with the recognition that this is difficult to do fast but is a necessary element for some individuals to experience the success that is desired for them.

7. Collaborate with affordable housing options to maximize the ability of providers to separate services from supports whenever possible.

8. Referral/Shopping – Establish and initiate RFI/RFA process with providers of multiple types to determine their interest in meeting the needs of the individuals who will be transitioning, their capacity to do so, and their willingness to meet the transition process criteria.

9. Review formal proposals to serve SODC resident from interested providers
    a. Work with specific interested providers to establish potential service and support plans as individuals and/or their families/guardians express interest.
    a, Upon selection by an individual transitioning, negotiate person-specific proposed service and support plan.
    b. Compare proposed services and supports to person-centered description and corresponding plan.
    c. Verify proposed services are acceptable to the individual and/or families/guardian.
    d. Compare proposed costs with needs and what is budgeted and negotiate a proposed support financial structure/rate and submit to DHS for approval.

Extended information regarding the proposed process and criteria is available in Appendix 4

10. Acceptance of proposed service – facilitate agreement between the individual/family and the provider and the state.

11. Facilitate implementation of individual Transition Plans and SODC resident transition of care.

SODC Implementation Outline & Key Features
Plan Elaboration

Family Liaison to Provide Family-to-Family Support

12. Community Resource Associates (CRA) is aware of the extensive efforts of the advocacy community in Illinois, including those of the Arc of Illinois. It is CRA's intention to fully collaborate with these organizations in their current efforts and to build off of the foundations they have laid to achieve the best possible outcomes for the individuals and their families.

13. Listen to, and document, the Guardian/Family concerns about community living for their relative in public and private meetings. We believe that Families and Guardians are an integral part of the project and must be included and listened to from the very beginning. We will work closely with Families/Guardians and others to ensure the highest degree and involvement at every step of the process.

14. Attempt to address these concerns in the process of developing the transition and long-term Person-Centered support plan. This will be incorporated into a "running list" and can be used to help with the quality/monitoring follow- up for each person (i.e., were we able to clearly address and mitigate the family's concern).

15. Whenever possible work with other stakeholders and identified family transition support experts within Illinois to facilitate appropriate supports for the family/guardian. This will be especially important as CRA attempts to manage concerns of "moving too fast", etc.

16. Actively seek the involvement of other stakeholders, including but not limited to: ARC, Family Support Network, The Institute on Public Policy, IARF, Don Moss, and Independent Living Council and others to obtain feedback guidance, and support at every step of the way.

17. Share information about the kinds of services that are available outside the SODC. This will be done both in discussions as well as via electronic media, such as the Illinois Life Span Project.

18. Arrange for Guardian/Family and, as possible, the individual, to be accompanied on a preliminary visit to see what a functioning Community Integrated Living Arrangement (CILA) is like and how it can be customized to meet the needs of the individuals living there.

Formal Follow Up/ Monitoring

19. Participate in weekly face-to-face visits for the first 8 weeks and monthly face-to-face visits after the first 8 weeks for the first year.

20. Encourage and facilitate, as is possible, monthly contacts with guardian/family members for the first year after transfer.

SODC Implementation Outline & Key Features
Plan Elaboration

II. General Services:

CRA will conduct assessments for the purpose of making determinations of service needs of the individuals to be transitioned. CRA will also evaluate potential sub-contractors/service providers.

CRA is expected to contract with the most competent individuals who embrace the values and goals of this project, available for the services and supports they are to provide under this agreement. While there is a clear preference to use individuals from Illinois when they meet the above standard whenever possible, CRA is free to contract with and/or employ whomever they believe is most appropriate for their needs in keeping with the goals of this project.

At every step of the way, a major criteria for contracting and/or for recommendation of specific provider, is the adherence to the stated values outlined by the Governor and embraced by CRA in this proposal.

CRA will actively collaborate with the SODC Transition Work Groups as is determined appropriate by Mr. Casey, Mr. Doyle, and Mr. Turner to the fullest extent possible.

Further, CRA will attempt to identify those state employees that are considered excellent that CRA would like to have involved on a more regular basis. State personnel will make every effort to facilitate this process to the benefit of the employee and the project.

III. Developing Person Centered Plans

CRA accepts and supports the decision of the State of Illinois to use several different approaches to develop person-center plans and the related transition plans that will be developed for individuals.

Families and consumers will be given the greatest degree of control possible over how their planning is completed (able to select an approach they want, etc.). CRA will be responsible for coordinating the availability and utilization of these approaches. CRA will immediately work to develop and maintain a website with the capacity to have information related to each approved/endorsed person-centered planning (PCP) format.

CRA intends to initiate the implementation of the PCP process throughout the course of this initiative. It is CRA's intention to address the training needs directly and immediately associated with the SODC Transition of Care initiative at the local level. If requested, and sufficient funds are available, CRA is willing to expand these plans to offer Person-Centered Planning training to a wider audience.

More detailed information about Person Centered Approach approaches endorsed in this process is provided in Appendix 2.

CRA will recommend levels of support needed based on data/assessments, suggested providers, and rates etc., but the final decision will be made by DHS in order make sure that there is not a conflict of interest or perceived collusion or favoritism toward any provider(s). CRA will make every effort to provide objective data to validate the recommended levels of support.

CRA and DHS agree that time is of the essence regarding providers selected, establishing budgets and rates for services, initiating supports that have been determined as necessary and appropriate, and related issues. Consequently, within 72 hours of receiving a proposed plan, CRA Senior Partner Mike Mayer, has agreed to personally review every plan before it is submitted to Kevin Casey to be certain that nothing that is needed to address the needs of the individual is missed. All parties agree that we will make every effort to expedite this process and prevent actions which hinder this process.

Please see Appendix 3 for information related to the operational principles and values associated with the implementation of this process.

Further, every single person supported will have a final review by Kevin Casey or his designee before a final provider is selected or rates for service are determined for each individual person. Again, every attempt will be made to complete this review within 72 hours of having received it from Mike Mayer.

This effort is to make every reasonable effort to assure that at least two people have the overall perspective of what is being designed for each person – with the hope that we can minimize any chance of missing some significant issues, which could have major negative consequences in a timely manner.

IV. Providers/Service

CRA will ask interested providers to engage in an RFI/RFA type process following several presentations regarding what is needed/expected for RFA, etc. across the state (it will be recorded and placed on our YouTube channel via our new website as well). This will also give the providers a chance to ask important questions that can be addressed prior to their submission of their RFI/RFA response.

The responses to the RFI initially will be via paper/email response but eventually via a web-based submission. This will allow CRA to have a database of willing and able providers, etc. that agree to meet the criteria that we have established for acceptable providers, including working with CRA to implement the Person-Centered Plan. Additionally, providers will be expected to agree to embrace the "5 Star Quality Model" for community engagement for the individuals to be served.

The RFI/RFA process will also provide an initial assessment of the capacity of interested providers to meet the needs of the identified individuals. We can use this information to

complete a "gaps analysis" to determine which types of services/providers will be needed to foster/develop/recruit to meet the remaining need. This must be developed and implemented at the earliest possible opportunity.

Each PCP will specifically include efforts to help establish unpaid and desired linkages into the community.

People who have IDD who want to live in their own homes ("homes" shall always be inclusive of apartments, townhomes, and similar locations when used within this document), with up to two additional individuals who have disabilities should not be required to have licensure for their home.

CRA will not transition individuals into community settings greater than four persons, with a clear preference for a maximum of 2. When an individual or guardian will not approve community placement and the move is required by the State, the State will attempt to identify an individual from the receiving facility who would like to move into the community in that person's place. CRA will not be responsible for transitions to another SODC, but will coordinate and consider its responsibility to transition the individual who is now slated for community placement.

Further, every effort will be made to collaborate with Home First Illinois and other affordable housing options to help make it clear that services and supports separated from housing is the clearly preferred option. Providers who adopt this principle will be given preference over others.

CRA will make every effort to find providers willing to support individuals being transitioned in non-congregate day services/workshops, with a clear preference for paid supported employment, or other inclusive options as the first and preferred option in all cases.

Service Coordination and related Social Work services must be active and ongoing and must be willing to work with all due speed to facilitate the movement of individuals. The State will clearly communicate this expectation to the providers of Service Coordination and related Social Work services and will facilitate expedited engagement and dispositions to the full extent that they are expected.

V. Assessments

It is critical that all assessments must meet two primary criteria:

1. Assessments are independently completed by competent professionals, and;
2. Assessments must be functional in nature – ***"What do we need to do to help them be successful in the community?"*** is the question to be answered.

To achieve the above criteria, CRA will manage the format and providers through selection and/or direct contract. All providers of assessments will agree to the functional nature and presume the need for success in the community. Likewise, CRA will decide which assessments are required as virtually no one should need all of them. CRA will also create an internal "checks and balance" system to assure that no need that should be caught gets missed in this process.

CRA understands that in some situations there will be a need to arrange for contract clinicians with specialized expertise, especially for those who have challenging health and/or behavioral health concerns.

It is CRA's intention to develop web-based clinical assessment reporting capabilities and a related clinical database. This information should then be used with the web-based clinical transition plan process. Further, CRA intends to create and use a new "transition plans database" to assure all needs are addressed in the assessment and planning process.

VI. Community Service Development

Availability of acute and chronic/ongoing services for those who need them is undetermined but historically considered low outside of major metro areas and requires:

1. Clinical services for people with significant health issues clinical support for people with challenging behaviors/mental illness
2. Availability of competent psychiatric services in areas of SODCs

CRA will need to work closely with DHS, in addition to the licensed practitioners, providers, community, et al to create all above.

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Appendix 1

Abbreviated From:
Five-Star Quality™
Measures and Outcomes Defined

Revised 2010
www.cra.cc

Introduction

In the Five-Star Quality Model™ there are several key elements that must be clearly understood in order to accurately describe the degree of quality that exists. Accurately (and objectively) describing a human service agency's quality level, provides the necessary understanding of what quality level the organization currently is delivering and thus provides the direction for what must be done to move to the next higher level.

Additionally, we hope to provide further information on the measures that will help the reader to more objectively identify the level of quality by the outcomes evident. There are many ways to accomplish the different levels of quality so it is not possible or necessary to describe every way that these things can be done. It is far more important that we have a clear understanding of what the outcomes are for each level.

At the same time, it is not our intent to come up with a chart that details percentages, logarithms, or can be scientifically proven. Thus, Five-Star Quality™ is a system that is not about "paper compliance" or abstract policies and procedures, but rather something that we will be able to define by *"what we see when we see it"*.

Five-Star Quality: The Concept

The Five-Star Quality Model concept can be described as a continuum of five stages in which two things occur. First, the individual is transformed from *client* to *citizen*. Second, programs and initiatives undergo a transformation from being agency developed, led and *"owned"*; to being led, implemented and *"owned"* by the community. Each level can be described by a set of key measures and outcomes related to these two ideas. We will outline these later in more detail.

In our model (Fig. 1), quality levels One through Three describe initiatives that deliver experiences to the person that are confined within what we call the "Disability Bubble" – meaning that in these first three stages, programs are developed and operated by agencies for people who have disabilities – effectively both the person and the program are *confined* within the system and are not *members in* or *of* the community. Hence they remain in the *protective* Disability Bubble.

Between quality levels Three and Four is what can be described as the "Quality Transformation Threshold". This is the key line of demarcation that needs to be described and evaluated. Below this line, programs and initiatives are agency owned and led, and clients remain within the disability system. Above this line, programs begin to be community led and implemented, while clients begin to transform into citizens and to become *members in* and *of* the community.

This fundamental distinction between initiatives and the resulting outcomes, and whether they are above or below this Quality Transformation Threshold, is the most crucial idea to understand in terms of defining the quality level of agency or program.

Three-Star Quality is Still Good

Having said that, we want to emphasize that Three-Star Quality is very good – it is the best of what traditional service systems have available. In comparison to much of what we currently see in operation after 60 years of community services – within the *Disability Bubble*, only Three-Star Quality could be considered great quality.

Most typical accreditation services would consider this level of service to be worthy of their highest evaluation. Three-Star Quality means that an agency has at least crossed the point of no longer seeing that all supports for people with disabilities need to be self-contained – meaning that they understand that not all services and supports must be provided within the walls of the agency, by agency employees or volunteers. Most importantly, it means that the agency helps people enrolled in their services to not just *"be"* in the community, but helps them truly become participating members of their community.

This frankly contrasts with most Two-Star Quality situations we see that are still incredibly prevalent in human service agencies today. Any type of sheltered employment, group home, or other operation they can be distinguished as self-contained, is clearly Two-Star Quality. These operations may meet all of the licensure requirements, have great health and safety records, hold multiple accreditations, and have community outings on a regular basis, but they are still only a Two-Star Quality program in the Five-Star Quality Model.

From Client-centric Service to Community-centric Support

... the agency becomes a support for building community competency – so that the community can help people who have disabilities become functioning citizens – with the least amount of specialized support from the human services agency as is possible.

This mindset obviously requires a significant transformation of the organization if it is to embrace this clear redefinition of success. Success is no longer measured by the number of employees, the size of the budget, the number of programs it operates, awards, accreditation, or how well it is known in the community.

Quite to the contrary, the organization moves to the background and the community and the people who receive support move to the foreground. The new identification for the person who receives support now becomes that of an employee, member of the (*non-disability*) community organization, or team-member of the event, or a full citizen participant of the community opportunity, rather than being identified as a "client" of the disability agency.

An Incremental Step to Four-Star Quality

For the immediate future, Four-Star Quality can be defined as when the organization begins a project, such as a supported employment project within a factory, but then turns it over to the management of the factory. The organization then provides support to the various departments of the factory so that they are able to meet the needs of the individual employees with disabilities.

Another example could be the dance that was always sponsored by the disability organization and that others in the community were invited to attend. To reach Four- Star Quality status, the agency turns over the dance planning and execution to the local Elks Club and the agency's name now is only identified under the heading "with support from", and thus joining others on the list such as the local radio station that promoted it, the grocery store that provided food and decorations at cost, etc. The agency's role now is to be invisible support as trainers, consultants, greeters, clean-up staff, etc. but not as "obvious staff".

Five-Star Quality Measures and Outcomes

So far we have discussed Five-Star Quality from a conceptual perspective. But just how is one objectively to determine program and agency quality? In other words, what measures and what outcomes can we use to evaluate "*what we see when we see it*". Fortunately there is a set of key measures and outcomes that one can use as a starting point to provide insight into the quality level of the program or agency we are trying to assess.

We have developed a basic framework of criteria as a starting point for evaluation... However, there are additional general qualitative factors that can be used as measures within the Five-Star Quality framework....

As we have outlined earlier, some of these measures include:

- Program/Initiative Leadership. Who develops or leads the program or initiative? Is it solely the agency or is there community involvement or leadership?
- Program/Initiative Location. Where is the program held? Is it at a sheltered workshop or is it within a community venue?
- Program/Initiative Focus. Who is the program designed for – solely for the person with disabilities, or also the general community? Who can participate – only those served by the agency or does it permit participation by the community and interaction between attendee groups?

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- Program/Initiative Responsibility. Is the agency funding, directing and managing the initiative, or is the community in charge? In other words, who is the "owner", who has the final say...

Once these questions are answered, we need to be rigorous in our evaluation of the outcomes they produce for the individual. The overriding issue is how *and where* we view the person – are they client or citizen? We need to ask ourselves what the result of the initiative is for the person.

- Is the person *absent* from the community, are they *in* the community, or are they a *participant with* the community? (*One, Two and Three-Star*)
- Is the person a *member of* the community or are they *of* the community? (*Four and Five- Star*)

Quality Levels Illustrated

By using the dance example, we can describe each level of quality and its outcome.

One-Star: A dance for people with disabilities that is sponsored by the human services/disability organization and held at the sheltered workshop. (The person is ***"absent from"*** the community).

Two-Star: A dance for people with disabilities is held at the local YMCA that is sponsored by the human services/disability organization. People with disabilities are "the audience" even though some people who do not have disabilities may attend. (The person is ***"in"*** the community)

Three-Star: A dance for the general community is held at the local YMCA that is sponsored by the human services/disability organization *in partnership with* the YMCA and other organizations. People with disabilities from that agency and possibly others are in attendance. (The person is a ***"participant with"*** the community)

Four-Star: A dance for the community is held at the local YMCA and sponsored by the YMCA and other community groups. The human services/disability organization provides "invisible" (*i.e., not publicly-recognized*) support to the YMCA and the rest of the community to enable people with disabilities to *fully participate* as anyone else would. People with disabilities from throughout the community are clearly welcomed and may or may not have paid supporters assisting them. (The person is a ***"member"*** of their community).

Five-Star: A dance for the community is held at the local YMCA and sponsored by the YMCA and other community groups. People with disabilities from throughout the community are clearly welcomed and may or may not have paid supporters assisting them.

The human services/disability organization is not obviously a part of the dance planning, coordination, etc., but rather acts as consultants and trainers to the sponsoring organizations to help them have the capacity to support people with disabilities and to fully to participate as anyone else would. The human services/disability

agency personnel are "invisible" but remain "on-call" for the sponsoring organizations. (The person is *"of"* their community – meaning the community has the ability to meet any immediate needs of the individuals who have disabilities).

Final Thoughts

We know that for some agencies it will be a bridge too far. For others it is a chance to move from *client-hood* to *citizenship*. We believe that people with disabilities deserve the promise provided by full, Five-Star Quality lives, filled with the richness of experiences as the result of (*with apologies to Abraham Lincoln*) enlightened programs and collective efforts, *of the community, by the community and for the community.*

Derrick Dufresne

Mike Mayer

Community Resource Alliance

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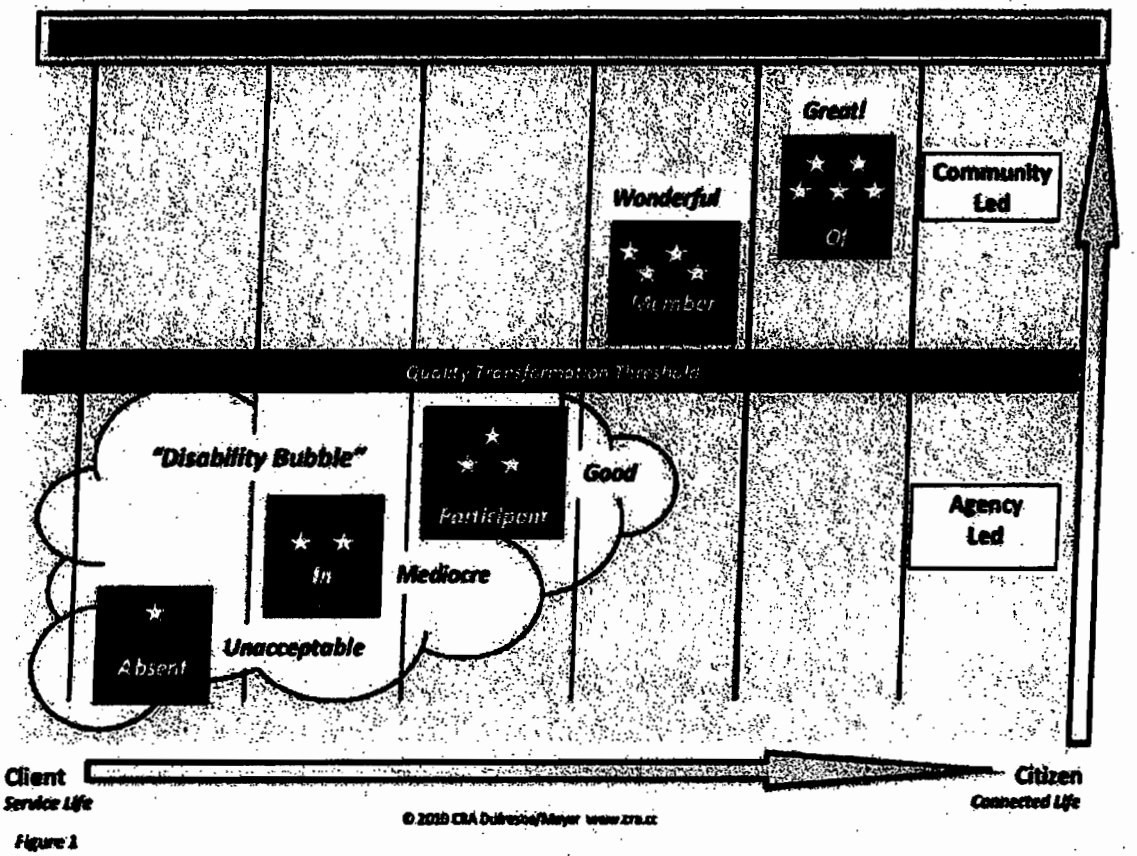

Figure 1

IMPROVING QUALITY USING 5 STAR PRINCIPLES AND STANDARDS

Five Questions We Can Ask Ourselves

1. How can we assist people have more choice and control in their lives?
2. How can we assist people make valuable, contributions to their communities?
3. How can we increase a person's presence in their neighborhood and community?
4. How can we assist people make and maintain friendships?
5. How can we assist people to develop their abilities?

