

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

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CATHOLIC CHARITIES WEST	:	
MICHIGAN,	:	
	:	
Plaintiff,	:	No. 2:19-cv-11661-DPH-DRG
	:	
v.	:	HON. DENISE PAGE HOOD
	:	
MICHIGAN DEPARTMENT OF	:	MAG. J. DAVID R. GRAND
HEALTH AND HUMAN SERVICES;	:	
ROBERT GORDON, in his official	:	
capacity as Director of the Michigan	:	<u>[PROPOSED] INTERVENOR</u>
Department of Health and Human	:	<u>DEFENDANTS' [PROPOSED]</u>
Services; MICHIGAN CHILDREN'S	:	<u>RESPONSE IN OPPOSITION</u>
SERVICES AGENCY; JOOYEUN	:	<u>TO PLAINTIFF'S MOTION</u>
CHANG, in her official capacity as	:	<u>FOR A PRELIMINARY</u>
Executive Director for the Children's	:	<u>INJUNCTION</u>
Services Agency; and DANA NESSEL,	:	
in her official capacity as Attorney	:	
General of Michigan.	:	
	:	
Defendants.	:	
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Proposed Intervenor Defendants Kristy and Dana Dumont submit this Proposed Response in Opposition to Plaintiff Catholic Charities West Michigan's ("CCWM") Motion for a Preliminary Injunction. For the reasons stated below and explained more fully in the attached Brief, CCWM has not demonstrated a likelihood of success on the merits, a likelihood that it will suffer irreparable harm in advance

of trial, or that the balance of the equities or the public interest favors the requested injunction, so its motion should be denied.

1. CCWM is a taxpayer-funded child placing agency (“CPA”) that contracts with the State to provide public child welfare services for children in the State’s custody. These services include recruiting, screening, and recommending foster and adoptive placements for children. CCWM seeks to compel the Michigan Department of Health and Human Services (“MDHHS”) to renew its contract, while permitting CCWM to violate the non-discrimination clause in that contract by employing religious beliefs to categorically exclude qualified prospective families for wards of the State, based solely on their sexual orientation.

2. CCWM has not demonstrated a likelihood of success on its federal Free Exercise claim because (i) there is no constitutional right to a taxpayer-funded government contract to provide government services in accordance with one’s religious beliefs and (ii) the State’s non-discrimination requirement is a neutral, generally applicable policy that furthers a legitimate government interest. The outcome is no different under the Michigan freedom of worship and religious belief clauses. The non-discrimination requirement does not burden religious exercise, and even if it did, it satisfies any level of scrutiny because it furthers several compelling government interests, including accessing families for children in need and ending discrimination against Michigan families.

3. CCWM's Free Speech claims fail because in choosing to carry out government services under contract with the State, CCWM is not engaging in private speech.

4. CCWM will not succeed on its claim that certain 2015 state statutes compel the State to permit CCWM to discriminate because those statutes explicitly do not apply to services "provided under a contract with [MDHHS]." Mich. Comp. L. § 722.124e.

5. Finally, all of CCWM's claims fail for the additional reason that the Establishment and Equal Protection Clauses bar the relief they seek.

6. None of the remaining preliminary injunction factors support the requested injunction, which would harm children and families by forcing the State to permit agencies to discriminate against qualified prospective parents, as the attached expert testimony explains. Indeed, public records show that CCWM delayed at least two children's adoptions and neglected to reunite a third child with his siblings because of its refusal to place children with same-sex couples. To the extent CCWM's inability to dictate the terms of a taxpayer-funded government contract could be deemed a cognizable harm, it is heavily outweighed by these harms to children and families.

Dated: July 24, 2019

Respectfully submitted,

/s/ Ann-Elizabeth Ostrager

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
schnierj@sullcrom.com
ebersolel@sullcrom.com
lonkyh@sullcrom.com
mandilkj@sullcrom.com

*Counsel for Proposed Intervenor
Defendants*

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CONCISE STATEMENT OF ISSUES PRESENTED

Michigan contracts with child placing agencies (“CPAs”) and refers State wards to them, paying them taxpayer money to recommend family placements for those children. All of Michigan’s contracts with CPAs prohibit discrimination on the basis of sexual orientation. The issues presented are:

1. Whether a CPA is entitled to a government contract permitting it to apply religious criteria to prevent children from being placed with qualified same-sex couples, in light of the Federal Free Exercise Clause, the Michigan Constitution freedom of worship and religious beliefs clauses, the Federal Free Speech Clause, or Michigan statutes.
2. Whether, consistent with the Establishment and Equal Protection Clauses, Michigan can be compelled to delegate child placing services for wards of the State to a CPA that will carry out those services using religious exclusion criteria.
3. Whether the requested relief should be denied in light of the harm to Michigan children and families that would result if the State is required to permit discrimination against prospective foster and adoptive parents seeking to care for children in the public child welfare system.

CONTROLLING OR MOST APPROPRIATE AUTHORITY

Agency for Int'l Dev. v. Alliance for Open Society Int'l, Inc., 570 U.S. 205 (2013) (no burden on First Amendment rights where condition to receipt of government funding is related to scope of funded government program); *Dumont v. Lyon*, 341 F. Supp. 3d 706 (E.D. Mich. 2018) (allegations of state-contracted CPA's use of religious criteria to exclude families headed by same-sex couples stated Establishment and Equal Protection claims; intervening CPA's Free Exercise and Free Speech arguments were "unconvinc[ing]"); *Emp't Div., Dept. of Human Res. of Or. v. Smith*, 494 U.S. 872 (1990) (rational basis review applies to neutral, generally applicable laws that incidentally burden religion); *Fulton v. City of Phila.*, 922 F.3d 140 (3d Cir. 2019) (affirming district court's refusal to enjoin Philadelphia's non-discrimination policy; rejecting Free Exercise and Free Speech claims of government-contracted foster care agency that refused to place children with same-sex couples for religious reasons); *Larkin v. Grendel's Den, Inc.*, 459 U.S. 116 (1982) (Establishment Clause prohibits delegation of public functions to entities using religious criteria); *McCready v. Hoffius*, 586 N.W.2d 723 (Mich. 1998) (anti-discrimination law survived strict scrutiny under Michigan Constitution notwithstanding incidental burden on religion); *Teen Ranch v. Udow*, 479 F.3d 403, 410 (6th Cir. 2007) (State did not violate First Amendment when it rescinded contract of agency that included religious programming in its care for youth).

PRELIMINARY STATEMENT

Catholic Charities West Michigan (“CCWM”), a state-contracted, taxpayer-funded child placing agency (“CPA”), asks this Court to force the Michigan Department of Health and Human Services (“MDHHS”) to abandon the non-discrimination clause in its contracts with CPAs so that CCWM can apply religious criteria to turn away qualified families headed by same-sex couples.

CCWM claims a constitutional right both to get a taxpayer-funded contract to provide child placing services on behalf of the State and to disregard the non-discrimination requirement applicable to all CPAs. The identical claim was asserted by an intervening CPA in *Dumont v. Gordon*, 2:17-cv-13080-PDB-EAS (E.D. Mich.) (“*Dumont*”), and Judge Borman “[was] unconvinced that [the CPA] 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 [the CPA’s] Free Exercise or Free Speech rights.” *Dumont*, 341 F. Supp. 3d 706, 749 (E.D. Mich. 2018). Substantially the same claim was also rejected by a unanimous panel of the Third Circuit Court of Appeals in *Fulton v. City of Philadelphia*, 922 F.3d 140, 165 (3d Cir. 2019) (affirming a district court’s refusal to preliminarily enjoin Philadelphia’s similar non-discrimination policy and rejecting the Free Exercise and Free Speech claims of an agency unwilling to accept same-sex couples for religious reasons); see also *New Hope Family Servs., Inc. v. Poole*, 2019 WL 2138355, at *19

(N.D.N.Y. May 16, 2019) (New York “stands on firm ground in requiring authorized agencies to abide by [its] non-discrimination policies when administering public services.”).

CCWM has not met its burden for a preliminary injunction. CCWM is unlikely to succeed on the merits of any of its claims. *First*, CCWM cannot prevail on its Free Exercise claims. (1) The right to Free Exercise does not entitle organizations accepting taxpayer dollars to perform government services to unilaterally dictate the terms of their state contracts. (2) The contracts’ non-discrimination provision is a neutral, generally applicable policy that governs the actions of all state contractors that provide public child welfare services and rationally furthers legitimate government interests. (3) The outcome is no different under the Michigan Constitution because the non-discrimination requirement does not burden religious exercise and, even if it did, it satisfies any level of scrutiny because it is the least restrictive way to further several compelling government interests, including accessing families for children in need and ending discrimination against Michigan families. *Second*, CCWM’s Free Speech claims will fail because the government-contracted services at issue here are not private speech. *Third*, CCWM’s statutory claim will fail because the pertinent laws do not cover state-contracted services. *Finally*, none of CCWM’s claims can succeed because the relief sought would violate the Establishment and Equal Protection Clauses. The State

cannot impose religious eligibility criteria when selecting families for state wards, nor delegate that government service to CPAs that do so.

CCWM has not satisfied any of the other requirements for a preliminary injunction. Granting the injunction would substantially harm children in the public child welfare system, as well as prospective parents, as described in the expert report submitted in *Dumont* by child welfare expert Dr. David M. Brodzinsky. Ex. A, Expert Report of David M. Brodzinsky, Ph.D. (“Brodzinsky Rpt.”), ¶ 26. When agencies exclude families based on religious criteria unrelated to the ability to care for a child, it results in fewer families for children in need. *Id.* ¶¶ 25-28, 34-39. As examples of such harms, MDHHS’s past investigations show that CCWM’s refusal to place children with same-sex couples delayed two adoptions and kept one child separate from his siblings. Ex. C, Special Investigation Report 2018C0223029; Ex. D, Special Investigation Report 2017C0208001.

Because CCWM has not met its burden, this Court should deny CCWM’s motion for injunctive relief.

BACKGROUND

A. Michigan’s Child Welfare System

MDHHS administers Michigan’s foster care and adoption system and must “help eliminate barriers to the adoption of children[.]. . . promote the provision of a stable and loving family environment[, and] promote the well-being and safety

of all children who receive foster care or are adopted” Mich. Comp. L. § 722.953. To discharge its obligations, MDHHS contracts with private CPAs, who must comply with their statutory, regulatory, and contractual obligations. *See, e.g., id.* §§ 400.14f, 722.112(1); Mich. Admin. Code R. 400.12201 *et seq.* Once a CPA accepts MDHHS’s referral of a child’s case, it receives taxpayer dollars to provide services for the child, including to identify and recruit potential foster and adoptive parents and assist them through the licensing process. Mich. Admin. Code R. 400.12304, 400.12706; MDHHS, *Adoption Services Manual* (“ADM”) 0400.¹

MDHHS grants CPAs discretion in evaluating families and selecting appropriate placements for children. CPAs generally choose from the roster of families they have recruited and licensed. Compl., *Dumont*, ECF No. 1, ¶ 34; State Defendants’ Answer, *Dumont*, ECF No. 52, ¶ 34; Ex. B, Declaration of Katie Page Sander (“Sander Decl.”) ¶ 11. To ensure that CPAs evaluate all prospective families, every CPA’s contract prohibits discrimination on the basis of certain characteristics unrelated to the ability to care for a child, including sexual orientation. *E.g.*, ECF No. 1-2, PageID.88, 144.

¹ The ADM and the *Children’s Foster Care Manual* (“FOM”) are available at <https://dhhs.michigan.gov/olmweb/ex/html/>.

B. The *Dumont* Case and Settlement Agreement

Kristy and Dana Dumont 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.2-3. After contacting two CPAs and being turned away on the basis of the CPAs’ religious objection to same-sex couples, *id.*, PageID.16, the *Dumont* Plaintiffs filed suit against the then-heads of MDHHS and the Children’s Services Agency (“State Defendants”) in September 2017, claiming the State’s practice of permitting CPAs to use religious criteria to exclude same-sex couples violated the Establishment and Equal Protection Clauses. In denying in substantial part motions to dismiss filed by the State Defendants and the intervening CPA, the court held that the *Dumont* Plaintiffs had stated claims under both the Establishment and the Equal Protection Clauses. *Dumont*, 341 F. Supp. 3d 706. The court also stated it “[was] unconvinced that [the CPA] 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 [the CPA’s] Free Exercise or Free Speech rights.” *Id.* at 749.

After considerable discovery, on March 22, 2019, the *Dumont* Plaintiffs and the State Defendants executed the Settlement Agreement, *Dumont*, ECF No. 82, which requires the State to retain and enforce the non-discrimination provision in its contracts with CPAs. *Id.*; *Dumont*, ECF No. 83. CCWM’s action seeks to nullify the Settlement Agreement.

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 has the “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 “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. CCWM HAS FAILED TO DEMONSTRATE A LIKELIHOOD OF PREVAILING ON ANY CLAIMS.

A. CCWM Will Not Prevail on Its Free Exercise Claims.

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

There is no Free Exercise right to carry out a State function, using State funds, in accordance with one’s religious beliefs. *Fulton v. City of Phila.*, 922 F.3d 140, 152-53 (3d Cir. 2019), *cert. pet. filed* (U.S. Jul. 22, 2019). The State’s non-discrimination policy applies not to CCWM’s private activity, such as private

placement adoption work, but only to government services CCWM voluntarily performs under the CPA contracts. If CCWM does not wish to contract with the State on the terms the State requires, it need not. *See Agency for Int’l Dev. v. Alliance for Open Society Int’l, Inc.*, 570 U.S. 205, 214 (2013) (“[I]f a party objects to a condition on the receipt of [government] funding, its recourse is to decline the funds.”); *Teen Ranch v. Udow*, 389 F. Supp. 2d 827, 837-38 (W.D. Mich. 2005) (“There is no question that . . . the State’s failure to contract with a particular faith-based organization would not violate the organization’s Free Exercise rights.”), *affirmed*, 479 F.3d 403, 410 (6th Cir. 2007).

2. *The non-discrimination provision is a neutral and generally applicable policy that furthers a legitimate government interest.*

Assuming the non-discrimination provision burdened CCWM’s exercise of religion (which it does not), the requirement is neutral and generally applicable and furthers legitimate government interests—indeed, compelling ones, *see infra* Part I.A.3—so it does not violate the Free Exercise Clause. *See Emp’t Div., Dept. of Human Res. of Or. v. Smith*, 494 U.S. 872, 878-82 (1990). CCWM offers several theories to avoid *Smith*, but each is legally and/or factually wrong.

Notably, CCWM does not even attempt to grapple with the Third Circuit’s rejection of a near-identical challenge in *Fulton*. There, as here, an agency argued that the Free Exercise Clause required Philadelphia to permit religiously-motivated discrimination against prospective same-sex foster parents.

The Third Circuit disagreed, holding that the City’s non-discrimination requirement was a neutral, generally applicable policy. *Fulton*, 922 F.3d at 159.

a. *The non-discrimination provision does not intrude on ecclesiastical governance.*

CCWM attempts to circumvent *Smith* by citing *Hosanna-Tabor Evangelical Lutheran Church and School v. EEOC*, 565 U.S. 171 (2012), and dicta in *Masterpiece Cakeshop, Ltd. v. Colorado Civil Rights Commission*, 138 S. Ct. 1719 (2018), for the proposition that because caring for orphans and abandoned children is “central to [CCWM’s] religious faith and teachings,” the government is prohibited from enforcing the non-discrimination provision. ECF No. 11, PageID.614. But as *Hosanna-Tabor* made clear, per *Smith*, “[the] right of free exercise does not relieve an individual of the obligation to comply with a valid and neutral law of general applicability on the ground that the law proscribes (or prescribes) conduct that his religion prescribes (or proscribes).” 556 U.S. at 190. *Hosanna-Tabor* recognized a narrow exception to *Smith* only in the context of “government involvement in . . . ecclesiastical decisions” such as “determin[ing] which individuals will minister to the faithful.” *Id.* at 188. Contrary to CCWM’s argument, *Hosanna-Tabor* expressly affirmed that *Smith* remains applicable to government regulation of decisions outside of internal ecclesiastical governance, even where motivated by religious belief. *Id.* at 190.

