

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

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

Plaintiffs,

v.

ROBERT GORDON, in his official
capacity as the Director of the Michigan
Department of Health and Human Services;
HERMAN MCCALL, in his official capacity
as the Executive Director of the Michigan
Children's Services Agency; DANA NESSEL,
in her official capacity as Michigan Attorney
General; ALEX AZAR, in his official capacity
as Secretary of Health and Human Services;
UNITED STATES DEPARTMENT OF
HEALTH AND HUMAN SERVICES,

Defendants.

No. 1:19-cv-00286

HON. ROBERT J. JONKER

MAG. PHILLIP J. GREEN

**STATE DEFENDANTS'
EMERGENCY MOTION FOR
STAY PENDING APPEAL, OR
IN THE ALTERNATIVE, TO
AMEND THE PRELIMINARY
INJUNCTION (DOC. 70)**

*** EXPEDITED CONSIDERATION REQUESTED ***

**STATE DEFENDANTS' EMERGENCY MOTION FOR STAY PENDING
APPEAL, OR IN THE ALTERNATIVE, TO
AMEND THE PRELIMINARY INJUNCTION (DOC. 70)**

Defendants Michigan Department of Health and Human Services

("Department" or "MDHHS") Director Robert Gordon, MDHHS Children's Services
Agency Executive Director JooYuen Chang,¹ and Michigan Attorney General Dana

¹ Pursuant to Rule 25(d) of the Federal Rules of Civil Procedure, this motion reflects the substitution of Children's Services Agency Executive Director JooYuen Chang

Nessel (collectively, “State Defendants”), through counsel, respectfully move this court to stay, pending appeal, the Preliminary Injunction ordered by the Court in its September 26, 2019 Order (Doc.70). In the alternative, if the Court declines to enter a stay, the State Defendants respectfully request the September 26, 2019 Order be amended to require St. Vincent to – as this Court found that it does – place state-supervised children in its care with couples certified by the Department through another CPA, without discrimination on the basis of sexual orientation or otherwise. In support of their motion, State Defendants rely on the accompanying brief in support.

State Defendants respectfully request expedited consideration of this motion. As explained in the accompanying brief, the State Defendants have a substantial likelihood of success on the merits on appeal, and allowing the preliminary injunction to stand – even for the time the appeal is pending – will allow significant, negative harm not only to the State Defendants – who have an interest in ensuring compliance with voluntarily-entered state contracts – but also to same-sex couples, LGBTQ individuals, and the children within the Department’s care. These harms clearly outweigh the only harm St. Vincent alleges, i.e., harms resulting from its failure to carry out the terms of a voluntary contract. Expedited consideration is necessary to allow the State Defendants to immediately move for a stay in the Sixth Circuit if their motion is denied.

for former Children’s Services Agency Executive Director Herman McCall, who was named in his official capacity.

In accordance with Local Civil Rule 7.1(d), State Defendants sought Plaintiffs and the federal Defendants' concurrence in the relief sought. Plaintiffs oppose the motion; the federal Defendants take no position; the Dumonts do not object.

Respectfully submitted,

Dana Nessel
Attorney General

Dated: October 10, 2019

/s/ Toni L. Harris
Toni L. Harris (P63111)
Attorney for State Defendants
Michigan Department of
Attorney General
Health, Education & Family
Services Division
P.O. Box 30758
Lansing, MI 48909
(517) 335-7603
HarrisT19@michigan.gov