

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

STANLEY LIGAS, by his sister and next friend, Gina )  
Foster; LORENE BIERMAN, by her guardians, Darlene )  
and Joseph Bierman; DAVID CICARELLI, by his )  
guardians James and Julianne Cicarelli; ISAAH FAIR, )  
by his guardian, Lutricia Fair; ADAM KULIG, by his )  
guardian, Norb Kulig; JAMIE McELROY, by his )  
guardian, Patricia McElroy; and JENNIFER WILSON, )  
by her guardians, Nancy and Richard Wilson, on behalf )  
of themselves and all others similarly situated, )

Plaintiffs, )

vs. )

BARRY S. MARAM, in his official capacity as Director )  
of the Illinois Department of Healthcare and Family )  
Services, and CAROL L. ADAMS, in her official )  
capacity as Secretary of the Illinois Department of )  
Human Services, )

Defendants. )

No. 05 CV 4331  
Pending Before  
Chief Judge  
James F. Holderman

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**NOTICE OF PROPOSED CLASS ACTION SETTLEMENT AND HEARING**

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**PLEASE READ THIS NOTICE CAREFULLY AND IN ITS ENTIRETY**

*A SETTLEMENT HAS BEEN PROPOSED THAT MAY AFFECT THE RIGHTS OF  
INDIVIDUALS WITH DEVELOPMENTAL DISABILITIES.*

**BASIC INFORMATION**

**1. WHY DID YOU GET THIS NOTICE?**

You were sent this Notice to inform you about the proposed settlement of the class action lawsuit, as set forth in the Consent Decree (“Consent Decree”) proposed in this case, which may affect the rights of individuals with developmental disabilities. This Notice was sent to you and other people (and/or their parents, guardians or legal representatives) in Illinois who have been identified as being eighteen (18) years of age or older with a developmental disability, as well as individuals and entities who care for and work with them.

This Notice explains the lawsuit and the key terms of the Consent Decree, tells you how to obtain more information, explains how to determine whether an individual with a developmental

disability is a Class Member in the lawsuit, and explains how Class Members (and/or their legal representatives) can tell the Court whether they disagree with the Consent Decree or some part of it.

The Consent Decree described in this Notice is subject to Court approval and thus has not yet been made final. The Court has scheduled a hearing to determine the fairness, adequacy and reasonableness of the Consent Decree and to consider any objections Class Members may have to the Decree.

The Consent Decree may affect the rights of individuals with developmental disabilities who: (1) are, or will in the future be, institutionalized in a private Intermediate Care Facility for individuals with Developmental Disabilities (“ICF-DD”) with nine or more residents; or (2) are, or will in the future be, living in a home-based setting and are at risk of institutionalization because of their need for services.

## **2. WHAT IS THIS LAWSUIT ABOUT?**

The Court in charge of the lawsuit is the United States District Court for the Northern District of Illinois, and the case is known as *Ligas v. Maram*, Case No. 05 CV 4331. The people who sued are called the Plaintiffs, and the people they sued are called the Defendants.

Plaintiffs filed this lawsuit on July 28, 2005, on behalf of themselves and a class of similarly situated Illinois residents, seeking to prevent what they allege is their unnecessary segregation in ICF-DDs by Defendants. The named Plaintiffs are seven adults with developmental disabilities who are currently institutionalized in ICF-DDs, or who are at risk for placement in such institutions. The Defendants are Barry Maram, who is the Director of the Illinois Department of Healthcare and Family Services, and Carol L. Adams, Ph.D., who is the Secretary of the Illinois Department of Human Services. The Defendants are responsible for administering the State of Illinois’ programs for people with developmental disabilities. The lawsuit seeks to compel the State of Illinois (through the Defendants) to comply with federal law and rulings of the United States Supreme Court, and to bring Illinois in line with prevailing national practices, by offering individuals with developmental disabilities the opportunity to make meaningful, informed choices about whether to live in small, community settings which would provide independence, privacy and integration, in addition to the ICF-DD choice.

## **3. WHAT IS A CONSENT DECREE AND WHY IS IT BEING PROPOSED HERE?**

A Consent Decree is a final order of the Court in a case that is agreed to by all Plaintiffs and Defendants. The Court in this case did not decide in favor of either Plaintiffs or Defendants. There was not a trial. Instead, all of the Plaintiffs and Defendants agreed to settle the case according to certain terms that are stated in the Consent Decree. Those terms are set forth in the Consent Decree, which the Plaintiffs and Defendants have asked the Court to enter as an official order of the Court. That way, the cost of a trial is avoided, and the people affected will get relief. The Plaintiffs who filed the lawsuit and their attorneys think the Consent Decree is best for the people who are Class Members.