Some Things To Do...

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1. Facilitate positive engagement with others who are not paid, especially the development and maintenance of friendships
2. Promote good citizenship through work, reciprocity, and positive private and public contributions
3. Promote decision-making and problem-solving that end clienthood and encourage citizenship
4. Based supports on being able to demonstrate and develop known interests and talents – outside of the disability bubble
5. Do not require compliance with rules based on a prejudicial group mindset and encourages positive options to manage for dynamic tension and resistance
6. Include a plan to prevent and manage behavioral and other crises minimizing any restrictions of citizenship
7. Support the individual to learn from their mistakes.
8. Challenge the status quo and stereotyped expectations of the institutional mindset and disability bubble
9. Staffs are expected to model positive social engagement and learning is focused on the natural environment and not disability focused and controlled settings.
10. Maintain a consistent application of core values and has obvious integrity to the vision and mission of the organization (the core promise to the individual receiving services).
11. All staff are aware of the goals and desires of the individual's Person Centered Plan/MyPlan/PATH
12. Staff are encouraged and rewarded to take reasoned risks, take initiative, and demonstrate the desired skills which support the core values, etc.
13. Celebrations of accomplishments, efforts, success, etc. are a common occurrence.

Selection of learning focus is guided by three primary considerations:

1. Learner's informed choices
   - Learner chooses to learn
   - Learner is presently attempting this task

2. Learner's needs based upon demands of environment
   - Learner would use this skill in present and future environments of home, community, leisure and/or work
   - Learner would frequently use this skill

3. Choice of content which grants release from custody (more freedom)
    - Someone else must now perform this task
    - The person would require less supervision if they master this task

Procedures for developing learner's preference & encouraging choice

1. Provide choices about how to achieve a goal
2. Provide choices from observed likes and dislikes
3. Provide choices from real alternatives
4. Provide open-ended choices
5. Provide for examination of why choices are made – including likely consequences of making and not making a certain choice
6. Provide information and choices to consumer about their rights and responsibilities
7. Respect choices made

Helping the person to identify their individual needs and desires

1. Discuss his/her short and long-term goals and desires with the learner
2. Observe the learner in the environment
3. Interview natural supports and others who care about the person and an advocate, family, or caregiver considers this a critical skill
4. Consider the skill sets of peers without obvious disabilities
    - Age relevant skill because it is performed by peers without obvious significant disabilities

Selecting content to reduce custody

1. Apply goals of independence in daily living skills

- It will increase the self-concept and or social acceptance of the learner
    - Reduce hopeless feelings and increase self-worth
    - Reduce stigma and increase normalization
    - Reduce isolation and increase community membership and social integration
    - Reduce social burden and increase social contribution

- Reduce custody and increase skills for self-sufficiency

2. Minimize intrusiveness in their life

- Psychologically safe skill to teach because the intrusiveness and/or embarrassment associated with instruction will be acceptable to the individual

3. Physically safe

- It will increase the learner's personal safety
- It is safe to perform even when done inappropriately or without supervision

4. Prioritize what is to be taught

Some questions to ask

- How much assistance does the person *really* need? (physical assistance, medication, supervision, personal care, understanding communication, being interested in someone else, not overeating, etc.)
- Under what circumstances does the person need help?
- Who provides this assistance now?
- Could someone from the community provide the necessary assistance?
- How could someone be trained or supported to provide the necessary assistance?
- What are the implications for the person's participation in various community activities?

Some things to watch out for...

- Thinking that person-centered, community focused services that emphasizes natural supports will cost more money or require more staff (it will require professionals to work differently, and smarter, but not necessarily harder)
- Requiring community people to be volunteers rather than "just friends" or "just neighbors" or "just family", etc. Friends don't document their relationships on a service note (they use a scrapbook, a blog, or diary)

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- Using behavior, skills, deficits, mental health, etc. of the person as an excuse for not doing what should be done
- Using "liability" as a justification for not supporting individuals in having as integrated and independent a life as possible
- Using "risk-taking" or "trusting" as a justification for carelessness, thoughtlessness, or inadequate planning
- Trying to "over-program" and "formalize" all activities
- Compromising on ethics and agreed upon standards of professional behavior

Some suggestions to promote positive outcomes for people with disabilities:

- Examine the major priorities of life and redirect energy and resources to those priorities
- Start conversations about the importance of developing community based and natural support focused solutions
- Prioritize supporting people in the life of their choice, helping people learn how to make choices, supporting community membership, etc. This includes helping people establish friendships
- Examine creative uses of time
- Promote natural supports over formal and volunteer roles
- Encourage creativity regarding the solutions and collaboration
- Trust the natural capacity of the community, and provide sufficient support for that capacity to be realized
- Recognize that small changes can make a big difference
- Recognize that overall change takes a long time

Some things to minimize:

- Random stressors
- Aversive stimuli
- Unnecessary exposure to overt opportunities for problems
- Destabilizing factors
- Extensive negative role model exposure

Some things to maximize:

- Work skills

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- Physical activity
- Physical wellness

Necessary Ingredients:

- Comprehensive staff training
- Consistent staff interactions (behavior plans for staff)
- Quality "clinical supervision" for staff
- Interdependence of development and relational advantages and clinical imperatives is maximized

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Appendix 2

Person Centered Planning Approaches

1. Authentic Person Centered Planning
2. Essential Lifestyles
3. MyPlan/WRAP
4. Support Circles

1. **Authentic Person Centered Planning: Key Factors And Success Indicators In Person-Centered Supports**
   The Council on Quality and Leadership

This approach to Person Centered Planning is already utilized by approximately 17 agencies in Illinois that receive accreditation through the Council on Quality and Leadership (CQL). This nationally recognized organization looks at the outcomes of services in people's lives rather than a specific process.

By beginning with outcome measures, it is then possible to see what is most important to the person and to then devise strategies, supports and people that will develop individualized supports.

As a result, a series of factors are looked at on an individual basis by the person and allies that are most important to he/she. These factors include:

FACTOR 1 Person-centered Assessment and Discovery
Indicators:

1a People feel welcomed and heard
1b People have authority to plan and pursue their own vision
1c Assessment of needs is fair and accurate
1d Assessment and discovery identify personally defined quality of life

FACTOR 2 Person-centered Planning
Indicators:

2a Planning is person-centered
2b The plan identifies and integrates natural supports and paid services
2c Informal community resources are used
2d Planning is responsive to changing priorities, opportunities and needs
2e Planning and funding are connected to outcomes and supports, not programs

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FACTOR 3 Supports and Services

Indicators:

- 3a People have authority to direct supports and services
- 3b Supports are flexible
- 3c Support options are accessible
- 3d People manage supports and providers
- 3e Supports are available in an emergency or a crisis
- 3f People can identify personal champions

FACTOR 4 Community Connection

Indicators:

- 4a Community membership facilitates personal opportunities, resources and relationships
- 4b Peer support / mentoring is available
- 4c People receive information and training

FACTOR 5 Workforce

Indicators:

- 5a The workforce is stable and qualified
- 5b Practices are culturally competent
- 5c Personnel have the flexibility and autonomy to support people
- 5d Support for cultural / organizational change is provided
- 5e Advocacy efforts promote fair and affordable provider rates and responsive payment systems

FACTOR 6 Governance

Indicators:

- 6a Organization mission, vision and values address person-centered supports
- 6b Organizational practices are both person-centered and system-linked
- 6c People and families play meaningful leadership roles

FACTOR 7 Quality and Accountability

Indicators:

- 7a Quality management systems are integrated
- 7b Quality of supports is measured
- 7c Participants, families and advocates evaluate supports and providers
- 7d The public is kept informed
- 7e Personal information remains confidential

FACTOR 8 Emerging Practices in Individual Budgets

Indicators:

8a People control their budget allocations
8b Individual budgets are both fair and ample
8c Budget, money and services / supports are portable

2. An Overview of Essential Lifestyle Planning (ELP)

Essential Lifestyle Planning holds the basic belief that there are core elements in day to day living that reflect essential basic quality of life components that matter deeply to any one of us. ELP is a process through which these essential elements can be explored, understood and integrated into the work that is conducted with and on behalf of people with disabilities.

ELP is a guided process for learning how someone wants to live and for developing a plan to help make it happen.

It's also:

A snapshot of how someone wants to live today, serving as a blueprint for how to support someone tomorrow;

A way of organizing and communicating what is important to an individual;

A flexible process that can be used in combination with other person centered techniques;

A way of making sure that the person is heard, regardless of the severity of disability.

Essential Lifestyles Plans are developed through a process of asking and listening. The best essential lifestyle plans reflect the balance between competing desires, needs, choice and safety.

The "Learning Wheel" was developed to graphically reflect an on-going commitment on behalf of the planners to seek to understand what is very important and meaningful in matters pertaining to everyday life for the person who is the focus of the planning effort. It requires that careful attention be given to the stories and the reflections of the person and of the people who know and care about the individual.

The Learning Wheel is represented through a series of interconnected arrows beginning at the top of the "wheel" with arrows connecting listening and understanding in a circular fashion. This listening continues until the listener(s) have a clear sense of direction as provided by the person who is the focus of the planning effort. When the understanding becomes clear enough for taking action an offshoot arrow connects what has been heard and understood to the development of a plan. The plan is simply the synthesis or organization of the information that has been heard and understood. When the plan has been drafted and approved by the focus

person an offshoot arrow connects the planning to the doing or implementation of the plan.

This is the "try it" stage of the plan. During the implementation phase another arrow connects this stage to the "assessment" stage of the planning process. This stage looks at how the plan is working in the context of what the focus person identified and continues to identify within the ongoing process of listening and understanding. Thus, the final arrow, completing the "wheel" connects the assessment stage back to the inner exploratory loop of listening and understanding.

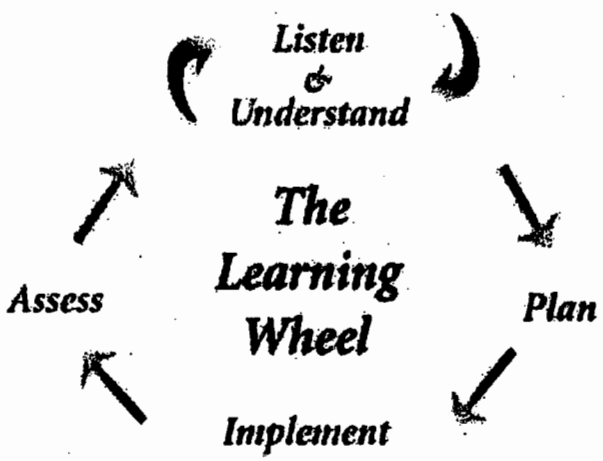
From listening and understanding you can:

Plan (organize/synthesize) using the information that the planner has gathered from the stories that have been told, from the identification of critical themes woven throughout the dialogues, and from the surfacing of what is most important in quality of life issues as understood from the perspective of the individual and from their family members and friends.

Implement (try it) the plan by mobilizing resources and creating the structures and opportunities that honor what have been heard.

Assess (see how it's working) the plan against the interests and preferences of the person with whom the planning is being done. Look for ways to use what is being learned to keep the momentum of the plan moving forward. Questions that are helpful guides in this process are "What have we tried? What have we learned?" "Given what we have learned, what do we need to try next?"

Michael Smull's Learning Wheel



Developing Essential Lifestyle Plans require:

- The perspectives of those who know and care about the person;
- Their stories about good days and bad; and
- What they like and admire about the person

Each of us wants lives where we are supported by & contribute to our communities

- At the base of our wants is the desire to stay healthy and safe (our own terms)
- Then we need to have what/who is important to us in everyday-life; people to be with; things to do, places to be
- Have opportunities to meet new people; try new things; change jobs; change who we live with & where we live
- Finally at the top is have our own dreams & our own journeys

Most of all, it is critically important to remember that a plan is not an outcome. Plans need to be written in draft form and used as a tool for exploration and recording what is being learned. Plans should not exist as an end product but serve as a means to an end. It bears repeating: A plan is not an outcome.

3. MyPlan and WRAP - Twin approaches to Recovery and Wellness

For a very long time in the field of intellectual and developmental disabilities (IDD), there has been a denial of the mental health needs of individuals who have IDD. The focus has been on "changing the person's behavior" rather than treating the mental illness that a person may have. This created a situation where professionals prescribed treatment/behavior plans, medication, structure, and occasionally activities for the individual that was meant to "cure" the behavior.

It is important to note that the focus was on "treatment". The individual was not so much a partner in this experience as much as they were the object of the efforts of professionals. They were typically seen as fragile, often unpredictable, individuals who needed therapy directed by those same professionals to be able to comply with the expectations of those professionals in the environments controlled by those, and other, professionals.

In recent years, this approach has been challenged by the emergence of a new concepts and approaches associated with the outcomes of Recovery and Wellness within the mental health field. One of the most hailed approaches to support these goals is called WRAP (Wellness Recovery Action Planning).

As Stated in the article *"Culture of Recovery"*:

> *It's a program that was developed in Vermont in 1997 by Mary Ellen Copeland and a group of friends who were all experienced with the mental health system. WRAP is now recognized*

as an exemplary practice and has been widely implemented throughout 50 states, England and New Zealand.

The WRAP program involves an educational and planning process that is grounded in mental health recovery concepts such as hope, education, empowerment, self- advocacy, and interpersonal support in connection. Within a group setting, individuals explore self-help tools (e.g. peer counseling, focusing exercises, relaxation and stress reduction techniques) and resources for keeping themselves well and for helping themselves feel better in difficult times.

Copeland states: "For a person who's been on the system a long time, WRAP is often a person's first introduction to the idea that their own ideas and views have value, and that they can make their own decisions and move on with the recovery. It can be the initial step in the recovery process."

WRAP not only involves the individual in their search for wellness, it promotes and endorses the idea that people must *own* their own recovery and direct it as well. There is a presumption of both competency and strength in this approach. Every individual is seen as capable and having the potential to recover from their illness and to seek the treatment and the services that are needed and desired - in a manner, shape, and form that is unique and best suited to the individual as requested by them.

WRAP is much more than a one-time event. It is an ongoing series of life experiences, planning, mini-experiments, trials of various approaches, and documentation that allows individuals to customize their own plan for recovery and wellness – and actively re-engage in their own life with the belief that they will be well again and can remain well over time through these efforts, personal responsibility, and the support of others – including professionals.

Needless to say this approach is very challenging to many professionals, especially those identified as being in the clinical community. At times there is a lack of understanding or appreciation regarding the role of the individual in his or her plan. Professionals sometimes mistakenly think that individuals utilizing a WRAP are incapable of making the necessary decisions to help control and direct their own recovery, and thus, should have no active role other than to report progress. They also mistakenly believe that somehow WRAP automatically excludes the use of medication, counseling, or other therapeutic supports. This is especially true within the IDD system, where professionals frequently question the competence of the individual to be able to make informed decisions about what matters most in their lives.

This is complicated by often complex relationships and the absence of non-clinical supports. The key is to getting the information needed directly from the individual that can help others to support their personal journey. One of the first steps is to find out what their ultimate dreams are for their life in the future. It is also important to

accurately capture where things are today so that we understand how the individual, and those who care about them, see their current situation. This is important so that the team can find some things that are ***positive and possible*** that can be worked on – in ways that support the WRAP intentions – that can start as of the day that the overall plan is completed.

Finally, it is important that these desires are translated into specific and immediate action steps that individuals on the team commit themselves to, with the individual who desires recovery and wellness as the pilot of this process and the team of supporters they select (professionals and non-professionals alike) as navigators.

This is called the MyPlan process.

MyPlan is a tool to help people plan and achieve their life goals. The MyPlan process involves people who are invested in the success of a single person working as a team to graphically record a colorful and creative process for the participant. This process serves as a guide to help the participant identify his or her most important life goals[1] and what can be done – starting today - to begin the process to reaching those goals.

The MyPlan process developed by Mayer and Dufresne, is efficient and effective-so that the actual team meeting as a group is between 2 and 3 hours. Much work is done with the individual in advance of the team meeting, often including the completion of the Assessment of Essential Motivation, Tension, and Resistance.

Utilizing the MyPlan process, the individual and their chosen allies come together to envision and plan a different future. The realities and issues of the day are discussed and evaluated to ensure the plan is grounded in reality so that it is possible to establish a firm commitment to building a better future so that we do not need to keep repeating the cycles of the past.

A key feature of the MyPlan process is the use of co-facilitators if possible. One facilitator is seated near the person, to create an atmosphere of trust and a safe environment. The other facilitator draws simple pictures that capture the essence of what the person is telling us. This multiple approaches respects and enhances various learning styles and becomes the property of the person at the end of the session.

By establishing specific tasks within a brief overall action plan it is possible to build positive momentum and facilitate the move forward to a desirable future.

The intention is that MyPlan will identify critical elements that will help support the recovery and wellness of the individual and "jump-start" the implementation of overt efforts to reach those outcomes that were identified as positive and possible and getting the person that much closer to their ideal life. It also begins to help identify the types of things that can be considered for inclusion in their WRAP plan that might have been otherwise overlooked.

SODC Implementation Outline & Key Features

Plan Elaboration

It is important to note that MyPlan not intended to replace the WRAP, just as WRAP is not intended to replace good support planning. These two techniques truly are twin approaches that can be highly successful when used in conjunction with each other for people who have complicated support needs to address their behavioral/mental/emotional health and related problematic behaviors so that they can be successful in the community.

Conclusion

For each of us, there must be at least one compelling reason to get out of bed in the morning – and to take care of ourselves once we are out of bed. Our need to find meaning in our actions, relationships, work and communities is critical to our emotional and physical health is critical to developing the compelling reason or reasons.

For too long individuals who have IDD, especially those also experiencing mental illness, have been guests at their own table. For these people, all too often the services they receive have been viewed by the person as something they must endure and, often passively, comply with in order to get through the day.

Unfortunately, this often results in a distinct lack of ownership and personal commitment to their planning, behavior change, and wellness process. In many cases it also diminishes the sense of personal responsibility and accountability for decisions that are made by the individual – because they perceive themselves as simply pawns in the game of services and treatment - so if bad things happen it is because others didn't do their job. These two approaches reverse that thinking.

