



Disability
Rights
Oregon



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Media Advisory for Upcoming Trial in *Wyatt B. v. Kotek*

Trial in Oregon foster care class action lawsuit to begin May 13, 2024
at Wayne Lyman Morse United States Courthouse in Eugene

Eugene, OR—Below is a media advisory for press who plan on covering the upcoming trial in Eugene for Case Number 6:19-cv-00556-AA *Wyatt B. v. Kotek*. Honorable Ann Aiken will preside over the trial.

The defendants—Governor Tina Kotek, the Oregon Department of Human Services (DHS), agency director Fariborz Pakseresht, and Child Welfare director Aprille Flint Gerner—are accused of failing to create a safe foster care system. The lawsuit seeks to transform this system by providing children the services they need to thrive and reach their full potential.

The trial is scheduled to proceed daily during the week from May 13–June 7 starting at 9:00 a.m. at the Wayne Lyman Morse United States Courthouse, located at 405 East 8th Avenue in Eugene, Oregon, between Mill and Ferry Streets. Metered parking is available on East 8th and Ferry Streets, and several small paid parking lots are nearby. Accommodations available to people with disabilities are [listed here](#).

Witnesses scheduled to take the stand during the first week include former foster youth, foster parents, and Senator Gelser Blouin. A daily witness schedule will be shared once the trial begins. Remote viewing will not be available.

Plaintiffs

Wyatt B. v. Kotek was filed in April 2019 on behalf of the named plaintiffs below. In August 2022, a federal district court granted class action status on behalf of all children in Oregon's foster care system—more than 8,000 individuals when the case was filed—and certified three

subclasses consisting of children with disabilities, children who are sexual or gender minorities, and older children who are aging out of foster care.

- **Three-year-old Wyatt**—for whom *Wyatt B. v Kotek* is named—and his 18-month-old sibling, **Noah**, were moved constantly during their first three weeks in foster care. Ultimately, DHS placed the brothers in separate foster homes. Wyatt then experienced emotional outbursts including hitting, kicking, and screaming, while Noah needed constantly held and had night terrors. DHS has acknowledged the frequent placement changes have had a “significant adverse impact on each child’s behavior.”
- **Norman** was 17 when the case was filed and has lived in at least 50 placements due to DHS’s failure to provide mental and behavioral health services. As a result, he struggles with anger issues stemming from numerous traumatic, abusive, and neglectful experiences in the system. Norman is Native American and is now at St. Mary’s—where he cannot observe his native heritage. Despite years in foster care, he has not been prepared by DHS to live on his own.
- **Kylie** was shuffled through five placements during her first two months in foster care. Just seven-years-old when the lawsuit was filed, she can act out by hurting herself, shouting, running into traffic, or pushing people away because of past traumatic experiences. Nevertheless, DHS did not connect her to appropriate services nor prepare her foster parents to support her—and it took six weeks to place her in a psychiatric facility.
- **Naomi** was 16 when the case was filed and has been in DHS custody since 2018, when she threatened suicide. Unable to find a suitable placement, DHS placed her in the Jackson Street homeless youth shelter, followed by the Youth Inspiration Program, a slightly refurbished delinquency facility. Naomi is now back at the homeless shelter—for the seventh time—and DHS has no next steps planned for her.
- **Simon** has been under DHS supervision and care for several years. Despite accusing his father of physical abuse, the 13-year-old was returned to his parents and continued to have contact with a relative in school who may have sexually abused him. To ward off his abuser, Simon came to class with feces in his pants. He was then placed in a therapeutic treatment center designed for 30- to 90-day stays—where he stayed for 15 months because DHS failed to find him a therapeutic foster home.
- **Bernard** first entered foster care at age three and has experienced flashbacks and nightmares stemming from trauma he’s endured. Just 15 years old when the case was filed, Bernard has been in 12 to 15 foster homes and seven facilities in the last five years. In addition, DHS placed him in all-girls facility despite Bernard being a transgender youth who identifies as male. He is now in a minimally refurbished juvenile detention center—secured in what was once a cell—without proper medication, therapy, or supports.
- **Unique** was nine and had been in the foster care system for two and a half years when the case was filed. She has cycled through multiple homes and Jasper Mountain—while

her health worsened—because DHS could not find a therapeutic foster home for her. Unique was eventually diagnosed with PTSD and combined type ADHD, and sent to a Montana institution, where she has been held in 4-person and 2-person holds, placed in isolation, and medicated daily with anti-psychotic and anti-epileptic medications—even though she doesn’t experience seizures.

- **Ruth** was 15 when *Wyatt B. v Kotek* was filed. After growing up in a chaotic household where she was likely sexually abused and witnessed her mother die of an overdose, she was placed in foster care and sent to different facilities with untreated emotional problems. Her lawyer was ultimately told, “DHS has NO one and NO place at this moment who will agree to care for her.” Ruth is currently in a residential facility in Iowa—where her care costs DHS \$120,450 a year.

Background

- [Class Action Complaint](#)
- [Snapshot of Oregon’s Foster Care System](#)
- [Other Case Documents and Press Releases](#)

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[Disability Rights Oregon](#) upholds the civil rights of people with disabilities to live, work, and engage in the community. Serving as Oregon’s Protection & Advocacy system since 1977, the nonprofit works to transform systems, policies, and practices to give more people the opportunity to reach their full potential.

[A Better Childhood](#) is a national nonprofit advocacy organization that uses the courts to reform dysfunctional child welfare systems around the country.

[Rizzo Bosworth Eraut PC](#) is a litigation firm with deep roots in the Pacific Northwest. We work primarily on complex civil matters representing individuals, businesses, and insurers in Oregon, Washington, California, and Idaho.

[Davis Wright Tremaine LLP](#) is an AmLaw 100 law firm with more than 600 lawyers representing clients based throughout the United States and around the world.