Here, the State’s non-discrimination requirement does not interfere with internal ecclesiastical decisions, such as the selection of clergy. It covers only government services provided to the public by state contractors and thus, like in *Smith*, it matters not that CCWM’s performance of these contracted services may be motivated by religious faith or teaching. *See Ill. Bible Colleges Assoc. v. Anderson*, 870 F.3d 631, 642 (7th Cir. 2017) (“Requiring compliance with the State’s secular statutory requirements does not implicate *Hosanna-Tabor*’s holding.”).²

b. *The non-discrimination provision does not target CPAs based on their religious identity or religious beliefs.*

CCWM relies on *Trinity Lutheran Church of Columbia, Inc. v. Comer*, which forbids “disqualify[ing] [someone] from a public benefit solely because of their religious character.” 137 S. Ct. 2012, 2021 (2017). In *Trinity Lutheran*, churches were categorically barred from receiving government funds for playground resurfacing on account of their “religious character.” *Id.* at 2024. Here, a CPA’s religious character is irrelevant to the State—what matters is that a CPA will comply with its contractual obligations. In fact, the State contracts with many religious

² Similarly, *Masterpiece*’s dicta that “it can be assumed that a member of the clergy . . . could not be compelled to perform [a same-sex wedding] ceremony” was carefully limited to the narrow exception of compelling a clergy member to perform a religious ceremony. 138 S. Ct. at 1727. The Court continued, “if that exception were not confined, then a long list of persons who provide goods and services for marriages and weddings might refuse to do so for gay persons, thus resulting in a community-wide stigma inconsistent with the history and dynamics of civil rights laws that ensure equal access to goods, services, and public accommodations.” *Id.*

CPAs, including at least one that shares CCWM’s religious objection to marriage by same-sex couples but has committed to complying with the non-discrimination provisions in its contract.³ The State’s continued partnership with that CPA demonstrates that the policy concerns not their religious *identity*, but only CPAs’ *actions*—something *Trinity Lutheran* expressly did not reach. *See id.* at 2024 n.3 (“We do not address religious uses of funding or other forms of discrimination.”).

The Third Circuit rejected a similar argument in *Fulton*:

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.

922 F.3d at 159. CCWM relies on the same syllogism, which fails for the same reasons.⁴

³ 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/>.

⁴ CCWM also asserts that the non-discrimination provision is gerrymandered against religion because it allows comparable non-religious conduct that undermines the government’s interests. This is false. The State does not allow any CPA to discriminate against prospective parents in violation of its contracts, regardless of the motivation. CCWM further asserts that the policy is “underinclusive,” pointing to considerations of race, religion and other characteristics employed when seeking the best family placement for an individual child. Those considerations do not exclude any class of families or otherwise undermine the State’s interest in accessing

c. *CCWM has failed to demonstrate that the non-discrimination provision was motivated by anti-religious hostility.*

Relying on *Masterpiece*, CCWM claims that now-Attorney General Nessel was “the driving force behind” the non-discrimination policy and was motivated by animus, but CCWM neglects to mention that MDHHS twice investigated CCWM’s discrimination against same-sex couples *under the prior Administration* and concluded that CCWM had violated its contracts. Exs. C, D. Moreover, CCWM’s complaint and brief contain excerpted phrases devoid of context, which it wants the Court to misconstrue, but, in context, the lack of anti-religious animus is clear.⁵ Nessel made many of the cited statements in 2014-2015, when, as a private citizen, she was challenging Michigan’s same-sex marriage ban on behalf of her clients, a lesbian couple, in *DeBoer v. Snyder*, No. 12-CV-10285 (E.D. Mich.). Nessel’s statements do not show animus but instead zealous legal

families for Michigan children. *See Fulton*, 922 F.3d at 158 (rejecting similar argument).

⁵ Certain of CCWM’s mischaracterizations are particularly egregious. *E.g.*, Compl. ¶ 139 (quoting a statement attributed to Nessel during her campaign—the “AG’s office can always be used as a bully pulpit in order to educate on these issues” (improper alteration removed)—without explaining that this was a response to a question about *bullying in schools*, entirely unrelated to adoption or religion). To provide necessary context, articles containing the quoted statements are attached as Exhibits F through K. As to Exhibit F, a related audio recording with statements by Nessel is available at <https://www.michiganradio.org/post/faith-based-adoption-bills-headed-house-floor>. Similarly, as to Exhibit G, a video is available at <http://www.fox2detroit.com/news/opponents-say-adoption-bill-discriminates-against-gays-and-lesbians>.

advocacy in response to litigants who vehemently opposed extending equal protection under the law to same-sex couples. As recognized by the Supreme Court, “those who believe allowing same-sex marriage is proper or indeed essential, whether as a matter of religious conviction or secular belief, may engage those who disagree with their view in an open and searching debate.” *Obergefell v. Hodges*, 135 S. Ct. 2584, 2607 (2015). Likewise, Nessel’s campaign-trail statements demonstrate a concern with preventing discrimination and serving the needs of State wards, not with religion.

Masterpiece is also inapplicable because CCWM seeks unprecedented relief—not the invalidation of an adjudicatory determination concerning past discrimination, but a permanent injunction barring future enforcement of a state non-discrimination policy. *Masterpiece* did not enjoin Colorado’s enforcement of its non-discrimination policy against the baker or anyone else. CCWM offers no authority for the sweeping claim that an individual government official’s alleged anti-religious bias can forever eliminate the State’s ability to enforce its contracts. *Cf. Fulton*, 922 F.3d at 153 n.8 (“[T]he remedy CSS seeks—an injunction forcing the City to renew a public services contract with a particular private party—would be highly unusual.”).⁶

⁶ Furthermore, a *Masterpiece* analysis is categorically inappropriate here because *Masterpiece* did not concern discretionary executive branch action, like deciding with whom to contract; it concerned “an adjudicatory body” whose anti-religious

3. *The outcome is no different under the State Constitution.*

The outcome is no different under the freedom of worship and religious belief clauses of the Michigan Constitution, art. 1, § 4. Even if the Michigan Supreme Court would today apply the five-part strict-scrutiny-like analysis⁷ of *McCready v. Hoffius*, 586 N.W.2d 723, 729 (Mich. 1998),⁸ the non-discrimination provision does not burden religious belief. CCWM is under no compulsion to provide public child welfare services. *See Fulton*, 922 F.3d at 164 (reasoning that it was “unlikely that the Pennsylvania courts would recognize a substantial burden on CSS’s exercise of religion”); *McCready*, 386 N.W.2d at 729 (“The state does not require that the defendants violate their sincerely held religious beliefs. It requires

hostility tainted the adjudicative process. *See State v. Arlene’s Flowers, Inc.*, 441 P.3d 1203, 1218-19 (Wash. 2019). And even if *Masterpiece* reached discretionary government decisionmaking, the decisionmakers here are in MDHHS; *Masterpiece* does not concern statements made only by the decisionmaker’s legal counsel.

⁷ “The test has five elements: (1) whether a defendant’s belief, or conduct motivated by belief, is sincerely held; (2) whether a defendant’s belief, or conduct motivated by belief, is religious in nature; (3) whether a state regulation imposes a burden on the exercise of such belief or conduct; (4) whether a compelling state interest justifies the burden imposed upon a defendant’s belief or conduct; and (5) whether there is a less obtrusive form of regulation available to the state.” 593 N.W.2d at 729.

⁸ Because the pertinent holding in *McCready* was vacated, 593 N.W.2d 545 (Mich. 1999), and longstanding precedent provides that the religion clauses of the United States and Michigan constitutions are “subject to similar interpretation,” *see Advisory Opinion re Constitutionality of 1970 P.A. 100*, 180 N.W.2d 265, 274 (Mich. 1970), there is doubt regarding whether the five-part test is good law, or whether the Michigan Supreme Court, if confronted with the issue today, would instead hold along with *Employment Division v. Smith* that neutral, generally applicable laws need only be rationally related to a legitimate government interest.

only that, if they wish to participate in the real estate market by offering housing for rent, they must comply with the Civil Rights Act.”); *see also supra* Part I.A.1 (no Free Exercise right to demand government contracts on preferred terms).

Even assuming a burden on religious exercise, the non-discrimination requirement furthers at least three compelling government interests that the State could not further with less obtrusive regulation: (i) accessing all qualified families for children, (ii) preventing discrimination against Michigan families, and (iii) avoiding a violation of the Establishment and Equal Protection Clauses.

a. *The non-discrimination provision furthers compelling government interests.*

The State has a compelling interest in accessing all qualified prospective families for children in the public child welfare system. As Dr. Brodzinsky, a child welfare expert, explained, excluding qualified families based on religious criteria substantially harms children because it could result in sibling separation, Brodzinsky Rpt. ¶ 32, institutional placements, *id.* ¶ 30, and children aging out with no adoptive family, *id.* ¶ 31. *See also* Exs. C, D (sibling separation prolonged and adoptions delayed by CCWM’s discrimination against same-sex couples). Moreover, children in the care of CPAs that discriminate have access to fewer potential families, and this decreased set of options harms them because “[a]ll children have unique needs and families are not fungible.” Brodzinsky Rpt. ¶ 27.

CCWM asserts that prohibiting discrimination undermines the State's interest in accessing families because "faith-based agencies like [CCWM] [will] no longer be[] allowed to provide placement services to foster kids" ECF No. 11, PageID.620. Even if some faith-based agencies chose not to comply with their contracts, CCWM offers no evidence this would diminish the number of prospective parents. Indeed, the State has said that if a CPA with religious objections 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. E, *Dumont* State Defendants' Objections and Responses to Plaintiffs' Requests for Admission, at 35. The State faces a shortage of families, not of CPAs.

The State has a compelling interest in preventing discrimination against Michigan families. Courts have long recognized the compelling government interest in eradicating discrimination. *Roberts v. U.S. Jaycees*, 468 U.S. 609 (1984); *McCready*, 586 N.W.2d at 455. And recently, the *Fulton* court specifically recognized a compelling interest in preventing discrimination in the public child welfare system. 922 F.3d at 163-64.

The State has a compelling interest in complying with the Federal and State Constitutions. Finally, the use of religious criteria to exclude prospective foster and adoptive families would violate the Federal and Michigan Constitutions, which the State has a compelling interest in preventing. *See infra* Part I.D.

b. *The non-discrimination provision is the least obtrusive means of advancing the State's interests.*

CCWM argues that enforcing the non-discrimination requirement is not the least restrictive means of satisfying the State's interests because families can be referred to other agencies that won't discriminate against them. But even where other agencies exist nearby—which is not the case everywhere in the State—allowing any discrimination by CPAs undermines the State's important interests.

First, permitting CPAs to discriminate harms children 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.” *See* Sander Decl. ¶ 20. For example, in 2018, MDHHS found that CCWM improperly refused to unite a child in its care with his siblings because their foster parents were a same-sex couple. Ex. C, at 9 (“[CCWM said it] was not refusing to place the siblings together, they were just refusing to place the siblings together in that specific home.”); *see also* Ex. D (finding that CCWM delayed an adoption for a child in its care because it refused to continue working with the child's same-sex parents when *Obergefell* required Michigan to recognize their marriage).

Second, “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.” Brodzinsky Rpt. ¶ 35; *see also* Sander Decl. ¶ 17 (former Program Manager

for statewide Foster Care Navigator Program recalling a same-sex couple who was turned away by an agency and “was so discouraged that they decided not to call another agency”). Those same-sex couples who do choose to brave the sting and humiliation of discrimination will have fewer options than heterosexual couples such that there may be no agency that meets the family’s needs and circumstances. Brodzinsky Rpt. ¶¶ 38-39. For all of these reasons, there is no merit to the argument that discrimination is harmless when only some discriminate.

The only way to eradicate discrimination in the child welfare system is to prohibit discrimination in the child welfare system. In *McCready*, plaintiffs likely could have rented lodging elsewhere, but the court held that the State’s goal of non-discrimination could brook no exceptions: “a less obtrusive form of regulation [than a prohibition against discrimination] has not been shown to be available to the state.” 586 N.W.2d at 730. The *Fulton* court agreed: “[M]andating compliance is the least restrictive means The harm is not merely that gay foster parents will be discouraged from fostering. It is the discrimination itself.” 922 F.3d at 163-64.

B. CCWM Will Not Prevail on Its Free Speech Claim Because Defendants Have Not Compelled Any Private Speech.

CCWM will not succeed on its Free Speech claim because even if child welfare services were analyzed as speech,⁹ “[t]he speech here only occurs because

⁹ It is doubtful that the provision of child welfare services should be analyzed as speech at all. “Congress, for example, can prohibit employers from discriminating

[the agency] has chosen to partner with the government to help provide what is essentially a public service.” *Fulton*, 922 F.3d at 161; *see also Teen Ranch*, 389 F. Supp. 2d at 840 (State-contracted government services are “instances in which the government uses private speakers to transmit information concerning the government’s own program.”); *Garcetti v. Ceballos*, 547 U.S. 410, 421 (2006) (“[W]hen public employees make statements pursuant to their official duties, the employees are not speaking as citizens for First Amendment purposes, and the Constitution does not insulate their communications from employer discipline.”).

C. CCWM’s Claim Based on the 2015 Laws Will Not Succeed Because the 2015 Laws Do Not Cover Services Provided Under Contract with MDHHS.

CCWM claims that Michigan Compiled Laws Sections 722.124e, 722.124f, 710.23g, and 400.5a (the “2015 Laws”) forbid enforcement of the non-discrimination clause. But the “services” to which these laws apply *exclude* “foster care case management and adoption services provided under a contract with [MDHHS].” *Id.* § 722.124e. The statutes allow agencies to refuse to provide *private* adoption services that conflict with their religious beliefs, and, for state-contracted

in hiring on the basis of race. The fact that this will require an employer to take down a sign reading ‘White Applicants Only’ hardly means that the law should be analyzed as one regulating the employer’s speech rather than conduct.” *Rumsfeld v. Forum for Academic and Inst. Rights, Inc.*, 547 U.S. 61, 62 (2006); *see also Nat’l Inst. of Family and Life Advocates v. Becerra*, 138 S. Ct. 2361, 2373 (2018) (“[T]he First Amendment does not prevent restrictions directed at commerce or conduct from imposing incidental burdens on speech.”).

work, they provide that a CPA “may decide not to accept [a] referral.” *Id.* § 722.124f. However, once a CPA accepts the referral of a child from MDHHS, the CPA is bound by the terms of its contract—the 2015 Laws do not alter this.

CCWM seeks to have this Court interpret the statutory term “referral” to mean that when an applicant calls a CPA, MDHHS has made a “referral” which the CPA can decline. But a “referral” occurs only when MDHHS asks if a CPA will take the foster or adoption case of *a child* (or young adult). *See* ADM 0100, 0210; MDHHS, *Children’s Foster Care Manual*, at FOM 913-3, 722-16; Decl. of Chris Slater, ECF No. 11-1 (“Slater Decl.”), ¶ 19 (“If [CCWM] decides to accept a foster care referral from DHHS, it receives a per diem from the State after *the child* is placed”) (emphasis added). The 2015 Laws do not apply to state-contracted services, and the non-discrimination policy does not restrict CPAs’ discretion to decline referrals of children, so the State’s policy is not at odds with the 2015 Laws.¹⁰

¹⁰ For these reasons, the 2015 Laws do not apply to the discrimination at issue in this suit. If, however, the Court concludes that an alternative interpretation is plausible, it should avoid an interpretation that raises constitutional doubts. *See Clark v. Martinez*, 543 U.S. 371, 379 (2005) (Where there are “ambiguities in the statutory text,” “statutes should be interpreted to avoid constitutional doubts.”). Here, for the reasons articulated in Part I.D, an interpretation of the 2015 Laws that permits CPAs to turn away qualified same-sex couples based on religious criteria raises serious doubts, at the very least, under the Establishment and Equal Protection Clauses.

D. Allowing CPAs to Use Religious Criteria to Exclude Same-Sex Couples Would Violate the Establishment and Equal Protection Clauses of the Constitution.

An additional reason CCWM cannot demonstrate likelihood of success on the merits is that if the State were to permit CPAs to use religious criteria to exclude same-sex couples, it would violate the Establishment and Equal Protection Clauses. *See Dumont*, 341 F. Supp. 3d at 734-740.

1. *The Establishment Clause prohibits the use of religious eligibility criteria in government programs.*

If the State were to permit state-contracted CPAs to use religious criteria to screen prospective foster and adoptive families seeking to care for children in the State's custody, 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. of Abington Twp. v. Schempp*, 374 U.S. 203, 222 (1963)).¹¹ 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

¹¹ *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 [a religious school]").

ordinarily vested in agencies of government.” 459 U.S. at 122. Likewise, here, the State has vested authority in CPAs to recommend prospective foster and adoptive parents for children in the State’s custody. The *Larkin* Court concluded that the ordinance was unconstitutional because it “*could* be employed for explicitly religious goals.” *Id.* at 125 (emphasis added). Here, the State *knows* that religious entities are screening out certain prospective parents based solely on religious criteria unrelated to the ability to care for a child.

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. *See Edwards v. Aguillard*, 482 U.S. 578, 593 (1987) (invalidating Creationism Act because it gave preference to 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 “objectively convey a message” of endorsement for such view. *See Smith v. Jefferson Cnty. Bd. of Sch. Comm’rs*, 788 F.3d 580, 588 (6th Cir. 2015). The State would send the “message” to families “that they are outsiders, not full members of the political community.” *Santa Fe Indep. Sch. Dist. v. Doe*, 530 U.S. 290, 309-10 (2000); *see Sander Decl.* ¶ 17.