WRAP is an active engagement of the person to take control of their treatment and wellness. By self-directing their plans, they own the process and the result - with dramatically increased personal responsibility and accountability. This also provides hope, meaning, and direction and encourages social reciprocation and community contribution, which are the hallmarks of good citizenship. MyPlan then provides a specific road map on how to get there.

The two approaches –MyPlan and WRAP offer the opportunity for all citizens experiencing IDD and mental illness to take charge of their life and build a better future one day at a time with the support of their allies – both professional and non-professionals.

Derrick Dufresne & Mike Mayer

CRA Inc.

www.cra.cc

(1) Definition of New Mexico Department of Developmental Disabilities

(2) Person-Centered Planning: Maps and Paths to the Future

4. Support Circles – Neighbours Inc.

Neighbours depends on finding out what people hope for their future and what they will need to help them to move in that direction.

There is no one way of planning with people. Sometimes we facilitate planning processes such as **MAPS** and **PATH**. Often we gather information through meeting with the people we support, their family and **support circle**. We LISTEN!

Neighbours facilitates the development of a plan that reflects the person's vision and dreams, and details what they will need to work towards them. The plan becomes a guide. It can remind people of what they said they wanted to do and help them to stay on course.

The plan also is the guide for the **individual budget**.

Neighbours believes that relationships and friendships are key to a full rich life. We all have people that we need, people who help us get through life. All of us can identify people we need for love, for friendship, for inspiration, for support, for work, for money. We all rely on other people, and if we are truly fortunate, they rely on us. We are really inter-dependent.

If we think about it, some of those people are very close to us, family, lovers, best friends, and some are not as close, acquaintances, co-workers, members of clubs we belong to, etc.. There are even people that we pay to support us.

The point of it all is — none of us do life alone!

Most of us have an informal "support circle". Many of the people in our support circles may never even meet each other. They come from different parts of our lives — family, work, school ...

But people with disabilities have historically faced challenges than many of us have not. By design, people have been left out or excluded from opportunities to be part of community life. Their rights of citizenship have not always been upheld.

Circles are groups of people who intentionally come together around a person they know, like and care about. Their common thread is a commitment to the person and his or her right to live a full life.

SODC Implementation Outline & Key Features

Plan Elaboration

Support Circles are groups of people who know, like, and care about someone, and come together as a group to make sure that the person they care about is supported to be a part of community life. Support Circles intentionally come together to overcome the barriers that they face.

Advisors help to make it possible for support circles to come together. They facilitate meetings so that circle members can have conversations about:

What is important to the person?

What is happening in their life now?

What is the vision?

What gets in the way?

What do we need?

How can we get it?

Who can help us?

...and much more.

The Circle generates a lot of the content for the **Person Centered Plans** that are created.

A meaningful and effective circle is a key component of self-directed supports.

Appendix 3

PRINCIPLES AND VALUES

Supporting Individualized Transitions to the Community

1. We understand the urgency of the situation. We know we must act quickly and yet deliberately and effectively. We also believe that people deserve a life – not just a "placement". We will do everything possible to help them achieve that goal as fast as we possibly can.

2. We will look at people and supports - not facilities and slots. We will commit to develop supports for one person at a time. An intensive, person-centered, community-based individual support plan must be developed for each person. We must be good stewards of public resources.

3. We believe that people deserve to be healthy and safe. We also believe that behavior is communication and we need to listen to what people are telling us. We must listen carefully. We acknowledge that people with significant and complex behaviors create issues both for the individual with difficult behavior and the group with which he/she lives. Each plan must include a provision for ongoing best-practice crisis supports – including prevention, medical and related healthcare, and other supports anticipated as being needed for the plan to succeed.

4. Settings are likely to be 1-2 persons and never more than four persons. If there is a roommate, it will be a person who is compatible, not based on diagnosis or some other artificial criteria. All individuals will have his/her own room if he/she has a housemate.

5. We acknowledge best-practice trends to separate housing and services. The first option explored should be assisting the individual or family directly renting or owning the housing. As settings are small, they are more available than larger settings. The community support provider should concentrate on facilitating and providing the supports. A separate housing provider is preferable and desired.

6. As a part of the support planning, we presume no set manner for service and support delivery – except that we will facilitate and provide what is recognized as best-practice to the fullest extent of our collective ability. This includes preferring supported employment over traditional day programs and not presuming the need for 24/7/365 shift-staffing. In many cases, people with significant and complex behaviors need and want the stability of relationship that comes with live-in staff, or a family setting. This option will be offered utilizing creative approaches and supportive adjuncts that are fiscally sustainable.

7. We will seek providers who subscribe to these principles and values. The individual will have maximum control over the selection of the provider to the extent possible. Providers must agree to work to their fullest extent possible with the transition project team to prevent any re-institutionalization.

8. There will be an individual support budget developed that is based on the assessed individual need and the plan to meet that need. In all cases, every budget will be individualized, and flexible to respond to the situation, as is necessary to provide for the success desired and to prevent any re-institutionalization.

Appendix 4

The RFI/RFA Process and Forms

Abbreviated

Overview:

There are two forms providers will be asked to submit. The RFI (Request for Information) is simply to collect information about their current services and capacity.

The second form, the Request for Application or RFA which is optional, is to be submitted with the RFI if the provider is interested in expanding their services to help meet the needs of individuals who are transitioning their services and supports from the SODC to the community.

The Process

In order to determine the capacity of the current provider community, including licensed practitioners, and what supports and services will be necessary to assist current providers and also the overall goals of this effort, it is been decided to establish a Request for Information (RFI) process that is directly tied to a Request for Application (RFA) process.

This process, which will engage many types of providers, will determine their interest in meeting the needs of the individuals who will be transitioning, their capacity to do so, and their willingness to meet the transition process criteria.

There are several presentations planned to be held across the state regarding what is needed/expected for a response to the RFI/RFA. At least one of these will be recorded and placed on a YouTube channel via the new Transitions website. These sessions will not only

present information regarding the process, they will give providers a chance to ask important questions that need to be addressed prior to their submission of their RFI/RFA response.

Following these presentations providers will be asked to submit responses on forms they will be able to download from the web or obtain via email. Eventually these responses will be via a web-based submission. The content for these forms is being finalized as of this writing but should be available, at least in draft form, in the very near future.

This process will provide an initial assessment of the capacity of interested providers to meet the needs of the identified individuals.

The intention is to develop a database of providers that agree to meet the criteria that has been established for acceptable providers, including agreeing to embrace the values and principles for this project, that are

interested in supporting individuals in the transition process. There is no "closing" date for submissions, as the database will be constantly updated. However, providers who wish to be considered in the earlier selection periods should respond immediately.

This database will allow individuals, families, and guardians to know which providers are potentially willing and able to meet their needs. CRA will then work those providers to establish potential service and support plans as individuals and/or their families/guardians express interest.

In general, this means that when a provider is selected by an individual transitioning (and/or their family/guardian), CRA will work with the new "team" to develop/negotiate a person-specific proposed service and support plan that corresponds to the completed person-centered description and corresponding plan.

Then CRA will verify that the proposed services and supports are acceptable to the individual and/or families/guardian. Assuming that they are acceptable, CRA will work with the provider to create a person-specific budget. CRA will then propose this financial structure/rate to DHS for approval.

Once there is an acceptance of proposed service and financial structure/rate by DHS, CRA will facilitate the working agreement between the individual/family, the provider, and the state.

CRA will then work with the team to facilitate the implementation of individual independent Person-Specific Transition Plan and the official SODC resident transition of care.

Following the transition, CRA will provide technical assistance and training supports to providers to assure the long-term success of both the individual and the provider. CRA will also participate in weekly face-to-face visits for the first 8 weeks and monthly face-to-face visits after the first 8 weeks for the first year.

This will be ongoing process that transitions the care of 194 individuals within the first 10 months of operations and a total of 600 individuals through FY14, averaging approximately 20 individuals per month. So, providers are needed immediately, and will be needed for several years to make this happen, so even if a provider is not ready to participate now, there may be opportunities for a provider to become engaged at a later date.

The RFI and RFA

The RFI is simply a series of questions that the provider submits answers to. This does not obligate the provider to any services, further processes, etc. but rather serves as a baseline of what services currently exist.

The RFA is a second element of the document, again with questions that providers respond to, that indicates that they are interested or not interested in developing and/or providing certain services under the specific conditions of this project. This is an "application for consideration" – first by those involved in the development of system capacity as a viable candidate for engagement and later by

individuals/families/guardians as potential providers of the community services and supports that will be needed for that specific person.

...It is important to note the following:

1. Individuals will not be placed into congregate settings of greater than four persons.
2. Residential providers will be expected to collaborate with CRA and Home First Illinois and other affordable housing options to separate housing from services and supports whenever possible.
3. CRA has committed to the state that every effort will be made to find providers willing to support individuals being transitioned in non-congregate day services/workshops, with a clear preference for paid supported employment as the first and preferred option.

RFI and RFA DRAFT forms follow.

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ILLINOIS LEAGUE OF ADVOCATES FOR THE DEVELOPMENTALLY, DISABLED, *et al.*	
Plaintiffs,	
v.	Case No. 13 C 1300
ILLINOIS DEPARTMENT OF HUMAN SERVICES, MICHELLE R.B. SADDLER, in her official capacity as Secretary of the Illinois Department of Human Services, KEVIN CASEY, in his official capacity as Director of Developmental Disabilities of the Illinois Department of Human Resources, and COMMUNITY RESOURCE ALLIANCE,	Judge Marvin E. Aspen
Defendants.	

Temporary Restraining ORDER

MARVIN E. ASPEN, District Court Judge:

On May 30, 2013, we granted Plaintiffs' motion for a temporary restraining order ("TRO"). (Dkt. No. 58.) After a conference with the parties to address their respective concerns as to the language of the TRO, and having considered and address those concerns, we hereby order:

A. The Defendants shall not transfer, discharge, or send on any overnight transition visit any resident of the Murray Developmental Center ("Murray") without the written consent of the resident's legal guardian. This provision will remain in

effect until we rule on the pending motion for preliminary injunction. (Dkt. No. 58.)

B. Nothing in this order shall restrict or prohibit Defendants from providing the residents with outside medical care when necessary, following Murray's standard protocols and procedures for obtaining such care for a resident. Defendants shall not prevent the resident from returning to Murray forthwith after receiving such necessary medical care.

C. Nothing in this order shall restrict or prohibit Defendants from conducting any pre-transition assessments, evaluations, or any other planning activities that do not involve removing a resident from Murray without the consent of the resident's legal guardian.

D. The parties shall exchange their evidentiary direct examination affidavits on or before July 17, 2013. Any witnesses whose affidavit is submitted thereby shall be available for cross-examination and redirect at the preliminary injunction hearing.

E. The parties shall designate which opposing party's witnesses they will cross-examine on or before July 19, 2013.

F. The preliminary injunction hearing shall commence on 7/23/13 at 10:00 a.m.

Marvin E. Aspen

Honorable Marvin E. Aspen
U.S. District Court Judge

Date: June 12, 2013

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

ILLINOIS LEAGUE OF ADVOCATES FOR THE DEVELOPMENTALLY, DISABLED, *et al.*	
Plaintiffs,	
v.	Case No. 13 C 1300
ILLINOIS DEPARTMENT OF HUMAN SERVICES, MICHELLE R.B. SADDLER, in her official capacity as Secretary of the Illinois Department of Human Services, KEVIN CASEY, in his official capacity as Director of Developmental Disabilities of the Illinois Department of Human Resources, and COMMUNITY RESOURCE ALLIANCE,	Judge Marvin E. Aspen
Defendants.	

MEMORANDUM OPINION AND ORDER

MARVIN E. ASPEN, District Court Judge:

Plaintiffs' motion for preliminary injunction (Dkt. No. 8) is currently pending, and a temporary restraining order ("TRO") is in place (Dkt. No. 90). This order addresses an issue that the parties raised with respect to the scope of the TRO.

BACKGROUND

We assume familiarity with the background of this case and only discuss those facts that are pertinent to the present motion. Plaintiffs are seeking a preliminary injunction to prevent the closure of Murray Developmental Center ("Murray"), one of several state operated developmental centers ("SODC") in Illinois that provide care for developmentally disabled residents. (Dkt. No. 9 at 2–3.) In the related second amended complaint ("SAC"), Plaintiffs

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allege that Defendants are transferring residents of SODCs, without their consent, into community integrated living arrangements ("CILA") that are unsuitable for their needs. (SAC ¶ 3.) Plaintiffs bring claims under the American with Disabilities Act ("ADA"), 42 U.S.C. §§ 12101–81, and various other federal statutes, on behalf of a class defined as "[a]ll severe and profound developmentally delayed adult individuals who reside presently, or resided in the past, in [an SODC] at any time since January 1, 2011, or at any time during this litigation, who oppose any transfer from their SODC to a community housing setting." (*Id.* ¶¶ 10–22, 42.)

On June 12, 2013, we granted Plaintiffs' motion for a TRO to prevent the transfer of residents out of Murray while the motion for preliminary injunction is pending. (Dkt. No. 90.) We also issued an opinion identifying certain claims as unripe, thus removing them from this case for lack of jurisdiction. (Dkt. No. 98.) The parties subsequently asked for clarification on a specific issue that our TRO did not directly address. (Dkt. No. 102, 105.) Certain residents of Murray are wards of the Office of the State Guardian ("OSG"), which has consented to the transfer of at least some of its wards into CILAs. Plaintiffs argue that the OSG is not acting in the best interests of its wards, and as an arm of the state, has a conflict of interest in the present suit. (Dkt. No. 105 at 2–3.) We held that the "probate exception," as explained in *Struck v. Cook County Public Guardian*, prevents us from assuming authority over the OSG wards and declaring the consent of the OSG invalid. (Dkt. 112 at 2–3.) *See Struck*, 508 F.3d 858, 858–60; *see also M.G.S. ex rel. Sykes v. Toerpe*, No. 11 C 07934, 2012 WL 3235240, at *1–3 (N.D. Ill. Aug. 6, 2012). But mindful of the fact that the parties had not briefed the issue of the probate exception, we gave them the opportunity to file a supplemental response and reply. (Dkt. No. 112 at 3.) This opinion addresses those additional briefs.

I. The extent of the probate exception under *Marshall v. Marshall*

The issue presently before us is whether the probate exception to federal jurisdiction prevents us from hearing challenges to the OSG's consent to have its wards transferred out of Murray. Plaintiffs begin by pointing to *Marshall v. Marshall*, in which the Supreme Court clarified the scope of the probate exception. 547 U.S. 293, 310–12, 126 S. Ct. 1735, 1747–48 (2006). The Supreme Court held that the federal court "may not exercise its jurisdiction to disturb or affect the possession of property in the custody of a state court," but it may "adjudicate rights in such property where the final judgment does not interfere with the state court's possession save to the extent that the state court is bound by the judgment to recognize the right adjudicated by the federal court." *Id.* at 310; 126 S. Ct at 1747 (quoting *Markham v. Allen*, 326 U.S. 490, 494, 66 S. Ct. 296, 298 (1946)). It further explained that "we comprehend the 'interference' language in *Markham* as essentially a reiteration of the general principle that, when one court is exercising *in rem* jurisdiction over a *res*, a second court will not assume *in rem* jurisdiction over the same *res*." *Id.* at 311; 126 S. Ct at 1748.

In *Struck*, the Seventh Circuit explained that this general principle applies equally to people over whom the state has assumed guardianship. 508 F.3d 858, 860 ("The *res*—the plaintiff's mother—is in the control of the guardian appointed by the state court . . ."); *see also M.G.S.*, 2012 WL 3235240, at *3 (". . . M.G.S. is a person in the control of the Probate Division of the Circuit Court of Cook County; as unappealing as it sounds applied to a living person, she is the *res* in an *in-rem* proceeding—the contested guardianship case.").

Plaintiffs argue that the probate exception, as defined in *Marshall*, does not prohibit us from exercising jurisdiction over the OSG wards, because we are adjudicating a federal right to

which the state court must adhere. (Dkt. No. 116 at 2–3.) According to Plaintiffs, the relief they seek in this case "does not impinge on any state-controlled adjudication of the ward, 'save to the extent that the state court is bound by the judgment to recognize the right adjudicated by the federal court' to protect the wards from an ADA violation." (*Id.* at 3 (quoting *Marshall,* 547 U.S. at 310, 126 S. Ct at 1747).)

The problem with Plaintiffs' argument is that it assumes the OSG wards are potential class members with federal rights at stake in this case. Plaintiffs' federal claims and the definition of their proposed class are both premised on the Murray residents' lack of consent. (Dkt. No. ¶¶ 4, 42.) Where a resident consents to the transfer, through his or her legal guardian, there is no basis for a federal discrimination claim, and that resident is not a potential class member. Indeed, it would violate the ADA to keep a resident in Murray who is willing and able to live in a community-integrated setting. *See Olmstead v. L.C. ex rel. Zimring,* 527 U.S. 581, 598–603, 119 S. Ct. 2176, 2185–88 (1999).

Therefore, the question is not whether the adjudication of the federal claims interferes with state court control of OSG wards residing at Murray. The OSG, as legal guardian of those residents, has consented to the transfers, so there is no federal claim to adjudicate on their behalf. Instead, the issue facing us is whether we can decide as a preliminary matter that the consent of the OSG is defective or invalid, thus opening the door for Plaintiffs to bring federal discrimination claims on behalf of the OSG wards.

Unless we make that determination, there is no federal right to adjudicate. And it is precisely that determination that the probate exception prohibits. Reversing or invalidating the consent of the OSG is an exercise of judicial authority no different than removing the wards

from the custody of the OSG. In either case, we are substituting our own authority and judgment for the authority and judgment of the state-appointed guardian. "That is the sort of maneuver that the probate/domestic relations exception is intended to prevent." *Struck*, 508 F.3d at 860.

Our holding on this issue in no way diminishes the extreme vulnerability of the Murray residents, and we express no opinion whatsoever on whether the OSG is faithfully executing her duty to act in the best interests of the wards. But a federal court does not have the authority to address that question. If Plaintiffs believe that the OSG is not acting in its wards' best interests, they must seek relief in the state court that supervises the OSG. Absent a state-court adjudication removing the authority of the OSG, the consent of the OSG to the transfer of its wards precludes the present federal discrimination claims arising out of that transfer.

II. The applicability of *Struck* and *M.G.S.*

Plaintiffs argue next that *Struck* and *M.G.S.* are distinguishable from the present case, but in light of our foregoing analysis, their arguments are unpersuasive. Plaintiffs point out that this case involves class-wide adjudication of a federal right, rather than a challenge to the guardianship of a single ward. (Dkt. No 116 at 4–5.) They also suggest a number of factors we should consider in choosing to exercise jurisdiction: (1) the application of federal law is within the specific expertise of the federal courts; (2) sending OSG wards to state court would split the class and create duplicative "dual-track" litigation in state and federal court; (3) Plaintiffs are not seeking review of the state court decision to appoint the guardian; (4) the case does not eliminate the state court's jurisdiction over the OSG residents, and (5) requiring the OSG wards to seeks relief in state court would cause irreparable harm. (*Id.* at 5–8.) None of these arguments have merit.

As we explained above, both the class definition and the federal discrimination claims depend on a lack of consent. As long as the OSG consents to the transfer of its wards, those wards are not potential class members and they have no federal discrimination claim. Therefore it is irrelevant, with respect to the OSG wards, that the application of federal statutes is within our expertise. Their consent precludes the federal discrimination claim. For the same reason, our decision does not create "dual-track" litigation. We are not splitting the class and sending part of it to state court. The consent of the OSG removes its wards from the potential class.

