

OLMSTEAD V. L.C. - RECENT ACTIVITIES

This memorandum addresses the 1999 United States Supreme Court case *Olmstead v. L.C.* 527 U.S. 581 (1999) (*Olmstead*), relating to the application of the federal Americans with Disabilities Act, 42 U.S.C. 126, (ADA) to individuals with mental disabilities. This memorandum also discusses recent developments in the related federal laws and rules and recent case law relating to *Olmstead*.

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Olmstead is a United States Supreme Court case regarding discrimination against people with mental disabilities. In *Olmstead*, the Court found mental illness is a form of disability and unjustified isolation of a person with a disability is a form of discrimination under Title II of the ADA. The Court held community placement is only required and appropriate if "[a] the State's treatment professionals have determined that community placement is appropriate, [b] the transfer from institutional care to a less restrictive setting is not opposed by the affected individual, and [c] the placement can be reasonably accommodated, taking into account the resources available to the State and the needs of others with mental disabilities."

ENFORCEMENT

Olmstead was brought by the Atlanta Legal Aid Society, and approximately 10 years following this decision, the State of Georgia and the United States Department of Justice entered a settlement agreement to cease all admissions of individuals with developmental disabilities to state-operated, federally licensed institutions ("State Hospitals") and, by July 1, 2015, "transition all individuals with developmental disabilities in the State Hospitals from the Hospitals to community settings," according to a Department of Justice fact sheet about the settlement. The settlement also calls for serving 9,000 individuals with mental illness in community settings.

Other entities and jurisdictions also have reached settlement agreements with the Department of Justice regarding the *Olmstead* decision, including United Cerebral Palsy of Oregon and Southwest Washington (2015), Marion County Nursing Home District in Missouri (2013), Laguna Honda Hospital and Rehabilitation Center in San Francisco (2008), Rhode Island (2014), New Hampshire (2014), New York (2013), Texas (2013), Virginia (2012), Delaware (2010), North Carolina (2012), Nebraska (2008), and Puerto Rico (1999).

Since this 1999 decision, there has been litigation in each of the 12 United States Circuit Courts of Appeal. The United States Department of Justice Civil Rights Division maintains a list of litigation which is attached as [Appendix A](#). The Civil Rights Division highlights recent developments in the enforcement of the *Olmstead* decision as attached in [Appendix B](#).

In addition to enforcement of the *Olmstead* decision through the court system or through agreements, the United States Attorney General publishes regulations implementing the requirements of the ADA, including requirements following from *Olmstead*, such as Title II, regarding state and local government services, and Title III, regarding public accommodations and commercial facilities. The Civil Rights Division maintains a summary of recent revisions made to the regulations relating to Titles II and III of the ADA as attached in [Appendix C](#).

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