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NYS JEOPARDIZES THE RIGHTS OF OVER 5,000 PEOPLE IN ADULT HOME CLASS ACTION & THE NYS ATTORNEY GENERAL SEEKS TO WITHDRAW FROM REPRESENTING NEW YORK STATE

Brooklyn, NY, March 2, 2017 – New York State took actions which appeared to be calculated to scuttle a settlement that gives over 5,000 people with mental illness the opportunity to leave institutions and live in the community. The State’s Office of Mental Health and Department of Health have jeopardized the viability of the settlement, reached in January 2014, by agreeing to a five month stay of a state regulation limiting admissions of adults with serious mental illness into these highly impacted adult homes. As a result, the Office of the New York State Attorney General, on February 28, 2017, requested court permission to withdraw as the attorney representing the Governor, New York State, and several state officials in the two related federal civil rights cases. The Attorney General has been representing the Governor and the State in these matters for over 12 years.

Adult homes are institutions that are generally run by for-profit businesses. They house a substantial number of people with mental illness who, but for the settlement which New York State has now put in jeopardy, had no opportunity to live outside of these dismal institutions. One former New York State official described them as “psychiatric flophouses.”

The settlement, which the State has now put in jeopardy, ensures that more than 5,000 people with mental illness have the choice to move to community housing with extensive support services, instead of remaining institutionalized for the rest of their lives. (*United States of America v. State of New York*, 13-CV-4165, U.S District Court, Eastern District of New York; *O’Toole v. Cuomo*, 13-CV-4166, U.S. District Court, Eastern District of New York).

Following the State’s unexpected actions, the Attorney General stated that there was “a fundamental disagreement about how the matter should be handled;” that the State defendants had “failed to cooperate in the representation and made the representation unreasonably

difficult, if not impossible;” and that “the [Office of Attorney General] has been excluded from important communications with opposing counsel that were conducted directly by its clients.”

This dramatic and unusual action was taken after New York State was questioned by Brooklyn Federal Judge Nicholas G. Garaufis about its decision to consent to a five-month restraining order against the State’s own regulations determining that large adult homes are not clinically appropriate for people with mental illness and limiting admissions of people with mental illness to those homes. Judge Garaufis described the action as “a demonstration potentially of bad faith.”

“New York State’s irresponsible actions have jeopardized the civil rights of thousands of people and resulted in this unprecedented and unusual request by the AG. We hope that New York State lives up to its settlement commitment to these individuals,” said DRNY Executive Director Timothy Clune.

Each of the following organizations are counsel to the class of adult home residents who have the opportunity to move to the community if they so choose:

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