



Respectfully submitted,

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## MEMORANDUM IN SUPPORT

### **I. INTRODUCTION**

A temporary restraining order and preliminary injunction are needed to protect the children currently housed at an Ashland County residential facility, where staff regularly put child residents with mental illness or emotional disturbances into dangerous, harmful, and illegal physical restraints that jeopardize the children's health and safety. At various points in the last few months, staff have pinned a child face down, placed a pillow over a child's face, and held a child down by the neck and throat. Defendant, Young Star Academy, LLC ("Defendant"), owns and operates the facility, which the Ohio Department of Mental Health and Addiction Services ("Department") previously licensed as a residential facility for children and/or adolescents with severe emotional disturbances. As the owner and operator, Defendant is responsible for its residents' health and safety and for following the laws and regulations protecting those children. Defendant has repeatedly violated those laws, putting the children in its care at a continuous risk of physical harm. Thus far, Defendant's conduct has resulted in children suffering bruises, cuts, and dislocations. Without intervention from this Court, future consequences may be even worse.

In late January and early February 2021, the Department conducted multiple inspections of Mohican Young Star, in response to a complaint from a former Mohican Young Star employee. During these inspections, Department surveyors interviewed several residents and staff, and obtained and reviewed numerous documents and surveillance videos. The surveillance videos showed multiple incidents of violent and illegal physical restraints of child residents by Mohican Young Star staff. Residents reported injuries from these restraints, including a dislocated arm and cuts to the mouth. Additionally, some videos obtained by the Department have blocks of time missing. Other requested videos of documented incidents were not provided at all.

Given Defendant's dangerous and illegal behavior toward children, it is not safe to wait any longer to remove Defendant from Mohican Young Star and its child residents. The facility currently houses approximately 80 children from various Ohio counties, who are continually in danger. Since these 80 children are in the legal custody of approximately 35 different state and local agencies. The children are not free to leave, and it is not feasible to relocate all of the children quickly enough to protect them from further harm. Therefore, the immediate appointment of a receiver by the Court is the only way to effectively and immediately ensure the health and safety of the children currently trapped under Defendant's thumb.

## **II. FACTUAL BACKGROUND**

Defendant owns and operates the residential facility Young Star Academy ("Mohican Young Star"), which goes by the name "Mohican Young Star Academy." Verified Complaint, ¶¶ 4, 6, 11. Young Star is licensed to admit children, which includes people under the age of eighteen or people with mental disabilities under the age of twenty-one. Verified Complaint, ¶¶ 11-12. Mohican Young Star currently houses approximately 80 residents between the ages of approximately 12 and 18. Verified Complaint, ¶¶ 13.

On or around January 18, 2021, a former Mohican Young Star staff member contacted the Department to express concern about dangerous conditions at the facility. Verified Complaint, ¶ 14. As a result, Department surveyors inspected Mohican Young Star on January 28, 2021; February 2, 2021; and February 3, 2021 ("Inspections"). Verified Complaint, ¶ 15. These Inspections included interviews with staff, interviews with over 20 residents, document review, and surveillance footage review. Verified Complaint, ¶¶ 16-22.

The use of physical restraints and holds in residential facilities is, for good and obvious reasons, regulated. Physical restraints include "any method of physically restricting a person's

freedom of movement, physical activity, or normal use of a person's body without the use of mechanical restraint methods." Ohio Adm.Code 5122-26-16(D)(6). A "transitional hold" is a "brief physical (also known as manual) restraint of an individual face-down for the purpose of *quickly and effectively* gaining physical control of that individual, or prior to transport to enable the individual to be transported safely." (Emphasis added.) Ohio Adm.Code 5122-26-16(D)(13).

Residential facilities must use the "least restrictive, safe and effective seclusion or restraint for an individual" as determined by a person's assessed needs. Ohio Adm.Code 5122-26-16(E)(4). Ohio Adm.Code 5122-26-16(H)(3) sets forth factors to be included in the needs assessment, including age, history of trauma, and medical conditions such as asthma. Additionally, prone restraints, which are defined as "all items or measures used to limit or control the movement or normal functioning of any portion, or all, of an individual's body while the individual is in a face-down position for an extended period of time" and "may include either physical (manual) or mechanical restraint," are strictly prohibited. Ohio Adm.Code 5122-26-16(E)(3)(a)(i) and Ohio Adm.Code 5122-26-16(D)(8).

