

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF SOUTH CAROLINA  
GREENVILLE DIVISION**

Aimee Maddonna,	)	
	)	Civil Action No. 6:19-cv-00448-TMC
Plaintiff,	)	
	)	
v.	)	<b><u>DEFENDANT HENRY MCMASTER’S</u></b>
	)	<b><u>BRIEF IN RESPONSE TO THE</u></b>
United States Department of Health and Human Services, et al.,	)	<b><u>COURT’S ORDER</u></b>
	)	
Defendants.	)	

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COMES NOW Defendant Henry McMaster, in his official capacity as Governor of South Carolina, and respectfully files this brief in response to the court’s August 6, 2019 text order directing the parties to file a brief specifying how a new development, namely a change in the policies of Miracle Hill Ministries (“Miracle Hill”), affects this case, if at all. (ECF No. 50.) As explained more fully below, the recent policy change aptly illustrates why the court should dismiss the case for the reasons offered in the pending motions to dismiss. Plaintiff’s suit, which was already based on speculation and supposition before the policy change, presents an even more speculative and hypothetical scenario now. Her lack of standing, which was already apparent, is even more glaring now. Her claim that the Governor’s actions favored Protestant evangelical Christianity over other denominations and thereby established it as the State’s religion—a claim that was already factually unsupported and legally unsupportable—is now facially absurd. Her already untenable claims that the Governor deprived her of due process rights and equal protection by supposedly sanctioning anti-Catholic bias are plainly baseless now. In short, the reasons for dismissal explained in the pending motions to dismiss are only stronger now than they were before the policy change.

**I. BACKGROUND**

Plaintiff commenced this action by filing a complaint on February 15, 2019 accusing the Governor of three constitutional violations arising from his decision to accommodate the rights of all faith-based Child Placing Agencies (“CPAs”) and to withhold the imposition of penalties on them.

(See ECF No. 1.) She leveled similar claims against the then-Acting Director of the South Carolina Department of Social Services (“DSS”) and various federal officials and entities. (*Id.*) Plaintiff’s claims arose from the Defendants’ alleged failure to penalize one private CPA—Miracle Hill, which she did not name as a defendant in this suit—for its alleged practice of partnering only with foster parents and volunteers who share what Plaintiff calls its “evangelical Christian religious beliefs.” (*Id.* ¶¶ 3, 40–42, 44, 69–74, 96, 106.) Plaintiff acknowledges she never formally applied to be a foster parent or volunteer with Miracle Hill (or with any other CPA or with DSS itself), but speculates that Miracle Hill would not have accepted her if she had applied as a foster parent or volunteer because she is Roman Catholic. (*See id.* ¶¶ 24–25, 31–35, 37–43, 49, 96–97, 138, 153.)

Defendants filed motions to dismiss the complaint on the grounds that Plaintiff lacks standing to bring the claims she has asserted and that, in any event, the complaint fails to state a claim for which relief could be granted. (*See* ECF Nos. 12, 18, 29.) Briefing on Defendants’ motions was completed on June 10, 2019. (*See* ECF No. 42.)

After briefing on the motions had been completed, counsel for Governor McMaster learned of a change in Miracle Hill’s policies through reports in local media outlets on July 11 and 12, 2019 discussing a Miracle Hill press release. *See, e.g.*, Nathaniel Cary, *Miracle Hill changes foster care policy, will recruit Catholic, Orthodox Christian parents*, Greenville News, July 11, 2019 (attached hereto as **Exhibit A**);<sup>1</sup> *see also* Press Release, Miracle Hill Ministries, *Miracle Hill Ministries Strengthens Christian Identity by Opening Foster Program to Catholic Foster Parents* (July 5, 2019) (attached hereto as **Exhibit B**).<sup>2</sup> The press release states that Miracle Hill has decided to “open[] the door for Catholics who affirm Miracle Hill’s doctrinal statement in belief and practice to serve as foster parents and employees.” Ex. B at 1.

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<sup>1</sup> Available at <https://www.greenvilleonline.com/story/news/2019/07/11/protestant-evangelical-sc-foster-care-miracle-hill-ministries-changes-policy-catholic-parents/1687602001/>.

