

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WISCONSIN

CHELSEA TORRES, et al.,

Plaintiffs,

v.

Case No. 3:15-cv-288-bbc

KITTY RHOADES,

Defendant.

AFFIDAVIT OF MAURA FJ WHELAN

STATE OF WISCONSIN)
) ss.
COUNTY OF DANE)

MAURA FJ WHELAN, being first duly sworn, on oath deposes and states as follows:

1. I am employed by the Department of Justice of the State of Wisconsin as an Assistant Attorney General. I have been employed by the Department of Justice since 1999. I am one of the attorneys representing defendant Kitty Rhoades, Secretary of the Department of Health Services of the State of Wisconsin (DHS), in this case.

2. Plaintiffs Chelsea and Jessamy Torres served their complaint on Secretary Rhoades on May 15, 2015 (Dkt. 10). Accordingly, her Answer was due for filing on June 5, 2015. *See* Fed. R. Civ. P. 12(a)(1)(A)(i).

3. As the Answer deadline approached, I contacted the Torres counsel to ask if they would object to a brief extension of the Answer deadline because Rhoades was hoping to settle the case with the Torreses in a negotiated settlement. I did not suggest what the settlement offer would be, but DHS would eventually agree to offer A.T. a two-parent birth certificate.

4. The Torres counsel did not object to the extension request. On June 4, 2015, on behalf of Secretary Rhoades, I filed a motion for a one-week extension to file the Answer (Dkt. 14). In both the motion and the accompanying affidavit, I explained on behalf of Secretary Rhoades that we were considering pursuing a negotiated settlement with the Torreses (Dkt. 14; 15).

5. The same day that I filed the extension motion, plaintiffs filed a First Amended Class Action Complaint for Declaratory and Injunctive Relief and a Motion for Class Certification (Dkt. 11; 12).

6. The class action motion made our plan to settle the case by supplying A.T. with a two-parent birth certificate effectively moot.

Nevertheless, on June 9, 2015, I told the Torres counsel that DHS was prepared to give A.T. a two-parent birth certificate. The case did not settle.

7. On July 28, 2015, I, with my co-counsel Brian P. Keenan, had a teleconference with the Torres counsel. On behalf of Secretary Rhoades, we offered to settle the birth certificate question with respect to all same-sex couples who had complied with the requirements of Wis. Stat. § 891.40(1) by giving two-parent birth certificates to their children. The case did not settle.

s/Maura FJ Whelan
MAURA FJ WHELAN

Subscribed and sworn to before me
this 2nd day of October, 2015

s/Winn S. Collins
Winn S. Collins
Notary Public, State of Wisconsin
My Commission expires: ***Permanent***

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