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*****FOR IMMEDIATE RELEASE*****

***U.S. Department of Justice Files Statement of Interest in Landmark
Lawsuit Brought by DRNY, Legal Aid, and Paul, Weiss Contesting New
York’s Practice of Subjecting People With Mental Illness to the Risk of
Deterioration and Re-Incarceration Following Prison Release***

(NEW YORK, NY) – Disability Rights New York, The Legal Aid Society, and Paul, Weiss, Rifkind, Wharton & Garrison LLP announced today that a Statement of Interest (SOI) was submitted by the United States Attorney’s Office for the Southern District of New York in *M.G. v. Cuomo* - litigation challenging the State’s failure to provide community-based housing and supportive services to people with serious mental illness as they are discharged from prison. The U.S. Attorney’s Office is part of the Department of Justice (DOJ).

Following amendment in the summer 2020, new claims in the lawsuit challenge the State’s practice of releasing people to the shelter system without necessary services or to other institutional settings. Plaintiffs allege that these practices, which place people at risk of re-institutionalization, violate the Americans with Disabilities Act (ADA) and Rehabilitation Act of 1973.

In its SOI, the U.S. Attorney’s Office urges the U.S. District Court for the Southern District of New York to allow the new claims to go forward. The SOI urges a broad reading of the ADA and explained that the State’s “spurious” arguments invoke “the discriminatory and pernicious stereotypes that the ADA prohibits by blaming the individuals with disabilities for having the very disabilities that put them at risk for institutionalization.” Further, the DOJ explains that although the State coordinates with local agencies to deliver care, the State is responsible for ADA compliance and cannot simply point the finger at local agencies to evade suit.

“New York State’s failure to provide crucial services results in a nightmarish merry-go-round of institutions after people with serious mental illness leave prison. We reject the State’s argument that the actions or illnesses of our clients—not the State’s own policy choices—keep this merry-go-round moving. As the DOJ statement makes clear, the State is bound under the ADA to provide

the necessary services that keep people safe and in their communities,” said **Elena Landriscina, Staff Attorney of the Special Litigation Unit with the Criminal Defense Practice at The Legal Aid Society.**

“We are grateful that the Department of Justice has taken this step to clarify the broad protections that federal law affords people with disabilities,” said **Tim Clune, Executive Director of Disability Rights New York.** “New York State has had more than 30 years to fix its failing mental health system and ensure that people get the care that they need.”

“In 1999, the Supreme Court made crystal clear that “unjustified institutional isolation of persons with disabilities” is a prohibited “form of discrimination.” NY State admits that the people we represent are eligible for community-based mental health housing and supportive services yet is releasing our very vulnerable clients to suffer in homeless shelters lacking appropriate services. On behalf of our clients, we are very pleased that DOJ has sent a strong message to the State to stop institutional discrimination that unlawfully penalizes mental illness,” said **Paul, Weiss partner Walter Ricciardi.**

Background on *M.G. v. Cuomo*

M.G. v. Cuomo was filed in January 2019 as a challenge to the State’s practice of holding people with serious mental illness in prison past their release dates due to deficiencies in the community-based mental health services system. The State had developed this practice over several years as a response to its own failure to fund and maintain community-based mental health services. After the case was filed, the State moved to dismiss it.

As part of its dismissal strategy, the State engaged in a coordinated effort to “moot” the case by releasing the named plaintiffs to highly inappropriate settings—including homeless shelters and psychiatric settings—then issuing a “memorandum” promising to stop the practice of prolonged incarceration. In the process, the State argued that the constitution affords jailers the right to incarcerate people with serious mental illness indefinitely for “safety reasons.”

This past September, Disability Rights New York, The Legal Aid Society, and Paul, Weiss, Rifkind, Wharton & Garrison, LLP brought new claims in *M.G. v. Cuomo* in response to the State’s effort to moot the lawsuit. The new claims challenge the State’s practice of releasing New Yorkers with serious mental illness to homeless shelters and psychiatric institutions, rather than safe and appropriate housing. This practice denies people with serious mental illness the services they need to successfully reenter society after their incarceration. *M.G.* is directly tied to larger movements to divest from institutions of state violence—particularly carceral institutions—and devote the necessary resources to services that build safe and stable communities. *M.G.* seeks to make this investment a reality for people with mental illness, who are far too often trapped in jails, prisons, and psychiatric institutions as a direct result of state budgetary neglect.

The lawsuit is currently pending before the United States District Court for the Southern District of New York.

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DRNY is the designated independent non-profit Protection & Advocacy System empowered by Congress to investigate allegations of abuse and neglect and provide legal and non-legal

advocacy services to people with disabilities in New York State. The Protection & Advocacy System was created by Congress as a direct result of the horrific conditions that were uncovered in the 1970's at New York's Willowbrook State School.

DRNY is supported at tax payer expense by the U.S. Department of Health & Human Services, Administration on Intellectual and Developmental Disabilities; Center for Mental Health Services, Substance Abuse & Mental Health Services Administration; U.S. Department of Education, Rehabilitation Services Administration; and, the Social Security Administration. This press release does not represent the views, positions or policies of, or the endorsements by, any of these federal agencies.

The Legal Aid Society exists for one simple yet powerful reason: to ensure that New Yorkers are not denied their right to equal justice because of poverty. For over 140 years, we have protected, defended, and advocated for those who have struggled in silence for far too long. Every day, in every borough, The Legal Aid Society changes the lives of our clients and helps improve our communities. www.legalaidnyc.org