

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

KRISTY DUMONT; DANA DUMONT;
ERIN BUSK-SUTTON; and REBECCA
BUSK-SUTTON,

Case No. 17-cv-13080

Plaintiffs,

Paul D. Borman
United States District Judge

v.

ELIZABETH HERTEL, in her official
capacity as the Director of the Michigan
Department of Health and Human
Services; and DEMETRIUS STARLING,
in his official capacity as the Executive
Director of the Michigan Children's
Services Agency,

Defendants,

and

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

Intervenor Defendants.

_____/

**ORDER TO APPEAR FOR STATUS CONFERENCE TO SHOW CAUSE
WHY PLAINTIFFS' MOTION TO REOPEN (ECF NO. 87) SHOULD NOT
BE DISMISSED**

On March 22, 2019, Defendants entered into a settlement agreement with Plaintiffs to dispose of Plaintiffs' claims in this case (the "Settlement Agreement"). The same day, the Court entered an Order dismissing Plaintiffs' claims with

prejudice “pursuant to the terms of the Settlement Agreement,” and retaining jurisdiction over the enforcement of the Settlement Agreement. (ECF No. 83.)

On February 24, 2020, Plaintiffs filed a Motion to Reopen Proceedings for Purposes of Enforcing the Settlement Agreement, asking the Court to “order the State Defendants to notify [Catholic Charities West Michigan] (CCWM) of its contract violation [its refusal to place children with same-sex couples] and, if CCWM refuses to comply ‘within a reasonable time after notification[,] ... terminate the [child placing agency’s] (CPA’s) Contracts.” (ECF No. 87.) Both Defendants and the Intervenor Defendants filed Response briefs (ECF Nos. 89, 92), stating, in part, that the same day Plaintiffs filed the pending motion, the United States Supreme Court granted review in *Fulton v. City of Philadelphia*, 922 F.3d 140 (3d Cir. 2019), and that the Supreme Court will consider “[w]hether a government violates the First Amendment by conditioning a religious agency’s ability to participate in the foster care system on taking actions and making statements that directly contradict the agency’s religious beliefs[.]” Pet. for Cert., *Fulton v. City of Philadelphia*, No. 19-123 (U.S. filed July 22, 2019); Order, *Fulton*, No. 19-123 (U.S. filed Feb. 24, 2020). Plaintiffs have filed a Reply brief (ECF No. 93).

On June 17, 2021, the United States Supreme Court decided *Fulton v. City of Philadelphia*, 141 S. Ct. 1868 (2021), and held that the refusal of the City of Philadelphia to contract with Catholic Social Services (CSS) for the provision of

foster care services unless CSS agreed to certify same-sex couples as foster parents violated the Free Exercise Clause of the First Amendment.

In light of the United States Supreme Court's decision in *Fulton*, the parties are **ORDERED** to appear for a virtual status conference by Zoom videoconference technology on **Wednesday, February 23, 2022 at 11:00 a.m.** to show cause why Plaintiffs' Motion to Reopen (ECF No. 87) should not be dismissed. A Notice of virtual hearing will be issued separately.

IT IS SO ORDERED.

Dated: February 15, 2022

s/Paul D. Borman
Paul D. Borman
United States District Judge