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October 15, 2019

By ECF

The Honorable Chief Judge Denise Page Hood,
United States District Court for the
Eastern District of Michigan,
Theodore Levin U.S. Courthouse,
231 W. Lafayette Blvd., Room 701,
Detroit, MI 48226.

Re: *Catholic Charities West Michigan v. Michigan*
Department of Health and Human Services, et al.,
No. 2:19-cv-11661-DPH-DRG

Dear Chief Judge Hood:

On September 27, 2019, Plaintiff asked that Your Honor consider in connection with the pending motions the September 26, 2019 order of Chief Judge Jonker of the Western District of Michigan which granted a preliminary injunction in *Buck v. Gordon*, No. 1:19-cv-00286-RJJ-PJG (W.D. Mich.) (the “*Buck Ruling*”). ECF No. 29. The State Defendants who are the subject of that injunction have appealed the *Buck Ruling* to the Sixth Circuit Court of Appeals and filed a motion for an emergency stay. *See* ECF No. 30.

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Proposed Intervenor Defendants Kristy and Dana Dumont respectfully submit this letter to point out what Plaintiff did not: there are essential factual differences between *Buck* and this case which make the stated reasoning of the *Buck* Ruling inapplicable to CCWM's pending motion for preliminary injunction, ECF No. 11.¹ In granting the preliminary injunction, the *Buck* court relied heavily on a finding (disputed at best) that St. Vincent "places its children with any certified parent – unmarried couples, same-sex couples, or otherwise." *Buck* Ruling at 22. By contrast to this factual basis for the *Buck* Ruling, CCWM admits that it will not place children with same-sex couples, whether already certified or not. Compl., ECF No. 1-2, ¶¶ 29–30, 94. Indeed, CCWM has even failed to reunite a child with his

¹ In describing these factual differences, we do not mean to suggest that the *Buck* Ruling correctly stated or applied the law. It did not. *See generally* Dumonts' Proposed Response to Plaintiff's Motion for Preliminary Injunction, ECF No. 23. Although the Dumonts filed a similar brief in *Buck*, the *Buck* court denied the Dumonts' intervention motion, and the *Buck* Ruling did not mention or consider (1) the Dumonts' arguments demonstrating why the Establishment and Equal Protection Clauses require denial of the *Buck* plaintiffs' claims, or (2) evidence submitted by the Dumonts demonstrating that authorizing state-contracted, taxpayer-funded child placing agencies to turn away same-sex couples deters couples' participation and harms children in the public child welfare system. We respectfully submit that this failure to address essential issues further demonstrates the merits of the Dumonts' motion to intervene.

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siblings because they had already been placed with a certified same-sex couple. *See* ECF No. 23-4, at 12. In sum, the undisputed facts here distinguish this case from the crucial findings underpinning the *Buck* Ruling.

Respectfully submitted,
/s/ Garrard R. Beeney

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