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12 Helena, Montana 59601
13 406-442-0230
14 Attorneys for Defendants

RECEIVED

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**NATIONAL CLEARING HOUSE
FOR LEGAL SERVICES, INC.**

1: UNITED STATES COURT OF APPEALS

14: FOR THE NINTH CIRCUIT

15: * * * * *

16: SHIRLEY SMALL, et. al.,)
17:)
18: Plaintiffs and Appellants)
19:)
20: v.)
21:)
22: STATE OF MONTANA, et. al.,)
23:)
24: Defendants and Appellees.)

C.A. No. 97-35007

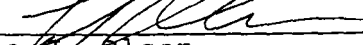
STIPULATION AND ORDER FOR
DISMISSAL OF APPEAL

25: * * * * *

26: IT IS HEREBY STIPULATED, by and between the Plaintiffs and the
27: Defendants that the appeal in this action may be dismissed with
28: prejudice, each party to bear his, her or its own costs, expenses
29: and attorneys' fees.

30: DATED this 30⁷ day of September, 1997.

1 MONTANA ADVOCACY PROGRAM
2 P. O. Box 1680
3 Helena, Montana - 59624

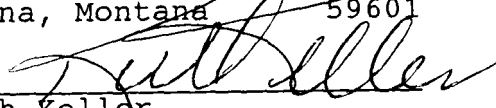
4 BY: 
5 Lonnie J. Olsen
6 Allen Smith, Jr.
7 Maire Gallagher
8 C.J. Lassila
9 Attorneys for Plaintiffs

10 WILL HUTCHISON
11 KIMBERLY A. KRADOLFER
12 Agency Legal Services Bureau
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JOHNSON & GILLESPIE, P.C.
38 South Last Chance Gulch
Helena, Montana 59601

14 BY: 
15 Keith Keller
16 Attorneys for Defendants

17 ORDER

18 The parties having stipulated that this action may be
19 dismissed with prejudice, each party to bear his, her or its own
20 costs, expenses and attorneys' fees,

21 IT IS HEREBY ORDERED, AND THIS DOES ORDER, that this action is
22 dismissed with prejudice each party to bear his, her or its own
23 costs, expenses and attorneys' fees.

24 DATED this ____ day of _____, 1997.

25 _____
26 Circuit Judge

1 Will Hutchison
Kimberly A. Kradolfer
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3 Helena, Montana 59620

4 Russ Cater
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406-442-0230
11 Attorneys for Defendants

12
13 IN THE UNITED STATES DISTRICT COURT
14 FOR THE DISTRICT OF MONTANA, HELENA DIVISION

15 * * * * *


16 SHIRLEY SMALL, et. al.,) No. CV-96-49-H-CCL
17 Plaintiffs,)
18 v.) STIPULATION AND ORDER
19 STATE OF MONTANA, et. al.,) FOR DISMISSAL
20 Defendants.)

21 * * * * * J r *

22 IT IS HEREBY STIPULATED, by and between the Plaintiffs and the
23 Defendants that this action may be dismissed without prejudice,
24 each party to bear his, her or its own costs, expenses and
25 attorneys' fees incurred in this litigation.

26 DATED this 30th day of September, 1997.

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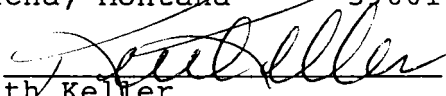
4 BY: 
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8 C.J. Lassila
9 Attorneys for Plaintiffs

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Helena, Montana 59601

14 BY: 
15 Keith Keller
16 Attorneys for Defendants

17 ORDER

18 The parties having stipulated that this action may be
19 dismissed without prejudice, each party to bear his, her or its own
20 costs, expenses and attorneys' fees,

21 IT IS HEREBY ORDERED, AND THIS DOES ORDER, that this action is
22 dismissed without prejudice, each party to bear his, her or its own
23 costs, expenses and attorneys' fees.

24 DATED this ____ day of _____, 1997.

25 _____
26 District Judge

SETTLEMENT AGREEMENT

THIS AGREEMENT is made and entered into by the STATE OF MONTANA acting through its Department of Public Health and Human Services, hereafter the State, and the MONTANA ADVOCACY PROGRAM, INC., hereafter MAP.

1. The Transaction: On July 15, 1996, MAP filed suit on behalf of Shirley Small and others against the State of Montana and others in the United States District Court for the District of Montana, Helena Division, being Cause No. CV-96-49-H-CCL, alleging that the State and various defendants had violated the plaintiffs rights, and violated provisions of the Americans With Disabilities Act. The plaintiffs sought injunctive and other relief. On November 25, 1996, the court entered an order granting the defendants partial judgment on the pleadings and held that plaintiffs were not entitled to an order declaring illegal the issuance of bonds or a mortgage loan transaction nor would the case entitle plaintiffs to any injunctive relief as to the bonds, the loan agreement or other instruments. The court then certified its order as a final judgment, and the plaintiffs appealed the order to the United States Court of Appeals for the Ninth Circuit as Case No. 97-35007. The appeal is now pending before the Ninth Circuit and the remaining issues in the case are pending before the United States District Court. The parties have agreed to settle the case pursuant to the terms of this Agreement.

2. Settlement: The parties agree that they will file a stipulation with the Ninth Circuit dismissing the appeal with prejudice. Each party will bear his, her or its own costs, expenses and attorneys' fees incurred in the appeal and in litigating the subject of the appeal before the appeal was filed.

The parties agree they will file a stipulation dismissing the remaining issues in the case pending before the United States District Court without prejudice. Each party shall bear his, her or its own costs, expenses and attorneys' fees incurred in the

appeal and in litigating the issues still pending before the United States District Court.

3. State Representations: The State intends to operate the State Mental Health facilities as efficiently and cost effectively as possible and to make decisions about patient admissions and discharges based only on the need the patient has for treatment and support. The Department has not and will not make such decisions based on whether a particular placement will increase or decrease revenue to the State.

The State does not have any requirements that Montana Community Partners, a managed care organization, purchase a pre-determined volume of services from the State Mental Health facilities. The State sees no value in setting such a requirement and will not do so for the term of its contract with Montana Community Partners.

4. No Admission of Liability: In agreeing to dismiss the appeal with prejudice, the remaining issues before the District Court without prejudice, and in making the representations noted, neither party makes any admissions in this case. This Agreement is entered to compromise claims and each party contests and disputes the position taken by the other. Neither execution of this Agreement nor negotiations leading to it shall be considered as an admission of liability on the part of the State nor as an admission that the claims brought on the part of MAP are not meritorious.

5. MAP's Representations: MAP represents that it has full legal authority to execute this document on behalf of the plaintiffs for whom it filed the suit and appeal noted.

DATED this 30th day of September 9 7 .

STATE OF MONTANA,
acting through its Department of
Public Health and Human Services

BY: _____

MONTANA ADVOCACY PROGRAM, INC.

BY:  _____