



Department of Justice has promulgated regulations under Title II stating that “a public entity shall administer services, programs, and activities *in the most integrated setting appropriate to the needs* of qualified individuals with disabilities.” *See* 28 C.F.R. § 35.130(d) (emphasis added). Similarly, Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, provides that no person with a disability shall “solely by reason of his or her disability, be excluded from participation in, be denied benefits of, or be subjected to discrimination under any program or activity receiving Federal financial assistance.”

2. In *Olmstead v. L.C.*, 527 U.S. 581 (1999) (“*Olmstead*”), the U.S. Supreme Court held that disability-based discrimination includes placing people with mental illness in “unjustified isolation.”

3. This action is brought to compel Defendants to comply with these mandates with regard to Plaintiffs and those similarly situated. Plaintiffs are currently housed in private, intermediate care nursing homes classified as Institutions for Mental Diseases (“IMDs”), which are designed to warehouse—often for private profit—large numbers of people with mental illness in a segregated setting.<sup>1</sup>

4. Defendants have failed to assure that Plaintiffs, and those similarly situated, are placed in a more integrated setting where they could lead more independent and more productive lives within the community.

5. More than five thousand individuals with psychiatric disabilities live in privately-owned IMDs in Illinois. These IMDs house dozens and often hundreds of people into the same building. They needlessly warehouse large numbers of people who could be served at the same

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<sup>1</sup> Institutions for Mental Diseases (“IMDs”) are defined by Title XIX of the Social Security Act, which prohibits federal Medicaid funding for IMD residents between 22 and 64 years old. *See infra* ¶ 15.

or less cost to the State in far more integrated settings in their communities. The nursing home structure of the IMDs deprives residents of countless liberties and choices most citizens take for granted, such as the opportunity to read a book in private, to choose what to have for dinner, to decide when to wake up in the morning, and to come and go when desired. The IMDs range from cold and institutional to chaotic, unclean and unsafe. Few provide adequate staffing, psychiatric treatment, therapeutic activities or social rehabilitation. People frequently stay in IMDs only because they have nowhere else to go, a result of the Defendants' longstanding neglect of its basic obligations under the ADA.

6. Plaintiffs, and those similarly situated, continue to languish in the segregated setting of the IMDs, despite the fact that equally affordable and more integrated residential settings exist and/or could be made available. Such residential settings would more appropriately meet Plaintiffs' needs.

7. Defendants have violated Title II of the ADA and Section 504 of the Rehabilitation Act by failing to assure that their services are administered to Plaintiffs in the most integrated setting appropriate to their needs. Instead, they have isolated and institutionalized Plaintiffs, and those similarly situated, in IMDs.

#### **Nature and Statutory Basis of Action**

8. This action includes claims for violation of Title II of the ADA, 42 U.S.C. §§ 12131, 12132, which prohibits state and local government entities from discriminating against individuals with disabilities.

9. This action also includes claims for violation of Section 504 of the Rehabilitation Act, 29 U.S.C. § 794, which prohibits recipients of federal funding from discriminating against individuals with disabilities.

