

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA

FRANKLIN BENJAMIN, by and through
his next friend, Andreé Yock; RICHARD
GROGG and FRANK EDGETT, by and
through their next friend, Joyce McCarthy;
SYLVIA BALDWIN, by and through her
next friend, Shirl Meyers; ANTHONY
BEARD, by and through his next friend,
Nicole Turman, on behalf of themselves
and all others similarly situated,

Plaintiffs,

v.

DEPARTMENT OF PUBLIC WELFARE
OF THE COMMONWEALTH OF
PENNSYLVANIA and
ESTELLE B. RICHMAN, in her official
capacity as Secretary of Public Welfare
for the Commonwealth of Pennsylvania,

Defendants.

Civil Action No. 1:09-cv-1182-JEJ

Class Action

(Judge Jones)

UNOPPOSED MOTION FOR CLASS CERTIFICATION

Pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2), Plaintiffs, through their next friends and counsel, submit this Unopposed Motion for Class Certification. Plaintiffs respectfully request the Court to certify the case to proceed on behalf of the following class:

All persons who: (1) currently or in the future will reside in one of Pennsylvania's state-operated intermediate care

facilities for persons with mental retardation; (2) could reside in the community with appropriate services and supports; and (3) do not or would not oppose community placement.

In support of this Motion, Plaintiffs submit the accompanying Brief and Exhibits (including a Certificate of Concurrence (Exhibit A)), which are incorporated by reference in this Motion.

Respectfully submitted,

Dated: August 31, 2009

By: /s/ Robert W. Meek

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CERTIFICATE OF SERVICE

I, Robert W. Meek, certify that Plaintiffs' Unopposed Motion for Class Certification, Brief and Exhibits in Support of that Motion, and proposed Order were filed with the Court's ECF system on August 31, 2009 and are available for viewing and downloading from the ECF system by the following counsel who consented to electronic service:

Allen C. Warshaw, Esquire
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/s/ Robert W. Meek
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