

2025 HLMCC Problem Clarification Questions

- 1.) Will there be something in the bench memo about the US not being a party to the SCOTUS case?
 - a. Competitors will not receive information about what will or will not be in the bench memo. However, judges will receive the same problem as the competitors, and footnote 1 on page 12 states that the United States will not participating in briefing or oral argument at the Supreme Court.
- 2.) Will there be anything in the bench memo about either Sarah Kilbron, et al. (Respondents) or the State (Petitioners) having standing to argue the intervention issue during oral argument even without any standing to do so?
 - a. Competitors will not receive information about what will or will not be in the bench memo. However, assume for purposes of this competition that both Respondents and Petitioners have standing to argue Issue 2 of this problem.
- 3.) As Petitioners, the State will have to argue that the United States cannot intervene in this litigation, and that Title II of the ADA has no cause of action. No cause of action just as to the Respondents, or to any individual in the future (which is the reason why the US intervened in the first place)? Please clarify the scope of the ADA argument.
 - a. There is no further information regarding the scope of the United States' ability to intervene in an ADA cause of action. This is a purposeful ambiguity in the problem and one that competitors should be prepared to argue.
- 4.) The Respondents, Sarah Kilbron, et al., will argue that the United States can intervene as a matter of right, and that Title II of the ADA can be a cause of action. For Respondents only, or for all individuals as well? It would seem that it would have to be for all individuals, or else there's no reason to argue to the Supreme Court that the US can intervene in the first place.
 - a. There is no further information regarding the scope of the United States' ability to intervene in an ADA cause of action. This is a purposeful ambiguity in the problem and one that competitors should be prepared to argue.
- 5.) With no US as a party at the argument, how should the issue of permissive intervention be handled, both in the brief and in oral argument? The District Court didn't discuss at all because intervention as of right was met, and the dissent makes mention of it to the extent that there should be a remand for that issue to be decided by the District Court (even though noting that the issue is not ripe for review). Again, the argument would be made (in the brief and at oral argument) by a party with no standing.

- a. Assume for the purposes of this competition that both Respondents and Petitioners have standing to argue Issue 2 of this problem. Footnote 4 at the end of the Amended Problem makes this explicit.
- 6.) If our team is briefing on behalf of Respondents, do we combine both issues in one brief, assuming that the individual Respondents are making the argument for the second issue on behalf of the United States?
 - a. The brief should contain both issues, just as with any other multi-issue brief.
- 7.) The problem states that shortly after plaintiffs filed the complaint, the DOJ began investigation. When did they begin their investigation and how soon was it after the plaintiffs filed their complaint? Did the investigation begin before February 2022? What are the exact dates that the investigation began and ended?
 - a. For purposes of the problem, exactly when the investigation began is unnecessary. Additionally, the investigation would have ended before May 27, 2022, when the Attorney General intervened.
- 8.) Was there already anticipation of possible litigation into the facility before the investigation by the DOJ?
 - a. For purposes of the problem, any anticipated litigation before the DOJ investigation is irrelevant.
- 9.) Kilbron was voluntarily admitted in October of 2018 and released in January of 2021. The earlier paragraph states that it was a little less than two years later, which suggests late 2020. When did the physician discharge Kilborn in 2020, and what caused the ultimate release date of 2021?
 - a. Kilborn was not discharged in 2020. Her physician had stated that she could move to a community mental health facility at that time. There is no further information as to why Kilborn was ultimately released in 2021.
- 10.) What was the exact date that they got rid of the inpatient program at Platinum Hills, or when was the final decision to get rid of the inpatient program at Platinum Hills decided?
 - a. The inpatient program at Platinum Hills was ended in 2016 when the legislature cut funding for the Department of Health and Social Services.
- 11.) Exactly when did the increase of the budget occur in 2021, and did it come before or after the Respondents' final discharges?
 - a. There is no additional information regarding the 2021 budget increase.
- 12.) Did the budget increase happen early enough in 2021 that the Department could have used funds to avoid unnecessary institutionalization of any plaintiff?
 - a. There is no additional information regarding the 2021 budget increase.

13.) By increasing the budget, did any of that go to the inpatient program at Platinum Hills, or were there any steps taken to possibly reopen the facilities with the budget increase?

a. There is no additional information regarding the 2021 budget increase.