<sup>2</sup> In his July 17, 2019 Supplement notifying the court of this development, Governor McMaster’s discussion of the press release cited the location on Miracle Hill’s website where it could at that time be found. (*See* ECF No. 46 at 2 n.2.) It appears Miracle Hill’s website subsequently underwent a redesign, and the press release is no longer available at the previously cited URL.

After learning of these developments, counsel for Governor McMaster contacted counsel for Plaintiff to confer regarding the change in Miracle Hill's policies. Counsel for all parties conferred on July 16, 2019. Plaintiff's counsel expressed the view that the policy change does not moot the suit or alter the analysis of her pending claims. On July 17, 2019, Governor McMaster filed a supplement to his motion to dismiss, informing the court of these developments and stating that, even assuming the policy change does not moot the case or alter the analysis of Plaintiff's pending claims, the claims against Governor McMaster should nonetheless be dismissed for the reasons stated in his motion to dismiss, and that counsel was prepared to brief the issue if the court so directed. (ECF No. 46.) Thereafter, by an August 6, 2019 text order, the court directed the parties to "file a brief specifying how this new development affects this case, if at all." (ECF No. 50.) This brief is submitted in response to that order.

## II. ARGUMENT

Even assuming *arguendo* that the recent change in Miracle Hill's policy does not alter the proper analysis to be applied to Plaintiff's claims and to the Defendants' motions to dismiss, the inquiry occasioned by the policy change serves to further display in striking features a number of reasons why the court should dismiss this case on the grounds raised in Defendants' pending motions to dismiss, including Plaintiff's failure to state a claim on which relief may be granted and her lack of standing.<sup>3</sup>

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<sup>3</sup> Governor McMaster does not at this time argue that the case is moot. The question of mootness depends in part on whether Plaintiff is willing and able to satisfy Miracle Hill's new criteria and whether Miracle Hill would partner with her if she were to apply. The parties do not know what Miracle Hill might do if she applied (since the Governor is not aware of her having done so), and the Governor does not at this stage have a basis to dispute her subjective attestation that she cannot or will not satisfy the new criteria. Notably, however, the doctrine of mootness implicates a court's subject matter jurisdiction. *Porter v. Clarke*, 852 F.3d 358, 363 (4th Cir. 2017). It thus cannot be waived and can be raised at any time. *See Castendet-Lewis v. Sessions*, 855 F.3d 253, 259–60 (4th Cir. 2017); *Cook v. Bennett*, 792 F.3d 1294, 1299 n.3 (11th Cir. 2015). Accordingly, subsequent developments or analysis in this proceeding could alter the Governor's position regarding the mootness of this suit, and he reserves the right to assert such a position and seek suitable relief if and when appropriate.

*First*, Plaintiff has failed to assert an injury to a legally protected interest because the injury she alleges was speculative—both before the policy change and now. *See Moose Lodge No. 107 v. Irvis*, 407 U.S. 163, 166–67 (1972); *S. Blasting Servs., Inc. v. Wilkes Cty.*, 288 F.3d 584, 595 (4th Cir. 2002). Plaintiff’s claims rely heavily on the implication that Miracle Hill supposedly “rejected” her application to volunteer and prevented her from obtaining a foster care license. The allegations in Plaintiff’s complaint, however, demonstrate that Miracle Hill was never afforded an opportunity to consider Plaintiff’s application because she never actually applied to be a foster volunteer or parent with Miracle Hill.<sup>4</sup> *If* Plaintiff had been rejected as a volunteer or been prevented from obtaining a foster license, *then* conceivably Miracle Hill’s policy change might have some effect on this case (*i.e.*, perhaps Plaintiff would have to re-apply to volunteer to see if Miracle Hill would again reject her and thus preserve her personal stake in the outcome of this case). Instead, the fact that Plaintiff never applied and received an answer prior to filing this suit and, apparently, has not done so since Miracle Hill’s policy change demonstrates that she stands in the same speculative position now, after the policy change, as she did before.