Restraints can only be used "in response to a crisis situation, i.e., where there exists an imminent risk of physical harm to the individual or others, and no other safe and effective intervention is identified." Ohio Adm.Code 5122-26-16(E)(1). When a transitional hold is used, "[t]he weight of the staff shall be placed to the side, rather than on top of the individual. No transitional hold shall allow staff to straddle or bear weight on the individual's torso while applying the restraint, i.e. no downward pressure may be applied that compromise[s] the individual's ability to breathe." Ohio Adm.Code 5122-26-16(E)(3)(b)(ii). Soft devices, like pillows or blankets, shall not be used during transitional holds since "such a device may restrict the individual's ability to breathe." Ohio Adm.Code 5122-26-16(E)(3)(b)(iv).

During the Inspections of Mohican Young Star, Department surveyors uncovered evidence of dangerous illegal restraints and holds being used on children at the facility. Verified Complaint, ¶ 45. Surveyors obtained and viewed surveillance video footage from the facility showing multiple incidents of physical restraint of children by Mohican Young Star staff. Verified Complaint, ¶ 45. Some of these videos have unexplained gaps or blocks of time missing. Verified Complaint, ¶ 23. In one video, for example, a child can be seen being held against a wall before the video suddenly jumps ahead about three minutes. Verified Complaint, ¶ 23. After the jump, the child can be seen on the ground. Verified Complaint, ¶ 23. *How* the child went from being pinned against the wall to being on the ground is not shown. Verified Complaint, ¶ 23. Additionally, Department surveyors were not able to obtain all of the surveillance videos they requested. Verified Complaint, ¶ 24. Surveyors requested videos of some additional restraint incidents documented in Defendant's files, but Defendant either did not or could not provide the videos requested. Verified Complaint, ¶ 24. Additionally, Mohican Young Star staff training materials obtained by Surveyors demonstrated measures that constitute an illegal prone restraint. Verified Complaint, ¶ 44.

The Department's inspection uncovered surveillance video and supporting documentary evidence of dangerous, illegal restraints of four different children in December 2020 and January 2021.<sup>1</sup> Verified Complaint, ¶ 45. On or around January 8, 2021, Mohican Young Star staff illegally restrained child Resident 1 for approximately 18 minutes in a way that threatened his health and safety, despite Resident 1 ceasing physical resistance several minutes before being released. Verified Complaint, ¶ 45(A). The incident, which was physically instigated by Mohican Young Star staff member Z. McWilliams, resulted in Resident 1 being put in a prone restraint where he was forced to lay face down for an extended period of time while at least one staff member laid on

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<sup>1</sup> Resident names have been removed for confidentiality and safety reasons.

top of his torso. Verified Complaint, ¶ 45(A). Additionally, during the restraint hold, McWilliams placed his arm on Resident 1's throat/neck area for an extended period of time. Verified Complaint, ¶ 45. A staff member also pulled, stretched, and twisted Resident 1's arm. Verified Complaint, ¶ 45. When interviewed, Resident 1 described the restraint as "very painful." Verified Complaint, ¶ 45.

On or around January 20, 2021, Mohican Young Star staff illegally restrained child Resident 2 for approximately 28 minutes in a way that threatened Resident 2's health and safety, despite Resident 2 ceasing physical resistance several minutes before being released. Verified Complaint, ¶ 45(B). Despite Defendant knowing that Resident 2 had a history of asthma and breathing difficulties, surveillance video shows a staff member holding a sweater or jacket over Resident 2's face for several minutes during the incident. Verified Complaint, ¶ 45(B). Resident 2 reported arm injuries as a result of the restraint, and described Mohican Young Star's use of restraints as "awful" and "very painful." Verified Complaint, ¶ 45(B). Resident 2 also reported suicidal thoughts and a recent successful self-harm attempt. Verified Complaint, ¶ 45(B).

On or around December 4, 2020, four Mohican Young Star staff members illegally restrained child Resident 3 in a "supine" (face upward) position for approximately 13 minutes. Verified Complaint, ¶ 45(C). Resident 3 reported a sore shoulder after the incident and presented with a bump on his head. Verified Complaint, ¶ 45(C). When interviewed by a Department surveyor, Resident 3 reported that, throughout the incident, staff member Marlon Goolsby continually applied pressure to Resident 3's shoulder, which was previously dislocated in another restraint incident. Verified Complaint, ¶ 45(C). Video surveillance footage shows staff members using a pillow on Resident 3 during the incident. Verified Complaint, ¶ 45(C). During his interview, Resident 3 reported that a staff member covered his face with a jacket or pillow during

the incident. Verified Complaint, ¶ 45(C). Defendant knew that Resident 3 uses an inhaler and has a documented history of trauma related to fears of restraints and being touched. Verified Complaint, ¶ 45(C). Defendant documented this fear as a “contraindication” to physical correction of Resident 3 and specifically noted this fear and trauma caused issues with Resident 3’s breathing. Verified Complaint, ¶ 45(C).