Finally, the requested injunction would violate the Establishment Clause by imposing significant burdens on third parties, such as prospective parents and children. *See, e.g., Estate of Thornton v. Caldor*, 472 U.S. 703, 709-10 (1985). And it would constitute excessive entanglement with religion. *See Dumont*, 341 F. Supp. 3d at 740; *see also Bowen v. Kendrick*, 487 U.S. 589, 608-609 (1988) (reasoning that religious organizations participating in government-funded programs may not use those funds to advance religion, including through discrimination).

2. *Allowing state-contracted CPAs to exclude same-sex couples would violate the Equal Protection Clause.*

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, the categorical exclusion of same-sex couples by a CPA would violate the Equal Protection Clause. Denying children qualified adoptive or foster families based on religious criteria unrelated to the ability to care for a child serves no legitimate government interest. Thus, the *Dumont* Court held that the *Dumont* plaintiffs plausibly alleged that allowing agencies to turn away same-sex couples violates the Equal Protection Clause. *Dumont*, 341 F. Supp. 3d at 741-43.

II. THE REMAINING PRELIMINARY INJUNCTION FACTORS DO NOT SUPPORT CCWM'S MOTION.

CCWM asks this Court not only to enjoin enforcement of a State policy, but also to require the State to enter into a new contract with CCWM, knowing CCWM will continue to discriminate against Michigan families and substitute its religious judgments about the best interests of children in lieu of the professional child welfare standards required by MDHHS.¹² As Dr. Brodzinsky opined, *see supra* Part I.A.3, this drastic remedy would contravene established child welfare standards and harm the children in Michigan's child welfare system by denying them access to good parents. The injunction would also harm the Dumonts and other Michigan same-sex couples by subjecting them to the stigmatic and practical injuries of having to pursue fostering and adopting in a child welfare system that permits discrimination against their kind. *See* Decl. of Kristy Dumont, ECF No. 20-3, ¶ 10 (“[W]e want to have the full range of options available to us that everyone else has.”); Decl. of Dana Dumont, ECF No. 20-4, ¶ 10 (same).

¹² Compare Mich. Comp. L. § 722.23 (defining “best interest of the child” without reference to the beliefs of the supervising agency); Brodzinsky Rpt. ¶ 26 (“[A]llow[ing] the exclusion of families willing and able to foster and adopt these vulnerable children do[es] not serve the interests of these children[ren].”); and Ex. E, at 13-14 (*Dumont* State Defendants admitting that “placement with a same-sex couple was or is in the best interest of [at least one] child”), with Slater Decl. ¶ 14 (“[B]ecause of its Catholic beliefs about human nature and the nature of marriage and family, [CCWM] does not believe that foster or adoption placement with same-sex couples is in the best interests of children . . .”).

The only harm asserted by CCWM—apart from a claimed violation of its constitutional rights which, as discussed above, lacks merit—is an inability to unilaterally modify the terms of its taxpayer-funded government contract. To the extent this is a cognizable injury, it is severely outweighed by the harm the injunction would cause to children and families. Though CCWM bears the burden of proof, it offers nothing but rhetoric to support its claim that enforcement of the State’s non-discrimination policy would harm children. The Dumonts offer evidence of the children CCWM has harmed in the past. *See* Exs. C, D; *see also* Brodzinsky Rpt. ¶ 26 (“[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.”).

* * *

When the State removes a child from her home and places her in the care of a private CPA, the non-discrimination provision ensures that that child will have access to all prospective foster or adoptive parents interested in caring for her. If this Court grants CCWM’s motion, happenstance will dictate whether children are placed based on their best interests or according to an agency’s religious beliefs about what kind of families are suitable and capable of “proper[ly] raising the next generation.” ECF No. 11, PageID.600; Slater Decl. ¶ 14. Such a system is not

legally required and would impose great harms. This Court should, therefore, deny CCWM's motion for a preliminary injunction.

Dated: July 24, 2019

Respectfully submitted,

/s/ Ann-Elizabeth Ostrager

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
schnierj@sullcrom.com
ebersolel@sullcrom.com
lonkyh@sullcrom.com
mandilkj@sullcrom.com

*Counsel for Proposed Intervenor
Defendants*

CERTIFICATE OF SERVICE

I hereby certify that on this date, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all counsel of record.

This the 24th day of July, 2019.

/s/ Ann-Elizabeth Ostrager

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

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CATHOLIC CHARITIES WEST	:	
MICHIGAN,	:	
	:	
Plaintiff,	:	No. 2:19-cv-11661-DPH-DRG
	:	
v.	:	HON. DENISE PAGE HOOD
	:	
	:	MAG. J. DAVID R. GRAND
MICHIGAN DEPARTMENT OF	:	
HEALTH AND HUMAN SERVICES;	:	
ROBERT GORDON, in his official	:	
capacity as Director of the Michigan	:	
Department of Health and Human	:	
Services; MICHIGAN CHILDREN’S	:	<u>INDEX OF EXHIBITS TO</u>
SERVICES AGENCY; JOOYEUN	:	<u>[PROPOSED] INTERVENOR</u>
CHANG, in her official capacity as	:	<u>DEFENDANTS’ [PROPOSED]</u>
Executive Director for the Children’s	:	<u>RESPONSE IN OPPOSITION</u>
Services Agency; and DANA NESSEL,	:	<u>TO PLAINTIFF’S MOTION</u>
in her official capacity as Attorney	:	<u>FOR A PRELIMINARY</u>
General of Michigan.	:	<u>INJUNCTION</u>
	:	
Defendants.	:	
-----	X	

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|-----------|---|
| Exhibit A | Expert Report of David M. Brodzinsky, Ph.D. |
| Exhibit B | Declaration of Katie Page Sander |
| Exhibit C | Special Investigation Report 2018C0223029 |
| Exhibit D | Special Investigation Report 2017C0208001 |
| Exhibit E | State Defendants’ Objections and Responses to Plaintiffs’
Requests for Admission, <i>Dumont v. Gordon</i> , No. 17-cv-13080-
PDB-EAS (E.D. Mich. Jan. 11, 2019) |

- Exhibit F NPR, *Faith Based Adoption Bill Headed to House Floor*
- Exhibit G Fox2News, *Opponents Say Adoption Bill Discriminates Against Gays and Lesbians*
- Exhibit H Kate Opalewski, *Q&A with Mich. Democratic Attorney General Candidate Dana Nessel*, PRIDESOURCE (Jan. 10, 2018)
- Exhibit I Ed White, *Dem AG Candidate: Adoption Law Discriminates Against Gays*, ASSOCIATED PRESS (Mar. 4, 2015, 5:34 PM)
- Exhibit J Niraj Warikoo, *Conservative Christian Groups Join Legal Fight to Keep Michigan's Gay Marriage Ban*, WORLD WIDE RELIGIOUS NEWS (May 14, 2014)
- Exhibit K William Rameau, *"Gay Marriage Fight is not in any way Similar to Civil Rights Movement" say 100 African-American Pastors: "Insulting to 100s Years of Struggle,"* BREATHECAST (May 19, 2014, 1:28 PM)

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)¹.

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

¹ 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)².

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 orientation³; 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.^{4,5}
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

² Ibid.

³ www.cwla.org/wp-content/uploads/2015/04/PositionStatementOnParentingOfChildrenbyLGBT.pdf.

⁴ 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.

⁵ 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)⁶. During this time period, over 442,000 children resided in foster care, with 123,437 children waiting to be placed for adoption⁷. 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.⁸

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

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

⁷ *Ibid.*

⁸ 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.⁹ 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.¹⁰ 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.¹¹ 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.

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

¹⁰ 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.

¹¹ 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-being¹². Sexual minority adults have been shown to be very supportive of their children's need for birth family contact¹³. 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.

¹² 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.

¹³ 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 functioning¹⁴. 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%)¹⁵. 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 provide¹⁶.
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

¹⁴ 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* (3rd 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*. (3rd ed.). New York: Guilford Press.

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

¹⁶ 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 adoption¹⁷. 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 care¹⁸. 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 parenting¹⁹. 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 themselves²⁰.

¹⁷ 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.

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

¹⁹ 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.

²⁰ 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 difficulties²¹.
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 networks²².

²¹ 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.

²² 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*. (3rd 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 couples²³, 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

²³ 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 humiliation²⁴. 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 care²⁵.

²⁴ 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.

²⁵ 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^{26,27}. 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

²⁶ 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, 4th 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.

²⁷ 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-being²⁸.

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

²⁸ 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 homeless²⁹. Rejection by family members, abuse, and discrimination are common reasons for these youth to be removed from their homes or to run away³⁰. Once in foster care, LGBTQ youth remain at significant risk for ongoing discrimination and violence³¹. Furthermore, LGBTQ youth in foster care are significantly less likely to find a permanent placement through adoption or reunification than heterosexual youth³². 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

²⁹ 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.

³⁰ 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.

³¹ 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.

³² 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
dbrodzinsky@ncap-us.org
Website: 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

- 1974-1979 University
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
- 2009-2015 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
- Brodzinsky, D.M. (1977). Children's comprehension and appreciation of verbal jokes as a function of conceptual tempo. *Child Development*, 48, 960-967
- Brodzinsky, D.M. (1977). Conceptual tempo as an individual difference variable in children's humour development. In T. Chapman & H. Foot (Eds.), *It's a Funny Thing Humour: International Conference on Humour and Laughter*. London: Pergamon Press.
- Brodzinsky, D.M., Feuer, V., & Owens, J. (1977). Detection of linguistic ambiguity by reflective, impulsive, fast-accurate and slow-inaccurate children. *Journal of Educational Psychology*, 69, 237-234.
- Sigel, I.E. & Brodzinsky, D.M. (1977). Individual differences: A perspective for understanding intellectual development. In Hom & Robinson (Eds.), *Psychological Processes in Early Education*. New York: Academic Press.
- 1978
- Kleinman, J. & Brodzinsky, D.M. (1978). Haptic exploration in young, middle-age, and elderly adults. *Journal of Gerontology*, 23, 521-527.
- 1979
- Ambron, S.R. & Brodzinsky, D.M. (1979). *Lifespan of Human Development*. New York: Holt, Rinehard, & Winston (1st ed).
- Brodzinsky, D.M., Messer, S.B., & Tew, J.D. (1979). Sex differences in children's expression and control of fantasy and overt aggression. *Child Development*, 50, 372-379.
- Brodzinsky, D.M., Tew, J.D., & Palkovitz, R. (1979). Control of humorous affect in relation to children's conceptual tempo. *Developmental Psychology*, 15, 275-279.
- Messer, S.B. & Brodzinsky, D.M. (1979). Aggression and its control among conceptual tempo groups. *Child Development*, 50, 758-766.
- 1980
- Brodzinsky, D.M. (1980). Cognitive style differences in children's spatial perspective taking. *Developmental Psychology*, 16, 151-152.
- Brodzinsky, D.M. & Rightmyer, J. (1980). Individual differences in children's humor development. In P. McGhee & T. Chapman (Eds.), *Children's Humor*. London: Wiley Interscience.

1981

- Brodzinsky, D.M., Barnet, K., & Aiello, J.R. (1981). Sex of subject and gender identity as factors in humor appreciation. *Sex Roles, 7*, 561-573
- Brodzinsky, D.M., Pappas, C., Singer, L., & Braff, A. (1981). Children's conception of adoption: A preliminary study. *Journal of Pediatric Psychology, 6*, 177-189.
- Brodzinsky, D.M., Sigel, I., & Golinkoff, R. (1981). New directions in Piagetian theory and research: An integrative perspective. In I. Sigel, D. Brodzinsky, & R. Golinkoff (Eds.), *New Directions in Piagetian Theory and Practice*. Hillsdale, NJ: Erlbaum Associates.
- Messer, S.B. & Brodzinsky, D.M. (1981). Three year stability of reflection-impulsivity in young adolescents. *Developmental Psychology, 17*, 848-850.
- Sigel, I., Brodzinsky, D.M., & Golinkoff, R. (Eds.), (1981). *New Directions in Piagetian Theory and Practice*. Hillsdale, NJ: Erlbaum Associates.

1982

- Ambron, S.R. & Brodzinsky, D.M. (1982). *Lifespan Human Development* (2nd ed.). New York: Holt, Rinehart, & Winston.
- Brodzinsky, D.M. (1982). The relationship between cognitive style and cognitive development: A two-year longitudinal study. *Developmental Psychology, 18*, 617-626.
- Brodzinsky, D.M. (1982). Children's understanding of adoption: Implications for the telling process. *Adoption Report, 1*, 1-5.
- Singer, L., Brodzinsky, D.M., & Braff, A.M. (1982). Children's beliefs about adoption: A developmental study. *Journal of Applied Developmental Psychology, 3*, 285-294.

1983

- Aiello, J.R., Thompson, D.E., & Brodzinsky, D.M. (1983). How funny is crowding anyway? Effects of room size, group size, and introduction of humor. *Basic and Applied Social Psychology, 4*, 193-207.

1984

- Brodzinsky, D.M. (1984). New perspectives on adoption revelation. *Adoption and Fostering, 8* 27-32.
- Brodzinsky, D.M., Schechter, D., Braff, A.M., & Singer, L. (1984). Psychological and academic adjustment in adopted children. *Journal of Consulting and Clinical Psychology, 52*, 582-590.
- Brodzinsky, D.M., Singer, L., & Braff, A.M. (1984). Children's understanding of adoption. *Child Development, 55*, 869-878.

1985

- Brodzinsky, D.M. (1985). On the relationship between cognitive styles and cognitive structures. In E. Neimark, R. DeLisi, & J. Newman (Eds.), *Moderators of Competence*. Hillsdale, NJ: Erlbaum Assoc.
- Singer, L., Brodzinsky, D.M., Ramsay, D., Stein, M. & Waters., E. (1985). Mother-infant attachment in adoptive and nonadoptive families. *Child Development, 56*, 1543-1551.

1986

- Ashmore, R. & Brodzinsky, D.M. (1986) (Eds.) *Thinking about the Family: Views of Parents and Children*. Hillsdale, NJ: Erlbaum Assoc.
- Ashmore, R. & Brodzinsky, D.M. (1986). Thinking about the family: An integrative perspective. In R. Ashmore & D. Brodzinsky (Eds.), *Thinking about the Family: Views of Parents and Children*. Hillsdale, NJ: Erlbaum Assoc.
- Brodzinsky, D.M. & Gormly, A., & Ambron, S. (1986) *Lifespan Human Development* (3rd ed.). New York: Holt, Rinehart, & Winston. [Chinese translation published in 1994]
- Brodzinsky, D.M., Schechter, D., & Brodzinsky, A.B. (1986). Children's knowledge of adoption: Developmental changes and implications for adjustment. In R. Ashmore & D. Brodzinsky (Eds.), *Thinking about the Family: Views of Parents and Children*. Hillsdale, NJ: Erlbaum Assoc.

1987

- Brodzinsky, D.M. (1987) Children's adjustment to adoption: A psychosocial perspective. *Clinical Psychology Review*, 7, 25-47.
- Brodzinsky, D.M. (1987). Looking at adoption through rose colored glasses: A critique of Marquis and Detweiler, "Does adoption mean different? An attributional analysis." *Journal of Personality and Social Psychology*, 52, 394-398.
- Brodzinsky, D.M. (1987). Development. In R. Price, M. Glickman, D. Horton, S. Sherman, & R. Fazio, *Principles of Psychology* (2nd ed.). Glenview, Ill.: Scott, Foresman & Co.
- Brodzinsky, D.M., Radice, C., Huffman, L., & Merkler, K. (1987). Prevalence of clinically significant symptomatology in a nonclinical sample of adopted children. *Journal of Clinical Child Psychology*, 16, 350-357.

1988

- Brodzinsky, D.M. & Huffman, L. (1988). Transition to adoptive parenthood. *Marriage and Family Review*, 12, 267-286.

1989

- Gormly, A., & Brodzinsky, D.M. (1989) *Lifespan Human Development* (4th ed.). New York: Holt, Rinehart, & Winston.

1990

- Brodzinsky, D.M. (1990). A stress and coping model of adoption adjustment. In D. Brodzinsky & M. Schechter (Eds.) *The Psychology of Adoption* New York: Oxford University Press.
- Brodzinsky, D.M. & Schechter, M.D. (1990). (Eds.) *The Psychology of Adoption*. New York: Oxford University Press. [Paperback edition published in 1993]

1991

- Brodzinsky, D.M. & Steiger, C. (1991). Prevalence of adoptees in special education populations. *Journal of Learning Disabilities*, 24, 484-489.