*Second*, Miracle Hill’s unilateral and independent choice to alter its policies further demonstrates that now, just as before, the injury Plaintiff asserts is not fairly traceable to Governor McMaster. Rather, both before and after the recent policy change, the alleged injury was caused by Miracle Hill, a third-party private organization, making an independent decision for which Governor McMaster has removed any incentive. *See Doe v. Obama*, 631 F.3d 157, 162 (4th Cir. 2011) (citing *Allen v. Wright*, 468 U.S. 737 (1984), *abrogated on other grounds by Lexmark Int’l, Inc. v. Static Control Components, Inc.*, 572 U.S. 118 (2014); *Frank Krasner Enters. Ltd. v. Montgomery Cty.*, 401 F.3d 230, 234–35 (4th Cir. 2005)). The recent policy change shows that Miracle Hill’s choices in this area remain truly unfettered by governmental coercion. Under the

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<sup>4</sup> Plaintiff never applied to be a foster parent. At most, all that can be discerned from the complaint is that days prior to filing this suit, Plaintiff “reached out” to Miracle Hill to inquire about volunteering. (*See* ECF No. 1 at ¶ 49.) She did not receive an immediate answer and proceeded to file suit based on her speculation of what Miracle Hill might do if she were to formally apply.

terms of the Executive Order, Miracle Hill remains free to change its policies in ways that invite volunteers from a broader array of religious backgrounds, as it has done here, without any official incentive or disincentive to do so.<sup>5</sup> Miracle Hill's freedom to make independent choices, exemplified by the policy change, demonstrates that any connection between Plaintiff's asserted injury and Governor McMaster's challenged actions are purely speculative.

*Third*, Plaintiff *still* cannot show a non-speculative likelihood that her injury will be redressed by the relief she seeks. The relief Plaintiff seeks in her complaint assumes Miracle Hill would respond to governmental incentive by renouncing its religious convictions as to its association with co-religionists, but this assumption was, at the outset of the case, mere speculation. Following the policy change—which maintained Miracle Hill's stance that it will only work with those who affirm its doctrinal statement, even after intense media pressure brought about by this suit—it remains mere speculation that Miracle Hill would disavow its religious beliefs.

*Fourth*, it is now even more clear that Governor McMaster's actions afford uniform treatment to all religions through facially neutral policies motivated by a proper purpose of non-interference with religious exercise and thus are subject only to rational-basis review under equal protection analysis. *See Corp. of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 339 (1987). The waiver request and Executive Order demonstrate clearly enough on their faces that they do not differentiate among religions but instead apply to all faith-based CPAs equally. Miracle Hill's ability to unilaterally change its policy to be more inclusive without any governmental intrusion further demonstrates that Governor McMaster's actions accommodated all

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<sup>5</sup> In contrast, it is *Plaintiff's* proposed solution that would entangle church and state by forcing the government to intrude into areas of ecclesiological and associational choice—matters of doctrinal belief—to determine which ones are permissible and to penalize those who hold disfavored beliefs by depriving them of the rights and benefits available to other religious groups deemed acceptable to the state. Stated differently, Plaintiff's proposed solution would use the promise of government funding to attempt to incentivize Miracle Hill to renounce its sincerely held religious beliefs regarding association with co-religionists or else be barred from exercising its sincerely held religious belief that it should provide foster care services to needy children.

religions uniformly and belies any suggestion by Plaintiff that Governor McMaster's actions were intended to favor any particular religious belief.

*Fifth*, Miracle Hill's policy change provides an apt example of how the government's licensing of and contracting with faith-based CPAs enables it to avoid excessive entanglements in religion. In the absence of faith-based CPAs, the State itself would be obliged to implement its religious-matching statute and regulations, *see* S.C. Code. Ann. § 63-15-20; S.C. Code Ann. Regs. 114-550(H)(11), by tracking each foster parent's religious affiliation and assessing whether the religious beliefs and practices of a foster parent sufficiently match the religious preferences of the foster child's natural parents. Indeed, the State would not only have to monitor a prospective foster parent's faith group or denomination, but also their degree of devotion and the specific contours of their beliefs. The State would, for example, have to determine if a foster couple were sufficiently Catholic to receive a child whose parents wished for placement with a devout Catholic family. For instance, what if the prospective foster parent attended a Catholic church but would affirm a doctrinal statement like that of Miracle Hill's—would she be sufficiently Catholic? She might be sufficiently Catholic for the Diocese of Charleston, but perhaps not for Plaintiff. *See* Ex. A, at 2 (contrasting Plaintiff's assertion that, as a Catholic, she will not or cannot affirm Miracle Hill's doctrinal statement, with the Diocese of Charleston's statement that “[t]he doctrinal statement of Miracle Hill is consistent with the teachings of the Catholic Church and was affirmed by a diocesan theologian”). With whom should the State side? The State has a legitimate (and even compelling) interest in avoiding precisely these types of questions that enmesh its doctrinal affairs, *see Good News Club v. Milford Cent. Sch.*, 533 U.S. 98, 112 (2001), and the religious disagreements raised by Miracle Hill's policy change demonstrate that, in the absence of faith-based CPAs, the State will be repeatedly required to enter the doctrinal fray.