## **4. WHO IS A CLASS MEMBER?**

The Court has certified the lawsuit as a class action and decided that everyone who fits this description is a Class Member:

All persons in Illinois eighteen (18) years of age or older who:

- (a) have mental retardation and/or other Developmental Disabilities and who are eligible for Medicaid ICF/MR services;
- (b) with appropriate supports and services, could live in the community; and
- (c) either: (i) are, or will in the future be, institutionalized in private ICF-DDs with nine or more residents or (ii) are, or will in the future be, living in a home-based setting and are at risk of institutionalization because of their need for services.

If you meet this definition, you are a Class Member.

#### **5. WHAT IS CONSIDERED A “DEVELOPMENTAL DISABILITY”?**

In the Consent Decree, “Developmental Disability” means a disability that is attributable to a diagnosis of mental retardation (mild, moderate, severe, profound) or a related condition. A related condition is attributable to: cerebral palsy or epilepsy, or any other condition, other than mental illness, found to be closely related to mental retardation because this condition results in impairment of general intellectual functioning or adaptive behavior similar to that of persons with mental retardation, and requires treatment or services similar to those required for persons with mental retardation. In addition, this condition is manifested before the age of 22; is likely to continue indefinitely; and results in substantial functional limitations in three or more of the following areas of major life activity: self-care; understanding and use of language; learning; mobility; self-direction; capacity for independent living.

### **THE SETTLEMENT**

#### **6. WHAT DOES THE CONSENT DECREE IN THIS CASE PROVIDE?**

The Consent Decree in this case that the Plaintiffs and Defendants have asked the Court to enter, if approved by the court, would provide certain rights and benefits (as more fully described in the Consent Decree) to eligible Class Members as defined above. If the Consent Decree is not approved, it will be withdrawn and the lawsuit will continue. A copy of the entire Consent Decree is available on the website of the Illinois Department of Human Services, Division of Developmental Disabilities: [www.dhs.state.il.us/page.aspx](http://www.dhs.state.il.us/page.aspx), and on the website of Equip for Equality: [www.equipforequality.org](http://www.equipforequality.org).

All Plaintiffs and Defendants in this case believe that the Consent Decree is fair, reasonable and adequately affords relief to all eligible Class Members. The parties believe the Consent Decree provides eligible Class Members the opportunity to make meaningful, informed choices about where

they live, requires Defendants to make sure that they make supports and services available to individuals with developmental disabilities in integrated, non-institutional settings, and establishes procedures to avoid unjustified institutionalization, while still maintaining the choice of private ICF-DDs.

The following is a brief summary of key terms in the Consent Decree.

- Development of Community Capacity. The Consent Decree requires Defendants to ensure the availability of services, supports and other resources to meet their obligations under the Decree and in particular to provide community residential settings and community-based services.
- Benefits for Class Members Currently Residing in ICF-DDs. The Consent Decree ensures that individuals currently residing in ICF-DDs will benefit from assessments to determine how community living might be possible and that these individuals are provided the opportunity for informed choice. Within two years of the Consent Decree's approval, Class Members who reside in ICF-DDs will receive evaluations to determine the supports and services required to live in a community residential setting and determine their eligibility for such supports and services. For those who indicate that they desire to move to, or do not oppose moving to, a community residential setting, Defendants will develop a service plan specific to each person. The service plan will describe the services required, where and how such services will be developed and obtained, and a timetable for promptly completing that transition.

Within six years, all persons residing in ICF-DDs who do not oppose placement in community residential settings will transition to such settings. The Consent Decree sets forth interim benchmarks as well, with not less than one-third of such persons transitioning within two years, and not less than two-thirds transitioning within four years of approval of the Consent Decree. Thereafter, persons residing in ICF-DDs who do not oppose placement in community residential settings who have service plans prepared after the end of the sixth year following approval of the Consent Decree will transition to such settings within ninety days of the completion of their service plan.

