

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF COLUMBIA

FATMA MAROUF, *et al.*,

Plaintiffs,

v.

XAVIER BECERRA, in his official capacity  
as Secretary of the United States Department  
of Health and Human Services, *et al.*,

Defendants.

Case No. 18-cv-378 (APM)

**FEDERAL DEFENDANTS' NOTICE OF FILING ADDITIONAL EXHIBIT IN  
SUPPORT OF MOTION FOR SUMMARY JUDGMENT**

Defendants United States Department of Health and Human Services (“HHS”);  
Administration for Children and Families (“ACF”); Office of Refugee Resettlement (“ORR”);  
Xavier Becerra, in his official capacity as Secretary of HHS; January Contreras, in her official  
capacity as Assistant Secretary for ACF; and Andrea Chapman, in her official capacity as Acting  
Director of ORR (collectively the “Federal Defendants”), file this notice to provide one  
additional exhibit in support of their motion for summary judgment, ECF No. 109, which was  
mistakenly omitted from that filing.

Dated: July 28, 2022

Respectfully submitted,

BRIAN M. BOYNTON  
Principal Deputy Assistant Attorney General

MICHELLE BENNETT  
Assistant Branch Director

/s/ James Powers  
JAMES R. POWERS (TX Bar No. 24092989)  
JASON LYNCH  
Trial Attorneys

Federal Programs Branch  
U.S. Department of Justice, Civil Division  
1100 L Street, NW  
Washington, DC 20005  
Telephone: (202) 353-0543  
Email: james.r.powers@usdoj.gov

*Counsel for Federal Defendants*

# **Exhibit Z**

Anne Mullooly

May 18, 2022

UNITED STATES DISTRICT COURT

DISTRICT OF COLUMBIA

- - -

|                       |   |             |
|-----------------------|---|-------------|
| FATMA MAROUF and BRYN | : | CASE NO.    |
| ESPLIN, a Married     | : | 1:18-cv-378 |
| Couple,               | : | (APM)       |
| Plaintiffs,           | : |             |
|                       | : |             |
| V.                    | : |             |
|                       | : |             |
| ALEX AZAR, in his     | : |             |
| official capacity as  | : |             |
| Secretary of the      | : |             |
| UNITED STATES         | : |             |
| DEPARTMENT OF HEALTH  | : |             |
| AND HUMAN SERVICES,   | : |             |
| Defendants.           | : |             |

- - -

May 18, 2022

- - -

Videoconference deposition of ANNE  
MULLOOLY, ORR/URM, (with all parties  
participating remotely), commencing at 9:02  
a.m. on the above date, before Teresa M.  
Beaver, Professional Court Reporter and  
Notary Public.

- - -

US LEGAL SUPPORT  
(877) 479-2484

1 A P P E A R A N C E S :

2 (VIA VIDEOCONFERENCE)  
3 HOGAN LOVELLS U.S., LLP  
4 BY: KATHERINE CULORA, ESQUIRE  
(D.C. office)  
5 and  
6 RUSSELL WELCH, ESQUIRE  
and  
7 KENNETH CHOE, ESQUIRE  
(D.C. office)

8 609 Main Street, Suite 4200  
Houston, Texas 77002  
9 katherine.culora@hoganlovells.com  
russell.welch@hoganlovells.com  
ken.choe@hoganlovells.com  
Counsel for the Plaintiffs

10 and

11  
12 (VIA VIDEOCONFERENCE)  
13 LAMBDA LEGAL DEFENSE AND EDUCATION  
14 BY: CAMILLA B. TAYLOR, ESQUIRE  
65 E. Wacker Place, Suite 2000  
15 Chicago, Illinois 60601-7245  
ctaylor@lambdalegal.org  
Counsel for the Plaintiffs

16 and

17 (VIA VIDEOCONFERENCE)  
18 AMERICANS UNITED FOR SEPARATION OF  
CHURCH AND STATE  
19 BY: KENNETH DALE UPTON, JR., ESQUIRE  
1310 L. Street N.W., Suite 200  
20 Washington, D.C. 20005  
upton@au.org  
Counsel for the Plaintiffs

1 A P P E A R A N C E S :

2

(VIA VIDEOCONFERENCE)

3

U.S. DEPARTMENT OF JUSTICE -  
CIVIL DIVISION

4

BY: JASON LYNCH, ESQUIRE

5

1100 L Street, H.W.

6

Washington, D.C. 20005

7

jason.lynch@usdoj.gov

8

Counsel for the Federal Defendants and  
the Witness

9

10

(VIA VIDEOCONFERENCE)