- Brodzinsky, D.M. & Brodzinsky, A.B. (1991) The impact of family structure on the adjustment of adopted children. *Child Welfare, LXXI*, 69-76.
- 1992
 Brodzinsky, D.M., Elias, M., Steiger, C., Simon, J., Gill, M., & Clarke, J. (1992). Coping Scale for Children and Youth: Scale development and validation. *Journal of Applied Developmental Psychology, 13*, 195-214.
- Brodzinsky, D.M., Schechter, M.D., & Henig, R.M. (1992). *Being Adopted: The Lifelong Search for Self*. New York: Doubleday.
- 1993
 Brodzinsky, D.M. (1993). On the use and misuse of psychological testing in child custody evaluations. *Professional Psychology, 24*, 213-219.
- Brodzinsky, D.M. (1993). Long-term outcome in adoption. *The Future of Children, 3*, 153-166.
- Brodzinsky, D.M., Hitt, J.C., & Smith, D. (1993). The impact of parental separation and divorce on adopted and nonadopted children. *American Journal of Orthopsychiatry, 63*, 451-461.
- Gormly, A. & Brodzinsky, D.M. (1993). *Lifespan Human Development* (5th ed.). Fort Worth: Harcourt, Brace, & Jovanovich.
- 1994
 Kaplan, G., Pannullo, D., Brodzinsky, D., & Hitt, J.C. (1994). Noncompliance with family court mandated evaluations in a juvenile justice clinic. *Bulletin of the American Academy of Psychiatry and the Law, 22*, 31-38.
- Smith, D. & Brodzinsky, D.M. (1994). Stress and coping in adoption: A developmental study. *Journal of Clinical Child Psychology, 23*, 91-99.
- 1995
 Brodzinsky, D.M., Lang, R., & Smith, D. (1995). Parenting adopted children. In M. Bornstein (Ed.), *Handbook of Parenting (Vol 3)*. Hillsdale, NJ: Erlbaum, Assoc.
- 1996
 Brodzinsky, D.M. (1996). Attachment issues in the school age adopted child. *Pact Press, Summer*, 4-6.
- Brodzinsky, D., Schechter, M. & Henig, R. (1996). *At Vaere Adopteret: Udvikling og Identitet*. Copenhagen: Hans Reitzels Forlag (Dutch translation, *Being adopted: The lifelong search for self*).
- 1997
 Brodzinsky, A.B. & Brodzinsky, D.M. (1997). Clinical assessment issues in the treatment of adopted children. *New Jersey Psychologist, 47*, 16-19.
- Brodzinsky, D.M. (1997). Infertility and adoption: Considerations and clinical issues. In S. Lieblum (Ed.), *Infertility: Psychological Issues and Counseling Strategies*. New York: Wiley.
- Brodzinsky, D. (1997). (Guest Editor), Clinical issues in adoption. *New Jersey Psychologist, 47*, 15.
- Brodzinsky, D. (1997). Clinical Issues and interventions in adoption. *New Jersey Psychologist, 47*, 23-26

- 1998
Brodzinsky, D.M., Smith, D.W., & Brodzinsky, A.B. (1998). *Children's Adjustment to Adoption: Developmental and Clinical Issues*. Thousand Oaks, CA: Sage Publication.
- 2000
Barth, R., Freundlich, M. & Brodzinsky, D. (2000). (Eds.) *Adoption and Prenatal alcohol and drug exposure: Research, policy and practice*. Washington, D.C.: Child Welfare League of America.
- 2002
Brodzinsky, D.M. (2002). Adoption. In N. Salkind (Ed.), *Macmillan Psychology Reference Series, Vol. 1: Child Development*. New York: Macmillan Reference USA.
Brodzinsky, D.M. & Pinderhughes, E. (2002). Parenting and child development in adoptive families. In M. Bornstein (ed.), *Handbook of Parenting (Vol 1): Children and Parenting*. (2nd ed). Hillsdale, NJ: Lawrence Erlbaum Associates.
Brodzinsky, D., Patterson, C. & Vazari, M. (2002). Adoption agency perspectives on lesbian and gay prospective parents: A national study. *Adoption Quarterly*, 5, 5-23.
Brodzinsky, D., Schechter, M. & Henig, R. (2002). Soy Adoptado: La Vinnecia de la adopcion a lo Largo de la Vida (Being Adopted: The Lifelong Search for Self). Barcelona: Mitos. (Spanish translation).
Smith, D. & Brodzinsky, D.M. (2002). Coping with birthparent loss in adopted children. *Journal of Child Psychology and Psychiatry*, 43, 213-223.
- 2004
Brodzinsky, D. M., Smith D.W., & Brodzinsky, A.B. (2004). *Children's Adjustment to Adoption: Developmental and Clinical Issues*. Seoul, Korea: Holt International. (Korean translation).
- 2005
Brodzinsky, D.M. (2005). Steeds een stap verder: Bespiegelingen over adoptie. [Step by step: Reflections on adoption.] *Adoptietijdschrift*, 8 (2), 6-10.
Brodzinsky, D.M. (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.
Brodzinsky, D.M. & J. Palacios (Eds) (2005). *Psychological Issues in Adoption: Research and Practice*. Westport, CT: Praeger.
Palacios, J. & Brodzinsky, D.M. (2005). Recent changes and future directions for adoption research. In D. Brodzinsky & J. Palacios (Eds.), *Psychological Issues in Adoption: Research and Practice*. Westport, CT: Praeger.
- 2006
Brodzinsky, D.M. Family structural openness versus communicative openness as predictors of adjustment in adopted children. *Adoption Quarterly*,

9, 1-18

2007

Brodzinsky, D.M. (2007). Forward. In R. Javier, A. Baden, F. Biafora, & A. Gamacho-Gingerich (Eds.), *The Handbook of Adoption: Implications for Researchers, Practitioners, and Families*. Thousand Oaks, CA: Sage Publications.

2008

Palacios, J. & Brodzinsky, D.M. (2008). Investigacion psicologica sobre adopcion: de donde viene, hacia donde va [Psychological research on adoption: Where does it come from, where is it going.] *Monografias de Psiquiatria*, 20, 85-95.

2009

Brodzinsky, D.M. (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.M. (2009). International adoption in global perspective: Policy and practice. In M. Dalen & A. Rygvold (Eds.), *International adoptees: School performance, educational attainment and social adjustment*. Oslo, Norway: University of Oslo Press.

2010

Palacios, J. & Brodzinsky, D. (2010). Adoption research: Trends, topics, and outcomes. *International Journal of Behavioral Development*, 34, 270-284.

Palacios, J. & Brodzinsky, D. (2010). Historical changes in adoption research. In R. Rosnati (Ed.), *Prospettive psicosociali sull'adozione: Contributi Internazionali per la ricerca e l'intervento*. Milano: Unicopli

Palacios, J & Brodzinsky, D. (2010). La investigacion sobre adopcion: Tendencias e implicaciones. [Adoption research: Trends and implications.] *Aloma: Revista de Psicologia, Ciencias de l'Educacio i de Esport*, 27, 39-50.

2011

Brodzinsky, D.M. (2011). Children's understanding of adoption: Developmental and clinical implications. *Professional Psychology: Research and Practice*, 42, 200-207

Brodzinsky, D.M. & Palacios, J. (2011). *Lavorare nell'Adozione: Dalle ricerche alla prassi operativa*. FrancoAngeli: Milan, Italy (Italian edited translation of *Psychological issues in adoption: Research and practice*. Originally published in 2005)

Brodzinsky, D. & Palacios, J. (2011). Ser adoptado (y adoptante) en Espana: Pasado, presente y future. In D. Brodzinsky, M. Schechter, & R. Henig. *Soy Adoptado: La venencia de la Adopcion a lo largo de la vida*. 2nd ed. (Being Adopted: The Lifelong Search for Self). Madrid: Grupo5 (Spanish translation, 2nd ed.)

Brodzinsky, D., Schechter, M. & Henig, R. (2011). *Soy Adoptado: La venencia de la adopcion a lo largo de la vida*. 2nd ed. (Being Adopted: The Lifelong Search for Self). Madrid: Grupo5 (Spanish translation; 2nd edition).

2012

Brodzinsky, D.M. (2012). Adoption by lesbians and gay men: A nationwide study

of adoption agency policies and practices. In D. Brodzinsky & A. Pertman (Eds.), *Adoption by Lesbians and Gay Men: A New Dimension in Family Diversity*. New York: Oxford University Press

Brodzinsky, D.M., Green, R.J. & Katuzny, K. (2012). Adoption by lesbians and gay men: What we know, need to know, and ought to do. In D. Brodzinsky & A. Pertman (Eds.), *Adoption by Lesbians and Gay Men: A New Dimension in Family Diversity*.

Brodzinsky, D.M., & Pertman, A. (Eds.) (2012). *Adoption by Lesbians and Gay Men: A New Dimension in Family Diversity*. New York: Oxford University Press.

2013

Brodzinsky, D. (2013). Questioni etniche nell'adozione internazionale: La preparazione e il sostegno alle famiglie adottive (Ethnicity issues in intercountry adoption: Preparation and support for adoptive families). In G. Macario (Ed.), *I percorsi formativi nelle adozioni internazionali: L'evoluzione del percorso e gli apporti internazionali. Attività* (pp 275-288). Florence, Italy: Insituto degli Innocenti.

Wier, K. & Brodzinsky, D. (2013) (Guest Eds.) Adoption treatment and therapy issues. Introduction: Treatment and therapy considerations for adopted children and their families. *Adoption Quarterly*, **16**, 153-155.

2014

Brodzinsky, D. (2014). Adoptive identity and children's understanding of adoption: Implications for pediatric practice. In P. Mason, D. Johnson, P., & L. Albers Prock (Eds.), *Adoption Medicine: Caring for Children and Families*. Elk Grove Village, IL: American Academy of Pediatrics.

Brodzinsky, D. (2014). The role of birthparents in the life of the adoptive family: Real versus symbolic presence. In E. Scabini & G. Rossi (Eds.), *Allargare lo spazio familiare: Adozione e affido. Studi interdisciplinari sulla famiglia*. N. 27. Milan: vita e Pensiero. [chapter published in English]

Brodzinsky, D. & Smith, S. (2014). Post-placement adjustment and the needs of birthmothers who place an infant for adoption. *Adoption Quarterly*, **17**, 165-184.

2015

Arambura, I., Salamero, M., Aznar, B., Perez-Testor, C., Davins, M., Mirabent, V. & Brodzinsky, D. (2015). Preliminary validation of a Spanish language version of the Adoption Communication Scale in adopted adolescents. *Estudios de Psicología* (Studies in Psychology), **36**, 1-17.

Brodzinsky, D. (2015). Understanding and treating adoptive families. In S. Browning & K. Pasley (Eds), *Contemporary families: Translating research into practice*. NewYork: Routledge.

2016

Brodzinsky, D. (2016). International adoption. In A. Goldberg (Ed.), *Encyclopedia of LGBTQ studies*. Thousand Oaks, CA: Sage Publications.

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., Santa, J. & Smith, S.L. (2016). Adopted youth in residential care: Prevalence rate and professional training needs. *Residential Treatment for Children and Youth*, 33(2), 118-134.

2017

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.

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.

2018

Aranbura Alegret, I., Perez-Testor, C., Meercadal Rotger, J., Salamero Baro, M., Davins Pujols, M., Mirabent Junyent, V., Aznar Martinez, B. & Brodzinsky, D. (2018). Influence of communicative openness on the psychological adjustment of internationally adopted adolescents. *Journal of Research on Adolescence*, published online, November 2018

Battalen, A.W., Farr, R.H., Brodzinsky, D.J. & McRoy, R.G. (2018), Socializing children about family structure. Perspectives of lesbian and gay adoptive parents. *GLBT Family Studies*, published online, May 2018

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

Lee, B.R., Kobulsky, J.M., Brodzinsky, D., & Barth, R.P. (2018). Parent perspectives on adoption preparation: Findings from the Modern Adoptive Families project. *Child and Youth Services Review*, 85, 63-71.

IN PRESS

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

Brodzinsky, D. (In press). Parenting by lesbians and gay men: Outcomes for children and youth. In M. Bornstein (Ed.), *Encyclopedia of lifespan human development*. Thousand Oaks, CA: Sage Publications.

Pinderhughes, E. & Brodzinsky, D. (In press). *Parenting in adoptive families*. In M. H. Bornstein (Ed.), *Handbook of parenting* 3e (Vol.1, pp. xx-xx). New York: Routledge.

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.

2008

Brodzinsky, D. (2008). *Adoptive Parent Preparation Project. Phase 1: Meeting the mental health and developmental needs of adopted children*. New York: Donaldson Adoption Institute. Available online at

www.adoptioninstitute.org.

2011

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.

2013

Brodzinsky, D. (2013). *A need to know: Enhancing adoption competence among mental health professionals*. New York: Donaldson Adoption Institute. Available online at www.adoptioninstitute.org

2015

Brodzinsky, D. (2015). *The Modern Adoptive Families Study: An Introduction*. New York: Donaldson Adoption Institute. Available online at www.adoptioninstitute.org

2016

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. Available online at www.adoptioninstitute.org

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

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

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

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.

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.” 14th 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 14th 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]
- 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

- 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
- 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 Instituto 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 foster/adopt homes. In-service training for child welfare professionals. San Mateo County, 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 DIHS.
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

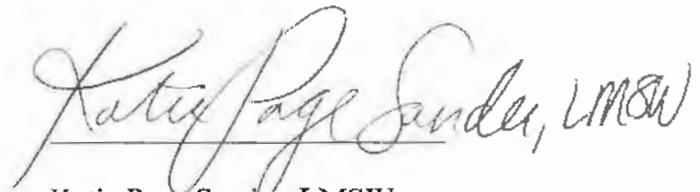

Katie Page Sander, LMSW

Exhibit C



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

NICK LYON
DIRECTOR

May 2, 2018

Pamela Cohn
Catholic Charities West Michigan - GR
40 Jefferson Avenue, SE
Grand Rapids, MI 49503-4304

RE: License #: CB410245705
Investigation #: **2018C0223029**
Catholic Charities West Michigan - GR

Dear Ms. Cohn:

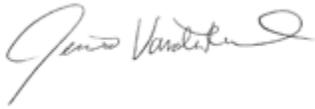
Attached is the Special Investigation Report for the above referenced facility. Due to the violations identified in the report, a written corrective action plan is required. The corrective action plan is due 15 business days from the date of this letter and must include the following:

- How compliance with each rule will be achieved.
- Who is directly responsible for implementing the corrective action for each violation.
- Specific time frames for each violation as to when the correction will be completed or implemented.
- How continuing compliance will be maintained once compliance is achieved.
- The signature of the responsible party and a date.

If you desire technical assistance in addressing these issues, please feel free to contact me. In any event, the corrective action plan is due within 15 days. Failure to submit an acceptable corrective action plan will result in disciplinary action.

Please review the enclosed documentation for accuracy and contact me with any questions. In the event that I am not available and you need to speak to someone immediately, please contact the area manager, Claudia Triestram at (616) 552-3662.

Sincerely,

A handwritten signature in cursive script, appearing to read "Jessica VandenHeuvel".

Jessica VandenHeuvel, Licensing Consultant
MDHHS\Division of Child Welfare Licensing
Suite 200
121 Franklin Street SE
Grand Rapids, MI 49507
(616) 204-6992

Enclosure

CC: Kelli Smith, Board President
Christopher Slater, CEO/Licensee Designee
Sonia Noorman, WMPC

**MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD WELFARE LICENSING
SPECIAL INVESTIGATION REPORT**

I. IDENTIFYING INFORMATION

License #:	CB410245705
Investigation #:	2018C0223029
Complaint Receipt Date:	03/09/2018
Investigation Initiation Date:	03/16/2018
Report Due Date:	05/08/2018
Licensee Name:	Catholic Charities West Michigan
Licensee Address:	Suite 3A 360 South Division Grand Rapids, MI 49503
Licensee Telephone #:	(616) 243-9122
Administrator:	Pam Cohn, Designee
Licensee Designee:	Christopher Slater, Designee
Name of Facility:	Catholic Charities West Michigan - GR
Facility Address:	40 Jefferson Avenue, SE Grand Rapids, MI 49503-4304
Facility Telephone #:	(616) 456-1443
Original Issuance Date:	03/15/2002
License Status:	REGULAR
Effective Date:	01/20/2017
Expiration Date:	01/19/2019
Capacity:	Unknown
Program Type:	CHILD PLACING AGENCY, PRIVATE

II. ALLEGATION(S)

	Violation Established?
Catholic Charities West Michigan (CCWM) failed to place siblings together as they do not place any of their children in homes that do not follow the Catholic Teachings.	Yes
Additional Findings	Yes

III. METHODOLOGY

03/09/2018	Special Investigation Intake 2018C0223029
03/16/2018	Special Investigation Initiated - Telephone Telephone call with Child Welfare Director to notify of complaint.
03/19/2018	Contact - Telephone call made Telephone call with Ottawa DHHS worker
03/21/2018	Inspection Completed On-site Interview with staff
03/21/2018	Contact-Document Received Email communication was forwarded from CCWM to consultant
05/02/2018	EXIT CONFERENCE: Meeting with CEO, Chief Administrator, Child Welfare Director and WMPC to discuss findings.

ALLEGATION:

Catholic Charities West Michigan (CCWM) failed to place siblings together as they do not place any of their children in homes that do not follow the Catholic Teachings.

