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Ruling Issued in Country's Only Discrimination Case Addressing HIV-Positive Children in Camp

NEW YORK, January 19, 2010—The United States District Court for the Southern District of New York has issued a summary judgment ruling in favor of the plaintiff in a discrimination suit brought against Rockland County, New York-based Deer Mountain Day Camp by the mother of a 10-year-old boy who was excluded from its one-week basketball program because he is HIV positive. The court found that Deer Mountain Day Camp violated the Americans with Disabilities Act and the New York State Human Rights Law when it denied admission to the boy because of his HIV status. The case is the only one in the country to address the issue of HIV-positive children in camp and is one of the only cases in the country to address the issue of HIV-positive children in extra-curricular activities.

In its ruling, the court rejected the camp's defense that its decision was justified because the plaintiff, "Adam Doe," might transmit HIV through the camp toilets or pool or through playing basketball. The camp "provided the court with no objective, medical evidence to support their threat determination," the court said. The court also rejected the camp's argument that its decision to deny Adam admission was based on reasons other than Adam's HIV status. According to the court, every reason the camp offered, such as concerns about the side effects of his medications, was intrinsically related to Adam's HIV status.

Upon hearing about the ruling, the boy's mother, "Jane Doe," said: "I am really happy and hope that this will prevent other people from having to go through what we went through. My son was just a little kid who wanted to have fun. But when he found out that the camp turned him away because of his HIV status, he asked 'is this how it's going to be, Mom?' This was the first time he faced discrimination. Since then, he has not wanted anyone to know his HIV status. Now maybe he'll have hope."

Adam Doe's response to the victory was that "it's good that the law works for kids.... I hope this will help someone else."

"This decision makes it clear that camps and other extra-curricular programs may not exclude HIV-positive children because of outmoded and unfounded fears about transmission," said Sally Friedman, a Legal Action Center attorney who represented Adam Doe. "The law requires that decisions be based on objective medical evidence, not myth and stereotype. Public health authorities have called upon camps and other extra-curricular programs to use universal precautions and assume that any child or staff member might have a blood-borne disease such as HIV as hepatitis."

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The case was originally brought by the Legal Aid Society of Rockland County, New York, and the Legal Action Center. After discovery, the two organizations sought pro bono assistance from international law firm Cleary Gottlieb Steen & Hamilton in preparing and defending cross motions for summary judgment.

About the Legal Action Center

The Legal Action Center, a nonprofit law firm, is one of the nation's leading experts in the law of HIV discrimination and confidentiality. The Center specializes in legal and public policy issues relating to HIV/AIDS, alcoholism and drug addiction and the criminal justice system.

About the Legal Aid Society of Rockland County

The Legal Aid Society of Rockland County is a nonprofit law firm, committed to providing high quality representation to low income Rockland County residents in civil cases for more than 40 years. Legal Aid's HIV/AIDS Project provides comprehensive legal representation to persons living with HIV/AIDS on a wide range of legal issues including Discrimination, Advanced Directives, Housing, and Social Security Disability.