

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA
No. 10-CV-00123

CLINTON L., by his guardian and next)
friend CLINTON L., SR., TIMOTHY B.,)
by his guardian and next friend ROSE B.,)
VERNON D.W., STEVEN C., JASON)
A., by his guardian and next friend)
BRENDA A., DIANE D., by her)
guardian and next friend THOMAS S.,)

Plaintiffs,)

v.)

1:10-CV-00123

LANIER CANSLER, in his official)
capacity as Secretary of the Department)
of Health and Human Services, and DAN)
COUGHLIN, in his official capacity as)
CEO and Area Director of the Piedmont)
Behavioral Healthcare Local)
Management Entity,)

Defendants.)

PLAINTIFF'S MOTION TO APPOINT A SPECIAL MASTER

Plaintiffs Clinton L., Timothy B., Vernon W., Steven C., Jason A. and Diane D., pursuant to Fed.R.Civ.P. 53(a)(C), hereby move this Court for the appointment of a special master to enforce the Court's Injunction by ensuring appropriate community supports that will prohibit Plaintiffs' institutionalizations, to ensure their continued right to live in the community, and to prevent further harm by Defendants' arbitrary actions.

In support of their motion, Plaintiffs state:

1. By this Court's Order dated May 5, 2010, the Court ordered Defendants to provide "clinically-appropriate community-based placements" to Plaintiffs.
2. Since the entry of this Court's Order, the care provided to the Plaintiffs has deteriorated to the point where each of them faces an increased risk of institutionalization. One Plaintiff, Diane D., has in fact been placed in a psychiatric hospital as a result of her reduced services.
3. A Special Master should be appointed to review Plaintiffs' plans of care to make certain that the care provided by Defendants is both clinically-appropriate and sufficient to maintain Plaintiffs in their community placements. This task is best performed by an individual who is an expert in making such professional determinations.

WHEREFORE, Plaintiffs request that the Court enter an Order appoints a Special Master to oversee compliance with this Court's Order.

Dated: March 15, 2011

Respectfully submitted,

/s/ John R. Rittelmeyer

John R. Rittelmeyer
john.rittelmeyer@disabilityrightsnc.org
N.C. State Bar No. 17204

Jennifer L. Bills
jennifer.bills@disabilityrightsnc.org
N.C. State Bar No. 37467

DISABILITY RIGHTS NC
2626 Glenwood Avenue, Suite 550
Raleigh, NC 27608
Phone: (919) 856-2195
Fax: (919) 856-2244
Attorneys for Plaintiffs

CERTIFICATE OF SERVICE

The undersigned hereby certifies that on March 15, 2011, I electronically filed the foregoing Memorandum in Support of Plaintiff's Motion to Appoint a Special Master with the Clerk of Court using the CM/ECF system which will send notification of such filing to the following:

Counsel for Defendant Dan Coughlin

Stephen D. Martin (steve.martin@nelsonmullins.com)

Chuck Hollowell (chuck.hollowell@nelsonmullins.com)

Counsel for Lanier Cansler

Lisa Corbett, Esq. (lcorbett@ncdoj.gov)

Respectfully submitted,

/s/ John R. Rittelmeyer

John R. Rittelmeyer

Jennifer L. Bills

2626 Glenwood Ave., Suite 550

Raleigh, North Carolina 27608

(919) 856-2195 (Telephone)

(919) 856-2244 (Facsimile)

john.rittelmeyer@disabilityrightsnc.org

jennifer.bills@disabilityrightsnc.org