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**CONCISE STATEMENT OF REASONS**  
**SUPPORTING PROPOSED INTERVENOR DEFENDANTS' POSITION**

Plaintiffs have not demonstrated that they meet any of the four requirements for preliminary injunctive relief. (1) Plaintiffs will not succeed on the merits of their Free Exercise claim because St. Vincent Catholic Charities (“STVCC”) voluntarily entered the public sphere to perform taxpayer-funded child welfare services for the State—and, in doing so, voluntarily executed a contract containing a non-discrimination provision. That provision, and the settlement agreement in *Dumont v. Gordon* requiring the State to retain and enforce such a provision without exception, do not violate Plaintiffs’ Free Exercise rights. To the contrary, they are neutral policies that apply to all state-contracted agencies, regardless of any agency’s rationale for breaching its contract with the State. Plaintiffs’ Free Speech claim will not succeed because, in choosing to carry out government services under contract with the State, STVCC is not engaging in private speech. Plaintiffs’ claims cannot succeed because the relief requested—an injunction requiring the State to permit contracted agencies providing public child welfare services on its behalf to use religious criteria to exclude prospective foster and adoptive families headed by same-sex couples—would violate the Establishment and Equal Protection Clauses. (2) Plaintiffs have not demonstrated that they would suffer irreparable harm in advance of trial, which, subject to the Court’s schedule, should occur quickly given the largely duplicative discovery already completed in *Dumont*. (3) The balance of the equities favors allowing the State to enforce its contract, as required by the *Dumont* settlement “so ordered” by the *Dumont* Court. (4) As demonstrated by the expert and lay testimony attached hereto, the requested injunction would harm children by permitting State-contracted agencies to turn away qualified prospective parents.

## PRELIMINARY STATEMENT

This suit seeks to unravel the relief obtained by Kristy Dumont, Dana Dumont, Erin Busk-Sutton and Rebecca Busk-Sutton (the “*Dumont* Plaintiffs”) in their suit against Robert Gordon and Jennifer Wrayno (the “State Defendants”).<sup>1</sup> The *Dumont* Plaintiffs filed suit under the Establishment and Equal Protection Clauses of the United States Constitution to enjoin Michigan’s apparent practice of permitting State-contracted, taxpayer-funded child placing agencies (“CPAs”), operating as part of the State’s public child welfare system, to use religious criteria when selecting foster and adoptive parents for wards of the State. Specifically, some CPAs were unwilling to accept same-sex couples, including the Dumonts, who were turned away by one of the plaintiffs here, St. Vincent Catholic Charities (“STVCC”).

The Plaintiffs in this action (the “*Buck* Plaintiffs”) moved to intervene in *Dumont v. Gordon*, 2:17-cv-13080-PDB-EAS (E.D. Mich.) (“*Dumont*”) to defend the use of religious eligibility criteria by state-contracted agencies, and the *Dumont* Court (Borman, J.) granted their motion to intervene. Plaintiffs participated fully in the motions to dismiss and both fact and expert discovery. In their motion to dismiss in *Dumont*, the *Buck* Plaintiffs raised the same arguments on which they rely here: that the Free Exercise and Free Speech Clauses compel the State of Michigan to enter into a contract with STVCC, place its wards in STVCC’s care, refrain from enforcing the contract’s non-discrimination requirement, and condone the use of religious

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<sup>1</sup> Jennifer Ludolph was also a plaintiff in *Dumont*, but her claims were dismissed for lack of taxpayer standing. The defendants in *Dumont* were Nick Lyon, in his official capacity as the Director of the Michigan Department of Health and Human Services, and Herman McCall, in his official capacity as the Executive Director of the Michigan Children’s Services Agency; Gordon and Wrayno succeeded Lyon and McCall, respectively, and were substituted in *Dumont* earlier this year by operation of law. JooYeun Chang has since succeeded Wrayno and therefore has “automatically” replaced McCall as a defendant in this action by operation of Fed. R. Civ. P. 25(d). Throughout this brief, “State Defendants” refers to the officials holding these two positions at the pertinent time.

criteria by STVCC to exclude prospective foster and adoptive families for those children. In an opinion denying in pertinent part the motions to dismiss, Judge Borman “[was] unconvinced that St. Vincent can prevail on a claim that prohibiting the State from allowing the use of religious criteria by [CPAs] hired to do the State’s work would violate St. Vincent’s Free Exercise or Free Speech rights.” *Dumont v. Lyon*, 341 F. Supp. 3d 706, 749 (E.D. Mich. 2018). The Third Circuit reached a similar conclusion last month, affirming a district court’s denial of a request to preliminarily enjoin Philadelphia’s enforcement of its non-discrimination policy for government-contracted foster care agencies and rejecting Free Exercise and Free Speech claims of an agency unwilling to accept same-sex couples for religious reasons. *Fulton v. City of Philadelphia*, 922 F.3d 140, 165 (3d Cir. 2019).

After substantial discovery, the *Dumont* Plaintiffs and the State Defendants reached a settlement in which the State agreed to enforce its contracts’ non-discrimination requirements, and the Court dismissed the case with prejudice “pursuant to the terms of the Settlement Agreement,” noting that “[t]he Court retains jurisdiction over the enforcement of the Settlement Agreement.” *Dumont*, ECF No. 83, PageID.1469. Rather than lodging any objection or challenge to the Settlement Agreement, the *Buck* Plaintiffs fled to a new venue, filed a do-over lawsuit, and urged this Court to enter a preliminary injunction that would effectively vacate the Settlement Agreement and require the State of Michigan to enter into a contract that authorizes discrimination against qualified foster and adoptive parents, undermining the best interests of children.

The *Buck* Plaintiffs have failed to prove that they meet any of the four requirements for a preliminary injunction. *First*, they have not shown a likelihood of success on the merits. Like in *Fulton*, Plaintiffs cannot prevail on their Free Exercise claim because the

Constitution does not empower organizations accepting taxpayer dollars to provide government services unilaterally to dictate the terms of their contract with the State, and because the contracts' non-discrimination provision is a neutral, generally applicable policy which governs the actions of all State contractors that provide public child welfare services. Plaintiffs will further be unable to show that STVCC's provision of services for the children the State commits to its care—including conducting home studies and certifying families—is private speech, rather than fulfillment of its obligations as a State contractor providing a government service.

The *Buck* Plaintiffs' claims also fail on the merits because the Establishment and Equal Protection Clauses bar the relief they seek. The *Buck* Plaintiffs seek an injunction compelling the State to permit State-contracted CPAs to use religious criteria to exclude prospective foster and adoptive families headed by same-sex couples. That would violate the Establishment Clause by allowing agencies to whom the government has delegated a public function to use religious criteria in carrying out that function and by objectively appearing to endorse certain religious beliefs. Moreover, the practice would deny to same-sex couples the full array of rights incident to marriage, in violation of the Equal Protection Clause.

*Second*, the *Buck* Plaintiffs have not demonstrated a likelihood that they will suffer irreparable injury absent injunctive relief. Since Plaintiffs have not shown a likelihood of success on the merits, they cannot point to their alleged constitutional injuries as irreparable harm. Moreover, given the largely duplicative issues in *Dumont*, where discovery was complete except for depositions, this case could proceed swiftly to trial. There is no evidence Plaintiffs would suffer irreparable harm in the interim.

Moreover, the *Buck* Plaintiffs had multiple opportunities in *Dumont* to address any alleged irreparable harm by opposing the settlement reached in that case. Having elected to

forgo raising their alleged harm months ago, they have demonstrated by their own actions a lack of irreparable injury and should not be permitted to seek a preliminary injunction now.

*Finally*, the balance of the equities and the public interest weigh heavily against granting this injunction to compel the State to permit discrimination in its public child welfare program. As reflected in the expert report submitted in *Dumont* by child welfare expert Dr. David M. Brodzinsky, “child welfare policies and practices that allow the exclusion of families willing and able to foster and adopt these vulnerable children do not serve the interests of these children or society in general.” Ex. A, Expert Report of David M. Brodzinsky, Ph.D. (“Brodzinsky Rpt.”), ¶ 26. And, the record in the *Dumont* action makes clear that discrimination causes real harms. *See, e.g.*, Ex. B, Declaration of Katie Page Sander (“Sander Decl.”) ¶ 17 (former Program Manager of statewide Foster Care Navigator Program, recalling incident in which an agency “refused to work with [a same-sex couple] [and] [t]he family was so discouraged that they decided not to call another agency”); *see also* Brodzinsky Rpt., ¶¶ 34-37 (explaining how discrimination by state-contracted agencies deters same-sex couples’ participation in the foster care system).

Because Plaintiffs have not satisfied any of the factors considered by courts in granting preliminary relief, this Court should not now compel the State to permit discrimination by State contractors using public funds.

## **BACKGROUND**

### **A. Michigan’s Child Welfare System**

The Michigan Department of Health and Human Services (“MDHHS”) is responsible for administering Michigan’s foster care and adoption system. This system must “promote the well-being and safety of all children who receive foster care or are adopted, . . . eliminate barriers to the adoption of children[,] and . . . promote the provision of a stable and

loving family environment.” Mich. Comp. L. § 722.953. There is an insufficient number of families for the children under the care of MDHHS, and many children remain in the system until they age out, without ever being placed in an adoptive family. *See* Brodzinsky Rpt., ¶ 30 (describing challenges faced by youth who age out).

### **B. Michigan Contracts with Private Agencies To Care for Children**

MDHHS is authorized to enter into contracts with private CPAs. *See* Mich. Comp. L. §§ 400.14f, 722.111(1)(c). MDHHS is “responsible for the development of rules for the care and protection of children” it cares for, including those assigned to private agencies, and those agencies are obligated to comply with such rules. *Id.* § 722.112(1); Mich. Admin. Code R. 400.12201 *et seq.* (rules governing child placing agencies). MDHHS and each CPA must “strive to achieve a permanent placement for each child.” Mich. Comp. L. § 722.954b. Under MDHHS’s regulations, part of a CPA’s responsibility in handling a child’s case is to recruit potential foster and adoptive parents. *See, e.g.*, Mich. Admin. Code R. 400.12304, .12706.; MDHHS’s Adoption Services Manual (“ADM”) 0400 (“Child placing agencies . . . must develop and maintain an ongoing program to recruit adoptive families for children available for adoption.”);<sup>2</sup> *see also* Ex. C., State Defendants’ Objections And Responses To [Dumont] Plaintiffs’ Amended Interrogatories, 43 (“[CPAs] must provide . . . [r]ecruitment activities, orientation, and training of prospective adoptive families focusing on meeting the needs of children available for adoption.”). MDHHS has granted CPAs substantial discretion in evaluating families and selecting appropriate placements for children. *See* Mich. Admin. Code R.400.12310, .12404, .12605, .12709. Once a CPA accepts MDHHS’s referral for a child’s case, it receives taxpayer dollars to carry out services for the child under the State contracts, including

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<sup>2</sup> Available at [DHHS.michigan.gov/OLMWEB/EX/AD/Public/ADM/0400.pdf](https://dhhs.michigan.gov/OLMWEB/EX/AD/Public/ADM/0400.pdf).

identifying and recruiting potential foster and adoptive parents and assisting them through the licensing process. (See ECF No. 6-8, PageID.302-303; ECF No. 6-9, PageID.344.)

Usually, CPAs choose families for children under their care from the roster of families they have recruited and licensed. See Sander Decl. ¶ 11. In some cases, the CPA will list that child on the Michigan Adoption Resource Exchange (“MARE”) website to recruit families more broadly.<sup>3</sup> When placing a child through MARE, the child’s CPA must still make a “determination . . . that the MARE potential family ‘match’ is appropriate.” (ECF No. 6-8, PageID.297.)

**C. The Contracts Prohibit Agencies from Discriminating Against Prospective Parents Based on Sexual Orientation.**

The contracts between the State and *every* CPA expressly forbid discrimination on the basis of certain characteristics unrelated to the ability to care for a child—*inter alia*, religion, marital status, and sexual orientation—including with respect to “applications filed for adoption of MDHHS supervised children including MDHHS supervised children assigned to a contracted agency.” (ECF No. 6-8, PageID.297; *see also* ECF No. 6-9, PageID.326 (same).) If an agency violates its contract, including the non-discrimination provision, the State may demand compliance and, if necessary, terminate the contract under the plain terms of those agreements.

**D. The Dumont Plaintiffs Were Turned Away by State Contractors and Filed Suit.**

The Dumonts are a “prospective adoptive famil[y] . . . ready, willing, and able to provide a ‘forever family’ to children in the foster care system.” *Dumont*, ECF No. 1, PageID.2-

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<sup>3</sup> Not all children in the public child welfare system are available for adoption through MARE. Ex. D, 25.

3. The Dumonts called two CPAs and were turned away on the basis of the agencies' religious objection to same-sex couples. *Id.*, PageID.16 (STVCC "told [the Dumonts] that the agency does not work with same-sex couples."). The *Dumont* Plaintiffs filed suit in September 2017 and, thereafter, the *Buck* Plaintiffs successfully moved to intervene as defendants. *Dumont*, ECF Nos. 18, 31, 34

On defendants' motion to dismiss, the Court found that the *Dumont* Plaintiffs had stated a claim under both the Establishment and the Equal Protection Clauses. *Dumont*, 341 F. Supp. 3d 706. The Court also considered in the context of the motion to dismiss and rejected the Free Exercise and Free Speech arguments raised by the *Buck* Plaintiffs—the same arguments on which they now rely. "[T]he [*Dumont*] Court [was] unconvinced that St. Vincent can prevail on a claim that prohibiting the State from allowing the use of religious criteria by [CPAs] hired to do the State's work would violate St. Vincent's Free Exercise or Free Speech rights." *Id.* at 749. Discovery revealed significant admissions concerning the State's apparent practice of permitting (or at least not preventing) discrimination. *E.g.*, Ex. D, State Defendants' Responses and Objections to *Dumont* Plaintiffs' Requests for Admission, 15 ("[State Defendants admit that f]or at least one child in State custody, that child's family placement or adoption was delayed because a state-contracted child-placing agency was unwilling to work with or place a child with a same-sex couple due to religious reasons.").

As the parties prepared for depositions, the *Dumont* Plaintiffs and the State Defendants sought to stay the case to discuss settlement and to give DHHS and its new director adequate time to consider the implications of a settlement on the child welfare system. *Dumont*, ECF No. 74. On March 22, 2019, the *Dumont* Plaintiffs and the State Defendants executed an agreement ("Settlement Agreement"). *Dumont*, ECF No. 82. The *Dumont* Court dismissed the

case “with prejudice pursuant to the terms of the Settlement Agreement” and “retain[ed] jurisdiction over the enforcement of the Settlement Agreement . . . .” *Dumont*, ECF No. 83.

The *Buck* Plaintiffs were not party to the Settlement Agreement because the *Dumont* Plaintiffs did not seek any relief from them and the *Buck* Plaintiffs never filed any cross-claim or counterclaim. The *Buck* Plaintiffs did not act to protect their interests in *Dumont* by any procedural avenue available. They did not file cross-claims, ask to be heard by the *Dumont* Court, or raise objections to the settlement. When the *Buck* Plaintiffs filed the instant complaint, the *Dumont* action had not yet reached final judgment because the time for an appeal had not yet run. Fed. R. App. P. 4. Instead of taking any action in *Dumont* and without notifying the *Dumont* Plaintiffs, the *Buck* Plaintiffs filed a new action and now ask this Court, through a preliminary injunction, to nullify the Settlement Agreement entered by the *Dumont* Court.

#### LEGAL STANDARD

The preliminary injunction is “one of the most drastic tools in the arsenal of judicial remedies,” *Bonnell v. Lorenzo*, 241 F.3d 800, 808 (6th Cir. 2001), so it “should not be extended to cases which are doubtful or do not come within well-established principles of law.” *Id.* at 826. The movant may not rely on mere allegations, but rather has a “burden of proving that the circumstances clearly demand it.” *Overstreet v. Lexington-Fayette Urban Cnty. Gov’t*, 305 F.3d 566, 573 (6th Cir. 2002).

“The issuance of preliminary injunctive relief is committed to the discretion of the district court.” *Wills v. Dreybeck*, 2013 WL 3287986, at \*1 (W.D. Mich. June 28, 2013) (Jonker, J.). “In exercising its discretion . . . , a district court must give consideration to four factors.” *Bonnell*, 241 F.3d at 809. The “plaintiff . . . must establish [1] that he is likely to succeed on the merits, [2] that he is likely to suffer irreparable harm in the absence of preliminary relief, [3] that

the balance of equities tips in his favor, and [4] that an injunction is in the public interest.”

*Winter v. Natural Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008).

## ARGUMENT

### I. PLAINTIFFS HAVE FAILED TO DEMONSTRATE A LIKELIHOOD OF PREVAILING ON ANY CLAIMS.

#### A. Plaintiffs Will Not Prevail on Their Free Exercise Claims.

##### (1) *There is no Free Exercise right to a taxpayer-funded government contract to provide government services in accordance with one’s religious beliefs.*

The Settlement Agreement does not burden STVCC’s Free Exercise rights—nor would enforcement of the non-discrimination clause in STVCC’s contracts with MDHHS—because there is no right under the Free Exercise Clause to carry out a State function, using State funds, in accordance with one’s religious beliefs. The State’s actions have no impact on STVCC’s private activity outside of the government services it chooses to perform for the State. When STVCC is acting on the State’s behalf in “striv[ing] to achieve a permanent placement for each child in its care,” Mich. Comp. L. § 722.954b, it must comply with the terms of the contract it voluntarily executed. If STVCC does not wish to contract with the State, on the terms the State requires for any agency hired to perform this government function, it need not. *See Agency for Int’l Dev. v. Alliance for Open Soc’y Int’l, Inc.*, 570 U.S. 205, 214 (2013) (“As a general matter, if a party objects to a condition on the receipt of [government] funding, its recourse is to decline the funds.”); *Rust v. Sullivan*, 500 U.S. 173, 193 (1991) (“A refusal to fund protected activity, without more, cannot be equated with the imposition of a ‘penalty’ on that activity.”).

Because the State’s enforcement of the non-discrimination provision in its contracts would not burden STVCC’s exercise of religion, no further Free Exercise analysis is required. Judge Borman recognized as much, reasoning that the *Dumont* “Plaintiffs are not

seeking an order prohibiting the State from partnering with faith-based agencies because they are religious.” *Dumont*, 341 F. Supp. 3d at 749–50. Rather, they sought to “prohibit[] the State from partnering with faith-based agencies that allegedly use the money they receive from the State under the adoption contract to employ religious criteria to exclude same sex couples—something the State itself could not do—in performing those state services under contract with the State.” *Id.*

As Judge Borman reasoned, *Teen Ranch v. Udow* is “instructive.” *Id.* at 751. There, the Michigan Family Independence Agency had partnered with Teen Ranch, a religious organization providing residential care for youth in state custody. After its contract with Teen Ranch expired, the Agency ceased placing children with Teen Ranch based on concerns that Teen Ranch, while providing services under contract with the State, incorporated religious teachings into its programming. Teen Ranch sued, claiming—much like the *Buck* Plaintiffs—that ending the contract relationship “violate[d] the Free Exercise Clause because it conditions the receipt of a governmental benefit on Teen Ranch’s surrender of its religious beliefs and practices and burdens the Free Exercise of Plaintiff’s religious beliefs.” *Teen Ranch v. Udow*, 389 F. Supp. 2d 827, 837 (W.D. Mich. 2005). The court rejected the claim, holding that the Free Exercise Clause’s protection against government encroachment on religious beliefs does not mean the government is required to fund religious activity. *Id.* at 838–39. The Sixth Circuit affirmed. 479 F.3d 403, 410 (6th Cir. 2007).<sup>4</sup> The *Dumont* Court found that the same rationale

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<sup>4</sup> *Buck* Plaintiffs argue that *Teen Ranch* does not apply by incorrectly claiming their activity “is not funded by the State.” (ECF No. 6, PageID.220.) To the contrary, STVCC is paid for a comprehensive set of services, including “recruitment, retention, and support.” (ECF No. 6-8, PageID.308; *see* Ex. C, 43; Ex. E, State Defendants’ Objections and Responses to [*Buck* Plaintiffs’] Requests for Admission, 8 (“[A]dministrative case rates paid to [CPAs] include payment for contractual duties relating to recruitment and licensing activities.”)).

applies here: the *Buck* Plaintiffs have failed to assert a burden on their ability to freely exercise their religion. *Dumont*, 341 F. Supp. 3d at 752.<sup>5</sup>

**(2) *The Settlement Agreement and the non-discrimination clause are neutral and generally applicable policies.***

Even assuming the non-discrimination provision in the State’s contract incidentally burdens STVCC’s exercise of religion, because the requirement is neutral and generally applicable, it would not violate the Free Exercise Clause. *See Emp’t Div., Dept. of Human Res. of Ore. v. Smith*, 494 U.S. 872, 878–82 (1990) (“Conscientious scruples have not, in the course of the long struggle for religious toleration, relieved the individual from obedience to a general law not aimed at the promotion or restriction of religious beliefs.”) (quoting *Minersville Sch. Dist. Bd. Of Educ. v. Gobitis*, 310 U.S. 586, 594–95 (1940)).

In *Fulton*, the Third Circuit rejected a near-identical challenge by Catholic Social Services (“CSS”), demanding that the City of Philadelphia abandon a non-discrimination requirement in order to allow it to exclude same-sex couples for religious reasons. The Third Circuit considered “whether [the City] must offer CSS a new contract that allows it to continue engaging in its current course of conduct.” 922 F.3d at 153. Like STVCC, CSS argued that the City was required to offer such a contract in light of the Free Exercise Clause. The Third Circuit disagreed, holding that “a challenger under the Free Exercise Clause . . . must show that it was treated more harshly than the government would have treated someone who engaged in the same

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<sup>5</sup> *Buck* Plaintiffs’ reading of the Free Exercise Clause has far-reaching implications because States might choose to stop contracting out public child welfare work if necessary to operate their foster care systems in the manner they believe best serves children. As seventeen States and the District of Columbia wrote in *Fulton*, if State contractors must “be able to tailor contractual requirements based on religious belief to serve only those they choose in the particular manner that they choose[,] [s]uch a framework would at a minimum hinder, and potentially preclude altogether, government agencies’ reliance on contractors to deliver services mandated by state law and policy to be provided to all who qualify for them.” Brief of Massachusetts et al. as Amici Curiae in Support of Philadelphia at 26, *Fulton*.

conduct but held different religious views.” *Id.* at 154. As with Plaintiffs here, CSS could not do so.

CSS’s theme devolves to this: the City is targeting CSS because it discriminates against same-sex couples; CSS is discriminating against same-sex couples because of its religious beliefs; therefore, the City is targeting CSS for its religious beliefs. But this syllogism is as flawed as it is dangerous. . . . That CSS’s conduct springs from sincerely held and strongly felt religious beliefs does not imply that the City’s desire to regulate that conduct springs from antipathy to those beliefs.

*Id.* at 159. STVCC relies on the same syllogism, and its claims fail for the same reasons. *See New Hope Family Servs., Inc. v. Poole*, 2019 WL 2138355, at \*19, \*9, \*10 (N.D.N.Y. May 16, 2019) (holding, in challenge by a child-placing agency to New York’s non-discrimination policy, that the state “stands on firm ground in requiring authorized agencies to abide by New York’s non-discrimination policies when administering public services” where “[t]he regulation applies to all authorized agencies, regardless of any religious affiliation” and “[t]he plain language of the regulation demonstrates its neutrality”).

**(3) *The non-discrimination clause is not subject to individualized exemptions.***

The *Buck* Plaintiffs argue that the State’s non-discrimination policy is not neutral and generally applicable because the State permits individualized exemptions, but they have not demonstrated such exemptions.

In *Church of the Lukumi Babalu Aye, Inc. v. City of Hialeah*, the Supreme Court struck down two ordinances because those challenging them proved that “suppression of the central element of the Santeria worship service was the object of the ordinances.” 508 U.S. 520, 531, 534 (1993). The anti-religious purpose was evident because the ordinances were “underinclusive”—they banned ritual Santeria sacrifice while failing to prohibit nonreligious

conduct, such as slaughter for food purposes, that endangered the government's stated interest in a similar or greater degree. *Id.* at 543–45.

Here, by contrast, Michigan's secular purposes in prohibiting discrimination against families are to serve the health, safety, and well-being of the State's most vulnerable children and to comply with the Constitution. Unlike in *Lukumi*, here the non-discrimination policy is perfectly aligned with the State's intended purposes and the *Dumont* Settlement Agreement does not permit Michigan to enforce that policy selectively. Any agency—religious or not—that fails to comply with the nondiscrimination provision is in breach.

The *Buck* Plaintiffs claim that this case is like *Ward v. Polite*, in which a public university expelled a counseling student for requesting not to counsel someone regarding a same-sex relationship. The Sixth Circuit held that Ward had plausibly alleged that the expulsion was unconstitutional because “values-based referrals in general” were permitted. 667 F.3d 727, 730 (2012). This case is unlike *Ward*, however, because MDHHS does not permit agencies to violate the nondiscrimination provision for *any* reason—nor could it, in light of the Settlement Agreement or the Constitution.<sup>6</sup>

The *Buck* Plaintiffs allege that STVCC is being targeted like Ward because MDHHS permits contractors to specialize in working with particular types of children, e.g., African-American children, Native American children, or children with disabilities. (ECF No. 6, PageID.203-204 & nn.38-42.) These examples do not show that the State has singled out religion or STVCC; they instead show that other CPAs are seeking to address unmet needs and act in the best interest of those children. In contrast, by limiting the pool of potential *families*,

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<sup>6</sup> The *Buck* Plaintiffs invoke the fact that the contract permits STVCC to return children to MDHHS's care with MDHHS's approval. (ECF No. 6, PageID.201 & n.37.) Returning a child to MDHHS's care is quite unlike refusing to accept a family that could provide a home for a child in the agency's care, so this provision is not relevant.

STVCC is not serving the best interests of the children in its care. Unlike allowing agencies to turn away potential families, allowing agencies to specialize in serving certain populations of children does not undermine the State interests at issue here, so, unlike *Lukumi*, these examples do not show that the State policy is “underinclusive.”

The *Buck* Plaintiffs also claim selective enforcement by asserting that agencies are permitted to “refer families elsewhere for any number of reasons,” as when the family lives far from the agency or the agency has a waiting list. (ECF No. 6, PageID.202; ECF No. 6-1, PageID.238.) However, none of these is an example of an agency violating the contract by discriminating against a family based on a protected characteristic. Using the benign term “referral” to conflate STVCC’s conduct with that of other agencies does not change the fact that STVCC, unlike the agencies in Plaintiffs’ examples, is refusing to serve families in violation of the State’s contracts.<sup>7</sup>

STVCC fails to show that the State permits secular exemptions to its contracts’ non-discrimination requirement.

**(4) *The Buck Plaintiffs have not shown that the Settlement Agreement was motivated by anti-religious animus.***

The *Buck* Plaintiffs claim that in entering into the Settlement Agreement the “State officials have acted in a manner that passes judgment upon and presupposes the illegitimacy of St. Vincent’s religious beliefs and practices.” (ECF No. 6, PageID.206.) The

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<sup>7</sup> Similarly, the *Buck* Plaintiffs distort a comment by Steve Yager, a former MDHHS official, who wrote, “We do not compel agencies to accept referrals.” When “the department makes a referral to a child placing agency for foster care case management or adoption services under a contract with the child placing agency,” the CPA can, indeed, decline for any reason. See Mich. Comp. L. § 722.124f(a). But when a couple calls an agency to inquire about fostering or adopting, that call is not a “referral,” and the agency may not choose whether to “accept” or “reject” it. If the CPA has wards of the State in its care, then in recruiting and selecting families for them, it must not discriminate against families based on characteristics prohibited in the contract.

only purported evidence offered is a handful of statements by now-Attorney General Dana Nessel which do not demonstrate that anyone, much less MDHHS, acted with anti-religious bias.<sup>8</sup>

The *Buck* Plaintiffs claim this case is analogous to *Masterpiece Cakeshop Ltd. v. Colorado Civil Rights Commission*, 138 S. Ct. 1719 (2018). In *Masterpiece*, the Supreme Court reversed an adjudication by the Colorado Civil Rights Commission finding unlawful discrimination by a business. The Court held that the Commission’s hostility toward the business owner’s religious beliefs tainted the proceeding. That conclusion was based on (1) statements by commissioners that disparaged the business owner’s religious beliefs as “despicable” and merely rhetorical and insincere, and (2) the fact that in other adjudications the Commission had treated other conscience-based objections differently. *Masterpiece*, 138 S. Ct. at 1729–30.

MDHHS does not permit agencies to violate the non-discrimination provision for any reason, so unlike in *Masterpiece*, Plaintiffs have not shown differential treatment. *See supra* Part I.A.3. And none of the proffered quotes attributed to Nessel establish that the non-discrimination requirement in the State’s contract, or the Settlement Agreement, were motivated by anti-religious hostility.

*First*, the *Buck* Plaintiffs cherry-pick passages from statements Nessel gave to reporters in 2015 without any of the surrounding comments or context. But her statements do not reflect disparagement of STVCC’s religious beliefs; in fact, they do not mention religion at all. Nessel was at the time an attorney for a lesbian couple that was challenging Michigan’s

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<sup>8</sup> The *Buck* Plaintiffs also note that MDHHS initiated an investigation into alleged violation of the non-discrimination provision after the *Dumont* complaint was filed, but this shows only that the State investigates allegations of contractual noncompliance.

same-sex marriage ban before the Supreme Court—in what began as an adoption rights case—and she was so identified in both interviews. Unlike the Commission in *Masterpiece*, Nessel said nothing about religious beliefs, but was instead speaking about discrimination against same-sex couples and how allowing such discrimination undermines the interests of children in State care, as a full reading of the articles and a full hearing of the associated recordings makes clear.<sup>9</sup>

*Second*, even if one could read into Nessel’s past statements a judgment about religious beliefs, Plaintiffs offer no evidence to show it affected the pertinent decisionmaking processes. In *Masterpiece*, the anti-religious statements were made by the actual adjudicatory body during the adjudicative proceedings. Here, MDHHS made the decision to include non-discrimination clauses in its contracts long before Attorney General Nessel took office; the *Buck* Plaintiffs could not possibly show that Nessel’s statements caused MDHHS to impose a non-discrimination requirement.

And the *Buck* Plaintiffs do not attempt to show that anti-religious hostility motivated MDHSS’s decision to enforce that requirement by entering into the Settlement Agreement. After her inauguration, as counsel to MDHHS, Attorney General Nessel evaluated the *Dumont* action and concluded that the 2015 laws did not apply to State-contracted services. She recommended settlement “on terms consistent with the law and existing agency contracts and that best serve the health, safety and well-being of children in need of state-contracted foster

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<sup>9</sup> Ex. F, NPR, *Faith Based Adoption Bill Headed to House Floor*, available at <https://www.michiganradio.org/post/faith-based-adoption-bills-headed-house-floor>; Ex. G, Fox 2 News, *Opponents Say Adoption Bill Discriminates Against Gays and Lesbians*, available at <http://www.fox2detroit.com/news/opponents-say-adoption-bill-discriminates-against-gays-and-lesbians>. In addition to the text attached hereto, each website also includes a recording or video containing statements made by Nessel.

care case management and adoption services.”<sup>10</sup> MDHHS officials Gordon and Wrayno then decided to execute the Settlement Agreement. The *Buck* Plaintiffs offer no proof that, in executing the Settlement Agreement, Gordon and Wrayno were motivated by anything besides their statutory obligations, including to “promote the well-being and safety of all children who receive foster care or are adopted, . . . eliminate barriers to the adoption of children[,] and . . . promote the provision of a stable and loving family environment.” Mich. Comp. L. § 722.953.

*Finally*, the *Buck* Plaintiffs seek unprecedented relief. This case is not, as in *Masterpiece*, an adjudication concerning past discrimination; rather, Plaintiffs ask this Court to *permanently* enjoin enforcement of a non-discrimination policy embodied in a State contract. Plaintiffs offer no authority for the proposition that an individual government official’s alleged anti-religious bias can forever eliminate the State’s power to enforce its contracts. In *Masterpiece*, the Court did not enjoin the Commission from enforcing its law against the business owner or anyone else. *See Fulton*, 922 F.3d at 153 n.8 (“It should be noted that the remedy CSS seeks—an injunction forcing the City to renew a public services contract with a particular private party—would be highly unusual . . . . We have some doubt, therefore, that CSS could be entitled to the relief it seeks.”).

**(5) *The non-discrimination clause does not single out agencies because of their religious identity.***

Contrary to the *Buck* Plaintiffs’ contention, the Settlement Agreement and non-discrimination provisions are not “specifically designed to end government partnerships with religious groups based upon a disfavored religious belief.” (*See* ECF No. 6, PageID.208 (citing *Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012, 2025 (2017)).) *Trinity*

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<sup>10</sup> Department of Attorney General, *State Settles Same-Sex Adoption Case*, available at [https://www.michigan.gov/ag/0,4534,7-359-92297\\_47203-492743--,00.html](https://www.michigan.gov/ag/0,4534,7-359-92297_47203-492743--,00.html).

*Lutheran* is inapposite because there, the Supreme Court held only that the government could not disqualify a church from a generally available public benefit (a subsidy for children’s playgrounds) solely because of its “religious identity.” *Trinity Lutheran*, 137 S. Ct. at 2024 (“The rule is simple: No churches need apply.”). Here, the non-discrimination provision concerns not the religious “identity” of the State contractors, but rather what they are permitted to do in carrying out contractual obligations using State funds, something *Trinity Lutheran* did not reach. *See id.* at 2024 n.3 (“We do not address religious uses of funding or other forms of discrimination.”). The State’s policy is to require compliance with its non-discrimination requirement; it cares not about the faith (or lack thereof) of contracted agencies. *Trinity Lutheran* guarantees religious organizations equal treatment; it offers no support for the claim that a government contractor’s religious beliefs give it the right to opt out of requirements applicable to all other contractors. *See Dumont*, 341 F. Supp. 3d at 749.

The non-discrimination provision in the State’s CPA contracts does not disqualify any person or organization from participating in government benefit programs. And it surely does not disqualify any organizations based on their religious identity. The requirement that all contracted CPAs refrain from discriminating in the provision of services to wards of the State “does not mean that the City’s enforcement of its requirements constitutes anti-religious hostility.” *Fulton*, 922 F.3d at 159.<sup>11</sup>

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<sup>11</sup> Even assuming *arguendo* that strict scrutiny were applied, the State’s non-discrimination policy would survive because preventing discrimination in the selection of families for State wards serves compelling state interests—the best interests of children, and equality for LGBTQ prospective parents. *See, e.g., Fulton*, 922 F.3d at 163–64. And it is narrowly tailored because allowing any agencies to discriminate would harm those interests. *See infra* Part IV (explaining that same-sex couples have been, and will continue to be, deterred from participation if the State allows discrimination by its contractors).

**B. Plaintiffs Will Not Prevail on Their Free Speech Claim Because Defendants Have Not Compelled Any Private Speech.**

Plaintiffs will not succeed on their Free Speech claim because “[t]he speech here only occurs because [the agency] has chosen to partner with the government to help provide what is essentially a public service.” *Fulton*, 922 F.3d at 161. STVCC argues that the non-discrimination provision in State CPA contracts compels the agency to engage in speech contrary to its religious beliefs in that it requires it to provide the State with written assessments of families that conflict with its religious beliefs. However, when a CPA provides public foster care and adoption services pursuant to contracts with the State, its services under those contracts are not private speech but rather “instances in which the government uses private speakers to transmit information concerning the government’s own program.” *Teen Ranch*, 389 F. Supp. 2d at 840. Thus, requiring CPAs to work with all qualified prospective families for children in the agencies’ care does not compel private speech. “All that is forbidden is discrimination against prospective adoptive parents on the basis of their marital status and/or sexual orientation.” *See New Hope*, 2019 WL 2138355, at \*13.