The OSG wards only become potential class members with federal discrimination claims if we decide as an initial matter that the OSG's consent is invalid. Plaintiff's remaining three arguments aim to show that invalidating the OSG's consent does not actually amount to "interference" with state court authority over the OSG wards. These arguments are equally unpersuasive.

First, Plaintiffs' claim that they are not seeking review of a state-court decision to appoint the state guardian. (*Id.* at 6–7.) That is true, but it relates more to the *Rooker-Feldman* doctrine (which prohibits appellate review of state court decisions by federal district courts) than the probate exception. The question here is not whether we are reviewing a state court decision, but whether we are interfering with the state's control of its ward. In *Struck*, the plaintiff claimed constitutional violations related to the state guardian's treatment of his mother. 508 F.3d at 858. The court held that "decisions concerning the plaintiff's right of access to his mother and to her assets, her records, and her mail are at the heart of the guardian's responsibilities and are supervised by the court that appointed him." *Id.* at 860.

In other words, the federal court would not adjudicate a constitutional claim that required evaluating or assuming authority over the decisions of a state-appointed guardian. Similarly here, the OSG's decision whether to consent to its wards' placement in a community-integrated setting is "at the heart of the guardian's responsibilities." *Id.* Plaintiffs' federal statutory claims require us to hold that the OSG is doing its job improperly by providing that consent. In that respect, this case is no different that *Struck*. If the state guardian is failing to adequately perform its responsibilities, the state court who appointed it must resolve that issue, even if the alleged failure may give rise to a claim under federal laws.

Plaintiffs' attempt to distinguish this case—that 'Plaintiffs' sought remedy only affects the OSG to the extent that it consents to the State's unlawful policy"—is entirely circular. The State's policy is only allegedly unlawful to the extent that the residents do *not* consent. Plaintiffs are essentially arguing that the OSG's consent is invalid because the policy is unlawful, and the policy is unlawful because the residents do not consent. That line of reasoning is only possible if we begin with the premise that the OSG does not actually represent the residents. As should be abundantly clear at this point, we have do not the authority to invalidate, even implicitly, the OSG's representation of its wards.

Plaintiffs' last two points do not require extensive analysis. Plaintiffs state that they do not seek to eliminate the state court's jurisdiction over the OSG residents. But as we explained earlier, ignoring or overriding the OSG's decision regarding the residential placement of its wards would be impermissible interference with the State's authority, even if we do not entirely remove the ward from the OSG's guardianship. Finally, Plaintiffs state that sending this matter to state court would cause irreparable harm to OSG wards. But the risk of harm to the parties

before us does not define the limits of our jurisdiction. If we have no power to take a particular judicial action, the parties must seek relief in the appropriate forum.

CONCLUSION

For the reasons explained above, we hold that we lack jurisdiction to invalidate or overrule the consent of the OSG with respect to the transfer of its wards at Murray. If the OSG provides written consent to transfer its wards, Defendants may do so without violating the terms of the TRO. It is so ordered.

Marvin E. Aspen

Honorable Marvin E. Aspen
U.S. District Court Judge

Date: July 18, 2013

ID #161

MURRAY CENTER

STANDARD OPERATING POLICY AND PROCEDURE

Title:	Community Discharge Procedure
Source:	Admission/Transfer/Discharge
Applicable Standards:	IDPH Standards Recipient Discharge/Linkage/Aftercare [59 Ill. Admin. Code 125]
Date Last Revision Approved by Executive Council:	03/21/2012 Distribution Code: A

POLICY:

It is the intent of this SOPP to describe the community discharge procedure of Murray Center. It is Murray Center policy to facilitate the provision for movement to a less-restrictive living environment for our individuals.

CRITERIA:

Individuals shall be considered ready for discharge into the community only on the decision in writing of an Interdisciplinary Team (ID Team) based upon the following considerations:

1. It has been determined by the ID Team that the individual can gain his/her optimal level of functioning in a less-restrictive environment.
2. Overall training and/or educational objectives agreed upon at admission or thereafter have reached a level appropriate for a community Center as determined by his/her ID Team.
3. The Center Director has determined that the individual no longer meets the criteria for admission and/or is suitable for discharge.
4. The person who executed admission, the appointed guardian, or the legally competent individual has requested discharge.

PROCEDURE:

All community placement discharges will be in accordance with Chapter IV, Article VII of the Mental Health and Developmental Disabilities Code (revised 1988) and any policies or procedures subsequent to that Code.

LL-STATE LEGAL PETITIONER'S EXHIBIT E

1. The individual's ID Team receives discharge referral from responsible team member, legal guardian, Center Director, or the individual himself/herself.

2. The individual's ID Team reviews, evaluates, and makes a written recommendation in the individual's habilitation plan based on the following areas:

   a. Various services needed by individual as detailed in the individualized habilitation plan.

   b. Individual's area of origin and/or location of social supports (e.g., family, guardian, community services).

   c. Special procedures which must be followed related to the legal status of the individual due to the relationship of the individual to the criminal justice system. This includes individuals who are legally classified as:

      1) Not guilty by reason of insanity;
      2) Guilty but mentally ill;
      3) Unfit to stand trial, to plead, or to be sentenced; and
      4) Hold order from the Court.

3. If the individual's ID Team has recommended community placement, the social worker will contact the parent/guardian to discuss the ID Team's recommendation and inform the guardian that a referral packet will be forwarded to the PAS agency if the guardian did not attend ID Team meeting. When the ID Team, the individual, and/or the parent/guardian are unable to agree on an appropriate plan of action for discharge and all other attempts at resolution have been exhausted and documented as such, a request for a Utilization Review hearing may be submitted in writing to the Center Director. The procedure as outlined in the DMHDD Code 4-704-b, c.

4. When the parent/guardian has been informed, a referral packet is compiled by the social worker and sent to the PAS agency. The referral packet includes the following:

   a. A clinical summary (Annual Review)
   b. Most recent social history
   c. Physical examination to be done within 30 days of referral for Community Integrated Living Arrangements [CILA's] or most recent physical examination for ICF/DD referrals.
   d. Most recent psychological evaluation
   e. Most recent speech and hearing evaluation
   f. Any pertinent consultations, i.e., physical therapy, ophthalmological, occupational therapy, nutritional, etc.
   g. Appropriate Authorization to Disclose/Obtain Information [IL462-0146], if the receiving Center has been previously designated.

5. The appropriate PAS agency staff member will identify facilities which seem suitable and capable of meeting the individual's needs as identified. The PAS agency will obtain releases of information from the parent/guardian for identified placements. The PAS agency member will forward the

referral packet to the appropriate parties for their review and screening. The social worker will contact the PAS agency if a response is not received within sixty calendar days.

6. The PAS agency will contact the social worker regarding the appropriateness of the referral and of the identified Center's decision to pursue a screening. If individual is identified as potentially appropriate, the social worker will coordinate a screening with the identified Center and PAS agency. The individual may be screened at Murray Center or the proposed placement facility if appropriate release of information has been received. If the Center is found to be inappropriate to meet the individual's needs, the barriers to the placement will be identified in writing and included in future placement planning.

7. The social worker will arrange a pre-placement visit to facilitate the discharge process. In certain situations, the pre-placement visit may be waived if so indicated in the judgment of the ID Team. The social worker will accompany the individual, the parent/guardian, and PAS agency to the identified Center for placement.

8. A proposed placement review staffing by the ID Team will be held following a pre-placement visit. The purpose of the review staffing is for the ID Team to review the findings of the pre-placement visit. A final decision will be made as to the appropriateness of the proposed placement. If the decision is made by the ID Team at the review staffing to pursue placement, the social worker will contact the appropriate PAS agency staff and a potential date for discharge established. Center staff should take steps to prepare the individual for placement throughout the discharge process and should be prepared to assist with the initial adjustment at the time of discharge and thereafter as necessary.

9. At least fourteen calendar days prior to discharge, the attorney of record (Guardian Ad Litem), the parent/guardian, the individual (if twelve years of age or older), and the person who executed the application for admission will receive a Notice of Discharge (IL462-2022). The resident school district should be notified, if applicable, but the reason for discharge and the right to object are not required.

10. If the attorney of record, parent/guardian, or the individual (if twelve years of age or older) should object prior to discharge, they must send a written objection to the Center Director as per IL462-2022. The Center Director will respond to written objection(s) on the Notice of Facility Director's Decision [IL462-2023]. The procedure as outlined in 405 ILCS 5/3-207(a) and 4-209(c).

11. The social worker will notify all departments of the scheduled discharge by memo. Include name and address of placement and date and time of discharge; also include date, time, and location of discharge staffing.

12. Two weeks prior to discharge, the social worker will:

    a. Fill out Notice of Proposed Discharge to Community Placement or Inter-Facility Transfer of Recipients Form (DMHDD 1240B) and forward to Trust Fund Officer.

b. Arrange for transportation.

c. If individual has wheelchair, send memo to Business Administrator requesting wheelchair accompany individual.

13. The HPC will:

a. Begin to inventory individual's personal possessions that will accompany the individual (radio, television, wall decorations, suitcase, bedspread, razor, leisure items, or toys) and ensure that all items are clean and in good working condition.

b. Check with Clothing Aide to ensure adequate supply of clothing that is clean and in good repair.

c. Notify appropriate staff of date of discharge staffing in order that reports will be completed and staff scheduled to attend.

14. No later than seven work days prior to the actual discharge, a discharge staffing will be held to be conducted by the social worker. The parent/guardian, the PAS agency, the director of the receiving Center, and any external service providers are invited to attend, in writing, with a copy for the individual's record. The purpose of the staffing is to ensure that the post-discharge habilitation plan is consistent with the individual's needs. Each member of the ID Team must prepare a report as outlined in the Discharge Staffing Format. Should a discharge be contrary to the ID Team's recommendations, then the discharge staffing will contain the ID Team's evaluation of the inappropriateness for terminating our services.

15. a. This staffing will be completed, reviewed by the Supervising Social Worker, and entered in the individual's record within seven work days after termination of service.

b. A copy of the discharge staffing will be provided for the person or agency that will be responsible for future programming of the individual. A copy of the discharge staffing will also be sent to the parent and/or guardian of the individual and the PAS agency. The case coordination unit will be providing a formal linkage between Murray Center and the new agency.

16. Prior to discharge, designated personnel are responsible for assembling copies of the following information and/or items:

a. Physician and/or nurse:

1) Medical diagnosis and summary
2) Physical examination which was done within 30 days for CILA refetral or most recent one

for ICF/DD discharge.

3) TB Test within two weeks
4) Review of medical needs
5) Complete Clinical Transition Form (IL 462-4000) Sections I-V, VI, & VII
6) Identification of significant illnesses or injuries
7) Immunization record
8) Description of surgeries and dates
9) Recommendations for post-discharge medical treatment
10) Check wheelchair for good repair and function
11) Medication orders for discharge
12) 14-day supply of medication
13) Communicable disease statement within 24 hours prior to discharge
14) Laboratory Reports:
    a) Chest x-ray within one month
    b) Parasitology on three stool specimens within one month
    c) Serology, hematology blood chemistry, and urinalysis within two weeks
15) Physical therapy program and recommendations
16) Complete Placement Summary Part I [IL462-0189a] and Placement Summary Part II [IL462-0189B (R-5-99)]

b. Social Worker:
1) Discharge Summary[IL462-0020b & IL462-0020c
2) A copy of dental records
3) A copy of Letters of Office
4) A copy of the discharge staffing
5) Indicate provisions for follow-up services
6) Two months documentation of program
7) Copies of all updated consults since original referral
8) Secure parental/guardian signature on Consent for Services Form IL462-0012
9) Copy of Birth Certificate

c. Psychologist:
1) Update psychological within ninety days of discharge
2) Copies of behavior programs

d. HPC:
1) Gather all personal possessions (radio, television, wall decorations, bedspreads, leisure items or toys, etc.) and equipment noted on Personal Property Receipt [IL462-0001].
2) Gather adequate supply of personal items (toothpaste, toothbrush, shampoo, deodorant, brushes, comb, clippers, razor, lotion, Kleenex, cologne, makeup, etc.)

17. On the day of discharge, the social worker is responsible to see that the individual's clothing, a two-week supply of medications, statement of being free from communicable disease, personal items, money, and discharge information accompanies the individual to the receiving Center; also, ensure that all medications and personal items that accompany the individual are listed in the

progress note section of the individual's chart.

18. After discharge, it will be the responsibility of the social worker who coordinated the placement to:

a. Follow-up linkage with community residential Center staff through on-site visits for the first four weeks. These contacts will be documented in the progress notes.

b. Center Social Worker will attend the 30-day staffing. Monthly follow up will continue for one year. Monthly follow-up can be via phone contact.

c. Fill out an Individual Records Checklist and send to the Health Information Services office within 72 hours after conditional discharge.

Reference(s):
Chapter IV, Article VII of the Mental Health and Developmental Disabilities Code (revised 1988) [and any policies or procedures subsequent to that Code]
DMHDD Code 4-704-b, c
405 ILCS 5/3-207(a) and 4-209 (c)

Referenced Document(s):
Authorization to Disclose/Obtain Information [IL462-0146 (R-6-08)]
Community Discharge Staffing Format
Consent for Services Form IL462-0012
Discharge Summary [IL462-0020b & IL462-0020c]; *page 1 has not been approved as an eForm by CMS as of 03/23/09 per Denise Lueking.*
Notice of Discharge [IL462-2022 (R-1-04)]
Notice of Facility Director's Decision [IL462-2023] (R-7-00) (DMHDD-23)
Notice of Proposed Discharge to Community Placement or Inter-Facility Transfer of Recipients (DMHDD 1240B)
Personal Property Receipt [IL462-0001 (R-2-02)]
Placement Summary Part I [IL462-0189a (R-9-99)]
Placement Summary Part II [IL462-0189b (R-5-99)]

SL:mr

MURRAY CENTER

COMMUNITY DISCHARGE STAFFING FORMAT

I. STAFF ATTENDING (Attach Form 126)

II. REPORTS:

A. Social History: (Include reason for discharge; time/date of discharge; receiving Center name, address, telephone number, and responsible person; other persons/agencies notified of staffing and response; changes/additions to social history status since most recent annual review; source of follow-up services; school district representative, if under age 21; recommendations for transition).

B. Medical/Physical: (Note pertinent changes since most recent annual review and results of tests for discharge if available).

1. Medical
2. Pharmacy
3. Nutritional
4. Dental
5. Physical/Occupational Therapy
6. Other Consultations
7. Recommendations for transition

C. Psychological Status: (Note pertinent results of psychological for discharge; behavior programs; effective reinforcers and recommendations for transition).

D. Unit Staff: (Each shift should note personal information, such as likes, dislikes, and other helpful information that would be useful to new staff who will be working with individual).

E. Speech and Hearing: (Changes/additions since most recent annual review and recommendations for transition).

F. Activity Therapy: (Preferences and behavior on activities/outings; any leisure/recreational information that would be helpful to new staff working with individual).

G. Day Program Services: (Current situation and recommendations for transition).

For additional information, see _____'s Annual Review dated _____.

III. ASSETS:

IV. NEEDS:

V. RECOMMENDED OBJECTIVES FOR INDIVIDUAL TO FACILITATE DISCHARGE:

A. Skill Training/Behavioral
B. Service

VI. DISCUSSION:

VII. ID TEAM RECOMMENDATIONS FOR DISCHARGE:

VIII. SIGNATURES:

Habilitation Program Coordinator	Physician
Residential Manager	Social Worker
Case Coordinator Responsible for Follow-up Services	

Revised 3/21/12

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

AFFIDAVIT OF JULIE HESTER

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Staff Development Specialist and have held this role since November of 2012. In this role, I conduct training programs for new employees. Prior to this, I was employed as a Qualified Mental Retardation Professional ("QMRP") for twenty-nine years at Murray. QMRP duties included working with caseloads of residents, case studies, conducting annual and monthly reviews, and monitoring progress of individuals. In this role, I worked very closely with Murray residents.

3. On Tuesday, May 7, 2013, I was participating in a training session class for Murray employees when the Director of Murray, Jamie Veach, came into the class. He informed the entire class of Murray employees that by the end of May 2013, Murray would discharge forty residents. Mr. Veach also informed all employees that they would be in a floating pool and would find out on a given day where they would be working on that day.

4. Historically, in order to transition a resident out of Murray, several steps were done in order to facilitate a smooth transition process and ensure the safety and well-being of the resident. First, there would be a team meeting consisting of all the people on a "team" for the resident (i.e., the social worker, psychologist, nurse, QMRP, cottage director, occupational therapist, physical therapist, etc.). At the meeting, the team would identify whether the resident was appropriate for placement. If the answer was yes, then the social worker would contact homes. Once a home was selected, there would be, over the course of weeks, temporary pre-placement visits, first for a lunch or dinner, then for an overnight visit. On average, each resident being transitioned out of Murray would receive three pre-placement visits to ensure a

smooth transition process. During these visits, the resident's belongings were not moved out of Murray because the visit was temporary. Following this would be a transition staff meeting to work closely with the staff at the home in terms of programs, needs, and medical issues. There would also be a series of tests done on the resident, as discussed in the Standard Operating Procedures. On the day before the transfer, there would be a conference with the home to identify any remaining issues and discuss the move and transfer of belongings. Finally, the transfer would occur, and this would be followed with weekly visits for about 30 days from Murray staff and then monthly visits. For certain issues, Murray staff would work directly with people at the home and provide services to identify problems and make the transition process smooth.

5. Historically, the complete transition process out of Murray for each resident would take on average at least three weeks and possibly longer than a month for some residents.

6. The historical transition process is not being followed, and instead, a much more accelerated schedule is being used. Murray employees who normally work closely with residents and historically would be part of the above-mentioned "team" are not being allowed to go to transition meetings.

7. Three OSG residents have already been discharged, and Community Resource Associates ("CRA") and Murray decision makers have attempted to transfer another two OSG residents. During my 29 years as a QMRP, I have worked closely with three out of these five OSG residents ~~(for about six years each)~~ and have been in close proximity to the fourth OSG resident for years. Based on my experience at Murray and knowledge of these four residents, I do not believe that any of these four residents are fit to be placed in a community home. If called

upon to testify, I can provide the specific reasons for why each resident would not be a proper fit for a community home.

8. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8/5/13
DATE

JULIE HESTER

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

DAVIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian. WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

ALL-STATE LEGAL® PETITIONER'S EXHIBIT 6

AFFIDAVIT OF KIM DAVIS

1. I have personal knowledge of the facts of this declaration and could competently testify under oath to those facts if called upon to do so.

2. I am employed at Murray Development Center ("Murray") as a ~~Residential~~ Registered Nurse in the Quality Enhancement Department. My job duties currently include creating surveys and collecting data on various studies associated with Murray. I also work on internal compliance/monitoring for the entire Murray facility. I have been employed at Murray since 1984. When I was first hired, my job duties included direct patient care. Since 1988, I have been working in the Quality Enhancement Department.

3. I also teach injury reporting and conduct training for Murray employees.

4. On Tuesday, May 7, 2013, I was conducting a training session for Murray employees when the Director of Murray, Jamie Veach, came into my class. He informed the entire class of Murray employees that by the end of May 2013, Murray would discharge forty residents. Mr. Veach also informed all employees that they would be in a floating pool and would find out on a given day where they would be working on that day.

5. Currently, there are about thirty residents left at Murray who are wards of the Office of the State Guardian ("OSG"). About three OSG residents have already been discharged.

6. The historical process for discharge for a given Murray resident comprised of several steps. First, a team transitional meeting would be held. Then, a pre-placement visit would occur and the resident would be taken to the prospective home, sometimes for lunch. He/she would then be brought back to Murray. The average resident would receive about three

pre-placement visits before discharge in order to fully ensure that the resident would transition safely into the new home.

