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HOUSTON-BASED ATTORNEYS DORI GOLDMAN AND CHRIS WARD DEVOTE THEIR PRO BONO EFFORTS TO WORKING WITH THOUSANDS OF TEXAS' FOSTER CARE CHILDREN AND REFORMING THE STATE'S FOSTER CARE SYSTEM.

INTERVIEW BY **ERIC QUITUGUA**
PHOTOS COURTESY OF **DORI GOLDMAN** AND **CHRIS WARD**



WHAT MADE YOU FOCUS YOUR PRO BONO EFFORTS ON FOSTER CARE CHILDREN?

In 2004, we came across a report by the then-comptroller of Texas titled “Forgotten Children,” which identified glaring systemic deficiencies. From inadequate numbers of caseworkers to serious shortcomings in licensing and investigations, the report chronicled stories of abuse and neglect in care that were shocking. We did more digging through stakeholder interviews and information act requests. We believed then, and believe even more strongly now, that foster care wouldn’t be fixed and couldn’t be fixed, maybe for political reasons, until the state was told that it had to fix the constitutional defects.

YEARS AGO, YOUR FIRM, YETTER COLEMAN, JOINED A CLASS ACTION FOR 12,000 FOSTER CARE CHILDREN FOR VIOLATION OF THEIR 14TH AMENDMENT RIGHTS. WHAT CAN YOU TELL ME ABOUT THAT?

We are representing the most vulnerable Texans, the “forgotten children” who, as Judge Janis Jack, of the U.S. District Court for the Southern District of Texas, found, “have been shuttled throughout a system where rape, abuse, psychotropic medication, and instability are the norm.” The case seeks systemic reform of the Texas foster care system to ensure the safety of these long-forgotten children in the custody of our state government. Under the 14th Amendment, children who are under the state’s care have a constitutional right to be safe from an unreasonable risk of physical or severe psychological harm. For decades, the Texas system has failed to live up to that constitutional duty, and the state has been fully aware of the dysfunction—from reports dating back for decades. Time and again, the Legislature and Texas Department of Family Protective Services have promised to make key reforms to the system only to see those promises broken or unfulfilled. Children who enter this system all have suffered difficulty and trauma in their short lives, but for many, the horror is just beginning. Thousands age out of the system far more damaged than

when they entered, and other children tragically do not live to escape the system because of untimely, preventable deaths.

WHAT ARE THE ISSUES IN TEXAS' FOSTER CARE SYSTEM AT THE CORE OF THE CASE?

Systemic dysfunction and numerous specific failings subject Texas foster children to an unreasonable risk of harm. Indifferent to the perils, the state did not set caseload parameters or even conduct workload assessments to determine appropriate caseloads. It conducted shoddy abuse and neglect investigations, while substantiating only a sliver of claims and penalizing fewer still. It housed many unrelated boys and girls of all ages together in large-group facilities lacking basic safeguards like supervision by adult caregivers overnight. Physical and sexual abuse are rampant throughout the foster care system and are especially prevalent in the large-group facilities.

I READ THERE WERE ABOUT 20,000 CHILDREN IN THE FOSTER CARE SYSTEM AT THE TIME—HOW WERE THE 12,000 CHOSEN AND WHY WERE ONLY 12,000 CHOSEN? WHAT HAPPENS WITH THE REST?

The approximately 12,000 children in the *M.D. v. Abbott* class are the foster children in the permanent managing conservatorship of the state. Texas has a label for its kids who’ve been in foster care for at least 12 or 18 months—“permanent managing conservatorship,” or PMC. Often a PMC child loses his or her attorney ad litem and guardian ad litem and is monitored only by DFPS caseworkers, if at all. The “PMC” label becomes a painful reality as many PMC children become permanent wards of the state. In bringing a class action, the plaintiff class must be a definable, coherent group who share relevant commonalities. And the remedies sought must be capable of benefiting the class as a whole, like the systemic reforms we sought in this case. We were able to show that the PMC children met the class certification standard and were all subjected to a similar risk of harm from the systemic dysfunction. The remaining foster children have not yet been in the system as long and thus, under the state’s terminology, are in the state’s temporary managing conservatorship, or TMC. Many TMC children eventually become part of the PMC class. While the injunctive remedies that have been ordered are specific to the PMC children, the systemic nature of many of those remedies should benefit all foster children.

WHAT CAN YOU TELL ME ABOUT SOME OF THE FOSTER CARE REFORM EFFORTS YOU’VE BEEN INVOLVED IN? HOW SUCCESSFUL HAVE THEY BEEN? HAVE THERE BEEN ROADBLOCKS?

The *M.D. v. Abbott* litigation has led to remedial orders mandating numerous crucial systemic reforms. These include reducing caseworker caseloads, full-time supervision in group placements, timely and effective investigations of reports of abuse and neglect, improvements in licensing and monitoring licensed placement facilities, and improvements in tracking and preventing sexual abuse. The state has continually resisted making such reforms, including via numerous appellate proceedings. Having succeeded in getting the federal courts to order these reforms, we are continuing to work on enforcing compliance with the permanent injunction such as by working closely with the court-appointed monitors and pursuing contempt orders for non-compliance.

HAVING READ STATISTICS ON WHAT HAS HAPPENED TO CHILDREN IN FOSTER CARE SINCE 2017, IT’S NOT HYPERBOLE TO SAY IT’S A MATTER OF LIFE OR DEATH FOR THESE KIDS. WHEN WORKING WITH SUCH A REALITY, HOW DO YOU MAINTAIN YOUR FOCUS ON YOUR EFFORTS AS WELL AS ON YOUR SELF-CARE?

Reading the statistics and learning the horror stories is heartbreaking. We are so gratified to know that the justice system is able to provide systemic relief and to ensure that the most vulnerable residents of our state—the “forgotten children”—will never again be “forgotten.” **TBJ**