The *Buck* Plaintiffs’ principal argument is that home studies are private speech. (ECF No. 6, PageID.215.) However, as Judge Borman recognized, “a State’s decision to contract with private entities to deliver public child welfare services does not create, encourage or otherwise facilitate private expression, and accordingly the state can make a content-based selection of private sector providers without violating the First Amendment.” *Dumont*, 341 F. Supp. 3d at 752 (quoting *Teen Ranch*, 389 F. Supp. 2d at 839) (internal punctuation omitted). For this reason, that the State requires a specific kind of speech—*e.g.*, home studies—of its contractors is not in any respect constitutionally infirm.

The *Buck* Plaintiffs cite *Agency for International Development*, but that case expressly distinguished between “conditions that define the limits of the government spending program—those that specify the activities [the government] wants to subsidize—and conditions that seek to leverage funding to regulate speech outside the contours of the program itself.” 570 U.S. at 214–15. In light of this distinction, the *Buck* Plaintiffs try to characterize home studies as “St. Vincent’s private speech and outside the scope of MDHHS’ foster care and adoption funding programs.” (ECF No. 6, PageID.217.)

This argument is as factually inaccurate as it is legally unsupportable. The non-discrimination provision “applies to all applications filed for adoption of MDHHS supervised children, including . . . children assigned to a contracted agency.” (*See* ECF No. 6-8, PageID.305.) Home studies for prospective parents are just one component of the “recruitment, retention, and support” all contracted CPAs must provide for children in their care. *See id.*, PageID.308; Mich. Admin. Code R. 400.12304(1) (“An agency shall have an ongoing foster home recruitment program to ensure an adequate number of suitable and qualified homes to meet the needs of children served by the agency.”); *id.* .12310(1) (“An agency social service worker shall complete a written initial foster home evaluation before certifying the home for licensure.”). STVCC is paid for these services. Ex. E, 8 (“[A]dministrative case rates paid to [CPAs] include payment for contractual duties related to recruitment and licensing activities.”). Home studies are at the heart of the child placing services STVCC performs under contract with the State, so denying a home study to same-sex couples is denying them services under the government contracts. Insisting that STVCC do the job it is accepting taxpayer dollars to do is not an unconstitutional regulation of STVCC’s speech.

**C. Plaintiffs Cannot Succeed on the Merits Because, If the State Were To Allow STVCC To Use Religious Criteria To Exclude Qualified Families, It Would Violate the Establishment Clause.**

In *Dumont*, the State acknowledged that it contracted with “faith-based agencies that, for religious reasons, only work with married, opposite-sex couples.” *Dumont*, ECF No. 16, at PageID.76. Now, the *Buck* Plaintiffs seek to *compel* the State to allow contracted agencies to use religious criteria to exclude prospective foster and adoptive parents. That would violate the Establishment Clause.

**(1) *Permitting the State to delegate a government function to be performed using religious criteria would violate the Establishment Clause.***

If the State were to permit agencies to use religious criteria to screen out prospective families, this would violate “the core rationale underlying the Establishment Clause[:] preventing ‘a fusion of governmental and religious functions.’” *Larkin v. Grendel’s Den*, 459 U.S. 116, 126–27 (1982) (quoting *Sch. Dist. v. Schempp*, 374 U.S. 203, 222 (1963)).<sup>12</sup> In *Larkin*, the Supreme Court invalidated a municipal ordinance that gave churches discretion to veto a liquor license application for any premises located within 500 feet of a church. The ordinance at issue “delegate[d] to private, nongovernmental entities . . . a power ordinarily vested in agencies of government.” 459 U.S. at 122. Likewise, here, the State has vested discretionary authority in CPAs—the authority to recommend prospective foster and adoptive parents for children in the State’s custody. The *Larkin* Court concluded that the ordinance merely “*could* be employed for explicitly religious goals.” *Id.* at 125 (emphasis added). Here, the State *knows* that

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<sup>12</sup> See also *Bd. of Educ. of Kiryas Joel Village Sch. Dist. v. Grumet*, 512 U.S. 687, 702 (1994) (religious community’s control over public education policy violated Establishment Clause); *Doe v. Porter*, 370 F.3d 558, 564 (6th Cir. 2004) (school board violated Establishment Clause by “ced[ing] its supervisory authority over [certain] classes to Bryan College, which requires its students and faculty to subscribe to a sectarian statement of belief”).

religious entities are screening out certain prospective parents based solely on religious criteria unrelated to the ability to care for a child.

Vesting discretionary governmental power in a religious organization, to be exercised pursuant to religious strictures, presents the “danger of political oppression through a union of civil and ecclesiastical control” that motivated the Framers to draft the Establishment Clause. *Id.* at 127 n.10. If the State were to delegate public child welfare services to private CPAs with permission to use religious eligibility criteria, that would violate the Establishment Clause principle that “civil power must be exercised in a manner neutral to religion,” *Kiryas Joel*, 512 U.S. at 704, so this Court should not compel the State to do so. Judge Borman held that, if proved, *Dumont* Plaintiffs’ allegations would demonstrate excessive entanglement. *See Dumont*, 341 F. Supp. 3d at 740; *see also Bowen v. Kendrick*, 487 U.S. 589, 608–609 (1988) (although mere participation of faith-based organizations in government-funded programs does not violate the Establishment Clause, when such organizations receive government funds, they may not use those funds to advance religion, including through discrimination).

**(2) *Requiring the State to condone discrimination would objectively favor religion in contravention of the Establishment Clause.***

Allowing the use of religious criteria in the public child welfare system would also violate the Establishment Clause because it would give preference to those religious groups that oppose same-sex relationships as a matter of religious doctrine. *Edwards v. Aguillard*, 482 U.S. 578, 593 (1987) (invalidating Creationism Act because it preferenced religious views). An injunction requiring the State to carve out a special exception from its anti-discrimination requirements for religious groups that hold a particular religious view would create a governmental preference for such beliefs.

In addition to having an impermissible subjective purpose, the State’s practice would “objectively convey a message” of endorsement of a particular religious view about same-sex relationships. *See Smith v. Jefferson Cnty. Bd. of Sch. Comm’rs*, 788 F.3d 580, 588 (6th Cir. 2015). Agencies, acting on behalf of the State, would send to the families they turn away the “message . . . that they are outsiders, not full members of the political community.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309 (2000); *see* Sander Decl. ¶ 17. By allowing religious agencies performing a State function to turn families away on the basis of their religious beliefs, the State gives the appearance that those agencies’ religious beliefs are favored. *See Sante Fe*, 530 U.S. at 310.

Judge Borman recognized that these allegations were plausible and, if proved, would demonstrate a violation of the Establishment Clause. And Sander’s testimony demonstrates that an objective observer, informed about the public child welfare system, sees the State’s former practice as objectively favoring religion. Sander Decl. ¶ 20 (“[W]hen MDHHS allows agencies to exclude LGBTQ individuals regardless of their qualifications, this appears to be approving those CPAs’ use of religious eligibility criteria in providing public child welfare services—even when to the detriment of children in the foster care system, who have no choice whether they are referred to an agency that excludes families based on religious tests or an agency that accepts all qualified families.”).

Finally, permitting discrimination here would not be a mere accommodation of religion, as Judge Borman held, distinguishing *Corporation of Presiding Bishop of Church of Jesus Christ of Latter Day Saints v. Amos*, 483 U.S. 327 (1987). “The defendants in *Amos* were religious organizations engaged in their own activities seeking exemptions from generally applicable laws so that they could continue carrying on their own work consistent with their

religious beliefs. A very different set of facts from those alleged here.” *Dumont*, ECF No. 49, at 55.

Indeed, here the requested relief would impose substantial burdens on third parties—children and same-sex couples seeking to care for them, *see infra* Parts III-IV—and the Establishment Clause *forbids* accommodations that privilege religious exercise to the detriment of others. *See Estate of Thornton v. Caldor, Inc.* 472 U.S. 703, 708-09 (1985) (striking statute requiring employers to honor Sabbath in light of “burden or inconvenience this imposes on the employer or fellow workers”); *Cutter v. Wilkinson*, 544 U.S. 709, 720 (2005) (“[C]ourts must take adequate account of the burdens a requested accommodation may impose on nonbeneficiaries.”).

**D. Plaintiffs Cannot Succeed on the Merits Because, if the State Were To Allow STVCC To Turn Away Same-Sex Couples, It Would Violate the Equal Protection Clause.**

The State Defendants also cannot be required to allow contracted agencies to discriminate against same-sex couples seeking to foster or adopt because that would violate the Equal Protection Clause, which requires the government to treat all similarly situated persons alike. *City of Cleburne, Tex. v. Cleburne Living Ctr.*, 473 U.S. 432, 439 (1985). At a minimum, Equal Protection prohibits the government from making “distinctions between individuals based solely on differences that are irrelevant to a legitimate governmental objective.” *Lehr v. Robertson*, 463 U.S. 248, 265 (1983). Under any level of scrutiny,<sup>13</sup> the categorical exclusion of same-sex couples by an agency acting on behalf of the State would violate the Equal Protection

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<sup>13</sup> Although the Sixth Circuit has stated that rational basis review applies to “state actions involving sexual orientation,” *Ondo v. City of Cleveland*, 795 F.3d 597, 608-09 (6th Cir. 2015), the Dumonts expressly preserve the issue of whether sexual-orientation classifications are suspect or quasi-suspect and trigger heightened Equal Protection scrutiny. *See Windsor v. United States*, 699 F.3d 169, 185 (2d Cir. 2012) (intermediate scrutiny), *aff’d on other grounds*, 570 U.S. 744 (2013).

Clause. It serves no legitimate government interest to deny children good families based on religious criteria unrelated to the ability to care for a child.

Judge Borman held that the *Dumont* Plaintiffs plausibly alleged “that allowing faith-based agencies to turn away same-sex couples actually exacerbates the shortage of qualified families who are available to adopt or foster and means that some children may be denied the family that is best matched to meet their individual needs.” *Dumont*, ECF No. 49, at 66. Discovery revealed evidence to support these allegations.<sup>14</sup>

In addition, as the Supreme Court recognized in *Obergefell*, the State cannot “deny gays and lesbians [the] many rights and responsibilities intertwined with marriage”—expressly including “adoption rights.” 135 S. Ct. 2584, 2601, 2606 (2015). If the *Buck* Plaintiffs prevail, married “same-sex couples [would be] denied all the benefits afforded to opposite-sex couples” with respect to adoption and foster care. *Id.* at 2604. This principle was applied to adoptions, including public adoptions like those at issue here, in *Campaign for Southern Equality v. Mississippi Department of Human Services*, 175 F. Supp. 3d 691, 710 (S.D. Miss. 2016), in which the court enjoined the State of Mississippi’s practice of excluding same-sex couples from adopting out of the foster care system because it “interfer[ed] with the right to marry” and thereby “violate[d] the Equal Protection Clause.” By the same token, the Constitution prevents compelling Michigan to permit such discrimination in its child welfare system.

## **II. PLAINTIFFS HAVE FAILED TO DEMONSTRATE IRREPARABLE HARM IN THE ABSENCE OF PRELIMINARY RELIEF.**

“The single most important prerequisite for the issuance of a preliminary injunction is a demonstration that if it is not granted the applicant is likely to suffer irreparable

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<sup>14</sup> See *infra* Part IV (describing harms to children caused by discrimination in the child welfare system).

harm before a decision on the merits can be rendered.” *Taylor Novelty, Inc. v. City of Taylor*, 816 F.2d 682, at \*6 (6th Cir. 1987) (per curiam) (internal punctuation and citations omitted). A mere possibility of harm is not enough; “plaintiffs seeking preliminary relief [must] demonstrate that irreparable injury is *likely* in the absence of an injunction.” *Winter*, 555 U.S. at 22. *Buck* Plaintiffs assert that the alleged violation of their First Amendment rights automatically demonstrates irreparable injury, but this argument fails because the *Buck* Plaintiffs have not shown a likelihood of success on the merits.

Furthermore, the *Buck* Plaintiffs must demonstrate the need for expediency. Compare *Ohio Council 8 Am. Fed’n of State, Cty. & Mun. Employees, AFL-CIO v. Brunner*, 462 F. App’x 557, 559 (6th Cir. 2012) (deferring to district court’s assessment that discovery should be conducted prior to the issuance of an injunction, if any). There is no reason to expect that this will be protracted litigation. Judge Borman identified the relevant law in ruling on the motions to dismiss. *Dumont*, 341 F. Supp. 3d 706. Extensive document discovery regarding these same issues was completed in *Dumont*, expert reports have already been exchanged, and the parties in *Dumont* previously identified deponents and noticed depositions. What discovery remains can be accomplished without significant delay. The *Buck* Plaintiffs do not demonstrate that they would be irreparably harmed during the brief pendency of this suit.

The *Buck* Plaintiffs also argue that, “[i]n addition to the loss of their First Amendment rights, St. Vincent will be forced to close its foster care and adoption ministries” unless the Court compels Michigan to enter into a contract on terms of STVCC’s choosing. (ECF No. 6, PageID.222.) This is far from clear. Michigan has made clear that it welcomes STVCC’s participation in the public child welfare system—so long as STVCC complies with the non-discrimination policy that is already included in the parties’ contract. If it terminates its

involvement in the public child welfare program, that will be STVCC's own choice. Moreover, even if it did so, this would not require STVCC to close. STVCC has other programs including a children's home, refugee resettlement, and counseling (ECF No. 6-1, PageID.229, 237), and has acknowledged that it loses money on its public foster care and adoption programs. (ECF No. 6-1, PageID.237.) Accordingly, even if STVCC decided to close its foster care and adoption programs during the pendency of this suit rather than comply with its contractual obligations, this would not endanger STVCC's other operations.<sup>15</sup>

By electing not to participate in *Dumont* once on notice that the State and the *Dumont* Plaintiffs were discussing a potential resolution, Plaintiffs themselves have shown that they are not suffering irreparable injury. Were they subject to any such threat, their remedy was to speak up then, as they told Judge Borman they would in their intervention motion. *See Dumont*, ECF No. 18, PageID.452. (“[State] Defendants may eventually want to settle this case with [*Dumont*] Plaintiffs,” in which case *Buck* Plaintiffs would need to be able “to immediately appeal and protect their interest.”)

### III. THE BALANCE OF THE EQUITIES REQUIRES DENYING PLAINTIFFS' REQUESTED RELIEF.

Plaintiffs assert that “others will not suffer any harm” should this Court grant a preliminary injunction. (ECF No. 6, PageID.223.) Quite to the contrary.

*First*, the requested injunction would contravene established child welfare standards and would harm the children in Michigan's child welfare system by denying them access to families. *See infra* Part IV.

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<sup>15</sup> There is no merit to the *Buck* Plaintiffs' assertion that if STVCC closes, the Bucks may not be able to adopt a biological sibling of one of their children. While *foster* placement decisions often must be made quickly, adoption decisions take much longer. *See, e.g.*, M.C.L.A. 722.954b. The *Buck* Plaintiffs offer no evidence that any agency would overlook a potentially loving adoptive home with a child's biological siblings.

*Second*, because the requested injunction would compel the State to violate the Establishment and Equal Protection Clauses, *see supra* Sections I.C–I.D, the *Dumont* Plaintiffs’ constitutional rights, and those of other prospective same-sex couples, weigh against the granting of a preliminary injunction.

*Third*, the State Defendants have an interest in the enforcement of their contract with STVCC, including the non-discrimination provision, which it deems to serve the best interests of children in State care, and for which they offer consideration including taxpayer funds.

*Fourth*, the *Dumont* Plaintiffs and the State Defendants have an interest in the enforcement of the Settlement Agreement they negotiated, which offered each side certain benefits and would be unraveled by the relief the *Buck* Plaintiffs seek.

*Fifth*, granting their request that the Court order the State to cease enforcing the non-discrimination provision would impose substantial, lasting injury, both stigmatic and practical, on the *Dumont* Plaintiffs and other same-sex couples. The *Buck* Plaintiffs minimize the *Dumont* Plaintiffs’ interests by suggesting that “[g]ay couples interested in adopting and who receive their certification through another agency can still adopt children in St. Vincent’s care at any time” through MARE. (ECF No. 6, PageID.223.) But children outside of the MARE program are generally placed by agencies with their own licensed families. And the fact that STVCC may be willing to accept same-sex couples for a subset of the children in their care does not remove the stigma of being excluded from consideration for others and being denied equal treatment.

Finally, to the extent any equities weigh in the *Buck* Plaintiffs' favor, those equities are diminished by the *Buck* Plaintiffs' inequitable delay in seeking relief, and by the inevitable inefficiencies occasioned by their forum shopping.

**IV. EXPERT TESTIMONY DEMONSTRATES THAT AN INJUNCTION WOULD HARM THE PUBLIC INTEREST.**

A preliminary injunction is a “drastic” remedy, *Bonnell v. Lorenzo*, 241 F.3d 800, 808 (6th Cir. 2001), and that is particularly true here because the *Buck* Plaintiffs ask this Court not only to enjoin enforcement of a State policy but also to affirmatively decree that MDHHS must contract with an agency on terms dictated by that agency, which contradict the terms deemed to promote the best interest of children by the State agency with expertise on child welfare practice. This would harm children in the public child welfare system.

Experts have recognized that requiring state-contracted CPAs to work with all qualified families is in the best interest of the children in the public child welfare system. Dr. Brodzinsky explains, “well-established professional standards in the field of child welfare promote practices that welcome all capable prospective foster and adoptive parents regardless of race, religion, marital status, gender, disability, or sexual orientation.” Brodzinsky Rpt. ¶ 21; *see also id.* ¶¶ 22–24 (The Child Welfare League of America, “the national standard setter in the field of child welfare,” makes clear that “all individuals and families should be considered when applying to adopt or foster children.”). The most obvious reason agencies should work with all qualified families is “the dramatic shortage of families available to meet the needs of children in the foster care system,” *id.* ¶ 25—a shortage the *Buck* Plaintiffs concede (ECF No. 6, PageID.173.). Further, “[i]f the State permits agencies to exclude any group of qualified applicants, . . . it will reduce the chances of these children finding permanent life-long family connections in a timely manner . . . .” *Id.* ¶ 25. Discouraging LGBTQ prospective parents could

have especially damaging effects because “research indicates that [same-sex couples] are disproportionately more likely to foster and adopt children than their heterosexual peers.” *Id.*

A paucity of willing families, in turn, substantially harms the public interest because it could result in (1) children being separated from siblings because of an insufficient number of parents willing to accept multiple children, *id.* ¶ 32; (2) children being placed in “group homes or institutional environments,” which “cannot offer children the stability, nurturance, safety, life-long family connections and support, and genuine sense of . . . permanence that families can provide,” *id.* ¶ 30; and (3) children aging out of the system without ever being adopted, *id.* ¶ 31. Even if there were no shortage of families willing to serve as foster and adoptive parents, discouraging LGBTQ applicants would harm children because “[a]ll children have unique needs and families are not fungible.” *Id.* ¶ 27. “[E]xcluding sexual minority adults from adopting and fostering reduces the pool of families from which to choose when looking for good matches.” *Id.*

In sum, “the public interest is best served by ensuring that at-risk children are placed with loving foster parents and that children seeking adoption can quickly find permanency.” (ECF No. 6, PageID.222.) The way for the State to do this, as Dr. Brodzinsky explains, is to require its contractors to accept all qualified families.

The *Buck* Plaintiffs offer two responses, but neither addresses the public harm of the discrimination at issue. They state (1) that having a few discriminatory agencies is not a problem since other, LGBTQ-friendly agencies exist, and (2) that the State’s current policy will force STVCC to close.

*First*, even if LGBTQ-friendly agencies exist, State-sanctioned discrimination is harmful to the child welfare system. “[W]hen State-contracted child placing agencies are

permitted to exclude same-sex couples regardless of their qualifications, it creates a deterrent to same-sex couples' participation in the foster care and adoption system as a whole. Same-sex couples who are turned away by an agency because of their sexual orientation may be hesitant about approaching another agency in their community for fear of further discrimination . . . .” Brodzinsky Rpt. ¶ 35. Sander observed these deterrent effects directly. Sander recalls one family who was turned away by an agency, citing its religious beliefs, and “[t]he family was so discouraged that they decided not to call another agency.” Sander Decl. ¶ 17.

As this example illustrates, State-sanctioned discrimination deprived the children in Michigan's child welfare system of at least one potential foster family. If this Court orders the State to allow agencies to discriminate, this Court's injunction would likely directly deter more potential parents for children in need. Nor is the harm solely caused by LGBTQ prospective parents' fear and uncertainty regarding whether they will be rejected by a particular agency. Even if agencies were required to prominently state their unwillingness to work with LGBTQ couples—something STVCC does not currently do on its website, for example—“some same-sex couples who would be interested in fostering or adopting may decline to pursue it altogether if they know that the State authorizes discrimination against sexual minorities.” Brodzinsky Rpt. ¶ 36. Not everyone is willing to subject themselves to the sting and humiliation of discrimination.

In addition, different agencies offer different services, and some agencies offer fewer services than others. Ex. D, 22–23. Where same-sex couples have a smaller set of options than heterosexual couples, some same-sex couples will find no agency that meets the family's needs and circumstances. Brodzinsky Rpt. ¶ 38.

The harm that would be caused by the requested injunction can be seen acutely from the perspective of a child in STVCC's care. Such children “have no choice whether they

are referred to an agency that excludes families based on religious tests or an agency that accepts all qualified families.” Sander Decl. ¶ 20. The *Buck* Plaintiffs suggest that such a child could be placed with an LGBTQ parent through MARE. Even if STVCC permits its caseworkers to determine “that the MARE potential family ‘match’ is appropriate” when that family is a same-sex couple (*see* ECF No. 6-8, PageID.297), not all children in the public child welfare system are listed on the MARE website. Ex. D, 25. Therefore, some children will have fewer potential parents available to them. There is no merit to the argument that discrimination is harmless when only a few discriminate.

*Second*, whatever the merits of *Buck* Plaintiffs’ contention that STVCC would close, *see supra* Part II, this should not guide the question of the *public* interest. After the Settlement Agreement, Bethany Christian Services, the other agency that turned away one of the *Dumont* Plaintiff couples for religious reasons, agreed to comply with the nondiscrimination requirement.<sup>16</sup> Even if STVCC does not do the same, the children in STVCC’s care represent less than 1% of children in the care of CPAs statewide, so MDHHS could likely quickly act to deal with this change.<sup>17</sup> Indeed, in response to requests for admission in *Dumont*, the State admitted that “if St. Vincent Catholic Charities chose to cease operations in Michigan, DHHS would be able to use other agencies to provide the recruitment, training and licensing services that had been provided by that agency.” Ex. D, 35. The State faces a shortage of families, not a shortage of CPAs.

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<sup>16</sup> David Eggert, *Major Michigan Adoption Agency Just Reversed Policy To Allow Same-Sex Couples To Adopt*, DETROIT FREE PRESS (Apr. 22, 2019, 1:44 PM), <https://www.freep.com/story/news/local/michigan/2019/04/22/adoption-foster-bethany-christian/3540472002/>.

<sup>17</sup> (ECF No. 6-1, PageID.228 (“St. Vincent has served an average of 74 children in its foster care program every year.”); ECF No. 6, PageID.173 (“There are nearly 12,000 children in foster care in Michigan.”).)

In the end, though they have the burden of proof, the *Buck* Plaintiffs offer nothing but rhetoric to support their claim that enforcement of the State’s non-discrimination policy would harm children. The *Dumont* Plaintiffs offer expert testimony that shows the public interest weighs heavily against a preliminary injunction compelling the State to permit discrimination: “[C]hild welfare policies and practices that allow the exclusion of families willing and able to foster and adopt these vulnerable children do not serve the interests of these children or society in general.” Brodzinsky Rpt. ¶ 26.<sup>18</sup>

### CONCLUSION

For these reasons, the *Buck* Plaintiffs’ motion for a preliminary injunction should be denied.

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<sup>18</sup> The *Buck* Plaintiffs also seek an injunction against the Federal Defendants based on the Religious Freedom Restoration Act (“RFRA”). Plaintiffs do not argue that RFRA applies to the actions of the State Defendants or Nessel, nor could they. See *City of Boerne v. Flores*, 521 U.S. 507, 532–36 (1997) (holding RFRA unconstitutional as applied to states); *Townsend v. Ouellette*, 2018 WL 286427, at \*11 (W.D. Mich. Jan. 4, 2018) (“Plaintiff has no cause of action against [Michigan] state actors for violation of RFRA.”). As against the Federal Defendants, the *Buck* Plaintiffs argue that this Court should enter a preliminary injunction pursuant to RFRA preventing them from commencing an enforcement action against Michigan under 45 CFR 75.300(c). Such an injunction would serve no purpose. 45 CFR 75.300(c) prohibits discrimination; so does Michigan. Thus, there is no imminent threat of irreparable harm, as needed to warrant preliminary injunctive relief.

Dated: May 29, 2019

Respectfully submitted,

*/s/ Daniel S. Korobkin*

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Jay Kaplan (P38197)  
Daniel S. Korobkin (P72842)  
American Civil Liberties Union  
Fund of Michigan  
2966 Woodward Avenue  
Detroit, MI 48201  
Telephone: (313) 578-6823  
jkaplan@aclumich.org  
dkorobkin@aclumich.org

Daniel Mach  
American Civil Liberties Union Foundation  
915 15th Street NW  
Washington, DC 20005  
Telephone: (202) 675-2330  
dmach@aclu.org

Leslie Cooper\*\*  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004  
Telephone: (212) 549-2633  
lcooper@aclu.org

Garrard R. Beeney  
Ann-Elizabeth Ostrager\*  
Leila R. Siddiky\*\*  
Jason W. Schnier\*  
Lisa M. Ebersole\*  
Hannah M. Lonky\*  
James G. Mandilk\*  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, NY 10004-2498  
Telephone: (212) 558-4000  
beeneyg@sullcrom.com  
ostragerae@sullcrom.com  
siddikyl@sullcrom.com

*Counsel for Intervenor Defendants*

\*Admission pending

\*\*Application for admission forthcoming

**CERTIFICATE OF COMPLIANCE**

This brief complies with the word limit of W.D. Mich. LCivR 7.3(b)(i) because, excluding the parts exempted by W.D. Mich. LCivR 7.3(b)(i), it contains 10,553 words. The word count was generated using Microsoft Word 2016.

*/s/ Daniel S. Korobkin*

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Jay Kaplan (P38197)  
Daniel S. Korobkin (P72842)  
American Civil Liberties Union  
Fund of Michigan  
2966 Woodward Avenue  
Detroit, MI 48201  
Telephone: (313) 578-6823  
jkaplan@aclumich.org  
dkorobkin@aclumich.org

Daniel Mach  
American Civil Liberties Union Foundation  
915 15th Street NW  
Washington, DC 20005  
Telephone: (202) 675-2330  
dmach@aclu.org

Leslie Cooper\*\*  
American Civil Liberties Union Foundation  
125 Broad Street, 18th Floor  
New York, NY 10004  
Telephone: (212) 549-2633  
lcooper@aclu.org

Garrard R. Beeney  
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Leila R. Siddiky\*\*  
Jason W. Schnier\*  
Lisa M. Ebersole\*  
Hannah M. Lonky\*  
James G. Mandilk\*  
SULLIVAN & CROMWELL LLP  
125 Broad Street  
New York, NY 10004-2498  
Telephone: (212) 558-4000  
beeneyg@sullcrom.com  
ostragerae@sullcrom.com  
siddikyl@sullcrom.com

*Counsel for Intervenor Defendants*

\*Admission pending

\*\*Application for admission forthcoming

## **Exhibit A**

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

KRISTY DUMONT; DANA DUMONT;  
ERIN BUSK-SUTTON; and REBECCA  
BUSK-SUTTON,

Plaintiffs,

v.

NICK LYON, in his official capacity as  
the Director of the Michigan Department  
of Health and Human Services; and  
HERMAN MCCALL, in his official  
capacity as the Executive Director of the  
Michigan Children's Services Agency,

Defendants,

and

ST. VINCENT CATHOLIC CHARITIES;  
MELISSA BUCK; CHAD BUCK; and  
SHAMBER FLORE,

Intervenor Defendants.

No. 2:17-cv-13080-PDB-EAS

HON. PAUL D. BORMAN

MAG. ELIZABETH A. STAFFORD

**EXPERT REPORT OF DAVID M.  
BRODZINSKY, PH.D.**

## **EXPERT REPORT OF DAVID M. BRODZINSKY, PH.D.**

I, David M. Brodzinsky, do solemnly attest as follows:

### **I. Assignment**

1. I have been retained by plaintiffs' counsel to prepare a written expert report in this case relating to professional standards for inclusion of qualified families in the child welfare system, and the impact on children and families that can result from a State permitting state-contracted child placing agencies to exclude same-sex couples. The analyses and opinions expressed in this report are my own. I am being compensated at a rate of \$250 per hour. My compensation in this matter is in no way contingent or based on the content of my opinions or the outcome of this matter.

### **II. Professional Qualifications (see attached curriculum vitae for more details)**

2. I received a Ph.D. in developmental psychology from the State University of New York at Buffalo in 1974, as well as additional training as a clinical psychologist during a clinical internship at the Irving Schwartz Institute for Children and Youth in Philadelphia from 1972-1973 and a post-doctoral clinical fellowship at the same institution from 1973-1974.
3. I am a licensed psychologist in the states of California (#21152) and New Jersey (#2014).
4. From 1974 to 2006, I served as an Assistant Professor, Associate Professor, and then Full Professor in the Department of Psychology at Rutgers University, where I taught undergraduate and graduate courses in developmental and clinical psychology,

conducted research, and supervised doctoral students in clinical and school psychology. Currently, I am Professor Emeritus of Clinical and Developmental Psychology at Rutgers University.

Selection of Specific Qualifications Related to Adoption and Foster Care

5. I have nearly 40 years of experience in the fields of adoption and foster care as a researcher, scholar, teacher, clinician, policy analyst, trainer, consultant, and forensic expert. I have over 100 publications, including numerous peer-reviewed journal articles, book chapters, and six books on adoption and foster care, as well as on other topics in developmental and clinical psychology. I have also reviewed hundreds of articles in these areas submitted for publication to the most prestigious professional journals in developmental and clinical psychology, as well as in child welfare, including Children and Youth Services Review, Adoption Quarterly, Journal of Clinical Child Psychology, Developmental Psychology, and Parenting: Science and Practice.
6. From 1986 to 1995, I directed a post-adoption service program under contract from the New Jersey Division of Youth and Family Services (DYFS), now known as the Department of Children and Families. The project provided direct clinical services to adopted children and their families in several northern counties in New Jersey.
7. From 1989 to 2006, I was Director of the Rutgers Foster Care Counseling Project (FCCP), a state-funded training and service program focusing on the clinical needs of foster children and their families in central New Jersey. During this period, I trained

over 100 doctoral-level psychology students in psychological issues in foster care and adoption, and the project served over 700 foster families.

8. From 1996 to 2006, I was on the Board of Directors of the Donaldson Adoption Institute in New York City, an internationally known non-profit organization focusing on policy analysis, research, education, and advocacy in the fields of adoption and foster care. From 2006 through 2014, I served as Research Director for the Institute. During my time with the Donaldson Adoption Institute, I created the Modern Adoptive Families Project, a nationwide survey of adoptive parents focusing on the experiences and outcomes of different types of adoptive families, including those headed by sexual minority parents. To date, five empirical articles have been published from this dataset, with additional ones in preparation.
9. I have served or am currently serving on the Editorial Boards of *Adoption Quarterly*, *Developmental Child Welfare*, *Journal of Applied Developmental Psychology*, and *Youth and Society*.
10. I have been in private practice as a psychologist for 35 years, with the majority of my clinical work focusing on the mental health needs of adopted and foster children and their families. Over this time period, I have worked with several thousand families who have adopted or fostered children.
11. From 2008 to 2016, I was a clinical supervisor for A Home Within, a non-profit organization in the San Francisco Bay area providing pro bono clinical services to foster children and their families.

12. I have also been a practicing forensic psychologist for approximately 30 years.

During this time I have been involved in 600-650 forensic cases, testifying over 100 times in 12 different states. Most of my cases have involved issues related to child custody, juvenile dependency, contested adoption, wrongful adoption, child abuse, and trauma-related personal injury. Approximately 40-45 of these forensic cases involved issues related to adoption, fostering, and/or parenting by lesbian, gay, bisexual, or transgender individuals/couples.

13. I have given hundreds of conference presentations, professional workshops, medical grand rounds presentations, invited university lectures, and community lectures to mental health professionals, child welfare professionals, legal professionals, and/or the public related to adoption and foster care throughout the United States, Europe, and parts of South America.

14. I have been a consultant to hundreds of public and private adoption agencies and child welfare agencies in the United States, Canada, England, Northern Ireland, Wales, Spain, Italy, Holland, Sweden, Norway, and Colombia. Currently, I am a clinical and training consultant for the Center for Adoption Support and Education in Burtonsville, MD and a research and project consultant for the National Center on Adoption and Permanency in Newton, MA.

Selection of Specific Qualifications Related to Adoption, Foster Care, and Parenting by Lesbian and Gay Individuals and Couples

15. I have published a dozen peer-reviewed journal articles, policy papers, book chapters, and an edited book (*Adoption by Lesbians and Gay Men: A New Dimension*

*in Family Diversity*, Oxford University Press, 2012) focusing on adoption and parenting by sexual minority individuals/couples.

16. I have worked clinically with hundreds of families headed by lesbian and gay parents during my career, including those who have adopted or fostered children. Since moving to CA in 2006, approximately 30-40% of my clinical practice has been with sexual minority families. In addition, I have regularly supervised the clinical work of other professionals working with families headed by lesbian and gay parents.
17. From 2009 to 2015, I was a clinical supervisor and consultant to the Pacific Center in Berkeley, CA, a non-profit organization serving the mental health needs of the LGBTQ community.
18. I have been involved in numerous court cases related to adoption, fostering, parenting, and marriage by LGBTQ individuals/couples, for which I have provided expert reports on case issues, evaluated the parties, and/or testified during deposition or at trial. These cases include the same-sex marriage trial in Hawaii in 1996 (*Baehr v. State of Hawaii*); four separate challenges to Florida's ban on adoption by gay people (*Amer v. Johnson* in 1997; *Lofton v. Kearney, et al.* in 2001; *IMO Adoption of JCB* in 2005; *IMO Adoption of XG and NG* in 2008); *Catholic Charities v. State of Illinois* in 2011; and the Michigan same-sex marriage case (*DeBoer v. Snyder* in 2014). In all of these cases where I appeared in court, I was qualified as an expert on issues related to adoption, fostering, and parenting by sexual minority adults.

19. I have made numerous presentations on issues related to LGBTQ adoption, fostering, and parenting to mental health professionals, child welfare professionals, and legal/judicial professionals throughout the United States, Canada, Great Britain, Spain, Italy and Colombia.

### **III. Opinions**

20. The opinions below are supported by research and scholarly writings in the areas of child development, family psychology, and child welfare, as well as my professional experience. Representative relevant authoritative books, book chapters, journal articles, policy briefs, and technical reports are cited herein in support of my opinions. In addition to these documents, my opinions are based on over 40 years of clinical, consultation, training, and forensic experience in child development, family psychology, and child welfare, as well as my direct clinical involvement and supervisory experience with hundreds of foster and adoptive families, including many headed by sexual minority parents.

#### **A. Professional child welfare standards provide for the inclusion of all qualified foster and adoptive families so as to best serve the needs of children.**

21. Children in foster care are some of the most vulnerable children in our nation.

Finding permanent and loving homes for them represents one of the most important responsibilities for public child welfare agencies. To further and fulfill the responsibility to meet that goal, well-established professional standards in the field of child welfare promote practices that welcome all capable prospective foster and adoptive parents regardless of race, religion, marital status, gender, disability, or sexual orientation.

22. The Child Welfare League of America (CWLA), which is the national standard setter in the field of child welfare, has promulgated the well-accepted Standards of Excellence for Child Welfare Services, including Adoption Services. CWLA standards are “goals for the continuing improvement of services for children and their families . . . CWLA standards are directed to all who are concerned with the enhancement of services to children and their families, including parents; public and voluntary child welfare agency governing board members; direct service, supervisory, and administrative staff members; the general public; citizen groups; public officials; courts and judges; legislators; professional groups; organizations serving children and their families; organizations whose functions include the planning and financing of community services; state or local agencies entrusted by law with functions relating to the licensing or supervision of organizations serving children and their families; tribal organizations; advocacy groups; and federations whose membership requirements involve judgments on the nature of services rendered by their member agencies.”(pg. vi)<sup>1</sup>.