***The Consent Decree does not require or force anyone to move out of an institution against his or her will.***

- Benefits for Eligible Class Members Who Reside at Home. Eligible individuals with developmental disabilities who reside at home also benefit from the Consent Decree. Under the Consent Decree, Defendants must maintain a Statewide database in which all individuals with developmental disabilities who reside at home and have been identified as in need of either Community-Based Services or placement in a Community-Based Setting are enrolled. These individuals will be screened regarding their potential eligibility and need for developmental disabilities services. Individuals who are in situations of Crisis and Emerging Crisis will receive person-centered

evaluations, and Defendants will create service plans that will describe the services required, where and how such services will be developed and obtained, and a timetable for promptly completing that transition.

The Consent Decree provides that individuals in Crisis will receive necessary and appropriate Community-Based Services and/or placement in a Community-Based Setting expeditiously. There is no limit to, or cap upon, the number of Crisis situations that Defendants are obligated to handle. Individuals in Emerging Crisis will receive necessary and appropriate services within ninety days of the issuance of their Service Plan, subject only to certain maximum caps: specifically that, in the first two years following approval of the Consent Decree, Defendants shall provide such services to at least 1,000 individuals in Emerging Crisis, and in each of the third, fourth, fifth and sixth years following approval of the Decree, Defendants shall provide such services to at least 500 additional individuals in Emerging Crisis each year.

- ICF-DD Capacity. The Consent Decree provides that within six (6) years Defendants shall, to the extent consistent with governing law, reduce the use or aggregate licensed capacity of the ICF-DD System by an amount equivalent to the number of individuals who, in the aggregate and consistent with their evaluations, service plans and choices, have transitioned to community residential settings from ICF-DDs.
- Implementation Plan. The Consent Decree requires Defendants to develop an Implementation Plan to establish specific tasks, timetables, and protocols to ensure that Defendants fulfill the requirements of each provision of the Consent Decree.
- Monitoring and Compliance. Under the Consent Decree, the Court will appoint an independent and impartial Monitor who is knowledgeable concerning the management and oversight of programs serving individuals with developmental disabilities. The Monitor will be responsible for assisting the Court in evaluating Defendants' compliance or non-compliance with the Consent Decree.
- Attorneys' Fees and Costs. Under the Consent Decree, Defendants will pay \$1,990,000.00 to Class Counsel in full settlement of attorneys' fees incurred in connection with the lawsuit. Additionally, Defendants will pay all costs and expenses incurred by Class Counsel through and including the approval of the Consent Decree and any appeal thereof. Class Members do not have to pay anything to Class Counsel.
- Termination. Under the Consent Decree, the Court shall retain exclusive jurisdiction to fully oversee, supervise, modify and enforce the terms of the Consent Decree for at least nine (9) years following the approval of the Consent Decree.

## **7. WHAT IS CONSIDERED A "COMMUNITY-BASED SETTING"?**

In the Consent Decree, "Community-Based Setting" means the most integrated residential setting appropriate for an individual with developmental disabilities, where the setting is designed

to promote independence in daily living, community integration, and economic self-sufficiency and enables the individual to interact with non-disabled persons to the fullest extent possible.

**8. WILL CLASS MEMBERS RECEIVE MONEY FROM THE CONSENT DECREE?**

No. The lawsuit did not seek money damages on behalf of any Class Members, and there is no money awarded to any Class Members as part of the Consent Decree.

**CLASS MEMBERS' RIGHTS**

Class Members (and/or their parents, guardians or legal representatives) can tell the Court whether they disagree with the Consent Decree or some part of it.

**9. HOW DO YOU TELL THE COURT THAT YOU OBJECT TO THE CONSENT DECREE?**

All Class Members have the right to object to the Consent Decree and to give reasons why they believe the Court should not approve it. The Court will consider those views. Any objection must include the name and number of the case (*Ligas v. Maram*, Case No. 05 CV 4331), as well as a statement of the reasons (in no more than 15 pages) why the Court should not approve the Consent Decree. Be sure to include your name, address, telephone number, and your signature. Please note that it is not sufficient to simply state that you object. *Objections must state reasons why the Decree should not be approved.*

All objections must be sent by U.S. Mail and *postmarked* no later than June 15, 2009, to John Grossbart, Sonnenschein Nath & Rosenthal LLP, 7800 Sears Tower, Chicago, Illinois 60606. Attorney John Grossbart, the lead counsel, will inform the court and other counsel for the Plaintiffs and Defendants of the objections that he receives and that Class Members want presented to the court.

**THE COURT'S FAIRNESS HEARING**

The Court will hold a Fairness Hearing to decide whether to approve the Consent Decree.

