

CENTER FILES SUIT OVER GROSSLY INADEQUATE FOSTER CARE SYSTEM

Calling Arizona's "dangerous, severely deficient foster care system," in February 2015, the Center, along with Joe Mais and Shane Swindle of Perkins Coie, and the advocacy organization Children's Rights, filed a federal class action lawsuit blaming the Department of Child Safety and Department of Health Services for "structural and operational failures" harming 16,000-plus children in the state's foster care system.

Even as Arizona has taken steps to reduce the enormous backlog of reports that children have been maltreated in their own homes, it has disregarded other destructive practices that expose abused and neglected children to "further physical and emotional harm and unreasonable risk of harm while in the State's care," according to the complaint filed by 10 plaintiff children on behalf of the more than 16,000 children in state foster care.

The suit, which names Gregory McKay, director of the Department of Child Safety (DCS), and Cory D. Nelson, interim director of the Department of Health Services (DHS) as defendants, alleges a severe shortage of health care services, an acute lack of foster homes, a failure to preserve family ties once children are in foster care, and a failure to conduct timely investigations into reports that children have been maltreated while in state care.

The lawsuit notes that, "while foster care rates across the nation have been on the decline, Arizona has experienced a dramatic increase in the number of children in state foster care." Specifically, the number of children in foster care in the state nearly doubled from 2003 to 2012.

The complaint accuses the state agencies of "structural and operational failures" that include:

- *A severe shortage in and inaccessibility of physical, mental and behavioral health services available to children in state care*
- *A widespread failure to conduct timely investigations of reports that children have been maltreated while in state foster care custody*
- *A severe and sustained shortage of family foster homes*
- *A widespread failure to engage in basic child welfare practices aimed at maintaining family relationships*

The complaint also recounts the plaintiffs' stories, starting with that of B. K. who at 10 has spent more than half her life in foster care. According to the complaint, "[d]uring her time in state foster care, B. K. has been deprived of needed physical and mental health

care, separated from her siblings, deprived of contact with her mother and siblings, and placed in institutional settings on two different occasions."

While B. K. was in a group home, the state failed to ensure that she was able to obtain the glasses she needed to see properly, or the orthopedic shoes to correct a limp in her walk. She complained about a toothache for months, and was never taken to a dentist. She said she was hearing voices "telling her to hurt other people or that someone would die," and no proper counseling action was taken.

At just 10, she's threatened suicide and self-harm on many occasions, and despite recommendations that she be placed in a therapeutic home, she languished for months in temporary homes, shelters, and a hospital psychiatric ward before finally being placed in such a facility last December.

The stories of the other plaintiffs are tragically similar, replete with frequent moves among foster homes, group homes, and institutions; separation from siblings; multiple school transfers; abusive foster parents; and neglected mental and physical health needs.

The realization that there are thousands of children with similar stories throughout our state should shock the conscience of all Arizonans.

**Arizona Center for Law
in the Public Interest**
514 W. Roosevelt St.
Phoenix, Arizona 85003
(602) 258-8850

P.O. Box 41835.
Tucson, Arizona 85719
(520) 529-1798

www.aclpi.org

Phoenix Staff
Timothy M. Hogan
Executive Director

Anne Ronan
Staff Attorney

Tucson Staff
Joy E. Herr-Cardillo
Staff Attorney

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The Centerline is a quarterly newsletter published by the Arizona Center for Law in the Public Interest.

Join us on May 9th For the Center's Annual Event!

This year, the Center's annual event will be held on Saturday, May 9th at Bentley Projects from 6:00 p.m. to 10:00 p.m. Once again we will have a hosted bar and food from Arizona Taste. Instead of a sit down dinner, we will have passed hors d'oeuvres and elegant food stations set up throughout the gallery.

As long-time Center supporters know, at this event we always try to recognize the work of people and organizations who have dedicated themselves to important public interest issues. This year, we will be presenting our Public Interest Award to Jennifer C. Pizer of Lambda Legal in recognition for her excellent work in Arizona and throughout the western United States on marriage equality and LGBT issues.



*Jennifer C. Pizer,
Senior Counsel, Lambda Legal*

The evening's entertainment will include live music and, of course, we will once again have our live and silent auctions. Last year's silent auction featured over 100 items, ranging from original artwork to one-of-a-kind jewelry pieces.

Guests also bid on wines from all over the world, musical instruments, and golf outings. This year's live auction will once again feature fabulous vacation packages. To see pictures of some of the auction items that will be up for bid, check out our website at www.aclpi.org. We plan to keep updating the website as the event gets closer and exciting auction items are donated.

We are also bringing back the "wine pull" raffle that we introduced last year. It works like this: in exchange for each donation of \$50, you have an opportunity to choose a bottle of wine that has been wrapped to hide the label. The wines are provided to us at a discount by Tarbell's wine store and are guaranteed to be valued anywhere from \$35 to \$100! And when your selected wine is revealed to you, an expert from Tarbell's will be on hand to tell you all about it.

