

By: Raymond

H.C.R. No. 197

CONCURRENT RESOLUTION

1 WHEREAS, A lawsuit filed December 20, 2010, against Rick
2 Perry, Governor of the State of Texas; Thomas Suehs, Executive
3 Commissioner of the Texas Health and Human Services Commission; and
4 Chris Traylor, Commissioner of the Texas Department of Aging and
5 Disability Services, in their official capacities (collectively,
6 the "Defendants"), asserted claims under Title II of the Americans
7 with Disabilities Act of 1990 (ADA), Section 504 of the
8 Rehabilitation Act of 1973, and several sections of Title XIX of the
9 Social Security Act, including the Preadmission Screening and
10 Resident Review provisions of the 1987 Nursing Home Reform Act; and

11 WHEREAS, The United States of America was granted leave to
12 intervene in the lawsuit and filed a complaint against the State of
13 Texas on September 20, 2012, asserting claims under Section 504 of
14 the Rehabilitation Act of 1973 and Title II of the ADA; and

15 WHEREAS, The Plaintiffs to the lawsuit are Eric Steward, by
16 his next friend and mother, Lillian Minor; Linda Arizpe, by her next
17 friend and guardian, Rudy Arizpe; Andrea Padron, by her next friend
18 and guardian, Rosa Hudecek; Patricia Ferrer, by her next friend and
19 mother, Petra Ferrer; Benny Holmes, by his next friend and
20 guardian, Priscilla Holmes; Zackowitz Morgan, by his next friend
21 and guardian, Sharon Barker; The Arc of Texas, Inc.; and the
22 Coalition of Texans with Disabilities, Inc.; and
23 Plaintiff-Intervenor is the United States of America
24 (collectively, the "Plaintiffs"); and

1 WHEREAS, In general terms, the litigation brought by the
2 Plaintiffs concerns individuals with intellectual disabilities and
3 related conditions residing in nursing facilities and at risk of
4 admission to nursing facilities; and

5 WHEREAS, The parties to the lawsuit have entered into an
6 Interim Agreement to resolve as many issues as possible related to
7 the lawsuit for a limited time period while attempting to negotiate
8 a Comprehensive Agreement to resolve the entire lawsuit; and

9 WHEREAS, The Interim Agreement will be effective when signed
10 by all parties and will terminate on July 1, 2015, or the effective
11 date of the Comprehensive Agreement, if a Comprehensive Agreement
12 is reached by the parties; and

13 WHEREAS, Section 111.003(a)(2), Civil Practice and Remedies
14 Code, requires the legislature to approve a settlement of a claim or
15 action against this state if the settlement commits the state to a
16 course of action that in reasonable probability will entail a
17 continuing increased expenditure of state funds over subsequent
18 state fiscal bienniums; and

19 WHEREAS, The Interim Agreement commits the State of Texas to
20 a course of action that in reasonable probability will entail a
21 continuing increased expenditure of state funds over subsequent
22 state fiscal bienniums; and

23 WHEREAS, Any Comprehensive Agreement entered into by and
24 between the parties will be submitted to the 84th Legislature of the
25 State of Texas for approval; now, therefore, be it

26 RESOLVED, That the 83rd Legislature of the State of Texas
27 hereby approves the Interim Agreement.