On or around January 2, 2021, child Resident 4 was illegally restrained by four Mohican Young Star staff members in a “supine” position for approximately 30 minutes. Verified Complaint, ¶ 45(D). Video surveillance footage shows staff members using a pillow on Resident 4 during the restraint. Verified Complaint, ¶ 45(D). Just one day later, Mohican Young Star staff held Resident 4 in yet another dangerous restraint. Verified Complaint, ¶ 45(E). Staff members held Resident 4 in a “supine” position for approximately 15 minutes. Verified Complaint, ¶ 45(E). After the incident, Resident 4 had a bruised right knee and reported to Mohican Young Star, and later to a Department surveyor, that he cut his cheek during the incident and lost a bracket for his braces. Verified Complaint, ¶ 45(E). During his interview with Department surveyors, Resident 4 also reported that a staff member pressed his fist against Resident 4’s cheek and used his fist and forearm against Resident 4’s neck during the restraint. Verified Complaint, ¶ 45(E). Resident 4 also reported that in prior incidents, staff members painfully twisted his arm during restraints. Verified Complaint, ¶ 45(E).

In addition to these specific instances, multiple children independently reported to the Department that Mohican Young Star staff routinely twisted their arms and/or shoulders while applying physical restraints, causing the children physical pain. Verified Complaint, ¶ 46. Multiple children also independently reported that most physical restraint incidents occur outdoors and/or outside of the range of surveillance cameras. Verified Complaint, ¶ 47. The children stated that the

off-camera restraints were more severe than the on-camera restraints, with one child even stating “if they catch you off camera, it’s over with.” Verified Complaint, ¶ 47. Many children also independently reported that the only way to file a grievance was to ask a Mohican Young Star staff, which several children feared would make them targets for retaliation. Verified Complaint, ¶ 51.

Although the incidents discovered during the Department’s recent inspections are the most egregious events the Department has yet uncovered involving restraints at Mohican Young Star, they are not the first time the Department has noted concerns regarding the use of physical restraints at the facility. The Department previously cited Mohican Young Star for violations of restraint-related regulations in 2018 and 2019. Verified Complaint, ¶¶ 52-53. Rather than remedying those violations, as the Department demanded, Defendant allowed the situation at Mohican Young Star to devolve to the point that its child residents were put at serious health and safety risk in the incidents described above, with multiple children subjected to restraints that caused them physical pain and threatened their ability to breathe. Verified Complaint, ¶ 54.

The Director has considered all available legal remedies for this risk, including licensure revocation and injunctive relief. Verified Complaint, ¶¶ 56-63. Due to the timing delays inherent in the other forms of available relief, receivership is the Directors’ only available remedy to stop the immediate and dangerous risk to the young residents of Mohican Young Star. Verified Complaint, ¶¶ 56-63.

### **III. LAW AND ARGUMENT**

To protect the health, safety and welfare of the children living at Mohican Young Star, the Director is entitled to an immediate order appointing a receiver, specifically Wingspan Care Group, to take possession of and operate Mohican Young Star and ultimately wind-down

operations at the facility. Pursuant to her statutory obligation under R.C. 5119.342(D) to assist the Court in identifying eligible receivers, the Director has contacted multiple operators throughout the State of Ohio, and believes at this time that Wingspan Care Group is the only person capable of immediately and smoothly taking control of the facility. Verified Complaints, ¶¶ 64-69. The children currently living at Mohican Young Star face a substantial and immediate risk to their health and safety as long as Defendant is permitted to operate the facility. Defendant and Defendant's staff have continually disregarded the laws on restraints and holds, including prohibitions on face-down "prone" restraints and airway restrictions, putting their youth residents at an unacceptable safety risk.

The safety of these children cannot be assured as long as Defendant is permitted to operate Mohican Young Star. Therefore, the Director is entitled to the immediate appointment of a receiver to operate the facility in Defendant's stead, pursuant to R.C. 5119.342(B). Additionally, even if the Director was not statutorily entitled to such relief, she would be entitled to such relief under the traditional principles of equity considered under Civ.R. 65, as the Director has no other adequate remedy at law and the relief she requests will serve the children at Mohican Young Star and the public without harming any third parties. Accordingly, the Court should grant the Director's motion for a temporary restraining order and preliminary injunction and immediately appoint Wingspan as receiver of Mohican Young Star.

