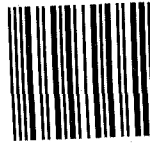


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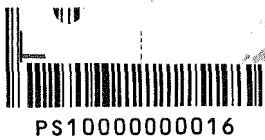
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SC Appleseed Legal Justice Center
Attn: Stephen Suggs
PO Box 7187
Columbia, SC 29202



September 1, 2016

The Honorable Richard M. Gergel
United States District Court Judge
c/o SC Appleseed Legal Justice Center
P.O. Box 7187
Columbia, SC 29202

Re: C/A No. 2:15-cv-00134-RMG

Dear Judge Gergel,

Thank you for the opportunity to address the Court regarding the Proposed Final Settlement Agreement (Agreement) in the case of Michelle H., et.al. v. Haley et.al. Thornwell Home for Children is a 141 year-old, 501(c)(3) non-profit agency licensed as a childcare provider by the South Carolina Department of Social Services (DSS) under two separate licenses. As a licensed Child Caring Institution, Thornwell acts in loco-parentis providing family-style residential group foster care for children from birth to twenty-one years of age on our residential campus in Clinton, SC, and, as a Child Placing Agency, Thornwell is licensed to provide foster care services across the state. In addition, we provide a variety of community-based services ranging from sexual abuse prevention, parent training and support, and intensive in-home family intervention services as part of our full continuum of care. We are a fully accredited agency by the Council on Accreditation, as well as a certified Teaching-Family Association program site.

We believe it is a tragedy that any child is harmed while in the child welfare system. Thornwell fully supports the intent of the proposed Agreement to bring about reform in the delivery of appropriate and least restrictive family-style child and family welfare services in South Carolina. Our concern is that the definition of "Congregant Care Facility" in the proposed Agreement (section II.J.) will deny the very children for whom we are responsible and charged to serve and protect, with a viable family-like placement option and often least-restrictive environment in the continuum of care.

Under the proposed Agreement, Thornwell is categorized as a Congregant Care Facility, ostensibly because our license from DSS lists Thornwell as a "Child Caring Institution," one of the named sub-groups included under the "Congregant Care Facility" definition. This definition is ambiguous and inadequate because it does not differentiate between agencies like Thornwell that provide high quality, child-centered, trauma informed, solution focused, family-style residential group foster care and those that provide non-family style congregant group care.

We respectfully ask the Court to clarify the definition in the Agreement of "Congregant Care Facility (c.f. section II.J)," to exclude Thornwell from that classification, and instead to be considered as an option along with other "least restrictive, most family-like" placements as outlined in the Agreement (c.f. section IV.D.1. and D.2.); and, since Thornwell's family-style residential group foster care program does

not meet the definition of "Congregant Care Facility," to also be exempt from limitations placed on placements by DSS on the basis of age for children ages six (6) and under (c.f. IV.D.2), as well as exempt from the Class Member metrics cited with regard to all Class Members and those Class Members twelve (12) years old and under (c.f. section IV.E. ,Congregate Care Placements and Emergency or Temporary Placements), based on the following rationale:

1. Thornwell meets and exceeds the Agreement's optimal solution to "placing Class Members in the least restrictive, most family-like placement." Our family-style focus offers individualized care in family-style homes, family meals, family outings, medical and dental care, counseling, and year round educational support to name a few. Thornwell provides structure and support for children and provides a full-array of services to enrich quality of life for children. Children are provided a sense of normalcy through extra-curricular activities, summer camps, vacations and recreational trips. Older youth are permitted age-appropriate independence and opportunities for part-time after-school work, driver's education and other privileges that are commensurate with their age and level of responsibility. The level of services, family supervision, oversight, and support we provide far exceeds what we know can be achieved through traditional foster care and therapeutic foster care alone.
2. Thornwell meets or exceeds both Federal Law, PL113-183 (Preventing Sex Trafficking and Strengthening Families Act), as well as South Carolina Act No. 238 (Reasonable and Prudent Parenting Standard) with regard to providing "age or developmentally appropriate activities" which are "appropriate for a child based on the development of cognitive, emotional, physical and behavioral capacities of the child." Just like in traditional kinship homes and foster care homes, Thornwell's family-style residential group foster care home program provides and supports and encourages activities that include but are not limited to sports, field trips, extracurricular and social activities, after school programs or functions, vacations, summer camps, and other overnight activities as approved in the Code.
3. The Social Security Act references the need for placement to be in the "least restrictive most family like setting appropriate to the needs of the child." We maintain that the Teaching-Family Model with full-time live-in couples (Family Teachers) in our residential group foster homes constitutes a family like setting and should be considered a viable option for placement of children of all ages. Thornwell provides structure and support for children and provides a full-array of services to enrich quality of life for children. Children are provided a sense of normalcy through extra-curricular activities, summer camps, vacations and recreational trips. Older youth are permitted age-appropriate independence and opportunities for part-time after-school work, driver's education and other privileges that are commensurate with their age and level of responsibility.
4. Family-Teachers are certified in the Teaching-Family Model of Care. A full 40 hours of initial in-service training is provided before Family Teachers are permitted to serve in a home on Thornwell's residential campus (compared to just 14 hours for licensed foster homes). Ongoing training is provided throughout the year on such topics as child trauma and long-term attachment issues, neurobiological impact of trauma in child development, and common mental health disorders found in children in out of home placement. Many of our Family Teachers have dependent children of their own who live with them in our homes and consider the children in placement as their siblings.

5. Keeping sibling groups together is a priority at Thornwell. On-site family visitation is encouraged and supported with the goal of family reunification whenever possible. Thornwell has an excellent working relationship with county DSS offices to provide family visitation on our residential campus so that families do not have to meet at DSS offices, police stations and other public venues.
6. Reunification with family members is a priority and supported through parenting classes, intensive in-home programs and the Strengthening Families program. Thornwell values reunification as evidenced by our focus on family-based community programs. Providing a full continuum of care and recognizing permanent placement is the ultimate goal for every child.

High quality family-style residential group foster care is a critical component of an integrated system of care. Thornwell is committed to partnering with DSS, quality child care providers, child advocacy groups and other stakeholders to be an integral part of the solution to the child welfare crisis. Working together, we can leverage both public and private resources (75% of Thornwell's operating budget is funded by private donations) to improve the care, well-being, and successful outcomes for South Carolina's children.

Thornwell believes that it is not in the best interest of children to grow up in foster care of any type, but recognizes that such placements, whether in traditional foster homes or in family-like residential group foster care homes, can be a safe, effective, and nurturing environment in the continuum of care until at such time family reunification or adoption into a forever family can be achieved.

In addition to our request for exemption from proposed Agreement, we also ask for permission for Ms. Sonya O'Neal, vice president for programs and clinical services at Thornwell, to speak before the Court when it convenes on October 4, 2016. Ms. O'Neal has served as an expert witness in South Carolina Family Court with regard to the issue of child trauma and the effects of such trauma on children in out of home placement. She will specifically address the traumatization of children in foster care and how our residential group foster care program has provided placement stabilization leading to placement permanency.

Thank you for your time and consideration.

Sincerely,



Elliot M. Smith
President
864-938-2733