INVESTIGATION:

Ottawa County DHHS worker was interviewed via telephone on March 19, 2018. Ottawa County DHHS worker reported she is assigned the direct foster care case management for Foster Child B and Foster Child C. She indicated upon Foster Child A's birth and removal, Foster Home A, providing placement for Foster Child B and Foster Child C, was not able to take placement due to daycare issues. She reported she contacted Staff 1 via email on March 6, 2018 requesting they schedule a Family Team Meeting to discuss placing siblings together. Ottawa County DHHS worker indicated Staff 1 responded and stated CCWM could not place Foster Child A with Foster Home A as the placement goes against the Catholic Teachings. Ottawa County DHHS worker reported she was confused by this statement and notified her management team, as Foster Home A are practicing Catholics. Ottawa County DHHS worker reported Foster Home A is a same sex couple.

Staff 1, CCWM Foster Care Case Manager, was interviewed at the agency on March 21, 2018. Staff 1 reported she was assigned direct foster care case management responsibility for Foster Child A on January 12, 2018. She reported Child Protective

Services placed Foster Child A with a relative. Staff 1 reported Foster Child A had two older siblings that were already placed in foster care through Ottawa County DHHS and placed with Foster Home A. Staff 1 reported she was informed during the preliminary hearing that Foster Home A was not interested in taking placement of Foster Child A, as they were not able to care for a newborn without daycare. Staff 1 reported she did not make any immediate efforts to explore or place Foster Child A with his older two siblings following her assignment to the case, as she did not believe there was any reason for the children to move at that time.

Staff 1 reported during a supervised visitation on February 21, 2018 she met with Foster Home A and they reported a willingness to take placement of Foster Child A, reuniting all three siblings. Staff 1 reported she did not explore the option of moving Foster Child A to with Foster Home A to be reunited with his two older siblings. Staff 1 reported she was not assigned case management for Foster Child B and Foster Child C so she could not make placement decisions specific to Foster Child B and Foster Child C. She then reported she considered the current placement of Foster Child A with a relative caregiver, and the convenience for visitation due to the proximity of Foster Child A to the birth parents current location. Staff 1 reported she did not consult with her supervisor, Staff 2, or any other management member at CCWM, or Ottawa County DHHS regarding Foster Home A's willingness to take placement of all three siblings at that time. Staff 1 reported she had provided the relative caregivers contact information to the Ottawa County DHHS worker, so she could explore the option of placing Foster Child B and Foster Child C within the relative home if appropriate. Staff 1 reported she had a few informal conversations with the Ottawa County DHHS worker about sibling placement and informed the Ottawa County DHHS worker of the concerns she observed with Foster Child A's current relative caregiver.

Staff 1 reported at the end of February 2018/beginning of March 2018 she began to have concerns regarding Foster Child A's relative caregiver's ability to care for Foster Child A. Staff 1 reported the relative caregiver was older, during home visits would be in her pajamas, appeared to be tired from caring for the newborn, asked often when Foster Child A would return to his parents, and failed to take Foster Child A to medical appointments as arranged. Staff 1 reported after these concerns arose, she foresaw further issues with the relative caregiver, and decided to make a "Plan B".

Staff 1 reported since Staff 2 was not in the office, she emailed CCWM's Child Welfare Director, Staff 3 to discuss placement options. When asked if it was common to include Staff 3 in placement decisions, Staff 1 reported it was not. Staff 1 reported although there is not a specific process in place, any time an issue arises regarding a same sex couple, leadership needs to be involved. Staff 1 further explained, Foster Home A who had placement of Foster Child B and Foster Child C is a same sex female couple. Staff 1 reported she emailed Staff 3 asking if CCWM would place a foster child with a same sex couple. Staff 1 reported that she received an email back from Staff 3 stating that under no circumstances would they place a

child in a home of a same sex couple as it goes against the Catholic Teachings. Staff 1 reported Staff 3 asked for more information. Staff 1 reported she provided more information via email and then received an email back from Staff 3 requesting she come talk with her.

Staff 1 reported after receiving Staff 3's original email stating that they would not place a foster child with a same sex couple, she received an email from the assigned Ottawa County DHHS worker. The Ottawa County DHHS worker requested to schedule a Family Team Meeting to discuss placement options with the Foster Home A who currently had placement of Foster Child B and Foster Child C. Staff 1 reported, "I, not thinking it thru, not understanding the process", responded to the email with the same language she had received from Staff 3 stating they could not place with Foster Home A as it goes against the Catholic Teachings.

Staff 1 reported she then received an email from Staff 3 requesting for her to come talk to her. Staff 1 reported she believed that was in direct response to Staff 3 being contacted by Ottawa County DHHS Director after Staff 1 had responded to the Ottawa County DHHS worker. Staff 1 reported Staff 2, Staff 3, and herself met to discuss the situation. Staff 1 reported she was informed the email she sent to Ottawa County DHHS worker was not appropriate, as any communication regarding the topic should have come from leadership. Staff 1 reported Staff 3 stated it was a complex case and many things needed to be considered. Staff 1 reported she was directed to schedule the Family Team Meeting to discuss options with Ottawa County DHHS, noting the Family Team Meeting was already in the process of being arranged. Staff 1 reported the agency was not refusing to place the siblings together, just not with Foster Home A, which was a same sex couple, and is against the Catholic Teachings.

Staff 1 reported a Family Team Meeting was held on March 16, 2018. During that meeting it was decided that Foster Child A would be placed with Foster Home A once Foster Home A secured daycare. Staff 1 reported the tentative date for change in placement was March 29, 2018.

At the conclusion of the interview, it was requested that Staff 1 provide a copy of the email communication she had with Staff 3 regarding the case. Staff 1 reported she would forward the information available to her, noting that several conversations in the email stream she no longer had access to. Staff 1 reported she did not delete this information from her computer and does not know what happened to it.

Staff 2, CCWM Foster Care Supervisor was interviewed at the facility on March 21, 2018. Staff 2 reported she was on vacation from February 28, 2018-March 6, 2018. Staff 2 reported upon her return to work on March 7, 2018, she was able to read all of the emails regarding Foster Child A at one time. Staff 2 reported she attempted to review the email chains prior to meeting with the licensing consultant on March 21, 2018, however noted that she only had access to the external email communication. Staff 2 reported she believes herself to be organized, and does not permanently

delete emails regarding cases. Staff 2 reported she does not know what happened to the other emails. Staff 2 reported due to her not being present when the emails began and reviewing them all on March 7, 2018, she does not recall the specific language or timing of responses. Staff 2 reported what she recalls from the email chain is Staff 1 emailed Staff 3 asking about placing a foster child with a same sex couple. Staff 2 reported Staff 3 responded indicating it depends and asked for more information. Then Staff 3 emailed requesting they meet to discuss the case. Staff 2 reported she does not recall any specific direction in an email that stated CCWM will or will not place with a same sex couple.

Staff 2 reported Staff 1, Staff 3, and herself met on March 7, 2018. Staff 2 reported Staff 3 informed Staff 1 any issues with Catholic Teachings should be communicated by leadership. The direction at this meeting was to continue with the scheduled Family Team Meeting and explore options of placing the siblings together. Staff 2 reported Staff 3 said the agency needs to follow policy. Staff 2 reported since the recent lawsuit pertaining to same sex couples and the sensitive nature of the topic, any time an issue arises, CCWM has directed staff that leadership is to be included.

Staff 2 was asked what efforts the agency made to reunite the siblings prior to the scheduled Family Team Meeting on March 16, 2018. Staff 2 reported the agency conducts Placement Planning Meetings at least monthly if not every other week. During that time, sibling placements are discussed. Staff 2 was asked if Foster Child A was ever specifically discussed during one of these meetings, and she reported that he was not. Staff 2 indicated CCWM does not have case responsibility for Foster Child B or Foster Child C. Foster Child A was already placed with a relative caregiver and Foster Home A was not currently interested in placement of Foster Child A. Staff 2 reported no relatives were willing or able to take placement of all three siblings. Staff 2 reported she was not informed by Staff 1 of Foster Home A's willingness to take placement of Foster Child A.

Staff 3, CCWM's Child Welfare Director was interviewed at the agency on March 21, 2018. Staff 3 reported decisions regarding Catholic Teachings and same sex couples are not to be made at a direct worker or supervisor level, but brought to the leadership team. Staff 3 reported the Bishop would need to approve placement if it went against the Catholic Teachings.

Staff 3 reported she received an email from Staff 1 asking if CCWM would borrow a foster home bed if the foster home was of a same sex couple. Staff 3 reported she responded indicating, "no they shouldn't if it goes against the Catholic Teachings, but asked if there was a specific example". Staff 3 reported she then received an email from the Ottawa County DHHS Director, with concern after Staff 1 sent an email indicating CCWM would not place a child in a home that goes against their Catholic Teachings. Staff 3 reported she responded to the Ottawa County DHHS Director, reporting they would attend a Family Team Meeting to discuss the options and would make placement decisions based on what was in the child's best interest.

Staff 3 reported she met with Staff 1 and Staff 2 to discuss the situation. Staff 3 reported she informed Staff 1 that it was not Staff 1's responsibility to communicate information on the sensitive topic and it was leadership who should provide the communication. Staff 3 stated it is the agency's stance to always place siblings together and sexual orientation is not a factor.

Staff 3 reported she was not involved in any other communication regarding Foster Child A except when he originally entered care and a transfer of jurisdiction was discussed. At the conclusion of the interview, Staff 3 was asked to provide a copy or forward all of the email communication that occurred regarding this case. Staff 3 reported she would provide the information she can access, noting she was unable to locate several conversations within the email chain, including her response to Staff 1's original email and Staff 1's response.

A brief meeting with Interim Chief Executive Officer/Licensee Designee occurred on March 21, 2018. He contacted the IT department and requested all email communication, including deleted emails be retrieved and provided to him specific to this investigation. He reported Staff 3 notified him on Thursday March 15, 2018 of the situation. He reported he was provided with copies of the emails. He recalled the original email from Staff 1 to Staff 3 and then Staff 3 responding by requesting for Staff 1 to come and talk with her.

Foster Child A's MiSACWIS case record was reviewed on March 21, 2018. The record indicated Foster Child A entered foster care on January 12, 2018. Foster Child A has two older siblings, Foster Child B and Foster Child C, who entered foster care on September 6, 2017. During review of Foster Child A's Initial Service Plan completed by Staff 1, the report acknowledges that Foster Child A has two older siblings in foster care that are case managed by Ottawa County DHHS. There was no indication in the placement history or placement selection criteria regarding sibling placement. A sibling split placement exception request was not located within the case record. The Family Team Meeting dated February 7, 2018 noted both Staff 1 and the Ottawa County DHHS worker were in attendance and the recommendation was for the children to remain in placement. The Family Team Meeting dated March 16, 2018, noted both CCWM and Ottawa County DHHS in attendance. The report indicated a planned placement change, reuniting Foster Child A with his older two siblings with Foster Home A. CCWM would be requesting Kent County Court to transfer Foster Child A's case to Ottawa County Court. Also the foster care case would be transferred to Ottawa County DHHS to provide foster care case management for the entire family.

Emails between Staff 1 and Ottawa County DHHS worker as referenced above were reviewed on March 9, 2018 and March 19, 2018.

The Ottawa County DHHS worker sent an email to Staff 1 dated March 6, 2018 at 11:31am. A portion of the narrative included:

Also, I'm wondering if it would be helpful to set up a meeting with you, your supervisor, me, my supervisor, and [Foster Home A's] licensing worker to discuss the option of placing [Foster Child B, Foster Child C, and Foster Child A] together. I'm thinking the purpose of the meeting would just to explore all of the options, discuss what's in the children's best interest, and what makes sense for the case, not necessarily to make any changes. That way we can document our efforts to try to explore the option of placing siblings together, even if we decide that's not in their best interest at the moment. The next two weeks are quite busy for me, so maybe we could look at the last week of March?

Staff 1 responded to Ottawa County DHHS worker via email on March 6, 2018 at 11:35am. The response was as follows:

We actually cannot place [Foster Child A] in that home. We do not place any of our children in homes that do not follow the Catholic Teachings. So, unfortunately, that is not an option. The only way that would be possible is if there was a request to have [Foster Child A's] case transferred to your county and your court. We would not fight that if you would want to initiate that process. The attorneys on our end will not be making that recommendation so the request would have to come from your end.

The Ottawa County DHHS worker responded via email to Staff 1 on March 6, 2018 at 3:27pm. The narrative included:

Thank you for letting me know about your agency's policy. My supervisor would like us to move forward with a FTM. Our MiTEAM specialist, will be facilitating it and I am working on a list of individuals who should be invited. Here's what I have so far. Please let me know if there's anyone else that should be added to the list (i.e. your prosecuting attorney, other attorneys, etc.).

Staff 1 responded to Ottawa County DHHS worker via email on March 6, 2018 at 3:56pm. The response was as follows:

My supervisor is on vacation this week. I am unsure of her availability and would like her to attend so I will get back with you on Monday when she returns.

Emails between Staff 1 and the Child Welfare Director as referenced above were reviewed on March 21, 2018.

Staff 1 sent an email to Staff 3 on March 2, 2018 at 1:40pm. The email read as follows:

I know we don't license same sex couples, but do we place kids with borrowed licensed homes of same sex couples?

Staff 3 responded to Staff 1 via email on March 2, 2018 at 4:15pm. The email read as follows:

No. Anytime placement of a child goes against our Catholic Teachings we do not make that placement. Do you have an example?

Staff 1 responded to Staff 3 via email on March 2, 2018 at 6:17pm. The email read as follows:

Yes, [Foster Child A] is our kid and placed with paternal relative currently. I see some issues with this placement and it might have to be broken at some point. His two older siblings are placed in foster care through Ottawa county and in a licensed home through Ottawa county DHHS. This home is a same sex couple. This home would like placement of [Foster Child A] and this is where his siblings reside. Ottawa county says they can be borrowed out but I wanted to check with you. So if this placement breaks based on our policy we can't place with siblings?

Staff 3 responded to Staff 1's email on March 5, 2018 at 1:40pm copying the Foster Care Program Manager and Staff 2. The email read as follows:

Come see me regarding this situation. Thanks

A review of the Grant Agreement between Michigan Department of Health and Human Services and West Michigan Partnership for Children (Agreement # E20182539-00) occurred on April 4, 2018.

A review of the Official Agreement between West Michigan Partnership for Children and Catholic Charities West Michigan (Agreement # WMPC17-41502) occurred on April 5, 2018.

A review of the Case Referral and Acceptance Individual Service Agreement for Resident A between West Michigan Partnership for Children and CCWM occurred on April 6, 2018. The agreement documented an effective date of 1/12/18. The agreement was signed on April 5, 2018 by WMPC and CCWM.

APPLICABLE RULE	
ISEP 6.10	Separation of Siblings
	(a) Siblings who enter placement at or near the same time shall be placed together unless: <ol style="list-style-type: none"> (1) doing so is harmful to one or more of the siblings; (2) one of the siblings has exceptional needs that can only be met in a specialized program or facility; or (3) the size of the sibling group makes such placement impractical notwithstanding efforts to place the group together.

	<p>(b) If a sibling group is separated at any time, except for the above reasons, the case manager shall make immediate efforts to locate or recruit a family in whose home the siblings can be reunited. These efforts shall be documented and maintained in the case file and shall be reassessed on a quarterly basis.</p>
<p>ANALYSIS:</p>	<p>During an interview with Staff 1, she admitted that she did not make immediate efforts to locate or recruit a family who would be able to take placement of all three siblings once Foster Child A entered care. Staff 1 further reported when she was able to locate a home on February 21, 2018 willing to take placement of all three siblings, she failed to make any efforts to pursue reuniting the siblings. Also Staff 1 stated during her interview that the agency was not refusing to place the siblings together, they were just refusing to place the siblings together in that specific home.</p> <p>During an interview with Staff 2, she admitted that the agency did not make immediate efforts to locate or recruit a family who would be able to take placement of all three siblings once Foster Child A entered care. Staff 2 further reported since the Foster Child A entered care, the agency did not explore reuniting the siblings due to their current placements.</p>
<p>CONCLUSION:</p>	<p>VIOLATION ESTABLISHED</p>

<p>APPLICABLE RULE</p>	
<p>PA 116</p>	<p>CHILD CARE ORGANIZATIONS (EXCERPT)</p>
	<p>722.124e Legislative findings and declaration; requirement to provide services that conflict with child placing agency's religious beliefs prohibited; adverse action against child placing agency prohibited; information to be provided to applicant; defense in administrative or judicial proceeding; ability of another child placing agency to provide services not limited; definitions.</p> <p>(2) To the fullest extent permitted by state and federal law, a child placing agency shall not be required to provide any services if those services conflict with, or provide any services under circumstances that conflict with, the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency.</p> <p>(7) For the purpose of this section:</p>

	<p>(b) "Services" includes any service that a child placing agency provides, except foster care case management and adoption services provided under a contract with the department.</p> <p>History: Add. 2015, Act 53, Eff. Sept. 9, 2015</p>
<p>ANALYSIS:</p>	<p>During interviews with Staff 1 and Staff 3, they both reported Staff 3 sent an email to Staff 1 indicating that the agency would/should not place a child in the foster home of a same sex couple due to the placement not being consistent with the agencies Catholic Teachings.</p> <p>In review of the email communication between Staff 1 and Staff 3, Staff 3 responded to Staff 1's question regarding placing a child in a borrowed foster home of a same sex couple as, "No. Anytime placement of a child goes against our Catholic Teachings we do not make that placement".</p> <p>During an interview with Staff 1 and review of Staff 1's email to the Ottawa County DHHS worker, she acknowledges she refused to place Foster Child A with a same sex couple as it goes against the Catholic Teachings.</p> <p>In review of the agreements between Michigan Department of Health and Human Service and West Michigan Partnership for Children as well as West Michigan Partnership for Children and CCWM, CCWM is subcontracted to provide services to children under the care of Michigan Department of Health and Human Services by West Michigan Partnership for Children. CCWM accepted the referral to provide Foster Care Services to Foster Child A effective 1/12/18 per the Case Referral and Acceptance Agreement.</p> <p>In certain situations, PA 53 allows child placing agencies to not provide services that conflict with the child placing agencies sincerely held religious beliefs if they are not under contract with the department. In this specific case, CCWM is not protected by PA 53, and are required to provide services to the fullest extent as they had already accepted foster care case management responsibility and are under contract with the department to provide those services through their contract with West Michigan Partnership for Children.</p>
<p>CONCLUSION:</p>	<p>VIOLATION ESTABLISHED</p>

ADDITIONAL FINDINGS

INVESTIGATION

Foster Child A’s MiSACWIS case record was reviewed on March 21, 2018. The record indicated Foster Child A entered foster care on January 12, 2018. A sibling split placement exception request was not located within the case record.

