

**SUPERIOR COURT OF CALIFORNIA
COUNTY OF ALAMEDA**

CAPITOL PEOPLE FIRST et al., on behalf of themselves and all others similarly situated,
Plaintiffs

v.

DEPARTMENT OF DEVELOPMENTAL SERVICE, et al.,
Defendants

Case No. 2002-038715

CLASS ACTION

**NOTICE OF PROPOSED SETTLEMENT OF CLASS ACTION LAWSUIT
AND HEARING DATE FOR FINAL COURT APPROVAL**

*The Superior Court of California for the County of Alameda has authorized this notice. It is not
a solicitation for a lawyer.*

**TO: ALL PERSONS WITH A DEVELOPMENTAL DISABILITY WHO RESIDE IN
CALIFORNIA AND NOW LIVE IN, OR HAVE LIVED DURING THE LAST
YEAR IN, A GOVERNMENT OR PRIVATELY OPERATED FACILITY WITH
16 OR MORE OTHER PEOPLE**

**PLEASE READ THIS NOTICE CAREFULLY, IT MAY AFFECT YOUR LEGAL
RIGHTS**

**IF YOU WISH TO OBJECT TO THE SETTLEMENT AGREEMENT OR
APPEAR AT THE APRIL 24, 2009 COURT HEARING REGARDING FINAL
APPROVAL OF THE SETTLEMENT AGREEMENT, YOU MUST FOLLOW
THE DIRECTIONS IN THIS NOTICE**

Purpose of This Notice

This Notice sets forth the basic terms of the proposed Settlement Agreement in the case entitled *Capitol People First v. Department of Developmental Disabilities* and advises class members of their procedural rights relating to the settlement. The certified class in the case is defined as follows:

All California residents with a developmental disability, as defined in Welfare and Institutions Code section 4512(b), who are (or become) institutionalized, and those who are at risk of being institutionalized, in congregate residential facilities having a capacity of 16 or more individuals.

Under this definition, “institutions” are public and private, licensed or certified facilities, including but not limited to state developmental centers (DCs) including the state-owned-and-operated Sierra Vista and Canyon Springs facilities, state psychiatric hospitals; intermediate care facilities – developmentally disabled (ICF-DDs); and those skilled nursing facilities (SNFs), residential community care facilities (CCFs), or children’s shelters with a capacity of 16 or more. This definition refers to facilities on the same grounds or parcel, irrespective of whether the provider has one or more discrete licenses.

By statute, Welfare and Institutions Code section 4418.7, a person is “at risk” of institutionalization in a DC when “the regional center determines, or is informed by the consumer’s parents, legal guardian, conservator, or authorized representative that the community placement of [the] consumer is at risk of failing and that admittance to a state developmental center is a likelihood.” For purposes of the class definition, the same criteria apply to determine those at risk of institutionalization in institutions other than DCs. In addition, pursuant to Welfare and Institutions Code section 4508, individuals who are released from DCs may be on provisional placement for one year and have an “automatic right of return.” Under the class definition, therefore, persons at risk of institutionalization also include those who are within one year of release or discharge from a DC or other institution.

Description of the Case

Three organizations concerned with the rights of persons with developmental disabilities (Capitol People First, ARC of California, and California Alliance for Inclusive Communities) and 15 individuals with developmental disabilities (the Plaintiffs) have brought a lawsuit against the California Department of Developmental Disabilities (DDS), other State agencies, and the 21 Regional Centers located throughout California which arrange for services and supports to persons with developmental disabilities (the

Defendants). Two organizations concerned with the rights of persons with developmental disabilities (California Association of State Hospital Parent Councils for the Retarded, and California Association for the Retarded) intervened in the case.

In the lawsuit, the Plaintiffs contend that Californians with developmental disabilities, who live in government or privately operated facility with 16 or more persons, should have more information and choice about options for living in smaller homes in the community. The lawsuit asks the Court to issue an order requiring the Defendants to take steps designed to advance these objectives. The lawsuit does **NOT** seek an award of money damages for anyone.

The Defendants deny the allegations in the lawsuit.

Summary of the Proposed Settlement Agreement

In order to resolve the lawsuit, the Plaintiffs and the Defendants have successfully negotiated a proposed Settlement Agreement. On January 30, 2009, Alameda County Superior Court Judge Robert Freedman granted preliminary approval of the Settlement Agreement and approved this Notice.