**A. The Director is entitled to preliminary injunctive relief pursuant to R.C. 5119.342, due to the present danger to the health and safety of child residents.**

"Under established Ohio law, 'when a statute grants a specific injunctive remedy to an individual or to the state, the party requesting the injunction need not aver and show, as under ordinary rules in equity, that great or irreparable injury is about to be done for which he has no adequate remedy at law.'" *Ohio Dept. of Jobs & Family Servs. v. Ohio Wilderness Boys Camp*,

2015-Ohio-2331, 37 N.E.3d 771, ¶ 10 (7th Dist.2015), quoting *Ackerman v. Tri-City Geriatric & Health Care, Inc.*, 55 Ohio St.2d 51, 56, 378 N.E.2d 145 (1978). In particular, “injunctions which authorize a governmental agent to sue to enjoin activities deemed harmful by the General Assembly are not designed primarily to do justice to the *parties* but to prevent harm to the general public.” (Emphasis sic.) *Ackerman* at 57. Accordingly, the Director need only show that the statutory requirements for the injunction are satisfied. *Id.* (recognizing that “statutory actions granting governmental agents the right to sue for injunctive relief have a purpose different from equitable actions” and “should issue if the statutory requirements are fulfilled”).

The General Assembly has specifically authorized the Director so seek the immediate appointment of a receiver to operate a licensed residential mental health facility “when conditions existing at the residential facility present a substantial risk of physical or mental harm to residents and no other remedies at law are adequate to protect the health, safety, and welfare of the residents.” R.C. 5119.342(A). Ordinarily, the Court must provide a hearing on the petition within five days of the time of filing, but “the [C]ourt may appoint a receiver prior to that time if it determines that the circumstances necessitate such action” R.C. 5119.342(B). The dangerous circumstances surrounding the helpless children at Mohican Young Star necessitate such immediate action in this case.

Ohio law grants the Court broad latitude to take the immediate action necessary to protect the children at Mohican Young Star by appointing a receiver. *See, e.g., State ex re. Burkhardt v. Brown*, 7th Dist. Mahoning No. 87 C.A. 156, 1988 Ohio App. LEXIS 2656, \*9-10 (June 30, 1988). The Court should exercise that latitude. In multiple instances, video evidence shows Mohican Young Star staff using illegal and dangerous restraints on children, including placing arms on the children’s throats or otherwise restricting airways. Defendant’s willingness to continually allow

staff to illegally and harmfully restrain children, despite previous warnings about restraint practices, shows that there is a present danger to the children still residing at Mohican Young Star. Given the immediacy of the danger to the child residents and the inherent delays in any other legal relief, the Director asks for the immediate relief of the appointment of a receiver, and has taken the initiative of identifying Wingspan as a receiver immediately capable of taking over the facility—continuing to care for the children therein while protecting them from further abuse. The Court need only grant this relief to ensure the safety of these children.

**B. The Director is entitled to preliminary injunctive relief under Civ.R. 65.**

Because the Director is statutorily entitled to immediate statutory relief pursuant to R.C. 5519.342, the Director need not satisfy the elements for injunctive relief pursuant to Civ.R. 65. *Ohio Wilderness Boys Camp* at ¶ 10; *Ackerman* at 56. However, even if the Court applies a Civ.R. 65 analysis, the Director is still entitled to a temporary restraining order and preliminary injunction immediately appointing a receiver to take charge of Mohican Young Star.

When deciding whether to issue a preliminary injunction under Civ.R. 65, Ohio courts consider four factors: (1) whether there is a substantial likelihood that plaintiff will prevail on the merits; (2) whether plaintiff will suffer irreparable injury if relief is not granted; (3) whether the requested relief will harm third parties; and (4) whether the requested relief will serve the public interest. *Thomson v. Ohio Dept. of Rehab. & Corr.*, 10th Dist. Franklin No. 09AP-782, 2010-Ohio-416, ¶ 23; *Island Express Boat Lines, Ltd. v. Put-In-Bay Boat Line Co.*, 6th Dist. Erie No. 2007-Ohio-1041, ¶ 92. No single factor is dispositive, but rather, courts balance the four factors “with the flexibility inherent to the laws of equity.” *Toledo Police Patrolman’s Assn. Local 10 v. City of Toledo*, 127 Ohio App.4d 450, 469, 713 N.E.2d 78 (6th Dist.1998); *see also Cleveland v. Cleveland Elec. Illuminating Co.*, 115 Ohio App.3d 1, 14, 684 N.E.2d 343 (8th Dist.1996). In this

case, all four factors favor issuing a temporary restraining order and preliminary injunctive relief immediately appointing a receiver for Mohican Young Star.

