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

Legal Aid, Jenner & Block File Motion in Federal Class Action Lawsuit to Halt City's Punitive and Unnecessary Transfer of Disabled New Yorkers from Hotel Rooms Back to Crowded Local Homeless Shelters

With Abrupt Transfers, De Blasio Administration is Shirking its Legal Obligation to Provide Necessary Accommodations Under Butler v. City

(NEW YORK, NY) – The Legal Aid Society and Jenner & Block LLP, on behalf of the Coalition for the Homeless, Center for Independence of the Disabled, and homeless New Yorkers, in coordination with the Safety Net Project at the Urban Justice Center, filed a motion in *Butler v. City of New York* – [litigation](#) concerning disability-based discrimination in the City's homeless shelter system – challenging Mayor Bill de Blasio's recent order to move homeless New Yorkers who have been living in single- or double-occupancy rooms in local hotels, where they have been sheltering during the COVID-19 pandemic, back to local

congregate shelters without notice and without due consideration for accommodations they may need for their disabilities.

The class members of the lawsuit all have disabilities and/or serious health issues that put them at a higher risk of severe consequences if they were to contract COVID-19. The City's decision to place them in hotel rooms allowed them to safely socially distance, which literally saved lives. In addition, COVID-19 aside, the hotel rooms provided a necessary shelter accommodation for many with disabilities.

Now, the City is circumventing its legal obligation under *Butler v. City of New York* to afford each class member an individualized consideration in determining whether their disability requires that they remain in a hotel room or be transferred to another site that can accommodate their disability.

Instead, the City is moving class members en masse in a rushed process that puts many of them at risk and subject to irreparable harm. Moreover, many of these New Yorkers, who are at high risk of severe consequences from COVID-19, are living in close quarters with a relatively unvaccinated population which, despite the City's progress in reducing COVID-19 occurrence, creates risk of a new super-spreader event.

Since the transfers began, numerous clients have been told they are being moved without being informed of their right to reasonable accommodations (RA) for their disabilities. Those clients who have already been transferred to a congregate shelter were relocated without receiving proper consideration for accommodations for their disabilities, despite serious physical and mental health disabilities.

On June 22, 23, and 24, 2021, DHS moved approximately 650 shelter residents from de-densification hotels to congregate shelters. Many of these residents were moved with no notice; with less than the legally required 48-hours' notice; despite the fact that they had an approved or pending RA; and/or despite the fact that they had a disability which made transfer to a congregate site inappropriate for them under the agency's own standards.

For example, class member PM, who uses a wheelchair and requires joint replacement in his right knee, was transferred on June 22, 2021, from an accessible de-densification hotel to a DHS congregate shelter with no accessible showers or bathrooms.

Another class member, SH, has an autoimmune disease (fibromyalgia), brain stem encephalomyelitis, and chronic musculoskeletal pain, and requires a single-occupancy room on the ground floor or access to an elevator since she cannot use stairs or ambulate for significant periods. SH also recently had heart surgery and suffers regular, tiny strokes. On July 7, she was transported to multiple shelters but DHS ultimately returned her to an isolation hotel. As a result of the unnecessary move, which began about 1 p.m. and did not conclude until sometime after 5 p.m., SH missed two medical appointments, further adding to her distress.

Class member HZ, who has an obvious and apparent mobility disability in that she uses a manual wheelchair, was recently transferred from a de-densification hotel to a congregate shelter that is located on a hill with a significant slope that HZ cannot safely navigate in her wheelchair.

Related to this motion, Legal Aid and Jenner & Block last year brought [litigation](#) against the City of New York for failing to take appropriate action to temporarily provide safe shelter for single adults from COVID-19. That matter is currently pending in New York State Supreme Court.

This motion petitions the Court to prohibit the de Blasio Administration from moving disabled homeless New Yorkers out of local hotels back into congregate shelters so that the City may make the individualized determinations required by *Butler v. City of New York*.

