



M.J. v. District of Columbia

In 2018, the Bazelon Center, along with co-counsel Disability Rights DC at University Legal Services, the National Center for Youth Law, and the law firm Schulte, Roth & Zabel, [filed a class action](#) on behalf of hundreds of District of Columbia children who are unnecessarily institutionalized or at serious risk of unnecessary institutionalization. As mentioned in an [August 2018 Washington Post article](#), the complaint alleges widespread failures by DC's children's mental health system to provide federally required intensive community-based services for children in their own homes, schools, and elsewhere in the community. As a result, the District's children suffer drastically curtailed life opportunities, cycling in and out of psychiatric hospitals, psychiatric residential treatment facilities that are often hundreds or thousands of miles away from their families, other residential treatment centers, juvenile detention facilities, and group homes. The complaint also alleges violations of the Americans with Disabilities Act (ADA) and the Medicaid Act. The ADA requires the District to serve its children with disabilities in the most integrated setting appropriate. For virtually all children, this setting is their own home or another family or foster home. The Medicaid Act requires the District to provide intensive community-based services to all children with mental health disabilities who need them, to help them live in their own homes and communities, and participate fully in family and community life.

Plaintiffs filed their motion for class certification in July 2021. The [Washington Post](#) reported on plaintiffs "overwhelming" evidence that the District's public mental health system falls short of its legal obligations to children and youth, and that judicial intervention is needed. The District's opposition to the motion for class certification was filed on October 27, 2021, and the plaintiffs' reply was filed on December 24, 2021. In the last quarter of 2022, we completed supplemental briefing supporting plaintiffs' class certification motion, adding an additional named plaintiff and class representative who meets the proposed class definition.

Update

In February 2023, the case was transferred to the newest federal judge in the District of Columbia, Judge Ana C. Reyes, the court's first Latina and openly LGBTQ judge. In the spring, Judge Reyes asked that the class certification motion be refiled and scheduled oral argument for July 10th. At argument, Judge Reyes worked with the parties to refine plaintiffs' class definition. Although she ordered the Parties to complete supplemental briefing by October 3rd to address narrow questions about the class definition and putative class members, Judge Reyes indicated that she was inclined to certify the class. The next hearing on plaintiffs' class certification motion is now scheduled for Wednesday, October 25th.

Judge Reyes also ordered merits' phase discovery to begin, based on plaintiffs' representations that the litigation would proceed regardless of the Court's decision on class certification on behalf of four individual named plaintiffs and organizational plaintiff Disability Rights DC. Plaintiffs expect to propound requests for documents shortly.

Looking Ahead

Plaintiffs expect a ruling on their class certification motion on or shortly after the next hearing on the matter on October 25th. Either plaintiffs or defendants may appeal an adverse decision to the D.C. Circuit Court of Appeals. Plaintiffs are prepared with a press release should they prevail.

Plaintiffs will continue to participate in merits' discovery. We are drafting interrogatories, preparing the named plaintiffs for depositions, and beginning to work with consultants on developing expert testimony. Plaintiffs expect to conduct additional merits' discovery over the next six months.

Plaintiffs will also attempt again to engage defendants in settlement discussions. Discussions have not been fruitful in the past; rulings on the class certification motion may support a return to negotiations.

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