**1. The Director is substantially likely to prevail on the merits.**

The Director is substantially likely to prevail on the merits of this case because there is clear evidence showing present risk to the health and safety of the children at Mohican Young Star. The Director is entitled to appointment of receivership upon such a showing, pursuant to R.C. 5119.342(A).

Video evidence, along with supporting documentation such as incident reports showing injuries to children and an apparent disregard for abusive practices, shows the risks children face while living at this facility. These children are essentially at the mercy of Mohican Young Star staff, lacking the freedom or ability to leave at will. In interviews with Department surveyors, residents reported that even worse things happen to them outside the cameras' views. Each day that children stay in this facility is another that a child may be placed in an illegal and dangerous restraint, which might injure them or worse. Accordingly, the Director is entitled to a temporary restraining order and injunction, as she is substantially likely to prevail on the merits of her claim.

**2. The Director will suffer irreparable injury if relief is not granted.**

The Director's interests will be irreparably harmed if the Court does not grant a preliminary injunction. In the context of a preliminary injunction, "irreparable harm" is harm "for which there is no plain, adequate, and complete remedy at law, and for which money damages would be impossible, difficult, or incomplete." *Keefer v. Ohio Dept. of Job & Family Servs.*, 10th Dist. Franklin No. 03AAP-391, 2003-Ohio-6445, ¶ 17, citing *Cleveland v. Cleveland Electric Illuminating Co.*, 115 Ohio App.3d 1, 12, 684 N.E.2d 343 (8th Dist.1996). The exact nature of the irreparable harm is case specific. *Cleveland Electric Illuminating* at 13.

In this case, the irreparable harm to the Director is the continued hampering of the Director's ability to protect the children at Mohican Young Star. Protecting residents of licensed mental health facilities is one of the Director's paramount legal duties. R.C. 5119.10(B)(5), 5519.34. The Director carries out this duty by establishing and enforcing health and safety standards for residential facilities. R.C. 5119.34(L); Ohio Adm.Code Chapter 5122-30. Ordinarily, the Director can vindicate her interest in protecting the residents of residential mental health facilities by revoking a facility's license through the administrative process established by R.C. Chapter 119. *See* R.C. 5119.34(L)(2). However, this case is not ordinary and the Director's administrative remedy is not adequate.

The administrative remedy requires following the R.C. 119 process, including sending out certified notices, waiting for a hearing request, and scheduling an administrative hearing. R.C. 119.07. This is followed by the hearing examiner taking time to complete his or her report and recommendation after observing the potentially multi-day hearing, giving Defendant the chance to object, and sending everything to the Director for a final adjudication order. R.C. 119.09 This entire process could take months, but there are children at risk for further harm now. The administrative revocation process will not protect those children immediately facing the risk of further improper, illegal, and harmful restraints and the physical and mental health and safety risks those entail, including the possibility of choking or suffocation, physical injuries, and psychological trauma.

Additionally, the injunctive relief available to the Director pursuant to R.C 5119.34(N) will not vindicate the Director's interest in immediately protecting the children at Mohican Young Star. Pursuant to R.C. 5119.34(N), the Director can seek injunctive relief requiring Defendant to immediately cease operating Mohican Young Star as a residential facility. While this solution may

protect the children at Mohican Young Star from further dangerous and abusive restraints, it is likely to create an alternative risk to the children's physical or mental well-being—the need to immediately relocate the children to another licensed residential facility.

The 80 children at Mohican Young Star are, between them, in the legal custody of approximately 35 different state or county agencies. Verified Complaint, ¶ 61. If Mohican Young Star is required to shut down, each of those 35 agencies must find a new placement that satisfies the mental and emotional health needs of its children. If an agency is unable to find a suitable placement for a child, the child may be placed in a temporary arrangement before being moved yet again. Requiring teenagers with mental and emotional health needs to frequently and abruptly relocate may present its own challenges to their mental health. Instead of requiring the guardians of each child find to find a new residence on short notice—and hope for the best—the Director is able to bring help to them *now*. Once the children are under the protection of a responsible receiver, the Department can then assist the various custodial agencies in finding suitable placements for each child in a safe, responsible manner that is sensitive to each child's needs. Thus, the immediate appointment of a receiver for Mohican Young Star is best way of avoiding irreparable harm to the children and to the Director's interest in protecting them.

