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Who Help Foster Children

BY TOM PAOLI

Doing Good Helping The Lawyers Who Help Foster Children

by Tom Paoli

I spend many hours working on my cases trying to do everything I can to help my clients. If I succeed, my clients receive the compensation they need, and I am paid for my time. Sometimes no matter what I do, I can't recover everything my clients are entitled to; sometimes I can. Sometimes I don't make very much money; sometimes I do.

I am a trial lawyer who helps injured persons. I'm not a bad person because I sue for money; I'm a good person who wants to help my clients, and who wants to make a good living, support my family, and maybe even buy that sports car I've been lusting after. There's nothing wrong with working hard, earning money, and buying something nice for yourself - is there? Of course not!

It's all very satisfying, really.

But this article is not about the rewards of a personal injury practice. This article is about helping someone without being paid. Helping without any motive other than the satisfaction of doing something good for someone who needs help - the kind of help we, as trial lawyers, are uniquely qualified to give.

I should tell you right off that I wouldn't be writing this

article if I didn't happen to be married to Margaret Coyne, a very fine lawyer whose entire legal career has been dedicated to helping foster children. If not for her, I would have had to find my "selfless contribution" in some other forum, of which the number is undeniably countless. But because of Margaret's work, I have been able to step up and volunteer my time, experience, and skill as a trial lawyer to assist in cases of foster children whose circumstances pose challenging difficulties for the child welfare system that is in place to protect them.

Let me start by describing briefly the work Margaret is doing. She is the executive director and a staff attorney of the non-profit Advokids. Founded in 1993 by Margaret and other child advocates, including Jan Sherwood, an expert in dependency law and also the president and a staff attorney at Advokids, its mission is to help foster children. They do this by training child welfare professionals, providing enrichment services for foster children, and providing immediate free legal information, instructions and referrals for child advocates seeking to bring critical information concerning a foster child to the attention of the juvenile court. Their free telephone hotline, the only one in the State, together with their comprehensive legal education website, teach the public how to understand and access the legal system on behalf of foster children.

There are more than 86,000 children in foster care in Cali-

fornia, over 40% of whom are under the age of three. Infants - babies less than twelve months old - are the largest group to enter, remain and re-enter the foster care system. The future facing these children is daunting. Foster care is supposed to be temporary, and infants and children who enter foster care need to be placed in secure, and potentially permanent homes, in case their return to their parents is not possible. Potentially permanent placements at the outset assures that children do not linger in the foster care system and suffer emotional and developmental harm from multiple placements. The fate of children who linger in care is abysmal.

Advokids educates and advocates for early, stable, and permanent homes, especially for infants and children who are passing critical child development benchmarks. Advokids educational and informational programs provide the child welfare community, including attorneys, social workers, CASA volunteers, and caregivers, with an understanding of California law and the early childhood development research that supports the “permanency imperative” to protect the psychological and emotional needs of foster children.

Advokids also seeks out lawyers who are willing to provide *pro bono* representation of foster parents, caregivers and others who need help to have access to a system that is closed, secretive, confidential, and essentially unaccountable except in the most egregious cases of failure. I’ve had a first-hand look into this system by representing a young couple who were told they would not be considered as prospective adoptive parents of two young sibling foster children who they knew well and loved and they wanted to adopt, and a foster mom who challenged the wisdom of moving an infant she had parented since birth to another temporary foster home.

My foray into the closed court system was eye-opening. As an outsider advocating for clients whose caregiver status makes them outsiders as well, since they are not “parties” to the actions, I encountered resistance by the court and the parties to my clients even being heard. There are very clear, relatively new laws that recognize the importance of, and encourage participation and input by non-parties who may have valuable information about a foster child. But, as with many things new, change can be difficult to accept, especially in the context of a closed - confidential - forum. And, this confidentiality, together with the court’s position of having to rely on the system to provide it with the expertise it needs to make the right decisions, makes the job of all the participants more complex and difficult.

Armed with the law and child development expertise provided through the Advokids’ network, we raised the level of advocacy in the juvenile courtroom. I wish I could tell you my efforts in both of these cases resulted in courtroom victories for me, and a happy ending for all the children. In the first case, we fought hard just to be heard by the court, and then our efforts were apparently only successful in securing a permanent home by adoption by the children’s foster mother, not by my clients. And it is far from clear that the announced adoption has taken place; the last indication I saw from the court is that those children, who my clients were fighting to adopt are still, three years later, in “long term foster care.” I wish I knew the outcome; I don’t because it is confidential.


The second case is a different story. After fighting every step of the way, in court and through administrative hearings, we prevailed in preserving the foster child’s life long foster placement until a permanent adoptive home was secured, thus avoiding an apparently needless lateral move to another temporary home, and the potentially harmful disruption of her development.

I got a lot of satisfaction from both of these cases. Knowing now how critical it is for children 0-3 years-old to have permanence and stability in order to have healthy cognitive development, and how multiple placements can cause serious long-term emotional damage, I can see that my efforts made a real difference, for the children whose interests I advocated for, and in the way the system responded to the arguments and science I brought to the cases. It was particularly gratifying to me that even as she denied the specific relief I was seeking (which to my chagrin happened more often than I care to recall) the judge hastened to add, to the other lawyers and social workers in the court, “we all need to understand the arguments Mr. Paoli is making.”

The consequences of not helping Advokids in their mission are simply not acceptable. In a system where 50% of children 0-3 years old experience multiple foster care placements, and multiple placements decrease the chance of adoption by 32%, the gruesome facts of life facing California foster children who never find a permanent home, and “age out” of the system at 18 years old are truly frightening. Some of these facts are: 43% became homeless within one year of aging out (becoming 18); 46% never finish high school (this statistic is much higher in the Bay Area); 3% graduate from college; 50% are unemployed; 33% are on public assistance; and 10% of females and



27% of males are in jail.

One of the problems with issues like those facing foster children, and the system that protects them, is that they are so big and complicated that they are also seemingly unalterable. We find ourselves saying, "what can *we* do." The answer of this article is to do what we can - support groups like Advokids, with our money, and our time and experience. 

For more information about this valuable organization, visit them on line at www.advokids.org

SFTLA mourns the loss of our great friend, Alan Simon.

Al spent years on the Board of SFTLA helping to guide the organization, plan events and motivate our Members. He helped thousands of clients over the years achieve justice. More recently, as a mediator, he used his unique talents to sift through complex issues and encourage attorneys to settle cases. After every event for the last 10 years Al would call me to offer encouraging words. He was truly a prince among men and will be deeply missed by us all. Our condolences to Marilyn and the rest of the Simon family.



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