



**STATE SETTLES CIVIL RIGHTS CASE AGREEING TO PAY FOR AN
INDEPENDENT CONSULTANT
AFTER STATE FABRICATED DATA IN WHICH PRETRIAL DETAINEES
WITH MENTAL ILLNESS WERE ONCE AGAIN LANGUISHING IN JAILS
WAITING FOR COURT-ORDERED COMPETENCY EVALUATIONS AND
RESTORATIVE TREATMENT**

*Landmark Ten-Year Agreement Protecting Persons with Mental Illness Settles after
Action was Re-opened Due to State's Fabricating Data Allegedly Violating the U.S.
Constitution*

Lengthy Delays Resolved with an Agreement for an Independent Consultant

DENVER, August 2, 2016 — The Colorado Department of Human Services (the “Department”) and the non-profit Disability Law Center (the “DLC”) settled the re-opening of a 2012 federal lawsuit brought by the DLC to address chronic delays in the system for providing court-ordered competency evaluations and restorative treatment to pre-trial detainees. The federal lawsuit was re-opened by Federal Magistrate Nina Wang in December 2015, after the DLC filed a motion to enforce the settlement agreement alleging the State fabricated the monthly data which falsely indicated that it was meeting its agreed upon timelines to evaluate and treat pre-trial detainees with mental illness for competency.

The motion alleged that the State’s data did not reveal that pre-trial detainees in Colorado were once again suffering unconstitutional delays, in some cases lasting as long as six months, in receiving evaluations and treatment that would enable them to participate in their criminal proceedings.

The parties moved to dismiss the motion to re-open the settlement agreement and request for sanctions based upon reaching an amended and very comprehensive settlement agreement on July 29, 2016.

The amended agreement contains many new provisions, but the most significant is the following:



- The Department is required to pay for an Independent Consultant for the duration of the agreement. The Independent Consultant is an individual jointly agreed upon by the parties, who is experienced in the management and oversight of a state’s mental health system. The Independent Consultant will oversee the implementation of the agreement, and ensure compliance, data reporting, and meet with the parties on a quarterly basis.
- Once again, the parties agreed that the United States District Court for the District of Colorado would retain jurisdiction to enforce the Agreement. In the event the Department fails to meet its obligations, the federal court can hold the Department in contempt.
- The parties have agreed to work together to and meet quarterly with the Independent Consultant to help ensure timely evaluation and treatment of the mentally ill pretrial detainees.

“In our view, the Department has been struggling with this problem for years. We hoped they would not have faltered on their obligations, and we don’t know why they fabricated the data, but we are especially gratified to have an independent consultant on board to ensure that persons with mental illness will not go without timely competency evaluations and restorative treatment” said attorney Iris Eytan, adding that, “We are pleased that the Department acknowledged that for the Plaintiff’s trust to be repaired, an Independent Consultant was necessary, and we look forward to working with the State and the Independent Consultant for years to come.”

Disability Law Colorado’s legal team consisted of Iris Eytan of Eytan Nielsen, LLC, Jason M. Lynch of Davis Graham & Stubbs LLP, Caleb Durling of Rollin Braswell Fisher LLC, and Ellie Lockwood of Snell & Wilmer LLP, and Mark Ivandick of Disability Law Colorado.



The Motion to Reopen the Case was filed in 2015 in the United States District Court for the District of Colorado, was titled *Center for Legal Advocacy d/b/a Disability Law Center v. Reggie Bicha, in his official capacity as Executive Director of the Colorado Department of Human Services, and Ronald B. Hale, in his official capacity as Superintendent of the Colorado Mental Health Institute at Pueblo*, No. 11-cv-02285-NYW (D. Colo.).

The Disability Law Center (www.thedisabilitylawcenter.org) is an independent public interest non-profit specializing in civil rights and discrimination issues. The Legal Center protects the human, civil, and legal rights of people with mental and physical disabilities, people with HIV, and older people throughout Colorado, and works for systematic change to improve these people's lives. The goal of the Legal Center's work is to open up the legal system to those who would otherwise be unable to voice their needs because of the complexity of the issues they face, their disability, or because they are unable to act on their own behalf.

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