23. CWLA standards make it clear that all individuals and families should be considered when applying to adopt or foster children, including those who are sexual minority adults. “Applicants should be assessed on the basis of their abilities to successfully parent a child needing family membership and not on their race, ethnicity or culture, income, age, marital status, religion, appearance, differing life style, or sexual orientation. Applicants should be accepted on the basis of an individual assessment

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<sup>1</sup> CWLA Standards of Excellence for Adoption Services (Rev Ed) (2000). Washington, D.C.

of their capacity to understand and meet the needs of a particular available child at the point of the adoption and in the future.” (pg. 56-57)<sup>2</sup>.

24. The CWLA issued a position statement affirming that sexual minority adults are just as capable of raising children as their heterosexual counterparts and strongly opposing efforts to exclude adoption and foster care applicants based solely on their sexual orientation<sup>3</sup>; several other child welfare organizations, including the Donaldson Adoption Institute, the North American Council on Adoptable Children, and Voice for Adoption, have done the same. Similar policy statements regarding the equal parenting capabilities of sexual minority adults and their suitability as adoptive parents have been issued by virtually all major medical and mental health professional organizations.<sup>4,5</sup>

25. One of the many reasons it is so important in the child welfare field to not exclude from the process those who may represent qualified families is the dramatic shortage of families available to meet the needs of children in the foster care system. The most recent national child welfare statistics on adoption and foster

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<sup>2</sup> Ibid.

<sup>3</sup> [www.cwla.org/wp-content/uploads/2015/04/PositionStatementOnParentingOfChildrenbyLGBT.pdf](http://www.cwla.org/wp-content/uploads/2015/04/PositionStatementOnParentingOfChildrenbyLGBT.pdf).

<sup>4</sup> Pertman, A. & Howard, J. (2012). *Emerging diversity in family life: Adoption by gay and lesbian parents*. In D. Brodzinsky & A. Pertman (Eds.), *Adoption by lesbians and gay men: A new dimension in family diversity*. New York: Oxford University Press. Among the many organizations issuing such statements are: American Psychological Association, American Academy of Child and Adolescent Psychiatry, American Psychiatric Association, American Academy of Pediatrics, and American Medical Association.

<sup>5</sup> Over 30 years of social science research indicates that sexual minority parents are as well-adjusted psychologically and have similar parenting competence as their heterosexual counterparts, and that children growing up in same-sex parent households show no differences in their developmental outcomes compared to children raised in different-sex parent families. These findings have been confirmed not only for sexual minority parents with biological children but also for those with adopted children. See Brodzinsky, D. & Pertman, A. (2012). *Adoption by lesbians and gay men: A new dimension in family diversity*. New York: Oxford University Press; Farr, R., Forsell, S., & Patterson, C. (2010). *Parenting and child development in adoptive families: Does parental sexual orientation matter?* *Applied Developmental Science*, 14, 164-178; Goldberg, A. (2010). *Lesbian and gay parents and their children: Research on the family life cycle*. Washington, D.C.: American Psychological Association.

care are for FY2017 (*i.e.*, October 1, 2016 through September 30, 2017)<sup>6</sup>. During this time period, over 442,000 children resided in foster care, with 123,437 children waiting to be placed for adoption<sup>7</sup>. The inability to find permanent and nurturing homes for these children reflects, in part, the limited number of motivated and qualified families willing to adopt them. If the State permits agencies to exclude any group of qualified applicants, including those who are lesbian or gay, it will reduce the chances of these children finding permanent life-long family connections in a timely manner and increase the risk for long-term adjustment difficulties. Indeed, excluding same-sex couples may have an especially serious impact because research indicates that they are disproportionately more likely to foster and adopt children than their heterosexual peers—specifically, among couples raising children, same-sex couples are four times more likely than different-sex couples to be raising an adopted child and six times more likely to be raising foster children.<sup>8</sup>

26. Not only is the number of children in need of families great but many have circumstances that make it challenging to find families to care for them. A sizable percentage of children in foster care, including those who are waiting to be adopted, are older, have serious medical, developmental or emotional needs, are part of a sibling group, and/or have lingered in care for many years, making it difficult to find families willing to adopt or foster them. In addition, a disproportionate number of these children are from racial/ethnic minority groups. For children waiting to be

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<sup>6</sup> <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport25.pdf>.

<sup>7</sup> *Ibid.*

<sup>8</sup> Gates, G. (2013). *LGBTQ parenting in the United States*. The Williams Institute, Los Angeles.

adopted on September 30, 2017, over 75% were three years or older; over 55% had entered care at three years or older; and over 50% were racial/ethnic minorities.<sup>9</sup>

These are some of the most vulnerable children in our country, for whom permanent and loving adoptive homes offer the possibility of a better future.

Research indicates that same-sex couples are disproportionately more likely than heterosexual adults to adopt racial minority children, and frequently adopt children

with developmental and emotional difficulties.<sup>10</sup> For example, in one national

survey of families with adopted children, 47% of children in families headed by same-sex couples were racial minority children, compared to 37% of children in

families headed by heterosexual couples.<sup>11</sup> Therefore, excluding sexual minority

individuals and couples from adopting or fostering children reduces a pool of

applicants who are more likely to be willing to take on the challenges of raising these

special needs children, leading to longer stays in foster care and increased risks for

long-term adjustment difficulties. In short, child welfare policies and practices that

allow the exclusion of families willing and able to foster and adopt these vulnerable

children do not serve the interests of these children or society in general.

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<sup>9</sup> <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport25.pdf>

<sup>10</sup> Brooks, D. & Goldberg, S. (2001). Gay and lesbian adoptive and foster care placements: Can they meet the needs of waiting children. *Social Work*, 46, 147-157; Gates, G., Badgett, M., Macomber, J. & Chambers, K. (2007). *Adoption and foster care by gay and lesbian parents in the United States*. Technical report issued jointly by The Williams Institute (Los Angeles) and the Urban Institute (Washington, DC); Goldberg, A. & Smith, J. (2009). Predicting non-African American lesbian and heterosexual preadoptive couples' openness to adopting an African American child. *Family Relations*, 58, 346-360.

<sup>11</sup> Gates et al (2007). *Adoption and foster care by gay and lesbian parents in the United States*. Technical report issued jointly by The Williams Institute (Los Angeles) and the Urban Institute (Washington, D.C.).

27. Even if there were an abundance of families willing to foster and adopt children from the child welfare system, it would still be critical to access every qualified family to ensure that all children can be placed with families that are well-matched to meet their specific needs. Child placements are assessed on a case-by-case basis, with the goal of determining which family is best suited to understand, support, and advocate for the special needs of a specific child. All children have unique needs and families are not fungible. In sum, excluding sexual minority adults from adopting and fostering reduces the pool of families from which to choose when looking for good matches to meet the needs of each child.

28. In addition, research and child welfare practice supports maintaining foster and adopted children's connections to their birth family and birth heritage, whenever possible, because these connections often promote better identity development and healthier emotional well-being<sup>12</sup>. Sexual minority adults have been shown to be very supportive of their children's need for birth family contact<sup>13</sup>. Therefore, excluding sexual minority adults from adopting and fostering reduces the pool of applicants who are likely to be willing to help their children maintain connections with birth family members.

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<sup>12</sup> Brodzinsky, D. (2005). Reconceptualizing openness in adoption: Implications for theory, research and practice. In D. Brodzinsky & J. Palacios (Eds.), *Psychological issues in adoption: Research and practice*. Westport, CT: Praeger; CWLA Standards of Excellence for Adoption Services (Rev Ed) (2000). Washington, D.C.; Grotevant, H. & McRoy, R. (1998). *Openness in adoption: Exploring family connections*. Thousand Oaks, CA: Sage; Neil, E. & Howe, D. (2004). *Contact in adoption and permanent foster care: Research, theory and practice*. London: British Association for Adoption & Fostering.

<sup>13</sup> Brodzinsky, D. & Goldberg, A. (2016). Contact with birth families in adoptive families headed by lesbian, gay male, and heterosexual parents. *Children and Youth Services Review*, 62, 9-17; Brodzinsky, D. & Goldberg, A. (2017). Contact with birth family in intercountry adoptions: Comparing families headed by sexual minority and heterosexual parents. *Children and Youth Services Review*, 74, 117-124.

**B. There is considerable impact on children in the foster care system when there are not enough families to meet their needs.**

29. Without sufficient numbers of motivated and qualified families, children continue to linger in foster care, often moving from home to home over the years. A longer time in foster care and a greater number of moves while in placement directly contributes to adverse developmental outcomes for children because it undermines the development of secure attachment bonds, which are the cornerstone of healthy human functioning<sup>14</sup>. In short, children in the foster care system are impacted negatively when there are not enough families available to foster or adopt.
30. When there are insufficient families available to foster or adopt children, children in the foster care system sometimes end up in group homes or institutional environments. As an example, across the country, for FY2017, 24,472 children in state care (6%) lived in group homes and 29,438 lived in institutional facilities (7%)<sup>15</sup>. These types of care environments cannot offer children the stability, nurturance, safety, life-long family connections and support, and genuine sense of legal, residential, relational and psychological permanence that families can provide<sup>16</sup>.
31. When there are insufficient families available to adopt children or provide other forms of permanence (e.g., guardianship), child welfare agencies often change the

<sup>14</sup> Pecora, P.J. et al. (2009). Mental health services for children placed in foster care: An overview of current challenges. *Child Welfare*, 88, 5-26; Dozier, M. & Rutter, M. (2016). Challenges to the development of attachment relationships faced by young children in foster and adoptive care. In J. Cassidy & P. Shaver (Eds.), *Handbook of attachment: Theory, research and clinical applications* (3<sup>rd</sup> ed.). New York: Guilford Press; Koback, R., Zajac, K. & Madson, S. (2016). Attachment disruptions, reparative processes, and psychopathology: Theoretical and clinical implications. In J. Cassidy & P. Shaver (Eds.), *Handbook of attachment: Theory, research and clinical applications*. (3<sup>rd</sup> ed.). New York: Guilford Press.

<sup>15</sup> <https://www.acf.hhs.gov/sites/default/files/cb/afcarsreport25.pdf>.

<sup>16</sup> Brodzinsky, D. & Smith, S. (In Press). Commentary: Understanding research, policy, and practice issues in adoption instability. *Research on Social Work Practice*.

case goal to emancipation (i.e., the youth is no longer a ward of the State) as opposed to adoption or other forms of family permanency. These permanency goal changes are associated with higher chances of multiple placements and institutional placements and lower chances for adoption<sup>17</sup>. From FY2011 through FY2017, between 8% and 11% of youth in care—or roughly 22,347 per year on average—failed to achieve permanency and aged out from foster care<sup>18</sup>. Although some youth maintain connections with their previous foster families and others return to their birth families, many of those who age out from care have no stable, committed, and nurturing relationships they can count on as they transition to adulthood. As a result, these young men and women face tremendous difficulties in areas related to education, employment, housing, physical and mental health, substance abuse, criminality, and early, unplanned parenting<sup>19</sup>. Furthermore, as a result of the many losses they experienced following removal from their families, as well as subsequent multiple moves they experience in foster care, they are likely to have great difficulty in forming trusting and secure relationships as they get older. In fact, emotional support and relationship permanency are two key missing needs identified by “aging out” youth themselves<sup>20</sup>.

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<sup>17</sup> Cushing, G. & Greenblatt, S.B. (2009). Vulnerability to foster care drift after the termination of parental rights. *Research in Social Work Practice*, 19, 694-698.

<sup>18</sup> Department of Health and Human Services. *The AFCARS reports #19-25*. Department of Health and Human Services, Children’s Bureau.

<sup>19</sup> Howard, J. & Berzin, S. (2011). *Never too old: Achieving permanency and sustaining connections for older youth in foster care*. New York: Donaldson Adoption Institute; Rebbe, R., Nurius, P.S., Ahrens, K.R., & Courtney, M.E. (2017). Adverse childhood experiences among youth aging out of foster care: A latent class analysis. *Children and Youth Services Review*, 74, 108-116.

<sup>20</sup> Samuels, G. (2009). Ambiguous loss of home: The experience of familial (im)permanence among young adults with foster care backgrounds. *Children and Youth Services Review*, 31, 1229-1239.

32. When the pool of prospective adoptive and foster care families is insufficient, agencies sometimes have no other option but to separate siblings or place children with families that are far from the communities in which they have grown up, resulting in the loss of important relationships (e.g., birth family, friends, teachers, coaches, therapists, etc.) and disrupting educational continuity. Such losses and instability can be traumatic for children and are often poorly understood by the families that end up caring for these boys and girls, leading to increased risk for adjustment difficulties<sup>21</sup>.
33. Reducing the pool of available adoptive or foster families increases the chances that children will be placed with families that are not well-matched for their individual needs, or who do not understand or are unprepared to cope with their special needs. When this happens, the chances of placement disruption or adoption breakdown increases. Regardless of the reason, adoption breakdowns typically lead to increased adjustment difficulties for children, in large part because of disruption to existing attachment relationships and support networks<sup>22</sup>.

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<sup>21</sup> Brodzinsky, D. (2009). The experience of sibling loss in the adjustment of foster and adopted children. In D. Silverstein & S. Smith (Eds.), *Siblings separated by adoption or foster care: Understanding the effects and developing solutions*. Westport, CT: Praeger; Brodzinsky, D. (2011). Children's understanding of adoption: Developmental and clinical implications. *Professional Psychology: Research and Practice*, 42, 200-207; Brodzinsky, D. (2015). Understanding and treating adoptive families. In S. Browning & K. Pasley (Eds.), *Contemporary families: Translating research into practice*. New York: Routledge.

<sup>22</sup> Brodzinsky, D. & Smith, S. (In Press). Commentary: Understanding research, policy, and practice issues in adoption instability. *Research on Social Work Practice*; Palacios, J. (In Press). Adoption breakdown research comes of age: Introduction to the special section. *Research on Social Work Practice*; Koback, R., Zajac, K. & Madson, S. (2016). Attachment disruptions, reparative processes, and psychopathology: Theoretical and clinical implications. In J. Cassidy & P. Shaver (Eds.), *Handbook of attachment: Theory, research and clinical applications*. (3<sup>rd</sup> ed.). New York: Guilford Press.

**C. Permitting State-contracted agencies to turn away same-sex couples can reduce family placement options for children in the child welfare system, thereby undermining their long-term well-being.**

34. If a State-contracted agency does not accept a class of prospective families such as same-sex couples, children in the care of that agency may lose out on the family that would have best served their needs and, instead, be placed with a family in the agency's pool of licensed families that meets the qualifications to foster or adopt but is a less appropriate choice for the child for any number of reasons (e.g., far from the child's school and community; not as well-prepared to manage a child's serious emotional or medical issues).
35. In addition, when State-contracted child placing agencies are permitted to exclude same-sex couples regardless of their qualifications, it creates a deterrent to same-sex couples' participation in the foster care and adoption system as a whole. Same-sex couples who are turned away by an agency because of their sexual orientation may be hesitant about approaching another agency in their community for fear of further discrimination. They may not know how receptive another agency will be to sexual minority applicants. Although professional child welfare organizations encourage agencies to state clearly that they welcome same-sex couples<sup>23</sup>, some agencies do not.
36. Furthermore, some same-sex couples who would be interested in fostering or adopting may decline to pursue it altogether if they know that the State authorizes discrimination against sexual minorities. Minority stress research shows the

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<sup>23</sup> [www.nrcdr.org/\\_assets/files/strategies-for-recruiting-LGBT-foster-adoptive-kinship-families.pdf](http://www.nrcdr.org/_assets/files/strategies-for-recruiting-LGBT-foster-adoptive-kinship-families.pdf).

significant impact of discrimination on marginalized groups. Individuals who experience discrimination and prejudice because they are members of a minority class, such as those who are LGBTQ, are impacted by significant stress that is psychologically harmful, increases the risk for internalized homophobia, and potentially can deter them from participating in various areas of life out of fear of repeated discrimination and feelings of exclusion and humiliation<sup>24</sup>. Moreover, such stress can also negatively impact their physical and emotional health, undermine identity and self-image, and compromise the pursuit of life goals. Thus, it would be wrong to assume that all same-sex couples who are interested in fostering or adopting a child from the foster care system would move forward in pursuit of that goal when they know that doing so comes with the risk of facing discrimination that is permitted by the State.

37. Allowing discrimination against any group would create a deterrent, but for LGBTQ people, this is exacerbated by the lingering impact of widespread discrimination against sexual minority adults in the child welfare field which, until fairly recently, had been an obstacle to participation of LGBTQ people in adoption and foster care<sup>25</sup>.

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<sup>24</sup> Goldberg, A. & Smith, J. (2011). Stigma, social context, and mental health: Lesbian and gay couples across the transition to adoptive parenthood. *Journal of Counseling Psychology*, 58, 139-150; Herek, G., Gillis, J. & Cogan, J. (2009). Internalized stigma among sexual minority adults: Insights from a social psychological perspective. *Journal of Counseling Psychology*, 56, 32-43; Meyer, I. (2003). Prejudice, social stress, and mental health in lesbian, gay, and bisexual populations: Conceptual issues and research evidence. *Psychological Bulletin*, 129, 674-697; Meyer, I. & Frost, D. (2013). Minority stress and the health of sexual minorities. In C. Patterson & A. D'Augelli (Eds.), *Handbook of psychology and sexual orientation*. New York: Oxford University Press.

<sup>25</sup> Appell, A. (2012). Legal issues in lesbian and gay adoption. In D. Brodzinsky & A. Pertman (Eds.), *Adoption by lesbians and gay men: A new dimension in family diversity*. New York: Oxford University Press; Pertman, A. & Howard, J. (2012). Emerging diversity in family life: Adoption by gay and lesbian parents. In D. Brodzinsky & A. Pertman (Eds.), *Adoption by lesbians and gay men: A new dimension in family diversity*. New York: Oxford University Press.

A growing number of State child welfare agencies have worked to overcome the damage of this past discrimination by conveying a welcoming message to LGBTQ prospective families and providing appropriate support for their efforts to adopt and foster children<sup>26,27</sup>. A State's acceptance of discrimination against same-sex couples directly undermines these steps toward inclusion and would likely reduce the number of families seeking to adopt or foster children, which, in turn, would lead to further losses in placement options for those boys and girls in need of foster and adoptive parents.

38. In addition to the deterrent effect of discrimination and the stigma it creates, if State-contracted agencies are permitted to exclude same-sex couples as prospective adoptive or foster parents, there is no guarantee that there will necessarily be another agency located nearby that can meet their needs. If a family must travel some distance to find an agency willing to work with them, it could undermine their

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<sup>26</sup> Brodzinsky, D. (2011). *Expanding resources for children III: Research-based best practices in adoption by gays and lesbians*. New York: Donaldson Adoption Institute; Brodzinsky, D. & Goldberg, A. (2016). *Practice guidelines supporting open adoption in families headed by lesbian and gay male parents: Lessons learned from the Modern Adoptive Families Study*. New York: Donaldson Adoption Institute; Brodzinsky, D. & Pertman, A. (2012) (Eds.), *Adoption by lesbian and gay men: A new dimension in family diversity*. New York: Oxford University Press; Howard, J. (2006). *Expanding resources for children: Is adoption by gays and lesbians part of the answer for boys and girls who need homes?* New York: Donaldson Adoption Institute; Howard, J. & Freundlich, M. (2008). *Expanding resources for waiting children II: Eliminating legal and practice barriers to gay and lesbian adoption from foster care*. New York: Donaldson Adoption Institute; Human Rights Campaign, All Children All Families (2012). *Promising practices in adoption in foster care, 4<sup>th</sup> ed.* Washington, D.C.: Human Rights Campaign Foundation; Mallon, G. (2006). *Lesbian and gay foster and adoptive parents: Recruiting, assessing, and supporting an untapped resource for children and youth*. Washington, DC: Child Welfare League of America.

<sup>27</sup> Despite greater participation by sexual minority adults in adoption and foster care in the past decade, they continue to experience perceived bias and prejudice during the adoption process from multiple sources, including child welfare workers, agency support staff, judges, attorneys, and birth families. For example, one study of 158 lesbian and gay adoptive parents noted that nearly 50% of survey respondents reported experiencing bias from one or more sources during the adoption process. Brodzinsky, D. (2011). *Expanding resources for children III: Research-based best practices in adoption by gays and lesbians*. New York: Donaldson Adoption Institute. A state practice of allowing agencies to discriminate against same-sex couples could exacerbate this problem by giving it the state's endorsement.

ability to move forward with the adoption or foster care process. Furthermore, even if they are willing to travel the distance for initial intakes and interviewing, the burden of traveling could jeopardize their availability for ongoing, thorough pre-placement preparation and/or limit the amount of post-placement support they could receive from the agency. Thorough pre-adoption preparation and the availability of high-quality post-adoption support are strong predictors of placement stability and child/family well-being<sup>28</sup>.

39. If State-contracted agencies exclude same-sex couples, even if there are other agencies in their vicinity, there is also no guarantee that any of those agencies will be appropriate for the family's circumstances. Different agencies may offer different training schedules or services and support for families. And some agencies specialize in particular types of placements (e.g., older children; medically fragile children; children prenatally exposed to drugs or alcohol). Thus, when an agency is authorized to exclude same-sex couples, some families may not be able to work with another agency in their area that would suit their specific foster or adoption preferences or their life circumstances.

**D. Permitting State-contracted agencies to turn away same-sex couples could result in additional negative consequences for LGBTQ youth in the foster care system.**

40. The adverse impact of discriminating against LGBTQ applicants has a disproportionate adverse impact on LGBTQ children, who are among the most

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<sup>28</sup> Smith, S. (2010). *Keeping the promise: The critical need for post-adoption services to enable children and families to succeed*. New York: Donaldson Adoption Institute.

vulnerable in the child welfare system. Research shows that LGBTQ youth are overrepresented in foster care as well as among youth who are homeless<sup>29</sup>. Rejection by family members, abuse, and discrimination are common reasons for these youth to be removed from their homes or to run away<sup>30</sup>. Once in foster care, LGBTQ youth remain at significant risk for ongoing discrimination and violence<sup>31</sup>. Furthermore, LGBTQ youth in foster care are significantly less likely to find a permanent placement through adoption or reunification than heterosexual youth<sup>32</sup>. Given the significant psychosocial risk for sexual minority youth in foster care, it is critical that the pool of adoption applicants be as large as possible so as to find permanent homes for these vulnerable young people with parents who understand, accept, and support them. Excluding any group of willing and qualified adoption applicants runs counter to the needs of these young people and to society in general. Allowing agencies to exclude same-sex couples means a loss of families that are likely to be willing and able to provide a supportive home to LGBTQ youth.

41. In addition, some LGBTQ youth in foster care – particularly those who have experienced family rejection or abuse because of their sexual orientation or gender

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<sup>29</sup> Cochran, B., Stewart, A., Ginzler, J., & Cauce, A. (2002). Challenges faced by homeless sexual minorities: Comparison of gay, lesbian, bisexual, and transgender homeless adolescents with their heterosexual counterparts. *American Journal of Public Health, 92*, 773-777; Wilson, B., Cooper, K., Kastanis, A. & Nezhad, S. (2014). Sexual and gender minority youth in foster care: Assessing disproportionality and disparities in Los Angeles. Los Angeles: The Williams Institute, UCLA School of Law.

<sup>30</sup> Ryan, C., Huebner, D., Diaz, R., & Sanchez, J. (2009). Family rejection as a predictor of negative health outcomes in white and Latino lesbian, gay, and bisexual young adults. *Pediatrics, 123*, 346-352; Savin-Williams, R. (1994). Verbal and physical abuse as stressors in the lives of lesbian, gay male, and bisexual youths: Associations with school problems, running away, substance abuse, prostitution, and suicide. *Journal of Consulting and Clinical Psychology, 62*, 261-269.

<sup>31</sup> Love, A. (2014). A room of one's own: Safe placement for transgender youth in foster care. *New York University Law Review, 89*, 2265-2300.

<sup>32</sup> [http://nc.casaforchildren.org/files/public/site/publications/TheConnection/Fall2009/Full\\_Issue.pdf](http://nc.casaforchildren.org/files/public/site/publications/TheConnection/Fall2009/Full_Issue.pdf).

identity—prefer to live with a sexual minority family, feeling that such a family will understand the discrimination, prejudice, marginalization, emotional isolation, and family rejection they have experienced and therefore be accepting of the child.

Allowing agencies to exclude sexual minority families as foster and adoption applicants reduces the likelihood that LGBTQ youth in foster care will be placed with the type of family they wish to live with; and specifically, one that is uniquely prepared to help them learn how to cope with all they have gone through.

42. Allowing state-contracted agencies to exclude same-sex couples also sends the damaging and stigmatizing message to LGBTQ youth in the care of those agencies that those responsible for their welfare deem them unsuitable to be parents when they grow up. Such a message would likely be extremely hurtful to these vulnerable youth, undermining their already fragile identity and self-esteem.

**E. Enforcing anti-discrimination clauses in State contracts with private agencies would not reduce the availability of families for children in the foster care system.**

43. Based upon my professional experience, knowledge of the child welfare literature, and consultations with adoption organizations and agencies across the country, I am aware of no evidence suggesting that when state-contracted agencies have chosen to discontinue their public foster care and adoption services because they had religious objections to complying with anti-discrimination contractual requirements to accept all qualified families, this caused a reduction in the number of families available for children in the foster care system or otherwise impaired states' ability to meet the needs of children in care.

44. Given that professional child welfare standards call for the acceptance of all qualified families and the fact that agencies—both secular and faith-based—generally adhere to these professional standards, there would be no basis to expect that requiring state-contracted agencies to accept all qualified families would compromise a state’s ability to find agencies to provide families to children in need. There are numerous faith-based and secular agencies that are willing to accept all qualified families, including same-sex couples. In my professional opinion, requiring state-contracted agencies to accept all qualified families would enhance Michigan’s ability to provide families to children in need.

David Brodzinsky Ph.D.

David Brodzinsky, Ph.D.

12-20-18

Dated

November 2018

## CURRICULUM VITAE

David M. Brodzinsky, Ph.D.  
129 Calvert Court  
Oakland, CA 94611  
Telephone: (510) 985-1772  
Fax: (510) 985-1812  
Email: [dbrodzinsk@comcast.net](mailto:dbrodzinsk@comcast.net)  
[dbrodzinsky@ncap-us.org](mailto:dbrodzinsky@ncap-us.org)  
Website: [www.fmhconsultants.com](http://www.fmhconsultants.com)

## EDUCATION

1969-1974 Ph.D., SUNY at Buffalo (Developmental Psychology)  
1964-1968 B.A., SUNY at Buffalo (Psychology Major)

## CLINICAL INTERNSHIP AND POST-DOCTORAL TRAINING

1973-1974 Post-Doctoral Fellowship in Clinical Child Psychology, Irving  
Schwartz Institute for Children and Youth, Philadelphia, Pa.  
1972-1973 Clinical Internship, Irving Schwartz Institute for Children and  
Youth, Philadelphia, Pa. (APA Approved Internship)

## ACADEMIC APPOINTMENTS

### PRIMARY APPOINTMENTS

2006-Present Professor Emeritus, Developmental and Clinical Psychology,  
Rutgers University  
2003-2006 Professor of Developmental and Clinical Psychology, Rutgers  
University  
1979-2003 Associate Professor of Developmental and Clinical Psychology,  
Rutgers University  
1974-1979 Assistant Professor of Developmental and Clinical Psychology,  
Douglass College, Rutgers University

### ADJUNCT APPOINTMENTS

2011 Consulting Lecturer, St. Louis Psychoanalytic Institute, St. Louis, MO.  
1991-2006 Adjunct Associate Professor of Psychiatry, Department of Child  
and Adolescent Psychiatry, University of Medicine and Dentistry  
of New Jersey, Newark, NJ  
1979-2006 Adjunct Associate Professor of Clinical Psychology, Graduate  
School of Applied and Professional Psychology, Rutgers

- University  
1974-1979 Adjunct Assistant Professor of Clinical Psychology, Graduate School of Applied and Professional Psychology, Rutgers University  
1977-1979 Adjunct Assistant Professor of Educational Psychology, City University of New York, Graduate Center

#### **ADMINISTRATIVE POSITIONS**

- 1989-2006 Director, Rutgers Foster Care Counseling Project (under contract with the Division of Youth and Family Services of New Jersey)  
1986-1988 Vice-Chair for Graduate Studies in Psychology, Rutgers University  
1983-1986 Area Coordinator, Graduate Program in Developmental Psychology, Rutgers University  
1979-1980 Area Coordinator, Graduate Program in Developmental Psychology, Rutgers University

#### **CLINICAL AND CONSULTANT POSITIONS**

- 2014–Present Research and Project Consultant, National Center on Adoption and Permanency, Newton, MA  
2011-Present Clinical and Training Consultant, Center for Adoption Support and Education. Burtonsville, MD.  
2011 St. Louis Psychoanalytic Institute. Training consultant. Seven week distance education course on "Adopted and foster children in social context."  
2009-Present Consultant, On Your Feet Foundation, San Francisco, CA  
2009-Present Training Consultant, Advokids, Corte Madera, CA  
2009-2055 Clinical Supervisor, Pacific Center, Berkeley, CA  
2008-2014 Forensic Psychological Consultant, Preventive Psychiatry Associates Medical Group, San Francisco  
2008-2016 Clinical Supervisor, A Home Within, East Bay Chapter, Oakland, CA  
2006-2014 Research and Project Director, Donaldson Adoption Institute, New York City  
1983-Present Private Practice in Clinical Psychology (through Family Mental Health Consultants) -- individual, marital, and family therapy with children, adolescents, and adults; consultations in adoption and child development; parent-child attachment therapy  
1989-2006 Director and Clinical Supervisor, Rutgers Foster Care Counseling Project, Rutgers University. Project provided direct clinical services to foster children and their foster & biological families. Both community-based and office-based services provided. Project also served as a training site for Ph.D. and Psy.D. Clinical

- and School Psychology students at Rutgers University.
- 1975-2006 Clinical Supervisor, Ph.D. and Psy.D. Programs in Clinical Psychology, Rutgers University
- 1984-2006 Consultant, New Jersey Division of Youth and Family Services
- 1996-2006 Consultant, CASA (Court Appointed Special Advocates), Essex County, NJ
- 1995-1996 Consultant, Spence Chapin Adoption Agency, New York City
- 1986-1995 Director, Post-Adoption Services Program (under contract with the New Jersey Division of Youth and Family Services) Project provided direct clinical services to adopted children and their families in several counties in New Jersey. Both community-based and office-based services provided
- 1988-1995 Consultant, National Center for Special Needs Adoption, Springfield, MI.
- 1989-1992 Consultant, Community Health Law Project, East Orange, NJ
- 1986-1988 Consultant, Diversified Health Service, Philadelphia
- 1984-1988 Consultant, Center for Adoptive Families, New York City
- 1984-1987 Consultant, Children's Aid and Adoption Society, Bogota, NJ
- 1984-1987 Consultant, Children's Home Society, Trenton, NJ

## **FORENSIC CONSULTANT**

- 1985-Present Private Practice in Forensic Psychology (through Family Mental Health Consultants) focusing primarily on cases involving child custody and parenting time (including relocation cases), termination of parental rights, juvenile dependency, contested adoption, wrongful adoption, personal injury, and child abuse.

Involved in approximately 600-650 forensic cases, testifying in family, civil, or criminal court over a 100 times. Qualified as an expert witness in 12 different states – CA, NJ, NY, MI, PA, TX, ID, FL, HI, MD, AZ.

Served as a parent coordinator, Special Master, or mediator in approximately 60 cases in NJ and CA.

High profile forensic cases include:

- In re Baby M (surrogate mother case in NJ), 1987
- State of NJ v Margaret Kelly Michaels (day care sex abuse case in NJ), 1988
- In re Baby Jessica (contested adoption case in MI), 1993
- Woody Allen v. Mia Farrow (contested adoption & child custody case in NY), 1994
- Baehr v Miike (gay marriage trial in HI), 1996
- Amer v Johnson (contested same-sex adoption case in FL), 1997
- Lofton et al v Kearney et al (contested same-sex adoption case in

FL; deposition only), 2001  
Strahan v Strahan (contested custody case in NJ), 2006  
In the Matter of Adoption of XG & NG (contested same-sex adoption case; decision overturned ban on same-sex adoption in FL), 2010  
State of Arizona v Trent Benson (capital mitigation case in AZ), 2010  
Catholic Charities v State of Illinois (contested same-sex adoption case in IL; affidavit only), 2011  
DeBoer v Snyder (gay marriage trial in MI), 2014

## **MEDIA CONSULTANT**

1985 Children's Television Workshop  
1997 Peter Weir, The Truman Show  
2012-Present Pixar Films  
2012-Present Disney TV Channel

## **RESEARCH FELLOWSHIPS**

2003-2006 Senior Research Fellow, Evan B. Donaldson Adoption Institute, New York City

## **AWARDS**

2002 U.S. Congressional Coalition on Adoption, Angel in Adoption Award for outstanding commitment and advocacy in adoption. National Award.  
2010 Marshall Schechter Memorial Adoption Lecture Award. Presented by the American Academy of Child and Adolescent Psychiatry.  
2015 U.S. Department of Health & Human Services Adoption Excellence Award

## **PROFESSIONAL LICENSES & CERTIFICATIONS**

California Psychology License #21152 (licensed in 2006)  
New Jersey Psychology License #2014 (licensed in 1985)  
Certification in Advanced Studies in Child Maltreatment, with Specialization in Child Sexual Abuse, from the New Jersey Child Abuse Training Institute (2004)

## **BOARD OF DIRECTORS, ADVISORY BOARDS, AND STUDY GROUPS**

2012-Present National Task Force for Adoption Competence Clinical Certification, Convened by Center for Adoption Support and Education, Burtonsville, MD

- 2011-Present Advisory Board, Advokids, Corte Madera, CA
- 2008-Present Scientific Advisory Board, Rockway Institute, San Francisco
- 2008-Present Scientific Advisory Board, Children’s Psychological Health Center, San Francisco
- 1996-2006 Board of Directors, Evan B. Donaldson Adoption Institute, New York City; Chairperson, Research Advisory Board; Senior Research Fellow
- 1983-Present Director, Family Mental Health Consultants, Oakland, CA (previously in Maplewood, NJ)
- 2001-2006 Forensic Psychology Study Group in New Jersey
- 1990-2006 Forensic Psychology Committee, New Jersey Psychological Assoc.
- 1996-2006 Advisory Board, Court Appointed Special Advocates, Essex County, NJ
- 1989-2006 Board of Directors, Adoption and Infertility Services, Inc., Lincroft, NJ
- 1988-2002 Advisory Board, Resolve of New Jersey
- 1990-1995 Board of Directors, New Jersey Infant Mental Health Assoc.
- 1987-1999 Adoption and Foster Care Study Group, American Orthopsychiatric Association
- 1989-1993 Advisory Board, American Adoption Congress
- 1986-1995 New Jersey Adoption Advisory Committee
- 1988-1989 New Jersey Bioethical Task Force on Reproductive Technologies
- 1981-1982 Vice President & Chairperson of Convention, Jean Piaget Society
- 1976-1982 Board of Directors, Jean Piaget Society

**EDITORIAL REVIEWING & EDITORIAL BOARDS**

- 1974-Present Editorial Reviewer (selected list), **Child Development, Developmental Psychology, Journal of Applied Developmental Psychology, American Journal of Orthopsychiatry, Journal of Consulting and Clinical Psychology, Journal of Clinical Child Psychology, Development and Psychopathology, Journal of Marriage and the Family, Journal of Personality and Social Psychology, Infant Behavior and Development, Journal of Family Psychology, Adoption Quarterly, Journal of Child Psychology and Psychiatry, Family Relations**
- 1986-1995 Editorial Board, **Journal of Applied Developmental Psychology**
- 1987-1993 Editorial Board, **Youth and Society**
- 2000-Present Editorial Board, **Adoption Quarterly**
- 2018-Present Editorial Board, **Developmental Child Welfare**

## MEMBERSHIP IN PROFESSIONAL SOCIETIES

American Psychological Society (Fellow Status)  
Division 7 - Developmental Psychology  
Division 12 - Society of Clinical Psychology  
Division 37 - Society for Child and Family Policy and Practice  
Division 41 - American Psychology - Law Society  
Division 53 - Society of Clinical Child and Adolescent Psychology  
American Orthopsychiatric Association (Fellow)  
Association of Family and Conciliation Courts  
California Psychological Association  
International Association of Trauma Professionals  
New Jersey Psychological Association  
1990-2006, Forensic Psychology Committee

## MAJOR RESEARCH AND SCHOLARLY INTERESTS

Adoption and Foster Care; Stress and Coping in Children; Developmental Psychopathology; Gay and Lesbian Parenting; Family Disruption; Divorce and Child Custody Issues; Forensic Psychology

## SELECTIVE GRANTS AND CONTRACTS

1978	Rutgers Summer Faculty Fellowship, \$1,500. On the motivational basis of reflection-impulsivity. Principle Investigator
1979-1980	Charles and Joanna Busch Memorial Fund, \$6,000. Children's understanding of adoption. Principle Investigator.
1980-1982	National Institute of Mental Health, \$89,529. Adjustment factors in adoption. Principle Investigator.
1983-1984	Charles and Joanna Busch Memorial Fund, \$6,000. Mother-infant attachment in adoptive families. Principle Investigator.
1989-2006	Division of Youth and Family Services of New Jersey. Foster Care Counseling Project. \$1,917,015. Awarded to the Center for Applied Psychology, Rutgers University. Project Director
2001-2002	Rainbow Endowment. \$20,000. Adoption by lesbians and gay men: A national survey of adoption agency policies, practices, and attitudes. Awarded to the Evan B. Donaldson Adoption Institute (NYC). Project Director.
2007-2008	Private Donor. \$38,000. The Adoptive Parent Preparation Project. Awarded to the Evan B. Donaldson Adoption Institute (NYC). Project Director.