This is the Center's only fundraising event of the year in the Phoenix area, so please make every effort to attend and join the fun. Tickets are \$150 each and are available by contacting the Center at (602) 258-8850 or you can register online at our website, www.aclpi.org. If you would like to attend but the ticket price is too steep, please let us know. We often have a limited number of tickets available at no cost.

Also, let us know if you have something that you can donate for the silent and/or live auction. Popular items include frequent flier miles, vacation timeshares, sporting event tickets, sports memorabilia, wine, jewelry, or gift certificates. We hope to see you there!

CENTER SUES OVER BALLOT REFERRAL ON STATE TRUST LANDS

On March 27, the Center filed a lawsuit against Secretary of State Michelle Reagan and the Maricopa County Board of Supervisors over a measure that the legislature referred to next year's ballot regarding state trust lands.

The measure referred by the legislature, Senate Concurrent Resolution 1018, asks the voters to amend the Arizona Constitution to allow up to 10% of sales from state trust lands each year to fund the administration and disposition of the lands. In effect, the legislature wants Arizona voters to approve taking money away from the sale of state trust lands in order to fund the Arizona State Land Department, the state agency that administers the trust lands.

The legislature has tried this before. In 2009, it enacted House Bill 2014 which created the trust land management fund and allowed the State Land Commissioner to take up to 10% of the proceeds from the sale of state trust lands and use them for management purposes instead of depositing them into the permanent fund for trust beneficiaries, primarily public schools in Arizona. The Arizona Supreme Court held that the legislation violated Arizona's Constitution which specifically provides that pro-

ceeds from the sales of state trust lands are to be deposited directly into the permanent fund and used for no other purpose.

With the referral of SCR 1018, the legislature apparently believes that it can get around the Supreme Court ruling by asking voters to amend the state constitution. However, it is the federal Enabling Act that created the trust in 1912 when approximately 10 million acres of land were granted to Arizona when it became a state to be held in trust for 13 beneficiaries, the largest of which is K-12 education. The Enabling Act provides that the lands granted to Arizona were to be disposed of only for the "object specified in the respective granting and confirmatory provisions" meaning that the funds could only be used for the beneficiaries.

In SCR 1018, the legislature has provided that it will be effective upon approval of Arizona's voters. However, the legislature cannot lawfully take trust funds and use them to fund a state agency without asking Congress to amend the Enabling Act which established the trust. The lawsuit seeks an order from the court prohibiting the Secretary of State from placing SCR 1018 on the 2016 general election ballot.

The Plaintiffs in the case that was filed in Maricopa County Superior Court are Marisol Garcia, Sandra Bahr and Rae Ann Rumery. Garcia is a public school teacher, Bahr is the Director of the Sierra Club-Grand Canyon Chapter and Rumery is a retired public school teacher who was one of the plaintiffs in the case the Center filed to invalidate the legislature's previous effort to take trust funds.

THANK YOU

The Center would like to thank
LEXIS-NEXIS
for its continuing grant of
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Capital Funding lawsuit continued...

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base or ones in which voters have refused to approve bond issuances and overrides. The plaintiffs will also include districts in which voters have approved bonds but cannot generate sufficient funds to properly maintain the school buildings and facilities. There will also be individual property taxpayers from school districts that have issued bonds to address their capital needs. Those individuals will assert that they are providing the funds through their property taxes that the state should have provided if it had been complying with the requirements of the Arizona Constitution.

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Important Work!**

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CENTER TO FILE CHALLENGE ON SCHOOL CAPITAL FUNDING

Over the last year, the Center has been preparing a lawsuit to challenge the failure of the Arizona legislature to provide constitutionally required capital funding for Arizona's public schools.

It was 1991 when the Center first filed a lawsuit challenging the constitutionality of the Arizona school finance system on the grounds that it relied almost exclusively on local property taxpayers to provide the funds needed for new schools and building repairs and renovations. As a result, property poor school districts had dilapidated schools badly in need of repair. In three decisions beginning in 1994, the Arizona Supreme Court held that the Arizona Constitution requires the state to provide the funds for school build-

ings, facilities and equipment that are necessary and appropriate for students to achieve the state's academic standards. In 1998, the legislature enacted Students FIRST which provided funding for new schools as well as soft capital funds for short term capital items like computers and building renewal funds for longer term items like repairs and renovations.

In 2013, the legislature decided to eliminate soft capital, combine it with another fund, cut it in half and then make it available for operating expenses. That same year, the legislature repealed building renewal formula funding so that, as of today, school districts receive no funding dedicated solely for capital purposes.

We will be filing a lawsuit in the near future challenging the school finance system on the grounds that it is basically the same, if not worse, than when we filed the first lawsuit in 1991. School districts with either a low property tax base or voters unwilling to approve bonds or overrides lack the resources to maintain their buildings and facilities at the minimum standards established by the state. The problem is aggravated by the fact that the legislature has cut operational funding to schools substantially over the last few years so that school districts must use every available dollar to pay teachers and try to keep class sizes reasonable.

The plaintiffs in the lawsuit will be school districts with either no tax

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