*Sixth*, no one (and certainly not Governor McMaster) has prevented Plaintiff from volunteering with or fostering through the numerous other CPAs in her vicinity or DSS directly. As this recent episode involving Miracle Hill's policy change demonstrates, Plaintiff continues to

be uninterested in what was ostensibly the impetus for commencing her suit—taking advantage of available volunteering and fostering opportunities—and instead seems single-mindedly focused on invalidating policies simply because she disagrees with them. That is not the business of the courts. *See Ariz. Christian Sch. Tuition Org. v. Winn*, 563 U.S. 125, 146 (2011).

*Seventh*, Miracle Hill’s policy change and Plaintiff’s response to it (at least as indicated in her statements to the press, *see* Ex. A at 1–2) make clear the true nature and intended effect of Plaintiff’s claims. This suit does not now, and never did, arise from Governor McMaster picking sides in an interdenominational dispute or favoring one religion over another. The policy change brings this into even clearer focus, for Plaintiff’s professed Catholic faith does not hinder her from fostering or volunteering with her CPA of choice. She nevertheless appears intent on keeping her suit alive by disputing particular items in Miracle Hill’s doctrinal statement, *see* Ex. A at 1–2,<sup>6</sup> disputes that apparently arise solely from her personal views rather than from the teachings of the Catholic Church.<sup>7</sup> If the court were to countenance this sort of individual, subjective nitpicking as a basis upon which to establish constitutional liability, the effects would be staggering. *Any* statement of doctrinal belief, no matter how ecumenical, is disagreeable in part or in whole to *somebody*. If (as Plaintiff claims) the Constitution forbids the State from licensing or contracting with providers whose religious beliefs are disagreeable to *anyone* or whose religious beliefs might preclude a partnership with *someone*, then the State would be required to exclude *every* social services provider whose ministry is informed and actually influenced by their its beliefs. *That* would pose a First Amendment problem. *See generally Trinity Lutheran Church of Columbia, Inc. v. Comer*, 137 S. Ct. 2012 (2017). What the Governor has done here, however, does not.

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<sup>6</sup> Plaintiff specifically notes her disagreement with Miracle Hill’s beliefs on issues of soteriology, bibliology, and sexual behavior.

<sup>7</sup> Indeed, the Roman Catholic Church has itself endorsed Miracle Hill’s doctrinal statement. *See* Ex. A at 2 (“The Diocese of Charleston welcomes this change to policy as we continue to unite as Christians in service of the poorest and most vulnerable among us,” said Maria Aselage, spokeswoman for the Diocese of Charleston. “The doctrinal statement of Miracle Hill is consistent with the teachings of the Catholic Church and was affirmed by a diocesan theologian several months ago.”).

The Supreme Court has long recognized that religious accommodations are permissible under the Establishment Clause. *See, e.g., Corp. of Presiding Bishop of Church of Jesus Christ of Latter-day Saints v. Amos*, 483 U.S. 327, 339 (1987) (upholding exemption in Title VII for religious organizations).<sup>8</sup> When, as here, there is a system of “private choice,” the actions of religious participants do not violate the Establishment Clause. *Zelman v. Simmons-Harris*, 536 U.S. 639, 662 (2002); *see also Freedom from Religion Found. v. McCallum*, 324 F.3d 880, 883–84 (7th Cir. 2003) (upholding government-funded halfway house program that included religious contractors). Here, the Governor’s accommodation of all private religious charities receiving public funds—among the many agencies from which prospective foster parents may choose—follows *Zelman* and *McCallum*, and is a longstanding and historically permissible practice. *See* Edward Queen, *History, Hysteria, and Hype: Government Contracting with Faith-Based Social Service Agencies*, Religions 2017, at 4–5 (“The history of government funding of services provided by private organizations, especially private eleemosynary organizations, is a long one. . . . For example, in 1806 the New York Orphan Asylum, a decidedly Protestant organization, established an orphanage, which, by decade’s end, received state monies to support over 200 orphans. . . . Most orphanages during that time were established along religious lines and served orphans of a particular faith. In fact, they were subsidized by New York and other cities for doing exactly that.”).

