

# Parents sue Govt for 'unlawful removal' of daughters over gluten complaint

## NEWS

**EXCLUSIVE** | An Adelaide couple is suing the State Government for the “unlawful removal” of their daughters by child protection workers, claiming the girls were wrongly taken from them because authorities believed the parents had “fabricated” a gluten intolerance condition.



File image

The girls were returned to their mother and father five months later, after then-Independent Senator Nick Xenophon intervened.

The parents are seeking \$100,000 in damages for “malicious prosecution”, mental harm and negligence, saying the girls were removed on “flawed medical evidence”.

*InDaily* can't identify the family for legal reasons.

The mother and father say the Child Protection Department took their young daughters in April 2017 without explanation, after a kindergarten made a complaint about one of the girls being placed on a gluten free diet “without cause”.

The parents’ statement of claim, lodged in the District Court, says the next day they received paperwork explaining that authorities considered the girl’s symptoms had been “fabricated” and “could not be substantiated” by checks with doctors.

However, the parents say their daughter had undergone a coeliac disease auto antibodies blood test two years earlier which returned a result that coeliac disease “cannot be excluded”.

The parents say the girl was then referred to a paediatric gastroenterologist who diagnosed her with “non-coeliac gluten intolerance”, so she was placed on a gluten free diet “as per the recommendations” of the specialist.

“Despite being diagnosed with suffering non-coeliac gluten intolerance..., the (department) proceeded with removing the children on the basis that the (parents) had fabricated (the girl’s) symptoms,” the claim says.

It says that a doctor at the Women’s and Children’s Hospital had formed the view that the diagnosis was “fabricated” and that the girl’s “psychological well-being would be significantly compromised by such fabrication”.

The parents also claim the Child Protection Department had given that doctor “incorrect information” that the mother had previously been found guilty of aggravated assault causing serious harm – but “such statement was incorrect”.

They say that “incorrect information” had, in part, influenced the doctor’s opinion that the children should be removed.

The claim says the doctor ordered a vitamin D blood test for the girl but “at no time was a test sought to confirm the diagnosis” of non-coeliac gluten intolerance.

“Had (the doctor) performed a coeliac disease auto antibodies blood test the findings of (the girl’s specialist) would have been corroborated,” the claim says.

“At this point the prosecution became malicious.”

The parents say they were advised by the department that the girl was placed back on a gluten diet based on the results of the blood test performed by the Women’s and Children’s Hospital doctor.

They say they were never given these results despite repeated requests from their lawyer.

“Had the test results... been disclosed to the (parents), it would have shown that no tests had been performed regarding (the girl’s) gluten intolerances and that the children were taken... in the absence of any contemporaneous medical evidence,” the claim says.

The parents say child protection workers were aware or should have been aware that food containing gluten caused the girl to “suffer from constant vomiting, blistering, bruising, bloating and sleepiness”.

According to the claim, another doctor ordered blood tests a few months later due to the girl's deteriorating condition and the results "indicated a high possibility of a diagnosis of coeliac disease".

The parents say that doctor later noted that the girl's symptoms were "characteristics of gluten intolerance symptoms" and he wrote to the Women's and Children's Hospital doctor suggesting that the girl be placed back on a gluten free diet.

The claim says "despite being in possession of evidence supporting the requirement for a gluten free diet", the department persisted with its legal action for the removal of the children.

Authorities did eventually return the girl to a gluten free diet, after requests from a doctor and the parents' lawyer.

In September 2017 – five months after the girls' removal from their parents – then-Independent Senator Nick Xenophon wrote to then-Minister for Education and Child Development Susan Close, "requesting the urgent review" of the order against the parents.

Two weeks later, the girls were returned to their mother and father.

The parents argue their children were removed from their care "based on flawed medical evidence", and as a result the parents have "suffered injury, damage, harm and/or loss".

Close – now the State Opposition's Deputy Leader – told *InDaily* that "no children are returned to parents by Child Protection because a politician writes a letter".

"But it is possible that material information can be provided by a third party that is of use to the court and the department," she said.

"Removal of children requires a court order and the minister has no direct role in that process.

"This case is now before the courts so it wouldn't be appropriate for me to give any more detail, even if I had it four years later."

Child Protection Minister Rachel Sanderson declined to comment.

A spokesperson for the Child Protection Department said the department was "aware of the matter and our involvement with the family concluded in 2017".

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"We cannot comment any further, due to there being current legal proceedings (civil) that remain unresolved," the spokesperson said.

The spokesperson added that “in any situation where there are reasonable grounds to suspect a child or young person has suffered serious harm, or is at significant risk of suffering serious harm, the department must meet requirements under the Children and Young People (Safety) Act 2017 to ensure that child or young person is protected from harm”.

“All such matters are heard before the Youth Court,” the spokesperson said.

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