



Minnesota Department of **Human Services**

May 4, 2015

The Honorable Donovan W. Frank
United States District Court
724 Federal Building
316 North Robert Street
St. Paul, MN 55101

RE: Response to "Memorandum of Amicus Curiae Minnesota Disability Law Center in Support of Plaintiffs' Objections to State's Proposed Olmstead Plan," *Jensen et al. v. DHS, et al.* Court File No: 09-CV-1775 DWF/BRT (Dkt. 427), April 27, 2015.

Dear Judge Frank:

I write in response to the Memorandum of Amicus Curiae by the Minnesota Disability Law Center ("MDLC") in the above matter. On behalf of the Department of Human Services ("Department"), we appreciate the time and expertise shared by MDLC, with participation of co-counsel Miller O'Brien Jensen, in its briefing and input leading up to the development of Minnesota's Olmstead Plan.

With priority to making more meaningful, integrated differences in the lives of Minnesotans with disabilities, the Department and State of Minnesota, together with many stakeholders, including subject matter experts, have spent countless hours engaging in discussions and the thoughtful crafting of Minnesota's Olmstead Plan, among other initiatives.

While the Department agrees with MDLC that there are certain baselines and goals within the current proposed plan that need more detail and that we should continue to refine the plan, which we intend to do, we believe we are in substantial compliance with our original commitment in the above matter to "develop and implement a comprehensive *Olmstead* plan that uses measurable goals to increase the number of people with disabilities receiving services that best meet their individual needs and in the "Most Integrated Setting," and is consistent and in accord with the U.S. Supreme Court's decision in *Olmstead v. L.C.*, 527 U.S. 582 (1999)." Following our original commitment in this matter, we also agreed that we would implement the plan in accordance with the Court's orders. We believe we are in substantial compliance with that commitment as well.

To support forward movement of Minnesota's Olmstead Plan and its implementation, we desire and respectfully seek the Court's approval of the proposed plan with the ability to revise the

plan, as needed, in a manner consistent with the Olmstead Subcabinet's established processes and procedures, previously filed with the Court.

Since the initial stages of drafting, we have viewed and treated Minnesota's Olmstead Plan as a living, working document. As a next step, the Olmstead Subcabinet, at its June 8, 2015, meeting will be considering a proposal to refine the proposed plan and has invited MDLC by way of the enclosed letter to participate and present its comments and recommendations on the plan.

We appreciate the opportunity to respond to MDLC's amicus brief and are hopeful that the Court will approve the proposed plan and support our approach to move forward.

Sincerely,

A handwritten signature in cursive script, appearing to read "Lucinda E. Jesson".

Lucinda E. Jesson

Enc.

cc: Shamus O'Meara, Attorney for Plaintiffs
Colleen Wieck, Executive Director, Governor's Council on Developmental Disabilities
Roberta Opheim, Ombudsman, Mental Health and Developmental Disabilities
David Ferleger, Court Monitor
Pamela S. Hoopes, Mid-Minnesota Legal Aid/MDLC
Barnett I. Rosenfield, Mid-Minnesota Legal Aid/MDLC
M. William O'Brien, Miller O'Brien Jensen
Emily L. Marshall, Miller O'Brien Jensen
Anne Barry, DHS Deputy Commissioner
Jennifer DeCubellis, DHS Assistant Commissioner
Amy Kaldor Akbay, DHS Chief General Counsel
Scott Ikeda, Assistant Attorney General
Mary Tingerthal, Chair, Olmstead Subcabinet
Darlene Zangara, Executive Director, Olmstead Implementation Office
Members, Minnesota Olmstead Subcabinet



Minnesota Olmstead Subcabinet

May 4, 2015

Pamela S. Hoopes
Barnett I. Rosenfeld
Mid-Minnesota Legal Aid/Minnesota Disability Law Center
430 First Avenue North, Suite 300
Minneapolis, MN 55401

RE: Memorandum of Amicus Curiae Minnesota Disability Law Center in Support of Plaintiffs' Objections to State's Proposed Olmstead Plan, *Jensen et al. v. DHS, et al.* Court File No: 09-CV-1775 DWF/BRT (Dkt. 427, April 27, 2015).

Dear Ms. Hoopes and Mr. Rosenfeld:

As Chair of the Minnesota Olmstead Subcabinet, I have been provided with a copy of your Amicus Memorandum filed in the *Jensen* case. First, I wish to thank you for your comments about Minnesota's Olmstead Plan, particularly your comments about the employment provisions of the Plan.

Additionally, I want you to know that the Subcabinet continues to work to refine the Olmstead Plan to achieve the Governor's directive to develop and effectively implement a comprehensive Olmstead Plan "to ensure that all Minnesotans have the opportunity, both now and in the future, to live close to their families and friends, to live more independently, to engage in productive employment, and to participate in community life."¹ To that end, we continue to implement and develop the Olmstead Plan to fulfill this directive.

I also want you to know that the Subcabinet will be considering a proposal to reframe and refine the Olmstead Plan at its June 8, 2015 meeting.² I would very much like you to come to that meeting to present your comments and to share your concerns with the full Subcabinet.

¹ Executive Order 15-13, January 28, 2015.

² The meeting will be held from 3:00 – 5:00 p.m. at the Elmer Andersen Building, Room 2380, 540 Cedar Street, St. Paul, MN.

Thank you again for your Amicus Memorandum, as well as your past letters. I hope I can look forward to meeting you on June 8.

Sincerely,

A handwritten signature in black ink, appearing to read "Mary Tingerthal", with a stylized flourish at the end.

Mary Tingerthal
Chair, Minnesota Olmstead Subcabinet

cc: Minnesota Olmstead Subcabinet