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<sup>8</sup> Indeed, the longstanding history of religious accommodations in a variety of contexts predate the ratification. By 1776, nearly every colony granted religious exemptions from military service, taking oaths, and paying the remaining church taxes. Michael W. McConnell, *The Origins and Historical Understanding of Free Exercise of Religion*, 103 HARV. L. REV. 1409, 1467–71 (1990). The Founders did not view these religious accommodations as establishment. Douglas Laycock, *Regulatory Exemptions of Religious Behavior and the Original Understanding of the Establishment Clause*, 81 NOTRE DAME L. REV. 1793, 1803-08 (2006). That remains true today, when the state and federal governments regularly accommodate religious conscience in a variety of ways. Many states’ laws, for instance, give physicians religious accommodations from having to perform executions or assist suicide. *See* Mark L. Rienzi, *The Constitutional Right Not to Kill*, 62 EMORY L.J. 121, 137–53 (2012).

**III. CONCLUSION**

For the foregoing reasons, the court should dismiss the case for the reasons stated in Defendants' motions to dismiss, which Miracle Hill's policy change and the resulting inquiry illustrate and strengthen.

Respectfully submitted

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August 20, 2019

*Maddonna v. U.S. Dept. of Health and Human Servs., et al.*  
Civil Action No. 6:19-cv-00448-TMC

# Exhibit A

**to Governor Henry McMaster's Brief in  
Response to the Court's Order**

Nathaniel Cary, *Miracle Hill changes foster care policy, will recruit Catholic, Orthodox Christian parents*, Greenville News, July 11, 2019

## Religious freedom in the United States; Miracle Hill changes foster care policy, will recruit Catholic, Orthodox parents

The Greenville News (South Carolina)

July 12, 2019 Friday, 1 Edition

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**Section:** NEWS; Pg. A2

**Length:** 1868 words

**Byline:** By, Nathaniel Cary, Greenville News

### Body

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Miracle Hill Ministries, an evangelical Protestant foster care provider, has changed its policy and will now work with prospective foster families from other Christian denominations. Miracle Hill will now work with families of Catholic or Orthodox faith who agree with the agency's doctrinal statement, its president and CEO said this week. Miracle Hill has been the subject of two lawsuits challenging a religious exemption that South Carolina received from the federal Department of Health and Human Services that let the agency operate a foster care program that works only with evangelical Christians. The suits name the administrations of Gov. Henry McMaster and President Donald Trump as defendants, but not Miracle Hill itself.

The suits, and the decision, put Miracle Hill at the center of a larger battle over religious freedom in America.

One of those lawsuits was brought by a Catholic mother who said she was turned away from volunteering as a mentor because of her Catholic faith.

The policy change to now recruit Catholic families as foster parents had been discussed by the group's board of trustees last fall before the lawsuit was filed, but the decision was made in May, said Reid Lehman, Miracle Hill's president and CEO.

The change applies to all volunteers in a position of spiritual influence as well as to employees throughout the organization, not just in its foster program, Lehman said. Miracle Hill didn't want to be drawn into a "label fight against other branches of Christianity," he said.

Lehman said Miracle Hill was "grieved" that the foster care program's religious freedom stance has been viewed as a "dispute between followers of Christ" rather than the right to exist as a principled Christian organization. The organization's mission isn't to emphasize differences between denominations, but to work with Christians to minister to the needy.

In February, Americans United for Separation of Church and State filed a lawsuit on behalf of Aimee Maddonna, a Catholic mother of three who applied to mentor foster children through Miracle Hill. She was turned away when she said she attended Our Lady of the Rosary Catholic Church in Greenville.

