

**IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF GEORGIA  
ATLANTA DIVISION**

UNITED STATES OF AMERICA,	)	
	)	
Plaintiff,	)	
	)	
v.	)	CIVIL ACTION NO.
	)	1:09-CV-119-CAP
THE STATE OF GEORGIA, et al.,	)	
	)	
Defendants.	)	
_____	)	

**[PROPOSED] ORDER OF IMMEDIATE RELIEF**

This matter is currently pending before the Court on the United States’ motion [Doc. No. \_\_] for immediate relief.

The Court hereby GRANTS the motion because there is a substantial likelihood that the United States will prevail on the merits; individuals with disabilities in Georgia’s State Hospitals continue to suffer irreparable harm; the balance of equities favors granting relief; and the public interest will be advanced by the relief.

Accordingly, the Court makes the following Order:

1. The State shall promptly take such steps as are necessary to ensure that all Individuals in the Hospitals and those at risk of admission to the Hospitals are served in the most integrated community settings appropriate with

appropriate services, supports, and other necessary resources made available.

2. The State shall promptly place in the most integrated setting in the community and provide with appropriate services all those Individuals in the Hospitals who can be served in the community and who do not oppose such a placement.
3. Within 14 days of this Order, an Independent Monitor shall be chosen to monitor the State's implementation of this Order. The State shall bear the costs of the Independent Monitor. The Independent Monitor shall have substantial experience in expanding community services for people with mental disabilities and in moving people with mental disabilities out of inappropriate institutional placements. The Parties, with the input of the amici, shall jointly choose the individual who will be appointed as the Independent Monitor and shall notify the Court of their joint selection. If the Parties and the amici are unable to agree on the individual within 14 days of this Order, the Parties and the amici shall jointly petition the Court to make the selection. In this petition, the Parties and the amici will be permitted to propose the names of three alternate candidates for the position, from which the Court shall select the Independent Monitor. The Parties and the amici shall submit the candidates' curricula vitae, along with other

pertinent information regarding the proposed candidates, at the time of the submission of the names of the candidates.

4. Within one month from his or her appointment, the Independent Monitor shall issue a comprehensive action plan (“Action Plan”). The Action Plan shall contain the following components:
  - a. The Action Plan shall set forth specific numerical targets and timetables for reduction of the census of the Hospitals. These targets shall ensure that individuals who are inappropriately institutionalized will move to appropriate community settings at a reasonable pace, with a substantial number of individuals with psychiatric disabilities, and a substantial number of individuals with developmental disabilities, to move to appropriate community settings within nine months of the issuance of the Action Plan. The Action Plan shall consider the savings that can be realized from the closure of Hospital beds and redirected to develop community capacity.
  - b. The Action Plan shall identify with specificity the barriers to moving Individuals in the Hospitals to integrated settings. The Action Plan shall specify all such barriers, whether they relate to the discharge planning process or to community capacity. The Action Plan shall

identify specific policy changes that are necessary to overcome those barriers, including specific numbers of additional supported housing slots, ACT teams, ICM case managers, and mobile crisis interventions, together with timetables for adopting those changes.

- c. The Action Plan shall identify specific and targeted changes in the policies and practices of the Hospitals that will adequately address the suicide risks and resident-on-resident assaults in the Hospitals.
  - d. The Action Plan shall identify potential sources of funding for community services and actions the State must take to access those sources, including actions to maximize appropriate federal funds to reallocate mental health budget funds to the community.
5. The Parties and Amici shall have an opportunity to object to the Action Plan. Any such objections shall be raised with the Court within two weeks of the Independent Monitor's issuance of the Action Plan. If not the subject of timely objection, or once approved by the Court, the Action Plan shall be entered as an order of this Court pursuant to Fed. R. Civ. P. 65.
  6. The State shall implement the Action Plan. In particular, the State shall meet the numerical requirements and timetables in the Action Plan and take steps to ensure that all Individuals in the Hospitals are protected from harm,

included harm from resident-on-resident assaults and self-harm.

7. Beginning two months after his/her appointment, the Independent Monitor shall monthly file with the Court a report detailing the Defendants' compliance with the Action Plan.
8. Within one month of this Order and every month thereafter, the State shall provide the Independent Monitor with a list of Individuals in the Hospitals that the State deems appropriate for community placement and a list of all other individuals in the Hospitals. All Individuals in the Hospitals not on the community placement list shall, within 60 days, be evaluated by the Independent Monitor, or someone under the Independent Monitor's auspices, to determine the barriers to community placement for each such individual. The Independent Monitor shall also evaluate the monthly lists to identify systemic problems that are barriers to community placement and set forth actions that the State must take to redress these problems. The State shall promptly take action to remove barriers for each Individual in the Hospital and to address identified systemic problems.

SO ORDERED, this \_\_\_\_\_th day of \_\_\_\_\_, 2010.

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CHARLES A. PANNELL JR.  
United States District Judge

**Local Rule 7.1D Certification**

By signature below, counsel certifies that the foregoing document was prepared in Times New Roman, 14-point font in compliance with Local Rule 5.1B.

          /s/ Robert A. Koch            
ROBERT A. KOCH  
Attorney  
Special Litigation Section

**CERTIFICATE OF SERVICE**

This is to certify that I have this day electronically filed the foregoing [PROPOSED] ORDER FOR PRELIMINARY INJUNCTION with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all parties in this matter via electronic notification or otherwise:

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This 28th day of January, 2010.

/s/ Robert A. Koch  
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