**10. WHEN AND WHERE WILL THE COURT DECIDE WHETHER TO APPROVE THE CONSENT DECREE?**

The Fairness Hearing will be held before the Honorable James F. Holderman, United States District Judge, in the Dirksen United States Courthouse, 219 S. Dearborn Street, Room 2541, Chicago, Illinois 60604 on Wednesday, July 1, 2009, at 9:30 a.m. At this hearing, the Court will consider whether the Consent Decree is fair, reasonable and adequate to the Class. The Court will consider any objections made according to the procedures described above.

**11. DO YOU HAVE TO COME TO THE HEARING?**

No Class Member is required to attend the July 1, 2009 Fairness Hearing. All Class Members are entitled to attend the Fairness Hearing if they choose to do so. At the Fairness Hearing, the Plaintiffs' and Defendants' lawyers will answer any questions Chief Judge Holderman may have. If you mail an objection in accordance with the procedures described in Section 9, above, of this Notice, you do not have to come to Court to talk about it. As long as you mailed your written objection in accordance with the procedures described in Section 9, above, of this Notice, the Court will consider it.

**12. WHO CAN SPEAK AT THE HEARING?**

You may ask the Court for permission to speak at the Fairness Hearing. The Judge will decide whether you are permitted to do so. To request permission, you must send a "Notice of Intention to Appear in *Ligas v. Maram*, Case No. 05 CV 4331" to the Court and the parties. Be sure to include your name, address, telephone number, and your signature.

You must send your Notice of Intention to Appear to the Clerk of the Court, Dirksen Federal Building, 219 South Dearborn Street, Chicago, Illinois 60604. The Notice must be *received* by the Clerk of the Court no later than June 15, 2009. (If you file an objection and also want to ask for permission to speak at the Fairness Hearing, you can include the Notice of Intention to Appear in the same document as the objection.)

Your Notice of Intention to Appear must be mailed to the parties by sending a copy of the objection, postmarked no later than June 15, 2009, to John Grossbart, Sonnenschein Nath & Rosenthal LLP, 7800 Sears Tower, Chicago, Illinois 60606.

**LAWYERS REPRESENTING THE CLASS**

**13. WHO ARE THE CLASS MEMBERS' LAWYERS IN THE CASE?**

The Court ordered that the following attorneys represent the Class Members. These lawyers are called "Class Counsel."

John Grossbart  
Kendra K. Hartman  
Wendy Enerson  
Sonnenschein Nath & Rosenthal LLP  
7800 Sears Tower  
Chicago, Illinois 60606  
Telephone: 312-876-8000

Barry C. Taylor  
Laura J. Miller  
John W. Whitcomb  
Barry G. Lowy  
Equip for Equality  
20 North Michigan Avenue, Suite 300  
Chicago, Illinois 60602  
Telephone: 312-341-0022

Ed Mullen  
Access Living of Metropolitan Chicago  
115 West Chicago Avenue  
Chicago, Illinois 60610  
Telephone: 312-640-2100

Benjamin S. Wolf  
Roger Baldwin Foundation of ACLU, Inc.  
180 North Michigan Avenue, Suite 2300  
Chicago, Illinois 60601  
Telephone: 312-201-9740

Judith A. Gran  
Public Interest Law Center of Philadelphia  
125 South Ninth Street, Suite 700  
Philadelphia, Pennsylvania 19107  
Telephone: 215-627-7100

Class Members will not be charged for these lawyers' fees or expenses.

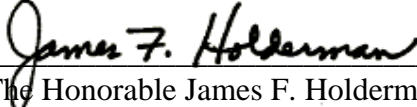
**GETTING MORE INFORMATION**

**14. HOW DO YOU GET MORE INFORMATION ABOUT  
THE CONSENT DECREE?**

A copy of the entire Consent Decree is available on the website of the Illinois Department of Human Services, Division of Developmental Disabilities: [www.dhs.state.il.us/page.aspx](http://www.dhs.state.il.us/page.aspx), and on the website of Equip for Equality: [www.equipforequality.org](http://www.equipforequality.org).

If you have any questions for plaintiffs' lawyers or want to request that a copy of the Consent Decree be mailed to you, you may write to Barry Taylor at Equip for Equality, 20 North Michigan Avenue, Suite 300, Chicago, Illinois 60602 or call Barry Taylor at 312-341-0022.

DATED: March 31, 2009

  
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The Honorable James F. Holderman  
United States District Court Judge