That lawsuit has been going through pretrial motions and a hearing has not yet been scheduled.

Lehman said he believes the policy change negates Maddonna's grounds for the lawsuit, though a judge could still decide to hear it.

In an interview Thursday, Maddonna said the policy change doesn't rethe grounds for her lawsuit because Miracle Hill's doctrinal statement hasn't changed and she still couldn't sign it.

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She said Miracle Hill's doctrinal statement is still Protestant. It lists belief in Scripture alone as the Word of God and salvation by grace through faith alone, two inherently Protestant doctrines, she said.

"If I agreed, I'd be lying as would any Catholic that I know," Maddonna said.

She also disagrees with Miracle Hill's stance that it would only work with heterosexual married couples.

The Diocese of Charleston said it supports the policy change. Miracle Hill met with Catholic priests in Greenville this spring and Lehman said their response was "very thoughtful and very kind."

"The Diocese of Charleston welcomes this change to policy as we continue to unite as Christians in service of the poorest and most vulnerable among us," said Maria Aselage, spokeswoman for the Diocese of Charleston. "The doctrinal statement of Miracle Hill is consistent with the teachings of the Catholic Church and was affirmed by a diocesan theologian several months ago."

Richard B. Katskee, legal director of Americans United for Separation of Church and State, said the new policy still wouldn't end state-sponsored, state-funded discrimination and would require prospective parents and volunteers to sign Miracle Hill's doctrinal statement.

"Our lawsuit - which is against the state and federal governments, not against Miracle Hill - is about the constitutional violations of licensing taxpayer-funded agencies to deny services based on religious beliefs," Katskee said. "Those violations remain with or without the supposed new policy."

Maddonna said her lawsuit is for more than just her personal Catholic beliefs, but for those of other faiths who also couldn't agree with Miracle Hill's doctrinal statement.

Miracle Hill defines itself as an evangelical, Gospel-infused mercy ministry that remains Protestant in its teaching.

"God's call on us is to be broad in our outreach and broad in our donor/volunteer base while standing firm on our core beliefs," according to a statement provided to The Greenville News that defines the group's spiritual identity.

Those core principles include belief that marriage is between one man and one woman and that God creates people as male or female.

Anyone who volunteers or works for Miracle Hill must agree with those principles, regardless of Christian denomination, Lehman said. But Miracle Hill will serve anyone whether they agree with the group's doctrinal statement or not, he said.

He said he's been "dismayed" by media portrayals of the organization as fostering discrimination or hate or that they're trying to stop people from serving.

"We're aware that it may be offensive that we have such a strong belief in God, but that's the only response we want to be out there," he said. "We don't want to be the spokesperson for standing against any other religion or group of individuals. We simply want to hold true to what we believe and to continue to serve people as best we can possibly serve them."

"We've always accepted unconditionally everyone that we serve - drug addicts, homeless people, people with AIDS, people with different sexual identities. We've always been uncritically accepting and loving with the goal of helping them become their best self."

Religious shifts in core beliefs align Protestants and Catholics under same umbrella

Miracle Hill's decision continues a pattern in recent years that has brought Protestants and Catholics together to fight what they perceive as a threat to religious freedom in America.

Religious freedom in the United States; Miracle Hill changes foster care policy, will recruit Catholic, Orthodox parents

In 2014, the U.S. Council of Catholic Bishops joined evangelical Christians to defend Hobby Lobby's successful Supreme Court case against the Obama administration over the Affordable Care Act's requirement to cover so-called abortion-inducing contraceptives.

In 2018, The UCCB lent support to the U.S. Supreme Court's decision in favor of Jack Phillips, owner of Masterpiece Bakeshop in Colorado, a devout Christian who refused to bake a cake for a same-sex couple.

In South Carolina, after Maddonna filed her lawsuit, the Diocese of Charleston, which covers all of South Carolina, supported Miracle Hill.

The diocese said freedom of religion recognized and guaranteed by the Constitution is not just the freedom to worship, but extends to "every sphere of teaching, service, and public witness required to live according to one's faith.