**3. The injunctive relief will benefit third parties and serve the public interest.**

Granting the Director's request for a temporary restraining order and preliminary injunctive relief will not harm third parties. To the contrary, it will benefit the third parties most directly affected by the injunction—the children who are forced to live at Mohican Young Star. These are all children and/or adolescents with severe emotional disturbances who require at least some assistance to safely and healthfully live their daily lives. Currently, they rely on Defendant for that assistance. This reliance puts them at risk and leaves them vulnerable. The continued illegal and

harmful restraints of young residents by staff members strongly suggests that the remaining residents are not safe at Defendant's facility.

If the Court grants the Director's request for the immediate appointment of Wingspan as receiver, Wingspan, the Department, and the various state and county entities that have custody of these children can work together to make sure the children will be safe and cared for. Relatedly, an injunction will protect unknown third parties by preventing Defendant from admitting any additional residents in the custody of unsuspecting state or county agencies, since Defendant evidently cannot be trusted to follow the law or protect the children it houses from harm. Accordingly, the requested injunctive relief will benefit third parties.

The injunction will also serve the public interest. The public has a general interest in making sure that children are safely housed and cared for in their communities. The General Assembly recognized this public interest when it gave the Director the authority to petition for the appointment of a receiver of a licensed facility if the facility's residents faced a substantial risk of physical or mental harm. *See Ackerman*, 55 Ohio St.2d at 57 (finding that a statute authorizing the Director of Health to bring injunctive actions against unlicensed nursing homes reflected the General Assembly's determination that stopping unlicensed nursing homes was in the public interest). The benefit to both third parties and to the general public weighs heavily in favor of granting injunctive relief.

**C. The Director is entitled to an *ex parte* determination of the motion for temporary restraining order.**

Given the significant risks to the health and safety of the children at Mohican Young Star, the Director is entitled to a temporary restraining order *ex parte*. Civ.R. 65(A)(1) provides, in relevant part:

A temporary restraining order may be granted without written or oral notice to the adverse party or his attorney only if (1) it clearly appears from specific facts shown

by affidavit or by the verified complaint that immediate and irreparable injury, loss or damage will result the applicant before the adverse party or his attorney can be heard in opposition, and (2) the applicant's attorney certifies to the court in writing the efforts, if any, which have been made to give notice and the reasons supporting his claim that notice should not be required.

The threat of irreparable injury is amply demonstrated by the fact that Defendant is operating a facility that is putting child residents in dangerous, harmful, and illegal restraints which have resulted in injuries. The Director's counsel has not reached out to Defendant to notify it of the pending action, because the Department has immediate safety concerns for the children involved who still reside at the facility. While names are being redacted in filings, given the specificity of the incidents in question, it is likely Mohican Young Star staff will be able to identify which children have spoken up. This could put these children's security at even greater risk, particularly given that multiple children have expressed fear of retaliation for expressing grievances. Verified Complaint, ¶ 51. Additionally, remaining at this facility puts the children's health and safety at risk due to the possibility of further restraints or other physical harm. Harm to a child is far too high a price to pay for procedural delays.

#### **IV. Conclusion**

Defendant has demonstrated its disregard for the law and for the safety of the children entrusted to its care. Given the uncertainty about what may happen them while they remain under Defendant's control, the children at Mohican Young Star cannot be left unprotected. Their health and safety demand the immediate relief that only this Court can provide, which is the immediate appointment of a receiver to operate Mohican Young Star in Defendant's stead. It is fortunate that Defendant's dangerous conduct, such as pinning children in prone restraints with multiple adults laying on top of them or putting items over their faces during restraints has not yet resulted in even more significant injuries or the loss of a child's life. However, fortune does not last forever. Leaving children at a facility where "if they catch you off camera, it's over with" too great a risk

to leave to chance. The Director has already identified a safe alternative that does not require 35 counties to immediately uproot and hope to find beds for 80 children with mental or emotional disturbances. The immediate risk to the children can be eliminated by a transference of the facility to a receivership operated by Wingspan. All that remains is for the Court to immediately issue such a receivership and protect the children remaining at this facility, before another child is harmed, or worse.

Respectfully submitted,

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