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Jun 12 2023

SC Court of Appeals

THE STATE OF SOUTH CAROLINA
In the Court of Appeals

APPEAL FROM JASPER COUNTY
Family Court

H. Steven DeBerry, IV, Circuit Court Judge

Common Pleas Case Number 2022-CP-27-00109

A.M.L., and J.J.L., by and through
their Next of Friend, John Doe,
R.D.M., by and through his Next of
Friend, Jane Snow, J.J.G., and S.T.S.,

Appellants,

v.

Wright Directions Family Services,
LLC.,

Respondent,

**MEMORANDUM OF LAW IN RESPONSE TO THE COURT'S INTERROGATORY
REGARDING APPEALABILITY OF THE MATTER**

Appellants A.M.L., J.J.L., R.D.M., J.J.G., and S.T.S. submit the following memorandum of law in response to the Court's interrogatory regarding the appealability of the disputed issues and assert the following:

I. Procedural background.

From November 2013 through January 2020, WDFS provided mental health and behavioral services to Plaintiffs A.M.L., J.J.L., R.D.M., J.J.G., and S.T.S.¹ Summons and Complaint, *5 (March 9, 2022). From 2010 through November 2016, the Children were chronically physically abused and starved

¹ Plaintiffs A.M.L., J.J.L., R.D.M., J.J.G., and S.T.S. are collectively referred to as the

by their adoptive parents in Bluffton, South Carolina. Plaintiffs' Memorandum of Law in Support of Their Motion to Show Cause, *9-29 (April 1, 2022).

From May 2, 2019, through February 25, 2022, Plaintiffs attempted to obtain their treatment records from Wright Directions, LLC. Plaintiffs' Memorandum of Law in Support of Their Motion to Show Cause, *2 (April 1, 2022).

Statute of limitations for any malpractice action against the Defendant were set to run on May 10 and May 15, 2022, for S.T.S. and J.J.G., respectively.

The Plaintiffs were forced to file a summons and complaint asking for specific performance, i.e., a court order requiring the production of the Children's treatment records, on March 9, 2022. Summons and Complaint, *5 (March 9, 2022). An amended complaint was filed on March 10, 2022. Amended Complaint for Specific Performance (March 10, 2022). In the amended complaint, the Children asked for the following relief:

WHEREFORE, Plaintiffs request the Court to issue an Order and Rule to Show Cause requiring Wright Directions Sub, LLC, doing business as Wright Direction Family Services, LLC ("WDFS") to appear before the Court with all of Plaintiffs' medical records and any other documentation related to the children.

The Plaintiff's request a complete mirror of each child's file to include all case files from 2010 to the present, all assessments, intake documents, treatment plans, referrals, plans of care, therapeutic notes, progress notes, summaries, discharge summaries, correspondence parents and third parties, billing records, and any other documents related to the children.

Additionally, Plaintiffs' counsel requests an award of all fees and costs associated with having to file this action.

Amended Complaint for Specific Performance, *5-6 (March 10, 2022).

A hearing was held by the Jasper County Court of Common Pleas on April 8, 2022 and the Court issued the following Order, in part:

1. Defendant Wright Directions, LLC, shall deliver to the Plaintiffs' counsel any and all records within their possession or control that relate to the care of A.M.L., J.J.L., R.D.M., J.J.G., and S.T.S.
 - a. This includes psychotherapy notes, including but not limited to the statements of

"Children".

the Children.

- b. Defendant Wright Directions, LLC may redact the impressions of the clinician(s).
2. These records must be delivered to the Children's counsel within fourteen (14) days of this Order.
3. Defendant Wright Directions, LLC, may seek costs associated with these records as allowed under 45 C.F.R. § 164.524(c)(4), but the records must be delivered to the Plaintiffs before Defendant can calculate and bill Plaintiffs for such costs.
4. This order should not be construed to have any bearing on any future discovery dispute between the parties in any follow-up litigation as it relates to these records.

Order (April 12, 2022).

The Defendant submitted records to Plaintiffs on April 22, 2022. The Children argued that the Defendants redaction of the documents were meritless and the Court of Common Pleas disagreed. Order Denying Plaintiffs' Motion to Show Cause and for Emergency Hearing (December 29, 2022).

On March 28, 2023, the Court of Common Pleas issued an order awarding costs for the redaction of the documents to be paid to the Defendants.

II. Argument.

The production of the Children's records has already been performed by the Defendants. The Order issued on April 12, 2022 was essentially an order on the merits and there is no need for further litigation.

Should the Court need a formal order dismissing this matter, Plaintiffs are fine with the Court remanding this matter, but at this point in time, nothing substantive would have to be performed by either party or the Court of Common Pleas.

The Children's only concern is the lower court's decision to award an extraordinary amount in costs to the Defendant.

III. Conclusion.

Plaintiffs will follow the Court's instructions on appealability of the matter.

Respectfully submitted,

FOSTER CARE ABUSE LAW FIRM, PA

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Camden, South Carolina
June 12, 2023

Other Counsel of Record:

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CERTIFICATE OF SERVICE

I certify that I have served the following documents:

1. Notice Regarding Production of Transcript with the attached exhibit:

- a. Memorandum of law in response to the Court's interrogatory regarding the appealability of the matter

upon Elizabeth F. Morrison, counsel for Wright Directions Family Services, LLC, via email at:

Elizabeth F. Morrison -emorrison@hallboothsmith.com

Respectfully submitted,

FOSTER CARE ABUSE LAW FIRM, PA

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Camden, South Carolina
June 12, 2023

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