

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

CATHOLIC CHARITIES
WEST MICHIGAN,

Plaintiff,

2:19-CV-11661-DPH-DRG

v.

Hon. Denise Page Hood

Hon. 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
SERVICES AGENCY; JENNIFER
WRAYNO, in her official capacity as
Acting Executive Director of
Michigan Children's Services Agency;
DANA NESSEL, in her official
capacity as Attorney General of
Michigan.

NOTICE OF FILING

Defendants.

_____ /

James R. Wierenga (P48946)
Attorney for Plaintiff
David, Wierenga & Lauka, PC
99 Monroe Ave., NW
Ste. 1210
Grand Rapids, MI 49503
(616) 454-3883
jim@dwlawpc.com

David A. Cortman (GA Bar #188810)
Attorney for Plaintiff
Alliance Defending Freedom
1000 Hurricane Shoals Rd. NE
Ste. D-1100
Lawrenceville, GA 30043
(770) 339-0774
dcortman@ADFlegal.org

Roger Brooks (NC Bar #16317)
Jeremiah Galus (AZ Bar #030469)
Attorneys for Plaintiff
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
rbrooks@ADFlegal.org
jgalus@ADFlegal.org

Toni L. Harris (P63111)
Precious S. Boone (P81631)
Elizabeth R. Husa Briggs
(P73907)
Attorneys for Defendants
Michigan Department of
Attorney General
Health, Education & Family
Services Division
P.O. Box 30758
Lansing, MI 48909
(517) 335-7603
HarrisT19@michigan.gov

NOTICE OF FILING

Plaintiff Catholic Charities West Michigan submits this notice to alert the Court that the State of Michigan recently filed a motion to voluntarily dismiss its appeal of the preliminary injunction in *Buck v. Gordon*, No. 19-2185 (6th Cir.), attached as Exhibit 1. The State

previously notified this Court of its appeal in *Buck* as “supplemental authority” for why a similar preliminary injunction should not issue in this case. *See* ECF No. 30.

On January 9, 2020, Plaintiff’s counsel contacted Defendants’ counsel to inquire whether, given the motion for voluntary dismissal in *Buck*, the State continues to oppose Catholic Charities West Michigan’s request for a preliminary injunction in this case. Plaintiff’s counsel has not received a response as of the date of this filing.

Dated: January 16, 2020

Respectfully submitted,

/s/ Jeremiah Galus
Jeremiah Galus (AZ Bar 030469)
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
jgalus@ADFlegal.org

CERTIFICATE OF SERVICE

I hereby certify that on January 16, 2020, I caused the foregoing to be filed with the Clerk of the Court using the ECF system, which will provide electronic copies to counsel of record.

/s/ Jeremiah Galus
Jeremiah Galus (AZ Bar 030469)
Alliance Defending Freedom
15100 N. 90th Street
Scottsdale, AZ 85260
(480) 444-0020
jgalus@ADFlegal.org

EXHIBIT 1

No. 19-2185

In the
UNITED STATES COURT OF APPEALS
FOR THE SIXTH CIRCUIT

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

Plaintiffs-Appellees,

v.

ROBERT GORDON, in his official capacity as Director of the Michigan
Department of Health and Human Services; JOO YEUN CHANG, in
her official capacity as the Executive Director of the Michigan
Children's Service Agency; DANA NESSEL, in her official capacity as
Attorney General of Michigan,

Defendants-Appellants.

Appeal from the United States District Court
Western District of Michigan, Southern Division
Honorable Robert J. Jonker

**DEFENDANTS-APPELLANTS' MOTION FOR VOLUNTARY
DISMISSAL**

Appellants Michigan Department of Health and Human Services
(MDHHS) Director Robert Gordon, MDHHS Children's Services Agency

Executive Director Joo Yeun Chang, and Michigan Attorney General Dana Nessel, in their official capacities, move for voluntary dismissal of this appeal of the District Court's September 26, 2019 Opinion and Order granting a preliminary injunction, pursuant to Federal Rule of Appellate Procedure 42(b), without costs assigned to any party, as Plaintiffs-Appellees incurred no allowable costs for purposes of this appeal.

Although no explanation for the dismissal is required, Defendants-Appellants' reasons for voluntarily dismissing their appeal at this stage are two-fold. First, because the proper interpretation of 2015 Public Act 53, codified as Mich. Comp. Law § 722.124e and § 722.124f, is now at the forefront of this case and has not been interpreted by any state court, Defendants-Appellants will move the District Court to certify the question of proper interpretation to the Michigan Supreme Court. The interpretation will shape the case going forward in the District Court. Second, in light of this Court's decision on the request to stay the preliminary injunction pending appeal, Defendants-Appellants wish to fully develop the factual and legal record

in the District Court and obtain an expeditious decision on the merits of the case.

On January 3, 2020, Plaintiffs-Appellees refused Defendants-Appellants' request for concurrence in the relief sought, even though the preliminary injunction runs in their favor.

CONCLUSION AND RELIEF REQUESTED

Defendants-Appellants respectfully request that this Court grant their motion for voluntary dismissal, without costs assigned to any party.

Respectfully submitted,

Dana Nessel
Attorney General

Fadwa A. Hammoud (P74185)
Solicitor General
Co-Counsel of Record

Respectfully submitted,

Dated: January 6, 2020

/s/Toni L. Harris
Toni L. Harris (P63111)
Assistant Attorney General
Attorney for Appellants
P. O. Box 30758
Lansing, Michigan 48909
517-335-7603
harrist19@michigan.gov

CERTIFICATE OF SERVICE

I certify that on January 6, 2020, the foregoing document was served on all parties or their counsel of record through the CM/ECF system if they are registered users or, if they are not, by placing a true and correct copy in the United States mail, postage prepaid, to their address of record (designated below).

N/A

/s/ Toni L. Harris (P63111)
Assistant Attorney General
Health, Education & Family
Services Division
PO Box 30758
Lansing, MI 48909
(517) 335-7603
Harrist19@michigan.gov

Dated: January 6, 2020

CERTIFICATE OF COMPLIANCE

Certificate of Compliance with Type-Volume Limit,
Typeface Requirements, and Type Style Requirements

1. This brief complies with the type-volume limitation of Federal Rule of Appellate Procedure 27(d)(2)(A) because, excluding the part of the document exempted by Federal Rule of Appellate Procedure 32(f), this brief contains no more than 5,200 words. This document contains 251 words.

2. This document complies with the typeface requirements of Federal Rule of Appellate Procedure 32(a)(5) and the type-style requirements of Federal Rule of Appellate Procedure 32(a)(6) because this document has been prepared in a proportionally spaced typeface using Word 2016 in 14-point Century Schoolbook.

Respectfully submitted,

Dana Nessel
Attorney General

Fadwa A. Hammoud (P74185)
Solicitor General
Co-Counsel of Record

Respectfully submitted,

Dated: January 6, 2020

/s/Toni L. Harris
Toni L. Harris (P63111)
Assistant Attorney General
Attorney for Appellants
P. O. Box 30758
Lansing, Michigan 48909
517-335-7603
harrist19@michigan.gov