7. Currently, the process for discharge has been accelerated to a degree that eliminates many of the previous historical steps taken. For example, and currently, for the three OSG residents that have recently been moved out of Murray, the "pre-placement visit" consisted of the resident being moved to the new home, along with all of the resident's possessions. If the resident did not have any issues with this move, the discharge was made official. If the resident had any issues, he/she would come back to Murray. This is not the type of slow transitioning that previously occurred at Murray. To the contrary, this is a complete move to a group home.

8. Temporary (and short) resident visits were not done for some of the OSG residents mentioned above.

9. Based on my employment history at and familiarity with Murray, as well as knowledge of the transition process, I do not believe that forty residents can be safely discharged out of Murray in a timetable as fast as the end of May 2013.

10. I swear under penalty of perjury that the statements in this declaration are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8/5/13
DATE

KIM DAVIS

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

AFFIDAVIT OF TRACY KISELEWSKI

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Dietician. My duties include an annual assessment on the Murray residents and a quarterly follow up. I also design a special diet for the residents, and monitor food preferences. I have been employed at Murray since 1997.

3. A few weeks ago, I was on the transition team for two residents and attended the pre-transition meeting for both of these residents. The Murray transition team of employees that prepare for such meetings found out about the transition meeting for these two residents only a day before the meeting. Based on my experience at Murray, this short of time was inadequate to give the Murray transition team adequate time to prepare for the pre-transition meeting, which touches upon nearly all phases of the resident's life. Such a short schedule, in my opinion, can potentially jeopardize the health and safety of the resident during a transition.

4. I have personal knowledge of the fact that six pre-transition meetings have been scheduled for ~~the next~~ TK one week in TK May for six different residents. I am on the transitional staff for all six residents.

5. I was present another transitional meeting for a resident, along with the Office of the State Guardian ("OSG") Representative, Freda Omer and some Murray employees. Immediately prior to this meeting, Ms. Omer admitted in front of me that she had not visited the home that was planning to receive this resident, but that later that day, she planned to visit it. Given the fact that the pre-transitional meeting is the key meeting for discussing all transitional

issues for a resident before the transition occurs, I found it odd that Ms. Omer, as the public guardian for the resident, had not yet visited the home.

6. I have attended at least five transition meetings in ~~the last two months~~ April + May. Ms. Omer has been present at these meetings. I have never seen Ms. Omer object to any placement during any meeting that I have attended.

7. ~~About two weeks ago,~~ On May 9, 2013 I attend another transition meeting for a resident who was passive and ~~wheelchair bound.~~ limited ambulation There were several other employees (comprising the transition team) in attendance, as well as representatives from the group home provider, CRA representatives and Ms. Omer. I had heard before the meeting that this resident was going to be placed in a small group home with a very aggressive resident. I asked at the meeting who the passive resident would be placed with. I also asked if this resident would be placed with any resident with a history of known aggression. The CRA representative told me that such a placement would not happen.

8. During another transition meeting that same day (and for the aggressive resident), and in which Rick Starr was present, I raised the fact that no employees from the resident's cottage (and who knew the resident the best) were at the meeting. This was not normal and compromised the effectiveness of the meeting. Based on my observations, the communication for this meeting was so poor that the cottage that worked with the resident did not even know about the meeting. I was then told by Rick Starr to come with him. We went to an empty room. I was told by Rick that this was the second time that I had called him out about not being notified about meetings, and that if I had a problem with anything that he did that I should talk to him. Rick told me to come by his office that afternoon, and that I could bring a union representative if I wanted to.

9. I then went back into the transition meeting. I started crying and was very upset about several things, including not being notified about meetings, the possibility that the ~~wheelchair-bound~~ resident might be placed with an aggressive resident and the fact that Rick Starr had scolded me for something that I believed was the right thing to do.

10. After both meetings took place, I learned that this ~~wheelchair-bound~~ resident would be placed with a very aggressive resident. I do not believe that this placement is proper. Should it occur, the health and safety of the wheelchair-bound resident would be jeopardized.

11. I attended the afternoon meeting with Rick Starr, Jamie Veach and my union representative. That same day, a newspaper article had appeared about Murray. Rick told me at the meeting that every time that Murray was reported in the newspaper, he had to report to his employers and explain why. Rick then said that it was brought to his attention that I had missed nine annual review meetings for one particular resident. Aside from the fact that for several of these meetings, I was not even the treating dietician. I explained that since Murray no longer had a consultant dietician, there was a staffing issue and it was not possible to go to all of the meetings and also get the paperwork done for the residents. Jamie agreed that the paperwork was the priority and had to get done. The meeting ended.

12. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8/12/13
DATE

TRACY KISELEWSKI

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
I

AFFIDAVIT OF ADAM GIBSON

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I am currently employed at the Murray Development Center ("Murray") as a Mental Health Specialist. I assist in updating Behavior Intervention Programs, as well as collect data from behavioral incidents amongst residents. In June, I will have been employed at Murray for five years.

3. I am familiar with the transition process for a resident out of Murray and into a group home. I have attended several transition meetings for residents.

4. In the past month, I have witnessed three resident wards of the Office of State Guardian ("OSG") being transferred to group homes. All three of these residents were accelerated along a schedule that was much faster than in previous instances of transfers. Pre-placement visits (whereby a resident temporarily visits a home for a lunch, dinner or a night) for the three residents were ignored in favor of complete transfer to the home of the residents, along with their belongings.

5. I have personal knowledge of the behavioral patterns of the two OSG residents. One of these residents suffered from temper tantrums, had severe MR, and had a history of being physically aggressive towards people. He has ~~hid~~ had several attempts at CILA home transfers but has failed each time. His behavioral patterns make him inappropriate for many group home settings.

6. Two of these residents were originally planned to be transferred to a group borne with significant water damage in the home. Due to the voicing of concerns for this

transfer by employees. the transfer was delayed until employees were informed that repairs had taken place. The two residents are currently placed in this home.

7. The manner in which these three OSG residents were sped through the transfer process is problematic. Normally, there is an easing into a group home for a resident in order to ensure his/her safety and well-being. This normal process has not taken place for the three residents who were transferred out. Furthermore, employees such as myself have not been informed of the transfer of residents until the day that it is going to happen. This lack of communication is also troubling - historically, employees familiar with the resident have had a greater role in the transition process.

8. On May 6, 2013, a pre-transfer meeting was held for two other OSG residents. One of these residents is very passive, has profound MR, suffers from PICA Disorder, and uses a wheelchair for distances. The other resident has a history of being violent and aggressive. It was at this meeting that I learned from the home provider "Cail" that the two residents were going to be placed together in a group home. I voiced my concerns to the Cail group home representative and other Murray employees that the two residents could not be placed together in a group home without jeopardizing their health and safety.

9. I was informed by several State employees at Murray that subsequently, and despite my protestations, the State attempted to take these two residents to a group home for an hour long visit, but did not even get out of the parking lot before the violent resident started attacking the non-violent resident.

10. On May 10, 2013, group home providers came to Murray and talked about placing three OSG residents in a group home. One of these residents has a history of

sexual acts and the other has very violent aggression that has previously required 2 to 1 supervision. He also previously broke someone's nose while out in the community. The third resident is in a wheelchair, is passive and has no mobility. Based on my experience at Murray and my knowledge of these residents, placement of all three together in a group home would jeopardize the health and safety of these residents and others. I have conveyed this concern to several Murray employees.

11. In November of 2012, I viewed an official Murray list of residents that were slated to be transferred out of Murray. Nearly all of the people on the list were OSG residents. I viewed this list at the same time that Community Resource Associates ("CRA") came to Murray to evaluate residents.

12. I have been to transition meetings with the OSG representative, Freda Omer. Ms. Omer is a State employee that represents the interests of the OSG residents. Not once have I ever seen Ms. Omer participate in any way during a meeting, much less take a position that a particular placement of a resident in a group home is improper.

← Prior to 1st. Affidavit Ms. Omer did not voice any words.

13. I swear under penalty of perjury that the statements in this declaration are true and correct.

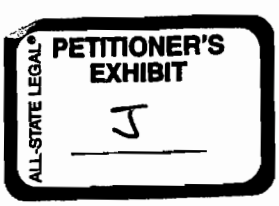
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8/5/13
DATE

ADAM GIBSON

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	



AFFIDAVIT OF TRACY HOWELL

1. I have personal knowledge of the facts of this declaration and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Registered Nurse. My duties include administering medications to residents, working on resident health-care plans, making rounds with the doctor to visit residents, and providing patient care. I have worked at Murray for 28 years and have been a Registered Nurse at Murray since 1993.

3. About two weeks ago, I was made aware that Murray and CRA planned to pair two residents together in a group home. One of the residents is wheelchair bound, while the other resident is extremely violent and aggressive. I had worked with the aggressive resident for about five years, and I have personal knowledge as to his condition and behavior. This resident has had several incidents at Murray related to his behavior. Furthermore, this resident has a history of targeting defenseless residents.

4. These two residents should never have been paired together. By planning to pair these two residents together, CRA and Murray jeopardized these residents' health and safety.

5. On May 10, 2013, I was walking in Murray past the dining room. I could see through a window Murray employees placing these two residents together in a van to apparently go for a pre-placement visit of sorts. The Murray social workers, Bill Henson and Carla Bauer, as well as other Murray employees, were attempting to place these residents in the van. I was asked to come outside to help, and I did. I observed Bill at the driver side seat trying to keep the aggressive resident buckled in the front seat. This resident was trying to unstrap the seat belt and lunge at the wheelchair-bound resident in the backseat. I personally witnessed the violent

resident try to grab and hit the wheelchair-bound resident several times. Had Murray employees not held this resident back, the resident could have: easily hurt the wheelchair-bound resident. At some point, there was a discussion between the employees about how the transport of these two residents was going to work. Eventually, the transportation of these two residents was called off by the cottage manager, Peggy, who told all of the employees that she just spoke to Rick Starr on the telephone and that Rick told her that the employees could take the wheelchair-bound resident for a pre-placement visit, and then take the aggressive resident to the same home next week for that resident's visit.

6. Pursuant to Rick's directive, the wheelchair-bound resident went for a home visit on that same date, May 10, 2013, while the aggressive resident went for a home visit to the same home the next week.

7. As far as I have been told, the plan is still to place these two residents together at the same home. If this plan has changed, no one has let the Murray employee transition team (for these two residents) know. I believe that this is not, in any manner whatsoever, a proper placement for these two residents together. If the residents are placed together, their health and safety would be jeopardized.

8. The home that these two residents are planned to be placed in is off a major highway. The aggressive resident runs a lot at Murray. I believe that this home is no a proper placement for this resident due to the resident's running habits. If this resident is placed in the home, even alone, the resident's health and safety would be jeopardized.

9. Both of these residents are wards of the Office of the State Guardian.

10. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8/5/13
DATE

TRACY HOWELL

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

ALL-STATE LEGAL®
PETITIONER'S EXHIBIT
K

AFFIDAVIT OF ALICIA CREED

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I am currently employed at Murray Developmental Center ("Murray") as a Registered Nurse. My duties include accompanying residents to doctor appointments, making rounds with the doctor to visit residents, and providing patient care. I have worked at Murray for over three years.

3. On May 9, 2013, I attended a transition meeting for a very aggressive and medically fragile resident. At the meeting, which CRA (self-labeled as ACCT) and the Office of State Guardian ("OSG") representative, Freda Omer, also attended. a Murray employee and myself, informed ACCT and Ms. Omer of the extreme violent nature of this resident, and the medical concerns we had in which 1:1 staffing we deemed necessary for the resident while at Murray. This type of care was not going to be provided by the provider of the group home that was planning to receive the resident. There were issues with resident safety that I felt were being ignored by Ms. Omer and ACCT at this meeting.

4. Based on my experience in working with this resident and my role as a registered nurse, I believe that this resident should not have been placed at the home that was scheduled to receive him. Based on this experience, as well as the transition meeting, I do not believe that the provider was taking in to account the severity of the resident's condition.

5. The home that was scheduled to receive this resident was located near a busy road. I know that this resident likes to be outside and loves to run around. Oftentimes, he will take off running. I and other employees informed the provider, Ms. Omer, and ACCT of this at the transition meeting. In response, Ms. Omer said on the issue, "Oh yes, he can run. I have

seen him." She said this with a small laugh. She did not say anything else on this issue. I was shocked at the lack of concern on Ms. Omer's part on such an important health and safety issue for the resident.

6. I decided to report my concerns about this meeting to the Illinois Department of Public Health hotline. Upon calling the hotline and sharing my concerns, the woman op4erator told me that she did not believe that she could take my complaint against ACCT but that it would be filed against Murray. She also told me that any concerns related to ACCT should be directed to the Governor's office. As an employee, I feel as though I have nowhere to turn to report incidents concerning the residents.

7.. On July 25, 2013, I sent an e-mail to Assistant Director Rick Starr to let him know that one of the OSG Ward's doctors had advised that the OSG Ward was suffering from and being treated for a urinary tract infection, and it was the opinion of the doctor it was not safe for the OSG Ward to be transferred if the CILA could not provide the ordered follow-up service.

8. I received an e-mail from Rick in response advising that Rick had "received an e-mail from Freda" and that the OSG Ward "can go."

9. I did not receive any confirmation the CILA could provide the ordered follow-up care.

10. The OSG Ward was transferred on July 25, 2013.

11. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and

correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8/5/13
DATE

ALICIA CREED

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

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PETITIONER'S EXHIBIT
L

AFFIDAVIT OF MARGIE BARTON

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Habilitation Program Coordinator/Qualified Intellectual Disability Professional. I am responsible for coordinating the rehabilitation plan for the residents. This plan is very comprehensive – it involves medical details and deals with every aspect of a resident's necessary services. I have been employed at Murray for 29 years.

3. On May 6, 2013, I met with a representative of a group home provider, "CAIL." The representative's name was Rhonda Harris. I have met with her before a few times concerning different residents. This time, we were meeting about a resident who had some significant behavior issues. Rhonda informed me that this resident and another resident would be moved out together as early as May 15, 2013. At this meeting, Rhonda told me that neither CAIL nor she had ever received (1) a copy of the Behavior Intervention Plan ("BIP"); (2) a copy of the physical exam done for the resident; and (3) a copy of the resident's Individual Service Plan ("ISP"). I found this request odd, because CAIL had accepted a resident even though it knew none of the medical details about the resident, as stated in the BIP, ISP and physical exam.

4. Historically, a social worker would make copies of these reports and send them to the group home provider early in the transition process. The group home provider would never make a decision about accepting a resident before it received a BIP and ISP. In fact, in many instances, a provider would not even come to meet the resident without first receiving and analyzing the BIP and ISP.

5. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

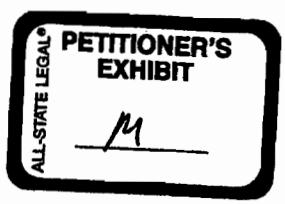
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

5/5/2013
DATE

Margie Barton
MARGIE BARTON

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	



AFFIDAVIT OF HAMILTON RECH

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Mental Health Specialist/Behavior Analyst. In this role, I design behavior plans and programs for residents, update such programs and train staff in program implementations. I am also part of the team that deals with psychotrobes. I have been employed at Murray for over a year.

3. About three weeks ago, I was at a transition meeting for a resident who was to be transferred to Danville. The resident was a ward of the Office of State Guardian ("OSG"). Freda Omer, the OSG Guardian Representative, was at the meeting. The meeting occurred about three weeks ago. This resident's biggest issue was elopement (where the resident attempts to run away). During the transition meeting, the transition team learned (for the first time) that the group home, which was planning to receive the resident, did not have a fence. I expressed concern at the meeting that there was no fence at the house. The resident was transferred by Murray and CRA to this home anyway, and despite my concerns. To my knowledge, no fence was ever built at the home.

4. During another transition process for two residents, I was part of the Murray employee transition team. This team was given less than 24 hours by CRA and the PAS agent to get everything ready and prepare for a transition meeting. I was later made aware that CRA and the PAS agent knew about the transfer at least five days to a week in advance of this meeting, but did not tell the team. Based on my experience, 24 hours is not enough to fully gather necessary information and prepare for all subjects (including behavioral) of a resident's transfer. This process was accelerated to a degree that potentially compromised the well-being of the residents.

5. I was present at a pre-screening meeting concerning two residents who were planned to be transferred to a group home. One of the residents was very passive and wheelchair bound, while the other resident had a violent, aggressive history. The provider of the group home receiving the residents was at the meeting. Several employees at the meeting told the provider that the two residents were going to be a very bad fit.

6. During another pre-screening meeting with a resident and a group home provider, the provider told the resident that the group home was in Anna, Illinois. I witnessed the resident protest loudly against moving to Anna. The resident wanted to move closer to his family rather than further away. The next time that the provider spoke to the resident, the provider changed his story and told the resident that the home was in "South of Carbondale." The resident said okay to this. It was clear to me that the group provider was merely playing off the resident's likely lack of awareness as to what "South of Carbondale" meant in order to obtain the resident's consent.

7. In my duties, I work with CRA employees. One of the CRA employees, in a moment of frustration, admitted to me that if it was up to this employee, CRA and Murray would take all the time that the resident needs in order to obtain the right fit for the placement of the resident. This employee also told me that people above the employee were putting a tremendous amount of pressure on them and wants to get the residents all out of Murray now. I asked where this statement was coming from, and the employee told me that the employee knew where, but could not tell me.

8. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8/5/2013
DATE

HAMILTON RECH

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
	)	Cause No. 13-CH-49
Petitioners,	)	
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

AFFIDAVIT OF WILLIAM HENSON

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Social Worker. My duties are to give verbal and written consent for habilitation and medical treatment for Murray residents at Elm and Daisy Cottages. I also help with the discharge planning, transfer of residents for pre-placement visits, and transfer residents for permanent visits. I also attempt to make sure that the community discharge plan is being followed. I have been employed at Murray since November 2012. Prior to that, I was employed at Graham Correctional Center. I have also worked for Chester Mental Health and the Illinois Department of Corrections.

3. I have a Master's degree in social work from Southern University in Carbondale. I also have a Bachelor's in social work and a Bachelor's in criminal justice.

4. On April 10, 2013, I attended a pre-transitional meeting for a resident. Other Murray employees, CRA representatives and the Office of the State of Guardian ("OSG") Representative, Freda Omer, attended this meeting. The purpose of the meeting was to discuss the habilitaion and medical needs of a resident as the resident was preparing to transfer out of Murray. I brought up some concerns about the doctor and the medical provider for the home that was receiving the resident. I also brought up some concerns about the physical state of the home that was receiving the resident.

5. Earlier, during a pre-placement meeting at this same home, I walked inside the house and noticed, in the laundry room, the floor being very weak. When I stepped on it, I felt that if I put too much pressure on the wood, my foot might go through the floor. The condition of the floor appeared to me to indicate water damage. There was also a handyman at the house

while I was there. He told me that the home had a history of water problems and that there was a report of an underground spring that produced constant water in the crawl space.

6. At the above April ~~100~~ 10, 2013 meeting, I informed CRA and the provider that I was concerned about the floor situation (i.e. someone could put their foot through the floor) and the potential for the presence of mold. The home provider said that she would look into it. Ms. Omer did not say a word. CRA also did not say anything on this issue. The transfer of the resident did not occur at this time.

7. On Monday, May 9, 2013, two residents were eventually transferred to this same group home.

8. On Monday, May 9, 2013, I also attended two pre-placement meetings for two other residents who were scheduled to be transferred to group homes. The first meeting, at 9:00 a.m., was attended by myself, Ms. Omer, a CRA representative and a representative for the home provider, and several other Murray employees. The resident for this meeting was wheelchair bound and passive in nature.