Memorandum of law: <https://legalaidnyc.org/wp-content/uploads/2021/07/Butler-Memo-of-Law.pdf>

Order to Show Cause: <https://legalaidnyc.org/wp-content/uploads/2021/07/Butler-Order-To-Show-Cause.pdf>

TRO: <https://legalaidnyc.org/wp-content/uploads/2021/07/Butler-TRO.pdf>

“The City’s rushed decision to arbitrarily move thousands of homeless New Yorkers from safe accommodations back to local, crowded shelters is both illegal and inhumane,” said **Josh Goldfein, Staff Attorney with the Civil Law Reform Unit at The Legal Aid Society**. “Under Butler, the City is required to conduct a thorough assessment of every homeless New Yorker who requests a reasonable accommodation and for those New Yorkers whom the City knows has a disability, health ailment or other issue. With these transfers, that process was entirely ignored, and we are asking the Court to enjoin the City from making such transfers until each and every homeless person is screened and provided an accommodation specific to their need.”

Jenner & Block Partner Dawn Smalls said, “The program put in place to shelter homeless New Yorkers in hotel rooms during the height of the pandemic saved lives. It continues to serve as an important accommodation to those with disabilities as defined by the ADA, and those at heightened risk to COVID-19. As the rates in the City decrease, City can phase out and scale the hotel program down – but not without ensuring that its obligations under Butler to give appropriate notice and consider the needs of each shelter resident are met. We filed this lawsuit to ensure that they do so.”

“Mayor de Blasio’s insistence on a chaotic, ill-conceived move of vulnerable homeless people from hotel rooms to congregate shelters defies logic and compassion. The pandemic is not over, especially for our clients, many of whom have disabilities and medical conditions that place them at significant risk for severe complications or death should they contract the virus that causes COVID-19. As the court-appointed monitor of New York City’s single adult shelter system, the Coalition for the Homeless is witnessing daily the City’s egregious violations of the *Butler v. City of New York* settlement, which requires DHS to comply with the Americans with Disabilities Act and ensure that DHS facilities and services are accessible to all individuals, regardless of disability status. In order to meet an arbitrary deadline set by an unpopular mayor trying to save face, DHS is repeatedly and tragically failing to accommodate the needs of our disabled and medically vulnerable clients. DHS must temporarily pause these moves and correct course before homeless New Yorkers suffer any more harm at the hands of the City agency mandated to assist them,” said **Deborah B. Diamant, Esq., Director of Government Relations and Legal Affairs at the Coalition for the Homeless**.

“These hotel evictions are cruel, dangerous, illegal and racist. It is overwhelmingly Black and brown New Yorkers that are being haphazardly thrown out of hotels, typically located in white neighborhoods and tourist centers, and sent into unsafe shelter spaces with more than a dozen people to a room. Contractors with the Department of Homeless Services, moving forward with mandates by DHS, have used misinformation, coercion and intimidation to push people out of the hotels. We are routinely speaking with people who are terrified and in mental health crises as a result of this pervasively chaotic process. Some individuals are returning to the streets. There are alternatives. First, the City must immediately halt all transfers in the interest of the safety of the thousands of people in DHS hotels. Second, they must implement an emergency plan to move people from hotels into permanent housing. This can be achieved by enacting an emergency rule to implement Intro 146 and increase CityFHEPS voucher amounts, using available Section 8 vouchers allocated through the American Rescue Plan, and using all vacant HPD apartments,” said **Helen Strom, Supervisor of the Benefits and Homeless Advocacy Unit at the Safety Net Project at the Urban Justice Center, which is representing and advocating for disabled homeless New Yorkers harmed by the hotel moves and coordinating outreach efforts at hotels across the City**.

“The City endangers the lives of people with disabilities who are at higher risk of COVID-19 by wholesale dumping them in shelters that are not safe and where their disability-related needs will be ignored,” said **Susan Dooha, Executive Director of the Center for Independence of the Disabled**.

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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

Jenner & Block LLP is a law firm with global reach, with offices in Chicago, London, Los Angeles, New York, San Francisco, and Washington, DC. The firm is known for its prominent and successful litigation practice, global investigations, and experience handling sophisticated and high-profile corporate transactions. Its clients include Fortune 100 companies, technology companies, large privately held corporations, emerging companies, Native American tribes, and venture capital and private equity investors. The American Lawyer recognized the firm as the #1 pro bono firm in the United States 10 times in the past 14 years. In 2021, the publication also recognized the firm as the #2 international pro bono firm, and in 2018, named the firm as its first "Pro Bono Champion." In 2020, Reuters Legal named the firm its inaugural "Pro Bono Hero."