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DC KinCare Alliance and Ropes & Gray File Second Federal Lawsuit Against District of Columbia

New suit challenges CFSA's ongoing, illegal practice of "Kinship Diversion"

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DC KinCare Alliance and Ropes & Gray LLP have filed a second federal lawsuit against the District of Columbia and the D.C. Child and Family Services Agency (CFSA) for violating the rights of multiple Plaintiffs under D.C. and federal laws.

The second lawsuit was filed on behalf of five individual plaintiffs who are relative caregivers and the children they are raising. It is a parallel lawsuit to the first one filed in October 2019 on behalf of six relative caregivers and the children in their care. In this new matter, CFSA determined that the three plaintiff children, whose mother died several years ago, had been neglected by their father and would be in grave danger if they remained in his care. Rather than following the legally required removal and placement procedures, CFSA informally placed these children in the custody of two out-of-state relatives, first their aunt and then their great-grandmother. CFSA effected these out-of-state placements without following the required removal and placement procedures and without notifying the relative caregivers of their legal rights and the option to become licensed kinship foster parents. By circumventing the formal processes, CFSA has shirked its responsibility to provide continuing benefits and services to help these children overcome their trauma and have better outcomes, including the opportunity for safe reunification with their father and permanency with a relative caregiver if that was not possible. CFSA has unlawfully avoided, and continues to avoid, its legal and financial responsibility to support these children and their relative caregivers.

"It is disheartening to see CFSA's unlawful practices continue. CFSA is subverting the formally established procedures, placing vulnerable children and their caregivers in impossible situations," says **Samantha Badlam**, litigation & enforcement counsel at Ropes & Gray. "Our goal with this suit is to ensure that our clients and all similarly situated children and caregivers receive the processes, benefits, and services they are entitled to from their government."

"This lawsuit underscores the pervasiveness of CFSA's practice of diverting children to live with relatives, known as kinship diversion or hidden foster care. Here, CFSA removed emotionally fragile children from their home and community and placed them without the legally required procedures, support and services necessary for the placement to be successful," says **Marla Spindel**, Executive Director of DC KinCare Alliance. "And when the first placement failed as a direct result of CFSA's illegal conduct, CFSA doubled down and diverted the children a second time."

Deputy Director of DC KinCare Alliance Stephanie McClellan adds that "CFSA continues to take advantage of families who are in crisis by deciding what is best for them without input, failing to inform them of their constitutional and human rights, and using coercive tactics to force decisions that serve CFSA rather than children and families. CFSA officials portray kinship diversion as empowering families to make their own decisions when in reality they are depriving

families of their legal rights and desperately needed economic resources. This is particularly egregious during our current public health and economic crisis.”

The case filed on March 17, 2020, *S.K. et al v. District of Columbia et al*, seeks declaratory relief that kinship diversion is illegal, injunctive relief to prevent CFSA from engaging in these unlawful practices, and damages for lost foster care payments and other injuries. The case was filed in the U.S. District Court for the District of Columbia. For a copy of the complaint, [click here](#).

Founded in 2017, DC KinCare Alliance supports the legal, financial, and related service needs of relative caregivers who step up to raise children in their extended families in times of crisis when the children’s parents are not able to care for them due to mental health and substance use disorders, incarceration, death, abuse and neglect, or deportation. DC KinCare Alliance is the only organization in DC focused solely on serving relative caregivers raising DC’s at-risk children. For more information, please visit www.dckincare.org.