

HARDY MYERS
Attorney General
STEPHEN K. BUSHONG #85130
Assistant Attorney General
Department of Justice
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 378-6313
Fax: (503) 378-3465
Email: stephen.bushong@state.or.us

Attorneys for Defendants

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF OREGON

JAMES STALEY, by and through his mother
and next friend KAREN STALEY; BRANDIE
EVANS, by and through her mother and next
friend BRENA FLOTA; HELEN HEALY, by
and through her mother and next friend
SUSAN SCHREPPING; TARA PETERS, by
and through her mother and next friend
CHRIS KANNIER; JOHN DUFFIELD, by
and through his mother and guardian LAURIE
DUFFIELD; and MOLLY DRUMMOND, by
and through her mother and guardian DIANN
DRUMMOND,

Plaintiffs,

v.

TED KULONGOSKI, Governor of the State
of Oregon, individually and in his official
capacity; JEAN THORNE, Director of the
Oregon Department of Human Services,
individually and in her official capacity; and
OREGON DEPARTMENT OF HUMAN
SERVICES,

Defendants.

Case No. CV00-0078-ST

AFFIDAVIT OF MICHAEL J. MALEY

STATE OF OREGON)
) ss.
County of Marion)

I, Michael J. Maley, being first duly sworn, depose and say:

1. I am the Manager of the Community and Family Support Section of the Seniors and People with Disabilities Office of Home and Community Supports in the Oregon Department of Human Services. I have personal knowledge of the facts set forth in this affidavit.

2. Notice of the modification of the Settlement Agreement in this case was provided to the class by mail and publication. The mailings were postmarked in two batches, November 19 and November 21, 2003. Notices were mailed to all adults with developmental disabilities known to the various county developmental disability programs in Oregon. Names and addresses were provided by the counties. Notices were mailed to more than 11,000 individuals to their last known residential addresses.

3. Notice was also published in the Oregonian newspaper on November 16 and November 23, 2003. Attached as Exhibit A is the Affidavit of Publication we received from the *Oregonian* newspaper to verify the publication dates.


DATED this 12th day of January, 2004.


MICHAEL J. MALEY

SUBSCRIBED AND SWORN to before me this 12th day of January, 2004.

State of OREGON
County of Marion




Notary Public for Oregon
My Commission Expires: 4/10/05

AFFIDAVIT OF PUBLICATION

G. HATTER

I, BEING FIRST DULY SWORN DEPOSE AND SAY
THAT I AM THE PRINCIPAL CLERK OF THE PUBLISHER OF THE OREGONIAN,
A NEWSPAPER OF GENERAL CIRCULATION, AS DEFINED BY ORS 193.010 AND
193.020, PUBLISHED IN THE CITY OF PORTLAND, IN MULTNOMAH COUNTY,
OREGON: THAT THE ADVERTISEMENT, THE PRINTED TEXT OF WHICH IS SHOWN BELOW,
WAS PUBLISHED IN THE ENTIRE AND REGULAR ISSUES OF THE OREGONIAN
FOR 2 DAYS STARTING 11/16/03, ENDING 11/23/03 SU

..... *G. Hatter*
PRINCIPAL CLERK OF THE PUBLISHER

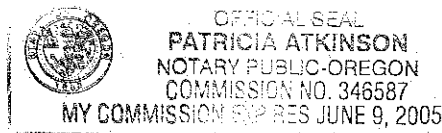
NOV 25 2003

SUBSCRIBED AND SWORN TO BEFORE ME THIS DATE

NOTARY: *Patricia Atkinson*

220324
AD TEXT:

Public Notice



Staley v. Kulongoski USDC CV00-0078-ST
Affidavit of Michael J. Maley
Exhibit A Page 1 of 2

POR 30859SE

Oregon (the "Court") dated November 7, 2003, a hearing will be held in the above case before the Honorable Janice M. Stewart, in Courtroom 10B of the United States District Court for the District of Oregon, 1000 SW Third Avenue, Portland, Oregon at 9:30 a.m. on January 14, 2004, to decide whether to approve a proposed Modification Agreement, which would modify the original Settlement Agreement, as fair reasonable, adequate, and made in good faith. This modification Agreement would, due to an unanticipated State fiscal crisis, modify the original Settlement Agreement, to among other things, slow the pace at which additional eligible individuals are enrolled under the Settlement Agreement while continuing to significantly expand the number of additional individuals enrolled for services each biennium. The State would be required to maintain the Support Service Brokerage contracts and to continue to provide services to individuals previously enrolled under the Settlement Agreement. Under the proposed Modification Agreement, all eligible class members will be receiving services by June 30, 2009, at the latest. The term of the Settlement Agreement will be extended until June 30, 2011.

