

Press Release

Disability Advocacy Alliance
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Individuals with Intellectual and Developmental Disabilities, Through Their Guardians, File Motion to Intervene in Ball v. Kasich Lawsuit Brought By Disability Rights Ohio

Parents, siblings and guardians serving as pro se counsel for their family members with profound and severe intellectual and developmental (I/DD) disabilities [filed a motion](#) on April 19, 2017 in federal court to intervene in the class action brought by Disability Rights Ohio (DRO) against the state of Ohio over its Developmental Disabilities (DD) system.

The individuals with disabilities choosing to intervene wish to preserve their Intermediate Care Facility (ICF) homes which they rely upon for life-sustaining care such as licensed nursing, therapy and behavioral supports, personal care and 24-hour supervision. These services are vital to addressing their manifold disabilities that include but are not limited to severe and profound intellectual disabilities, autism, maladaptive behaviors, quadriplegia, epilepsy, non-verbal and some requiring feeding through a gastrointestinal tube. DRO also attacks the sheltered workshops and day programs these individuals benefit from for productive opportunities and social engagement. Caroline Lahrmann, one of the guardians who participated in the filing on behalf of her twin children stated,

“We took this step to protect our loved ones and individuals who share their interests throughout the state. We want to preserve the continuum of care that exists in Ohio and maintain a real choice of services. The Americans with Disabilities Act is about individuals and enabling them to make choices to best accommodate their unique disabilities and circumstances. Without a range of choices, individuals with disabilities will be forced into a one-size-fits-all service model. Ultimately, people will be harmed and their opportunities diminished.”

DRO’s suit is brought on behalf of six plaintiffs who prefer to receive services in community settings. The state of Ohio’s DD budget is strongly weighted toward community settings with \$1.9 billion directed toward community waiver services and \$770 million going to state and privately run ICFs. Through its litigation, DRO hopes to increase this disparity. Doing so would place individuals who cannot be safely served in community placements at great risk as it is not economically feasible to staff for complex needs in a small group home. Additionally, ICF residents would be torn from their communities of friends and caregivers.

DRO is Ohio’s state-appointed Protection & Advocacy agency. In this capacity, DRO is charged to protect and advocate the rights of all individuals with I/DD and serve as their publicly funded legal counsel. By bringing this suit as a class action, however, DRO has marginalized a significant portion of its constituency from its services – those who cannot handle and benefit from community settings. Sadly, appeals to state officials to amend this disparate treatment were not addressed. As such, the parents, siblings and guardians who filed yesterday’s motion are forced to serve as their loved ones’ counsel before the court as they are unable to fund the cost of professional legal representation in such a lengthy litigation that can last a decade or more.

Those filing the motion to intervene do not object to the plaintiffs seeking relief of their claims before the court as individuals. They object to the class action nature of that sought relief and being drawn into litigation that supplants their interests with the interests of others and which could jeopardize their health, welfare and the loving communities they depend upon.

Their concerns speak to a primary tenet of the Americans with Disabilities Act that stipulates how public entities like DRO are entrusted to carry out their duties:

“...public entities are required to ensure that their actions are based on facts applicable to individuals and not on presumptions as to what a class of individuals with disabilities can or cannot do.” 28 CFR 35.130

The class action nature of DRO’s lawsuit has caused the “facts applicable” to the ten individuals seeking intervention, and the thousands of ICF residents like them throughout Ohio, to be negated.

By forcing individuals with entirely separate interests and care needs into an appeal for community services, DRO feigns to protect the interests of all proposed class members, but as the ten individuals state in their motion,

“DRO cannot serve as counsel for separate interests, nor can it impose class status on individuals with competing interests.”

To learn more and read the ten individuals’ motion to intervene, go to www.DisabilityAdvocacyAlliance.org.