

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NEW HOPE FAMILY SERVICES, INC.,

Plaintiff,

ANSWER

-against-

18-CV-1419

SHEILA J. POOLE,

MAD/TWD

Defendant.

Defendant Sheila J. Poole, by her attorney, Letitia James, Attorney General of the State of New York, Adrienne J. Kerwin, Assistant Attorney General, of counsel, answers the complaint as follows:

1. Denies the allegations contained in paragraph **1** of the complaint, except admits that Plaintiff relies upon the cited statute for jurisdiction.

2. Admits the allegations contained in paragraphs **71, 140, 186** and **191** of the complaint

3. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraphs **2, 3, 4, 5, 14, 15, 16, 17, 18, 19, 27, 29, 30, 31, 32, 33, 34, 35, 36, 37, 38, 39, 40, 41, 42, 43, 44, 45, 47, 48, 49, 50, 51, 52, 53, 54, 55, 56, 57, 58, 59, 60, 61, 62, 63, 64, 65, 66, 67, 68, 69, 70, 72, 73, 74, 75, 77, 78, 79, 81, 83, 84, 85, 86, 87, 88, 89, 90, 91, 92, 93, 94, 95, 96, 97, 98, 99, 100, 101, 102, 103, 104, 105, 106, 107, 108, 109, 110, 111, 112, 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 134, 135, 136, 137, 138, 139, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153,**

154, 155, 156, 181, 184, 193, 194, 201, 203, 205, 207, 210, 213, 215, 216, 217, 219, 220, 221, 222, 223, 224, 225, 231, 239, 240, 241, 243, 269 and 270 of the complaint.

4. Denies the allegations contained in paragraphs **8, 9, 12, 20, 21, 22, 23, 163, 168, 182, 188, 189, 190, 192, 202, 208, 209, 212, 214, 218, 226, 227, 228, 229, 236, 242, 244, 245, 246, 247, 248, 251, 252, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 271, 272, 273, 274, 275, 276, 277, 278, 282, 283, 284, 285, 286, 287, 288, 289, 290 and 295** of the complaint.

5. Denies knowledge or information sufficient to form a belief as to the truth of the allegation contained in paragraph **6** of the complaint that many birthmothers and adoptive parents choose to work with New Hope precisely because they share or value its religious nature and convictions; and avers that New York law permits birthparents to request that their child be placed in a home of a specific faith.

6. Denies the allegations contained in paragraph **7** of the complaint, except admits that Domestic Relations Law § 110 was amended in 2010 to include “an adult married couple together, or any two unmarried adult intimate partners together” as eligible to adopt another person; and respectfully refers the court to the relevant legislative history as the best evidence of what is stated and contained therein.

7. As to the allegations contained in paragraphs **10, 11, 159, 160, 161, 162, 164, 166, 167, 183, 185, 187, 195, 196, 197, 198, 199, 204 and 206** of the complaint, respectfully refers the court to the documents cited as the best evidence of what is stated and contained therein, and denies the allegations to the extent that they are inconsistent with such documents.

8. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph **13** of the complaint, except denies that New Hope is on notice that it will be shut down if it does not violate its religious beliefs.

9. Denies the allegations contained in paragraphs **24** and **26** of the complaint, except admits that Plaintiff relies upon the cited statutes for jurisdiction and venue.

10. Denies the allegations contained in paragraph **25** of the complaint, except admits that Plaintiff relies upon the cited statutes for the relief Plaintiff seeks.

11. As to the allegations contained in paragraphs, **157, 158, 169, 180, 232, 233, 234, 235, 237, 238, 249, 253, 265, 266, 267, 268, 280, 281, 292, 293** and **294** of the complaint, respectfully refers all issues of law to the court.

12. Admits the allegations contained in paragraph **28** of the complaint that Sheila J. Poole is the Acting Commissioner of OCFS for the State of New York with an office address of Capital View Office Park, North Building, 52 Washington Street, Rensselaer, NY 12144, and that Plaintiff purports to sue Acting Commissioner Sheila J. Poole in her official capacity; and denies any remaining allegations contained in paragraph 28.

13. As to the allegations contained in paragraph **46** of the complaint, respectfully refers the court to the letters referenced as the best evidence of what is stated and contained therein, and denies that OCFS has acknowledged that New Hope's authorization to perform adoption services is perpetual.

14. Denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph **76** of the complaint, and respectfully refers the court to the data cited as the best evidence of what is contained therein.

15. Denies knowledge or information sufficient to form a belief as to whether a Post Adoption Contract Agreement is facilitated through New Hope until the child turns 18 years of age, except admits that the chosen level of openness must be included in a Post Adoption Contact Agreement, and denies any remaining allegations contained in paragraph **80**.

16. Denies knowledge or information sufficient to form a belief as to whether New Hope allows birthparents to choose a closed adoption if they prefer; admits that in a closed adoption, there is no information sharing or communication from the adoptive parent to the birthparent regarding the child after the placement; and denies any remaining allegations contained in paragraph **82**.

17. Denies knowledge or information sufficient to form a belief as to truth of the allegations contained in paragraph **133** of the complaint, and respectfully refers all issues of law to the court.

18. As to the allegations contained in paragraphs **165, 171, 172, 173, 174, 175, 176** and **179** of the complaint, respectfully refers the court to the regulations cited as the best evidence of what is stated and contained therein.

19. Denies the allegations contained in paragraph **170** of the complaint, except respectfully refers the court to Social Services Law § 373 as the best evidence of what is stated and contained therein.

20. As to the allegations contained in paragraphs **177** and **178** of the complaint, respectfully refers the court to Social Services Law § 373 as the best evidence of what is stated and contained therein.

21. Denies the allegations contained in paragraph **200** of the complaint, except respectfully refers the court to Social Services Law § 385 and § 388 as the best evidence of what is stated and contained therein.

22. Denies that New Hope had been told that it would have to violate its beliefs or shut down; and denies knowledge or information sufficient to form a belief as to the truth of the remaining allegations contained in paragraph **211** of the complaint.

23. Denies the allegations contained in paragraph **250** of the complaint, except respectfully refers all issues of law to the court.

24. As to the allegations contained in paragraphs **230, 264, 279** and **291** of the complaint, respectfully refers the court to all prior responses as fully stated herein.

25. Denies the allegations contained under the heading “**PRAYER FOR RELIEF**,” and denies that plaintiff is entitled to any relief.

26. Denies any allegation of the complaint not specifically responded to above.

Defenses

27. The complaint fails to state a claim upon which relief can be granted.

28. The complaint is barred, in part, by the May 16, 2019 decision and order of this court, and the July 21, 2020 decision and order of the United States Court of Appeals for the Second Circuit.

WHEREFORE, Defendant Sheila J. Poole respectfully asks that this Court deny the relief requested, dismiss the complaint, and grant such other relief as to the Court shall seem is just and equitable.

Dated: Albany, New York
September 9, 2020

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