TESTIMONY
JUDICIARY COMMITTEE
CONNECTICUT GENERAL ASSEMBLY
RE: H.B. 6692
APRIL 15, 2013

My name is Gayle Wintjen and I serve as General Counsel of Oak Hill, the largest private provider of services to adults and children with developmental disabilities in the State of Connecticut. We are a nonstock, charitable organization. Ninety-five percent of our operations are funded by the State of Connecticut -- through the Department of Developmental Services, the Department of Social Services, the Department of Children and Families as well as local Boards of Education. The remaining income comes from charitable donations.

This testimony is in support of H.B. 6692, which seeks to add a community service requirement for individuals who seek fee waivers in connection with certain civil actions. This is a very important protection for publicly funded agencies such as Oak Hill.

By way of example, since 2006, Oak Hill has been providing residential supports and educational programming to a young woman who was placed with us by DCF. By any measure, this young woman has done extraordinarily well in our care and as a student in our special education program. Nevertheless, her mother, who has been featured in the media stories regarding the fee waiver issue, has filed six (6) lawsuits against us, four of which are currently pending. All of the cases have alleged that we have attempted to interfere with her relationship with her daughter, have neglected her daughter's needs and have caused millions of dollars worth of harm to her daughter. In the first two cases, the plaintiff mother also named as a defendant the then-manager of her daughter's residential program. This manager had done absolutely nothing wrong. While Oak Hill's insurer paid her defense costs, she also put her homeowner's insurance on notice of this claim. Even though the complaint was ultimately dismissed, and the judgment against the plaintiff was upheld on appeal, this manager suffered an increase in her homeowner's insurance rates because of this one claim. Subsequently, the plaintiff then filed lawsuits against the attorneys who were defending Oak Hill in those actions.

The plaintiff currently has four cases pending against us and the ongoing threat of additional litigation has impacted our ability to represent Oak Hill in these actions. I could not convince the current manager of her daughter's group home to sign interrogatories for fear that she too would be sued. The worst part was that I could not guarantee that such a lawsuit would not happen. By way of example, an associate with the firm representing Oak Hill who signed a court document received a grievance from the Plaintiff mother (the grievance was dismissed). Consequently, only the principal attorney assigned to these cases is signing documents served on the Plaintiff. The mother has also filed lawsuits against her daughter's case manager and guardian, as well as DCF. The Judicial Branch website lists 84 lawsuits that this plaintiff has filed since 2006.

This plaintiff has filed nothing but frivolous lawsuits against Oak Hill, but the cost has been anything but frivolous. Our insurance company is concerned about the number of lawsuits pending against us and has put us on notice that it deems our services to her daughter as a

liability. The cost of defending all of the lawsuits against us is approximately $60,000, and we are only in the discovery phase of litigation of the four pending matters.

While the costs are certainly an important consideration to Oak Hill as a publicly funded organization that is also dependent on donors' generosity, the real victim in these lawsuits is this plaintiff's daughter. We have informed the daughter's case managers and the plaintiff mother that we will not provide services to the daughter once she ages out of our educational program in June. We did not make this decision lightly. As noted before, this young woman has done exceptionally well in our care, and there is no doubt in our minds that we could continue to provide services to her in our adult settings. However, the risk of additional lawsuits by her mother is too great a liability. Indeed, it is our understanding that other private providers have not accepted her referral packet because they too are concerned about the threat of frivolous costly litigation.

As a provider of Human Services, Oak Hill is not unsympathetic to impoverished individuals who rely on fee waivers in order to obtain access to justice. But 84 lawsuits brought by one individual cannot possibly exemplify the access to justice that the fee waivers were designed to afford. There is no doubt in my mind that HB 6692 would deter this plaintiff and others like her from filing frivolous lawsuits. Hopefully, this testimony has illustrated the very real and substantial costs to individuals who are simply doing their jobs and to organizations that rely on their reputations for public funding. I therefore urge you to support HB 6692.

Thank you.

Respectfully submitted,

Gayle Wintjen
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