2007-2011 David Bohnett Foundation. Helping adoption agencies work with LGBT prospective adoptive parents. \$100,000. Awarded to the Evan B. Donaldson Adoption Institute. Project Director

## TEACHING EXPERIENCE

1974-2006 Department of Psychology, Rutgers University

### Undergraduate Courses:

Child Development  
Lifespan Human Development  
Adulthood and Aging  
Atypical Child Development,  
Stress and Coping in Children  
Psychology of Adoption and Foster Care  
Tests and Measurement

### Graduate Courses:

Theories of Human Development  
Survey in Developmental Psychology  
Cognitive Development  
Stress and Coping in Children  
Developmental Psychopathology (selected topics)  
Psychology of Separation and Loss  
Psychology of Adoption and Foster Care  
Techniques in Child Therapy  
Child Forensic Psychology

1977 Graduate Center, Department of Educational Psychology, City University of New York. Graduate course in Socio-emotional Development

## PUBLICATIONS

1972

Brodzinsky, D.M., Jackson, J.P., & Overton, W.F. (1972). Effects of perceptual shielding in the development of spatial perspectives. *Child Development, 43*, 1041-1046.

Overton, W.F. & Brodzinsky, D.M. (1972). Perceptual and logical factors in the development of multiplicative classification. *Developmental Psychology, 6*, 104-109.

1975

Brodzinsky, D.M. (1975). The role of conceptual tempo and stimulus characteristics in children's humor development. *Developmental Psychology, 11*, 843-850.

1976

Brodzinsky, D.M. & Dein, P. (1976). Short-term stability of adult reflection-

- impulsivity. *Perceptual and Motor Skills*, 43, 1012-1014.
- Brodzinsky, D.M. & Rightmyer, J. (1976). Pleasure associated with cognitive mastery as related to children's conceptual tempo. *Child Development*, 47, 881-884.
- Brodzinsky, D.M. & Rubien, J. (1976). Humor production as a function of sex of subject, creativity, and cartoon content. *Journal of Consulting and Clinical Psychology*, 44, 597-600.
- Gerstein, A., Brodzinsky, D.M., & Reiskind, N. (1976). Perceptual integration on the Rorschach as an indicator of cognitive capacity: A developmental study of racial differences in a clinical population. *Journal of Consulting and Clinical Psychology*, 44, 760-765.
- 1977
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Brodzinsky, D. (2017). Promuovere una competenza clinica sui processi adottivi per I professionisti della salute mentale (Promoting adoption clinical competence in mental health professionals). In M. Andolfi, M. Chistolini, & A. D'Andrea (Eds.). *La famiglia adottiva tra crisi e sviluppo*. Milan, Italy: Franco Angeli Publisher.

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Brodzinsky, D. & Smith, S.L. (2018). Commentary: Understanding research, policy and practice issues in adoption instability. *Research on Social Work Practice*, published online, June 2018

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Brodzinsky, D. (In press). Adoption. In M. Bornstein (Ed.), *Encyclopedia of lifespan human development*. Thousand Oaks, CA: Sage Publications.

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## TECHNICAL AND POLICY REPORTS

2003

Brodzinsky, D & the Staff of the Evan B. Donaldson Adoption Institute (2003). *Adoption by lesbians and gays: A national survey of adoption Agency policies, practices, and attitudes*. New York: Donaldson Adoption Institute. Available online at [www.adoptioninstitute.org](http://www.adoptioninstitute.org).

2008

Brodzinsky, D. (2008). *Adoptive Parent Preparation Project. Phase I: Meeting the mental health and developmental needs of adopted children*. New York: Donaldson Adoption Institute. Available online at

[www.adoptioninstitute.org](http://www.adoptioninstitute.org).

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Brodzinsky, D. (2011). *Expanding resources for children III: Research-based best practices in adoption by gays and lesbians*. New York: Donaldson Adoption Institute. Available online at [www.adoptioninstitute.org](http://www.adoptioninstitute.org).

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#### **ARCHIVED WEBINARS AND CONTINUING EDUCATION TRAININGS**

Brodzinsky, D. (2008). Mental health and parenting issues in transracial adoption. Continuing education web briefing sponsored by Alliant University, San Francisco. Available online at [www.ce-psychology.com](http://www.ce-psychology.com)

Brodzinsky, D. (2009). Preparing adoptive parents to meet the mental health, developmental, and medical needs of their children: Training the trainers. Continuing education web briefing sponsored by Alliant University and the Evan B. Donaldson Adoption Institute. Available online at [www.ce-psychology.com](http://www.ce-psychology.com)

Brodzinsky, D. (2009). Clinical and developmental issues in the adjustment of adopted children. Continuing education workshop sponsored by Alliant University, San Francisco. Available online at [www.ce-psychology.com](http://www.ce-psychology.com)

Brodzinsky, D. (2012). Adoption and foster care in social contexts. Continuing education workshop sponsored by Alliant University, San Francisco. Available online at [www.ce-psychology.com/adoption](http://www.ce-psychology.com/adoption).

#### **SELECTED CONFERENCE PRESENTATIONS, INVITED ADDRESSES, WORKSHOPS AND LEGISLATIVE BRIEFINGS SINCE 1990**

1990

Brodzinsky, D. (1990, January). Working with the emotionally disturbed adopted child. Invited Grand Rounds Presentation. Department of Psychology, UMDNJ, Newark, NJ.

Brodzinsky, D. (1990, February). Developmental issues in adoption. Invited Grand Rounds Presentation. Department of Psychiatry, New York Hospital - Cornell Medical Center, White Plains, NY.

Brodzinsky, D. (1990, November). Clinical and developmental issues in

adoption and foster care. Invited workshop for mental health professionals and social service personnel sponsored by New York Division of Family and Children's Services. Huntington, NY

Brodzinsky, D. (1990, November). Understanding the psychology of adoption. Invited presentation. Barker Foundation and Washington School of Psychiatry. Washington, DC.

1991

Brodzinsky, D. (1991, March). Adoption: A developmental perspective. Invited workshop sponsored by the Virginia Department of Social Services. Williamsburg, VA

Brodzinsky, D., & Smith, D. (1991, March). The development of stress and coping in adopted children and adolescents. Presented at the meetings of the American Orthopsychiatric Association, Toronto.

Clarke, J. & Brodzinsky, D. (1991, March). The relationship of coping to emotional and behavioral problems in children. Presented at the meetings of the Association for the Advancement of Behavior Therapy. New York City.

Brodzinsky, D. & Donley, K. (1991, March). Social casework issues and clinical issues in adoption. Invited two day workshop presented to mental health professionals and social service personnel sponsored by the Indiana Department of Social Services and Department of Mental Health. Indianapolis, IN.

Brodzinsky, D. (1991, March). Adopting children who have been sexual abused: Assessment and counseling issues. Invited presentation to the Indiana Dept of Social Services and Dept of Mental Health. Indianapolis, IN

Brodzinsky, D., Hitt, J., & Smith, D. (1991, March). The impact of divorce on adopted and nonadopted children. Presented at the meetings of the American Orthopsychiatric Association, Toronto.

Brodzinsky, D. (1991, May). Psychiatric issues in adoption. Invited Grand Rounds Presentation. Department of Psychiatry, Jersey City Medical Center, Jersey City.

Brodzinsky, D. & Brodzinsky, A. (1991, June). Psychological issues in raising adopted children. Invited one-day workshop presented at the Annual National Meeting of Catholic Charities, New Orleans.

Brodzinsky, D (1991, September). Perspectives on permanency planning for adopted children. Presented at the International Conference on Adoption. Edinburgh, Scotland.

Brodzinsky, D. & Brodzinsky, A. (1991, September/October). Developmental and clinical issues in adoption. Seven, one-day invited workshops presented to mental health professionals and social service personnel in London, Newcastle, Birmingham, Bristol, and Belfast. Sponsored by the British Agencies for Adoption and Fostering, and the Tavistock Clinic.

Kaplan, G., Pannullo, D., Brodzinsky, D., & Clarke, J. (1991, October). Noncompliance with family court evaluations. Presented at the meetings of the American Psychiatric Association, New York City.

1992

Brodzinsky, D. (1992, November). Forensic issues in personal injury cases with children. Presented at the meeting of the New Jersey Psychological Association. Somerset, NJ.

Brodzinsky, D. (1992, November). Adoption: The lifelong search for self. Invited Keynote Address at the annual conference of Concerned Persons for Adoption sponsored by Seton Hall University, South Orange, NJ.

1993

Brodzinsky, D. (1993, January). Psychological issues in termination of parental rights cases. Presented to the Forensic Committee of the New Jersey Psychological Association, Livingston, NJ.

Brodzinsky, D. (1993, March). Clinical issues in foster care. Invited Grand Rounds Presentation. Department of Psychiatry. Elizabeth General Hospital, Elizabeth, NJ.

Brodzinsky, D. (1993, May). Development and the sexually abused adopted child. Invited workshop for mental health professionals and social service personnel sponsored by the New York State Citizen's Coalition for Children. Albany.

1994

Smith, D., Brodzinsky, D. & Fairfield, K. (1994, March). Adoption-related stress and coping among special needs and traditional adoptees. Presented at the meetings of the Southeastern Psychological Association, New Orleans.

Brodzinsky, D. (1994, April). In search of self: Identity issues in adopted children. Invited presentation at the annual conference of the American Academy of Adoption Attorneys. Sante Fe.

Brodzinsky, D. (1994, April). Mental health issues in adopted children. Invited keynote presentation at the annual conference of the American Academy of Adoption Attorneys. Sante Fe.

Brodzinsky, D. (1994, May). Facilitating self-esteem in the adopted child. Keynote address at the annual meeting of the Children's Home Society of North Carolina. Greensboro, NC.

Brodzinsky, D & Brodzinsky, A. (1994, May). Developmental and clinical issues in adoption. Invited workshop for mental health professionals and social service personnel sponsored by the Children's Home Society of North Carolina and the School of Social Work, University of North Carolina, Greensboro, NC.

Brodzinsky, D. (1994, May). Clinical issues and interventions in adoption. Invited two-day workshop for mental health professionals and social service personnel sponsored by the National Center for Special Needs Adoption. Detroit, MI.

Brodzinsky, D. (1994, August). Child custody evaluations: The role of psychological testing. Present as part of a symposium on Child Custody Evaluations, III: Ethical and Professional Issues at the meetings of the American Psychological Association. Los Angeles.

Brodzinsky, D. (1994, August). Children's changing understanding of adoption and its influence on their adjustment. Invited address at the Cornell University Conference on Adoption Research, Ithaca, NY

Smith, D., Brodzinsky, D., & Fairfield, K. (1994, November). Parenting stress in traditional and special needs adoptive families. Presented at the meetings of the Association for the Advancement of Behavior Therapy. San Diego.

1995

Brodzinsky, D. (1995, October). Forensic evaluations of children: Child custody guidelines. Invited presentation to the Department of Child Psychiatry, UMDNJ, Newark.

Brodzinsky, D. (1995, December). Family lifecycle issues in adoption. Presented at the Casey Foundation Post Adoption Conference. Boston.

1996

Brodzinsky, D. (1996, January). Adoption through the lifecycle: Adaptation and psychopathology. Grand Rounds Presentation at Rockland Children's Psychiatric Center, Orangeburg, NY.

Brodzinsky, D. (1996, March). Attachment issues in school age adopted children. Presented at the PACT Post Adoption Conference, Oakland.

Brodzinsky, D. (1996, March). Clinical issues in adoption. Invited one-day Workshop for mental health professionals and social service personnel sponsored by the National Association of Social Workers, Minnesota Chapter, St. Paul.

Brodzinsky, D. (1996, April). Clinical and developmental issues in adoption. Invited one-day workshop for mental health professionals and social service personnel sponsored by the Department of Family Services, State of Utah, Salt Lake City.

Brodzinsky, D. (1996, August). Enhancing the role of psychological testing in child custody evaluations. Presented as part of a symposium at the meetings of the American Psychological Association, Toronto.

Brodzinsky, D. (1996, October). Research issues in adoption: Exploring psychological risk. Invited colloquium presentation in the Department of Psychology, Long Island University, Brooklyn.

1997

Brodzinsky, D. (1997, March). Working with the adopted child and adoptive family. Invited lecture to the Child Psychology Interns and Child Psychiatry Residents, Department of Child and Adolescent Psychiatry, UMDNJ, Newark.

Brodzinsky, D. (1997, April). Research issues in adoption. Presented at the meetings of the Society for Research in Child Development.

Brodzinsky, D. (1997, May). Parenting adopted and foster children: Research and clinical issues. Presented at the Conference on Alternative Forms of Parenting, Beth Israel Hospital, New York City.

Brodzinsky, D. (1997, October). Adoption of children prenatally exposed to drugs and alcohol: Research and practice issues. Presentation at the Evan B. Donaldson Conference on Adoption and Prenatal Exposure to Drugs and Alcohol. Alexandria, VA.

Brodzinsky, D. (1997, October). The psychology of adoption. Keynote address at the Rutgers University Workshop on Clinical and Developmental Issues in Adoption. Sponsored by the Graduate School of Applied and Professional Psychology. Piscataway, NJ.

Brodzinsky, D. (1997, October). Clinical interventions in adoption. Workshop presented at the Rutgers University Workshop on Clinical and Developmental Issues in Adoption. Sponsored by the Graduate School of Applied and

Professional Psychology. Piscataway, NJ.

Brodzinsky, D. (1997, November). Facilitating self-esteem in the adopted child. Invited luncheon address at the 9th Biennial National Open Adoption Conference. Walnut Creek, CA.

1998

Brodzinsky, D. (1998, March). Creating openness in adoption. Presented at the Annual Barker Foundation Conference on Adoption, Washington, DC.

Brodzinsky, D. (1998, September). Psychopathology in the adopted child. Grand Rounds Presentation. Department of Child and Adolescent Psychiatry, Bronx Children's Hospital. New York.

Brodzinsky, D. (1998, October). Learning and attention problems in the adopted child. Invited community lecture sponsored by the Spence Chapin Adoption Agency, New York City.

Brodzinsky, D. (1998, November). Children's adjustment to adoption. Invited keynote address at the Catholic Charities Conference on Adoption. Binghamton, NY.

Brodzinsky, D. (1998, November). Parenting special needs children. Workshop presented at the Catholic Charities Conference on Adoption, Binghamton, NY.

1999

Brodzinsky, D. (1999, April). Childhood risk and resiliency in adoption. Invited keynote address at the Lancaster County Mental Health Alliance Conference on Children and Violence. Lancaster, Pa.

Brodzinsky, D. (1999, November). Psychological issues in adoption adjustment. Invited keynote address at the Hawaii Adoption Permanency Alliance Conference. Honolulu.

Brodzinsky, D. (1999, November). Clinical issues and interventions in adoption. One-day workshop for mental health professionals and social service personnel sponsored by the Hawaii Adoption Permanency Alliance. Honolulu.

Brodzinsky, D. (1999, November). Openness in adoption: New perspectives. Invited keynote address at the annual Concern Person's for Adoption Conference, Seton Hall University, South Orange, NJ.

2000

Brodzinsky, D. (2000, April). Children's adjustment to foster care: A stress and coping model. Invited keynote address presented at the Conference on Foster Care sponsored by the Ministry of Social Welfare and Mental Health, Barcelona, Spain

Brodzinsky, D. (2000, April). Loss in adoption: Impact on children's adjustment. Invited lecture. Department of Psychology, University of Seville, Spain.

Brodzinsky, D. (2000, August). Connecting adoption research to policy and practice. Discussant at a symposium on Adoption: Theory, Research, and Practice presented at the meetings of the American Psychological Association. San Francisco.

Brodzinsky, D. (2000, October). Reconceptualizing open adoption. Invited luncheon address at the 10th Biennial National Open Adoption Conference, Anaheim, CA.

Brodzinsky, D. (2000, October). Facilitating openness in adoption. Workshop presented at the 10th Biennial National Open Adoption Conference,

Anaheim, CA.

Brodzinsky, D. (2000, October). Infertility and its impact on adoption adjustment. Workshop presented at the 10th Biennial National Open Adoption Conference, Anaheim, CA.

2001

Brodzinsky, D. (2001, May). Mental health issues in child custody determinations. Panel discussant at the Annual Family Court Judges Retreat, Ocean City, NJ.

Brodzinsky, D. (2001, June). Research issues in adoption. Invited lecture. Department of Psychology, University of Seville, Seville, Spain.

Brodzinsky, D. (2001, October). Custody and visitation: Mental health perspectives. Invited lecture at the New Judges Orientation Workshop sponsored by the Continuing Education Program of the Superior Court of New Jersey, Princeton.

Brodzinsky, D. (2001, October). The learning disabled adopted child. Invited community lecture sponsored by the Spence Chapin Adoption Agency, New York City.

Brodzinsky, D. (2001, September). The psychology of adoption. Invited one-day workshop for DYFS supervisors and social service workers sponsored by the School of Social Work, Rutgers University.

2002

Brodzinsky, D. (2002, January). Psychological and academic adjustment in adopted children. Keynote address at the Annual Conference of National Association of Therapeutic Schools and Sponsored Programs, Stuart, FL.

Brodzinsky, D. (2002, March). Adoption by gay and lesbian individuals: Legal, social casework, and psychological issues. Presented at the Dave Thomas Center for Adoption Law Fourth Annual Symposium, Capital University Law School, Columbus, OH.

Brodzinsky, D. (2002, March). Talking with adopted children about their origins. Keynote address presented at the Annual PACT Adoption Conference, Oakland, CA.

Brodzinsky, D. (2002, March). New directions and challenges in adoption practice. Keynote address presented at the Annual Georgia State-Wide Matching and Training Conference, Atlanta.

Brodzinsky, D. (2002, March). Assessing and working clinically with adopted children who have been neglected and abused. Workshop presented at the Annual Georgia State-Wide Matching and Training Conference, Atlanta.

Brodzinsky, D. (2002, March). Coping with loss in adoption. Workshop presented at the Annual Georgia State-Wide Matching and Training Conference, Atlanta.

Brodzinsky, D. (2002, April). Clinical issues in adoption. In-service training lecture to the Psychology Interns and Child Psychiatric Residents at UMDNJ, Newark.

Brodzinsky, D. (2002, November). Reconceptualizing openness in adoption. Invited luncheon address at the National Open Adoption Conference, Lake Tahoe, NV

Brodzinsky, D. (2002, November). Infertility and adoption adjustment. Workshop presented at the National Open Adoption Conference, Lake Tahoe, NV

Brodzinsky, D. (2002, November). Searching by minors: Guidelines for professionals and parents. Workshop presented at the National Open Adoption Conference, Lake Tahoe, NV.

2003

- Brodzinsky, D. (2003, March). Reconceptualizing openness in adoption: Implications for casework and clinical practice. Invited Keynote Address at the Southern New England 11th Annual Adoption Conference, Providence, Rhode Island
- Brodzinsky, D. (2003, March). Facilitating self-esteem in adopted children. Workshop presented at the Southern New England 11th Annual Adoption Conference, Providence, Rhode Island.
- Brodzinsky, D. (2003, April). Clinical issues in adoption. Invited talk presented at the University of Seville, Spain.
- Brodzinsky, D. (2003, April). Contemporary trends and adjustment issues in adoption. Invited workshop presented to Spanish social casework and mental health professionals, Seville, Spain.
- Brodzinsky, D. (2003, June). Risk and resilience in adoption: A Multidimensional stress and coping model. Invited address at the Conference on Attachment Issues in Adoption: Risk and Resilience. London, England [Also presented at a similar conference in Manchester, England, June 2003.]

2004

- Brodzinsky, D. (2004, March). What type of openness really matters in adoption? Invited Keynote Address at the Barker Foundation Conference on Adoption. Rockville, MD.
- Brodzinsky, D. (2004, March). Clinical issues in adoption. In-service training lecture to the Psychology Interns, UMDNJ, Newark
- Brodzinsky, D. (2004, March). Clinical issues and interventions in adoption. Children's Home of Pittsburgh Conference on Adoption. Pittsburgh, PA
- Brodzinsky, D. (2004, April). Creating communicative openness in adoption. Invited Keynote Address at the PACT Adoption Conference, Oakland, CA.
- Brodzinsky, D. (2004, April). Attachment issues in cases of contested adoption. Invited Address at the Annual Conference of the American Academy of Adoption Attorneys. Philadelphia, PA.
- Brodzinsky, D. (2004, July). Family structural openness versus communicative openness as predictors of adjustment in adopted children. Presented as part of a symposium at the meetings of the International Society for the Study of Behavioral Development, Ghent, Belgium.
- Brodzinsky, D. (2004, September). Clinical assessment and interventions in adoption. Invited workshop for mental health and social service professionals sponsored by the Children's Home of Pittsburgh, Pittsburgh, Pa.
- Brodzinsky, D. (2004, October). Clinical assessment and interventions in adoption. Invited workshop for the Manchester Adoption Society, Manchester, England.
- Brodzinsky, D. (2004, October). Creating and supporting openness in adoption: Implications for children's self-esteem and emotional well-being. Invited workshop for the British Agencies for Adoption and Fostering, London, England
- Brodzinsky, D. (2004, October). Psychological issues in adoption: Implications for clinical interventions and social casework practice. Workshop for social casework professionals and mental health professionals sponsored by the Colorado Division of Child and Family Services. Grand Junction, CO
- Brodzinsky, D. (2004, November). Structural openness versus communicative

openness as factors in children's adoption adjustment. Keynote address presented at the Adoption UK Conference, Newry, N. Ireland.

Brodzinsky, D. (2004, November). Supporting the search for self: Guidelines for talking with children about adoption. Presented at the Adoption UK Conference, Newry, N. Ireland.

Brodzinsky, D. (2004, November). The role of psychological testing in child custody evaluations. Presented to the Family Law Section of the Inns of Court. Glen Ridge, NJ.

2005

Brodzinsky, D. (2005, March). Parenting the adopted child: Family life cycle issues. Keynote address presented at the Ours Adoption Conference, Green Bay, WI.

Brodzinsky, D. (2005, March). Adoption and infertility. Workshop presented at the Ours Adoption Conference, Green Bay, WI.

Brodzinsky, D. (2005, March). Separation and loss in adoption. Workshop presented at the Ours Adoption Conference, Green Bay, WI

Brodzinsky, D. (2005, March). Children's understanding of adoption: Implications for the telling process. Workshop presented at the Ours Adoption Conference, Green Bay, WI.

Brodzinsky, D. (2005, September). Developmental and parenting issues in transracial adoption. Keynote address at the PACT Adoption Workshop, San Jose, CA.

Brodzinsky, D. (2005, October). Adoption by lesbians and gay men: What do we know, what do we need to know, and what do we need to do? Presented at the Conference on Gay and Lesbian Parenting and Adoption, Caceres, Spain.

Brodzinsky, D. (2005, October). A family life cycle perspective on post-adoption services. Presented at the Conference on Gay and Lesbian Parenting and Adoption, Caceres, Spain.

Brodzinsky, D. (2005, October). Clinical issues and interventions in adoption. Two-day workshop for mental health professionals sponsored by the Ministry for Children and Families, Seville, Spain.

Brodzinsky, D. (2005, October). The mental health needs of foster children. Presented at the La Caixa Conference on Foster Care, Barcelona, Spain.

Brodzinsky, D. (2005, October). The psychology of adoption. One-day workshop for adoption professionals and mental health professionals sponsored by the Adoption Certification Program, Graduate School of Social Work, Rutgers University, Piscataway, NJ

2006

Brodzinsky, D. (2006, March). The experience of sibling loss on adopted and foster children. Presented at the conference on Sibling Loss: Biology and Beyond, Claremont McKenna College, Ontario, California

Brodzinsky, D. (2006, May). Creating openness in adoption: Guidelines for adoption agencies. In-service workshop for the staff of The Cradle, Evanston, IL.

Brodzinsky, D. (2006, May). New directions in adoption. In-service workshop for the Board of Directors of The Cradle, Evanston, IL.

Brown, L. & Brodzinsky, D. (2006, October). The role of perceived similarity to parents in adopted children's adjustment. Presented at the St. John's University Fourth Biennial Adoption Conference, "Families Without Borders: Adoption Across

Culture and Race,” New York City.

Brodzinsky, D. (2006, November). Openness in adoption: Implications for policy and practice. Presented at Evan B. Donaldson Adoption Institute Workshop, “A Revolution in the Family: A National Forum on Adoption Policy and Practice.” The John F. Kennedy Presidential Library and Museum, Boston, MA.

Brodzinsky, D. (2006, November). Facilitating openness in adoption. In-service training presented to the staff of the Spence Chapin Adoption Agency, New York City.

2007

Brodzinsky, D. (2007, March). Mental health and parenting issues in special needs adoptions. Full day workshop presented to the staff of Sierra Adoption Services, and to adoptive parents, Chico, CA & Yuba City, CA.

Brodzinsky, D. (2007, March). Adoptive parent preparation: Issues and challenges. In-service training presented to the staff of Adoption Connection, San Francisco, CA

Brodzinsky, D. (2007, March). Mental health issues in adoption: Parenting implications. Keynote presented at the annual PACT for Adoption conference, Oakland, CA.

Brodzinsky, D. (2007, March). Fostering open communication in adoption. Workshop presented at the annual PACT for Adoption conference, Oakland, CA

Brodzinsky, D. (2007, March). Understanding and managing adoption-related loss. Workshop presented at the annual PACT for Adoption conference, Oakland, CA.

Brodzinsky, D. (2007, April). Clinical and developmental issues and interventions in adoption. Two day workshop presented to mental health professionals in Valladolid, Spain.

Brodzinsky, D. (2007, May). Mental health issues in adoption. Workshop presented at the Community Partnership Conference on Adoption sponsored by the Los Angeles County Department of Children and Family Services, Los Angeles.

Brodzinsky, D. (2007, May). Characteristics of successful special needs adoptive families. Workshop presented at the Community Partnership Conference on Adoption sponsored by the Los Angeles County Department of Children and Family Services, Los Angeles.

Brodzinsky, D. (2007, October). The role of sibling loss in the adjustment of adopted and foster children. Presented at the Adoption Ethics and Accountability Conference, Arlington, VA.

Brodzinsky, D. (2007, October). Discussing difficult background information about birth family members with adoptive parents: Guidelines for adoption professionals. In-service workshop for Independent Adoption Center, Oakland, CA.

Brodzinsky, D. (2007, October). Children’s understanding of adoption: Developmental and clinical issues. Presented at the annual conference of the American Academy of Pediatrics, San Francisco, CA.

Brodzinsky, D. & Brodzinsky, A. (2007, November). Children’s understanding of adoption: Implications for adjustment and clinical interventions. In-service and community workshop for the Ann Martin Children’s Center, Oakland, CA.

Brodzinsky, D. (2007, November). Adoptive parent preparation. Closing plenary address presented at Adoption in America 2007: What We Know and How It Matters for Children and Families. University of Maryland School of Social

Work, Baltimore, MD.

2008

- Brodzinsky, D. (2008, March). Lifetime developmental issues for the adopted individual: Implications for best practice standards. Keynote address presented at the American Adoption Congress meetings. Portland, OR.
- Brodzinsky, D. (2008, March). The role of psychological testing in child custody evaluations. Presentation to the Alameda County Family Law Association. Hayward, CA.
- Brodzinsky, D. (2008, April). The Adoptive Parent Preparation Project: Best practice standards for preparing adoptive parents. Presented as part of a panel on “Welcome to the Adoption Revolution: What We’ve Learned From and About Adoptive Families.” 14<sup>th</sup> Annual Ametz Conference on Infertility, Adoption, and the Family. New York City.
- Brodzinsky, D. (2008, April). Lifelong issues for the adoptive family. Workshop presented at the 14<sup>th</sup> Annual Ametz Conference on Infertility, Adoption, and the Family. New York City.
- Brodzinsky, D. (2008, October). Mental health and parenting issues in transracial adoption. Continuing education web briefing sponsored by Alliant University, San Francisco [available online at [www.ce-psychology.com](http://www.ce-psychology.com)]
- Brodzinsky, D. (2008, October). Communication between parents and children about adoption. Presentation at I Jornados Postadopcion De Andalucia. Seville, Spain.
- Brodzinsky, D. (2008, October). Integration of racial, ethnic, and cultural differences in adoptive families. Keynote address at I Jornados Postadopcion De Andalucia. Seville, Spain.
- Brodzinsky, D. (2008, October). Working with adopted children who have siblings. Workshop presented to mental health and child welfare professionals. Seville, Spain.
- Brodzinsky, D. (2008, October). Searching for origins in international adoption. Workshop presented to mental health and child welfare professionals. Seville, Spain.
- Brodzinsky, D. (2008, October). Techniques for facilitating integration of racial, ethnic, and cultural differences in adoptive families. Workshop presented to mental health and child welfare professionals. Seville, Spain.
- Brodzinsky, D. (2008, November). Prenatal substance exposure for adopted children: Outcomes and implications. Presentation to adoption professionals and adoptive parents sponsored by Open Path and PACT, An Adoption Alliance. San Francisco.
- Brodzinsky, D. (2008, November). Clinical and systemic issues in the adjustment of foster children. Presentation for judicial, legal, mental health, and child welfare professionals at the conference on Permanency: A Legal and Psychological Mandate for Foster Children, sponsored by AdvoKids and A Home Within. University of San Francisco, San Francisco, CA.

2009

- Brodzinsky, D. (2009, February, April, & June). Preparing adoptive parents to meet the mental health, developmental, and medical needs of their children: Training the

trainers. Continuing education web briefing sponsored by Alliant University and the Evan B. Donaldson Adoption Institute. Available online at [www.ce-psychology.com](http://www.ce-psychology.com)

- Brodzinsky, D. (2009, March). Clinical issues in adopted children. Presidential Lecture Series presentation at Alliant University.
- Brodzinsky, D. (2009, May). Managing the mental health and developmental challenges of adoptive family life. Workshop for social casework and mental health professionals sponsored by the Boulder County Department of Social Services, Boulder, CO.
- Brodzinsky, D. (2009, May). International adoption in global perspective: Policy and practice issues. Keynote address presented at the Conference on International Adoption, Oslo, Norway.
- Brodzinsky, D. (2009, May). A biopsychosocial model of children's adjustment to adoption. Invited address presented to the Faculty of Psychology and Social Sciences, Cambridge University, England.
- Brodzinsky, D. (2009, May). Understanding and managing loss in adoption. Invited workshop presented at the Post-Adoption Clinical Training Program, Barcelona, Spain.
- Brodzinsky, D. (2009, June). Mental health issues in dependency cases. Invited keynote address presented at the workshop on Decision Making in the Child Welfare Process: Permanency for Kids. Sponsored by the Bucks County Board of Judges and the Bucks County Children and Youth Social Services Agency. Doylestown, Pa.
- Brodzinsky, D. (2009, August). Preparing and supporting adoption by lesbians and gay men. Presented as part of a symposium on Gay and Lesbian Family Frontiers at the annual conference of the American Psychological Association, Toronto, Canada.
- Brodzinsky, D. (2009, September). Understanding and managing loss in adoption. Webinar presented to adoption professionals and adoptive parents through the Joint Council on International Children's Services, Oakland, CA.
- Brodzinsky, D. (2009, September). Preparing parents to adopt the older child. In-service training for the staff of Across the World Adoptions, Pleasant Hill, CA.
- Brodzinsky, D. (2009, September). Attachment issues in child custody cases. Luncheon address to the Sacramento County Minor's Counsel Association, Sacramento, CA.

2010

- Brodzinsky, D. & Howard, J (January, 2010). Preparing and educating adoptive parents. Workshop presented at the annual meetings of the Child Welfare League of America, Washington, D.C.
- Brodzinsky, D. (April, 2010). Preparing, educating, and supporting adoptive parents: What do we know and what do we need to know? Workshop presented at the conference on New Worlds of Adoption: Linking Research with Practice, University of Massachusetts, Amherst, MA.
- Brodzinsky, D. (April, 2010). Clinical and systemic issues in the adjustment of foster children. Workshop for legal, mental health, and child welfare professionals. sponsored by AdvoKids, Sacramento, San Francisco, CA.
- Brodzinsky, D. (May, 2010). Attachment issues in dependency cases. Workshop for

- legal professionals and court appointed special advocates. Sponsored by Advokids and A Home Within. Mariposa, CA
- Brodzinsky, D. (May, 2010). Clinical and systemic issues in the adjustment of foster children. Workshop for legal professionals and court appointed special advocates. Sponsored by Advokids and A Home Within. Mariposa, CA.
- Brodzinsky, D. (June, 2010). Role of parental expectations in pre-adoption and post-adoption services for parents. Workshop presented to adoption professionals, Seville, Spain
- Brodzinsky, D. (June, 2010). Understanding and managing loss in adoption. Workshop presented at the Post-Adoption Clinical Training Program. Barcelona, Spain
- Brodzinsky, D. & Palacios, J (June, 2010). Trends in adoption research: Implications for adoption practice. Presented at the Post-Adoption Clinical Training Program. Barcelona, Spain.
- Brodzinsky, D. (July, 2010). Adoptive parent preparation and support: Rationale, barriers, and key issues. Paper presented at the International Conference on Adoption Research. Leiden, Netherlands.
- Brodzinsky, D. (September, 2010). Understanding and managing loss in adoption. Continuing education workshop sponsored by Alliant University, San Francisco. Available online at [www.ce-psychology.com](http://www.ce-psychology.com)
- Brodzinsky, D. (September, 2010). Role of attachment theory in dependency cases. Workshop for social casework and legal professionals sponsored by AdvoKids, Oakland, CA.
- Brodzinsky, D. (October, 2010). Transition to adoptive parenthood: Issues in preparing and supporting adoptive parents. Presented as part of a symposium on Family Variables in the Life-long Process of Adoption at the 5th Congress of the European Society of Family Relations. Milan, Italy.
- Brodzinsky, D. (October, 2010). Clinical and developmental issues in the adjustment of adopted children. Invited day-long workshop for adoption and mental health professionals sponsored by Centro Italiano Aiuti all'Infanzia (CIAI). Milan, Italy
- Brodzinsky, D. (October, 2010). Adoption by lesbians and gay men: Trends and practice issues. Presented at the St. John's Conference on Adoption. New York City.
- Brodzinsky, D. (November 2010). Adoption by lesbians and gay men: What we know, need to know, and ought to do. Invited keynote address the Conference on Gay and Lesbian Adoption sponsored by Ethica. Tucson, AZ.