"No religious group should be forced to alter their beliefs in order to exercise their legitimate freedoms in the public square," the diocese's statement said, while noting theological differences between the Diocese and Miracle Hill's Protestant beliefs.

Miracle Hill's alignment with other branches of Christianity was made to position itself for "greater hostility that we expect to come towards followers of Christ," Lehman said.

Where there was once a clear demarcation between Protestants and Catholics, now, some Protestants would disagree strongly with Miracle Hill's doctrinal statement and many Catholics would agree with it, he said.

The national limelight cast on Miracle Hill's positions on gender and sexuality have been polarizing. Lehman said they've lost some long-time supporters, but also gained others drawn by the organization's stance.

He said he has explained the change to pastors of various conservative Protestant churches that support Miracle Hill to explain the change.

"I think sort of the mainline denominational people probably would be saying 'what took you so long?'" he said.

A larger freedom fight looms

When McMaster asked the Trump administration for a religious freedom waiver for South Carolina foster placement agencies, Lehman said Miracle Hill knew lawsuits would soon follow.

He just wasn't expecting the first lawsuit would come from a Catholic.

"The Catholic lawsuit was just not the one we wanted to start with because we don't want to be known for being against Catholics or any other group of Christ-followers," he said.

They were expecting what Lehman called a "far more important" lawsuit like the second one filed in May by Eden Rogers, 33, and Brandy Welch, 40, a married Greenville lesbian couple who said their application to foster through Miracle Hill was rejected based on their religion and their sexual orientation. They are members of Greenville Unitarian Universalist Church.

The Greenville News has reached out to attorneys representing the couple.

That lawsuit also seeks to revoke the Trump and McMaster administration's religious freedom waiver.

Miracle Hill's long-term goal is to be able to support its foster program without any government assistance, but right now it costs about \$7,000 per family per year to provide care coordinators and support for foster families, Lehman said. The organization receives about \$600,000 a year from the state.

But, he said, the money isn't the real issue.

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"We're concerned about the broader issue of being able to even exist with our religious beliefs because there's a broader threat that organizations, even if they don't take government funding, should they be allowed to operate according to their religious beliefs?" said Sandra Furnell, Miracle Hill's spokeswoman.

That too, is an emotional issue. Religious organizations want to be able to practice their religion in the public square as they have for centuries while maintaining their beliefs opposed to same-sex marriage and gender fluidity, but many now see that as discrimination.

When the Equality Act, which would add sexual orientation and gender identity to the list of protected classes, was debated and passed in the House in May, Miracle Hill was a topic. Though it's unlikely to become law, if it did it would have a dramatic effect on religious groups that operate in public and currently discriminate based on sexual orientation or gender identity.

"I do think that if organizations that have religious values, Christian or Jewish or Muslim or whatever, if they're not allowed to serve in the public square, that's a really scary day for religious liberty and it will result in many less services being delivered to those in need," Lehman said.

That would shrink the pool of available foster care providers and homes at a time when South Carolina's foster care system is in crisis, needing about 1,500 more foster homes, he said.

Though it is the largest with 230 families, Miracle Hill isn't the only foster care provider in the Upstate, Lehman said. Anyone who wants to become a foster parent can by working with multiple other agencies that don't have a religious policy or by working directly with the state Department of Social Services, he said.

"And if other groups want to step up and start foster care programs to help end the crisis, we would applaud that," Furnell said.

## Graphic

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Brandy Welch and her wife Eden Rogers speak during a press conference at Hyatt Regency Greenville on May 30. The Greenville couple are suing the U.S. Department of Health and Human Services and the state of South Carolina after their application for fostering children was denied by Miracle Hill based on the agency's religious criteria.

JOSH MORGAN/Staff

Reid Lehman, president and chief executive officer for Miracle Hill Ministries, addresses the crowd gathered to see the medical respite program at Miracle Hill's Greenville Rescue Mission. Miracle Hill has been granted federal protection to operate as a faith-based foster care provider.