9. There was another pre-placement meeting scheduled that same day at 11:00 a.m. and for another resident. This resident had a history of aggression and a violent, unpredictable nature.

10. In between the 9:00 a.m. meeting and the 11:00 a.m. meeting, I asked the CRA representative if the resident from the 9:00 a.m. meeting would be paired with the person from the 11:00 a.m. meeting. The CRA representative said that they would not be paired together ina group home placement. I told the representative that the 11:00 a.m. meeting resident had a history of aggression, impulsivity, and was violent in nature. The representative told me that CRA screens all residents and matches would be suitable for each other when paired.

11. Despite my concerns, the next day I became aware that Murray was proceeding with the plan to pair those residents together and send them on a pre-placement visit to the home, I was told to take these residents for the visit. A group of employees consisting of myself, Carla Bauer, Peggy Jett (the Residential Service Supervisor) and other employees, attempted to help these two residents get into the van. The passive wheelchair-bound resident was placed in the back seat. We then attempted to place the aggressive resident in the front seat. I was working with this resident. When this resident went into the van, he started lunging at and trying to grab the wheelchair-bound resident. This confirmed my earlier fears – these two residents could not be placed with each other, or even sit next to each other in the van. Peggy contacted Rick Starr by telephone and informed him of the situation. She then told us Rick's directive – take the wheelchair-bound resident on a visit that day and then next week take the aggressive resident on a visit to the same home. The plan was still to have these two residents placed together.

12. That day, I took the wheelchair-bound resident to the home. The home staff was not at the home, so the visit did not take place and I took the resident for lunch to McDonald's instead and then came back to Murray.

13. After I had raised my concerns at the previously mentioned April 10, 2013 meeting, I received a written order stating that I could not visit any property owned by the provider that owned the home with the floor issue. I also received an e-mail from Rick Starr stating that I could not visit any property owned by the provider.

14. On May 17, 2013, Jamie Veach (Facility Director) and Rick Starr called Carla Bauer and myself to Jamie's office. Steve Koppen, my union representative, also attended the meeting. Jamie also told us that other employees that are not social workers will be making

these visits. Steve told Jamie and Rick that this was a violation of the Standard Operating Procedures and the Union contract.

15. On May 17, 2013, at a meeting with Jamie Veach, I was told by Jamie that very soon there was going to be an increased level of transfers out of the facility.

16. Murray and Rick Starr are not letting me visit homes for the residents that I work with. In doing this, Murray and Rick Starr are prohibiting me from carrying out the duties of my job, which include visiting these homes and assisting the resident in the transition placement process. I believe that Murray's and Rick Starr's actions are in direct response to the concerns that I raised at the April 10, 2013 meeting about the condition of the home, as well as other concerns I raised on behalf of the residents' health and safety. I believe that I am in further risk of retaliation if I convey any further objections to any transfers due to health and safety concerns.

17. As a social worker, I endeavor to follow the National Association of Social Workers ("NASW") Code of Ethics ("NASW Code"). Under Section 1.01 of the NASW Code, "Social worker's primary responsibility is to promote the well-being of clients." Under Section 1.14, "[w]hen social workers act on behalf of clients who lack the capacity to make informed decisions, social workers should take reasonable steps to safeguard the interests and rights of those clients." In all my duties as a Murray Social Worker, the best interests of the residents, as well as their health and safety, must inform any action that I take. The NASW Code is attached as Exhibit A.

18. CRA and Murray decision-makers Jamie Veach and Rick Starr are not following the Murray "Standard Operating Police and Procedure" ("SOPP"). Section 7 of the SOPP states that "social worker will arrange pre-placement visit, and also "accompany the individual, the parent/guardian and the PAS agency to the identified Center for placement." The SOPP contains

several references to the role that the social worker plays in the transition process. These provisions, as well as several others in the SOPP, are currently not being followed. A copy of the SOPP is attached as Exhibit B.

19. Based on all of my observations of the last two months, as well as the various transfers that have occurred, the current CRA process consists of removing the Murray OSG residents first, with Ms. Omer's consent. The majority of residents who currently are in the final process of being transferred out of Murray are OSG residents. There are about 25-30 OSG residents left at Murray. There are over 200 residents in total.

20. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

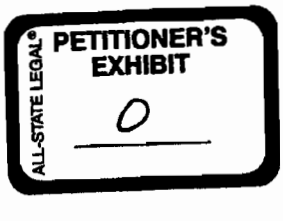
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8-5-13
DATE

William Henson
WILLIAM HENSON

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	



AFFIDAVIT OF WILLIAM KELLY

1. I have personal knowledge of the facts of this declaration and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Maintenance Equipment Operator. In this role, I take care of moving all of the resident personal belongings during transfers. I also move food to the Murray cottages three times a day.

3. On Tuesday, May 15, 2013, I received a work order (the "Work Order"), dated May 10, 2013, that told me to gather up all of a Murray resident's belongings and take them to a group home, where the resident was being transferred. I gathered up all of the belongings with Rhonda Hendricks, who is an Institutional Maintenance Worker at Murray. I was told by a Murray employee that the resident would be coming in a separate car the same day and right behind our car. Also, the Work Order stated that the resident would be leaving on the same date, May 15, 2013.

4. When I and Ms. Hendricks pulled up in the truck (with the resident's belongings) to the group home, the status of the home clearly showed that it was still under construction. The main room (as seen from outside and looking into the window) had a washer and dryer sitting on the middle of the floor. There were other construction items also visible, such as a roll-off dumpster. Drywall was stacked outside.

5. Three construction workers met Ms. Hendricks and I at the front of the house. One of the workers told me that the house, and that "there was no way that the resident could come today." This worker told me that the home was a "nightmare" and had plumbing issues.

6. Ms. Hendricks and I immediately informed a superior at Murray that the resident should not be transported to the home. The resident did not go to the home.

7. On May 15, 2013, I had a conversation with Rick Starr, the Assistant Director of Murray. Rick admitted to me that concerning the transfer, "there must have been a hiccup somewhere." Rick also stated that any problems with the transfer "was on the provider, not on me." I asked if the places were required to be inspected, because it was not done here. Rick said yes, but also stated that "it only takes a day."

8. About three weeks ago, I had moved the personal belongings of a resident to a group home, as ordered to do. When I reached the home, I could see (from the open door) that there was uninstalled wood trim leaning against the wall. The resident whose belongings I was transporting was scheduled to arrive in the home that day.

9. Before the events of the last few months, historically, when residents were taken for pre-placement visits, their entire belongings were not brought with them. Most pre-placement visits would not last longer than a day. Now, all of the belongings are being moved on the first visit. The residents, most of which have profound developmental disabilities, are being taken to brand new home environments for the first time, and they never come back to Murray unless there is an incident.

10. I swear under penalty of perjury that the statements in this Declaration are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8-5-13
DATE

William D. Kelly
WILLIAM KELLY

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

AFFIDAVIT OF RHONDA HENDRICKS

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as an Institutional Maintenance Worker, in this role, I take care of the Murray grounds, mow the grass and maintain the area. I also help the Murray truck drivers move the personal belongings of Murray residents to group homes during the resident's transition out of Murray. I have been a Murray employee for 28 years.

3. On Tuesday, May 15, 2013, I received a work order (the "Work Order"), dated May 10, 2013, that told me to gather up all of a Murray resident's belongings and take them to a group home, where the resident was being transferred. I gathered up all of the belongings with William Kelly, who is a Maintenance Equipment Operator at Murray. I was told by a Murray employee that the resident would be coming in a separate car the same day and right behind our car. Also, the Work Order stated that the resident would be leaving on the same date, May 15, 2013.

4. When I and Mr. Kelly pulled up the truck (with the resident's belongings) to the group home, I immediately could tell that the home was still under construction, because the main room (as seen from outside and looking into the window) had a washer and dryer just sitting in the middle of the floor. I could see other construction items still in the house, as well as a roll-off dumpster.

5. Three construction workers met me at the front of the house. One of the workers told another construction worker to put the boxes of personal belongings into the room that was being constructed. I informed the worker that the resident would be arriving at the home in any minute, and that the state of the home was unacceptable. The

worker told me that the home was not ready for any resident to move in. The worker also told me that there were still several issues with the house, that plumbing and sheet rock had to be redone, and that the state of the home was a "total nightmare."

6. Mr. Kelly and I immediately informed a superior at Murray that the resident should not be transported to the home. The resident did not go to the home.

7. On May 15, 2013, I had a conversation with Jamie Veach, the Director of Murray. I asked Jamie to explain the pre-transitional visit to her, because I was under the understanding that it was a short temporary pre-placement visit done without the resident's entire belongings being moved to the home. Jamie told me that "when the resident goes to the home, that will be her visit." Jamie also said that the resident would stay at the home unless them was a problem.

8. On May 15, 2013, I had a conversation with Rick Starr, the Assistant Director of Murray. I asked why the home had not been inspected. Rick said that the inspection only takes a day. Rick then told me that "if the home wasn't inspected, it wasn't on me, it is on the provider."

9. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

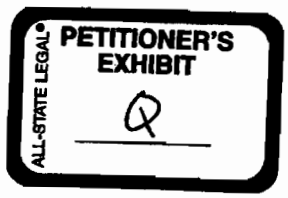
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8-6-13
DATE

Rhonda Hendricks
RHONDA HENDRICKS

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	



AFFIDAVIT OF CELESTE STRATEMEYER

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Speech-language Pathologist. In this role, I evaluate and treat speech and language needs of Murray residents, coordinate hearing services at the audiology clinic and evaluate and treat swallowing disorders. I have been employed at Murray for twenty-three years.

3. I am familiar with the transition process for a resident out of Murray and into a group home. The normal transition process is not currently being followed.

4. In March of 2013, a non-verbal resident who is a ward of the state ("OSG resident") was scheduled for a person-centered plan meeting. This OSG resident communicates through an electronic communication device. The device broke and was sent for repairs, but the repaired device did not arrive in time for the meeting. I requested that the meeting be rescheduled to the following week when the OSG Resident's device would be available for the Person-Centered-Plan meeting and to allow the OSG Resident to communicate at this meeting. I discussed this matter with Rick Starr, the Assistant Center Director of Murray, and he stated that the Office of the State Guardian ("OSG") representative, Freda Omer, agreed for her ward, the OSG Resident, to be interviewed without the resident's primary means of communication available. I continued to object to the meeting. Mr. Starr then told me that I was trying to interfere with the CRA process. He told me that there was no need to reschedule because the OSG Representative was fine with the meeting time. The meeting was eventually rescheduled.

5. ~~This last week~~, during a transitional meeting for an OSG Resident, Ms. Omer told me that she had not visited the home where the OSG Resident was going to be moved. She also told me that since the State would not pay for her to visit the home because it was in another OSG Representative's district, she would not visit that particular home.

6. On April 10, 2013, at a pre-transitional staff meeting for two OSG residents who utilize sign language to communicate, I learned from the group home provider that the home where these OSG Residents were going to be transferred had only two out of five staff members who knew some sign language.

7. On Friday, April ~~12~~ 19, 2013. CRA moved an OSG resident to a town three hours away to a home he had never visited, with staff he had never met. Murray staff had not been to this home either.

8. The manner in which this OSG resident was sped through the transfer process is problematic. Normally, there is an easing into a group home for a resident in order to ensure his/her safety and well-being. This normal process was not followed in this case.

9. Currently, residents are leaving Murray to new homes with all their furniture and personal belongings on what is deemed by CRA to be a "visit," but what is actually a permanent move.

10. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

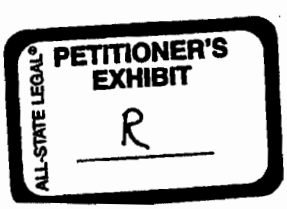
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

08/05/2013
DATE

Celeste Stratemeyer
CELESTE STRATEMEYER

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	



AFFIDAVIT OF LORI DEMIJAN

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as an Occupational Therapist. My duties include evaluating residents for several issues, including range of motion, positioning, wheelchair assessments, feeding, and swallowing. I am also a member of the Murray employee inter-disciplinary ("ID") team for residents during transition. I have been employed at Murray for 13 years.

3. On May 9, 2013, I attended a transition meeting for a resident who was a ward of the Office of the State Guardian ("OSG"). Also attending the meeting were several Murray employees, Ann Younches (the Personal Assistance Service ("PAS") agent, Freda Omer (the OSG Representative), a couple of Community Resource Associates ("CRA") representatives, and representatives of the provider group home that planned to take the resident. I was not aware of this meeting until 9:40 a.m., and the meeting started at 9:00 a.m. The Murray Center Dietician and myself arrived at the meeting together about 9:45 a.m. The short notice of the meeting did not allow enough time for the ID team to fully prepare for the transition meeting and fully be prepared to discuss all aspects related to the transition and the resident.

4. Towards the end of this meeting, I apologized to Ann and Ms. Omer for being late to the meeting and conveyed I was not aware of the meeting time and date until after it had actually started. Ms. Omer and Ann stated they were finding out about the meetings about the same time that I was. I stated my concerns about the short notice of the transition meetings, and Ann stated that I was "preaching to the choir." Discussion was held among all those present in

the meeting about the transition process being very fast, and both Fred and Ann indicated they were just doing what they had been told to do.

5. At a previous transition meeting I attended for an OSG individual. Freda indicated she had not seen the house the individual was going to move into. She asked the provider if she could go see the home after the meeting and before the next scheduled transition meeting she had, which was later that same afternoon. I found it disturbing that the guardian had not visited the home prior to the transition meeting but had agreed to transition the individual to the home.

6. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8-5-13
DATE

Lori Demijan
LORI DEMIJAN

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

AFFIDAVIT OF STEVEN KOPPEN

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently am employed at Murray Developmental Center ("Murray") as a Mental Health Technician. I have been employed at Murray for 18 years. I teach a curriculum for the residents that seek to build their independence.

3. A few weeks ago. I was in a meeting with Jamie Veach, Director of Murray. discussing labor dispute matters. Jamie told me that in the context of resident transfers 50 residents would be transferred out of Murray by the end of May.

4. At another meeting with Jamie about a month ago, and again dealing with labor matters, he told me that if I interfered with the resident transition process. or "try to slow it down in any way," that I would be fired.

5. At another labor management meeting occurring on May 7. I was told by Jamie that if one of the Murray parents asked about how good a fit a CILA home would be for a particular resident, I was not to answer and instead required to direct the parents to talk to Rick. Starr. When I said that I could not lie to a particular parent, Jamie told me that I could ~~he~~ Be fired. SK

6. I swear under penalty of perjury that the statements in this Affidavit are true and correct.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as

to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8-5-13
DATE

Steve Koppen
STEVEN KOPPEN

Nursing Homes in Illinois

Who Regulates Nursing Homes?

A Listing of Illinois Nursing Homes

How to Select a Nursing Home

Centers for Medicare and Medicaid Services Nursing Home Database

Quarterly Reports of Nursing Home Violation

Illinois Law on Advance Directives

Nursing Homes with No Certification Deficiencies

Nursing Home Care Act

Illinois Health Care Worker Registry

Centers for Medicare and Medicaid Services Nursing Home Quality Initiative

Surveys

WARREN G MURRAY DEV CENTER
1535 WEST MCCORD
CENTRALIA IL 62801
ADMINISTRATOR: JAMES VEACH
TELEPHONE: 618-532-1811

Get Acrobat Reader

Surveys conducted at this facility
Click on survey date to display the survey results

Survey	Type of Survey (Definition)	Has a hearing been requested?
05-06-2013	Complaint Investigation Follow-up/Revisit	
05-06-2013	Complaint Investigation	
04-18-2013	Complaint Investigation	
04-09-2013	Complaint Investigation	
03-27-2013	Complaint Investigation	
03-27-2013	Complaint Investigation Follow-up/Revisit	
02-26-2013	Complaint Investigation	
02-25-2013	Complaint Investigation Follow-up/Revisit	
02-11-2013	Complaint Investigation	
01-24-2013	Complaint Investigation	

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General

Surveys

Administration

Residents

Patient Days

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01-09-2013	Complaint Investigation	
01-07-2013	Complaint Investigation	
01-04-2013	Complaint Investigation	
08-29-2012	Recertification Follow-up/Revisit	
08-29-2012	Complaint Investigation	
07-18-2012	Recertification Complaint Investigation	
06-11-2012	Complaint Investigation	
05-07-2012	Complaint Investigation Follow-up/Revisit	
04-23-2012	Complaint Investigation	facility response
10-14-2011	Recertification Follow-up/Revisit	
09-14-2011	Complaint Investigation Follow-up/Revisit Recertification	facility response
09-14-2011	Complaint Investigation Follow-up/Revisit	
09-14-2011	Complaint Investigation	
08-18-2011	Complaint Investigation	
08-02-2011	Recertification Complaint Investigation	
08-02-2011	Complaint Investigation Follow-up/Revisit	
08-02-2011	Recertification Complaint Investigation Follow-up/Revisit	

06-14-2011	Complaint Investigation Follow-up/Revisit	
06-14-2011	Complaint Investigation	
06-14-2011	Complaint Investigation Follow-up/Revisit Recertification	
03-08-2011	Complaint Investigation	
02-10-2011	Complaint Investigation	facility response
02-10-2011	Recertification Follow-up/Revisit	
11-09-2010	Complaint Investigation	
11-03-2010	Complaint Investigation	
09-07-2010	Recertification Complaint Investigation	
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11-23-2009	Complaint Investigation Follow-up/Revisit	
10-08-2009	Complaint Investigation	
09-25-2009	Recertification Follow-up/Revisit	
08-12-2009	Recertification	
04-06-2009	Complaint Investigation Follow-up/Revisit	
03-06-2009	Complaint Investigation	facility response
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09-03-2008	Recertification	facility response

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07-26-2007	Recertification Complaint Investigation	facility response
07-05-2007	Complaint Investigation	
12-12-2006	Complaint Investigation	
11-17-2006	Complaint Investigation Follow-up/Revisit	
10-19-2006	Recertification Follow-up/Revisit	
10-10-2006	Complaint Investigation	
09-07-2006	Complaint Investigation	
08-18-2006	Recertification	facility response
08-17-2006	Federal Monitoring	
05-24-2006	Complaint Investigation Follow-up/Revisit	
05-02-2006	Complaint Investigation	
03-20-2006	Complaint Investigation Follow-up/Revisit	
03-20-2006	Complaint Investigation	facility response
01-26-2006	Complaint Investigation	facility response
01-05-2006	Complaint Investigation	
01-03-2006	Complaint Investigation Follow-up/Revisit	
11-30-2005	Complaint Investigation	

Recertification

10-28-2005	Follow-up/Revisit	
06-30-2005	Recertification	facility response
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01-03-2005	Complaint Investigation	
10-28-2004	Recertification Follow-up/Revisit	
09-02-2004	Complaint Investigation	
08-19-2004	Recertification	facility response
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03-10-2004	Complaint Investigation	
03-04-2004	Complaint Investigation	
03-04-2004	Complaint Investigation Follow-up/Revisit	
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09-26-2002	Recertification	
06-18-2002	Follow-up/Revisit	

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05-09-2002	Follow-up/Revisit Other	facility response
03-25-2002	Other	facility response
02-26-2002	Other	
12-20-2001	Follow-up/Revisit	
10-24-2001	Follow-up/Revisit	
10-11-2001	Other	facility response
09-04-2001	Other	
07-26-2001	Recertification	
04-26-2001	Other	

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

ILLINOIS LEAGUE OF ADVOCATES FOR THE DEVELOPMENTALLY DISABLED, *et al.* ***Plaintiffs,*** vs: **ILLINOIS DEPARTMENT OF HUMAN SERVICES, MICHELLE R.B. SADDLER, *in her official capacity as Secretary of the Illinois Department of Human Services,* KEVIN CASEY, *in his official capacity as Director of Developmental Disabilities of the Illinois Department of Human Resources,* and COMMUNITY RESOURCE ALLIANCE,** ***Defendants***	Case No. 13 C 01300 Hon. Marvin E. Aspen

DECLARATION OF DR. KAREN KELLY

1. I have personal knowledge of the facts of this declaration and could competently testify under oath to those facts if called upon to do so.