2011

- Brodzinsky, D. (April, 2011). Post-placement adjustment and the needs of women who place infants for adoption. Conference on Open Adoption sponsored by On Your Feet Foundation and Adoption Connection. San Francisco, CA.
- Brodzinsky, D. (April, 2011). New trends and challenges in adoption: Implications for adoption practice. Day-long workshop for adoption professionals sponsored by the Ontario Association of Children's Aid Societies. Toronto, Canada.
- Brodzinsky, D. (June, 2011). Ethnicity issues in intercountry adoption: Preparation and support for adoptive parents. Invited keynote address at the International Congress on Adoption: Becoming 'good enough' parents. Florence, Italy
- Brodzinsky, D. (August, 2011). Attachment issues in dependency cases. Workshop for

LA County Department of Children and Family Services sponsored by AdvoKids, Los Angeles, CA.

Brodzinsky, D. & Brodzinsky, A. (October, 2011). Family lifecycle issues in transracial adoption. Workshop for children welfare professionals sponsored by Hawaii International Adopted Child, Honolulu, HI.

Brodzinsky, D. (November, 2011). Adopting adolescents from foster care: Clinical and parenting issues. Workshop for adoption professionals and adoptive parents sponsored by Family Builders, Oakland, CA.

Brodzinsky, D. (November, 2011). Working with older youth in care: Clinical issues considerations. Workshop for child welfare professionals sponsored by the San Mateo County Department of Children and Family Services, San Mateo, CA

2012

Brodzinsky, D. (March 2012). The lifespan of adoption: Preparing children and parents. Lecture to mental health and adoption professionals sponsored by St. Louis Psychoanalytic Institute. St. Louis, MO.

Brodzinsky, D. & Popper, S. (March 2012). Who am I? Where do I belong? Workshop presented at New Worlds of Adoption: Navigating the Teen Years. Sponsored by the Rudd Adoption Research Program at the University of Massachusetts. Amherst, MA.

Brodzinsky, D. (May, 2012). Clinical and systemic issues in the adjustment of foster children: Implications for dependency cases. Presented at Early Childhood Mental Health and Development: Science Driving Practice in Juvenile Dependency Court. Sponsored by Advokids and UCLA. Los Angeles

Brodzinsky, D. (July, 2012). Adoption and the life cycle: Growing up as an adoptee. Keynote address at the workshop "Growing up and Coming of Age as an Adoptee in Spain" sponsored by the Institutio Universitario de la Familia, Universidad de Comillas, Madrid, Spain.

Brodzinsky, D. (August, 2012). Preparing parents and children for adoption. In-service training for child welfare professionals. San Mateo County, CA.

Brodzinsky, D. (August, 2012). Placing children with relatives versus maintaining placement in fost/adopt homes. In-service training for child welfare professionals. San Mateo Country, CA

Brodzinsky, D. (September, 2012). Best practices in transracial adoption. In-service training for child welfare professionals. San Mateo County, CA.

Brodzinsky, D. (September, 2012). Creating and supporting openness in child welfare adoptions. In-service training for child welfare professionals. San Mateo County, CA.

Brodzinsky, D. (September, 2012). Adoption today: Understanding the impact on individual and family dynamics. In-service professional workshop. Disney TV Channel. Burbank, CA

Brodzinsky, D. (October, 2012). Individual and relationship dynamics in adoptive families. Consultation and in-service training. Pixar Films. Emeryville, CA

Brodzinsky, D. (November, 2012). Children's adjustment to adoption: Three decades of research and clinical practice. Workshop for mental health and adoption professionals sponsored by the Center for Adoption Education and Support. Chevy Chase, MD.

2013

- Brodzinsky, D. (April, 2013). Adoption disruptions and dissolutions: Issues and interventions. Workshop presented at the 31st Annual Child Abuse Symposium hosted by the Santa Clara County Child Abuse Council. Santa Clara, CA.
- Brodzinsky, D. (June, 2013). Adolescence and adoption: Preserving old connections, facilitating new ones. Workshop for child welfare professionals and adoptive families sponsored by Aspiranet. Clovis, CA
- Brodzinsky, D. (June, 2013). Preparing children and parents for successful adoptive placements. Workshop for child welfare professionals sponsored by Aspiranet. Madera, CA.
- Brodzinsky, D. (June, 2013). Preparing parents to understand and support the emotional life of adopted children. Workshop for child welfare and mental health professionals sponsored by Aspiranet. Visalia, CA.
- Brodzinsky, D. (June, 2013). Understanding and managing loss in adoption. Workshop for child welfare and mental health professionals sponsored by Aspiranet. Visalia, CA.
- Amamburu-Alegret, I., Aznar-Martinez, B, Salamero-Baro, M., Perez-Testor, C., Davins-Pujols, M., Mirabent, V. & Brodzinsky, D. (July, 2013). Psychological adjustment and communication openness in internationally adopted adolescents. Presented at the International Conference on Adoption Research. Bilbao, Spain.
- Brodzinsky, D. (July, 2013). Convener and discussant of symposium, "Enhancing adoption competence in mental health professionals: Multi-national perspectives" at the International Conference on Adoption Research. Bilbao, Spain.
- Brodzinsky, D. (July, 2013). Discussant of symposium, "Outcomes and interventions for children adopted from foster care" at the International Conference on Adoption Research. Bilbao, Spain
- Brodzinsky, D., Smith, S. & On Your Feet Foundation (July, 2013). Post-placement adjustment and the needs of women who place an infant for adoption. Poster session at the International Conference on Adoption Research. Bilbao, Spain.

2014

- Brodzinsky, D. (January, 2014). The role of birthparents in the life of the adoptive family: Real versus symbolic presence. Invited lecture at Catholic University, Milan, Italy.
- Brodzinsky, D. (February, 2014). Clinical issues and interventions in adoption. Day-long workshop for mental health and adoption professionals sponsored by Centro di Terapia dell'Adolescenza, Milan, Italy.
- Brodzinsky, D. (March, 2014). Choosing an adoption competent therapist. Workshop for adoptive kinship members sponsored by PACT, an Adoption Alliance. Oakland, CA.
- Brodzinsky, D. (April 2014). Briefing on Assembly Bill 1790 before the Assembly Health Committee, Sacramento, CA.
- Brodzinsky, D. (June, 2014). Congressional Briefing on Adoption and Disabilities on behalf of the American Psychological Association and the Donaldson Adoption Institute. Washington, D.C.
- Brodzinsky, D. (September, 2014). The psychology of adoption. Series of seminars and

keynote addresses to child welfare and adoption professionals. Bogota, Colombia.

Brodzinsky, D. (November, 2014). Communication openness in adoption. Workshop for adoption professional sponsored by the British Association for Adoption and Fostering. Separate workshops in London, Belfast, and Cardiff.

Brodzinsky, D. (November, 2014). The importance of birth family in the mental and emotional life of the adopted person. Workshop presented to adoption professionals sponsored by Coram Family Services. London, England

Brodzinsky, D. (November, 2014). Adjustment to adoption: A biopsychosocial model. Presentation to faculty and students in the School of Policy Studies, University of Bristol. Bristol, England

2016

Brodzinsky, D. & Goldberg, A. (May, 2016). Contact with birth family in child welfare adoptions: A comparison of adoptive families headed by heterosexual, lesbian, and gay male parents. Presented at the Rudd Adoption Research Conference, Amherst, MA.

2017

Brodzinsky, D. (April, 2017). Transracial adoption: Issues and outcomes. Keynote address at Psychology Day workshop, California State University, Fullerton. CA  
Wyman Battalen, A., Farr, R. & Brodzinsky, D. (November, 2017). Socialization beliefs and perceptions among lesbian and gay parents. "Families Negotiating Identities and Orientations Across Contexts" Poster Symposium. National Council on Family Relations Annual Conference, Orlando, FL.

2018

Brodzinsky, D. (January 2018). Promoting adoption clinical competence in mental health professionals. Invited address. Catholic University of Milan. Milan, Italy.

Brodzinsky, D. (January 2018). Frontiers in adoption: Open adoption and adoption by sexual minority adults. Training seminar for mental health professionals sponsored by the School for Psychotherapy, IRIS, and the Center of Adolescent Therapy. Milan, Italy.

Brodzinsky, D. (July, 2018). Why mental health professionals need better training related to adoption. Presentation in symposium, "Improving outcomes for success: Building a community of adoption competent practitioners" at the International Conference of Adoption Researchers. Montreal, Canada

Brodzinsky, D. & Lemieux, J. (July, 2018). Special needs adoptions: Clinical practice issues. Day-long training workshop for mental health professionals at the International Conference of Adoption Researchers. Montreal, Canada

**Expert Testimony at Trial or Deposition, 2014-2018**

cc – child custody case  
ac – adoption, juvenile dependency, or guardianship case  
gm – gay marriage case  
pi – personal injury case

Cooper v Click	PA 013630 (depo)	2016 cc
DeBoer et al v. Snyder et al	MI 120-cv-10285	2014 gm
In the matter of A.L. & R.L .	CA, SC JV SQ15-51572 SQ15-51573	2017 ac
In the matter of A.T.	CA 82132	2016 ac
In the matter of B.M. & M.M.	CA OJ13020846 OJ13021112	2015 ac
In the matter of E.C.S .	CA JV82432	2014 ac
In the matter of E.T.W	CA 81955	2014 ac
In the matter of L.L.	CA J6050	2016 ac
In the matter of M.D.	CA JD232884	2015 ac
In the matter of N.C.W-R	CA OJ12018175	2016 ac
In re Guardianship of A.B.M	CA PRO 115632	2015 ac
Gomez et al v Hee Duk Kang et al	CA 2015-1-cv-285407 (depo)	2017 pi
Kant v Singh	CA HF13677269 (depo)	2016 cc
Mehta v Mehta	CA 1-12-FL-160543 (depo)	2017 cc
Salverson et al v. Legacy Behavioral Services et al.	CA S-1500-CV-278479 (Declaration)	2014 ac

## **Exhibit B**

**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION**

KRISTY DUMONT; DANA DUMONT;  
ERIN BUSK-SUTTON; and REBECCA  
BUSK-SUTTON,

Plaintiffs,

v.

NICK LYON, in his official capacity as  
the Director of the Michigan Department  
of Health and Human Services; and  
HERMAN MCCALL, in his official  
capacity as the Executive Director of the  
Michigan Children's Services Agency,

Defendants,

and

ST. VINCENT CATHOLIC  
CHARITIES; MELISSA BUCK; CHAD  
BUCK; and SHAMBER FLORE,

Intervenor Defendants.

No. 2:17-cv-13080-PDB-EAS

HON. PAUL D. BORMAN

MAG. ELIZABETH A. STAFFORD

**DECLARATION OF KATIE  
PAGE SANDER**

I, Katie Page Sander, solemnly declare as follows:

1. I am the Executive Director of Hands Across the Water, Inc. ("HATW"), a child placing agency ("CPA") in Michigan. I have worked for HATW in various capacities since 2003. I am over the age of 18 and understand the obligations of an oath. This affidavit is based upon my personal experience with the Michigan child welfare system.

2. HATW is a licensed, non-profit CPA located in Ann Arbor, Michigan, established in 1999. The agency has 45 employees, two locations, and a budget of approximately \$2 million per year. Over the past 20 years, HATW has served thousands of children and families in our community, state, country and across the globe through parent education/prevention programs, foster care, adoption (international, infant and state ward), pregnancy counseling and behavioral health programs. In 2018, HATW served over 550 children and families. HATW contracts with the Michigan Department of Health and Human Services (“DHHS”) to provide public adoption and foster care services.

#### **DHHS Adoption and Foster Care Contracts**

3. HATW contracts with DHHS to provide foster care and adoption services. Recruiting and selecting potential foster care and adoptive families is part of the work encompassed by our adoption and foster care contracts with DHHS.
4. HATW is committed to working with all qualified prospective parents. Our contracts with DHHS do not permit us to discriminate on the basis of sexual orientation, among a number of other characteristics.

#### **The Need for More Foster and Adoptive Families**

5. In my experience at HATW, I have observed that there is a shortage of families who are willing and qualified to serve as foster and adoptive parents. In particular, it can be challenging to find appropriate families for children with significant medical or emotional needs, because often there are not enough families who are willing and able to care for these children.
6. In my experience, there are a disproportionately high number of LGBTQ-identifying youth in foster care. I have seen that such youth sometimes specifically ask for a family

that is supportive of their sexual orientation and gender identity. In some cases, youth have specifically asked to be placed with a family who is part of the LGBTQ community.

7. In my experience, many LGBTQ foster and adoptive families have been willing to take older children, children who identify as LGBTQ, and children with behavioral issues. If HATW were to turn away LGBTQ individuals, meeting the needs of the children we serve would be more difficult.

**The Existence of the Michigan Adoption Resource Exchange Does Not Prevent Agencies from Denying Children Placements with LGBTQ Parents**

8. The Michigan Adoption Resource Exchange (“MARE”) is a valuable program that connects certain children waiting for adoption with interested prospective parents across the State. MARE is a program operated by the Judson Center, under contract with DHHS.
9. When a family contacts MARE regarding a listed child, the family does not necessarily know whether the child is in the care of an agency that excludes LGBTQ parents. The family may initially work with a CPA other than the CPA caring for the listed child.
10. If the family successfully completes an approved home study, then the family’s caseworker may be connected with the case worker assigned to the child’s case. This person—an employee of the child’s CPA, which may be different from the family’s CPA—must decide whether placement with the MARE family is appropriate. If the caseworker is bound by his/her employer’s religious views, (s)he could decide that waiting for a different family, if any, is preferable to placement with LGBTQ families.
11. Furthermore, if the CPA that conducted the home study and worked with the family is different from the child’s CPA, the child’s CPA will receive less funding upon the completion of an adoption. CPAs thus could have a financial incentive to place with their own families.

**My Experiences as Program Manager for the Foster Care Navigator Program**

12. From May 2012 until October 2014, I was the Program Manager for the Foster Care Navigator Program (“FCNP”). At the time, FCNP was a program operated by the Judson Center, under contract with DHHS.
13. The FCNP served as a support and education service for prospective foster parents making their first contact with the Michigan child welfare system. DHHS purchased advertisements through media (billboards, radio ads, online ads, etc.) encouraging interested families to call 1-855-MICH-KIDS. FCNP was a centralized intake for people calling this line. I supervised approximately 9 employees, including 8 Navigators who answered calls from prospective foster parents; all of the Navigators were themselves licensed as foster parents at one point. In my capacity as Program Manager, I communicated regularly with DHHS officials, including Maura Corrigan, Cathe Hoover, Chris Rehagen, Nicole Leitch, and Jessica Bodell.
14. It was common knowledge within the FCNP staff that certain faith-based agencies were turning away LGBTQ individuals based on their religious views. I spoke with one or more DHHS employees about my concern that LGBTQ callers to FCNP would be turned away by agencies if we did not tell them which agencies to contact and which ones to avoid.
15. DHHS instructed me to tell FCNP employees not to recommend any specific agency for any reason, and not to recommend that a family avoid a specific agency for any reason. Based upon these instructions from DHHS, I told FCNP employees that, even if an LGBTQ caller explicitly asked which agencies would work with them, they were not to name a specific agency. Instead, I instructed FCNP employees to advise the family to pick

an agency, call it, and ask up-front whether the agency would be willing to work with an LGBTQ family.

16. I recall that some LGBTQ families were very upset that they were turned away. I recall learning that, on a handful of occasions, LGBTQ individuals reached out to agencies, were turned away, and then called FCNP back again. Based upon the instructions I received from DHHS, even then the FCNP could not recommend or advise the individuals which agencies would work with them. I and other FCNP employees would encourage such families to keep trying.

17. As one example, from my experience as Program Manager I recall an LGBTQ prospective family who reached out to Bethany Christian Services because the family was Christian and hoped to work with an agency sharing their beliefs. Bethany Christian Services refused to work with them. The family was so discouraged that they decided not to call another agency.

18. I left FCNP in 2014 when the program was transferred from the Judson Center to a different CPA.

**Harms Caused by DHHS's Practice of Permitting Agencies to Exclude LGBTQ Individuals**

19. Although the practice of religiously motivated refusals of service was widely known during my time at the FCNP, in my experience agencies did not generally discuss religiously-based exclusions in public. This changed in the summer of 2015, when faith-based CPAs lobbied for the bills that became Public Acts 53, 54, and 55. This suggested that working with LGBTQ individuals was inconsistent with their religious beliefs. Despite some agencies' statements that they would continue discriminating, to date, I am aware of no systematic response by DHHS to prohibit such discrimination. On January 7,

I learned that Governor Whitmer signed an Executive Directive that could result in changes to DHHS policy, but I am not yet aware of the implementation of any such changes. DHHS continues to contract with agencies that have announced an intent to apply religious principles in selecting children's families—principles that would exclude qualified prospective parents on the basis of their sexual orientation.

20. When an agency signs a contract with DHHS and has accepted referrals of children from the public child welfare system, the agency is tasked with recruiting qualified families for those children. Therefore, when DHHS allows agencies to exclude LGBTQ individuals regardless of their qualifications, this appears to be approving those CPAs' use of religious eligibility criteria in providing public child welfare services—even when to the detriment of children in the foster care system, who have no choice as to whether they are referred to an agency that excludes families based on religious tests or an agency that accepts all qualified families.

21. Many prospective foster and adoptive families have expressed nervousness about the process of becoming foster and/or adoptive parents, especially when they make that first call to an agency. It takes an incredible amount of courage to ask someone to judge whether you have a suitable home for a child. One purpose of the FCNP was to ensure that prospective families' first contact in the child welfare system was a foster parent who had been through it before to help make families feel more comfortable. If a family calls an agency and is told the agency will not serve them because of who they are—even if they are directed to other agencies that might work with them—that could well mean that the first call that family makes is also the last call.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: January 10, 2019

  
Katie Page Sander, LMSW

## **Exhibit C**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KRISTY DUMONT; DANA  
DUMONT; ERIN BUSK-SUTTON;  
and REBECCA BUSK-SUTTON,

Plaintiffs,

v.

NICK LYON, in his official capacity  
as the Director of the Michigan  
Department of Health and Human  
Services; and HERMAN MCCALL,  
in his official capacity as the  
Executive Director of the Michigan  
Children's Services Agency,

Defendants,

and

ST. VINCENT CATHOLIC  
CHARITIES; MELISSA BUCK;  
CHAD BUCK; and SHAMBER  
FLORE,

Defendants-Intervenors.

No. 17-cv-13080-PDB-EAS

HON. PAUL D. BORMAN

MAG. ELIZABETH A. STAFFORD

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**DEFENDANTS NICK LYON AND HERMAN MCCALL'S**  
**OBJECTIONS AND RESPONSES TO PLAINTIFFS'**  
**AMENDED FIRST SET OF INTERROGATORIES**

**DEFENDANTS NICK LYON AND HERMAN MCCALL'S**  
**OBJECTIONS AND RESPONSES TO PLAINTIFFS' AMENDED**  
**FIRST SET OF INTERROGATORIES**

**General Objections:**

Defendants Nick Lyon and Herman McCall (State Defendants) object to Instruction No. 3 of Plaintiffs' Amended First Set of Interrogatories to Defendants Nick Lyon and Herman McCall, defining the term "person" as "any natural person, association, corporation, partnership, government (or government agency, bureau, or department), quasi-public entities, proprietorship, joint venture, trust, estate, and all other forms of legal entity and division of legal entities." This definition is overly broad and unduly burdensome, going beyond any reasonable definition or understanding of the term "person."

State Defendants object to Instruction No. 4, defining the term "identify" as:

"[A]ll information pertaining to the origin, nature, or definitive characteristics of that person or item referenced in that particular interrogatory. When used in reference to a person, these terms shall mean to state his/her/its full name, whether the person is an individual, corporation, partnership, or other organization, present address, present telephone number, present employment position and business affiliation, and past employment positions and business affiliations that are relevant to the facts and issues of this case. Once any person has been identified properly it

shall be sufficient thereafter when identifying that same person to state his or her name only. For former employees of the state of Michigan, or any city or subdivisions thereof, or employees or for current employees on indefinite sick leave, provide the current or last known home address and current or last known business address.”

This definition is overly broad and unduly burdensome, going beyond any reasonable definition or understanding of the term “identify,” seeking multiple items of additional information, e.g., past employment positions and business affiliations, etc., along with the identity.

State Defendants object to Instruction No. 7, defining the “Relevant Period” as from January 1, 2013 to present, because it goes beyond the scope of the present lawsuit and its allegations, which regard contracting practices of the Michigan Department of Health and Human Services’ contracting practices that are circumscribed by 2015 PA 53, which was introduced in the Michigan House of Representatives on February 12, 2015, enacted on June 10, 2015, and signed by the Governor on June 11, 2015, with an effective date of September 9, 2015. Furthermore, the allegations made by and relating to the named Plaintiffs relate to 2016 and 2017. (Cplt., ¶¶ 57-69, Doc. 1, Pg. ID 16-18.) These interrogatories therefore seek information that is outside

the time frame of the present lawsuit. They are thus not relevant to any of Plaintiffs' claims and not reasonably calculated to lead to the discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1).

State Defendants object to Instruction No. 9 regarding documents not in their possession and control to the extent it requests them to state the "name and address of the person now having possession, custody, or control of the document or any copy thereof." Such information may be outside the scope of State Defendants' knowledge.

Furthermore, as to all interrogatories, State Defendants object to the extent they request information within the ambit of the attorney/client privilege, work product privilege and/or deliberative process privilege and/or privileges.

### **INTERROGATORIES**

1. Please identify all persons at the Michigan Department of Health and Human Services ("DHHS") who are involved in soliciting, negotiating, revising, evaluating, approving, or otherwise acting with respect to contracts between DHHS and private child placing agencies for adoption and foster care services. For each of these individuals, please identify all positions and titles held during the Relevant Period

and their dates of employment in each position.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “all persons,” “involved in,” “otherwise acting” and “all positions and titles” as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning. State Defendants further object to the terms and/or phrases “all” and “otherwise” because they render this interrogatory overly broad and unduly burdensome.

In addition, State Defendants object because this interrogatory contains three subparts. The first part asks State Defendants to “identify all persons . . .” The second subpart asks State Defendants to “identify all positions and titles” and the third subpart asks for “their dates of employment in each position.” Rule 33(a)(1) restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These subparts puts Plaintiffs at four interrogatories.

Without waiving these objections, Defendant responds as follows: The Michigan Department of Health and Human Services (Department) responds as follows:

- Laura Baldwin, Departmental Analyst – from January 2016. Prior with private agency
- Cathe Hoover, Manager, Adoption & Guardianship, Recruitment & Retention – from May 2011
- Sarah Goad, Manager, Foster Care Office – from December 2015. Training Delivery Division Manager, OWDT - from March 2014
- Amanda Doane, Departmental Analyst – from January 2012
- Nancy Rostoni, State Administrative Manager – from May 2008
- Tunisha Harrison, Departmental Analyst – from February 2008
- Wendy Odlum, Departmental Analyst – from July 1994
- Jenna Perry, Departmental Analyst – from February 2013
- Sasha Wildfong, Departmental Analyst – from January 2011
- Stacie Bladen, Deputy Director, Children’ Services Agency – from September 2014
- Dr. Herman McCall, Executive Direction CSA – from April 2017

- Kevin Dunn, State Assistant Administrator, State Administrative Manager-1 from August 2005
- John Dupuis, Departmental Specialist-2 – from January 2000
- John Ferrigan, State Administrative Manager-1 - from June 2008 – June 2015
- Jeanette Hensler, State Division Administrator, State Administrative Manager-1 – from June 2003
- Rita Hotchkin, State Administrative Manager-1 – from May 1977 – October 2016
- Lisa Rancour, Senior Exec Mgt Asst-2 – from August 2009
- Della Scott-Wirt, Executive Secretary-E, Senior Exec Mgt Asst-2 – from February 1977 – May 2018
- Terri Smith, State Division Administrator, Departmental Analyst-A, State Administrative Manager – from January 1998
- Necole Staron, State Assistant Administrator – from August 2000
- Karen Welsh, Secretary Supervisor-2-FZN – from March 1990
- Arlene Wittenberg, Buyer Manager-3 – from November 1985
- Bonnie Fineis, Departmental Analysis-A – from February 1998
- Christine Sanches, Senior Management Executive – from April 2005
- Samantha Wyman, State Administrative Manager-1 – from June 2008
- Susan Kangas, Bureau of Budget Director – from June 2015
- Melissa Mires, Human Services Budget Division Director – from February 2017
- Louis Long, Children’s Services Agency Budget Section Manager - from July 2018
- Jensine Garza, Children’s Services Agency Budget Liaison – from August 2018

2. Please identify all private child placing agencies with which DHHS had or has a contract to provide adoption services and placing agency foster care services during the Relevant Period. For each of these agencies, please identify their locations, the number of children

they serve annually, and religious affiliations, if any.

**RESPONSE:**

State Defendants object to the use of the term and/or phrase “religious affiliations” as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning. State Defendants also object to the use of the term and/or phrase “all” overly broad and unduly burdensome.

In addition, State Defendants object because this interrogatory contains four subparts. The first part asks State Defendants to “identify all private . . .” The second subpart asks State Defendants to “identify their locations . . .” The third subpart asks State Defendants to “identify . . . the number of children they serve annually . . .” The fourth subpart asks State Defendants to “identify their . . . religious affiliation, if any.” Rule 33(a)(1) restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These four, in conjunction with the other subparts stated in response to Interrogatory 1, puts Plaintiffs at seven interrogatories.

Without waiving these objections, Defendant responds as follows: Please see “Placement Agency Foster Care (PAFC) Contracted Agencies” and “Adoption Contracted Agencies” below for lists of private child-placing agencies with contracts to provide adoption and/or foster care services between 2013 and present. MDHHS does not collect information on or designate religious affiliations for contracted child placing agencies.

**Placement Agency Foster Care (PAFC) Contracted Agencies**

<b>Agency Name</b>	<b>Facility Street Address</b>	<b>Facility City, State, Zip</b>	<b>License Number</b>
Adoption and Foster Care Specialists, Inc.	350 N Court St	Lapeer, MI 48446	CB440295542

Adoption Option, Inc.	4008 W Wackerly St	Midland, MI 48640	CB560263403
Arbor Circle Corporation (Pathway)	1115 Ball Ave. NE	Grand Rapids, MI 49505	CB700201042
Bethany Christian Services	612 W. Lake Lansing Rd, Ste 600	E. Lansing, MI 48823	CB330314400
Bethany Christian Services	6995 W 48th St	Fremont, MI 49412	CB620200977
Bethany Christian Services	901 Eastern Ave, NE	Grand Rapids, MI 49501	CB410200976
Bethany Christian Services	12048 James St	Holland, MI 49424	CB700200981
Bethany Christian Services	6687 Seeco Dr	Kalamazoo, MI 49009	CB390267474
Bethany Christian Services	30685 Barrington, Ste 140	Madison Heights, MI 48071	CB630200978
Bethany Christian Services	1055 Carriage Hill Dr	Traverse City, MI 49686	CB280235713
Catholic Charities of Genesee & Shiawassee	901 Chippewa St	Flint, MI 48503	CB250201015
Catholic Charities of Jackson, Lenawee & Hillsdale Counties	199 N Broad St	Adrian, MI 49221	CB460308844
Catholic Charities of Southeast Michigan	17500 W. Eight Mile	Southfield, MI 48075	CB630201423
Catholic Charities West Michigan	1095 Third St, Ste 125	Muskegon, MI 49441	CB610201023
Catholic Charities West Michigan	40 Jefferson St, SE	Grand Rapids, MI 49501	CB410245705

Catholic Charities West Michigan	806 Hastings St., Suite R	Grand Rapids, MI 49503	CB280379189
Catholic Social Services of U.P.	1100 Ludington St	Escanaba, MI 49829	CB210201016
Catholic Social Services of Washtenaw (Ran by Private Individual)	4925 Packard	Ann Arbor, MI 48108	CB810201018
Child & Family Charities	4287 Five Oaks Dr	Lansing, MI 48911	CB330201039
Child & Family Services of Northeastern Michigan	1044 US 23 North	Alpena, MI 49707	CB040201041
Child & Family Services of Northwestern Michigan	3785 Veterans Dr	Traverse City, MI 49684	CB280201037
Child & Family Services of the U.P.	706 Chippewa Square, Ste 200	Marquette, MI 49855	CB520201043
Children's Center of Wayne County	79 West Alexandrine	Detroit, MI 48201	CB820201055
Community Care Organization	18688 Joann St	Detroit, MI 48205	CB820315857
Community Social Services of Wayne County	9851 Hamilton	Detroit, MI 48202	CB820201024
Crisis Center Inc.	107 East Illinois Ave	Mt. Pleasant, MI 48804	CB370201248
D.A. Blodgett for Children	805 Leonard Ave, NE	Grand Rapids, MI 49503	CB410201088
Eagle Village	4507 170th Ave	Hersey, MI 49639	CB670201101

Ennis Center	20100 Greenfield	Detroit, MI 48235	CB820201107
Ennis Center	129 E. Third	Flint, MI 48502	CB250201108
Ennis Center	91 S. Telegraph	Pontiac, MI 48341	CB630315340
Ennis Center	222 Huron Ave	Port Huron, MI 48060	CB740315326
Family & Children Services, Inc.	1608 Lake St	Kalamazoo, MI 49001	CB390201118
Family & Community Services	3075 E. Grand River	Howell, MI 48843	CB470382419
Family & Community Services	42140 Van Dyke, Ste 110	Sterling Heights, MI 48314	CB500316267
Family Services & Children's Aid of Jackson	330 W Michigan Ave	Jackson, MI 49201	CB380201116
Federation of Youth Services	548 E. Grand Blvd	Detroit, MI 48207	CB820201475
Forever Families	17940 Farmington Road, Ste 301	Livonia, MI 48152	CB820201130
Fostering Futures	3300 Washtenaw Ave, Ste 260	Ann Arbor, MI 48104	CB810302599
Fostering Solutions	131 S. Winter St	Adrian, MI 49221	CB460360419
Goodwill Farms	1701 Macinnes Dr	Houghton, MI 49931	CB310282171
Growing Hope Through Love	903 E. Clinton, Ste 102	Howell, MI 48843	CB470366531
Guiding Harbor (formerly: Girlstown Foundation)	525 Huron River	Belleville, MI 48112	CB820201144

Hands Across the Water	781 Avis Drive; Ste 200	Ann Arbor, MI 48108	CB810201161
Holy Cross Services	1305 E. Eighth St, Ste B	Traverse City, MI 49686	CB280200990
Holy Cross Services	625 Yale Street	Saginaw, MI 48602	CB730200994
Homes for Black Children	511 E. Larned	Detroit, MI 48226	CB820201177
Judson Center	12723 Telegraph, Ste 200	Redford, MI 48239	CB820201212
Judson CS	4415 Springer Ave.	Royal Oak, MI 48073	CB630369213
Living in Christ Ministries - Youth Guidance Foster Care	70 Calhoun St	Battle Creek, MI 49017	CB130201519
Livingston County Catholic Charities	2020 E. Grand River, Ste 104	Howell, MI 48843	CB470313744
Methodist Children's Home	26645 West Six Mile Rd	Detroit, MI 48240	CB820201295
New Light Child & Family Institute	8511 S State St	Millington, MI 48746	CB790290893
Oakland Family Services	114 Orchard Lake Rd	Pontiac, MI 48341	CB630201335
Orchards Children's Services	24901 Northwestern Hwy, Ste 500	Southfield, MI 48075	CB630201342
Real Independent Living Program	42639 Five Mile Rd	Plymouth, MI 48170	CB820301011
Samaritas	400 N. Saginaw St; Ste 104	Flint, MI 48502	CB250296641
Samaritas	729 W. Michigan Ave, Ste 200	Jackson, MI 49201	CB380201255
Samaritas	1545 Keystone	Lansing, MI	CB330201264

		48911	
Samaritas	2170 E. Big Beaver	Troy, MI 48083	CB630201265
Samaritas	4341 S. Westnedge Ave, Ste 2000	Kalamazoo, MI 49008	CB390258392
Samaritas	207 E. Fulton; 4th Floor	Grand Rapids, MI 49503	CB410201266
Sault Tribe of Binogii Placing Agency	2218 Shunk Rd	Sault Ste. Marie, MI 49783	CN170201399
Spaulding for Children	16250 Northland Dr, Ste 120	Southfield, MI 48075	CB630201414
Spectrum Child & Family Services	16250 Northland Dr	Southfield, MI 48075	CB630201417
Spectrum Child & Family Services	28303 Joy Rd	Westland, MI 48285	CB820252473
St. Vincent Catholic Charities	2800 West Willow	Lansing, MI 48917	CB330201019
Upper Peninsula Family Solutions, Inc.	307 S. Front St, Ste 130	Marquette, MI 49855	CB520304693
Vista Maria	20651 W Warren Ave	Dearborn Heights, MI 48127	CB820201485
Wayne Center for the Developmentally Disabled	100 River Place, Ste 250	Detroit, MI 48207	CB820201505
Wellspring Lutheran Services	6019 W Side Saginaw Rd	Bay City, MI 48707	CB090201254
Wellspring Lutheran Services	1260 S. Otsego Rd	Gaylord, MI 49735	CB690358779
Wellspring Lutheran Services	1715 Sutherland Dr, SE	Kentwood, MI 49508	CB410201260
Wellspring	25900 Greenfield	Oak Park,	CB630201261

Lutheran Services	Rd, Ste 401	MI 48237	
Wellspring Lutheran Services - E. Lansing	411 W. Lake Lansing Rd.	East Lansing, MI 48823	CB330371021
Wolverine Human Services	20300 Superior Rd., Ste. 160	Taylor, MI 48180	CB820201514
Adoption Options Worldwide, Inc	5745 W Maple, Suite 214	W. Bloomfield, MI 48322	CLOSED
Alternatives for Children & Families	2065 S Center Rd	Burton, MI 48519	CLOSED
Black Family Development	2995 E Grand Blvd.	Detroit, MI 48202	CLOSED
Child Safe Michigan	30680 Montpelier, Suite 250	Madison Heights, MI 48071	CLOSED
Community Living Services	35425 W Michigan Ave	Detroit, MI 48184	CLOSED
Every Woman's Place	175 W Apple Ave	Muskegon, MI 49440	CLOSED
Family Counseling & Children's Services	220 N. Main	Adrian, MI 49221	CLOSED
Family Empowerment Institute	2727 Second Ave, Suite 153	Detroit, MI 48201	CLOSED
Family Outreach Center	1939 S Division Ave	Grand Rapids, MI 49507	CLOSED
Greater Hopes, Inc.	1345 Monroe Ave SW, Suite 246	Grand Rapids, MI 49505	CLOSED
Michigan Indian Child Welfare Agency		Lansing, MI 48933	CLOSED
Michigan Indian	2956 Ashmun St.	Sault Ste.	CLOSED

Child Welfare Agency		Marie, MI 49783	
Pathway of Hope Youth & Family Services, Inc	8835 Oak Road	Evart, MI 49631	CLOSED
Starfish	30000 Hively Road	Inkster, MI 48141	CLOSED
Third Level Crisis Intervention	1022 E. Front Street	Traverse City, MI 49686	CLOSED
Crossroads for Youth	930 E Drahner Rd	Oxford, MI 48371	Closed program but agency still providing residential services
Don Bosco Hall	7375 Woodward	Detroit, MI 48206	CLOSED
Teaching Family Homes of Upper Michigan	1000 Silver Creek Rd	Marquette, MI 49855	Closed program but agency still providing residential services

### **Adoption Contracted Agencies**

<b>Agency Name</b>	<b>Street Address</b>	<b>City, State, Zip</b>	<b>License Number</b>
Adoption and Foster Care Specialists, Inc.	350 N. Court St, Ste 210	Lapeer, MI 48446	CB440295542
Adoption Option, Inc.	4008 W. Wackerly Rd	Midland, MI 48641	CB560263403
Arbor Circle	412 Century Lane	Holland, MI 49423	CB700201042
Bethany Christian Services	12048 James St	Holland, MI 49424-9661	CB700200981
Bethany Christian	1055 Carriage Hill	Traverse City,	CB280235713