THE PROPOSED MODIFICATION AGREEMENT WILL NOT CAUSE ANY INDIVIDUAL TO LOSE THE SERVICES HE OR SHE IS PRESENTLY RECEIVING. NEW ENROLLMENTS WILL CONTINUE, BUT AT A SLOWER PACE THAN PROVIDED FOR IN THE ORIGINAL STALEY SETTLEMENT AGREEMENT.

The Modification Agreement will modify only some provisions of the original Settlement Agreement. All provisions in the original Settlement Agreement not expressly modified will remain in effect.

SUMMARY OF LITIGATION AND PROPOSED MODIFICATION AGREEMENT

The original Settlement Agreement was approved by the Court on December 14, 2000. This Agreement made Medicaid developmental disability services much more available to adults. It provided that 50 new non-crisis comprehensive services (24-hour care outside of family home or intensive services in the family home costing more than \$20,000 per year) would be created by the State each year for a total of 300 slots over six years. It also provided that Medicaid developmental disabilities support services costing less than \$20,000 per year would be made available to all eligible individuals. These services were to be phased in over an approximately four-year period.

Since the original Settlement Agreement was approved by the Court, the State has received much less money than expected from taxes and other sources. As a result, the State has cut many social services. The State asked the plaintiffs, including the organizational plaintiff, the ARC of Oregon, to modify the Settlement Agreement, based on the State's very large budget problems. The plaintiffs agreed because they wanted to be certain that the services would continue and expand over the coming years, despite the State's fiscal crisis, without the risks involved in the litigation. They were also concerned that the original Settlement Agreement was due to expire on June 30, 2007, less than four years from now. Under the Modification Agreement, the Settlement Agreement will remain in force until June 30, 2011. Under the Modification Agreement, the major goal of the Settlement Agreement - all eligible individuals with developmental disabilities receiving support services and 300 individuals receiving non-crisis comprehensive services - will still be reached but it will take longer to reach it. This goal will now be reached by June 30, 2009.

Comprehensive Services

Under the Modification Agreement, the required non-crisis comprehensive slots for 300 individuals will be filled by June 30, 2009. The schedule for filling these slots will be as follows:

- By June 30, 2003 - a total of 20 individuals served
- By June 30, 2005 - a total of 40 individuals served
- By June 30, 2007 - a total of 170 individuals served
- By June 30, 2009 - a total of 300 individuals served

Support Services

Under the Modification Agreement, support services will be phased in under the Oregon Administrative Rules as follows:

- By June 30, 2003 - not less than a total of 3,122 individuals receiving services
- By June 30, 2005 - not less than a total of 4,122 individuals receiving services
- By June 30, 2007 - not less than a total of 5,122 individuals receiving services
- By June 30, 2009 - all eligible individuals enrolled to receive services

Term of the Agreement as Modified

Under the Modification Agreement, the Settlement Agreement will remain in force until June 30, 2011.

CLASS MEMBERS' RIGHTS AND OBLIGATIONS

A member of the class will be bound by the proposed Modification Agreement, in the event it is approved by the Court.

Any member of the class may object to the Modification Agreement if, on or before January 7, 2004, the class member files with the Court notice of intention to appear (stating each objection and the basis for such objection). This notice must be provided to:

Office of the Clerk of the United States District Court
United States Courthouse
1000 SW Third Ave.
Portland, OR 97204

Copies of any papers in support of the objection(s) must be provided to the following parties:

James A. Wrigley
Oregon Advocacy Center
620 SW Fifth Ave., 5th Floor
Portland, OR 97204

Stephen K. Bushong
Oregon Department of Justice
1162 Court St. NE
Salem, OR 97310

Objections will be considered at the hearing on January 14, 2004 at which class members who file timely objections may be heard.