2. I am a Registered Nurse with 40 years of experience. I have a graduate degree in psychiatric/community mental health nursing, and a doctoral degree in adult development and education.

3. My son Eric Schutzenhofer is an autistic adult who resides at Murray Developmental Center ("Murray Center), a State Operated Developmental Center for the Developmentally Disabled ("SODC").

4. On May 6, 2013, the Illinois Department of Public Health ("IDPH") cited Murray for a violation. At or around this time, I spoke with Dan Levad, the IDPH monitor charged with inspecting Murray. He said that he had been made aware that the Murray staff was being excluded from the transition process and not following proper transfer procedure. He also told

PETITIONER'S EXHIBIT

me that the closure of Jacksonville Developmental Center ("Jacksonville") went badly and that IDPH failed to stay on top of it because it unfolded too quickly.

5. On May 10, 2013, I requested copies of all violations cited by IDPH against Murray for the past few months ("IDPH Reports") from Rick Starr, the Assistant Director of Murray. Mr. Starr told me that he had been directed by Defendant Illinois Department of Human Services ("DHS") that he was not to disclose the IDPH Reports. He told me that I could make a Freedom of Information Act ("FOIA") request.

6. The same day, I spoke to Jamie Veech, Director of Murray, requesting the IDPH Reports, to which Mr. Veech told me that if he gave them to me, he would lose his job.

7. I swear under penalty of perjury that the statements in this declaration are true and correct.

Dated: May _20_, 2013

Karen Kelly

Dr. Karen Kelly

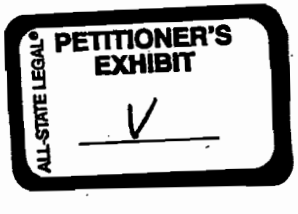
DECLARATION_OF_DR._KELLY_(4)5 20 13

JDC Monitoring Tracker

Transitions Effective April 1, 2012 - March 31, 2013

Monitoring Issues	April 2012	May 2012	June 2012	July 2012	August 2012	September 2012	October 2012	November 2012	December 2012	January 2013	February 2013	March 2013	Total Per Category
Police involvement [with or without court action]	0	0	0	1	3	3	5	6	5	3	1	2	29
DIG involvement	0	0	1	0	0	1	1	0	1	4	3	0	11
Elopements or attempts	0	0	0	0	0	4	3	0	2	3	2	3	17
Behavior management with or without CART/ SST; See definition below	0	0	0	0	3	3	2	2	7	11	6	6	40
* Hospital (admissions or ER visits)	0	0	3	3	5	6	4	12	16	10	4	21 [16 ER 5 Hosp.]	84
Psychiatric hospitalizations	0	1	0	2	1	1	4	0	3	3	2	1	18
Agency [or family/guardian] specific issues	0	0	0	0	0	0	0	0	0	0	0	0	0
Subsequent admission to a Nursing Home post discharge from JDC	0	0	0	0	0	0	0	0	0	0	0	0	0
Temporary re-admission to SODC	0	0	0	0	1	1	0	0	1	0	1	0	4
Deaths	0	0	0	0	0	0	0	0	1	0	0	0	1
Total Issues Identified Per Month Per Setting	0	1	4	6	13	19	19	20	36	34	19	33	204
Unduplicated Count of Individuals Per Month	0	1	2	4	6	7	8	10	11	17	12	17	
Number Transitioned Per Month	1	10	3	10	17	11	42	86	0	0	0	0	
Total Cumulative Number Transitioned	1	11	14	24	41	52	94	180	180	180	180	180	

* Behavior Management: Events identified in this category include injury to self or others, restraint at an SODC, needing medical attention, technical assistance provided, request for permanent support add-on, and/or referred to CART/SST. Hospital and ER visits are categorized together. Examples of ER visits have included: seizures, vomiting, fever, dehydration, gait issues, falls, stitches, and/or G-tube replacement.



IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation. ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	

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PETITIONER'S EXHIBIT
W

AFFIDAVIT OF LAURIE MARTIN

This is the Affidavit of Laurie Martin, made freely of her own will, on the basis of her personal knowledge and under penalties of perjury.

1. My name is Laurie Martin, and I am a Licensed Practical Nurse. I have worked at the Murray Developmental Center in Centralia, Illinois, for the past thirteen years.

2. On Wednesday, July 24, 2013, I was working at the Murray Center when I received a phone call from a person who works at a CILA home to which one of my residents, G, had been moved that day. I received this call less than two hours since G had been moved to her community placement.

3. The person who called me identified herself as a worker at the CILA, and she started asking me many questions about G. Based on the questions, she did not seem to have any information about G's condition or needs. She asked if I knew about G's medications and how they were to give her the medications . . . crushed, whole? She asked me about G's behaviors. I told her that G growls, strips, etc. The caller said she did not know how to feed G. I told her G's food must be pureed and she is fed with a mother care spoon. The caller said she did not know that if G attempts to feed herself she stuffs everything into her mouth at once. During the course of the conversation, I realized the caller did not know about G's PICA. The caller asked me what kind of stuff G eats relating to the PICA. I told her G eats paper towels. I told her G is a wanderer. The caller said the CILA was not aware of this. She said that they did not know anything about G.

4. When the caller asked me if G slept through the night, I called over a technician (who works with G at night). This technician told the caller that G has night terrors and must sleep only in a pull-up or there will be trouble with G.

5. We told the caller G needs a fan year round. The caller asked about G's likes and dislikes. The caller then asked other questions, and I realized that she did not know about G's elopement issues.

6. Based on what the caller told me, G had been transferred to the CILA home, and the provider was given no information about her.

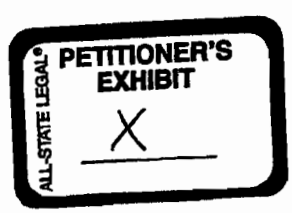
Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

4-5-13
DATE

Laurie Martin
LAURIE MARTIN

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	



AFFIDAVIT OF LORRE WINTER

On July 23, 2013, Lorre Winter, QIDP, and Carla Bauer, SWII, both employed with the State of Illinois, Department of Human Services, and work at Murray Center. On this day, we took C to a group home located at West 4th Street, Centralia, Illinois 62801. This visit was classified as a dinner visit and the second visit to the home. was not able to take him on the first visit due to personal business.

At approximately 1630, we put C into Murray Center wheelchair van and drove to the 4th street home. Arriving at 1635, staff at the home came out to help unload C and pushed him into the house. At this time, I noted that the wheelchair's wheels were narrowly fitting on the sidewalk, and when they went to enter the doorway, they had trouble turning the chair to fit onto the ramp leading to the inside of the house. After they got into the house, they went straight into the hallway. The hallway was so narrow that the lap tray on C's wheelchair did not have an inch of room on either side. *The lap tray covers the arms of the wheelchair and straps around the back of the wheelchair. This helps with alignment and a place to rest their arms, helping the client to sit up straighter with less difficulty. *When C places his arms on the wheelchair tray, his elbows extend from the sides about an inch. In order for the staff of this home to get C down this narrow hallway, C has to put his arms close to his chest. The reason for this is because his elbows stick out too far and he will hit the corner of the wails when entering the hallway.

I asked if I could see the rest of the house, and the staff said "yes," so I walked through the house to look and see where C's bedroom, the bathroom, and living room were located. The room that I was told would be C's bedroom was straight at the end of the hall. Coming into the front door one entered into the living room there was a small entryway, hallway, about 3 feet into the hallway to the right was the TV room. Straight down the hallway, which the hallway was

only about, maybe 6-7 feet long, if that. This hallway leads straight into the kitchen with the sink, stove. and refrigerator to the left and the table and chairs to the right when you enter. At the left end of the kitchen was a doorway leading into another hallway. This hallway was about 8-9 feet long and ran from bedroom to bedroom. There was a bedroom on each end of this hallway, and when turning to the left from the kitchen. there was a hallway leading from the entryway hall. Also, attached to the bedroom hallway was a bedroom almost straight across from the kitchen and from the kitchen doorway making a right turn is the bathroom.

All of the doorways were about 32 inch doorways, and the hallways were not much wider than the doorways. There was not enough room for C to be turned to enter a doorway from any area of the hallway because it was not wide enough. The kitchen was easy to enter because the hallway went straight into the kitchen. However, C has long legs, and they stick out away from his wheelchair, so when turning him, the person doing the turning needs to consider that the radius is wider because his legs make the wheelchair longer. Also, C is a tall person. For him to ambulate even short distances, he needs someone that is close to his height and able to lead him with both hands. I only saw one person that would be close to C's height, and if was my understanding that he would not be there all of the time.

When I arrived back at Murray Center, after seeing the home, I sent an e-mail to Celeste Stratemeyer concerning the notes if any that were taken during Cs transitional meeting. No one that I talked to had taken any notes concerning this meeting. However, there were 10-12 people in the meeting that heard the representatives of CAIL say they would have the equipment.

When I arrived at work on My 24, 2013, I sent Rick Starr an e-mail concerning the fact that C's wheelchair could just barely make it down the hallway of this. Home, and I told him that this home was not wheelchair accessible, that the home did not have the equipment that was

needed to meet C's needs, and that by moving him to this home, there was a risk of either broken elbows or hips because C did not have the ability to be moved in the correct manner of a wheelchair. I stated that there was not enough radius to turn a wheelchair into any of the adjoining rooms.

On Thursday, July 25, 2013, I came into work and was notified that C had a UTI (Urinary Tract Infection). We were not sure if C would still go to this home because in the past, when a client has an infection of any type, the transition was put on hold until the: infection was gone. On Thursday, however, we were informed that C would be going and that the home had people that could deal with this infection. It was also stated that the guardian stated that the home was equipped to handle all types of illnesses. At approximately ~~2030~~ 1030 hrs oh the morning of July. 25, 2013, the nurse, Laurie Parker, called and asked if we could fax her C's transition papers so she could look over them before he arrived later that afternoon. I sent the packet with Lisa Redman, L.P.N., up to the administration building to get it faxed and found out that Rick Starr, Assistant Center Director, stated that someone from the home would have to come and get it. The home did send someone to pick the paperwork up before 11:00 a.m. the morning of the 25th.

At approximately 1550, the security van came to pick up C from Grape Cottage. I rode with them and had C's medication and paperwork packet. No one from the home came out to see C into the home. Security Officer Gary Long unloaded C by lift from the van, pushed him up the driveway onto the sidewalk, and up the portable ramp into the home. No one said hello to C as he entered the home. They did have signs up on the outside that said Welcome Home H and C, but no one came out to meet him or help unload or push him into this home.

After C was inside the house, a young lady came to take him into the kitchen, and I asked her if the nurse was there. She stated that she was out in the garage. I said can I please talk with

her, and she went to get the nurse. I said to the nurse, Laurie Parker, C's transition. packet. is on his wheelchair tray, and here is all of his medication. She said, "Can I ask you some questions about C?" I said, "Yes, what would you like to know?" The nurse, Laurie Parker, the person that called early that morning and asked us to fax the transitioning packet to them, asked me, "How does he take his medications?" I told her in pudding, and some of them need to be crushed. She then asked me, "How does he eat and do you feed him or does he feed himself independently?' I told her, "he has to be fed but he will hold a cup or glass If you hand It to him and he will drink independently". She asked me, does he wear an "Attends" or a pull up?" And I said, "I think he wears an "Attends" during the day, and of a nighttime, he is on a two-hour toileting schedule. I also went on to tell her that C can ambulate short distances, but he needs someone there to help him to the bathroom and back into bed." She asked me to come and see if I thought he could walk the short distance from his bed. At this time, they showed me a bedroom that was across from the bathroom and stated that this would be C's bedroom. I said, "Yes, I think C will be able to walk that distance with assistance." I made sure that they understood I said with assistance because I told her, nurse Laurie Parker, that he cannot walk by himself. At this time. I exited the home and went back to Murray Center.

All individuals at Murray Center have a transitional meeting before they leave the center. This meeting is to inform everyone at their new home or facility the needs, wants, and desires or likes and dislikes of the client that is moving. The staff at Murray Center tries to relay all this information to everyone that will be working with the client as well as the owners or company that controls the facility. This is not a fast process, nor is the adjustment period for the client a fast process.

This group home employer, CAIL, had a transitional meeting, several visits with C at Murray Center, and two visits in the actual home that he would be staying. They still had many questions about C even after receiving the information ahead of time. They did not know how he ate even after a dinner visit, nor did they seem to understand that C has to get out of the wheelchair every two hours because of skin breakdowns. C has many medications that he had to take, and the nurse at the home was hesitant about his care for his UTI after she found out that he needed to see a doctor when he was finished with his antibiotic.

Everything that C would need was addressed in the transitional meeting. The CAIL group was asked if they would have an Arjo walker, a shower chair, or a lift for C, and they said 'Yes,' we will get all of the equipment that we will need. When the truck drivers picked up C's personal possessions, they took all of his clothes, his bed, which was just recently bought with C's Medicare money, a mat that lays in front of his bed, and the shower chair that Murray Center made special for C.

I was told by the truck drivers that the shower chair would not fit through the front door, and the staff said that the other possessions, they (the staff at the home) would pass through a window in order to get them inside the house. Just an observation but, if there was a fire, how would the staff be able to get C out of this house in a fast and safe manner? C is a tall man, and he likes to be notified when anything is going to take place, such as moving him for a shower or taking him to the dining room. C is not a person that likes to be moved suddenly or fast. He likes to be talked to and be prepared before being moved. He wants to know where he is going and what is going to be done to him or for him.

These are the events of the transitional-process that took place for C on Thursday, July 25, 2013. I have included as much as I can remember that took place on that day and realize that this writing may be used in a court of law.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8/5/13
DATE

LORRE WINTER

Winter, Lorre L.

From: Winter, Lorre L.
Sent: Wednesday, July 24, 2013 11:14 AM
To: Starr, Richard P.
Subject: RE: Group home visit

Rick if they were subjective I would but I am seeing problems that are not being addressed. We hold those meetings for a reason or at least I thought we did and to let the new providers know what is needed for the clients. If they are going to take on clients that have disabilities or issues they need to realize that there is more involved than just placing them in a house and feeding them. You are right things need to be subjective this does need to be positive however, a wheelchair that cannot fit through a hallway is not positive nor is not having access to other rooms to which they are suppose to have access to. I am sorry that this appears negative but reality is obvious and [redacted] having to hold his elbows inside his chair is not good nor is the fact that he does not eat. If you don't want to listen that is fine but I will continue to send this emails and you can either address this with the home or not. Someone will eventually get tired of me and will either listen or fire me I guess but these are issues that need to be addressed before bigger ones take place.
Sorry the positive side is that the house has been decorated nicely and painted nicely. The furniture was cloth but a nice big sofa.
Sorry I do not sugar coat well!
Lorre

From: Starr, Richard P.
Sent: Wednesday, July 24, 2013 11:01 AM
To: Winter, Lorre L.
Subject: RE: Group home visit

Lori this is the second time you written me regarding problems at a CILA. I appreciate you sending me your concerns but when writing you really need to stick to objective concerns rather than subjective.

From: Winter, Lorre L.
Sent: Wednesday, July 24, 2013 10:50 AM
To: Starr, Richard P.
Subject: Group home visit

Rick, after taking [redacted] to the home across the street I feel that you should know that home is not wheelchair accessible for [redacted] For one his chair is to big and will not fit through his bedroom door. There is not enough turning radius throughout the house for [redacted] long legs and the wheelchair to turn. Also the doorways are not big enough for him to have access to all of the rooms in the house. [redacted] wheelchair barely fits through the hall ways and then he has to bring his elbows next to his chest in order for him to get through the hall. The only room that [redacted] will have true access to is the kitchen and that is because it is a straight shot from the front door but we have not seen how they will get him into the kitchen from his bedroom or into the livingroom.
There was not an arjo walker anywhere in the house, nor a shower chair, nor a lift. How are they going to get him into bed? And how are they going to give him a shower? I do not feel that this home is a good fit for [redacted] and we need to look for a house with more open area. He is a big guy and needs room to move around. Is there not another home that would be better suited for [redacted]
This house is to small and it is like putting a giant into a doll house this is not going to work [redacted] will end up with a broken arm or hip because he cannot ambulate through this house. Not good for the state of Illinois to ignore this situation!!
If they have to move then at least accomadate them to the best fit possible. Lorre

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PETITIONER'S EXHIBIT
4

Winter, Lorre L.

From: Winter, Lorre L.
Sent: Wednesday, July 24, 2013 1:55 PM
To: Starr, Richard P.
Subject: RE: Group home visit

No Rick you are listening to a governor that does not care about these people. And second the governor does not even know the care these people need let alone their physical needs, all he knows is money and buying land to hunt on. I do not think the guardian has even seen this house other wise they would not agree to this either at least not seeing [redacted] in the house at the same time.
Like I said you can ignore these emails all you want but regardless I will be sending them to you and if they are negative and pointing out a flaw then so be it. Someone has to speak up for these people and if that is what I have to do then I will and deal with the consequences later.
Just a question How come your house isn't smaller? I mean after all I could say that you don't need that much room either?? I think you see my point just from this question we can "chose" what is comfortable for ourselves these clients cannot and that is what I am voicing!! Just agree with me because I am not stopping!!!

From: Starr, Richard P.
Sent: Wednesday, July 24, 2013 1:41 PM
To: Winter, Lorre L.
Subject: RE: Group home visit

First offer the guardian makes the choice where at person lives. An OSG representative visits the home & determines if they could live there or not. As far as "discouraging you", I'm just passing on concerns for DHS & Governor's office from your last concerns.

From: Winter, Lorre L.
Sent: Wednesday, July 24, 2013 12:31 PM
To: Starr, Richard P.
Subject: RE: Group home visit

Well you might consider [redacted] that would be a much better fit for him!! See when I try to be positive you discourage so go figure!!
Did you ever think that maybe no one says anything about what is wrong because they get shot down to fast?? Let's face it this closure is going to happen I know this and so do you. But at least let's place these people in homes that are accessible in all areas. I know there is no building codes to meet this kind of housing, or at least not yet and since it is considered a private home their may not ever be. But everyone is crying "more freedom" "more community access" and that is the whole reason these transitions are happening but yet these people cannot even get out of the front door after they get in or they cannot get to bed because they cannot get down the hallway is not better than what we are offering them.

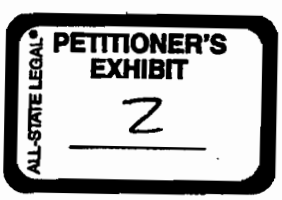
From: Starr, Richard P.
Sent: Wednesday, July 24, 2013 12:17 PM
To: Winter, Lorre L.; Jett, Peggy J.
Subject: Re: Group home visit

If I said [redacted] I'm sorry. I meant [redacted]. He was proposed for that home at one time.

From: Winter, Lorre L.
Sent: Wednesday, July 24, 2013 12:10 PM

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners,	)	Cause No. 13-CH-49
v.	)	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	



AFFIDAVIT OF DONNA PERCHEZ

This is the Affidavit of Donna Perchez, made freely of her own will, on the basis of her personal knowledge and under penalties of perjury.

