

TEXAS LAWYER

An ALM Publication

texaslawyer.com | October 2016

PARTNER PAUL YETTER
FOUNDED HOUSTON-BASED
YETTER COLEMAN IN 1997

2016 ATTORNEY OF THE YEAR

Paul Yetter Leads the Fight for Foster Kids in Texas

BY MIRIAM ROZEN

PAUL AND PATTI YETTER'S SEVEN SONS RANGE IN age from 18 to 31 years, now.

But those boys were each 11 years younger, 7 to 20 years, when Paul Yetter, the managing partner in Yetter Coleman in Houston, determined his litigation boutique firm would focus its pro bono efforts on a big impact case to achieve a victory for as many other children as possible.

"We were looking for a cause that the entire firm could support without any reservations. Sometimes there are political causes that some folks in the firm wouldn't want

to sign on with. We wanted to look for something that we could all agree upon," Yetter said.

"We've always done small pro bono matters, then and now, but we wanted to do an impact that could really improve this country. It was obvious after looking around foster care was the right choice," Yetter recalled.

It took more than a decade, but his insight and initiative have produced impressive results.

Yetter led a team of pro bono counsel in a class action for 12,000 foster care children, suing the state for violating their 14th Amendment due process rights.

In late 2015, after two rounds of class certification and two interlocutory appeals, U.S. District Judge Janis Jack of the Southern District of Texas found that the state violated the plaintiffs' rights to be free from unreasonable risk of harm caused by the state.

Then the U.S. Court of Appeals for the Fifth Circuit denied the state's attempt to stay the ruling.

This year, Jack appointed two independent special masters to craft targeted reforms and oversee their implementation, which Yetter and state officials are cooperating to develop foster care reform recommendations.

About his firm's decision to pursue the case, Yetter said: "We have never had a second thought."

In order to make institutional change, Yetter and his team recognized early on that they have to conceive of a class-action strategy. "It would be impossible to make a change on a child-by-child basis. And everyone we talked to told us the system was broken," he said.

His firm's lawyers had experience with class actions. The challenge in this instance, he said, was recognizing "we couldn't fix every little thing." They opted to focus on and identify as members of the then-prospective class, the 12,000 of the 20,000 children in Texas' foster care system, whom the state identifies as needing permanent management. One study of the system described those as "the children that even God forgot," Yetter said.

From the outset, Yetter's team worked with Sara Bartosz, lead counsel for the Washington, D.C.-based nonprofit Children's Rights, and Marcia Robinson Lowry, a lawyer who founded Children's Rights and now leads the Chappaqua, New York-based nonprofit, A Better Childhood.

Yetter's team also sought help from Dallas' Haynes and Boone,

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specifically, Barry McNeil, senior counsel at the Dallas-based firm. As his opponent, Texas' foster care system, represented by the Texas Office of the Attorney General, with Tom Albright, an assistant attorney general, leading the team, "has been relentless," Yetter said.

He identified as "world-class experts" the two lawyers whom Jack has tapped as special masters—Francis McGovern, a law professor at Duke University School of Law, and Kevin Ryan, president and CEO of New York-based Covenant House, a nonprofit advocacy organization for runaway youth.

"The two of them make an incredibly powerful team," Yetter said. The court nonetheless maintains "very strict control of the process," Yetter said.

McGovern and Ryan keep the judge and both sides apprised of what they are doing. Unlike the AG's office, the state agency overseeing the foster system has been cooperative with the investigators, Yetter said.

How will he measure success in five years? "Children coming into the foster care system can leave no longer worse off than when they came," he said.

The linchpin of any success will be the case workers, and enough of them to help protect "these innocent children," Yetter said.

Among his pro bono peers, Yetter already has drawn praise. "These cases are very difficult cases for a lawyer. The lawyer has to understand the social science that is involved and maneuver through not only the legal process but a political process frequently. It's very difficult to accuse a public agency of failure," said Frederic Dorwart, a Tulsa, Oklahoma, lawyer, who led a team that prevailed in litigation to mandate reforms to the Oklahoma foster care system.

What about his own boys who heard about the litigation at the dinner table during their growing years? "Our guys have always known about the foster case," Yetter said about his sons. Undoubtedly, Yetter has made them proud to be sons of a father who has lifted the chances for so many children. ■

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JOHN EVERETT