



Recognizing Tremendous Collaboration that has “Benefited so Many People” with Acquired Brain Injuries (ABI), Federal Judge Approves Joint Motion to Dismiss Hutchinson v. Patrick Lawsuit

Class Action Lawsuit was Filed in 2007 on Behalf of People with ABI who were Institutionalized and Preferred to Live in High-Quality, More Integrated Community Settings

September 29, 2021, Westborough, Massachusetts—Recognizing the tremendous collaboration that has “benefited so many people,” U.S. District Court Judge Michael A. Posner has approved a Joint Motion filed last month seeking court approval to dismiss the Hutchinson v. Patrick class action lawsuit. The lawsuit was brought in 2007 on behalf of all persons living with acquired brain injury (ABI) who were institutionalized in nursing facilities in Massachusetts, and who preferred to live in more integrated community settings. The resulting court-enforceable Amended Settlement Agreement required the Commonwealth to significantly reform its service system for individuals with ABI, creating new opportunities for community living.

The Brain Injury Association of Massachusetts (BIA-MA), one of two organizational plaintiffs, was pleased to support the dismissal, agreeing that the Commonwealth has met its obligations under the 2013 Amended Agreement to settle the lawsuit. Pursuant to the Agreement, the Commonwealth created a comprehensive community-based services program for individuals with brain injuries, including expanded outreach, transition planning and residential supports. As a result, 1,187 individuals living with ABI have been able to transition from nursing and long-term rehabilitation facilities to community-based settings.

At a hearing on the Joint Motion held on September 21, Judge Posner congratulated all parties involved, stating, “We do so many things that damage people in court. It is an honor to be associated with such an important and collaborative effort that has benefited so many people.”

In a written order issued on September 27 approving the Joint Motion and closing the case, Judge Posner added, “The parties, their representatives, and counsel on both sides have the court’s deep respect for their hard work, resulting in a very positive outcome for this vulnerable population. Defendants’ good faith is demonstrated by their commitment to continuing to improve and expand community services for persons suffering ABI even beyond the framework of the Agreement.”

“The system reforms achieved by this lawsuit have been nothing short of remarkable,” said Nicole Godaire, chief executive officer of the BIA-MA. “The impact of our collective work extends well beyond the 1,187 people who transitioned to community services in recent years to the many more individuals trying to rebuild their lives after a brain injury who have and will follow them. Because of the Hutchinson suit, these individuals will hopefully never have to subsist in the shadows of institutional care and will be able to benefit from a stronger system of community-based services.”

“The Commonwealth has demonstrated its commitment and will continue its commitment to ensuring that individuals with acquired brain injury achieve their goal of living independently with support. Over the last 7 years, we have expanded outreach, coordinated transition plans and connected individuals with residential supports to make re-entering the community a positive and affirming experience,” said Secretary of the Executive Office of Health and Human Services Marylou Sudders.

“The fundamental restructuring of the service system in Massachusetts enables individuals with brain injuries to live full, integrated lives in the community, outside of segregated facilities,” said Attorney Kathryn Rucker of

the Center for Public Representation, which represented the plaintiffs. “It demonstrates what is possible when courageous individuals are willing to tell their stories, seek change, and work to build a future where everyone is valued and included.”

-MORE-

One such person who has benefited tremendously because of the Hutchinson lawsuit is Joanne Susi, who suffered a debilitating stroke in her 50s and lived almost three years in a nursing home before transitioning into her own apartment.

“Nursing homes, for the most part, are where people go to live out the rest of their lives,” said Susi. “That wasn’t me. I had a lot of life yet to live, and so much I wanted to do. In the nursing home, everyone’s day was structured around the same schedule. My time wasn’t my own. That is what I love about being in my own home, my time is mine. I have incredible aids that come in to help me. They enjoy being here and they don’t have to worry about being with another person, so they’re fully present with me, which is just a phenomenal feeling.

“The difference between the nursing home and my life now is the difference between surviving and thriving, and make no mistake, I have thrived living in my own apartment in an integrated community setting,” added Susi. “I am enormously grateful.”

The Hutchinson lawsuit is named for Cathy Hutchinson, the lead plaintiff in the class action suit. She was a single mother of two from Attleboro, MA, who became a mute quadriplegic after suffering a brainstem stroke. For 11 years she lived in a nursing home before transitioning in 2011 to a community residence where she lived with four other women.

Ms. Hutchinson, who passed away last year at the age of 67, several years ago wrote the following about her experience: “Living in a nursing home was not the life I had planned. I felt so isolated from the real world. I had little to no privacy. I was not able to get all of the services and therapies that I needed, and each day that passed was a painful reminder of my disability.” Cathy, who was recognized by President Obama’s Administration as a White House Champion of Change, described moving to a community residence as “a dream come true.” She added, “I never knew how wonderful freedom is. I couldn’t be happier.”

Many people and organizations played a key role in the effort to resolve the lawsuit and establish a high-quality system of community care for people with ABI, especially the administrations of Governor Baker and Governor Patrick, the Center for Public Representation, the BIA-MA team and the brain injury community, and the service providers who built new community-based programming and provided life-changing therapy and support.

“The BIA-MA looks forward to continuing to work in partnership with the Commonwealth, legislators, service providers and the brain injury community to ensure we continue to improve access to high-quality services for all those across our state who are living with ABI,” Godaire stated.

Media Contacts:

BIA-MA

Sarah Magazine

Preston Group Strategic Advisors

Sarah@prestongroup.us

617.470.6755

Center for Public Representation

Kathryn Rucker

Center for Public Representation

krucker@cpr-ma.org

617.821.7496