UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MASSACHUSETTS

CATHERINE HUTCHINSON, by her guardian Sandy Julien ET AL,)))
Plaintiffs)
v.)) C.A. No. 07-30084-MAP)
DEVAL L. PATRICK, Governor, ET AL,))
Defendants	,)

MEMORANDUM AND ORDER REGARDING PLAINTIFFS' MOTION FOR CLASS CERTIFICATION (Dkt. No. 16)

September 26, 2007

PONSOR, D.J.

This is an action under the Americans with Disabilities Act ("ADA"), 42 U.S.C. §§ 1201 et seq., and Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. §§ 794(a), et seq., brought by five individuals with serious brain injuries and two non-profit organizations. Plaintiffs have moved for certification of a class comprising over 8,000 individuals with brain injuries, currently living in nursing and rehabilitation facilities in the Commonwealth of Massachusetts.

Plaintiffs' Motion for Class Certification (Dkt. No. 16) is hereby ALLOWED.

The requirements of Fed. R. Civ. P. 23(a) have been satisfied. The so-called "numerosity" requirement is not contested. Moreover, there are common questions of law and fact regarding whether Defendants have violated the ADA and the Rehabilitation Act. The claims of the named Plaintiffs are typical of the claims of the class. Finally, Plaintiffs' counsel would represent the class well, and there is no conflict among the interests of the various class members likely to arise. In the unlikely event that a conflict should appear, the court may address it at a later date.

In addition to the requirements under Rule 23(a),
Plaintiffs have satisfied the requirement of Fed. R. Civ. P.
22(b)(2). Defendants have acted, or failed to act, on
grounds generally applicable to the entire class, making
final injunctive relief appropriate to the class as a whole.

A relatively minor issue regarding the wording of the class definition remained outstanding at the close of oral argument on September 24, 2007. Counsel are ordered to report to this court no later than October 1, 2007 regarding their negotiations on this issue.

It is So Ordered.

/s/ Michael A. Ponsor
MICHAEL A. PONSOR

U. S. District Judge