APPLICABLE RULE	
FOM 722-03	Placement Selection and Standards
	<p><u>Placement of Sibling Groups</u></p> <p>Siblings are defined as children who have one or more parents in common. The relationship can be biological, through adoption, or through marriage, and includes siblings as defined by the AI/AN child’s tribal code or custom. A sibling relationship continues regardless of legal status or when a marriage ends by death or divorce.</p> <p>All siblings in out-of-home placement must be placed together, unless:</p> <ul style="list-style-type: none"> • One of the siblings has exceptional needs that can be met only in a specialized program or facility. • Such placement is harmful to one or more of the siblings. • The size of the sibling group makes one placement impractical, notwithstanding diligent efforts to place the siblings within the same home. <p>NOTE: For a sibling group, an exception to the limitation on the number of children in a foster home may be obtained; see Placement Exception Requests in this item. Rule variances to foster home capacity may be requested, the process can be found in FOM 922-1, Foster Home Development, Licensing Variances.</p> <p>A placement exception request is required for each placement which separates or maintains separation of siblings; see Placement Exception Requests in this item.</p> <p>MCL 722.954a (6) Reasonable efforts shall be made to do the following:</p> <p>(a) Place siblings removed from their home in the same foster care, kinship guardianship, or adoptive placement, unless the supervising agency documents that a joint placement would be contrary to the safety or well-being of any of the siblings.</p>

ANALYSIS:	In review of the MiSACWIS case record for Foster Child A, it lacked a completed sibling split placement exception request as required.
CONCLUSION:	VIOLATION ESTABLISHED

IV. RECOMMENDATION

It is recommended upon receipt of an acceptable corrective action plan, no changes be made to the status of the license of this private child placing agency.



April 26, 2018

Jessica VandenHeuvel
Licensing Consultant

Date

Approved By:



May 2, 2018

Claudia Triestram
Area Manager

Date

Exhibit D



STATE OF MICHIGAN

RICK SNYDER
GOVERNOR

DEPARTMENT OF HEALTH AND HUMAN SERVICES
LANSING

NICK LYON
DIRECTOR

January 13, 2017

Ms. Pam Cohn
Catholic Charities of West Michigan
Muskegon #125
1095 Third Street
Muskegon, MI 49441-1978

Re: License CB610201023
Investigation 2017C0208001
Catholic Charities of West Michigan – Muskegon

Dear Ms. Cohn:

Attached is the Special Investigation Report for the above referenced facility. The special investigation has determined substantial violations of the applicable licensing statutes, rules and the adoption contract. Due to the violations identified in the report, a corrective action plan is required and a moratorium on adoption referrals will be in place until the corrective action plan is approved by DCWL. The corrective action plan is due 15 days from the date of this letter and must include the following:

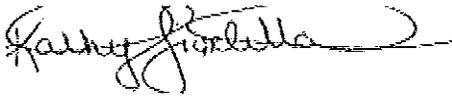
- How compliance with each violation will be achieved.
- Who is directly responsible for implementing the corrective action for each violation.
- Specific time frames for each violation as to when the correction will be completed or implemented.
- How continuing compliance will be maintained once compliance is achieved.
- The signature of the responsible party and a date.

Please review the enclosed documentation for accuracy and contact me with any questions. In the event that I am not available and you need to speak to someone immediately, please contact Claudia Triestram, Area Manager at (616) 552-3662.

Ms. Pam Cohn
Page Two
January 13, 2017

Pease note that violations of any licensing rules are also violations of the ISEP and your contract.

Sincerely,

A handwritten signature in black ink, appearing to read "Kathy Fiorletta", with a long horizontal flourish extending to the right.

Kathy Fiorletta, Licensing Consultant
MDHHS/Division of Child Welfare Licensing
121 Franklin Street, S.E., 3'd floor
Grand Rapids, MI 49507
(616) 490-5356

Enclosure

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES
DIVISION OF CHILD WELFARE LICENSING
SPECIAL INVESTIGATION REPORT

I. IDENTIFYING INFORMATION

License#:	CB610201023
Investigation #:	2017C0208001
Complaint Receipt Date:	09/27/2016
Investigation Initiation Date:	10/02/2016
Report Due Date:	11/26/2016
Licensee Name:	Catholic Charities West Michigan
Licensee Address:	Suite 3A 360 South Division Grand Rapids, MI 49503
Licensee Telephone#:	(616) 243-9122
Administrator:	Pam Cohn, Administrator
Licensee Designee:	Pam Cohn
Name of Facility:	Catholic Charities West MI - Muskegon
Facility Address:	#125 1095 Third Street Muskegon, MI 49441-1976
Facility Telephone#:	(231) 726-4735
Original Issuance Date:	02/01/1991
License Status:	REGULAR
Effective Date:	08/01/2015
Expiration Date:	07/31/2017
Capacity:	Unknown
Program Type:	CHILD PLACING AGENCY, PRIVATE

II. ALLEGATION(S)

	Violation Established?
CCWM of Muskegon refused to complete an adoption of three contracted cases based on the same sex couple's marital status.	Yes
Additional Findings	Yes

III. METHODOLOGY

09/27/2016	Special Investigation Intake 2017C0208001
10/03/2016	Special Investigation Initiated -On Site onsite interviews with Pam Cohn, Kelli Arrendondo and Mora Monaghan
10/03/2016	Exit Conference with Pam Cohn, Kelli Arrendondo and Mora Monaghan

ALLEGATION:

CCWM of Muskegon refused to complete an adoption of three contracted cases based on a same sex couple's marital status.

INVESTIGATION:

Mora Monaghan Program Manager of Catholic Charities West Michigan (CCWM) was interviewed on October 03, 2016 with CCWM CFO, Pam Cohn and CCWM Senior Director, Kelli Arrendondo present. Ms. Monaghan indicated Foster Parent A has been a licensed foster parent with CCWM since 2013 when he took placement of a relative. According to Ms. Monaghan, at that time Foster Parent A was in a live together same sex relationship with Foster Parent B. Ms. Monaghan agreed to knowing about this relationship and assessing Foster Parent B as a member of the household. Foster Parent A was assessed and approved by CCWM to adopt, as a single parent, of a child in June of 2014, while in this live together relationship with Foster Parent B. Foster Parent A and Foster Parent B were married in March of 2011 in the state of New York, however the marriage was not legally recognized by the State of Michigan until 2015. Ms. Monaghan confirmed that CCWM was aware of the couple's marriage however since it was not recognized in Michigan, Ms. Monaghan did not feel it was an issue for the agency.

Ms. Monaghan further indicated that CCWM accepted the foster care and adoption cases of three children and they placed them in the home of Foster Parent A and

Foster Parent B. Child A was placed in October 2014, Child B and Child C were placed in May of 2015, all foster care placements.

Ms. Monaghan further indicated that Foster Parent A and Foster Parent B had signed consents to adopt. According to Ms. Monaghan, the original plan was for Foster Parent A to adopt the three children as a single parent like he did in 2014, but since the State began recognizing same sex marriages, CCWM did not feel they could go forward with the adoption proceedings due to the conflict with their agency's religious beliefs. Ms. Monaghan stated that Foster Parent A and Foster Parent B have been assessed by the agency that adoption of the children by the couple is in the best interest of the children. Ms. Monaghan further indicated that in the best interest of the children and the foster parents, CCWM requested that the case be transferred back to DHHS for completion of the adoption process.

Ms. Monaghan indicated that there were some early discussions with Foster Parent A and Foster Parent B back in February of 2016 about them wanting to transfer their license to another identified agency. Foster Parent A and Foster Parent B reached out to that agency, however, the agency would not accept the family until they had completed the corrective action plan they were under with CCWM. Ms. Monaghan further indicated the corrective action plan had to do with some supervision issues, an egress issue in a bedroom, moving bedrooms around without consulting the agency and how Foster Parent A or Foster Parent B, she could not recall which, had reacted to one of the children accidentally killing their pet sugar glider. As a result, Michigan Children's Institute (MCI) wanted 6 months of stability in the home before signing consent.

Ms. Monaghan indicated the corrective action took longer than CCWM had hoped. In the summer of 2016, the foster parents had a situation with some inappropriate touching between the children, so they made some room changes without consulting the agency, again. Ms. Monaghan further indicated she trusted that the foster parents acted reasonably out of protection of the children, however the arrangements were not within the rules and a request for a variance was needed. Ms. Monaghan further indicated that CCWM supported the arrangements and requested the variance which was approved through Lansing, but the foster parents should have consulted the agency for assistance from the beginning. Ms. Monaghan agreed that these matters were correctable and did not change the agency's opinion that adoption by the couple was still in the children's best interest.

Ms. Cohn, Ms. Arrendondo and Ms. Monaghan all confirmed that CCWM had accepted all three foster care cases, as well as the corresponding adoption cases for Child A, Child B, and Child C. Ms. Cohn, Ms. Arrendondo and Ms. Monaghan indicated no changes have been made to the agency's program statements.

Ms. Cohn further clarified that continuing with this adoption conflicts with the agency's sincerely held religious beliefs.

A letter dated September 13, 2016 written by CCWM President/CEO Terrence Walsh, Jr. requested that three separate foster/adoption cases be transferred back to the Department of Health and Human Services to facilitate assignment to another agency for adoption.

Review of MiSACWIS on 10/28/2016 confirmed the following:

Child A

- Referred to CCWM and DHHS 3600 form accepting Adoption referral signed 01/24/2014
- 3600 accepting foster care referral signed 02/18/2014
- Committed to MCI on 01/10/2014
- Placed in the licensed home of Foster Parent A and Foster Parent B on 10/10/2014
- Intent to adopt signed by Foster Parent A on 02/09/2015
- Child Assessment Addendum completed 03/04/2016, which recommended placement continue with his current pre- adoptive foster parents. It further stated Child A is bonded to both caregivers and is hopeful they adopt him.

Child B

- Referred to CCWM and DHHS 3600 form accepting the foster care referral signed 01/15/2014
- Committed to MCI on 11/18/2014
- Placed in licensed home of Foster Parent A and Foster Parent B on 05/08/2015
- Intent to adopt signed by Foster Parent A on 06/22/2015
- Child Assessment Addendum completed 12/01/2015, which recommended that adoption proceedings continue and specifically stated for Child B that she is "ready to be adopted by her current foster family".

Child C

- Referred to CCWM and DHHS 3600 form accepting foster care referral signed 01/15/2014
- Referred to CCWM and DHHS 3600 accepting the foster care case signed on 1/15/14
- Referred to CCWM and DHHS 3600 accepting the adoption case effective 11/18/2014 signed 09/26/2016
- Committed to MCI on 11/18/2014
- Placed in licensed home of Foster Parent A and Foster Parent B on 05/08/2015
- Intent to adopt signed by Foster Parent A on 06/22/2015
- Child Assessment Addendum completed 12/01/2015, which recommended that adoption proceedings continue and specifically stated for Child C that she is "ready to be adopted by her current foster family".

According to a Quarterly Adoption Progress Report for Child A dated 05/19/2016 completed by CCWM adoption worker, Jessica Allers, Ms. Allers reported, "Final subsidy contracts were received on 05/01/2016. MCI voided their consent for the adoption on 03/23/2016 due to the foster family having another special investigation. MCI requested that a new family addendum be completed and consent be reapplied for. This worker will work with the foster family on the family addendum and corrective action plan which should be completed by August 2016. This worker will apply for consent again in August of 2016."

The Initial Foster Home/Adoption Evaluation (3130) for the family was reviewed in MiSACWIS by DCWL. While there are no dates for completion and no signature dates on the uploaded document, the date entered into MiSACWIS as the "date on document" is 1/10/2013. Within the 3-130 it clearly states that the couple was married in the state of New York prior to the 3130 assessment, which indicates the date of marriage to have been 4/02/2012. It should be noted that there appears to be a typo within the report; as within one section it states a marriage date of March 2011 but that would have been before they began dating.

It is unclear when the case transferred from CCWM to Lutheran Adoption Services (LAS). MiSACWIS documents that a LAS worker was assigned on October 03, 2016 and a LAS supervisor was assigned on October 10, 2016. Ms. Allers, the CCWM adoption worker was discontinued as the primary adoption worker on September 26, 2016.

A review of PA 116 MCL 722.124 e & f occurred on September 28, 2016.

A12-61001	Contractor Responsibilities
	<p>2.9 Compliance Requirements</p> <p>a. The Contractor shall comply with all applicable MDHHS policy and MDHHS policy amendments including fingerprint-based criminal history policy. MDHHS policies and MDHHS policy amendments/bulletins are published on the following internet link: http://www.michigan.gov/mdhhs-manuals.</p> <p>c. The Contractor shall comply with the MDHHS non-discrimination statement:</p> <p>Michigan Department of Health and Human Services (MDHHS) will not discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, gender identity or expression, sexual orientation, political beliefs or disability.</p>

	<p>The above statement applies to all applications filed for adoption of MDHHS supervised children, including MDHHS supervised children assigned to a contracted agency.</p> <p>d. The Contractor accepts a referral from MDHHS under this Agreement by doing either of the following:</p> <ol style="list-style-type: none">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, or2) 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.
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<p>ANALYSIS:</p>	<p>CCWM licensed this home with two same sex persons to provide foster care services knowing at the time the applicants were in a marital relationship. Then by all indications allowed Foster Parent A to adopt as a single parent when he was married, although the marriage was not recognized in Michigan at the time. The agency continued to place foster children in the home with this married couple prior to it being recognized in Michigan. CCWM continued to service the foster care cases and accepted the adoption referral for the children placed in the home. Once the couple's marriage was recognized in Michigan, and more than a year later, CCWM then requested the case to be transferred back to DHHS for finalization of the adoption based on a conflict with the agency's religious beliefs.</p> <p>This was a case accepted for case management and adoption services by the agency and according to contract, the agency may not discriminate against any individual or group because of race, sex, religion, age, national origin, color, height, weight, marital status, gender identity or expression, sexual orientation, political beliefs or disability.</p> <p>According to MCL 722.124(e) an agency may refuse a referral for case management of a case that may conflict with the child placing agency's sincerely held religious beliefs. However in this case, CCWM had already accepted the referral and had been providing foster care and adoption case management services, while knowing the couple was initially in an unrecognized marital relationship and then later wanted to refuse service based on the marriage being recognized in Michigan.</p> <p>CCWM does not indicate in any of the provided program statements who will not be provided service based on their sincere religious beliefs, rather the statement includes in their values, "Services to All People".</p>
<p>CONCLUSION:</p>	<p>VIOLATION ESTABLISHED</p>

<p>PA 116</p>	<p>CHILD CARE ORGANIZATIONS (EXCERPT)</p>
	<p>722.124e Legislative findings and declaration; requirement to provide services that conflict with child placing agency's religious beliefs prohibited; adverse action against child placing agency prohibited; information to be provided to applicant; defense in</p>

administrative or judicial proceeding; ability of another child placing agency to provide services not limited; definitions.