What follows is a brief summary of the main terms of the proposed Settlement Agreement. If you want more information, please see the section of this Notice entitled "**Obtaining More Information**" which is set forth below.

- Subject to Legislative approval, DDS will provide additional funds to each Regional Center to assist the Regional Center in arranging for a case worker to attend Individual Program Plan (IPP) meetings of persons residing in Developmental Centers (DC s).
- Regional Centers will provide information to persons living in certain large private facilities about possible living arrangements in smaller, community-based settings.
- DDS will provide training to DC staff about community living options.
- DDS will work with Disability Rights California and the State Council on Developmental Disabilities to provide information and training to class members about community living options.
- Regional Centers and DDS will continue to use the Community Placement Plan process to help class members move from the DC s to community settings.
- Regional Centers and DDS will develop new community programs and housing options.
- Subject to Legislative approval, DDS will continue to provide funds to Regional Centers to use to help large, private facilities, which serve persons with developmental disabilities, to downsize to smaller community homes.

- The Settlement will remain in effect for three years. During this period, Disability Rights California, the attorneys for the Plaintiffs, will receive reports which will allow it to monitor the Defendants' performance under the Settlement Agreement.
- The Settlement Agreement does NOT provide for a monetary award to any plaintiff or class member.
- The Settlement Agreement does NOT provide for the payment of attorneys' fees or costs to the Plaintiffs or their attorneys.
- Nothing in the Settlement Agreement requires anyone to move from his or her current residence.

The Fairness Hearing

The next step in the case will be a hearing at which Judge Freedman will decide whether the proposed Settlement Agreement is fair and reasonable (the Fairness Hearing). The Fairness Hearing will be held on April 24 2009 at 2:00 p.m. The location of the hearing is Department 20, Alameda County Superior Court, 1221 Oak Street, 4th Floor, Oakland, California 94612.

If, at the conclusion of the Fairness Hearing, Judge Freedman gives final approval to the Settlement Agreement, you, as a member of the class, will be bound by the Settlement Agreement. As a practical matter, this means that for the three years the Settlement Agreement is in effect, you cannot bring a lawsuit that makes claims which are the same or similar to the claims made by the Plaintiffs in this lawsuit. **Please note that the proposed Settlement Agreement does NOT affect or alter your right to have disputes which are specific to you resolved through an appropriate administrative hearing or court action.**

Comment and Objection Procedure

As a member of the class, you now have the following options:

- If you agree with the proposed Settlement Agreement, you do not need to do anything.
- If you oppose any of the provisions in the proposed Settlement Agreement:
- You may submit a letter explaining your objection to the proposed Settlement Agreement. Your letter will be considered by Judge Freedman at the Fairness Hearing.

OR

- You may appear at the Fairness Hearing and explain your objections to Judge Freedman.

To do either of the above, you must send a letter containing the following information to **BOTH** of the addresses set forth below:

- The name and number of the case, i.e., *Capitol People First v. Department of Developmental Disabilities*, No. 2002-038715.
- Your full name and address.
- An explanation of specific reasons for your objection to the proposed Settlement Agreement, including the identification of the particular provision(s) in the Settlement Agreement to which you object.
- A statement that you intend to appear at the Fairness Hearing, if that is your plan.

Your letter must be mailed to:

Clerk of the Court
Alameda County Superior Court
Renee C. Davison Alameda County Courthouse
1225 Fallon Street
Oakland, CA 94612

AND

Barbara Dickey, Esq.
Disability Rights California
1330 Broadway, Suite 500
Oakland, CA 94612

**TO BE VALID, YOUR LETTER MUST BE POSTMARKED NOT LATER THAN
April 17, 2009.**

DO NOT TELEPHONE THE COURT.

Obtaining More Information

If you want more information, you may:

- Read the complete Settlement Agreement at the Clerk's Office at the above address.
- Find the complete Settlement Agreement on the internet at:

Alameda County Superior Court

- California Department of Developmental Services
- Disability Rights California
- Regional Centers in California
- Telephone Disability Rights California (Plaintiffs' attorney) at (510) 267-1200 to request that a copy of the proposed Settlement Agreement be mailed to you.
- Call or email Barbara Dickey, the lead attorney representing the class, at:
- Telephone – (800) 776-5746, TTY (800) 649-0154
- Email – CPFinquiries@disabilityrightsca.org.