

bathing, toileting, transferring, and meal preparation and allow them to age in place in their own homes in the community, rather than be forced into the more institutional nursing homes. After a trial in 2004, Judge Carroll found that the state's failure to provide home care workers caused the Plaintiffs to be "trapped in bed unable to change position or care for personal hygiene, abandoned for hours in a bathroom, left without food or water." The Court then ruled that, by failing to provide all of the home care services authorized, "Arizona failed to provide the representative class members with the equal access, quality of care, and freedom of choice to which they are entitled" under the federal Medicaid statute. Judge Carroll ordered Arizona to provide all critical home health care services and to fill all gaps in services within two hours.

Arizona appealed to the Ninth Circuit Court of Appeals arguing that it had not violated provisions of the Medicaid Act, the ADA, and § 504. In July 2007, the Ninth Circuit ruled that plaintiffs were not entitled to assert one of the two Medicaid claims but remanded the case to the District Court for further consideration of the remaining Medicaid, ADA, and § 504 claims.

On April 27, 2009, the District Court affirmed its earlier ruling, finding that by failing to provide all authorized critical home care services, Arizona violated Medicaid's Free Choice provisions, which require states to give Medicaid beneficiaries a meaningful choice between institutional or community care, and violated the provisions of the Americans with Disabilities Act and §504 of the Rehabilitation Act, which require states to provide services in the most integrated setting appropriate to a person's need ("the integration mandate").

Arizona has again appealed this decision to the United States Court of Appeals for the Ninth Circuit. The appeal is fully briefed and oral argument is expected in December 2010.

The Plaintiffs in this case are represented by: Jennifer L. Nye of the Arizona Center for Disability Law and Ken Zeller of AARP Foundation Litigation in Washington, D.C.

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The Arizona Center for Disability Law is a non-profit public interest law firm, which advocates for the rights of people with disabilities to be free from abuse, neglect and discrimination and to have access to education, health care, housing, jobs, and other services. The Center is authorized and mandated under various federal statutes to protect the rights of all individuals with disabilities living in Arizona. *Ball v. Rodgers* is a continuation of the Center's work to ensure that people with disabilities have the health care services they need. The Center's other successful class action litigation includes *Ekloff v. Rodgers*, which challenged the failure of the Arizona Medicaid program to provide incontinence briefs for children with disabilities, and *Price v. Rodgers*, which challenged the inadequate notice and appeals processes of the Arizona Medicaid program.

AARP has over 800,000 members in Arizona and millions nationwide. AARP is a nonprofit, nonpartisan membership organization that helps people 50+ have independence, choice and control in ways that are beneficial and affordable to them and society as a whole. AARP operates AARP The Magazine, a voice for 50+ Americans and the world's largest-circulation magazine with over 34.5 million readers; AARP Bulletin; AARP Segunda Juventud, the only bilingual U.S. publication dedicated exclusively to the 50+ Hispanic community; and a website, AARP.org. AARP Foundation is an affiliated charity that provides security, protection, legal advocacy, and empowerment to older persons in need with support from thousands of volunteers, donors, and sponsors. AARP has offices in all 50 states, the District of Columbia, Puerto Rico, and the U.S. Virgin Islands.