Services	Dr	MI 49686	
Bethany Christian Services	6687 Seeco Dr	Kalamazoo, MI 49009	CB390267474
Bethany Christian Services	901 Eastern Ave., NE	Grand Rapids, MI 49501	CB410200976
Bethany Christian Services	6995 West 48th St	Fremont, MI 49412	CB620200977
Bethany Christian Services	30685 Barrington St, Ste 140	Madison Heights, MI 48071-2653	CB630200978
Bethany Christian Services	612 W. Lake Lansing Rd, Ste 600	East Lansing, MI 48823	CB330314400
Catholic Charities of Genesee & Shiawassee	901 Chippewa	Flint, MI 48503	CB250201015
Catholic Charities of Jackson, Lenawee & Hillsdale	199 N. Broad St	Adrian, MI 49221	CB460308844
Catholic Charities of Southeast MI	17500 W. Eight Mile	Southfield, MI 48075	CB630201423
Catholic Charities West Michigan	806 Hastings Street, Ste. R	Traverse City, MI 49686-3454	CB280379189
Catholic Charities West Michigan	40 Jefferson Ave., SE	Grand Rapids, MI 49503	CB410245705
Catholic Charities West Michigan	1095 Third Street, #125	Muskegon, MI 49441	CB610201023
Catholic Family Services - Dioceses of Saginaw	915 Columbus Ave	Bay City, MI 48708	CB090201020
Catholic Social Services of Washtenaw	4925 Packard	Ann Arbor, MI 48108	CB810201018
Catholic Social Services-U.P.	1100 Ludington St	Escanaba, MI 49829	CB210201016
Child & Family Services of	1044 US 23 North	Alpena, MI 49707	CB040201041

Northeastern Michigan			
Child & Family Services of Northwestern Michigan	3785 Veterans Dr	Traverse City, MI 49684	CB280201037
Child & Family Services of the Upper Peninsula	706 Chippewa Sq, Ste 200	Marquette, MI 49855	CB520201043
Child and Family Charities	4287 Five Oaks Dr	Lansing, MI 48911	CB330201039
Children's Center of Wayne County	79 West Alexandrine	Detroit, MI 48201	CB820201055
D.A. Blodgett	805 Leonard, NE	Grand Rapids, MI 49503	CB410201088
Eagle Village	4507 170th Ave.	Hersey, MI 49639	CB670201101
Ennis Center for Children	129 East Third	Flint, MI 48502	CB250201108
Ennis Center for Children	91 South Telegraph	Pontiac, MI 48341	CB630315340
Ennis Center for Children	222 Huron Ave	Port Huron, MI	CB740315326
Ennis Center for Children	20100 Greenfield Rd	Detroit MI 48235	CB820201107
Family & Children Services, Inc.	1608 Lake St	Kalamazoo, MI 49001	CB390201118
Family & Community Services	42140 Van Dyke; Ste 110	Sterling Heights, MI 48314	CB500316267
Family & Community Services - Livingston	3075 E. Grand River	Howell, MI 48843	CB470382419
Family Services & Children's Aid	330 W. Michigan Ave	Jackson, MI 49204	CB380201116
Forever Families	17940 Farmington Road,	Livonia, MI 48152	CB820201130

	Ste 301		
Fostering Futures	3300 Washtenaw Ave, Ste 260	Ann Arbor, MI 48108	CB810302599
Fostering Solutions	131 S. Winter St	Adrian, MI 49221	CB460360419
Good Will Farm Association, Inc. - UP Kids	57 Huron St.	Houghton, MI 49931	CB310282171
Growing Hope Through Love	903 E. Clinton, Ste 102	Howell, MI 48843	CB470366531
Hands Across the Water	781 Avis Dr, Ste 200	Ann Arbor, MI 48108	CB810201161
Homes for Black Children	511 E. Larned	Detroit, MI 48226	CB820201177
Judson Center	12723 Telegraph Road, Suite 200	Redford, MI 48239	CB820201212
Judson CS	4415 Springer	Royal Oak, MI 48073-6515	CB630369213
Livingston County Catholic Charities	2020 E. Grand River, Ste 104	Howell, MI	CB470313744
Lutheran Adoption Services, Inc.	2170 E. Big Beaver Rd, Ste B	Troy, MI 48083	CB630201258
Lutheran Adoption Services, Inc.	11545 Keystone Ave	Lansing, MI 48911	CB330361250
Lutheran Social Services of Wisconsin & U.P., MI	1029 North 3rd St, Ste B	Marquette, MI 49855	CB520245339
Methodist Children's Home	26645 West Six Mile Rd	Redford, MI 48240	CB820201295
New Light Child & Family Institute	8511 State St	Millington, MI 48746	CB790290893
Oakland Family Services	114 Orchard Lake Rd	Pontiac, MI 48341	CB630201335
Open Door Adoption Services	726 Oakridge Dr	Jackson, MI 49203	CB380356643

Orchards Children's Services	24901 Northwestern Hwy, Ste 500	Southfield, MI 48076	CB630201342
Sault Tribe of Binogii Placing Agency	2218 Shunk Rd	Sault Ste. Marie, MI 49783	CN170201399
Spaulding for Children	16250 Northland Dr, Ste 120	Southfield, MI 48075	CB630201414
Spectrum Child and Family Services	16250 Northland Dr.	Southfield, MI 48075	CB630201417
St. Vincent Catholic Charities	2800 West Willow	Lansing, MI 48917	CB330201019
Teaching Family Homes of Upper Michigan	1000 Silver Creek Rd	Marquette, MI 49855	CB520201452
Upper Peninsula Family Solutions	307 South Front, Ste 130	Marquette, MI 49855	CB520304693
Vista Maria	20651 W. Warren	Dearborn Heights, MI 48127	CB820201485
Wolverine Human Services	20300 Superior Road, Ste. 160	Taylor, MI 48180	CB820201514
Youth Guidance Foster Care (Living In Christ Ministries)	70 Calhoun St	Battle Creek, MI 49017	CB130201519
Adoption Options Worldwide, Inc	5745 W Maple, Suite 214	W. Bloomfield, MI 48322	CLOSED
Alternatives for Children & Families	2065 S Center Rd	Burton, MI 48519	CLOSED
Child Safe Michigan	30680 Montpelier, Suite 250	Madison Heights, MI 48071	CLOSED
Family Counseling & Children's Services	220 N. Main	Adrian, MI 49221	CLOSED
Future Families, Inc.	10047 Fox Run Drive	Davison, MI 48423	CLOSED

Greater Hopes, Inc.	1345 Monroe Ave SW, Suite 246	Grand Rapids, MI 49505	CLOSED
Heaven Sent Adoption Services	1100 S. Bridge St.	Charlevoix, MI 49720	CLOSED
Michigan Indian Child Welfare Agency		Lansing, MI 48933	CLOSED
Michigan Indian Child Welfare Agency	2956 Ashmun St.	Sault Ste. Marie, MI 49783	CLOSED
Teaching Family Homes of Upper Michigan	1000 Silver Creek Rd	Marquette, MI 49855	Closed program but agency still providing residential services

3. Please identify any state-contracted child placing agencies that have special areas of expertise (*e.g.* medically needy children, pregnant teens) and the particular expertise of that agency.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “state-contracted” and “special areas” as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning. State Defendants further object to the term and/or phrase “any” because they render this interrogatory overly broad and unduly burdensome.

In addition, State Defendants object because this interrogatory contains 2 subparts. The first part asks State Defendants to “identify any state-contracted . . .” The second subpart asks State Defendants to “identify the particular expertise of that agency.” Rule 33(a)(1) restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These subparts, in conjunction with those subparts

previously identified by State Defendants, puts Plaintiffs at nine interrogatories.

Without waiving these objections, State Defendants respond as follows: Please see “Treatment Foster Care Contracted Agencies” and “Refugee Foster Care Contracted Agencies” below for lists of private child-placing agencies with contracts to provide Treatment Foster Care Services (TFC), or Refugee Foster Care Services (RAUM).

### **Treatment Foster Care Contracted Agencies**

<b>Agency Name</b>	<b>Facility Street Address</b>	<b>Facility City, State, Zip</b>	<b>License Number</b>
Bethany Christian Services	901 Eastern Ave, NE	Grand Rapids, MI 49501	CB410200976
Catholic Charities West Michigan	806 Hastings St., Suite R	Grand Rapids, MI 49503	CB280379189
Catholic Charities West Michigan	40 Jefferson SE	Grand Rapids, MI 49503-4304	CB410245705
Ennis Center	129 E. Third	Flint, MI 48502	CB250201108
Ennis Center	91 S. Telegraph	Pontiac, MI 48341	CB630315340
Ennis Center	222 Huron Ave	Port Huron, MI 48060	CB740315326
Ennis Center	20100 Greenfield	Detroit, MI 48235	CB820201107
Judson Center	12723 Telegraph, Ste 200	Redford, MI 48239	CB820201212
Judson CS	4415 Springer	Royal Oak, MI 48073	CB630369213
Samaritas	400 N. Saginaw St, Ste 104	Flint, MI 48502	CB250296641

Samaritas	729 W. Michigan Ave	Jackson, MI 49201	CB380201255
Samaritas	4341 S. Westnedge Ave, Ste 2000	Kalamazoo, MI 49008	CB390258392
Samaritas	207 E. Fulton; 4th Floor	Grand Rapids, MI 49503	CB410201266
Samaritas	2170 E. Big Beaver	Troy, MI 48083	CB630201265
Spectrum Child & Family Services	711 N. Saginaw, Ste 104	Flint, MI 48503	CB630201417
Spectrum Child & Family Services	28303 Joy Road	Westland, MI 48185	CB820252473
St. Vincent Catholic Charities	2800 W. Willow St.	Lansing, MI 48917	CB330201019
Vista Maria	20651 W. Warren	Dearborn Heights, MI 48127	CB820201485
Wellspring Lutheran Services	1715 Sutherland Dr.	Kentwood, MI 49508	CB410201260
Wellspring Lutheran Services	1260 S. Otsego Ave.	Gaylord, MI 49735	CB690358779
Family Counseling & Children's Services	220 N. Main	Adrian, MI 49221	CLOSED
Monroe County Community Mental Health	1001 S. Raisinville Rd.	Monroe, MI 48161	CLOSED
St. Joseph Community Mental Health	677 E. Main, Suite A	Centreville, MI 49032	CLOSED

**Refugee Foster Care Contracted Agencies**

<b>Agency Name</b>	<b>Facility Street Address</b>	<b>Facility City, State, Zip</b>	<b>License Number</b>	<b>Service Description</b>
Bethany Christian Services	901 Eastern Ave NE	Grand Rapids, MI 49501	CB410200974	Treatment Foster Care
Bethany Christian Services	1050 35th St SE, Ste 400	Grand Rapids, MI 49508	CB410200974	General Foster Care/ Independent Living
Bethany Christian Services	901 Eastern Ave NE	Grand Rapids, MI 49503	CI410200975	General Residential
Bethany Christian Services	2440 Richmond St, NW	Grand Rapids, MI 49504	CI410312005	General Residential
Bethany Christian Services	1050 35th St SE, Ste 400	Grand Rapids, MI 49508	CB410200974	Specialized Independent Living
Bethany Christian Services	3220 52nd Street, SE	Kentwood, MI 49512	CI410361186	General Residential
Samaritas	1545 Keystone	Lansing, MI 48911	CB330201264	Treatment Foster Care
Samaritas	511 South Jackson Street	Jackson, MI 49201	CI380385672	General Residential
Samaritas	1545 Keystone	Lansing, MI 48911	CB330201264	General Foster Care/ Independent Living
Samaritas	4551 E. Kinsel Highway	Charlotte, MI	C1230355081	General Residential
Samaritas	1545 Keystone	Lansing, MI 48911	CB330201264	Specialized Independent

				Living
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4. Please describe the process by which DHHS enforces any anti-discrimination policy with respect to any private child placing agencies under contract with the state, including any actions taken by DHHS in response to the undersigned counsel's July 2016 letter to the Michigan Attorney General's office notifying the office that some taxpayer-funded state-contracted child placing agencies refused to accept same-sex couples who contacted them inquiring about adopting a child from foster care.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases "the state" and "any" as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to their meaning. State Defendants further object to the term and/or phrase "any" because it renders this interrogatory overly broad and unduly burdensome.

In addition, State Defendants object because this interrogatory contains 2 subparts. The first part asks State Defendants to "describe the process . . ." The second subpart asks State Defendants to "include[e] any actions taken by DHHS in response to the undersigned counsel's July 2016 letter to the Michigan Attorney General's office . . ." Rule 33(a)(1) restricts a party to "no more than 25 written interrogatories, including all discrete subparts." These subparts, in conjunction with those subparts previously identified by State Defendants, puts Plaintiffs at 11 interrogatories.

State Defendants further object because they cannot comment on a letter sent to their legal counsel, the Michigan Department of Attorney General, whose sole role in this matter is to provide legal representation, including advice. Accordingly, whether any actions were taken and what those actions may have been concern communications within the scope of the attorney-client, work-product and deliberative-process privileges. Regarding the attorney-client privilege, any response to this interrogatory would necessarily lead to an inference not only that advice was dispensed, but the nature of that advice. Regarding the work-product privilege, any response to this interrogatory necessarily involves communications and/or documents prepared in reasonable anticipation of litigation. Regarding the deliberative-process privilege, any actions or decisions necessarily involve information received for the purpose, and reflecting the give-and-take, of the deliberative process.

Without waiving these objections, State Defendants respond as follows:

Complaints of alleged violations of statute, administrative rules, policies, or master contract by a private child placing agency are referred to the Division of Child Welfare Licensing (DCWL) for special investigation. Once a special investigation is complete, a corrective action plan addressing how to obtain and maintain compliance with any established violation(s) is required to be completed by the child placing agency and approved by DCWL. This process pertains to anti-discrimination policies, as found in section 2.9 of the adoption master contract and the foster care master contract. In addition, MDHHS policy SRM 403, *Non-discrimination in Foster Care and Adoption Placements*, states, in part:

Federal law prohibits delaying or denying the placement of a child for adoption or foster care on the basis of race, color, or national origin of the adoptive or foster parent, or the child involved.

Any decision to consider the use of race, color, or national origin as part of placement selection criteria must be based

on individual circumstances of the child. The consideration must clearly document how it will advance the child's interests or needs.

Violation of this statute subjects the state or other entity in the state involved in adoption and foster care placements to financial penalties.

Any foster/adoptive applicant or approved foster/adoptive parent who has reason to believe that he/she has been denied or delayed the placement of a child because of race, color, or national origin may file a complaint.

### **Written Complaint**

A complaint should be in writing, contain the name, address, and phone number of the complainant, and briefly describe the nature of the complaint and the circumstances of the alleged discrimination. A complaint should be filed within 10 business days of the occurrence of the alleged act of discrimination. This requirement may be waived by the foster care or adoption program manager or designee if extenuating circumstances exist which justify an extension. However, in no case will a complaint be reviewed after 90 days of the occurrence of the alleged act of discrimination.

The written complaint must be filed with:

Office of Child Welfare Policies and Programs (OCWPP)  
Foster Care/Adoption Program Office  
Suite 510  
PO Box 30037  
Lansing, Michigan 48909  
Email: Child Welfare Policy Mailbox

The following individuals must receive a copy of the complaint:

- The director of the supervising agency alleged to have denied or delayed the placement of a child because of race, color, or national origin.
- The director of the local MDHHS office, if the case is managed by a private child placing agency.
- The assigned MDHHS Business Services Center director.
- The OCWPP foster care program manager, if the complaint is from a foster parent/applicant.
- The OCWPP adoption program manager, if the complaint is from an adoptive parent/applicant.

### **Informal Hearing**

The adoption program manager, or designee and/or the foster care program manager or designee and a representative from the assigned MDHHS Business Services Center will hold an informal conference to review the facts of the allegation within 10 business days of receipt of the written complaint. An extension of the time limit may be warranted if convenient for all parties. The complainant will be notified in writing of the location, date, and time of the conference. Complainants who are unable to attend a conference in person due to their location will be offered a teleconference.

### **Review**

The adoption program manager or designee and/or the foster care program manager or designee and a representative from the assigned MDHHS Business Services Center will informally review the facts of the complaint and notify the complainant of conclusions in writing within 10 business days of the conference/teleconference.

### **Appeal**

The complainant may appeal an unfavorable decision by email to MDHHS Compliance Office or in writing to:  
Compliance Office  
Michigan Department of Health and Human Services

333 South Grand Avenue, 4th Floor  
Lansing, MI 48909

For more information on the grievance procedure for appealing an unfavorable decision, see APX 680, Compliance with Section 1557 of the Affordable Care Act.

This procedure does not impair the right of an individual to file a complaint with the Office for Civil Rights, U.S. Department of Health and Human Services or the Michigan Department of Civil Rights.

SRM 403 may be found at:

<https://dhhs.michigan.gov/OLMWEB/EX/SR/Public/SRM/403.pdf#page=mode=bookmarks>

5. Please identify all private child placing agencies under contract with the state that you believe have a policy or practice of not accepting same-sex couples because of the agency's religious beliefs. For each such agency, please indicate whether DHHS considers this a violation of its contract requirements.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases "the state," "all private child placing agencies," "you," and "religious beliefs" as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning. State Defendants further object to the term and/or phrase "all" because it renders this interrogatory overly broad and unduly burdensome.

In addition, State Defendants object because this interrogatory contains 2 subparts. The first part asks State Defendants to "identify

all private child placing agencies . . .” The second subpart asks State Defendants “[f]or each . . .” Rule 33(a)(1) restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These subparts, in conjunction with those subparts previously identified by State Defendants, puts Plaintiffs at 13 interrogatories.

Without waiving these objections, Defendant responds as follows:

The Division of Child Welfare Licensing (DCWL) determined via special investigation that Catholic Charities West Michigan – Muskegon and Catholic Charities West Michigan – Grand Rapids do have policies of not accepting same-sex couples because of the agency’s religious beliefs. Policy, statute, and contract violations were established in these special investigations requiring these private child placing agencies to complete corrective action plans. This publicly available information was provided in State Defendants’ Responses to Plaintiffs’ First Request for Production.

DCWL also initiated special investigations based on alleged anti-discrimination policy violations specific to Bethany Christian Services – East Lansing, Bethany Christian Services – Madison Heights and St. Vincent Catholic Charities. These investigations have been completed and are pending final approval.

6. Please identify all religiously-affiliated state-contracted child placing agencies that DHHS knows accepts same-sex couples.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “all,” “religiously-affiliated . . .” and “state contracted” as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to their meaning. State Defendants further object to the term and/or phrase and “all” because it renders this interrogatory overly broad and unduly burdensome.

Without waiving these objections, State Defendants respond as follows: MDHHS does not collect information on or designate religious affiliations for contracted child placing agencies.

7. Please identify all persons at DHHS with involvement in evaluating, granting, denying, or otherwise acting on applications for foster care licenses or adoption placements.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “all persons,” “involvement” and “otherwise acting” as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to their meaning. State Defendants further object to the terms and/or phrases “all” and “evaluating, granting, denying, or otherwise acting” because they render this interrogatory overly broad and unduly burdensome.

Further, to the extent the meaning of these terms is ascertainable, this interrogatory goes beyond the scope of the present lawsuit and its allegations, seeking information regarding a wide range of Department activities related to foster care and adoption, including but not limited to foster licensing workers, foster care workers at local Department offices throughout the state, and any Department employee involved in any aspect of foster care licenses and adoption placements. As such, this interrogatory goes beyond the limited subject matter of this action, which Plaintiffs have described as a “challenge Defendants’ practice of permitting state-contracted and taxpayer-funded child placing agencies to use religious criteria to screen prospective foster and adoptive parents for children in the foster care system and to turn away qualified families on the basis of sexual orientation.” (Cplt., ¶ 1, Doc. 1, Pg. ID 1.) This interrogatory thus seeks information that is not relevant to any of Plaintiffs’ claims and is not reasonably calculated to lead to the discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1). In addition, the benefit of providing such broad information grossly

exceeds any likely benefit that information may have to Plaintiffs' claims.

Without waiving these objections, Defendants respond as follows: For all state wards committed to the Michigan Children's Institute (MCI), the following MDHHS staff are involved in approving adoption placements.

- Mary Rossman, Superintendent of the Michigan Children's Institute
- Carita Fox, MCI consultant
- Jim Lewis, MCI consultant
- Deborah Palaszek, MCI consultant
- Danielle O'Berry, MCI consultant
- Katie McClain, MCI Secretary

An amendment to the Michigan Children's Institute (MCI) Act (Public Act 30 of 2011) allows the MCI superintendent to appoint MDHHS county directors as designees to consent to adoption in cases meeting the criteria for "expedited" consents only. While all county directors have been so designated, they are not obligated to provide this service and it is not offered in the counties of Kent or Wayne.

The following staff work for the DCWL and review all applications and Initial Foster Home/Adoptive Evaluations (BCAL-3130) prior to issuing a foster home license:

- Christine Rehagen – Director, DCWL
- Patricia Neitman – DCWL Program Manager
- Angela Hull – Central Office Child Welfare Consultant
- Tracy McCullough – Central Office Child Welfare Consultant
- Carol Slotke – Central Office Child Welfare Consultant
- Magdalen Thomas – Central Office Child Welfare Consultant

The following staff receive recommendations from child placing agency licensing workers / supervisors to deny, revoke or refuse to renew foster parent licenses:

- Christine Rehagen –Director, DCWL
- Kelly Maltby – Disciplinary Action Unit (DAU) Manager
- Gretchen Lain – DAU Departmental Analyst
- Sara Nelson - DAU Departmental Analyst
- Kyla Sabin - DAU Departmental Analyst

The Organizational Support Unit within DCWL includes five support staff responsible for completing criminal and central registry clearances on all foster parent and adoptive parent applicants and adult household members. This staff includes:

- Ryan Akers
- Amy Fedewa
- Kristen Frazer
- Elizabeth Moore
- Kim Stovall

DCWL includes two Fingerprint staff responsible for receiving and disseminating fingerprint based criminal record history information on all foster parent and adoptive parent applicants:

- Sarah Gorby
- Adonis Davis

8. Please describe the procedure used by DHHS to evaluate, grant, deny, or otherwise act on applications for foster care licenses or adoption placements, including any factors weighed or considered in such decisions.

**RESPONSE:**

State Defendants object to the use of the phrase “procedure,” “otherwise act,” any” and “factors” as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to their

meaning. State Defendants further object to the terms and/or phrases “evaluate, grant, denying, or otherwise act,” “any factors” and “weighed or considered” because they render this interrogatory overly broad and unduly burdensome.

Further, to the extent the meaning of these terms is ascertainable, this interrogatory goes beyond the scope of the present lawsuit and its allegations, seeking information regarding a wide range of Department activities related to foster care and adoption, including but not limited to state and federal policies, administrative rules and regulations, and statutes, most of which have no reasonable relation to the allegations in the present case. As such, this interrogatory goes beyond the limited subject matter of this action, which Plaintiffs have described as a “challenge Defendants’ practice of permitting state-contracted and taxpayer-funded child placing agencies to use religious criteria to screen prospective foster and adoptive parents for children in the foster care system and to turn away qualified families on the basis of sexual orientation.” (Cplt., ¶ 1, Doc. 1, Pg. ID 1.) This interrogatory thus seeks information that is not relevant to any of Plaintiffs’ claims and is not reasonably calculated to lead to the discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1). In addition, the benefit of providing such broad information grossly exceeds any likely benefit that information may have to Plaintiffs’ claims.

Without waiving these objections, State Defendants respond as follows: Decisions regarding granting consent for adoption of a child committed to the MCI are based on the best interests of the child, as specified in the MDHHS Adoption Manual at ADM 0820 (<https://dhhs.michigan.gov/OLMWEB/EXF/AD/Public/ADM/0820.pdf#page=mode=bookmarks>). In each case, all listed factors are weighed, with emphasis on the ability of the adopting parent(s) to keep the child safe and meet their physical and emotional needs.

The procedures used by MDHHS to evaluate, grant, deny and act on applications for foster care licensure are based on the following:

1. Mich. Comp. Laws § 722.111 *et seq.*;

2. Licensing Rules for Child Placing Agencies, Mich. Admin. Code R. 400.12101-12808;
3. Licensing Rules for Foster Family Homes and Foster Family Group Homes, Mich. Admin. Code R. 400.9101-.9506 ([http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/925\\_2008-055HS\\_AdminCode.pdf](http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/925_2008-055HS_AdminCode.pdf)).

DCWL receives various forms (application, fingerprint based criminal clearances, central registry clearances etc.) and a standardized written Initial Foster Home/Adoptive Evaluations (BCAL-3130) with a recommendation on a prospective foster home applicant from a CPA licensing worker and/or supervisor for review. The standardized BCAL-3130 must provide information that demonstrates that the applicant(s) is in compliance with Act 116 of 1973, Mich. Comp. Laws § 722.111 *et seq.*, and Licensing Rules for Foster Family Homes and Foster Family Group Homes for Children. Additional documentation and assessment is required under the following circumstances:

1. An applicant has a history of Good Moral Character crimes; refer to Good Moral Character, R. 400.1151-.1153 ([http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/616\\_10587\\_AdminCode.pdf](http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/616_10587_AdminCode.pdf)). The CPA must submit police and court documents, written statements, evidence of rehabilitation, etc. which are reviewed by the DCWL program manager and director for approval.
2. Request for a variance. A variance to a foster home licensing rule can be granted by the department "...if the proposed variance from the rule assures the health, care, safety, protection and supervision of a foster child is maintained." Licensing Rules for Foster Family Homes and Foster Family Group Homes for Children, R. 400.9102.

The DCWL issues a license to foster home applicants who are in compliance with Licensing Rules for Foster Family Homes and Foster Family Group Homes.

According to Licensing Rules for Child Placing Agencies, R. 400.12325, a CPA "...shall recommend to the department the appropriate licensing action consistent with facts contained in the foster home evaluation and any special evaluations." This administrative rule also specifies conditions for which a CPA would make a recommendation for denial of issuance, revocation of a license or the refusal to renew a license; applicant and/or foster parent falsifies information or willfully and substantially violates the act, one or more of the licensing rules for foster homes or the terms of the license. A denial of issuance, revocation or refusal to renew recommendation is sent to the DCWL Disciplinary Action Unit (DAU) for processing. Procedures for such adverse action are outlined in Mich. Comp. Laws § 722.121.

The DCWL makes decisions based on statutory and administrative licensing rule requirements and procedures; documentation provided by the applicant, CPA, service professionals, court and police records, etc. The DCWL will request additional information and documentation from the CPA and applicant to verify rule compliance or non-compliance.

9. Please describe the procedures and protocols or criteria for referring a prospective foster or adoptive family to a child placing agency, including if that family is a same-sex couples.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases "procedures," "protocols" and "criteria" as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to their meaning.

Further, to the extent the meaning of these terms is ascertainable, this interrogatory goes beyond the scope of the present lawsuit and its allegations, seeking information regarding a wide range of Department

activities referring prospective to and adoptive families, including but not limited to state and federal policies, administrative rules and regulations, and statutes, most of which have no reasonable relation to the allegations in the present case. As such, this interrogatory goes beyond the limited subject matter of this action and seeks information that is not relevant to any of Plaintiffs' claims and is not reasonably calculated to lead to the discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1). In addition, the benefit of providing such broad information grossly exceeds any likely benefit that information may have to Plaintiffs' claims.

Without waiving these objections, State Defendants respond as follows: MDHHS contracts with the Michigan Adoption Resource Exchange (MARE) to provide information and assistance to prospective adoptive families. When a prospective adoptive family contacts MARE for information on adopting children through foster care, they are given the option to work with a Navigator to help guide them through the process. Adoption Navigators provide prospective adoptive families with the names and contact information for licensed adoption agencies in their area. Families are also able to view the agency listing on the MARE website (MARE.org).

MDHHS contracts for Foster Care Navigator services to be provided to prospective foster families. When a prospective foster family calls 855-MICKIDS, a Foster Care Navigator provides information on becoming a foster parent and offers the option to work with a Navigator to help guide them through the foster home licensing process. The Navigator offers to provide the families' contact information to their local MDHHS office or the family may choose to contact a PAFC agency in their area. Families are also able to view the agency listing on the foster care navigator website (FCNP.org).

10. Please describe how DHHS interprets and implements 2015 Public Acts 53, 54, and 55, with respect to agencies under contract with DHHS.

## RESPONSE:

State Defendants object to the use of the terms and/or phrases “interprets” and “implements” as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning.

In addition, State Defendants object because this interrogatory contains six subparts. The first part asks State Defendants how the Department “interprets” three public acts. The second asks State Defendants how the Department “implements” the same three public acts. And each of these two subparts has three subparts, one for 2015 PA 53, one for 2015 PA 54 and another for 2015 PA 55. This results in six interrogatories. Rule 33(a)(1) restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These subparts, in conjunction with those subparts previously identified by State Defendants, puts Plaintiffs at 26 interrogatories.

Furthermore, State Defendants further object because how the Department “interprets” the law calls for a legal conclusion that is inexorably linked to advice received from their legal counsel and thus subject to and protected by the attorney-client privilege. Moreover, State Defendants’ “interpretation” of 2015 PA 53, 2015 PA 54 and 2015 PA 55 are subject to ~~and~~ protected by the work-product and deliberative-process privileges. Regarding the work-product privilege, any response to this interrogatory necessarily involves communications and/or documents prepared in reasonable anticipation of litigation. Regarding the deliberative-process privilege, any actions or decisions necessarily involve information received for the purpose, and reflecting the give-and-take, of the deliberative process.

Without waiving these objections, State Defendants responds as follows:

MDHHS interprets Act 53 to only allow an agency to withhold service using a religious objection when the agency is providing a service other than foster care case management and adoption services under a contract with the department. In addition, the following apply:

As it pertains to adoption services, the implementation of 2015 PA 53 is outlined in the adoption master contract at § 2.9d-e:

- d. The Contractor accepts a referral from MDHHS under this Agreement by doing either of the following:
  - 1) Submitting to MDHHS a written agreement to perform the services related to the particular child or particular individuals that the Department referred to the Contractor, or
  - 2) Engaging in any other activity that results in MDHHS being obligated to pay the Contractor for the services related to the particular child or particular individuals that the Department referred to the Contractor.
- e. Under 1973 PA116, as amended by 2015 PA53, the Contractor has the sole discretion to decide whether to accept a referral from MDHHS. Nothing in this Agreement limits or expands the application of the Public Act.

Adoption referrals are initiated by MDHHS. Contractors may not transfer adoption cases to another child placing agency. After acceptance of an adoption referral, the Contractor may not transfer the case back to the Department, except upon the written approval of the County Director, the Children's Services Agency Director, or the Deputy Director."

As it pertains to foster care services, the implementation of 2015 PA 53 is outlined in the PAFC contract section 1.1b -1.2a and 2.9h:

## Section 1.2

- b. If MDHHS makes a referral to a child placing agency for foster care case management services pursuant to a contract with the child placing agency, the child placing agency must accept or decline the referral within one hour of receipt of the referral. If a need for placement is imminent, MDHHS may make referrals for placement concurrently to other contracted providers, Contractor may not transfer a foster care case to another child placing agency. After acceptance of a foster care referral, the Contractor may not refer the case back to the Department except for the reasons outlined in the Children's Foster Care Manual (FOM) or upon written approval of the County Director, the Children's Services Agency Director, or the Deputy Director.

## Section 1.2

- a. The Contractor accepts a referral from MDHHS by doing either of the following:
  - 1) Submitting to MDHHS a written Contract to perform services related to a particular child or particular individuals that the Department referred to the Contractor, or
  - 2) Engaging in any other activity that results in MDHHS being obligated to pay the Contractor for the services related to the particular child or particular individuals that the Department referred to the Contractor.

## Section 2.9

- h. Under 1973 PA 116, as amended by 2015 PA53, the

Contractor has the sole discretion to decide whether to accept a referral from MDHHS. Nothing in this Agreement limits or expands the application of the Public Act.

11. Please identify any state and/or child welfare interest that you believe would be advanced by permitting state-contracted and taxpayer-funded child placing agencies to accept same-sex couples based on the agencies' religious beliefs.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases "any," "state," "you," "advanced," "state-contracted," and "religious beliefs" as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning. State Defendants further object to the term and/or phrase "any" because it renders this interrogatory overly broad and unduly burdensome.

Without waiving these objections, State Defendants respond as follows:

The department's highest interest is to find safe, loving, permanent homes for Michigan's most needy children. This is achieved by basing all decisions about child safety, permanency and wellbeing on the child's needs and best interest.

12. Please identify any circumstance, reason or basis (including any purported scientific, policy, or factual basis) upon which you do or may contend that there is a child welfare purpose for DHHS to enter into contracts for adoption and placing agency foster care services with

private child placing agencies that use religious criteria in determining whether to place children with gay or lesbian couples, or otherwise use sexual orientation as a relevant factor in making their State-contracted foster care and adoption placements.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “any,” “you,” “purpose,” “state-contracted,” and “religious criteria” as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning. State Defendants further object to the term and/or phrase “any” because it renders this interrogatory overly broad and unduly burdensome.

Without waiving these objections, State Defendants respond as follows: Religious affiliation is not related to a contractor’s ability to assess prospective foster and adoptive parents or perform all other contractual requirements as a child placing agency. A prospective foster or adoptive parent’s sexual orientation is not a factor in determining an individual’s parenting capacity or ability to meet a child’s short/long term needs for safety, permanency, or well-being.

13. Please state whether DHHS considers a person’s sexual orientation or same-sex relationship relevant to a determination of his ability or fitness to be a foster or adoptive parent to a child in state custody. If the answer is “yes,” please explain why.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “ability,” “fitness” and “state custody” as vague, ambiguous, confusing

and calling for speculation, leaving State Defendants to guess as to their meaning.

In addition, State Defendants object because this interrogatory contains two subparts. The first part asks State Defendants to “state whether DHHS . . .” The second asks State Defendants, if the answer is “yes,” to “please explain why.” Rule 33(a)(1) restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These subparts, in conjunction with those subparts previously identified by State Defendants, puts Plaintiffs at 29 interrogatories.

Without waiving these objections, State Defendants respond as follows: MDHHS does not consider a person’s sexual orientation or same-sex relationship relevant to a determination of ability or fitness to be a foster or adoptive parent to a child in state custody. Sexual orientation and same-sex relationship status are not relevant to determining an individual’s ability to meet a child’s short/long term needs for safety, permanency, or well-being. Rather, in all instances, foster and adoptive parent relationships are assessed for their stability and satisfaction as it pertains to their ability to parent a child.

14. Please identify and describe all of the ways in which

Michigan monitors child placing agencies under contract with the state.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “identify and describe,” “all of the ways” and “the state” as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning. State Defendants further object to the terms and/or phrases “all” and “the state” because they render this interrogatory overly broad and unduly burdensome.

In addition, State Defendants object because this interrogatory contains two subparts. The first part asks State Defendants to “identify . . . all of the ways in which Michigan monitors child placing agencies

under contract with the state.” The second asks State Defendants to “describe” the same category. Rule 33(a)(1) restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These subparts, in conjunction with those subparts previously identified by State Defendants, puts Plaintiffs at 31 interrogatories.

Without waiving these objections, State Defendants respond as follows: MDHHS DCWL is given the authority to monitor child placing agencies under the Child Care Organizations Act 116 of 1973, Mich. Comp. Laws § 722.111 *et seq.* Compliance with statutes, administrative licensing rules, MDHHS policy, ISEP and contract requirements are monitored through annual onsite inspections. Standardized audit workbooks are used to review the following records: administrative, personnel, child / youth, foster parent / adoption, medical, etc. Standardized interview questions are used when interviewing foster care, licensing and adoption staff, foster/adoptive parents and children. DCWL field consultants also review standardized data reports (e.g. Monthly Management Reports, caseloads, repeat violations, etc.) and the Chief Administrators’ Annual Assessment during this annual inspection process.

Annual inspections also include home visits to licensed foster parents and unlicensed relatives to assess for any safety and or service related concerns identified by the caregivers and children. Any safety and or service related concerns and the resolution are documented by DCWL.

DCWL is also responsible for completing special investigations on CPAs when complaints are received regarding allegations of non-compliance specific to statute, administrative licensing rules, MDHHS policy, ISEP and or contract.

