

## Press Release

June 18, 2024

### **Massachusetts Court Approves Landmark Cross-Disability Settlement Agreement on Behalf of Individuals Stuck in Nursing Facilities**

Following a fairness hearing on June 17, 2024, at the United States District Court in Boston, Judge Nathaniel Gorton entered a final order on June 18, 2024 approving a landmark cross-disability Settlement Agreement in *Marsters v. Healey*. The Marsters case is a disability rights class action lawsuit brought against the Commonwealth of Massachusetts on behalf of tens of thousands of individuals with disabilities who are unnecessarily institutionalized in nursing facilities. The Agreement, preliminarily approved on April 22, 2024, will allow thousands of people to return to the community and live in new homes with appropriate services.

In addition to increased funding for housing programs, the Agreement includes a comprehensive set of actions the Commonwealth will undertake over an eight-year period to support, at minimum, 2,400 class members in their transition from nursing facilities to the community, including information and supports to make an informed choice about where to live, case management and transition assistance services, specialized services in the nursing facility, culturally and linguistically competent staff and services, and an array of residential services and supports in the community.

Executive Director, Carolyn Villers, and approximately 30 members of the Massachusetts Senior Action Council (MSAC) attended the hearing wearing the MSAC shirts in support of the Agreement. MSAC, the organizational plaintiff in the case, is a state-wide, grassroots, senior-led organization dedicated to ensuring that long-term care is delivered in the most integrated setting possible. Following the hearing, Villers remarked, “This settlement represents what can happen when people unite to fight for their rights and justice. Thanks to those who stepped forward, thousands will have new opportunities to get the support they need in a community setting instead of being trapped in an institution. Mass Senior Action was honored to play a role in this case and will continue our efforts to ensure the voices of seniors are heard in the policies and institutions that impact their lives.”

Sara Spooner, legal guardian for five of the named plaintiffs, lauded the approval after attending the hearing. “This settlement returns dignity, autonomy and right to self-determination to the thousands of individuals who have been inappropriately placed in nursing facilities due only to inadequate community support. For my clients it provides the opportunity for transition to supported independence which has been the greatest and most profound request voiced by each and every one of them,” said Spooner.

After many months of negotiations with state officials, plaintiffs' co-counsel further commends the approval. Said Deb Filler of Greater Boston Legal Services, "This Settlement Agreement is a monumental achievement for everyone confined in nursing facilities who want to return to living in their communities, near family and friends, and pursuing activities that they enjoy. The Settlement Agreement is a national model, applying to people with all kinds of disabilities, and will result in the development of an improved system of community-based residential services and supports to enable thousands of people with disabilities to have better qualities of lives."

"Today the older adult community came out in strength to support approval by the Court, and we are so happy that the Court gave them something to celebrate. This Settlement Agreement is a game changer – it will provide meaningful community options to thousands of nursing home residents in Massachusetts. This is what the Supreme Court's landmark 1999 Olmstead decision looks like when brought to bear for nursing facility residents," said Regan Bailey, Litigation Director at Justice in Aging.

Foley Hoag's, Kristyn DeFilipp commented, "This settlement represents an important step in improving the lives of many seniors and people with disabilities in the Commonwealth. We were very proud and privileged to represent the plaintiffs in this case. Today was a happy day in court, with many stakeholders present to show their support."

"This case is all about bringing people home. The Court's approval of the Settlement Agreement will allow thousands of people with disabilities who are segregated in nursing facilities to come home to their communities, where we all want and deserve to live," said Steven Schwartz, Special Counsel at the Center for Public Representation.

For people like Lorraine Simpson, the vision of community living has become a reality. Simpson, a plaintiff in the lawsuit, recently moved from a nursing facility to a new home where she has a private bedroom, a patio she can sit on and enjoy the outdoors, and a kitchen she shares with only two individuals. Simpson expressed deep gratitude to those assisting in the transition and said of her new home, "I am happy here. I can cook and take care of my own place. It is very quiet and peaceful."

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