

EXHIBIT 1

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

Robert Simpson Ricci, et al.,)	
)	Civil Action Nos. 72-0469-T (Belchertown)
Plaintiffs,)	74-2768-T (Fernald)
v.)	75-3910-T (Monson)
)	75-5023-T (Wrentham)
Deval Patrick., et al.,)	75-5210-T (Dever)
)	
Defendants.)	
)	

COMPLAINT

Jurisdiction

1. This is an action brought pursuant to ¶ 7 (c) of the 1993 Disengagement Order issued by the Court in Ricci v. Okin. The Union seeks to compel compliance with ¶¶ 2 (a) – (c) of the 1993 Disengagement Order. This Court retains jurisdiction pursuant to Ricci v. Okin, 823 F. Supp. 984 (D. Mass. 1993) and Ricci v. Patrick, 544 F.3d 8 (1st Cir. 2008).

Parties

2. Plaintiff Local 509, Service Employees International Union, is a labor organization representing approximately 7500 human service professionals throughout the various health and human service agencies of the Commonwealth. Included in these 7500 are approximately 507 Human Service Coordinators employed by the Department of Developmental Services, Commonwealth of Massachusetts, of which approximately 410 serve the adult clients of the Department.

3. Defendant Deval Patrick is the Governor of the Commonwealth of Massachusetts.

4. Defendant Elin M. Howe is Commissioner of the Department of Developmental Services (“DDS”) (formerly Department of Mental Retardation).

Grounds

5. The 1993 Disengagement Order requires the Defendant to provide original plaintiff class members with services on a lifetime basis in accordance with their Individualized Service Plans (“ISP”). ¶ 2 (a), 1993 Disengagement Order.

6. ¶ 2 (b) of the 1993 Disengagement Order requires that, “Defendants shall not seek to amend, revise, or otherwise modify the ISP regulations as they affect class members except upon 60 days written notice to plaintiffs’ counsel, with an opportunity for plaintiffs to comment upon the proposed changes. Any amendments must leave in place a process that is at least the substantial equivalent of the regulations currently set forth in 104 CMR 20, et seq., with regard to the definition of the ISP, the individualized nature of the ISP, the existence of an appeal process, and the principles contained in footnotes 2 and 3 herein.”

7. The order further requires that “sufficient adequately trained personnel, as reasonably determined by the Department of Mental Retardation based on professional judgment, shall be available to substantially meet the needs set forth in each class member’s ISP.” ¶ 2 (c), 1993 Disengagement Order.

8. Human Service Coordinators have the responsibility to assess clients’ needs for services, develop, coordinate, review, evaluate and monitor clients’ ISPs, and case manage the implementation of the services pursuant to the clients’ ISPs.

9. In the Collective Bargaining Agreement between the Commonwealth and SEIU, Local 509 the DDS formally recognizes “the important work done by Service

Coordinators and sees this work as one of its most essential functions in the community based service system.”

10. In 1990, the average caseload per Human Service Coordinator was 42. By 2008 the average had increased to 54 and by April 2010, the statewide average reached 55.4. Also, in the Collective Bargaining Agreement, the DDS formally recognizes that a caseload of 54 has an impact on the ability of Human Service Coordinators to perform their responsibilities. “The parties agree that caseload size (1 to 54 for adult service coordinators as of 7/1/08) has an impact on job efficiency.”

11. On Tuesday, June 8, 2010, Jonathan Platt, Director of Labor Relations for the Office of Disability and Community Services and Larry Tummino, Assistant Commissioner of DDS, announced to Union leadership that the Commonwealth intends on implementing deep cuts to DDS staffing. The Governor and Senate’s proposed budget includes a \$5.4 million reduction for DDS, and the House of Representatives’ proposed budget includes an \$11.1 million reduction for DDS.

12. Depending on which budget the Legislature enacts, budget cuts will result in a reduction in force that will eliminate either 63 or 124 Human Service Coordinator positions.

13. Using the same methodology currently employed by the DDS to calculate caseloads, this reduction in force will cause the average caseload per service coordinator to increase from 55.4 to either 65.1 or 78.2, depending on which version of the budget is enacted.

14. Tummino and Platt stated that DDS intended to send layoff notices to all Human Service Coordinators who would be laid off under the Senate's version of the budget on June 21, 2010, with the layoffs to take effect on July 3, 2010.

15. If these layoffs take effect and caseloads rise beyond the current level, the entire ISP process will be so compromised that there will exist a systemic failure and violation within the meaning of ¶¶ 7 (a) and 7 (c) of the 1993 Disengagement Order.

16. On June 8, 2010, DDS representatives invited the Union to engage in a discussion of how to "streamline" the ISP process.

17. The Governor's budget proposal in House 2 for Line Item 5911-1003, the account which funds Human Service Coordinators, sought a reduction of approximately \$5 million from the level which had been appropriated for FY 2010, the prior fiscal year.

18. The Governor's budget request was not in accordance with the staffing level determined by the DDS to be adequate and sufficient, which is evidenced, at a minimum, by the current staffing levels and the prior year's budget request.

19. The overall client population of DDS has increased annually and is projected to continue to increase.

Request for Relief

19. SEIU Local 509 therefore requests that this Court grant the following relief:

A. Reopen and restore the matter of Ricci v. Patrick to this Court's active docket;

B. Compel compliance with the staffing requirements and provisions pertaining to the ISP processes set forth in ¶¶ 2 (a) – (c) of the 1993 Disengagement Order;

C. Enjoin the Defendant from laying off Human Service Coordinators;

and

D. Such further and other relief as this Court deems just.

Respectively submitted,

LOCAL 509, SERVICE EMPLOYEES
INTERNATIONAL UNION,

By its attorneys,

s/Katherine D. Shea

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