All annual inspections and special investigations are documented in a Licensing Study Report or Special Investigation Report with recommendations. All identified non-compliances require completion of a corrective action plan which is intended to obtain and maintain compliance.

15. Please describe the services DHHS expects St. Vincent to perform in connection with any contract for child placing services.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “services” and “expects” as vague, ambiguous, confusing and calling for speculation, leaving State Defendant to guess as to their meaning.

In addition, State Defendants object because Plaintiffs have already made 31 interrogatories and therefore have exceeded the limits of Fed. R. Civ. P. 33(a)(1), which restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These subparts, in conjunction with those subparts previously identified by State Defendants, puts Plaintiffs at 32 interrogatories.

Without waiving these objections, State Defendants respond as follows: Foster Care Services expected to be provided for those under contract with MDHHS are all requirements contained in the PAFC contract, foster care policy, statutes and administrative rules.

Under ADM 0230, Adoption agencies under contract with MDHHS must provide direct adoption services that include the following:

- Recruitment: Recruitment activities, orientation, and training of prospective adoptive families focusing on meeting the needs of children available for adoption.
- Assessments: Completion of the following forms:
  - DHS-1927, Child Adoption Assessment, the DHS-606, Child Adoption Assessment Addendum, the DHS-606, Child Adoption Assessment Addendum, if applicable, the BCAL-3130, Initial Foster Home/Adoption Evaluation, and DHS-612, Adoptive Family Assessment Addendum, and/or DHS-1926, Preliminary Family Assessment(s).

- Adoption Assistance Applications: Assisting adoptive families with application for adoption assistance and medical subsidies, prior to the finalization of the adoption.
- Michigan Adoption Resource Exchange Notification: Written notification to the Michigan Adoption Resource Exchange (MARE).
- Information Sharing: Sharing relevant case material.
- Court Hearings: The contracted adoption agency worker must prepare for and attend all court hearings.
- Quarterly Reports, Supervision Reports and Closing Summary.
- Monthly Visits: Visits are required with the child and adoptive parent(s), at a minimum, every calendar month during the adoption supervision period.

ADM 0230 may be found at:

<https://dhhs.michigan.gov/OLMWEB/EXF/AD/Public/ADM/0230.pdf#pagemode=bookmarks>

Under ADM 0400, child-placing agencies under contract with MDHHS must provide direct adoption services:

- Recruitment efforts: Child placing agencies (both DHS and contracted adoption agencies) must develop and maintain an ongoing program to recruit adoptive families for children available for adoption. For contracted adoption agencies, recruitment activities must follow the guidelines in the current adoption contract. It is essential that recruitment efforts focus on the demographics for children available for adoption. Recruitment of families should take into consideration the following demographics of waiting children:
  - Ages and developmental needs of children available.
  - Racial identity of children available.
  - Sibling relationships.

- Special needs of available children.

ADM 0400 may be found at:

<https://dhhs.michigan.gov/OLMWEB/EXF/AD/Public/ADM/0400.pdf#page=bookmarks>.

16. To the extent all or part of any response to any interrogatory is based upon any document, please identify each document by production number (or describe the document in detail if it has not been produced) and indicate the interrogatory or interrogatories to which it is relevant, to the extent not done in each interrogatory response.

**RESPONSE:**

State Defendants object to the use of the terms and/or phrases “any document” as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to their meaning. State Defendants further object to the terms and/or phrases “any” because it renders this interrogatory overly broad and unduly burdensome.

In addition, State Defendants object because Plaintiffs have already made 32 interrogatories and therefore have exceeded the limits of Fed. R. Civ. P. 33(a)(1), which restricts a party to “no more than 25 written interrogatories, including all discrete subparts.” These subparts, in conjunction with those subparts previously identified by State Defendants, puts Plaintiffs at 33 interrogatories.

Without waiving these objections, State Defendants respond as follows:

PAFC Master Contract:

- Interrogatories 4, 10, 15 and 15
- [https://www.michigan.gov/mdhhs/0,5885,7-339-71551\\_7199--\\_,00.html](https://www.michigan.gov/mdhhs/0,5885,7-339-71551_7199--_,00.html)

Adoption Master Contract:

- Interrogatories 4, 10, 14 and 15
- [https://www.michigan.gov/mdhhs/0,5885,7-339-71551\\_7199--\\_,00.html](https://www.michigan.gov/mdhhs/0,5885,7-339-71551_7199--_,00.html)

Adoption Policy:

- Interrogatories 8 and 15
- <http://www.mfia.state.mi.us/OLMWeb/exF/AD/Public/ADM/000.pdf#pagemode=bookmarks>

Foster Care policy:

- Interrogatories 4, 14 and 15
- <http://www.mfia.state.mi.us/OLMWeb/exF/AD/Public/ADM/000.pdf#pagemode=bookmarks>

CPA Administrative Rules:

- Interrogatories 4, 8, 14 and 15
- [http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/1548\\_2015-045HS\\_AdminCode.pdf](http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/1548_2015-045HS_AdminCode.pdf)

Foster Family Home and Foster Family Group Homes  
Administrative Rules:

- Interrogatories 4, 8 and 14
- [http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/925\\_2008-055HS\\_AdminCode.pdf](http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/925_2008-055HS_AdminCode.pdf)

Good Moral Character Administrative Rules:

- Interrogatory 8
- [http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/616\\_10587\\_AdminCode.pdf](http://dmbinternet.state.mi.us/DMB/ORRDocs/AdminCode/616_10587_AdminCode.pdf)

- Services Requirements Manual: Interrogatory 4
- <http://www.mfia.state.mi.us/OLMWeb/ex/SR/Public/SRM/000.pdf#pagemode=bookmarks>

AS TO OBJECTIONS ONLY:

Respectfully submitted,

Bill Schuette  
Attorney General

/s/ Joshua S. Smith  
Joshua S. Smith (P63349)  
Jonathan S. Ludwig (P64919)  
Assistant Attorneys General  
Attorneys for State Defendants  
Health, Education &  
Family Services Division  
P.O. Box 30758  
Lansing, MI 48909  
(517) 373-7700  
Smithj46@michigan.gov  
ludwigj1@michigan.gov

/s/ John J. Bursch  
John J. Bursch (P57679)  
Special Assistant Attorney  
General for State Defendants  
Bursch Law PLLC  
9339 Cherry Valley Ave SE, #78  
Caledonia, MI 49316  
616-450-4235  
jbursch@burschlaw.com

Dated: November 9, 2018

**Verification**

I hereby verify, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that my foregoing responses to Plaintiffs' Amended First Set of Interrogatories to Defendants Nick Lyon and Herman McCall are true and correct to the best of my knowledge.

  
Stacie Bladen

11/9/18  
Date

**CERTIFICATE OF SERVICE**

I hereby certify that on November 9, 2018, a copy of Defendants Nick Lyon and Herman McCall's Objections and Responses to Plaintiffs' Amended First Set of Interrogatories was served upon counsel of record by electronic mail.

John J. Bursch  
(jbursch@burschlaw.com)  
Bursch Law PLLC  
9339 Cherry Valley Ave SE, #78  
Caledonia, MI 49316

Mark L. Rienzi  
(mrienzi@becketlaw.org)  
Stephanie H. Barclay  
(sbarclay@becketlaw.org)  
Becket Fund for Religious Liberty  
1200 New Hampshire Ave., N.W.  
Suite 700  
Washington, DC 20036

William J. Perrone  
(wperrone@dioceseoflansing.org)  
Diocese of Lansing  
228 N. Walnut Street  
Lansing, MI 48933

Ann-Elizabeth Ostrager  
Jay D. Kaplan  
Michael J. Steinberg  
Kary L. Moss  
2966 Woodward Avenue  
Detroit, MI 48201  
(313) 578-6823  
jkaplan@aclumich.org

/s/ Joshua S. Smith  
Assistant Attorney General  
Attorney for State Defendants  
Health, Education &  
Family Services Division  
P.O. Box 30758  
Lansing, MI 48909  
(517) 373-7700  
Smithj46@michigan.gov  
P63349

## **Exhibit D**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KRISTY DUMONT; DANA  
DUMONT; ERIN BUSK-SUTTON;  
and REBECCA BUSK-SUTTON,

Plaintiffs,

v.

NICK LYON, in his official capacity  
as the Director of the Michigan  
Department of Health and Human  
Services; and HERMAN MCCALL,  
in his official capacity as the  
Executive Director of the Michigan  
Children's Services Agency,

Defendants,

and

ST. VINCENT CATHOLIC  
CHARITIES; MELISSA BUCK;  
CHAD BUCK; and SHAMBER  
FLORE,

Defendants-Intervenors.

No. 17-cv-13080-PDB-EAS

HON. PAUL D. BORMAN

MAG. ELIZABETH A. STAFFORD

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**STATE DEFENDANTS' OBJECTIONS AND RESPONSES TO  
PLAINTIFFS' FIRST SET OF REQUESTS FOR ADMISSION TO  
STATE DEFENDANTS**

State Defendants Robert Gordon<sup>1</sup> and Herman McCall, Ed. D., by and through their attorneys, and pursuant Federal Rule of Civil Procedure 36 and the Local Rules of this Court, respond and object to Plaintiffs' First Requests for Admission as follows:

**PRELIMINARY STATEMENT**

1. These responses and objections are made without prejudice to, and are not a waiver of, State Defendants' right to rely on other facts or documents at trial.
2. State Defendants respond to these requests for admission solely in their respective official capacities as the Director of the Michigan Department of Health and Human Services and the Executive Director of the Michigan Children's Services Agency.
3. State Defendants do not waive, and hereby expressly reserve, their right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy,

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<sup>1</sup> Robert Gordon was named Director of the Michigan Department of Health and Human Services on January 10, 2019. [https://www.michigan.gov/whitmer/0,9309,7-387-90499\\_90640-487173--,00.html](https://www.michigan.gov/whitmer/0,9309,7-387-90499_90640-487173--,00.html). See Fed. R. Civ. P. 25(d).

materiality, and privilege. Further, State Defendants make the responses and objections herein without in any way implying that it considers the requests for admission, and responses to the requests for admission, to be relevant or material to the subject matter of this action.

4. State Defendants expressly reserve the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

5. State Defendants' responses are based on their understanding and interpretation of each term in, and the context of, the request for admission. State Defendants expressly reserve the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s), upon clarification of the request for admission by one or more Plaintiffs.

### **GENERAL OBJECTIONS**

1. State Defendants object to each instruction, definition, and request for admission to the extent that it purports to impose any

requirement or discovery obligation greater than or different from those under the Federal Rules of Civil Procedure and the applicable Rules and Orders of the Court.

2. State Defendants object to each instruction, definition, and request for admission to the extent that it seeks documents protected from disclosure by the attorney-client privilege, deliberative process privilege, attorney work product doctrine, or any other applicable privilege. Should any such disclosure by State Defendants occur, it is inadvertent and shall not constitute a waiver of any privilege.

**REQUESTS FOR ADMISSION**

1. Admit that there exists one or more state-contracted child-placing agencies in Michigan that does not provide to same-sex couples at least one service that such agency does provide to different-sex couples.

**ANSWER:**

State Defendants admit Request No. 1.

2. Admit that there exists one or more state-contracted child-placing agencies in Michigan that will not provide foster care or adoption orientation sessions to same-sex couples.

**ANSWER:**

State Defendants admit Request No. 2.

3. Admit that there exists one or more state-contracted child-placing agencies in Michigan that will not evaluate same-sex couples for licensure as foster parents.

**ANSWER:**

State Defendants deny Request No. 3 as untrue in the form stated. In further answer, State Defendants admit that investigations

determined that St. Vincent Catholic Charities, Bethany Christian Services of East Lansing and Bethany Christian Services of Madison Heights referred same-sex couples to other child-placing agencies for licensure evaluation.

4. Admit that there exists one or more state-contracted child-placing agencies in Michigan that will not provide foster care, pre-adoption or adoption training to same-sex couples.

**ANSWER:**

State Defendants deny Request No. 4 as untrue in the form stated. MDHHS does not have any information indicating that a contracted child-placing agency will not provide foster care, pre-adoption, or adoption training to same-sex couples.

5. Admit that there exists one or more state-contracted child-placing agencies in Michigan that will not recommend a same-sex couple as an adoptive family.

**ANSWER:**

State Defendants deny Request No. 5 as untrue in the form stated. In further answer, State Defendants completed Special Investigation # 2017C0208001 on Catholic Charities West Michigan of

Muskegon, License # CB610201023. This Special Investigation found that the agency refused to complete an adoption with a same-sex couple. There is no information to conclude that the agency would not recommend adoption of a child by a same-sex couple. In this instance, the agency admitted that adoption of the child by the same-sex couple was in the child's best interest, but that the agency would not complete the adoption. Furthermore, MDHHS required the Catholic Charities West Michigan of Muskegon to complete a corrective action plan.

6. Admit that there exists one or more state-contracted child-placing agencies in Michigan that will not finalize the placement of a child with a same-sex couple.

**ANSWER:**

State Defendants deny Request No. 6 as untrue in the form stated. In further answer, State Defendants completed Special Investigation # 2017C0208001 on Catholic Charities West Michigan of Muskegon, License # CB610201023. This Special Investigation determined that, while the agency determined it was in the child's best interest to be adopted by the same-sex couple, the agency would not complete the child's adoption with the couple. Furthermore, MDHHS

required the Catholic Charities West Michigan of Muskegon to complete a corrective action plan.

7. Admit that there exists one or more state-contracted child-placing agencies in Michigan that, for religious reasons, will not provide to same-sex couples the full range of foster care or adoption services provided to different-sex couples.

**ANSWER:**

State Defendants deny Request No. 7 as untrue in the form stated. In further answer, State Defendants admit that they know of one of more child-placing agencies that refused to provide same-sex couples with the full range of foster care or adoption services provided to different-sex couples in the instances investigated but denies knowing whether such an agency will continue such refusals in the future.

8. Admit that there exists one or more state-contracted child-placing agencies in Michigan that, for religious reasons, will not evaluate same-sex couples for licensure as foster parents.

**ANSWER:**

State Defendants deny Request No. 8 as untrue in the form stated. In further answer, State Defendants admit that they know of one of more child-placing agencies that refused to evaluate same-sex couples for licensure as foster parents but denies knowing whether such an agency will continue such refusals in the future.

9. Admit that there exists one or more state-contracted child-placing agencies in Michigan that, for religious reasons, will not place children with same-sex couples for adoption.

**ANSWER:**

State Defendants deny Request No. 9 as untrue in the form stated. In further answer, State Defendants admit that they know of one of more child-placing agencies that refused to place a child with a same-sex couple for adoption but denies knowing whether such an agency will continue such refusals in the future.

10. Admit that Bethany Christian Services, or at least one branch of Bethany Christian Services, does not provide to same-sex couples one or more foster care or adoption services that it provides to opposite-sex couples.

**ANSWER:**

State Defendants deny Request No. 10 as untrue in the form stated. In further answer, State Defendants admit that they know that at least one branch of Bethany Christian Services did not provide to same-sex couples one or more foster care or adoption service that it provides to opposite-sex couples, but denies knowing whether the agency will continue such refusals in the future. The agency will be required to address this violation of the contract in a corrective action plan to prevent the same violation from occurring in the future.

11. Admit that St. Vincent Catholic Charities does not provide to same-sex couples one or more foster care or adoption services that it provides to opposite-sex couples.

**ANSWER:**

State Defendants deny Request No. 11. In further answer, State Defendants admit that they know that St. Vincent Catholic Charities did not provide to a same-sex couple one or more foster care or adoption service that it provides to opposite-sex couples, but denies knowing whether the agency will continue such refusals in the future. The agency will be required to address this violation in a corrective action

plan to prevent the same violation from occurring in the future.

12. Admit that, on at least one occasion, St. Vincent Catholic Charities stated that it would not provide to a same-sex couple one or more foster care or adoption services that it would provide to an opposite-sex couple.

**ANSWER:**

State Defendants admit Request No. 12.

13. Admit that, on at least one occasion, Bethany Christian Services, or at least one branch of Bethany Christian Services, declined to provide to a same-sex couple one or more foster care or adoption services that it would provide to an opposite-sex couple.

**ANSWER:**

State Defendants admit Request No. 13.

14. Admit that the State has a duty to ensure that each child who is a ward of the State is placed according to the best interests of that child.

**ANSWER:**

State Defendants object to the term “ward of the state” as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to its meaning. Subject to and without waiving their objections, State Defendants deny Request No. 14 as untrue because MDHHS’ and its contractors’ duty is to follow policies which promote placement decisions that are consistent with the child’s best interests. Michigan administers a foster care system that splits foster care placement responsibility among public and private child-placing agencies. As such, the public or private agency with case management responsibility has the duty to follow applicable policies when making placement decisions. Further, the duty extends to public and private agencies making placements of children who are temporary court wards and permanent court wards, as well.

15. Admit that the State has a practice of ensuring that each child who is a ward of the State is placed according to the best interests of that child.

**ANSWER:**

State Defendants object to the term “ward of the state” as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to its meaning. Subject to and without waiving their objections, State Defendants deny Request No. 15 as untrue because MDHHS’ and its contractors’ duty is to follow policies that require placement decisions to be consistent with the child’s best interests. Michigan administers a foster care system that splits foster care placement responsibility among public and private child-placing agencies. As such, the public or private agency with case management responsibility has the duty to follow applicable policies when making placement decisions. Further, the duty extends to public and private agencies making placements of children who are temporary court wards and permanent court wards, as well.

16. Admit that there has existed during the Relevant Period or does exist presently at least one child who is a ward of the State for whom a foster or adoptive placement with a same- sex couple was or is in the best interests of that child.

**ANSWER:**

State Defendants object to the term “ward of the state” as vague, ambiguous, confusing and calling for speculation, leaving State Defendants to guess as to its meaning. Subject to and without waiving their objections, State Defendants admit request No. 16.

17. Admit that at least one agency with which the State currently has a child-placing contract has a policy that would, on at least some occasions, prevent that agency from making a placement in the best interests of a child.

**ANSWER:**

State Defendants deny Request No. 17 as untrue because they are not aware of any such agency policies.

18. Admit that at least one agency with which the State currently has a child-placing contract has a religious policy that would, on at least some occasions, prevent that agency from making a placement in the best interests of a child.

**ANSWER:**

State Defendants deny Request No. 18 as untrue because they are not aware that a contractor has such a policy.

19. Admit that St. Vincent Catholic Charities has a religious policy that would, on at least some occasions, prevent that agency from making a placement in the best interests of a child.

**ANSWER:**

State Defendants deny Request No. 19 as untrue because they are not aware that a contractor has such a policy.

20. Admit that Bethany Christian Services, or at least one branch of Bethany Christian Services, has a religious policy that would, on at least some occasions, prevent that agency from making a placement in the best interests of a child.

**ANSWER:**

State Defendants deny Request No. 20 as untrue because they are not aware that a contractor has such a policy.

21. Admit that, for at least one child in State custody, that child's family placement or adoption was delayed because a state-contracted child-placing agency was unwilling to work with or place a child with a same-sex couple due to religious reasons.

**ANSWER:**

State Defendants admit Request No. 21.

22. Admit that one or more child-placing agencies which the State of Michigan funds and with which DHHS has a contract refuses to provide to same-sex couples the full range of foster care or adoption services provided to different-sex couples.

**ANSWER:**

State Defendants deny Request No. 22 as untrue in the form stated. In further answer, State Defendants admit that they know of one of more child-placing agencies that refused to provide same-sex couples with the same services provided to different-sex couples in the instances investigated but denies knowing whether such an agency will continue such refusals in the future.

23. Admit that the State has entered into or renewed a contract with a child-placing agency, knowing that the agency would refuse to provide to same-sex couples the full range of foster care or adoption services provided to different-sex couples.

**ANSWER:**

State Defendants deny Request No. 23 as untrue.

24. Admit that the State has entered into or renewed a contract with a child-placing agency, knowing that the agency has refused to

provide to same-sex couples the full range of foster care or adoption services provided to different-sex couples for religious reasons.

**ANSWER:**

State Defendants admit Request No. 24.

25. Admit that the State has entered into or renewed a contract with a child-placing agency, knowing that the agency has refused to recommend for licensure as foster parents at least one same-sex couple for religious reasons.

**ANSWER:**

State Defendants admit Request No. 25.

26. Admit that the State has entered into or renewed a contract with a child-placing agency, knowing that the agency has refused to perform a home study for at least one same-sex couple for religious reasons.

**ANSWER:**

State Defendants deny Request No. 26 as untrue because those instances that have been brought to the attention of MDHHS regarding refusal by a child-placing agency to serve a same-sex couple occurred prior to the point at which a home study would be conducted.

27. Admit that the State has entered into or renewed a contract with a child-placing agency, knowing that the agency has refused to recommend for licensure a same-sex couple as a foster or adoptive family for religious reasons.

**ANSWER:**

State Defendants admit Request No. 27.

28. Admit that the State has entered into or renewed a contract with a child-placing agency, knowing that the agency has refused to provide foster care and/or pre-adoption training for at least one same-sex couple for religious reasons.

**ANSWER:**

State Defendants deny Request No. 28 as untrue because they do not have any information to indicate that a child-placing agency refused to provide foster care and/or pre-adoption training to a same-sex couple for religious reasons.

29. Admit that the State has entered into or renewed a contract with a child-placing agency, knowing that the agency has refused to provide post-adoption support services for at least one same-sex couple

for religious reasons.

**ANSWER:**

State Defendants deny Request No. 29 as untrue because they do not have any information indicating that a child-placing agency refused to provide post-adoption support services for a same-sex couple.

30. Admit that the State has entered into or renewed a contract with a child-placing agency, knowing that the agency has refused to place a child with a same-sex couple for religious reasons.

**ANSWER:**

State Defendants admit Request No. 30.

31. Admit that the State has paid taxpayer funds to a child-placing agency, knowing that the agency has refused to provide to same-sex couples the full range of services provided to different-sex couples.

**ANSWER:**

State Defendants admit Request No. 31.

32. Admit that the State has paid taxpayer funds to a child-placing agency, knowing that the agency has refused to provide to

same-sex couples the full range of services provided to different-sex couples for religious reasons.

**ANSWER:**

State Defendants deny Request No. 32 as untrue in the form stated. In further answer, State Defendants deny Request No. 32 because the child-placing agency, not MDHHS, determines the rationale for refusing to follow contract requirements.

33. Admit that the State has paid taxpayer funds to a child-placing agency, knowing that the agency has refused to recommend for licensure as adoptive parents at least one same-sex couple for religious reasons.

**ANSWER:**

State Defendants deny Request No. 33 as untrue in the form stated. In further answer, State Defendants deny Request No. 33 because adoptive parents are not licensed.

34. Admit that the State has paid taxpayer funds to a child-placing agency, knowing that the agency has refused to perform a home study for at least one same-sex couple for religious reasons.

**ANSWER:**

State Defendants deny Request No. 34 as untrue in the form stated. In further answer, State Defendants deny Request No. 34 because instances that have been brought to the attention of the department regarding refusal by a child-placing agency to serve a same-sex couple occurred prior to the point at which a home study would be conducted.

35. Admit that the State has paid taxpayer funds to a child-placing agency, knowing that the agency has refused to provide foster care and/or pre-adoption training for at least one same-sex couple for religious reasons.

**ANSWER:**

State Defendants deny Request No. 35 as untrue in the form stated. In further answer, State Defendants deny Request No. 35 because they do not have any information to indicate that a child-placing agency refused to provide foster care and/or pre-adoption training to a same-sex couple.

36. Admit that the State has paid taxpayer funds to a child-placing agency, knowing that the agency has refused to provide post-

adoption support services for at least one same-sex couple for religious reasons.

**ANSWER:**

State Defendants deny Request No. 36 as untrue in the form stated. In further answer, State Defendants deny Request No. 36 as untrue because they do not have any information indicating that a child-placing agency refused to provide post-adoption support services for a same-sex couple.

37. Admit that the State has paid taxpayer funds to a child-placing agency, knowing that the agency has refused to place a child with at least one same-sex couple for religious reasons.

**ANSWER:**

State Defendants deny Request No. 37 as untrue in the form stated. In further answer, State Defendants deny Request No. 37 as untrue because the child-placing agency, not MDHHS, determines the rationale for refusing to follow contract requirements.

38. Admit that some child-placing agencies offer different services to prospective foster and adoptive parents than other agencies.

**ANSWER:**

State Defendants admit Request No. 38.

39. Admit that some child-placing agencies offer fewer services to prospective foster and adoptive parents than other agencies.

**ANSWER:**

State Defendants admit Request No. 39.

40. Admit that some child-placing agencies have more experience than other agencies in working with children of a particular age.

**ANSWER:**

State Defendants deny Request No. 40 as untrue in the form stated. In further answer, State Defendants deny Request No. 40 as untrue because foster parents, not agencies, have different levels of experience with children of different ages. A foster parent license specifies an age range for children that would be placed in the foster home. Age ranges are determined through the assessment and/or home study process based on factors including, but not limited to, the foster parent's experience, training and interest.

41. Admit that some child-placing agencies have more experience than other agencies in working with children with medical needs.

**ANSWER:**

State Defendants deny Request No. 41 as untrue in the form stated. In further answer, State Defendants deny Request No. 41 as untrue because foster parents, not agencies, have different levels of experience working with children with medical needs. A foster parent license can include a “term” on the license that is specific to children with medical needs.

42. Admit that some child-placing agencies offer different types of ongoing support services and trainings for foster or adoptive parents than other agencies.

**ANSWER:**

State Defendants admit Request No. 42.

43. Admit that some agencies offer fewer ongoing support services and trainings for foster or adoptive parents than other agencies.

**ANSWER:**

State Defendants admit Request No. 43.

44. Admit that some children who are wards of the State are adopted without having ever been listed on the Michigan Adoption Resource Exchange website.

**ANSWER:**

State Defendants admit Request No. 44.

45. Admit that, in choosing child-placing agencies to work with, same-sex couples in Michigan have fewer options than opposite-sex couples.

**ANSWER:**

State Defendants deny Request No. 45 as untrue in the form stated. In further answer, State Defendants deny Request No. 45 as untrue because all public and private child-placing agencies are required to serve all couples.

46. Admit that the State permits child-placing agencies to decline to work with same-sex prospective parents.

**ANSWER:**

State Defendants deny Request No. 46 as untrue.

47. Admit that the State has a duty to care for its wards.

**ANSWER:**

State Defendants deny Request No. 47 as untrue in the form stated. In further answer, State Defendants deny Request No. 47 as untrue because the state and its contractors have a legal responsibility for the care and supervision of temporary and permanent court wards, and state wards. Michigan administers a foster care system that splits foster care case management responsibility among public and private child-placing agencies. As such, the public or private agency with case management responsibility has a duty to provide care for the child. Adoption services are fully privatized and so private child-placing agencies have responsibility to care for wards referred for adoption services.

48. Admit that, when an agency decides into which foster or adoptive family a child in the agency's care will be placed, the State has a duty to ensure that the placement is made based on the best interest of that child.

**ANSWER:**

State Defendants deny Request No. 48 as untrue in the form stated. In further answer, State Defendants deny Request No. 48 as untrue because it is the agency with case management responsibility that makes decisions regarding placement of a child in a foster or adoptive home, according to applicable laws and policies. Regarding adoptive placements, an agency may recommend a family, but it does not have final decision. The Division of Child Welfare Licensing (DCWL) monitors compliance with applicable statutes, administrative rules, DHHS policies, contracts and other relevant legal provisions, by public and private child-placing agencies. A licensed Child-placing Agency must follow the administrative licensing rules regarding placement when making placement decisions. Please refer to State Defendants' Response to Plaintiffs' First Set of Requests for Admissions to State Defendants, Nos. 14 and 15. DCWL is required to annually complete inspections of licensed child-placing agencies to determine compliance with Act 116 and administrative rules promulgated by the department under Act 116. See Mich. Comp. Laws §§ 722.113, 722.113h and 722.118a.

49. Admit that, when an agency decides into which foster or adoptive family a child in the agency's care will be placed, the State has a duty to ensure that the agency considers all interested families to ensure that the placement is made based on the best interest of that child.

**ANSWER:**

State Defendants deny Request No. 49 as untrue in the form stated. In further answer, State Defendants deny Request No. 49 as untrue because the agency with case management responsibility considers placement options to determine which best meets the child's needs. Decisions regarding placement of a child in a foster home must be made according to applicable laws and policies. For adoption, there is a requirement to assess certain families if they come forward, such as relatives and/or those with a relationship to the child. For foster care placement, there is a requirement to assess relatives as they are identified and/or engaged. A licensed child-placing agency must follow the administrative licensing rules regarding placement when making placement decisions. Please refer to State Defendants' Response to Plaintiffs' First Set of Requests for Admissions to State Defendants,

Nos. 14 and 15.

50. Admit that breach of the nondiscrimination provisions of the State's contracts with child-placing agencies is a material breach.

**ANSWER:**

State Defendants object to the terms "breach" and "material breach," which are legal terms and therefore call for a legal conclusion. Subject to and without waiving their objections, State Defendants admit Request No. 50 to the extent that it is possible to construe a breach of the nondiscrimination provisions of the State's contracts with child-placing agencies as a material breach. State Defendants deny Request No. 50 as untrue to the extent that they have not yet determined that a breach of the nondiscrimination provisions of the State's contracts with child-placing agencies has occurred. In further answer, when DCWL determines that a child-placing agency is noncompliant or violates a statute, administrative rule, DHHS policy, contract or other relevant legal provision, DCWL requires the child-placing agency to develop and implement a corrective action plan. The corrective action plan must include action steps that will obtain and maintain compliance with applicable statutes, administrative rules, DHHS policies, contracts or

other relevant legal provisions.

51. Admit that at least one child-placing agency has breached its contract with the state by breaching the nondiscrimination provision of the applicable contract through discrimination based on a person's sexual orientation.

**ANSWER:**

State Defendants object to the term "breached its contract," which is legal term and therefore calls for a legal conclusion. Subject to and without waiving their objections, State Defendants admit Request No. 51 to the extent that it is possible to construe a failure to adhere to the nondiscrimination provisions of the State's contracts with child-placing agencies as a contract breach. State Defendants deny Request No. 51 as untrue to the extent that they have not yet determined that a breach of the nondiscrimination provisions of the State's contracts with child-placing agencies has occurred. In further answer, when DCWL determines that a child-placing agency is noncompliant or violates a statute, administrative rule, DHHS policy, contract or other relevant legal provision, DCWL requires the child-placing agency to develop and implement a corrective action plan. The corrective action plan must

include action steps that will obtain and maintain compliance with applicable statutes, administrative rules, DHHS policies, contracts or other relevant legal provisions.

52. Admit that at least one child-placing agency has materially breached its contract with the state by breaching the nondiscrimination provision of the applicable contract through discrimination based on a person's sexual orientation.

**ANSWER:**

State Defendants object to the terms "breached its contract" and "materially breached" and "breaching," which are legal terms and therefore call for a legal conclusion. Subject to and without waiving their objections, State Defendants admit Request No. 52 to the extent that it is possible to construe a breach of the nondiscrimination provisions of the State's contracts with child-placing agencies as a material breach. State Defendants deny Request No. 52 as untrue to the extent that they have not yet determined that a breach of the nondiscrimination provisions of the State's contracts with child-placing agencies has occurred. In further answer, when DCWL determines that a child-placing agency is noncompliant or violates a statute,

administrative rule, DHHS policy, contract or other relevant legal provision, DCWL requires the child-placing agency to develop and implement a corrective action plan. The corrective action plan must include action steps that will obtain and maintain compliance with applicable statutes, administrative rules, DHHS policies, contracts or other relevant legal provisions.

53. Admit that the State has the power to terminate a child-placing agency's contract if the agency violates the contract's nondiscrimination provision.

**ANSWER:**

State Defendants admit Request No. 53.

54. Admit that the State is aware that at least one child-placing agency has violated its contract's nondiscrimination provision by declining to provide a service to a same-sex couple.

**ANSWER:**

State Defendants admit Request No. 54.

55. Admit that the State is aware that at least one child-placing agency has violated its contract's nondiscrimination provision by

declining to provide a service to a same-sex couple due to a religious objection.

**ANSWER:**

State Defendants deny Request No. 56 as untrue in the form stated. In further answer, the agency, not State Defendants, determined its rationale for violating contract requirements. The MDHHS contract does not allow a child-placing agency to refuse to serve a same-sex couple.

56. Admit that the State is aware, for at least one child-placing agency, that such agency has violated its contract's nondiscrimination provision by declining to provide a service to a same-sex couple due to a religious objection, but the State did not terminate such agency's contract.

**ANSWER:**

State Defendants deny Request No. 56 as untrue in the form stated. In further answer, the agency, not State Defendants, determined its rationale for violating contract requirements. The MDHHS contract does not allow a child-placing agency to refuse to serve a same-sex couple.

57. Admit that the State's practice of contracting with private child-placing agencies to provide taxpayer-funded adoption and foster care services is less than 150 years old.

**ANSWER:**

State Defendants admit Request No. 57.

58. Admit that the State's practice of contracting with private child-placing agencies to provide taxpayer-funded adoption and foster care services is less than 75 years old.

**ANSWER:**

State Defendants admit Request No. 58.

59. Admit that the State does not know whether child-placing agencies would cease operations if the State required them to work with same-sex couples.

**ANSWER:**

State Defendants admit Request No. 59.

60. Admit that at least one state-contracted child-placing agency has closed in the past 10 years.

**ANSWER:**

State Defendants admit Request No. 60.

61. Admit that if St. Vincent Catholic Charities chose to cease operations in Michigan, DHHS would transfer the cases of children in that agency's care to another agency.

**ANSWER:**

State Defendants admit Request No. 61.

62. Admit that if St. Vincent Catholic Charities chose to cease operations in Michigan, DHHS would be able to use other agencies to provide the recruitment, training and licensing services that had been provided by that agency.

**ANSWER:**

State Defendants admit Request No. 62.

63. Admit that if St. Vincent Catholic Charities chose to cease operations in Michigan, DHHS would be able to continue providing the same foster care and adoption services to children directly and/or through other agencies.

**ANSWER:**

State Defendants admit Request No. 63.

64. Admit that the contracts DHHS has signed with St. Vincent Catholic Charities and Bethany Christian Services to provide foster care or adoptive services contain nondiscrimination clauses.

**ANSWER:**

State Defendants admit Request No. 64. See §§ 4.24 and 2.9c of the Placement Agency Foster Care (PAFC) Master Contract. See also §§ 2.9c of the Adoption Master Contract.

65. Admit that the nondiscrimination clauses in one or more contract(s) DHHS has signed require St. Vincent Catholic Charities to license qualified same-sex couples to provide foster care services.

**ANSWER:**

State Defendants deny Request No. 65 as untrue in the form stated. In further answer, State Defendants deny Request No. 65 because child-placing agencies, including St. Vincent Catholic Charities, recommend a home for licensure, but MDHHS issues licenses when and if its requirements are met.

66. Admit that the nondiscrimination clause(s) in one or more contract(s) DHHS has signed require St. Vincent Catholic Charities to provide foster care services to qualified same-sex couples.

**ANSWER:**

State Defendants deny Request No. 66 as untrue in the form stated. In further response, State Defendants admit that their contract with St. Vincent requires it to comply with the non-discrimination clause outlined in § 2.9 of the PAFC Master Contract which indicates they must not deny services based on sexual orientation.

67. Admit that the nondiscrimination clause(s) in one or more contract(s) DHHS has signed require St. Vincent Catholic Charities to provide adoption services to qualified same-sex couples.

**ANSWER:**

State Defendants admit Request No. 67.

68. Admit that St. Vincent Catholic Charities has not provided DHHS with “a written policy, statement of faith, or other document” regarding its refusal to work with same-sex couples.

**ANSWER:**

State Defendants admit Request No. 68.

69. Admit that Bethany Christian Services has not provided DHHS with “a written policy, statement of faith, or other document” regarding its refusal to work with same-sex couples.

**ANSWER:**

State Defendants deny Request No. 69 as untrue in the form stated. In further answer, State Defendants admit that Bethany Christian Services has provided MDHHS with a written statement of faith, but that the written statement of faith was not regarding its refusal to work with same-sex couples.

70. Admit that Catholic Charities of West Michigan has not provided DHHS with “a written policy, statement of faith, or other document” regarding its refusal to work with same-sex couples.

