



Press Release

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Brown Rudnick Seeks U.S. Supreme Court Review in Fernald Case on Behalf of Wrentham Association for Retarded Citizens, Inc.

Boston, MA, February 20, 2009 – Brown Rudnick LLP, pro bono counsel to the Wrentham Association for Retarded Citizens, Inc. has filed a brief in support of the petition to the United States Supreme Court filed by the Fernald League on January 29, 2009. The Fernald League has asked the Supreme Court to review the recent reversal of a decision entered by Judge Joseph Tauro regarding the transfer of residents from the Fernald Developmental Center in Waltham. The Wrentham Association represents the class of current and former residents of the Wrentham Developmental Center. Through the Brown Rudnick Center for the Public Interest, the law firm of Brown Rudnick has provided pro bono representation to the Wrentham Association since 2004.

The Wrentham Association argues in its brief that the fundamental question at issue is whether a federal appeals court should be allowed to ignore the experience and findings of a federal district court judge that has been directly involved in a case. This case presents an opportunity to answer the question, because Judge Joseph Tauro, whose August 2007 Order regarding Fernald residents was reversed by the First Circuit Court of Appeals, has been deeply involved in this case for over 35 years.

After the United States Attorney, Michael Sullivan, completed a year-long investigation into transfers from Fernald, Judge Tauro found that the Commonwealth was improperly excluding parents and family members from the decision-making process regarding how their loved ones would be cared for. In the process of closing Fernald, the Commonwealth had also made a decision to transfer all of the residents, without first considering their needs or whether the future care could in fact be “equal or better.” Judge Tauro found that the Commonwealth’s actions violated the 1993 Disengagement Order that was entered to



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protect the rights of class members as a remedy for the deplorable conditions that led to the first of several federal lawsuits being filed in 1972.

As Wrentham states in its brief, when it comes to overseeing cases dealing with reform of state institutions, appellate courts are not “in a position to understand complex cases as deeply and broadly as the district courts that have immersed themselves in them for years.” The Wrentham Association believes that this is a good case to resolve this matter precisely because of Judge Tauro’s 35 years of experience with the complex issues surrounding state facilities and the needs of the developmentally disabled. The Wrentham Association further contends that this issue must be decided because the question is broader than whether Fernald will close as it implicates Judge Tauro’s ability to protect the rights of all class members in the future and to enforce the Order to which the Commonwealth agreed in 1993.

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