

FRIENDS of FIRCREST

The Fircrest School Community

15230 15th Avenue NE, Shoreline WA 98155

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Guardians of Fircrest residents forced to move sue DSHS for damages caused by transfer trauma

SEATTLE – Guardians for five developmentally disabled adults forced to move from Fircrest School in Shoreline without the right of appeal and over their guardians' objections, today sued the state Department of Social and Health Services (DSHS) for unspecified damages for emotional distress caused by transfer trauma.

“These coerced moves caused real hard to real people,” said Jim Hardman, co-guardian for four of the five individuals. “We are talking about fragile individuals with multiple disabilities who were uprooted from their long-time homes for no reason other than DSHS’ desire to save costs by trying to close Fircrest School. They were moved without the informed consent of their guardians, without any therapeutic basis for relocation and without adequate hearing rights. Our goal is to make the state think twice before moving such fragile individuals around like pieces of furniture.”

“The emotional toll on these vulnerable and powerless human beings is tragic,” said attorney Jennifer Bosserman, co-counsel for the plaintiffs. “It is time the State does right by them. This case asks the state to provide compensation to these vulnerable adults and their present roommates and co-residents at Rainier School in Pierce County to better their lives and lift, in a meaningful way, the burden placed upon them by their forced relocation.”

The lawsuit was filed in King County Superior Court and the damages being asked for will be paid into a Special Needs Trust to be established for each of these vulnerable adults for their benefit and the benefit of their co-residents.

DSHS was able to move some 50 Fircrest School residents during the spring of 2004 by quietly filing a so-called emergency rule on Christmas Eve 2003 that denied residents the right to appeal involuntary transfers. By deeming it an ‘emergency,’ DSHS could immediately implement the rule without notifying those affected or soliciting public input.

DSHS subsequently was found in violation of federal regulations by the Center for Medicaid and Medicare Services, prompting DSHS to suspend further involuntary

moves.

Hardman and co-guardian Alice Hardman are suing on behalf of:

- **Sandra Lamb**, 49, moved to Fircrest when she was 8 and lived there until she was forced to move to Rainier. She is profoundly retarded, has a seizure disorder and exhibits hyperactive-explosive behavior. She also suffers from spastic hemiplegia which causes atrophy to her right leg and arm and a resulting limp. She has the communications abilities of a 2- to 3-year-old child. Lamb was known at Fircrest for interacting warmly with familiar staff and peers, even working on the school's recycling pick-up crew five days a week. After she was taken to Rainier, Lamb became destructive to property and had considerable episodes of agitation where she threw food at staff, knocked over tables and engaged in numerous incidents of biting, hitting and kicking other housemates as well as staff. She also ran away from her living unit and was found off campus on a public road. The frequency of these behaviors was unlike anything ever observed during her time at Fircrest.

- **Steven Wynn**, 56, moved to Fircrest when he was 15. He is profoundly retarded man, nonverbal and has bipolar/manic depressive affective disorder. A December 2003 assessment of Wynn's condition while at Fircrest said that "Steve generally interacts well and cooperates with familiar people. He especially enjoys 1:1 interactions with others. Steve likes to run, go on walks, listen to music and watch television/movies." After moving to Rainier, Wynn's condition changed drastically. He became extremely agitated, grew aggressive with staff, and persistently removed his clothing, including one month where he stripped at least 189 times. He began engage in Self-Injurious Behavior, including biting his hand to the point of injury.

- **Randolph Getchman**, 52, also lived at Fircrest for 39 years. Getchman has profound mental retardation, gross brain disease, tuberous sclerosis, hypertension and osteoporosis. He is nonverbal and has a history of PICA. Once moved to Rainier, Getchman became sullen and uncooperative with staff, withdrawing from social interactions. While at Fircrest, Getchman was actively engaged with his Adult Training Program, an activity he was unwilling to continue following his move to Rainier. His compulsive activities increased, and he became uncooperative and aggressive toward staff.

- **Michael Parsons**, 62, lived at Fircrest School for 39 years. He is profoundly mentally retarded, autistic and non-verbal. Parsons suffers from a condition called PICA that causes him to compulsively ingest nonfood items. Described as "shy and cooperative" in his 2003 annual medical review at Fircrest, his behavior changed significantly after his move to Rainier School, where his compulsive behaviors increased, including his PICA episodes. He also became very uncooperative with staff, exhibiting violent behavior when he hit a Rainier staff person in the eye. These behaviors were virtually unknown before his removal from Fircrest.

- **Kathy McCay**, 48, moved to Fircrest when she was 7 years old. With a mental age of 1-1/2 years of age, McCay is profoundly retarded, autistic, non-verbal and suffers from Self-Injurious Behavior. She is blind in her right eye from a self-inflicted injury that occurred during a brief period when she was removed from Fircrest and placed in a community group home. She subsequently was moved back to Fircrest, where her condition had been brought under control by her care team. Her care team recommended against McCay's move to Rainier since she does not adapted well to change. After moving to Rainier, McCay's behavior has regressed. She began shredding clothing, spitting and attempting to grab and bite staff – behaviors that were well-controlled at Fircrest.

The lawsuit does not specify a dollar amount in damages, but Hardman said it should be “significant.”

“Money cannot reverse the trauma inflicted on these individuals,” he said, “but it can help provide additional staffing and services, such as recreational activities and various therapies, that will enhance their lives and remedy their suffering.”

Representative Maralyn Chase (D-Edmonds), who represents Fircrest School said she supported the guardians. “The state bullied guardians into moving their loved ones by falsely telling them Fircrest School was being closed. Those who stood up to the state were moved anyway, over their guardians’ objections and without access to an appeal hearing. DSHS should not be balancing its budget on the backs on society’s most fragile and vulnerable individuals.”

Hardman also is president of Friends of Fircrest, a group that advocates on behalf of Fircrest residents. “Unfortunately, the harm continues,” he said. “The number of residents at state homes for individuals with severe developmental disabilities continues to decline – not because the need has diminished, but because DSHS has an ongoing campaign to close the homes. DSHS is coercing guardians to move their loved ones into the community as well as making it extremely difficult for people to be admitted on a long-term basis. But the fact is, not everyone can live at home or within the community. The state homes are needed.

“We hope other guardians will file lawsuits to seek compensation from the state for the harm done to their loved ones by these coerced moves into the community or to other state homes. Maybe that will force this giant bureaucracy to realize how much pain and suffering these moves are inflicting on people who cannot speak for themselves.”

There are five state residential centers in Washington. The others are Frances Haddon Morgan School in Bremerton, Lakeland Village at Medical Lake near Spokane, and Yakima Valley School in Selah.