

Press Release

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ADA Class Action Seeks to Compel Massachusetts to Stop Unnecessary Institutionalization of People with Disabilities

Six people with disabilities who are unnecessarily institutionalized in nursing facilities, joined by the Massachusetts Senior Action Council, filed a class action lawsuit today in federal district court in Boston. Their complaint claims that Governor Charlie Baker and other state officials have failed to provide community residential services and supports, and this failure has forced thousands of people with disabilities to live in segregated nursing facilities rather than in the community. The Commonwealth's failure violates the Americans with Disabilities (ADA) and the Medicaid Act and disproportionately impacts people of color.

Plaintiff John Simmons is a Black man with a medical and psychiatric disability who has unwillingly spent the past three years in a nursing facility in Everett. He is determined to move back to an apartment with supports in Boston. Plaintiff Lorraine Simpson, a Black woman originally from Jamaica, has been kept in a nursing facility in Worcester because she was homeless and denied residential services in Worcester County.

The COVID pandemic led to the deaths of hundreds of thousands of nursing facility residents nationwide, particularly in nursing facilities that serve Black and Brown communities, making it even more urgent that the Commonwealth provide adequate residential services and supports in the community. The lawsuit seeks to compel the Commonwealth to expand its existing residential programs so that people with disabilities in nursing facilities can make informed choices and have meaningful options to live successfully in the community.

Over 20,000 people with disabilities on Medicaid are institutionalized in nursing facilities in the Commonwealth. Thousands of them can, and want to, live in the community. And the Commonwealth knows how to provide these programs since, when forced to do so by two prior class action lawsuits filed by people with intellectual disabilities and people with brain injuries in nursing facilities, state agencies created residential programs that allowed almost 3,000 of these individuals to return to the community. But thousands of people with other disabilities, like medical conditions, physical disabilities, and mental illness, remain unnecessarily institutionalized because similar residential services and supports are not sufficiently available to them.



The plaintiffs are represented by the Center for Public Representation, a national disability rights law firm in Northampton, Massachusetts; Justice in Aging, a national advocacy organization for older adults; Greater Boston Legal Services, a local legal services program; and the private law firm of Foley Hoag, LLP.

“People with disabilities have a right to live in the community. But thousands of people with disabilities are unnecessarily institutionalized in segregated nursing facilities, simply because the Commonwealth will not provide residential services and supports in integrated settings in a manner that is effective, equitable, respectful, and responsive to diverse cultural health beliefs and practices, preferred languages, and other communication needs. People with disabilities, and all of us, deserve better,” said Steven Schwartz, the Legal Director of the Center for Public Representation.

“Needing a few weeks of nursing facility care shouldn’t mean that you have to stay in the facility forever. It’s better for all concerned that the Commonwealth comply with the law and provide access to needed community-based services,” noted Eric Carlson of Justice in Aging.

“Greater Boston Legal Services has decades of commitment to advocating for the legal rights, dignity, and autonomy of low-income adults with all disabilities, and senior citizens. We promote our clients’ rights to live in community-based settings, avoid unnecessary institutionalization, and receive all needed services and supports. This lawsuit is needed to help large numbers of adults with disabilities and seniors to finally be able to leave segregated, institutional, and sometimes dangerous nursing facilities, and return to living in residential settings in communities with all needed support,” said Deborah Filler of Greater Boston Legal Services.

“The State is failing to meet its obligation to ensure that people with disabilities can live in the community,” said Foley Hoag attorney Andrew London. “Foley Hoag is proud to be part of this class action case on behalf of citizens who have no choice but to reside in a segregated nursing home as opposed to an integrated setting that’s familiar to them.”

For information on CPR, see www.centerforpublicrep.org

For information on GBLS, see www.gbls.org

For information on Justice in Aging, see www.justiceinaging.org

For information on Foley Hoag, see www.foleyhoag.com