1. My name is Donna Perchez. I have worked as an Educator and Qualified Intellectual Disability Professional for the last 34 years. I have a Bachelor's of Science Degree in Education from Eastern Illinois University with certifications in both Elementary Education and Special Education. I have also received the National Association of Qualified Developmental Disabilities Professional Certificate.

2. The following is an outline of events that happened on July 26, 2013. with regard to OSG Ward "R":

a. At approximately 9:15 a.m., I was told by my boss. Kathy Shaw, that Rick Starr had called and wanted R in his office at 0945.

b. At approximately0935, I pushed R up to the Administration Building in his manual chair. His electric chair was out for repair.

c. Upon ~~wging~~ walking into the entryway in the Administration Building, Freda Omer, Office of State Guardian Representative, and R's guardian motioned for him to come into the conference room. There was a man with her that I later confirmed was her lawyer.

d. R said to Omer upon entry, "Am I in trouble?" She replied, "You are never in trouble, R." I asked Omer if she wanted me to stay or step out, and she said to step out. They closed the door. I remained in the lobby area.

e. After approximately ten minutes, Rick Starr walked into the conference room. The four of them remained in the room for approximately 30 minutes total.

f. Upon their exit from the conference room, I walked R back to the cottage. He seemed upbeat and happy saying he wanted to go to Shapiro.

g. During the walk back, R told me that Rick Starr said that people at Shapiro get to go to Cubs and White Sox games, and they go on lots of activities. I was thinking that R would not be able to go to the games because he has a two-hour wheelchair tolerance time; however, I did not voice that concern to R.

h. Later on during the day, he went with another staff person to Career Beginnings to tell people he was leaving. Upon returning, he seemed very sad and told me that he did not want to go to Shapiro.

i. Later on during the day, he told me that he had been nervous about going up to talk to Freda and that he did not want to move to Shapiro.

3. R is very anxious regarding the possibility of a move and becomes very emotional at times when talking about it.

4. R has lived at Murray Center for over 12 years.

5. R has been transferred to multiple other facilities, but the duration of admissions range from days to months, the longest at any of other facility being approximately nine months.

6. R has difficulty adjusting to new environments, has a history of sabotaging his own treatment, depression, anxiety, and has expressed suicidal threats.

7. R has demonstrated a lack of forethought with regard to his own medical treatment and placement.

8. He expresses excitement about a move and readily sets about moving with the assistance of staff, only to become disenchanted and homesick shortly after the move. At that point, he devises ways to come back to Murray Center and/or be hospitalized.

9. Time and again, he has expressed, through his actions, a desire to live at Murray Center.

10. R also has medical conditions that put him at risk of life and limb and require corrective surgery in the near term.

11. In my professional opinion, it is not in R's best interest to move from Murray Center to Shapiro. Such a move may have profound or even fatal consequences.

12. I advised Freda Omer and Rick Starr of these concerns via certified letter of July 15, 2013. Nonetheless, they have scheduled R for transfer on Tuesday, July 30, 2013.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8-5-13
DATE

Donna Perchez
DONNA PERCHEZ

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	)	
Petitioners.	)	Cause No. 13-CH-49
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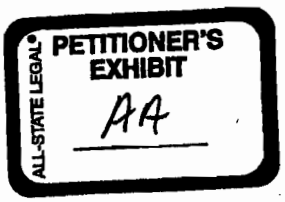
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	)	
Respondents.	)	



AFFIDAVIT OF BILLIE MILLER

This is the Affidavit of Billie Miller, made freely of her own will, on the basis of her personal knowledge and under penalties of perjury.

1. My name is Billie Miller, and I am the parent and guardian of a resident of the Murray Developmental Center, in Centralia, Illinois. My daughter, Corky, lives in Elm Cottage.

2. I visit my daughter Corky on Elm Cottage every Thursday, Friday, Saturday, and Sunday.

3. Another resident residing at Elm Cottage is R, an OSG resident. I am generally familiar with R, and he and I have spoken frequently when I visit my daughter.

4. Within the past month, R has been told that he will be moved to Shapiro Developmental Center in Kankakee at the end of the month. Every day since he has been told that and when I am at the Center, he has come to talk to me and tells me he does not want to move. He has told me that his OSG guardian, Freda Omar, has told him he has to move and that he has no choice.

5. R appears to me to be very stressed and unhappy when we have these conversations.

6. On Saturday, July 20, 2013, I was on the cottage when Rep. Charlie Meier and Rep. Naomi Jakobsson were visiting and R came up to Rep. Jakobsson and Rep. Meier. I observed R was sobbing. I heard Rep. Jakobsson ask him what was wrong. R answered, "I have to move. They are making me move. I don't want to, but I'm OSG and my OSG guardian says I have to leave."

7. At that time, I heard Rep. Jakobsson say, "Don't you have a choice"? Also, at that time, I heard R say, "No, my OSG guardian says I have to move. I've told her I don't want to move, but she says I have to."

8. He continued to sob, and we (the representatives, myself, and others) went down to the other end of the cottage.

9. About ten minutes later, R came to that end and was still crying and saying, "I don't want to leave." The nurses were talking to him attempting to console him. I saw R go up to Rep. Jakobsson and Rep. Meier and say, "I don't want to move. I want to stay here, but I don't have a choice."

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

8-5-2013
DATE

Billie Miller
BILLIE MILLER

SCANNED
TO FILESITE
by lw

IN THE CIRCUIT COURT OF CLINTON COUNTY
FOURTH JUDICIAL CIRCUIT
STATE OF ILLINOIS

FRIENDS FOR MURRAY CENTER INCORPORATED, JAN MONKEN, MARY JANE HARDY, STEPHANIE WAGGONER, EMILY SMITH, and MONICA SOBCZAK,	
Petitioners,	Cause No. 13-CH-49
v.	
ILLINOIS DEPARTMENT OF HUMAN SERVICES, KEVIN CASEY, in his official capacity as Director of Developmental Disability of the Illinois Department of Human Services, MICHELLE SADLER, in her official capacity as Secretary of the Illinois Department of Human Service, COMMUNITY RESOURCE ALLIANCE, LLC, a Missouri Limited Liability Corporation, ILLINOIS OFFICE OF STATE GUARDIAN, FREDA OMER, in her official capacity as Guardian for the Illinois Office of State Guardian, WARREN G. MURRAY DEVELOPMENTAL CENTER, JAMIE VEACH, in his official capacity as Director of Murray Center, and RICHARD STARR, in his official capacity as Assistant Director of Murray Center,	
Respondents.	

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PETITIONER'S EXHIBIT
RB

AFFIDAVIT OF LINDA BORDER

1. I have personal knowledge of the facts of this Affidavit and could competently testify under oath to those facts if called upon to do so.

2. I currently reside at 43 Ridge Road, Centralia, Illinois 62801.

3. My residence is located next to a CILA, which I believe has a residential address of 47 Ridge Road, Centralia, Illinois 62801.

4. I witnessed on one occasion the same caretaker taking four smoke breaks within a period of approximately four hours.

5. On another occasion, the same caretaker took a 30 minutes break to have a discussion with an acquaintance.

6. Another time two caretakers were outside arguing amongst themselves.

7. I believe the residents are being left alone during these periods the caretakers are outside the home.

8. It is my understanding there are only supposed to be two residents housed in the CILA, but there are often times three or four residents.

9. It also appears that some nights the CILA is occupied with residents while other nights it is not occupied.

10. Residents seem to be transferred to a different location for a period of days and then back to the CILA.

11. I think this is due to substandard living conditions within the home.

12. The back patio is dug up and there is an approximately 3-feet deep hole in its place.

13. After the residents moved in there was also a tarp put on the roof, presumably due to leaks caused by heavy rain.

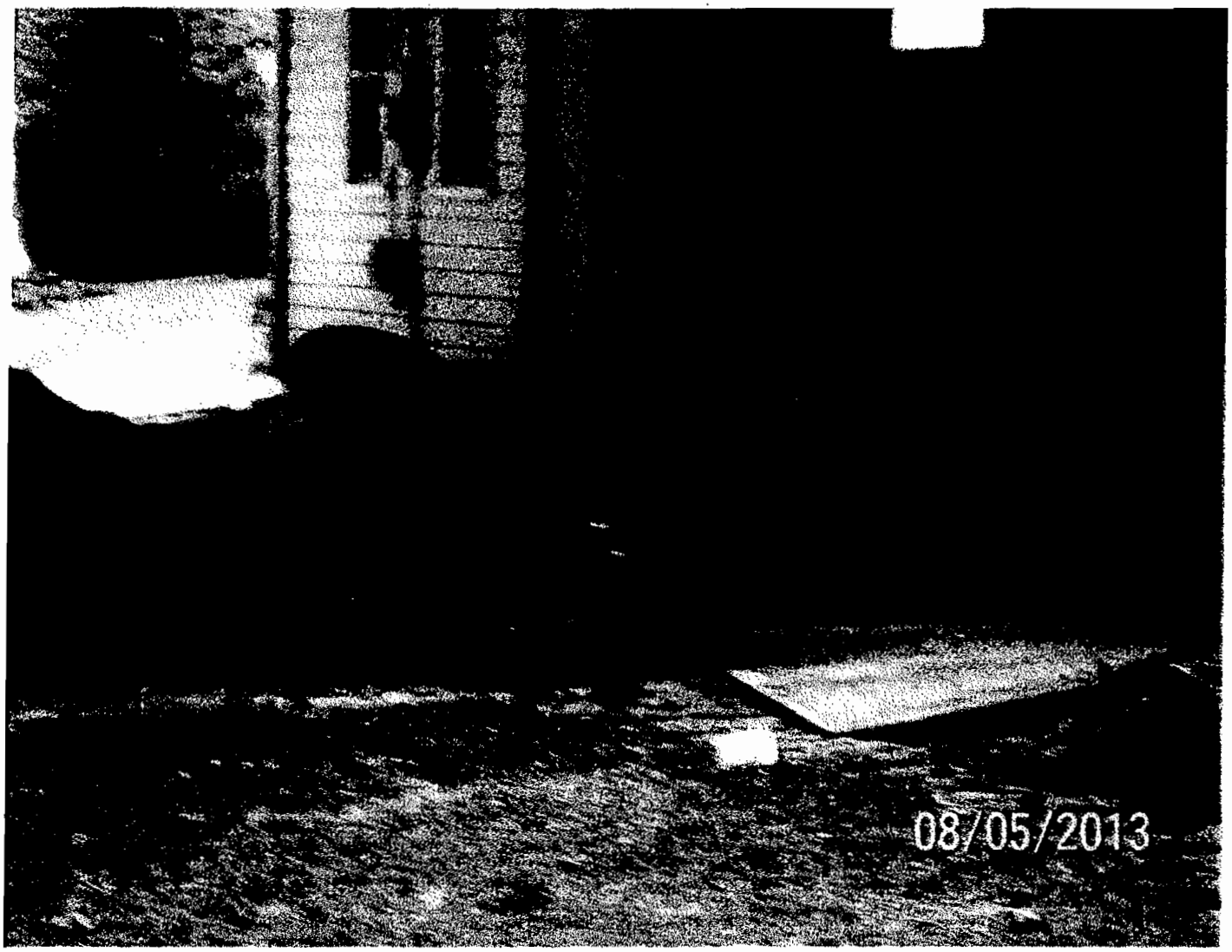
14. Attached hereto are photos I have taken depicting these conditions.

15. In one instance a resident ran from the CILA during a transfer and a caretaker had to run him down. This individual does not appear to be a permanent resident. He is brought to the home with a duffle bag periodically, stays for a few nights, and then is taken somewhere else.

Under penalties as provided by law pursuant to Section 1-109 of the Code of Civil Procedure, the undersigned certifies that the statements set forth in this instrument are true and correct, except as to matters therein stated to be on information and belief and as to such matters the undersigned certifies as aforesaid that he verily believes the same to be true.

08/07/2013 Linda Border

DATE LINDA BORDER



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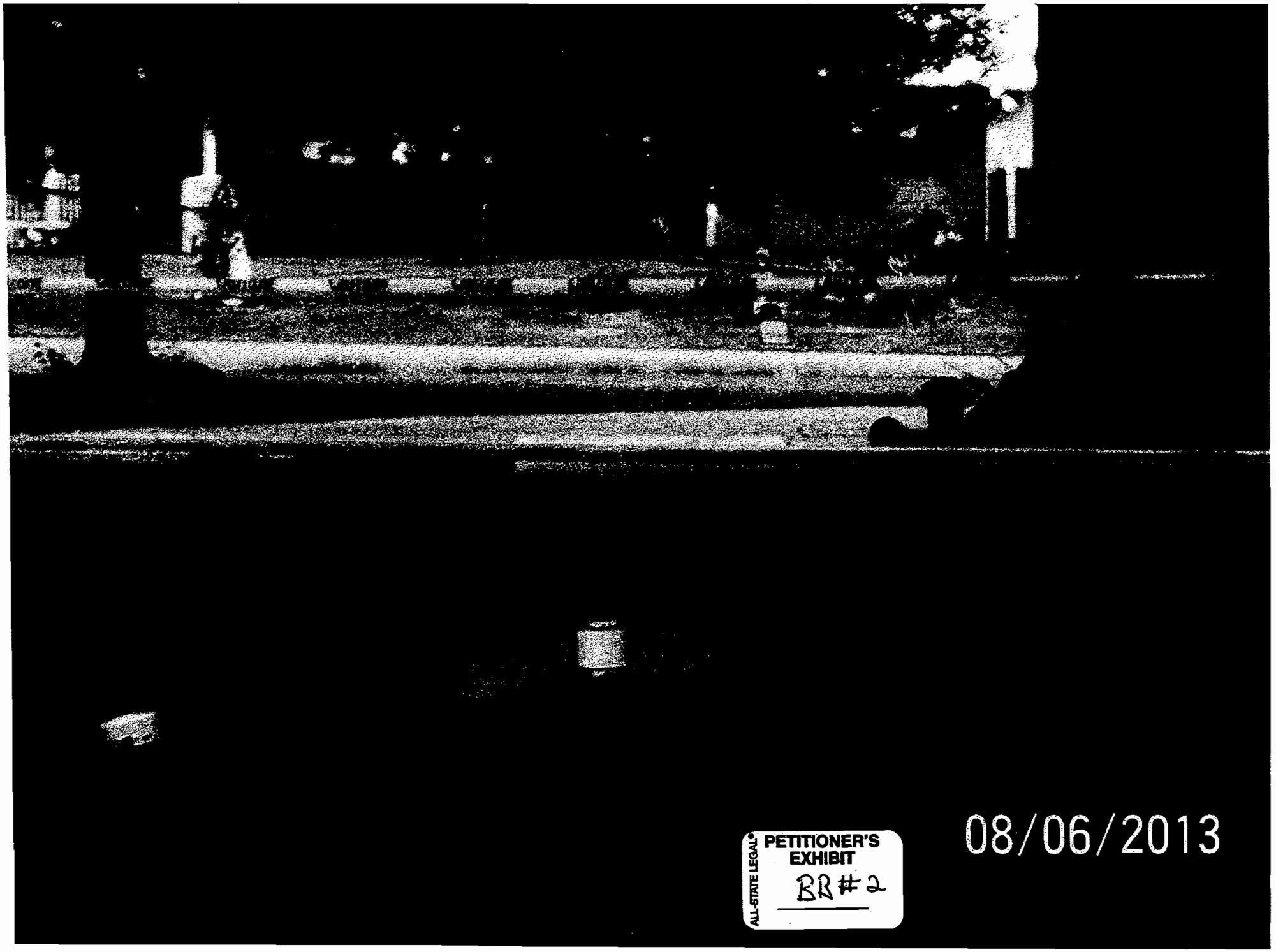
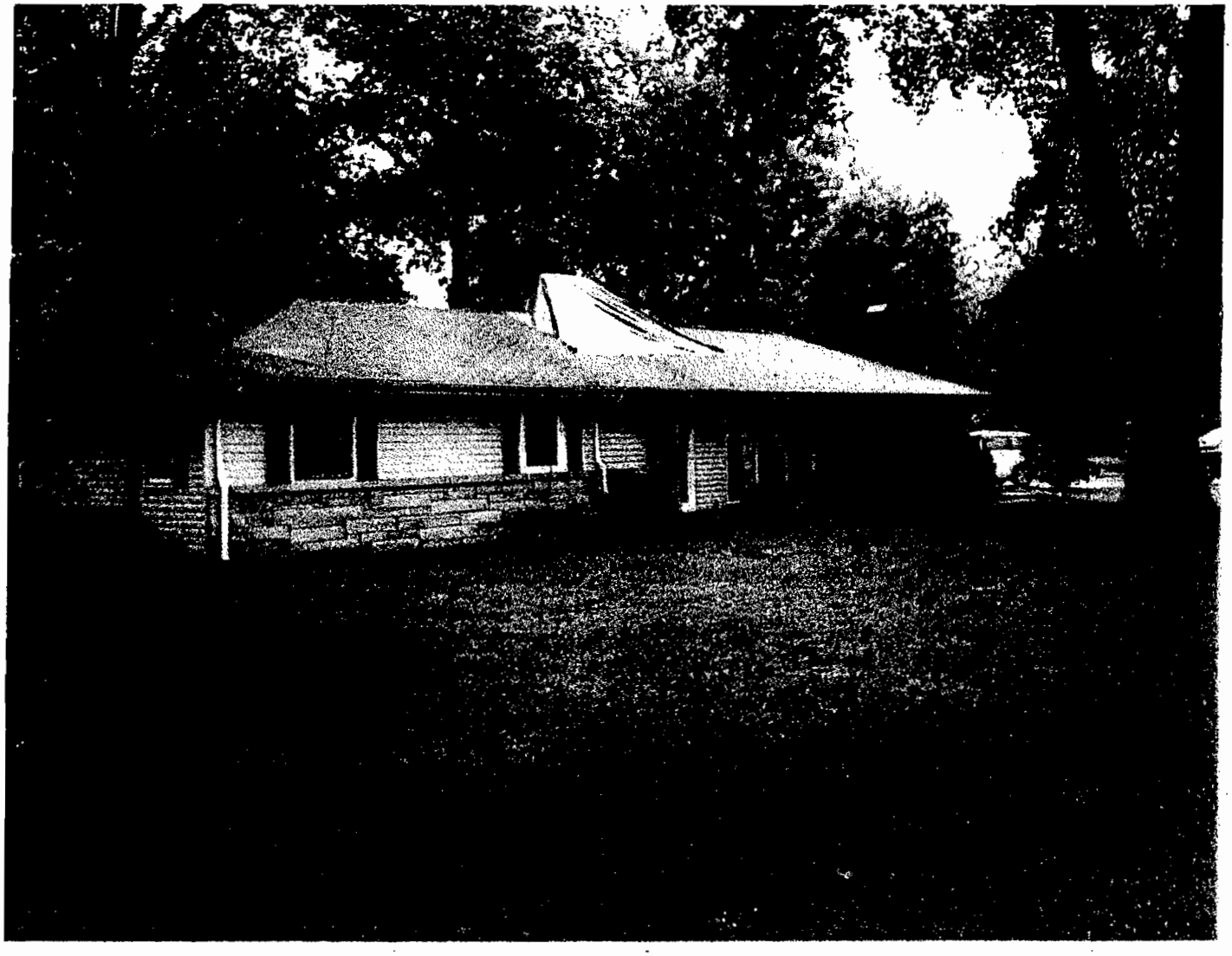
BB#1


08/06/2013
ALL-STATE LEGAL
PETITIONER'S EXHIBIT
BR#2



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