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## **CHILDREN IN OREGON’S FOSTER CARE SYSTEM FILE CIVIL RIGHTS ACTION FOR VIOLATION OF THEIR CONSTITUTIONAL AND FEDERAL STATUTORY RIGHTS**

(*Eugene, Oregon, April 16*) – In Oregon, some young children in foster care are being moved from place to place repeatedly. Some children are placed in homeless shelters or out-of-state institutions, without Oregon officials knowing what happens to them on a day-to-day basis. For too many of them, necessary services are not provided. All of them are dependent children who are the responsibility of Oregon’s Department of Human Services (DHS) and today they filed a civil rights action alleging that DHS is overwhelmed, under-resourced and unresponsive to the needs of the children in its care.

The compelling stories of these ten plaintiff children, ages 18 months to 17, illustrate exactly where and how DHS is failing them. The lawsuit, *Wyatt B. v. Brown*, seeks to stop the ongoing violations of children’s constitutional rights and rights under federal law, transform the state’s child welfare system, and ensure DHS fulfills its legal responsibility for vulnerable foster children in Oregon.

The lawsuit names Kate Brown, the governor, Fairborz Pakseresht, the director of the Oregon Department of Human Services, Marilyn Jones, the director of Child Welfare within DHS, and the Oregon Department of Human Services as defendants.

This action is the first in the country to litigate on behalf of specific populations in foster care (i.e., children with disabilities, youth who will age out of the system, and LGBTQ youth) combined into a single class action lawsuit. It is an opportunity to intervene in children’s lives and take a comprehensive, not piecemeal, approach to fix Oregon’s child welfare system by addressing these problems:

- **Overworked caseworkers struggle to make difficult decisions** about the right services to provide—they have too many children to serve, too few resources, and too little training.
- **Oregon fails to provide children in its care with necessary services and stable, nurturing, family-like placements**—a lack of foster homes means children get placed in whatever home or placement is available rather than in a placement that is suitable.
- **Foster children are shipped out of state at increasing rates**, at great harm to the child’s wellbeing and at great expense to the state.
- **Frequent moves among homes and institutions increase trauma** for children already removed from troubled family homes and often separated from siblings, school, and community.
- **DHS is unable to meet the needs of the more than 50% of foster children who experience physical, cognitive, or mental health disabilities.**
- **The system is not set up to get children the services and treatment many sorely need**—foster children’s medical and mental health needs remain unmet due to irregular, infrequent assessments and the lack of sufficient and available resources to meet their needs.
- **Older youth who lack appropriate transition supports are largely abandoned** by the state when they “age out” of the system and often wind up in homeless shelters or on the streets.

- **LGBTQ children, who are over-represented in the system, experience a higher number of placements** due to a lack of LGBTQ-affirming foster homes as well as trauma caused by bullying and lack of supports.

*Wyatt B. v. Brown* has been filed on behalf of ten named plaintiffs who have suffered serious physical and psychological harm while in the care of DHS. The lawsuit was filed by three organizations: A Better Childhood, a national advocacy group for children; Disability Rights Oregon, Oregon's leading statewide disability rights organization; and Davis Wright Tremaine, a law firm with Portland offices and a long history of effective legal advocacy in support of civil rights.

"The state has simply failed to address the overwhelming needs of its most vulnerable children and the situation is only getting worse. Foster care is supposed to help kids, not make them worse, but that is exactly what foster care in Oregon is doing," said Marcia Robinson Lowry, executive director of A Better Childhood. "It is time for the court to act, because state officials have completely failed to protect these children."

"We know that every child needs a secure, healthy home where their potential can be nurtured. But the roughly half of the 8,000 children in Oregon's foster care system who experience a disability are not getting their needs met in a stable, family-like home," said Chris Shank, a managing attorney with Disability Rights Oregon. "Children who've experienced trauma and mental health issues need services and treatment from the day they enter care so they can begin to heal. This will help curb the revolving door of foster placements and avoid children ending up in institutions because we've failed to meet their basic healthcare needs."

"Lesbian, gay, bisexual, transgender, queer and questioning (LGBTQ) children are deprived of a safe and stable placement and face the dangerous choice of either staying in the closet or risking the termination of their placements," said Paul Southwick, Counsel at Davis Wright Tremaine. "This problem is particularly harmful to transgender children in transition and children who are in the process of coming out about their sexuality or gender identity."

Responding to requests from local advocates to investigate Oregon's child welfare system, the organizations, over the past year, conducted extensive research and interviews with numerous people involved in every aspect of the state's foster care system. They consistently identified failings pointing to the need for a lawsuit to force reform of DHS and protect children in its care.

