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CHILDREN SUE SOUTH CAROLINA TO END LONGSTANDING DANGERS IN FOSTER CARE

Seek Changes Including Adequate Foster Homes, Lower Caseloads and Better Health Care

(Charleston, S.C.) — Citing dangerous deficiencies in South Carolina’s child welfare system – including a drastic shortage of foster homes, excessive caseloads and a failure to provide children with basic health care – national advocacy organization Children’s Rights, the South Carolina Appleseed Legal Justice Center and Matthew T. Richardson, partner at the South Carolina law firm Wyche P.A., today filed suit against Governor Nikki Haley and Acting State Director of the Department of Social Services (DSS) Susan Alford.

The class action, *Michelle H. v. Haley*, filed in the Charleston Division of the U.S. District Court for the District of South Carolina, seeks reform on behalf of nearly 3,400 abused and neglected children statewide. It charges that as a result of pervasive failures by DSS, “Children have been and continue to be harmed physically, psychologically and emotionally, and continue to be placed at constant risk of such harms while in DSS custody.”

The 11 named plaintiffs, representing all children in state care, range in age from 2 to 17 and collectively have lived in foster homes and institutions across the state, suffering in myriad ways. For example, DSS has moved 16-year-old Michelle H. through at least 12 placements in about 8 years, including abusive foster homes. Michelle wants a family, but instead she is languishing in a restrictive group facility where she is placed in solitary confinement if she misbehaves because, as her caseworker told her, DSS does not have enough foster homes.

“Foster care is supposed to be a safe haven for abused and neglected children, yet South Carolina is re-victimizing the kids it’s supposed to protect,” said Ira Lustbader, litigation director for Children’s Rights. “There’s got to be accountability when longstanding systemic problems, like a severe lack of mental health services, gross overreliance on institutions and high caseloads, continue to harm innocent children.”

According to the complaint, child maltreatment in foster care goes uninvestigated, inaccurate data masks a much higher rate of abuse and neglect in care than the state reports to the federal government, and caseworkers are so overburdened that kids suffer unnecessary harms. South Carolina’s own standards call for caseloads of 14 to 20 children, but according to a 2014 report released by the Legislative Audit Council (LAC), 58 percent of workers had caseloads exceeding state standards, 19 percent were assigned more than 50 children, and some were even responsible for more than 75 children.

Many of the deficiencies detailed in the suit have been known for decades – highlighted as far back as 1985 by the LAC and as recently as the past year in multiple legislative hearings. The suit alleges that DSS has failed to make needed fixes.

“For the 25 years that I have been advocating on behalf of South Carolina’s most vulnerable citizens, DSS has continuously failed to make changes to ensure kids in foster care are protected and given proper treatment,” said Sue Berkowitz, director of the South Carolina Appleseed Legal Justice Center. “Since South Carolina has repeatedly ignored its own admissions about the system, we have no choice but to act and demand reform.”

The lawsuit also states that DSS does not provide basic medical, dental and mental health evaluations and treatment as explicitly required by law. In addition, it outlines how the severe lack of foster homes causes children to suffer alarming consequences. Children are:

Placed in institutions, instead of in homes with families. South Carolina has long admitted to overusing institutions and facilities to house kids. The most recent federal data indicates that DSS institutionalizes children 12 and under at a rate higher than any other state in the country. Unnecessarily housing children in institutions, especially young children, leads to damaging effects on developmental, social and emotional functioning. *At just 5 years old, DSS placed one plaintiff, Zahara H., in a high-security institution designed for children with severe mental health needs. Zahara described the months she spent at the institution as the “worst time in [her] life.”*

Unnecessarily housed in detention centers. When children in DSS custody come into contact with the juvenile justice system, some remain in detention facilities simply because DSS has nowhere else to house them. *One plaintiff, 13-year-old Sammy V., was placed in the equivalent of solitary confinement without treatment or contact with peers, and only phone access to a caseworker. He currently sits in a juvenile justice evaluation facility waiting for a DSS placement.*

Denied placements and treatment to meet their mental health needs. DSS houses some children with disabilities – including those with intense emotional, behavioral and psychological needs – in overly-restrictive institutions when they could live in foster homes, and puts other disabled children in basic-level foster homes and group facilities where they do not receive the mental health treatment they need. From 2007 to 2012, DSS denied therapeutic placements to over 3,600 children whom the agency itself identified as needing such placements. *DSS failed to provide one plaintiff, Ava R., 15, with necessary mental health treatment for 10 months, and at a group home staff denied Ava her depression medication as punishment.*

Frequently moved between homes and facilities. According to federal data, in 2012 alone more than 26 percent of children in DSS custody had four or more placements and more than 14 percent – nearly 930 kids – experienced six or more placements during their most recent stay in care. The state moved one plaintiff, 17-year-old Kyle S., through 28 placements since he entered care at 3 years old. He is now at risk of aging out at 18, without support services, a family or a permanent home.

Denied opportunities to maintain family relationships. Children are often placed far from their biological families, and many times siblings are split and denied visits with each other. *Siblings Marcus B., 10, Annie B., 8, Cameron B., 5, Sara B., 3 and Roger B., 2, all plaintiffs in the suit, recently entered DSS care and were put in multiple placements across the state without a caseworker or family contact for*

weeks. Their initial visit with each other was cut short when several siblings were late due to the long distances they had to travel.

The suit asks the court to fix three egregious problems in the system – the shortage of foster homes, excessive caseworker caseloads and inadequate health care for children.

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Children’s Rights is the only organization in the U.S. dedicated solely to transforming failing child welfare systems through legal advocacy. Since 1995, the non-profit has secured court orders to achieve critical reforms in more than a dozen child welfare systems throughout the country, defending the civil rights of foster children, fixing ailing child welfare systems and helping thousands of children reunite with their families or join loving adoptive homes. www.childrensrights.org

South Carolina Appleseed Legal Justice Center is a forceful and respected advocate for low-income South Carolinians on issues such as housing, education, hunger, public benefits, domestic violence, immigration, health care and consumer issues. SC Appleseed is dedicated to effecting systemic change wherever we can do the most good – in and through the courthouse, legislature, administrative agencies, community and the media. We grow our impact by helping others do the same through education, training and co-counseling. www.scjustice.org

Matthew Richardson is one of the top litigators in South Carolina and has served as president of the South Carolina Chapter of the Federal Bar Association and the South Carolina Association for Justice, two of the state’s largest legal organizations. Wyche, P.A. is a full-service law firm that has participated in landmark litigation, cutting-edge transactions, and shaping and driving the region’s growth and success for more than 90 years. www.wyche.com