Club Car Golf Cars

www.bursonmattcars.com
Woodburn, OR • 503-981-48

FULL set Nike woods & Iron
mallet putter with four stand
new in the box. Pk \$1950,
\$1150. 360-484-8185

GOLF CAR CLEARANCE SA

660-693-7471

playerofcars@aol.com

GOLF CLUBS Accura overs
special editions, NIKE co
Oglo black/yellow bag
glove. \$350/obc. 503-701-502

MACGREGOR MT Persim
woods, beautiful, 2.34,
model, 300. 503-441-2825

TAYLOR Made Driver R580
degree regular shaft; new,
503-254-4562

TITLEIST driver, 975J-VS
Gratolok shaft, headcover,
\$999. Set \$225. 360-576-9975

WILSON Fastfist 16-pc golf
never used, 0.52 driver, 3 of
he shafted woods, 8 steel sh
irons, - built, standbag
covers. 1st 300. 360-608-16

YAMAHA GOLF CARS. Ne
used. 503-75-0767; 800-331.
www.yamahagolfcar.ca

Sporting Goods 4

'03 ROSK Skis 164 Viper
Power Fusion 120 bindings,
once, perfect \$550. 503-774

FAST flying Pheasants in Ju
Variety of hunts, 541-277-3

2000 ANGEL PAINTBALL GUN
Titanium barrel, Angel air, like
new. \$1850. 503-657-7900

2000 VORTEX Snowboard
Like new, size 150, \$250 obo
360-241-1971

7' POOL table Golden West, oak
& cherry, solid slate, leather
pockets w/ rings, cues & access
\$1500. 503-67-0453

8' BRUNSWICK pool table,
5/8" single slate, you haul,
\$750. 503-886-9341

8' POOL Table, 3pc 1" slate,
many accessories incl.
\$900/obo. 503-793-3238

8' POOL TABLE & accessories,
with ping pong table
\$375. 503-579-4700

ATTENTION ELK HUNTERS
Private land, fair chase, Charma
NM. Rifle, trophy, bull elk hunts
Any 5 days beginning 11/21/03
01/31/04. Guaranteed tags. Fully
guided, \$400. Nonguided avail
Apache Park 1-800-697-9881

ATTENTION HUNTERS 8x8 used
walk-in cooler w/new refrig
winter sale \$2500 503.885.0823

Auto Swap Meet
Clark Co. Fairgrounds
Nov. 22nd 9am-3pm Adm. \$3
Exit #9 off I-5 1(800)659-3440

BERETTA 12ga shotgun, m/c
AL390 Gold Mallard, 28" ven
dbl, excl \$1000. 360-876-5515

BROWNING 270 bolt action, scope
\$450. Remington 30.06 pump
w/scope \$300. 503-695-5897

* Buying Fishing Tackle *

New & Old Rods reels lures gear
fly fish. 503-669-6747; 970-4550

CABINET Sun (Curto), Custom
matched solid oak Value \$170
Sacrifice \$59. 503-253-6241

* CASH FOR GUNS *

THE GUN BROKER
Eastside 503-657-720
Westside 503-639-960

CASH Paid for Guns & Gun
Appraised NW Armory 120
SE McLoughlin Ave. 97214

Staley v. Kulongoski USDC CV00-0078-ST

Affidavit of Michael J. Maley

Exhibit A Page 2 of 2

CERTIFICATE OF SERVICE

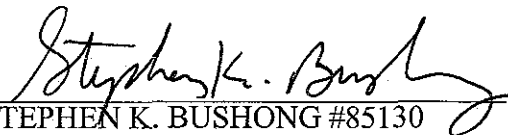
I certify that on January 12, 2004, I served the foregoing AFFIDAVIT OF MICHAEL J. MALEY upon the parties hereto by the method indicated below, and addressed to the following:

James Wrigley
Kathleen L. Wilde
Oregon Advocacy Center
620 SW Fifth Avenue – 5th Floor
Portland, OR 97204

☐ HAND DELIVER
☒ U.S. MAIL
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
(503) 243-1738

Robert C. Weaver
Mary R. Tarbox
Garvey, Schubert & Barer
121 SW Morrison – 11th Floor
Portland, OR 97204

☐ HAND DELIVER
☒ U.S. MAIL
☐ OVERNIGHT MAIL
☐ TELECOPY (FAX)
(503) 226-0259


STEPHEN K. BUSHONG #85130
Attorney-in-Charge
Trial Attorney
Of Attorneys for Defendants
1162 Court Street NE
Salem, OR 97301-4096
Telephone: (503) 378-6313