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NOTICE OF CLAIM AND ITEMIZED STATEMENT OF RELIEF SOUGHT

JOSEPH J. CZARNEZKI
MILWAUKEE COUNTY CLERK

To: Milwaukee County
Attn: County Clerk
901 North 9th Street
Milwaukee, WI 53233

Re: Claim by Kindcare-Easter Seals as guardian for S C regarding inappropriate care and treatment at the Milwaukee County Behavioral Health Division that resulted in a sexual assault and pregnancy.

Circumstances of claim:

- (1) S C was a patient in an acute psychiatric unit at the Milwaukee County Behavioral Health Division (BHD) from July 1, 2009 through September 11, 2009. Beginning on September 11, 2009, she was a resident on the Hilltop unit at BHD.
- (2) Scott Walker, John Chianelli, Dr. Thomas Harding, Mary Kay Luzi and other unknown officials, employees and agents of Milwaukee County were responsible for the overall operation of BHD and for insuring reasonably safe conditions for patients at BHD.
- (3) While at BHD, Ms. C was under the care of Dr. Mark Minko, Dr. C. Ovide, Dr. Karl Strelnick, Dr. George Lind, Sherrie Harmon and other unknown officials, employees and agents of Milwaukee County.
- (4) The purpose of S C admission BHD was to provide care and treatment for her serious medical needs. She was incapable of meeting her own needs for bodily security due to her severe mental disabilities and required active intervention by BHD medical staff to protect her in order to meet these serious medical needs.
- (5) The above-listed individuals and other unknown officials, employees and agents of Milwaukee County were aware that the care and treatment needs of the patients at MCBHD required intensive staffing, staff training and oversight. Despite being aware of the need for additional staff, staff training and oversight, each of these individuals knowingly failed to take appropriate steps to increase the staff training and oversight at MCBHD in order to provide appropriate care and treatment for patients such as S C
- (6) The above-listed individuals and other unknown officials, employees and agents of Milwaukee County had a legal duty to provide S C with a safe environment at all times. They also had duties pursuant to Wis. Stat., §51.61 to provide Ms. C with prompt and adequate treatment, rehabilitation and educational services appropriate to her condition; and to allow Ms. C to participate in the planning of her treatment and care. They also had a duty under federal law and the United States and Wisconsin Constitutions to exercise professional judgment and take appropriate steps to properly respond to the serious medical needs of patients such as Ms. C

(7) Despite a specific request from both S C and her legal guardian, the above-listed individuals and other unknown officials, employees and agents of Milwaukee County failed to take appropriate steps to place Ms. C on contraceptives, resulting in a failure to provide a safe environment, failure to provide adequate treatment, and failure to allow Ms. C to participate in her treatment and care. These individuals also failed to provide Ms. C with a safe environment by failing to provide her with the level of supervision necessary to keep her safe from sexual assault. These individuals failed to exercise professional judgment in their care and treatment of Ms. C and were deliberately indifferent to her serious medical needs. This also constituted discrimination on the basis of gender.

(8) The above-listed individuals and other unknown officials, employees and agents of Milwaukee County failed to follow the internal policy of MCBHD by failing to perform a pregnancy test on S C six weeks after she reported sexual assault by another patient as hospital policy requires. This resulted in a failure to keep her safe, and a failure to provide her with either prompt or adequate treatment. This also constituted discrimination on the basis of gender.

(9) The above-listed individuals and other unknown officials, employees and agents of Milwaukee County were deliberately indifferent to the internal policies of MCBHD which prohibited sexual contact between patients and required a humane psychological and physical environment, resulting in the sexual assaults of patients such as S C. This amounts to a failure to provide a safe environment and to provide her with adequate treatment. This also constituted discrimination on the basis of gender.

(10) The above-listed individuals and other unknown officials, employees and agents of Milwaukee County failed to follow the internal policies of MCBHD and also the requirements of guardianship law by failing to inform the legal guardians of S C that she had been sexually assaulted, resulting in a failure to provide a safe environment.

(11) On April 29, 2010, S C gave birth to a child conceived as a result of the sexual assault. The pregnancy resulted the failure of the above-listed individuals and other unknown officials, employees and agents of Milwaukee County to provide appropriate medical care, exercise professional judgment, and provide her with a safe environment.

(12) The above-listed individuals and other unknown officials, employees and agents of Milwaukee County had actual knowledge of the events described here.

(13) S C reserves the right to seek compensatory, exemplary and punitive damages in excess of the limitations contained in Wis. Stat., §893.80 for legal claims that are not subject to a statutory limitation.

(14) S C suffered both physical and emotional pain and suffering as a result of the actions and omissions of above-listed individuals and other unknown officials, employees and agents of Milwaukee County.

Itemized Statement of Relief Sought:

Kindcare-Easter Seal as guardian for S C requests payment from Milwaukee County in the following amounts:

(1)	Physical pain and suffering, and psychological - emotional pain and suffering for common law negligence and/or patient rights violations of Wis. Stat. §51.61.	\$250,000
(2)	Exemplary damages under §51.61(7)(a)	\$250,000
(3)	Physical pain and suffering, and psychological - emotional pain and suffering for violations of the United States Constitution and 42 U.S.C. §1983.	\$500,000
(3)	Attorneys fees pursuant to §51.61(7)(a) and 42 U.S.C. §1988 in an amount to be determined.	TBD
	TOTAL	\$1,000,000

Dated: March 15, 2012



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