

## INTERIM REPORT

March 2013

Grantor- Barbara McDowell and Gerald S. Hartmann Foundation

Grantee- The North Florida Center For Equal Justice, Inc.

By- Edward J. Grunewald, Executive Director

Date of Grant- September 2012

### **Introduction**

The North Florida Center For Equal Justice, Inc. is a 501 © (3) organization founded in 2007 and funded primarily by The Florida Bar Foundation grants. Through impact and class action litigation and appellate advocacy NFCFEJ provides legal services that will most effectively address the housing, consumer, individual rights and education problems that affect large numbers of residents in north Florida and throughout the state. NFCFEJ along with the Public Interest Law Center of the Florida State University College of Law and private counsel Matthew Dietz filed a class complaint in the USDC for the Southern District of Florida at 0:12-cv-60460-RSR seeking injunctive relief for all medically fragile children in the State of Florida alleging that the state discriminates against the children by unlawfully separating them or attempting to separate them from their families and communities by failing to provide federally mandated and medically necessary home and community-based services. The complaints were filed on behalf of children who are currently in nursing homes in the State of Florida and those children who are at risk of unnecessary institutionalization. The grant funds will be used to pay litigation expenses including costs associated with experts.

### **Progress**

Since NFCFEJ received the grant funds from the foundation the court action has moved forward in discovery and motion practice. NFCFEJ and co-counsel Matthew Dietz as well as The Public Interest Law Center at Florida State University Law School successfully defended motions to dismiss, filed several requests for discovery and filed our motion for class certification. We retained one expert who spent over 200 hours reviewing and analyzing data produced by the defendants in discovery. As requested in the grant, NFCFEJ used the entire grant amount received from the foundation to pay ½ of the expert witness costs to date. Co-counsel Matthew Dietz paid the other half. Additionally, staff at NFCFEJ, remained active in the litigation preparing discovery, appearing at 16 depositions on behalf of named plaintiffs and others around the state of Florida, arguing motions and successfully defending attempts by the defendants to limit access to putative class members. Recently the defendants filed their responses to our motion for class certification and also filed renewed motions to dismiss. We currently are preparing our reply to the responses and responses to the renewed motions to dismiss. Through all of the above, we have

maintained contact with the United States Department of Justice who filed a statement of interest in the action and remains an active if to date informal participant.

Unofficially and in spite of continued denials by defendants it appears the lawsuit and the interest by the justice department has resulted in several policy changes, rule promulgations and other actions by the defendants in attempts to address some of the problems that medically fragile and medically complex children and their families are having in Florida and attempt to moot the claims of the named plaintiffs.

Unfortunately the defendants continue to miss the goal of the lawsuit, that is to have every child in the most integrated, least restrictive environment, around family and friends so they will flourish. In the next few months we expect to have a decision on class certification and complete discovery eventually leading to a proper resolution for our clients.

NFCFEJ is grateful that the foundation generously assisted in funding part of the cost of one of our experts at a crucial step of the lawsuit. We are hopeful that class certification will be granted soon so the action can move forward and we remain hopeful to be eligible for consideration in the future for additional grants from the foundation. The electronic docket at the case number listed above provides a complete history of court action in the case. Please contact Ed Grunewald at 850-701-3980 or [egrunewald@nfcfej.org](mailto:egrunewald@nfcfej.org) for more information.