The ten children who appear as named plaintiffs in the lawsuit include:

#### General Class

**Wyatt B. and Noah F.** are three-year-old and 18-month-old siblings who've been cycled through 12-14 homes in approximately a one month period, and faced life threatening mix-ups of medications, which the DHS supervisor described as "total goof-up." Wyatt and Noah are now separated and experiencing explosive fits, tantrums and night terrors.

**Kylie R.**, a seven-year-old girl had five placements in her first two months of foster care, and **Alec R.**, her eight-year old brother, had four. One foster parent wasn't given the children's last name so couldn't get Kylie treatment when she seemed ready to hurt herself. The children had visible lice crawling on their heads that wasn't treated for six weeks because the foster parents were not provided with the children's Oregon Health Plan numbers, and Kylie's head eventually had to be shaved.

#### General and ADA subclass

**Unique L.**, a nine-year-old, rotated through multiple placements and, when a therapeutic bed could not be found, was returned to her mother who couldn't care for her. At one point, Unique walked into the street yelling she did not want to live and tried multiple times to walk into traffic. She has now

spent months in a Montana institution, sometimes placed in seclusion and medicated, with no plan or timeline to bring her back to Oregon.

**Simon S.**, a 13-year-old, has been under DHS supervision and care for nearly five years. He was returned to his parents despite having accused his father of physically abusing him, and continued to have contact with a relative in school who may also have sexually abused him. To ward off his accuser, Simon came to class with feces in his pants. Placed in a therapeutic treatment center designed for 30-90-day stays, Simon remained there 15 months because DHS failed to find a therapeutic foster home for him.

General, ADA and Aging Out sub-classes:

**Ruth T.**, a 15-year-old, was placed in foster care after growing up in a chaotic household where she was probably sexually abused and witnessed her mother die of an overdose. With untreated emotional problems, she was sent to different facilities but her lawyer was ultimately told “DHS has NO one and NO place at this moment who will agree to care for her.” She is currently in a residential facility in Iowa where her care costs DHS \$120,450 a year.

**Naomi B.**, is 16 years old and in DHS custody since November 2018 when she threatened suicide. DHS was unable to find a suitable placement, so she was placed in Jackson Street homeless youth shelter and then in Youth Inspiration Program, a slightly refurbished delinquency facility. She is now back at the Jackson Street homeless shelter, for the seventh time, after being removed from Youth Inspiration Program, and DHS has no other plan for her.

**Norman N.**, is 17 years old and has been in and out of DHS custody since 2011, growing up in Oregon’s foster care system in a revolving door of at least 50 placements due to DHS’s failure to provide services to meet his mental and behavioral health needs. He has experienced trauma, abuse, and neglect in the system which has resulted in anger issues. He is Native American and is now at St. Mary’s, where he cannot observe his native heritage. Despite years in the system, he has not been prepared for living independently for when he ages out of the foster care system.

General, ADA, Aging Out, and SGM sub-classes:

**Bernard C.**, is a 15-year-old transgender youth who entered foster care at age three, left and then re-entered at age 10 with significant trauma causing flashbacks and nightmares, which DHS has failed to address. He’s been in 12-15 foster homes and seven facilities in the last five years. Despite Bernard identifying as male, DHS placed him in all-girls facility. He is now in a minimally refurbished juvenile detention center, secured in what was once a cell, without proper medication, therapy, or supports.

*Wyatt B. v Brown* requests that the court permanently prohibit DHS from subjecting the children in the general class and the three sub-classes to further harm and from threatening their safety and well-being through practices that violate their rights. On behalf of these children, the court is being asked to order appropriate remedial relief to ensure that defendants comply with the law and provide children with legally mandated services.

*A Better Childhood is a national nonprofit advocacy organization that uses the courts to reform dysfunctional child welfare systems around the country.*

*Disability Rights Oregon upholds the civil rights of people with disabilities to live, work, and engage in the community. The nonprofit works to transform systems, policies, and practices to give more people the opportunity to reach their full potential. For more than 40 years, the organization has served as Oregon’s Protection & Advocacy system.*

*Davis Wright Tremaine LLP is a nationally recognized AmLaw 100 law firm with a long history of effective legal advocacy in support of civil rights. The firm’s Portland litigation team is known as one of the city’s best and has had particular success in litigating against government entities.*

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The full complaint filed in *Wyatt B. v. Brown* is available upon request from media contacts above.