- (1) The legislature finds and declares all of the following:
- (a) When it is necessary for a child in this state to be placed with an adoptive or foster family, placing the child in a safe, loving, and supportive home is a paramount goal of this state.
 - (b) As of the effective date of the amendatory act that added this section, there are 105 licensed adoption and foster care agencies in this state that are authorized to participate in and assist families with adoption and foster parent placements of children.
 - (c) Having as many possible qualified adoption and foster parent agencies in this state is a substantial benefit to the children of this state who are in need of these placement services and to all of the citizens of this state because the more qualified agencies taking part in this process, the greater the likelihood that permanent child placement can be achieved.
 - (d) As of the effective date of the amendatory act that added this section, the adoption and foster care licensees of this state represent a broad spectrum of organizations and groups, some of which are faith based and some of which are not faith based.
 - (e) Private child placing agencies, including faith-based child placing agencies, have the right to free exercise of religion under both the state and federal constitutions. Under well-settled principles of constitutional law, this right includes the freedom to abstain from conduct that conflicts with an agency's sincerely held religious beliefs.
 - (f) Faith-based and non-faith-based child placing agencies have a long and distinguished history of providing adoption and foster care services in this state.
 - (g) Children and families benefit greatly from the adoption and foster care services provided by faith-based and non-faith-based child placing agencies. Ensuring that faith-based child placing agencies can continue to provide adoption and foster care services will benefit the children and families who receive publicly funded services.
 - (h) Under well-established department contracting practices, a private child placing agency does not receive public funding with respect to a particular child

	<p>or particular individuals referred by the department unless that agency affirmatively accepts the referral.</p> <p>(i) Under well-settled principles of constitutional law distinguishing "private action" from "state action", a private child placing agency does not engage in state action when the agency performs private-adoption or direct-placement services. Similarly, a private child placing agency does not engage in state action relative to a referral for services under a contract with the department before the agency accepts the referral.</p> <p>(2) To the fullest extent permitted by state and federal law, a child placing agency shall not be required to provide any services if those services conflict with, or provide any services under circumstances that conflict with, the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency.</p> <p>(3) To the fullest extent permitted by state and federal law, the state or a local unit of government shall not take an adverse action against a child placing agency on the basis that the child placing agency has declined or will decline to provide any services that conflict with, or provide any services under circumstances that conflict with, the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency.</p> <p>(4) If a child placing agency declines to provide any services under subsection (2), the child placing agency shall provide in writing information advising the applicant of the department's website, the Michigan adoption resource exchange or similar subsequently utilized websites, and a list of adoption or foster care service providers with contact information and shall do at least 1 of the following:</p> <p>(a) Promptly refer the applicant to another child placing agency that is willing and able to provide the declined services.</p> <p>(b) Promptly refer the applicant to the webpage on the department's website that identifies other licensed child placement agencies.</p> <p>(5) A child placing agency may assert a defense in an administrative or judicial proceeding based on this section.</p> <p>(6) If a child placing agency declines to provide any services under subsection (2), the child placing agency's decision</p>
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	<p>does not limit the ability of another child placing agency to provide those services.</p> <p>(7) For the purpose of this section:</p> <p>(a) "Adverse action" includes, but is not limited to, denying a child placing agency's application for funding, refusing to renew the child placing agency's funding, canceling the child placing agency's funding, declining to enter into a contract with the child placing agency, refusing to renew a contract with the child placing agency, canceling a contract with the child placing agency, declining to issue a license to the child placing agency, refusing to renew the child placing agency's license, canceling the child placing agency's license, taking an enforcement action against a child placing agency, discriminating against the child placing agency in regard to participation in a government program, and taking any action that materially alters the terms or conditions of the child placing agency's funding, contract, or license.</p> <p>(b) "Services" includes any service that a child placing agency provides, except foster care case management and adoption services provided under a contract with the department.</p> <p>History: Add. 2015, Act 53, Eff. Sept. 9, 2015</p> <p>722.124f Decision to accept or not referral; defense in administrative or judicial proceeding; "adverse action" defined.</p> <p>(1) If 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 child placing agency may decide not to accept the referral if the services would conflict with the child placing agency's sincerely held religious beliefs contained in a written policy, statement of faith, or other document adhered to by the child placing agency. Before accepting a referral for services under a contract with the department, the child placing agency has the sole discretion to decide whether to engage in activities and perform services related to that referral. The department shall not control the child placing agency's decision whether to engage in those activities or perform those services. For purposes of this subsection, a child placing agency accepts a referral by doing either of the following:</p> <p>(a) Submitting to the department a written agreement to perform the services related to the particular child or</p>
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	<p>particular individuals that the department referred to the child placing agency.</p> <p>(b) Engaging in any other activity that results in the department being obligated to pay the child placing agency for the services related to the particular child or particular individuals that the department referred to the child placing agency.</p> <p>History: Add. 2015, Act 53, Eff. Sept. 9, 2015</p>
<p>ANALYSIS:</p>	<p>The agency accepted the cases for foster care prior to Act 53 being in effect. They then assumed the adoption cases upon the children becoming MCI wards, also prior to Act 53 being in effect. Once agency administration became aware of the couple's marital status and Act 53 was in effect, they determined this situation conflicted with their sincere religious beliefs and requested the case be transferred.</p> <p>CCWM continued to provide services to the foster parent and children for nearly one year after the effective date of PA 53 (from September 2015 until September 2016). Under MCL 722.124f, a child placing agency loses its faith-based protection under PA 53 if it either: (1) enters into a written agreement to provide services related to a particular child(ren); or (2) engages in any other activity that would obligate the department to pay for such services provided to a particular child(ren). CCWM entered into a written agreement regarding the present children and continued to service them rather than referring the case elsewhere when PA 53 went into effect.</p>
<p>CONCLUSION:</p>	<p>VIOLATION ESTABLISHED</p>

ADDITIONAL FINDINGS

INVESTIGATION:

Ms. Monaghan provided CCWM's program statement for the adoption program on 10/04/2016 and it was reviewed at that time. The statement does not specifically state that anyone may be included or excluded from adopting children. It speaks to the needs or the children, fit and ability of the prospective adoptive family. However, it does state:

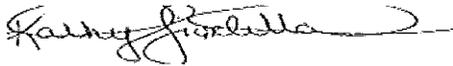
Our Values

- *Compassion*
- *Collaboration*
- *Services to All People*
- *Sanctity of Life*

APPLICABLE CONTRACT	
R400.12602	Program Statement
	(1) An agency shall have and follow a current written program statement.
ANALYSIS:	CCWM's program statement does not specify who will or will not be provided service based on their sincere religious beliefs, rather the statement includes in their values, "Services to All People".
CONCLUSION:	VIOLATION ESTABLISHED

IV. RECOMMENDATION

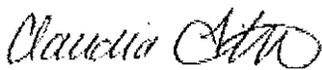
Based on the special investigation findings there is substantial non-compliance with applicable licensing statutes, rules and the adoption contract. A corrective action plan is required to address the identified non-compliances and a moratorium on adoption referrals will be in place until the corrective action plan has been approved by DCWL.



Kathy Fiorletta
Licensing Consultant

Date 12/14/2016

Approved By:



12/14/2016

Claudia Triestram
Area Manager

Date

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

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

State Defendants Robert Gordon¹ 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,

¹ 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. 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 F

Faith-based adoption bills headed to House floor

 michiganradio.org/post/faith-based-adoption-bills-headed-house-floor

By Rick
Pluta

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.

Credit ma.co. / Flickr

A state House committee approved the bills as the U.S. Supreme Court prepares to hear arguments on same-sex marriage.

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.

"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.

"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."

"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.

Exhibit G

Opponents say adoption bill discriminates against gays and lesbians

 fox2detroit.com/news/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."

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.'

Up Next:

Exhibit H

Q&A with Mich. Democratic Attorney General Candidate Dana Nessel

 pridesource.com/article/dana-nessel-qa/



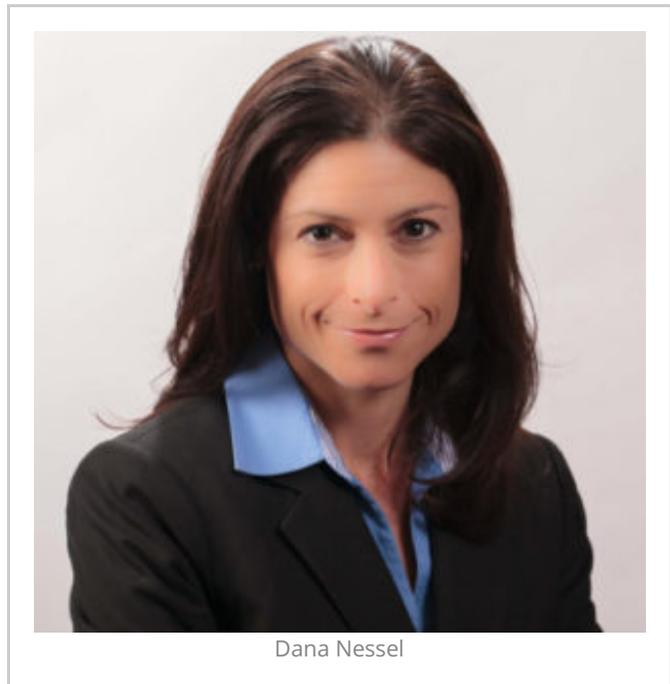
See the BTL introduction to this candidate's interview

You're not the only LGBTQ candidate running for a statewide office, but you are the most visible. Yet people are far more concerned with you being a woman than being a lesbian.

Thoughts?

I was very taken aback by that, and all I can think about is one giant step forward for the gays and one backwards for women. Of course that's very concerning and upsetting to me, but I honestly believe that if the most qualified and the most progressive and the most exciting ticket that the Democrats could come up with is an all-female ticket then I think

that that is going to be a winner in the November elections because I think people are tired of seeing women so vastly underrepresented in office. In the state of Michigan only 20 percent of the legislature is represented by women so we have an enormous amount of underrepresentation and we know that when we have underrepresentation of women in



Dana Nessel

office it's not just bad for women, it's bad for families ... The fact of the matter is I think I'm the best candidate to this office and I think that I'm the most exciting candidate to this office and I'm going to be the most aggressive in terms of protecting the rights of all minorities including the LGBTQ community.

Why should the LGBTQ community vote for you?

As an openly gay person, I represent over half a million Michiganders. I think that number is higher, but we know it's at least half a million people who have never had that representation at the statewide level before. I'm bringing diversity to the ticket in a way that has never existed before ... I think some people are excited about that. Some people aren't. What bothers me is that for people who don't support my candidacy, they consider me a one-trick pony as though I have no ideas about anything else, as though I've never practiced in any other field. I have more experience in practicing criminal law both as a prosecutor and a defense attorney than anyone who's ever held the office of attorney general. I'm the only person who has this amount of experience not just as a prosecutor, but also representing indigent people who were too poor to ever afford an attorney. I've represented people who were addicted to crack and opioids and alcohol. I've represented veterans who have post-traumatic stress disorder. In terms of criminal reforms or alternative programs I know more about this than just about anybody who has been in this position because I've practiced on both sides so I know the flaws in the system that exist on both sides in both people in the court room. So, for people to say, oh, she's just an LGBTQ rights advocate, that's all she is, not only is it unfair but it's untrue and I have far more experience than my democratic opponent who's never tried a criminal case in his career. So, to say all I know is about LGBTQ rights despite the fact that I've tried dozens and dozens of first-degree murder cases both as a prosecutor and a defense attorney, I think it diminishes me as a candidate.

What would you say to LGBTQ people who you haven't always seen eye-to-eye with you on how to best pursue equal rights for the community?

I guess the statement that I want to make to everyone in the community is that I understand there are people in the LGBTQ community here in Michigan that have not always appreciated my methodology when it came to achieving LGBTQ rights. And people who are allies, people who are in the community – like any community of people, like any group of activists – we have our differences of opinion of how best to support the community and how to best achieve rights that don't exist.

So people have questioned my process of doing that. But no one can question my commitment to helping the community in any way I possibly can. Just know this – I am going to do everything I possibly can to be supportive of the LGBTQ community and to ensure that voices are heard.

At a time where the community is under assault, if the worst thing you can say about me is that I'm too aggressive in my efforts to support the LGBTQ community, same-sex couples, their families, etc., then maybe that's what we need right now ... There's about a hundred

other issues that I think are incredibly important, but if people see me as being incredibly eager and interested and anxious to assist the community in terms of protecting the community then so be it. That is who I'm gonna be and I'm not gonna shy away from it. No matter who you are in the community, even if you're a person who has not seen eye-to-eye with me on how to best proceed in terms of gaining protection, I will always do everything I can to protect the lives of LGBTQ residents in this state.

What have you learned while prosecuting people for hate crimes against the LGBTQ community and representing LGBTQ people who have been discriminated against that will help you in your role as AG? Is there something about the way in which our system currently works that you would like to change?

How many hours do you have? There are so many things that I think the AG needs to take an active role in. I certainly think that the way we treat people who are addicts and the way we treat people who have mental health issues – putting people in jail or prison – is not a viable solution to many issues which plague the criminal justice system and it's not cost-effective either. There's a human cost and then there's a financial cost and we're not being smart about it in either accord.

So, I would like to advocate as much as possible the expansion of sobriety courts, drug courts, mental health courts, veterans courts ... There are a lot of people that are not inherently bad people, but they're people who have some sort of, again, a mental illness or an addiction and we can treat those things. That's something that's very important to me – programs for individuals once they've served their time, once they've been paroled from a prison sentence and we're going to do everything that we possibly can to support and expand those programs. We know that for a lot of convicted felons it's very hard for them to find gainful employment and that leads to recidivism. We need to have as many programs as possible that permit people, once they've served their time to become part of our communities again.

And I know you've heard me talk about this before, but I really want to do a full-on attack on hate groups and against hate crimes. Not just for the LGBTQ community. Of course, for them as well, but I mean African Americans, Muslims, ethnic minorities and people of different national origins. People are under attack in this state and across the country. I know that the office of the attorney general can be utilized as a tremendous force, an arsenal, to combat the rise in hate crimes that we're seeing.

What can an attorney general do to help with the amendment of the Elliott-Larsen Civil Rights Act?

Take the current challenge by the ACLU in regards to challenging the adoption bills of 2015 – as attorney general, I take an oath to uphold the Michigan Constitution, but also to uphold the United States Constitution. My job is to protect the residents of the state of Michigan. Not to persecute them, but to protect them. This is a perfect example of a case where there is no doubt in my mind that this cluster of laws that allows state-funded adoption agencies to discriminate, not just against same-sex couples, but you can also discriminate against

people of different faiths – even a Christian agency who discriminates against somebody who is Christian that just practices Christianity differently. Well, I absolutely agree with the ACLU's contention that this practice violates the establishment on equal protection clause in the Constitution. As such, if I was the AG, I would concede their argument. I would concede that these laws are unconstitutional, and I would not defend them because I think it's my obligation as the attorney general to defend the United States Constitution, and not to arbitrarily defend any law that state legislature passes and the governor signs irrespective of its unconstitutional nature.

So, if the governor, or if the House or the Senate, if they wanted to, themselves, hire and pay for an attorney in order to defend this law, they are still welcome to do so, but I would not defend it on behalf of the people of the state of Michigan. I absolutely would not. So, there's an example right there of something that the AG can do.

Will you support legislation to repeal and replace Michigan's HIV-specific felony law?

I support repealing and replacing it. I support [State Rep.] John Hoadley's [D-Kalamazoo] legislation.

Michigan was named the state with the biggest bullying problem in the nation in September 2016. What can you do as AG to address GLSEN's findings, which show that many LGBTQ students are still reporting discriminatory policies and practices in their schools?

The AG's office can always be used as a bully pulpit in order to educate on these issues. There's no question about that. In the same way that you have the AG's office work on education in human trafficking issues or opioid issues I think they have to do the same thing on issues of bullying.

Bullying in schools, obviously it's an incredibly important area, but I happen to know that when you look at a lot of the kids in the LGBTQ community that end up being homeless, sometimes all of that starts from being bullied – or kids who have drug or alcohol problems, and so forth – it starts at the school, often times. At home, too – I mean, I'm not diminishing the importance of having a safe home, but it's hard. I think, nowadays even when you're at home you can't get away from school bullying because of the internet, because of Facebook and Instagram, text messaging and all the rest of it.

We need to make sure that anti-bullying laws are being enforced. There's a lot of laws that are stalking-related laws, for instance, or harassment over use of telecommunication devices, that can be prosecuted and are not being prosecuted right now. I think we need to use every tool we have in our tool belt to aggressively ensure protection of students who are being bullied. No students are bullied worse, frankly, than LGBTQ kids. We know that.

With the Masterpiece Cakeshop case in mind, do you think it's possible to close the chasm between the LGBTQ community and some religious communities?