**ANSWER:**

State Defendants admit Request No. 70.

71. Admit that no child-placing agency has provided DHHS with “a written policy, statement of faith, or other document” regarding its refusal to work with same-sex couples.

**ANSWER:**

State Defendants admit Request No. 71.

72. Admit that a child-placing agency is required by its contract with the State to recruit potential foster or adoptive families.

**ANSWER:**

State Defendants deny Request No. 72 as untrue in the form stated. In further response, State Defendants admit that recruitment is a requirement within adoption contracts and under the administrative rules. For foster care, recruitment requirements depend on the terms of the license and license type. If a child-placing agency’s license includes the term “Certify Foster Homes for License,” the agency is required to follow Rule 400.12304. If a child-placing agency’s license includes the term “Place Children for Adoption,” the agency is required to follow Rule 400.12706.

73. Admit that a child-placing agency is required by its contract with the State to train potential foster or adoptive families.

**ANSWER:**

State Defendants deny Request No. 73 as untrue in the form stated. In further response, State Defendants admit that the PAFC Master Contract, at § 2.9a-b, requires the contractor to follow all policy and administrative rules which in turn require child-placing agencies to provide orientation and training to potential foster families. The Adoption Master Contract, at § 2.10(b)(3), requires the contractor to work cooperatively with other contracted adoption agencies, MDHHS and trained adoptive parents to provide orientation and training. Adoption Master Contract § 2.9a-b requires contractor to follow all policy, specifically ADM 420 Adoptive Parent Training.

74. Admit that a child-placing agency is required by its contract with the State to recommend for licensure potential foster families.

**ANSWER:**

State Defendants admit Request No. 74.

75. Admit that St. Vincent Catholic Charities is required by a contract with the State to recruit potential foster or adoptive families.

**ANSWER:**

State Defendants deny Request No. 75 as untrue in the form stated. In further response, State Defendants admit that § 2.10(b) of the Adoption Master Contract provides, in pertinent part:

b. Adoption, Recruitment, Orientation and Training

- 1) The Contractor shall develop and implement a plan for adoptive home recruitment, retention, and support consistent with the MDHHS DCWL Licensing Standards specific to the Contractor's license specified in Section 2.4.
- 2) The Contractor shall provide adoption recruitment activities in collaboration with other private agencies and MDHHS local offices to focus on children registered on Michigan Adoption Resource Exchange (MARE).

Agencies with a Master Foster Care Contract, including St. Vincent's, are required to follow Rule 400.12304 regarding recruitment and retention, which states:

- (1) An agency shall have an ongoing foster home recruitment program to ensure an adequate number of suitable and qualified homes to meet the needs of children served by the agency.
- (2) An agency shall develop, implement, and maintain a program of foster home retention that includes foster parent involvement.

76. Admit that St. Vincent Catholic Charities is required by a

contract with the State to train potential foster or adoptive families.

**ANSWER:**

State Defendants deny Request No. 76 as untrue in the form stated. In further response, State Defendants admit that § 2.10 (b)(3) of the Adoption Master Contract requires the agency to work cooperatively with other contracted adoption agencies, MDHHS and trained adoptive parents to provide orientation and training. The Adoption Master Contract § 2.9a-b requires contractor to follow all policy, specifically ADM420 Adoptive Parent Training.

Child-placing agencies with a Master Foster Care Contract are required to comply with applicable licensing rules, including Rule 400.12312 (requiring the agency to develop a training plan with the participation of the foster parent) and Rule 400.12303 (requiring the agency to have policies for training certification).

77. Admit that St. Vincent Catholic Charities is required by a contract with the State to recommend for licensure qualified prospective foster families.

**ANSWER:**

State Defendants deny Request No. 77 as untrue in the form stated. In further response, State Defendants admit that Child-placing agencies with a Master Foster Care Contract are required to comply with applicable licensing rules, including Rule 400.12325, which states “[a]n agency shall recommend to the department the appropriate licensing action consistent with facts contained in the foster home evaluation and any special evaluations.”

78. Admit that at least one branch of Bethany Christian Services is party to a contract with the State and is required by a contract with the State to recruit potential foster or adoptive families.

**ANSWER:**

State Defendants object to the term “party to,” which is a legal term and thus calls for a legal conclusion. Subject to and without waiving this objection, State Defendants deny Request No. 78 as untrue in the form stated. In further response, State Defendants admit that § 2.10(b) of the Adoption Master Contract provides, in pertinent part:

b. Adoption, Recruitment, Orientation and Training

1) The Contractor shall develop and implement a plan for adoptive home recruitment, retention, and support consistent with the MDHHS DCWL Licensing Standards specific to the Contractor's license specified in Section 2.4.

2) The Contractor shall provide adoption recruitment activities in collaboration with other private agencies and MDHHS local offices to focus on children registered on Michigan Adoption Resource Exchange (MARE).

Agencies with a Master Foster Care Contract, including Bethany Christian Services, are required to follow Rule 400.12304 regarding recruitment and retention, which states:

(1) An agency shall have an ongoing foster home recruitment program to ensure an adequate number of suitable and qualified homes to meet the needs of children served by the agency.

(2) An agency shall develop, implement, and maintain a program of foster home retention that includes foster parent involvement.

79. Admit that at least one branch of Bethany Christian Services is party to a contract with the State and is required by a contract with the State to train potential foster or adoptive families.

**ANSWER:**

State Defendants object to the term "party to," which is a legal term and thus calls for a legal conclusion. Subject to and without

waiving this objection, State Defendants deny Request No. 79 as untrue in the form stated. In further response, State Defendants admit that § 2.10 (b)(3) of the Adoption Master Contract requires the agency to work cooperatively with other contracted adoption agencies, MDHHS and trained adoptive parents to provide orientation and training. The Adoption Master Contract § 2.9a-b requires contractor to follow all policy, specifically ADM420 Adoptive Parent Training.

Child-placing agencies with a Master Foster Care Contract are required to comply with applicable licensing rules, including Rule 400.12312 (requiring the agency to develop a training plan with the participation of the foster parent) and Rule 400.12303 (requiring the agency to have policies for training certification).

80. Admit that at least one branch of Bethany Christian Services is party to a contract with the State and is required by a contract with the State to recommend for licensure qualified prospective foster families.

**ANSWER:**

State Defendants object to the term “party to,” which is a legal term and thus calls for a legal conclusion. Subject to and without

waiving this objection, State Defendants deny Request No. 80 as untrue in the form stated. In further response, State Defendants admit that Child-placing agencies with a Master Foster Care Contract are required to comply with applicable licensing rules, including Rule 400.12325, which states “[a]n agency shall recommend to the department the appropriate licensing action consistent with facts contained in the foster home evaluation and any special evaluations.”

81. Admit that You are aware of St. Vincent Catholic Charities’ religious objections to same-sex couples serving as adoptive and/or foster parents.

**ANSWER:**

State Defendants admit Request No. 81.

82. Admit that You are aware of Bethany Christian Services’ religious objections to same-sex couples serving as adoptive and/or foster parents.

**ANSWER:**

State Defendants admit Request No. 82.

83. Admit that one or more state-contracted child-placing agencies in Michigan have well-known religious objections to same-sex couples.

**ANSWER:**

State Defendants deny Request No. 83 as untrue in the form stated. In further answer, State Defendants admit that one of more state-contracted child-placing agencies in Michigan may have religious objections to recommending same-sex couples for foster care licenses or adoption.

AS TO OBJECTIONS ONLY:

Respectfully submitted,

Dana Nessel  
Attorney General

/s/ Joshua S. Smith  
Joshua S. Smith (P63349)  
Jonathan S. Ludwig (P64919)  
Assistant Attorneys General  
Attorneys for State Defendants  
Health, Education &  
Family Services Division  
P.O. Box 30758  
Lansing, MI 48909  
(517) 373-7700  
Smithj46@michigan.gov  
ludwigj1@michigan.gov

Dated: January 11, 2019

**VERIFICATION**

I hereby verify, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that my foregoing responses to Plaintiffs' Amended First Set of Interrogatories to Defendants Nick Lyon and Herman McCall are true and correct to the best of my knowledge.



Stacie Bladen

1/11/19  
Date

**CERTIFICATE OF SERVICE**

I hereby certify that on January 11, 2019, a copy of Defendants Nick Lyon and Herman McCall's Objections and Responses to Plaintiffs' First Set of Requests for Admission to State Defendants was served upon counsel of record by electronic mail.

William J. Perrone  
(wperrone@dioceseoflansing.org)  
Diocese of Lansing  
228 N. Walnut Street  
Lansing, MI 48933

Mark L. Rienzi  
(mrienzi@becketlaw.org)  
Stephanie H. Barclay  
(sbarclay@becketlaw.org)  
Becket Fund for Religious Liberty  
1200 New Hampshire Ave., N.W.  
Suite 700  
Washington, DC 20036

Ann-Elizabeth Ostrager  
Jay D. Kaplan  
Michael J. Steinberg  
Kary L. Moss  
2966 Woodward Avenue  
Detroit, MI 48201  
(313) 578-6823  
jkaplan@aclumich.org

/s/ Joshua S. Smith  
Assistant Attorney General  
Attorney for State Defendants  
Health, Education &  
Family Services Division  
P.O. Box 30758  
Lansing, MI 48909  
(517) 373-7700  
Smithj46@michigan.gov  
P63349

## **Exhibit E**

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

KRISTY DUMONT; DANA  
DUMONT; ERIN BUSK-SUTTON;  
and REBECCA BUSK-SUTTON,

Plaintiffs,

v.

NICK LYON, in his official capacity  
as the Director of the Michigan  
Department of Health and Human  
Services; and HERMAN MCCALL,  
in his official capacity as the  
Executive Director of the Michigan  
Children's Services Agency,

Defendants,

and

ST. VINCENT CATHOLIC  
CHARITIES; MELISSA BUCK;  
CHAD BUCK; and SHAMBER  
FLORE,

Defendants-Intervenors.

No. 17-cv-13080-PDB-EAS

HON. PAUL D. BORMAN

MAG. ELIZABETH A. STAFFORD

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**DEFENDANTS NICK LYON AND HERMAN MCCALL'S  
OBJECTIONS AND RESPONSES TO INTERVENOR-  
DEFENDANTS' FIRST REQUESTS FOR ADMISSION  
TO THE STATE DEFENDANTS**

State Defendants, by and through its attorneys, and pursuant Federal Rule of Civil Procedure 36 and the Local Rules of this Court, responds and objects to Intervenor-Defendants' First Requests for Admission as follows:

**PRELIMINARY STATEMENT**

1. These responses and objections are made without prejudice to, and are not a waiver of, State Defendants' right to rely on other facts or documents at trial.

2. State Defendants Nick Lyon and Herman McCall respond to these requests for admission solely in their respective official capacities as the Director of the Michigan Department of Health and Human Services and the Executive Director of the Michigan Children's Services Agency.

3. State Defendants do not waive, and hereby expressly reserve, their right to assert any and all objections as to the admissibility of such responses into evidence in this action, or in any other proceedings, on any and all grounds including, but not limited to, competency, relevancy, materiality, and privilege. Further, State Defendants make the responses and objections herein without in any

way implying that it considers the requests for admission, and responses to the requests for admission, to be relevant or material to the subject matter of this action.

4. State Defendants expressly reserve the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s).

5. State Defendants' responses are based on their understanding and interpretation of each term in, and the context of, the request for admission. State Defendants expressly reserve the right to supplement, clarify, revise, or correct any or all of the responses and objections herein, and to assert additional objections or privileges, in one or more subsequent supplemental response(s), upon clarification of the request for admission by one or more Intervenor-Defendants.

### **GENERAL OBJECTIONS**

1. State Defendants object to each instruction, definition, and request for admission to the extent that it purports to impose any requirement or discovery obligation greater than or different from those

under the Federal Rules of Civil Procedure and the applicable Rules and Orders of the Court.

2. State Defendants object to each instruction, definition, and request for admission the extent that it seeks documents protected from disclosure by the attorney-client privilege, deliberative process privilege, attorney work product doctrine, or any other applicable privilege. Should any such disclosure by State Defendants occur, it is inadvertent and shall not constitute a waiver of any privilege.

**STATE DEFENDANTS' OBJECTIONS AND RESPONSES TO  
INTERVENOR-DEFENDANTS' FIRST REQUESTS FOR  
ADMISSION**

1. Admit that the Michigan Department of Health and Human Services ("DHHS") benefits from having a diverse array of private child placing agencies throughout the State that work to serve all children in need of loving homes.

**ANSWER:**

State Defendants deny Request No. 1 as untrue in the form stated. In further answer, State Defendants admit that DHHS benefits when contracted child placing agencies comply with the terms of the agreement entered into with DHHS, as well as all applicable laws, rules, regulations, and policies, to serve children and families in need of foster care or adoptive services in Michigan.

2. Admit that DHHS values and benefits from its on-going contractual relationship with St. Vincent Catholic Charities' foster care and adoption programs (collectively, "St. Vincent") because these programs support children in need and serve an important role in helping to find loving foster and adoptive parents.

**ANSWER:**

State Defendants deny Request No. 2 as untrue in the form stated. In further answer, State Defendants admit that DHHS benefits from its contractual relationship with St. Vincent when St. Vincent

provides contracted foster care and adoption services in compliance with the terms of the agreement entered into with DHHS, as well as all applicable laws, rules, regulations, and policies, to serve children and families in need of foster care or adoptive services.

3. Admit that foster care and adoption certifications, home studies, and licenses provided by child placing agencies operate as an endorsement of the relationship(s) between or among the prospective foster or adoptive parent(s) and any other adults living in their home.

**ANSWER:**

State Defendants deny Request No. 3 as untrue.

4. Admit that DHHS does not view St. Vincent as a state actor.

**ANSWER:**

State Defendants object to the phrase “state actor” to the extent it implies a legal conclusion. Subject to and without waiving their objections, State Defendants admit Request No. 4.

5. Admit that DHHS does not view St. Vincent’s actions as directly attributable to DHHS or the State of Michigan.

**ANSWER:**

State Defendants object to the term “directly attributable” to the extent it implies a legal conclusion. Subject to and without waiving their objections, State Defendants admit Request No. 5.

6. Admit that private child placing agencies may refer prospective foster or adoptive families to other such agencies for a variety of reasons, including but not limited to geography, capacity, language proficiency, preferences for particular families or children, fit with an agency, and Native American ancestry.

**ANSWER:**

State Defendants deny Request No. 6 as untrue in the form stated. In further answer, State Defendants admit that child placing agencies may refer a prospective foster or adoptive family to another child placing agency so long as the referral complies with the terms of the agreement entered into with DHHS, as well as all applicable laws, rules, regulations, and policies.

7. Admit that the *per diem* a child placing agency receives when a foster child is placed in a family supported by that agency does not compensate that agency for the costs associated with evaluating, certifying, and/or licensing prospective foster families.

**ANSWER:**

State Defendants deny Request No. 7 as untrue in the form stated. In further answer, State Defendants admit that the *per diem* paid by DHHS to contracted child placing agencies includes payment for contractual duties associated with evaluating, certifying, and licensing prospective foster and adoptive families.

8. Admit that when a private child placing agency certifies or licenses a prospective foster or adoptive family that approaches the child placing agency directly, DHHS does not compensate the agency for providing a license or certification to that family.

**ANSWER:**

State Defendants deny Request No. 8 as untrue in the form stated. In further answer, State Defendants admit that administrative case rates paid to contracted child placing agencies include payment for contractual duties relating to recruitment and licensing activities.

9. Admit that it is DHHS' understanding that sexual orientation and gender identity are not characteristics protected under any state law that prohibits discrimination on the basis of "sex," simply because the state law uses the term "sex."

**ANSWER:**

State Defendants deny Request No. 9 as untrue in the form stated. In further answer, State Defendants state that it is DHHS's understanding that the Michigan Civil Rights Commission has determined that, under the Elliott-Larsen Civil Rights Act, discrimination on the basis of sex includes protection against discrimination on the basis of gender identity and sexual orientation.

10. Admit that DHHS is not currently and has no plans to investigate Homes for Black Children, the Wayne Center for the

Developmentally Disabled, the Sault Tribe Binogii Placement Agency, or any other child placing agencies that focus on serving a particular segment of the population to determine whether those agencies might refer a prospective foster or adoptive family to another agency.

**ANSWER:**

State Defendants object to Request No. 10 to the extent it seeks confidential information relating to pending investigations of any contracted child placing agency. Subject to and without waiving their objections, State Defendants deny Request No. 10 as untrue in the form stated. In further answer, State Defendants admit that DHHS audits and investigates complaints relating to child placing agencies' compliance with the terms of the agreement entered into with DHHS, as well as all applicable laws, rules, regulations, and policies relevant to providing contracted foster and adoptive services.

11. Admit that DHHS is not currently and has no plans to investigate the Ruth Ellis Center, the Ruth Ellis House, or any other DHHS contractor that may exclusively serve a particular segment of the population, including but not limited to the LGBTQ community.

**ANSWER:**

State Defendants object to Request No. 11 to the extent it seeks confidential information relating to pending investigations of any DHHS contractor. Subject to and without waiving their objections, State Defendants deny Request No. 11 as untrue in the form stated. In further answer, State Defendants admit that DHHS audits and investigates complaints relating to contractors' compliance with the terms of the agreement entered into with DHHS, as well as all

applicable laws, rules, regulations, and policies relevant to providing contracted goods and services.

12. Admit that Plaintiffs and other prospective foster or adoptive parents are not restricted to fostering or adopting children in the care of the child placing agency that certified or licensed them; instead, they could be matched with children in the care of any child placing agency in the State of Michigan.

**ANSWER:**

State Defendants deny Request No. 12 as untrue in the form stated. In further answer, State Defendants admit that prospective foster or adoptive parents are not prohibited from fostering or adopting children whose cases are assigned to a particular DHHS-contracted child placing agency. State Defendants further admit that children whose cases are assigned to a child placing agency may be matched with prospective foster or adoptive parents working with another child placing agency in the State of Michigan.

13. Admit that closing St. Vincent could harm both the children and the foster and adoptive parents that work with and rely on St. Vincent for care, guidance, and vital support.

**ANSWER:**

State Defendants object to Request No. 13 on grounds that it is overly broad and calls for speculation. Subject to and without waiving their objections, State Defendants deny Request No. 13 as untrue in the form stated. In further answer, State Defendants admit that to the

extent that any contracted child placing agency ceases to provide foster care and adoption services under contract with DHHS, children whose cases were assigned to that child placing agency will be assigned to another contracted child placing agency, and foster and adoptive parents may choose to work with the assigned child placing agency or any other contracted child placing agency in the State of Michigan for foster care and adoptive services.

14. Admit that if St. Vincent closed, some of the foster families it certified and/or licensed could stop providing foster care to children in need and may not transfer their license to another agency.

**ANSWER:**

State Defendants object to Request No. 14 on grounds that it is overly broad and calls for speculation. Subject to and without waiving their objections, State Defendants deny Request No. 14 as untrue in the form stated. In further answer, State Defendants admit that to the extent that any contracted child placing agency ceases to provide foster care and adoption services under contract with DHHS, foster families may or may not continue providing foster care to children in their care, may or may not ask DHHS to place such foster children with another foster family, and may or may not relinquish their foster license. State Defendants further admit that DHHS's experience has been that foster families caring for foster children generally continue providing foster care and have not relinquished a foster care license based on the status of the child placing agency issuing their license. State Defendants further admit that prospective foster or adoptive parents are not prohibited from fostering or adopting children whose cases are assigned to a particular DHHS-contracted child placing agency, and that children whose cases are assigned to a child placing agency that ceases to provide contracted foster care and adoption services would be assigned to another contracted child placing agency, and foster and adoptive parents may choose to work with the assigned child placing agency or any other contracted child placing agency in the State of Michigan for foster care and adoptive services.

15. Admit that the highest priority in foster care is providing temporary homes to children pending family reunification and not the rights or interests of individuals seeking to adopt or foster.

**ANSWER:**

State Defendants deny Request No. 15 as untrue in the form stated. In further answer, State Defendants admit that DHHS's highest priorities for foster care are to assure the safety, permanency and wellbeing of children under the care and supervision of DHHS. State Defendants further admit that these priorities are achieved when child placing agencies make decisions based on a child's needs and best interest, in compliance with the terms of any agreement with DHHS, as well as all applicable laws, rules, regulations, and policies, to serve children and families in need of foster care or adoptive services.

16. Admit that DHHS contracts with a wide-range of child placing agencies such that its decision to contract with any particular agency does not favor or endorse one particular agency's religious beliefs.

**ANSWER:**

State Defendants deny Request No. 16 as untrue in the form stated. In further answer, State Defendants admit that all child placing agencies under contract with DHHS to provide foster care and adoption services agree to the same master contract terms and must meet the same requirements, including compliance with the terms of the agreement with DHHS, as well as all applicable laws, rules,

regulations, and policies. State Defendants further admit that a child placing agency's religious beliefs, if any, have no bearing on DHHS's decision to contract with that agency, and DHHS's contract with any agency does not "favor or endorse," encourage, or in any like way advocate, nor does it denounce, criticize, or in any like way condemn, any religious belief or absence of religious belief.

17. Admit that closing St. Vincent would not make it easier for Plaintiffs to participate in the foster-care or adoption process.

**ANSWER:**

State Defendants object to Request No. 17 on grounds that it is overly broad and calls for speculation. Subject to and without waiving their objections, State Defendants deny Request No. 17 as untrue in the form stated. In further answer, State Defendants admit that whether any contracted child placing agency ceases to provide foster care and adoption services under contract with DHHS has no impact on whether a family or individual meets the licensing requirements to provide foster care or meets the certification requirements to adopt a foster child. State Defendants lack sufficient knowledge or information to admit or deny other factors that may or may not "make it easier for Plaintiffs to participate in the foster-care or adoption process." State Defendants have made reasonable inquiry of Plaintiffs through the discovery process, and the information State Defendants know or can readily obtain is insufficient to enable them to admit or deny other factors that may or may not "make it easier for Plaintiffs to participate in the foster-care or adoption process."

18. Admit that decreasing the number of private child placing agencies in Michigan could potentially reduce the number of prospective foster and adoptive homes for children and families.

**ANSWER:**

State Defendants deny Request No. 18 as untrue in the form stated. In further answer, State Defendants admit that to the extent that any contracted child placing agency ceases to provide foster care and adoption services under contract with DHHS, foster families may or may not continue providing foster care to children in their care, may or may not ask DHHS to place such foster children with another foster family, may or may not relinquish their foster license, and may or may not decide to adopt a foster child. State Defendants deny that DHHS has experienced a reduction of foster and adoptive homes when a child placing agency closes because foster families generally continue their foster and adoptive services through another child placing agency.

19. Admit that DHHS has no basis in fact to believe that, if faith-based and/or religiously affiliated child placing agencies cease to provide foster and adoptive services to DHHS, new child placing agencies will form in their place.

**ANSWER:**

State Defendants deny Request No. 19 as untrue.

20. Admit that private adoption and foster care agencies, including faith-based child placing agencies, have a long tradition of both providing foster care and adoption services in the State of Michigan and entering into contracts and/or other arrangements with state and local governments to facilitate these services.

**ANSWER:**

State Defendants deny Request No. 20 as untrue in the form stated. In further answer, State Defendants admit that private adoption and foster care agencies have a long tradition of providing foster care and adoption services in the State of Michigan and entering into contracts with the appropriate State of Michigan department to facilitate these services. State Defendants deny that they distinguish child placing agencies as “faith-based.”

21. Admit that prospective same-sex foster and adoptive parents can adopt or foster a child in the State of Michigan with numerous child placing agencies ready and willing to work with them.

**ANSWER:**

State Defendants deny Request No. 21 as untrue in the form stated. In further answer, State Defendants admit that all child placing agencies under contract with DHHS to provide foster care and adoption services must provide such services in compliance with the terms of the agreement with DHHS, as well as all applicable laws, rules, regulations, and policies, to serve all prospective and qualified foster and adoptive parents, including same-sex couples and individuals, and to ensure the needs of children needing temporary and permanent homes are timely met.

22. Admit that St. Vincent is not a public accommodation under any state or federal law for purposes of providing foster care and

adoption certifications, home studies, or licenses.

**ANSWER:**

State Defendants object to Request No. 22 on grounds that the term “public accommodation” to the extent it implies a legal conclusion. Subject to and without waiving their objections, State Defendants deny Request No. 22 as untrue.

23. Admit that DHHS has been subject to a consent decree because of inadequate services provided to foster children in DHHS’s care, including mental health and dental services.

**ANSWER:**

State Defendants object to Request No. 23 on grounds that it seeks information protected by the attorney-client privilege and work product, and further seeks information that is not relevant to any pending claims or defenses and is not reasonably calculated to lead to the discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving their objections, State Defendants deny Request No. 23 as untrue in the form stated. In further answer, State Defendants deny that DHHS’s agreement to enter into the Implementation, Sustainability, and Exit Plan constitutes an admission of any liability.

24. Admit that DHHS has been subject to a consent decree because of inadequate visitation between social workers and parents of foster children in DHHS’s care.

**ANSWER:**

State Defendants object to Request No. 24 on grounds that it seeks information protected by the attorney-client privilege and work product, and further seeks information that is not relevant to any pending claims or defenses and is not reasonably calculated to lead to the discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving their objections, State Defendants deny Request No. 24 as untrue in the form stated. In further answer, State Defendants deny that DHHS's agreement to enter into the Implementation, Sustainability, and Exit Plan constitutes an admission of any liability.

25. Admit that DHHS has been subject to a consent decree because of problems in the past where DHHS took too long to place foster children in homes.

**ANSWER:**

State Defendants object to Request No. 25 on grounds that it seeks information protected by the attorney-client privilege and work product, and further seeks information that is not relevant to any pending claims or defenses and is not reasonably calculated to lead to the discovery of admissible evidence under Fed. R. Civ. P. 26(b)(1).

Subject to and without waiving their objections, State Defendants deny Request No. 25 as untrue in the form stated. In further answer, State Defendants deny that DHHS's agreement to enter into the Implementation, Sustainability, and Exit Plan constitutes an admission of any liability.

26. Admit there is a shortage of certified foster and adoptive

families ready to accept children into their care.

**ANSWER:**

State Defendants deny Request No. 26 as untrue in the form stated. In further answer, State Defendants admit that, unfortunately, despite the efforts of contracted child placing agencies throughout the State of Michigan, including St. Vincent, there are children who need foster or adoptive services and who await placement.

27. Admit that DHHS is actively looking to increase the number of certified foster and adoptive families ready to accept children into their care.

**ANSWER:**

State Defendants admit Request No. 27 as true.

28. Admit DHHS believes it is beneficial to work with a large and diverse group of child placing agencies as this maximizes the pool of prospective foster and adoptive families for children in need.

**ANSWER:**

State Defendants deny Request No. 28 as untrue in the form stated. In further answer, State Defendants admit that DHHS, child placing agencies, families and children benefit when contracted child placing agencies comply with the terms of the agreement entered into with DHHS, as well as all applicable laws, rules, regulations, and policies, to serve children and families in need of foster care or adoptive

services in Michigan.

As to objections,  
Respectfully submitted,

Bill Schuette  
Attorney General

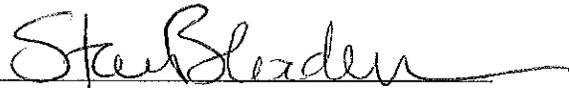
/s/ Joshua S. Smith  
Joshua S. Smith (P63349)  
Jonathan S. Ludwig (P64919)  
Assistant Attorneys General  
Attorneys for State Defendants  
Health, Education &  
Family Services Division  
P.O. Box 30758  
Lansing, MI 48909  
(517) 373-7700  
Smithj46@michigan.gov  
ludwigj1@michigan.gov

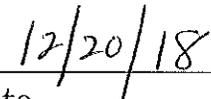
/s/ John J. Bursch  
John J. Bursch (P57679)  
Special Assistant Attorney  
General for State Defendants  
Bursch Law PLLC  
9339 Cherry Valley Ave SE, #78  
Caledonia, MI 49316  
616-450-4235  
jbursch@burschlaw.com

Dated: December 28, 2018

**VERIFICATION**

I hereby verify, under penalty of perjury and pursuant to 28 U.S.C. § 1746, that the foregoing responses to Intervenor-Defendants' First Requests for Admissions to the State Defendants are true and correct to the best of my knowledge.

  
\_\_\_\_\_  
Stacie Bladen

  
\_\_\_\_\_  
Date

**CERTIFICATE OF SERVICE**

I hereby certify that on December 28, 2018, a copy of Defendants Nick Lyon and Herman McCall's Objections and Answers to Intervenor-Defendants' First Requests for Admission to the State Defendants was served upon counsel of record by electronic mail.

John J. Bursch  
(jbursch@burschlaw.com)  
Bursch Law PLLC  
9339 Cherry Valley Ave SE, #78  
Caledonia, MI 49316

Mark L. Rienzi  
(mrienzi@becketlaw.org)  
Stephanie H. Barclay  
(sbarclay@becketlaw.org)  
Becket Fund for Religious Liberty  
1200 New Hampshire Ave., N.W.  
Suite 700  
Washington, DC 20036

William J. Perrone  
(wperrone@dioceseoflansing.org)  
Diocese of Lansing  
228 N. Walnut Street  
Lansing, MI 48933

Ann-Elizabeth Ostrager  
Jay D. Kaplan  
Michael J. Steinberg  
Kary L. Moss  
2966 Woodward Avenue  
Detroit, MI 48201  
(313) 578-6823  
jkaplan@aclumich.org

/s/ Joshua S. Smith  
Assistant Attorney General  
Attorney for State Defendants  
Health, Education &  
Family Services Division  
P.O. Box 30758  
Lansing, MI 48909  
(517) 373-7700  
Smithj46@michigan.gov  
P63349

## **Exhibit F**



WUOMFM

# Faith-based adoption bills headed to House floor

By [RICK PLUTA](#) · MAR 4, 2015

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Legislation that would allow faith-based adoption agencies to refuse to work with LGBT couples or anyone else based on moral or religious grounds is headed to the floor of the state House.



A state House committee approved the bills as the U.S. Supreme Court prepares to hear arguments on same-sex marriage.

CREDIT MA.CO. / FLICKR



*Hear the feature here.*

The Supreme Court arguments will most likely take place in late April, but state House Republicans aren't waiting to see what the justices decide in the case challenging Michigan's ban on same-sex marriage and the rights that go with marriage -- rights like jointly adopting children.

The House Committee on Families, Seniors and Children approved the bills on party line votes, and rejected amendments proposed by Democrats on party-line votes. Some of the rejected amendments would have required adoption agencies to put "the best interests of the child" ahead of religious considerations.

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**"It would not be in our best interest to eliminate some of those providers and approximately 45 percent of the kids that are adopted or fostered in the state of Michigan are faith-based organizations that are providing those homes."**

---

Committee Chairman Thomas Hooker, R-Byron Center, says he's wants to make sure that faith-based adoption services that take state money aren't forced to choose between their values and their mission to find homes for kids.

"It would not be in our best interest to eliminate some of those providers and approximately 45 percent of the kids that are adopted or fostered in the state of Michigan are faith-based organizations that are providing those homes, so finding families and encouraging families is something we want to continue," he said. "...I think it's protection for the faith-based organizations with the state of Michigan is a situation that we're in need of finding homes for many kids."

"There have been activists that have tried to get, because they don't agree with Catholic teaching, they want to get Catholics out of the public square and want to make it one size fits all," said Tom Hickson of the Michigan Catholic Conference, which has been trying for years to get this legislation adopted. Hickson says faith-based protections would ensure a "diversity" of agencies working to place children.

He says in Massachusetts, Illinois, San Francisco, and Washington DC, for example, there have been efforts to either push faith-based agencies out of the adoption business or force them to ignore their own beliefs.

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**"If you are a proponent of this type of bill, you honestly have to concede that you just dislike gay people more than you care about the needs of foster care kids."**

---

But adoption researcher Jean Howard, recently retired from the University of Illinois Center for Adoption Studies, says if placing the most children is the top concern, Michigan should go in a different direction.

She says in states that require agencies to work with same-sex couples, faith-based services have generally adapted, and opened their doors to LGBT families-- and the result has been more children placed in permanent homes.

“We have empirical evidence to support this widely held view that states that have anti-gay policies end up with fewer children adopted from foster care,” she said.

Howard says LGBT couples are also more likely to take in the hardest-to-adopt special needs kids.

Howard’s work was cited in the federal district court decision that struck down Michigan’s same-sex marriage ban – one of the cases that’s now before the US Supreme Court. The decision said allowing same-sex couples to marry would be good for kids in those families and good for kids who still need a permanent home.

Dana Nessel is an attorney for April DeBoer and Jayne Rowse, the lesbian couple that challenged Michigan’s same-sex marriage ban, which started out as an adoption rights case. She says the Legislature should heed that research.

“If you are a proponent of this type of bill, you honestly have to concede that you just dislike gay people more than you care about the needs of foster care kids,” says Nessel. “It’s as simple as that.”

Nessel she says hopes for a Supreme Court ruling later this year that’s not only a victory for same-sex marriage, but is also so sweeping it makes the debate taking place now in the Michigan Legislature a moot point.

**TAGS:** [ADOPTION](#) [LGBTQ](#) [GAY RIGHTS](#) [GAY MARRIAGE](#)

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**"We have empirical evidence to support this widely held view that states that have anti-gay policies end up with fewer children adopted from foster care."**

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## **Exhibit G**

# Opponents say adoption bill discriminates against gays and lesbians

**Posted** Mar 04 2015 05:43PM EST

**Video Posted** Jul 09 2015 07:26AM EDT

**Updated** Mar 05 2015 10:43AM EST

Michigan lawmakers are considering a bill that would give faith-based agencies the right to deny adoptions to couples that don't fit their religious beliefs. But critics are stepping up saying it opens the door to discrimination while denying children loving homes.

There are more than 3,000 children in need of forever homes in the state of Michigan but some, including attorney Dana Nessel, say proposed legislation that's gaining traction in the statehouse will make it harder for some families to adopt those kids.

"I can't believe that this type of legislation is still under consideration," Nessel said. "It should be about the best interest of the child. Period."

*CONTINUE READING BELOW*

The legislation passed out of committee Wednesday and allows state-funded, faith-based adoption agencies to refuse to work with prospective parents based on the agency's religious or moral beliefs. It's been common practice for ages, one that many Catholic agencies will do: refuse service to gays or lesbians based on the church's religious beliefs. That practice could soon become law.





"This is money from the state this is taxpayers dollars that we're talking about," Nessel said.

Nessel represents April and Jayne Deboer-Rowse whose fight for same sex marriage is going to the Supreme Court. They have adopted four children and are foster parents for a fifth child. Studies show gays and lesbians are more likely to adopt children from foster care but their options for agencies are limited.

"I think that they're trying to use religion as an excuse to discriminate against families and we need to help these thousands of children that need adoption services find forever families," Sommer Foster with Equality Michigan said.

But the bill has strong support from some, like the Michigan Catholic Conference saying "Child placement legislation that passed out of the House Families, Children and Seniors Committee this morning is in the best interest of vulnerable children and will help to secure a wide network of faith-based and secular providers in the state."

The conference notes that if an agency is not able to work with a person or couple because of its religious beliefs, they do not receive funds from the state. The state only reimburses after the placement is final.

"As has been stated numerous times, this legislation does not prohibit adoption to any classification of persons, but merely places into law what the state has practiced for decades," the statement said.

But opponents say what the state has practiced for decades is a policy of discrimination and lawmakers are now playing politics with the future of Michigan's most vulnerable children.

"These types of laws are a victory for the hate mongers but again a disaster for the children and the state," Nessel said.

The package of bills now heads to the State House for consideration where it's likely to pass, as it's done before. What happens next? That's still anybody's guess.

**UPDATE:** FOX 2 received this statement from Sara Wurfel at Gov. Snyder's Office:

'What I'd say on this legislation is this ... that the governor has raised concerns in earlier and current versions - some have been addressed. We'll be closely reviewing latest changes and working with legislative partners. The governor and administration have a strong commitment to ensuring the most responsive, effective adoption system possible and we've made key progress in strengthening children's services and matching kids in foster care with permanent families. That is always the outcome we need to help meet.'