SABRINA SCHAEFFER/Staff

**Load-Date:** July 12, 2019

*Maddonna v. U.S. Dept. of Health and Human Servs., et al.*  
Civil Action No. 6:19-cv-00448-TMC

# **Exhibit B**

**to Governor Henry McMaster's Brief in  
Response to the Court's Order**

Press Release, Miracle Hill Ministries, *Miracle Hill Ministries Strengthens  
Christian Identity by Opening Foster Program to Catholic Foster Parents*, July 5, 2019



**FOR IMMEDIATE RELEASE**

**Contact:** Sandy Furnell, Director of Communications & Public Relations  
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## **Miracle Hill Ministries Strengthens Christian Identity by Opening Foster Program to Catholic Foster Parents**

GREENVILLE, SC (July 5, 2019) – In order to strengthen its mission of providing comprehensive care in the name of Jesus Christ and for the sake of unity among followers of Jesus Christ, the Board and CEO of Miracle Hill Ministries have clarified the non-profit's identity as an evangelical, Christian, Gospel-infused mercy ministry, and have opened the door for Catholics who affirm Miracle Hill's doctrinal statement in belief and practice to serve as foster parents and employees.

"We are grieved that the recent religious freedom struggle surrounding our foster care program has been mischaracterized in the media as a dispute between followers of Christ instead of the right to exist as a Christian organization providing invaluable services to our community," said Reid Lehman, President/CEO. "Our calling as an organization is not primarily to evaluate and emphasize differences between various branches of Christianity or between denominations within Protestantism. Rather, Miracle Hill's spiritual identity is first and foremost that of brothers and sisters in Christ working together to minister to the needy in Christ's name."

In January 2019, the U.S. Department of Health and Human Services clarified that in South Carolina faith-based child welfare organizations may partner with those who share their religious beliefs while caring for children placed by the South Carolina Department of Social Services, a ruling that protected Miracle Hill Foster Care's right to exist. The Catholic Diocese of Charleston applauded the decision saying, "This organization should not be forced to discontinue these life-affirming services because they desire to serve children consistent with their Protestant faith."

While this religious freedom victory protected all faith-based organizations in South Carolina, a subsequent lawsuit filed by Aimee Madonna gave the impression that Miracle Hill was in a dispute with other followers of Jesus Christ. "Although we advocate to protect the rights of Protestant and other religious organizations to work with those who share their faith, we recognize our previous stance has wounded other followers of Jesus Christ," said Lehman. "For Miracle Hill, embracing Christians who share our beliefs simplifies our affiliation process while protecting core values and doctrinal consistency. It's the right thing to do."

The organization's spiritual identity has been clarified as the following:

Miracle Hill Ministries defines itself as an **evangelical, Gospel-infused mercy ministry**. Christians who share a commitment to the Gospel and embrace our [doctrinal statement](#) in belief and practice are valued ministry partners in employment and fostering. God's call on us is to be broad in our outreach and broad in our donor/volunteer base while standing firm on our core beliefs. Miracle Hill wants to be known for what it stands for – our allegiance to Jesus Christ, His Good News, and serving those in need in Christ's name. Miracle Hill Ministries is Protestant in doctrine, teaching, and leadership, but by broadening its policy surrounding employment and fostering, the organization expands its ability to serve the needy and vulnerable in Christ's name and to heal wounds within the Christian community.

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For more than 80 years, Miracle Hill has worked collaboratively with both religious and secular community partners to meet the needs of those experiencing homelessness in Upstate South Carolina. Miracle Hill serves everyone who comes seeking help, regardless of their faith or no faith at all. Embracing Christianity is not a requirement for receiving services.

**About Miracle Hill Ministries**

Miracle Hill Ministries is the Upstate’s largest, most comprehensive provider of services to homeless children and adults. Serving the Upstate since 1937, Miracle Hill’s programs include rescue shelters for the homeless, residential addiction recovery, transitional housing, shelters for children, and foster care. Miracle Hill’s eight thrift stores provide employment opportunities for the community as well as former Miracle Hill guests. Miracle Hill has been awarded the Certificate of Excellence as a Certified Mission by [City Gate Network](#), a distinction given to fewer than 30 missions nationwide. Additionally, Miracle Hill’s foster care program and group homes for children have been accredited by [CARF International](#). For more information about Miracle Hill, please visit [www.MiracleHill.org](http://www.MiracleHill.org) or call 864.268.4357. Find us on [Facebook](#), [Twitter](#), and [Instagram](#).

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