Boy, that's a tough one. We just added to the board of Fair Michigan a woman by the name of Kelle Shepherd and she is also a pastor. I know something that we're seeking to do is to

educate religious communities as much as possible on the importance of accepting LGBTQ people and there are a lot of religious organizations that have changed their views on this over the course of time, right? More times than not, they've changed their policies and I think there is room for growth ... I've seen it, and I've seen it happen pretty rapidly. I do think that we need to continue to work on education as it pertains to religious organizations and religious people of various religious faiths. One of the things that I saw publicly about Patrick Miles was as the chairman of the board for Aquinas College, I know there was that issue where they refused to allow a speaker [Dr. John Corvino] in who wanted to basically say that the belief that homosexuality or being LGBTQ is not inconsistent with Christian faith. They refused to allow him to come in to speak and Patrick Miles supported that decision and to me, that is not furthering the education process. You ought to be able to have a debate and be able to have both sides present on that issue and I think when you stymie education on LGBTQ issues you're doing a disservice to everyone in the community – whether you're LGBTQ or an ally, or you're not – to at least be educated on the issues. In terms of this position, anyone can say I support the LGBTQ community ... But the question is what have you ever done to support the community? If the answer is nothing, especially if you have a history of taking stances that are harmful to the community, that is worrisome and troubling to me.

While there are some benefits to endorsements, it's up for debate whether or not they help gain votes. Are you at all concerned about being winnowed out of the race because of your opponents big endorsements?

It depends. Endorsements can be important, however the way those endorsements were secured is also important. I think it's more important that we listen to the candidates and see what their points are more importantly than to see who specifically has endorsed them. You never know what political favors people are paying off behind the scenes and that's a lot of times what happens with these political endorsements by the way.

But the fact of the matter is, what utility does an endorsement from someone have if you don't even know what the positions are of the candidate who's being endorsed? And I think that's the most important thing. What I've tried to do with my candidacy is I've tried to be as transparent as possible. A lot of that stems from the fact that I'm not a politician. I don't know that the office of the attorney general really should be a political one anyway because you're there to enforce the law and I don't know that that should be a political position. I don't know if it should be a partisan position, which is what it's become unfortunately ... If you look at many of my contributors, you see a lot of everyday, working-class folks who are supporting me or public defenders or assistant prosecutors that support my candidacy. Yeah, you don't see many CEOs or you don't see people at the silk-stocking law firm, that are the same law firms, by the way, that [Gov. Rick] Snyder and [Attorney General Bill] Schuette employ. Maybe that's important to take a look at. Who are those lawyers that are supporting other candidates?

So, do you want the candidate that's willing to work hardest to protect everyday working people in this state? I think that that should be of greater importance, and at the end of the

day, the people of this state, the voters of this state, will have the biggest say who the next attorney general is, and I think they should want somebody that is devoted to working on behalf of everyday people, and not just who was able to raise the most corporate money.

BIO

See the BTL introduction to this candidate's interview

Name: Dana Nessel

Age: 48

Occupation: Managing partner of Nessel & Kessel Law in Detroit; president and co-founder of Fair Michigan

Education: Graduate of the University of Michigan and Wayne State University Law School

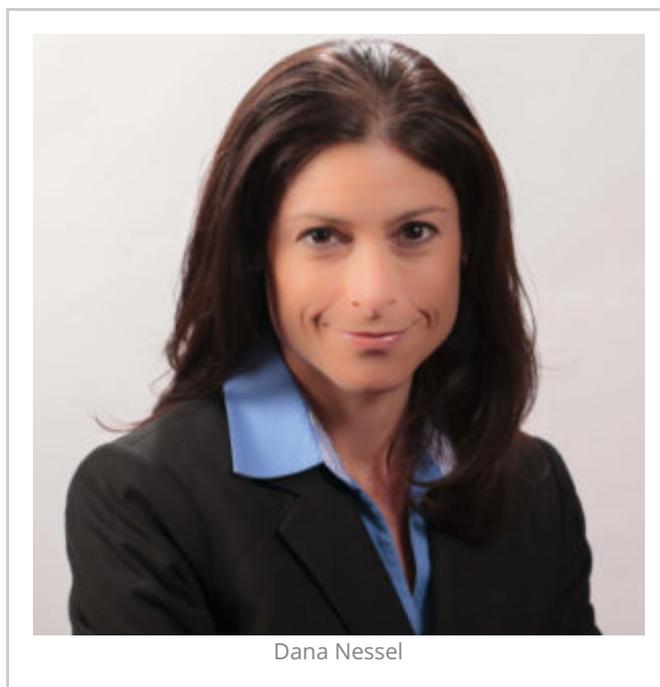
Experience: Nearly 25 years of legal experience covering a vast array of disciplines as both a defense and prosecuting attorney.

Personal note: Nessel lives in southeast Michigan with her wife, Alanna Maguire, their twin sons, Alex and Zach, along with various cats.

Noteworthy: In less than a year the Fair Michigan Justice Project has secured seven convictions for hate-based crimes against members of the LGBTQ community.

Priorities: To protect the environment, senior citizens and consumers while addressing marijuana laws and fighting for civil rights.

Some endorsements: LPAC; Wayne County Prosecutor Kym L. Worthy; Ellis Stafford, retired Deputy Chief of the Michigan State Police and president of the Metro Detroit Chapter of the National Organization of Black Law Executives



Learn More About State Conventions

Inside the Michigan Democratic Party, state conventions are a yearly occurrence that offer members an opportunity to collectively make decisions on the future of the MDP. The nomination convention will take place Aug. 25-26 in Lansing. To allow candidates more time to campaign, the MDP has added an endorsement convention on April 15 at 9 a.m. at Cobo Center in Detroit. The nominee will be predetermined at this endorsement convention. While state conventions are open to all Democrats, only those who have been members for at least 30 days prior to the convention may vote or run for party office. Members of the community who wish to vote must fill out an MDP membership application via mail or online before March 15. Still have questions? Contact the MDP by phone at 517-371-5410 or by email at midemparty@michigandems.com. The state convention is explained online at michigandems.com/wp-content/uploads/2017/01/guide-to-convention.pdf.

Follow Dana Nessel's campaign online at dana2018.com/.

About the Author: Kate Opalewski

Kate Opalewski is BTL's features editor and has been since 2015. She has covered a variety of topics ranging from art, politics and community outreach. Recently, she was honored by the Detroit Police Department LGBT Advisory Board for her work for the local LGBTQIA community.



Exhibit I

Dem AG candidate: Adoption law discriminates against gays

AP apnews.com/a1fc021e8e2e4b3b829586ba56ad9c07

By ED
WHITE

September 27,
2018

Click to copy <https://apnews.com/a1fc021e8e2e4b3b829586ba56ad9c07>

DETROIT (AP) — The Democratic candidate for Michigan attorney general said Thursday she probably wouldn't defend a law that allows faith-based groups to refuse serving same-sex couples who want to adopt children.

Dana Nessel, who is gay, told The Associated Press there's "no viable defense" to the 2015 law, which is being challenged in federal court by the American Civil Liberties Union on behalf of same-sex couples.

Groups such as Catholic Charities and Bethany Christian Services are paid by the state to place children from troubled families with new families, either through adoption or foster care. But the law says they aren't required to provide services that conflict with their beliefs. Same-sex couples say they've been told to go elsewhere.

The ACLU contends Michigan is violating the U.S. Constitution by allowing groups to use a religious test to carry out public services. Nessel, who was part of the legal team that overturned the state's ban on gay marriage, agrees.

"The purpose is to discriminate against people," she said. "It means fewer children adopted into nurturing, loving and otherwise qualified homes."

Attorney General Bill Schuette's office is defending the law in court, a routine practice when the state is sued. But if elected, Nessel said she has an obligation to "weigh the pros and cons."

"I would probably be telling the Legislature they would have to defend that with private counsel," she said of the adoption law. "I could not justify using the state's money defending a law whose only purpose is discriminatory animus."

The lawsuit was filed a year ago and recently cleared a major hurdle when U.S. District Judge Paul Borman declined to dismiss it. That means the next attorney general will inherit the case after Jan. 1.

Nessel's Republican opponent, Tom Leonard, said her stance is "absolutely dangerous."

"She's running to be emperor of Lansing. It's not the role of the attorney general to pick and choose the laws to enforce," Leonard said.

—

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Exhibit J

Conservative Christian groups join legal fight to keep Michigan's gay marriage ban

wwrn.org/articles/42430/

Niraj Warikoo ("Detroit Free Press," May 14, 2014)

Declaring "the fight is on," a formidable coalition of conservative Christian groups filed legal briefs in federal appellate court Wednesday supporting Michigan's ban on gay marriage.

Representing potentially millions of worshipers in the state, the Michigan Catholic Conference, the Thomas More Law Center in Ann Arbor, and a national coalition of Baptists, Lutherans, Mormons and evangelicals led by Catholic bishops filed three separate briefs Wednesday in the U.S. 6th Circuit Court of Appeals in Cincinnati. The briefs back Michigan Attorney General Bill Schuette in his efforts to defend the state's voter-approved ban on same-sex marriage, which was overturned earlier this year by a federal judge in Detroit.

Gay marriage would "destroy the backbone of our society," said the Rev. Stacey Swimp of Flint at a Wednesday morning rally held by African-American ministers at First Baptist World Changers International Church in Detroit.

Joining him were leaders with various Baptist, Pentecostal, Catholic and non-denominational churches in Michigan, including the head of the influential Council of Baptist Pastors of Detroit and Vicinity. The pastors represent hundreds of churches across metro Detroit and included leaders with denominations such as Church of God in Christ (COGIC) that are popular in Detroit and strongly opposed to same-sex marriage.

The ministers criticized people who compare the struggle for same-sex marriage to the black civil rights movement, saying such a comparison is offensive and historically inaccurate. Noting that million of blacks were killed by slavery and public lynchings, Swimp said that backers of gay marriage who compare their movement to black struggles are being "intellectually empty, dishonest."

Catholic leaders in Michigan also oppose same-sex marriage, saying in their brief Wednesday that the voters' will must not be overturned. Archbishop of Detroit Allen Vigneron, spiritual leader of 1.3 million Catholics in metro Detroit, has said that people who support gay marriage should not present themselves for holy Communion.

The Thomas More Law Center -- an Ann Arbor-based conservative legal center founded by conservative Catholic businessman Tom Monaghan -- filed a brief on behalf of Swimp and hundreds of other black ministers in Michigan and Ohio supporting Schuette's defense of a 2004 voter-approved law, the Michigan Marriage Amendment Act, which says marriage is between one man and one woman.

U.S. District Judge Bernard Friedman struck down that law in March after a Detroit trial involving a lesbian couple who wanted to adopt each other's children. Schuette is appealing that ruling, and Wednesday was the last day to file briefs with the U.S. 6th Circuit Court of Appeals in Cincinnati.

In their recent decisions legalizing gay marriage, judges have referenced the 1967 court case *Loving v. Virginia*, which legalized interracial marriage in the U.S.

The brief from the black ministers criticized the idea that allowing same-sex marriage is the same as allowing interracial marriage. Comparing the gay rights movement to black civil rights is "ignorant and myopic," said Richard Thompson, president of the Thomas More Law center, who attended the rally in Detroit to show support.

"Hallelujah" some in the crowd said as speakers attacked gay marriage and same-gender sexual relations. They criticized celebrities and sports stars such as Ellen DeGeneres and Michael Sam who identify themselves as gay.

"We believe in the Judeo-Christian conception on which America was founded upon," said the Rev. Rader Johnson of Greater Bibleway Temple in Bay City.

Many quoted from the Bible and the history of Christianity to back up their beliefs. They also portrayed themselves as under attack from a secular culture that's hostile to religion.

"God does not agree with this kind of behavior," the Rev. James Crowder, president of Westside Ministerial Alliance Of Detroit, said of gay sexual acts. It's "despicable, an abomination."

"We love everybody, but we don't love the (gay) lifestyle," said the Rev. Rex Evans, pastor of Free Will Baptist Church in Ypsilanti. He said there's a "small group of people trying to destroy the foundation" of the U.S. "It's time to take our nation back."

The Thomas More Law Center's brief came about after Thompson and Swimp discussed ways to preserve traditional marriage. Speakers at the rally vowed marches and to speak out publicly. They also criticized pastors who support same-sex marriage.

"The fight is on," exhorted the Rev. Roland Caldwell, pastor of the Burnette Inspiration Baptist Church of Detroit, during the rally. "We've come together to say, 'Hell no. We're not going to sit back.'"

The Michigan Catholic Conference is the public policy voice of 2 million Catholics in the state. In its legal brief, it said that "through the democratic process, Michigan voters reaffirmed the traditional view of marriage ... that policy choice cannot ... be cast aside in favor of the ascendant views of a currently popular minority."

Traditional marriage is an institution which “by its nature is ordered towards our survival,” the brief said.

A separate brief was filed Wednesday by the United States Conference of Catholic Bishops (USCCB), the lead public voice of the Catholic Church in the U.S.

They were joined by the National Association of Evangelicals, the Church of Jesus Christ of Latter-Day Saints (Mormon Church), the Ethics & Religious Liberty Commission of the Southern Baptist Convention, the largest Protestant denomination in the U.S., and Lutheran Church — Missouri Synod. All of the groups have substantial numbers in Michigan.

Other Christian groups are in favor of the legalization of same-sex marriage. In March, Episcopal leaders in Michigan came out in favor of it. And other pastors in metro Detroit, such as the Rev. Bob Cornwall of Central Woodward Christian Church (Disciples of Christ), also endorse it.

“As a Christian pastor who holds marriage to be a sacred covenant, I have come to believe that this institution should be extended to committed gay and lesbian couples,” Cornwall said Wednesday. “Current law ... infringes on the rights of gay and lesbian couples to marry ... and on the religious freedom of those faith communities who have recognized the validity of same-gender marriages.”

Dana Nessel, attorney for the Oakland County couple who filed a lawsuit challenging the 2004 law, said of Wednesday’s legal briefs: “The viewpoints expressed by these organizations now represent a radical fringe among the religious community as a whole. Our clients and our case have enjoyed wide support by a panoply of religious groups who find the demagoguery of hatred against LGBT citizens and their children to be reprehensible.

“Ultimately, though, this case does not rest upon any single religious doctrine but upon the rule of law, in which the Constitution of the United States dictates that all persons must be treated equally, irrespective of the gender of our parents or of those we love.”

While surveys show growing numbers of people support same-sex marriage, the groups in favor of the ban say the will of the voters in Michigan made it clear the majority is on their side.

“We say to the judge: we believe in marriage as it has been and as it should be,” said the Rev. Lawrence Glass, president of the Council of Baptist Pastors and Vicinity, which consists of hundreds of congregations in metro Detroit.

Exhibit K

'Gay Marriage Fight Is Not In Any Way Similar to Civil Rights Movement,' Say 100 African-American Pastors: 'Insulting to 100s Years of Struggle'

B breathecast.com/articles/gay-marriage-fight-is-not-in-any-way-similar-to-civil-rights-movement-say-100-african-american-pastors-insulting-to-100s-years-of-struggle-15775/

May 19,
2014

BC News

William Rameau May 19, 2014 01:28 PM EDT

Approximately 100 Black Pastors in Detroit recently slammed how gay activists were trying to link redefining marriage to the civil rights movement. The criticism came at a rally after the 6th Circuit Court of Appeals' led by Judge Bernard Friedman ruled the previous 2004 decision defining marriage between one man and one woman was unconstitutional.

Revive Alive Missional Ministry creator Reverend Stacy Swimp expressed his displeasure at Judge Friedman's decision, and claimed that the arguments linking amending the definition of marriage to civil rights was "intellectually empty."

"To state that marriage redefinition is in any way similar to the civil rights movement is intellectually empty, dishonest and manufactured. When has anyone from the LGBT demographic ever been publicly lynched, specifically excluded from moving into neighborhoods, prohibited from sitting on a jury and denied the right to sue others because of their sexual preferences?," said Reverend Swimp to the Detroit Free Press. "We think it's insulting and disrespectful to hundreds of years of struggle," she continued, "of sacrifice... of loss of life both black and white on behalf of equality for Black Americans."

Westside Minister's Alliance President and Greater Bethlehem Church Senior Pastor Dr. Randolph Thomas echoed Swimp's sentiments.

"We will not follow men who would rather believe a lie than the truth. We cannot and will not endorse anyone who blatantly blasphemes the Word of God and leads people in the wrong direction," said Dr. Thomas, according to Charisma News.

However, Dana Nessel, a lawyer who defended a lesbian couple in Michigan, supported Judge Friedman's decision.

"The viewpoints expressed by these organizations now represent a radical fringe among the religious community as a whole. Our clients and our case have enjoyed wide support by a panoply of religious groups who find the demagoguery of hatred against LGBT citizens and their children to be reprehensible," said Nessel to Detroit Free Press. "Ultimately, though,

this case does not rest upon any single religious doctrine but upon the rule of law, in which the Constitution of the United States dictates that all persons must be treated equally, irrespective of the gender of our parents or of those we love."

Burnette Inspiration Baptist Church of Detroit's Rev. Roland Caldwell vowed not to take the decision lying down.

"The fight is on," said Caldwell. "We've come together to say, 'Hell no. We're not going to sit back'."

Free Will Baptist Church Rev. Rex Evans issued the following message to people who attended the rally last week.

"We love everybody, but we don't love the [gay] lifestyle," said Rev. Evans. "[There is a] small group of people trying to destroy the [nation's] foundation. It's time to take our nation back."