11

JONES DAY

12

BY: DAVID T. RAIMER, ESQUIRE

13

(D.C. office)

14

500 Grant Street, Suite 4500

15

Pittsburgh, Pennsylvania 15219-2514

16

dtraimer@jonesday.com

17

Counsel for the U.S. Conference of

18

Catholic Bishops

19

- - -

20

21 A L S O P R E S E N T :

22

KEVIN LAKE, ESQUIRE

23

HHS

24

LLEWELLYN WOOLFORD, ESQUIRE

25

HHS

26

27

28

29

30

31

32

33

34

35

36

37

38

39

40

41

42

43

44

45

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MULLOOLY

Q. And USCCB serves URM program children through it's subgrantees Catholic Charities Dallas?

A. Correct. Catholic Charities.

Q. And for how long has USCCB served the URM program children through the subgrantee?

A. Since 2017.

Q. And as of today, approximately how many URM program children are in the custody of USCCB in the Dallas Fort Worth area?

A. The children are not in the custody of USCCB. They are in the custody of Catholic Charities of Dallas and there's about 50 kids in care right now in that program.

Q. And LIRS is a grantee of the URM program as well; right?

A. A grantee of ORR, yes.

Q. Yeah. And LIRS serves the URM program children through its subgrantee Upbring?

A. Yes.

1 MULLOOLY

2 Q. So, ORR is not asking USCRI to  
3 report as to why one family was referred to  
4 an organization versus the other. Is that  
5 what you're saying?

6 A. Correct.

7 Q. And I know this is just a  
8 monthly report for April, but do you know how  
9 many licensed foster parents are currently in  
10 Upbring's network?

11 A. I believe there is one licensed  
12 foster family currently at Upbring.

13 Q. This has two here for April.  
14 Currently there's only one?

15 A. So, license is something  
16 different than referrals to get licensed.  
17 The licensing process takes months. So, what  
18 you're looking at is kind of the front end  
19 where people are inquiring about becoming  
20 licensed foster parents. They are filling  
21 out an intake. They are being referred to  
22 the URM provider agency that can then start  
23 the training and licensing process.

24 So, the family that's already  
25 licensed through Upbring probably started the

1 MULLOOLY

2 everyone had full understanding of how this  
3 was going to work.

4 We also were providing -- I  
5 don't want to say oversight, but making sure  
6 that things were progressing in terms of the  
7 development of the consortium. And again, we  
8 were reviewing drafts of the key documents  
9 and also reviewing budget estimates  
10 associated with costs for this new process.

11 Q. And you said the government was  
12 helping to push things along.

13 Was the government on a timeline  
14 for standing up and implementing this model?

15 A. There was no timeline, per se.  
16 We wanted the consortium to be implemented as  
17 timely as possible.

18 Originally we had indicated we  
19 wanted it launched by January. But due to  
20 other events and circumstances unrelated to  
21 this, it got delayed until March.

22 Q. And is the program fully stood  
23 up and up and running as of today?

24 A. Yes, it is.

25 Q. I'm going to ask Russell to pull

1 MULLOOLY

2 A. Yes, I will.

3 So, ORR refers children for URM  
4 placement. Upbring would review the referral  
5 and decide if they feel like they have the  
6 ability to meet the child's needs and that  
7 the child would be a good fit for their --  
8 for a foster family that is in their current  
9 licensed foster parent pool.

10 If they identify a family that  
11 they think would be a good fit for the child,  
12 they would then communicate that back to ORR.

13 We then approve that child's  
14 entered into that URM program and then the  
15 child would then be transferred to Upbring.

16 So, the foster family would have  
17 to accept and Upbring would have to accept  
18 the child first before they are actually  
19 placed in the program.

20 Does that make sense?

21 Q. And Upbring can't accept the  
22 child without having licensed foster parents;  
23 correct?

24 A. Correct. That's correct.

25 Q. I'm going to shift gears a

1 MULLOOLY

2 little bit. When did ORR first begin

3 preparations for this consortium?

4 A. In terms of the development?

5 Q. Yes.

6 A. May of 2021.

7 Q. When did ORR first contact USCRI

8 to assist with the consortium model?

9 A. I believe it was late June. I  
10 don't have the exact date.

11 Q. June of 2021?

12 A. June of 2021, yes.

13 Q. And how did ORR describe to

14 USCRI what its role would be in the

15 consortium model?

16 A. Initially we indicated to USCRI  
17 that we were interested in them taking on a  
18 new URM task and then when we had a call with  
19 USCRI leadership, we provided a copy of the  
20 flow chart that outlined the consortium and  
21 the foster parent intake process and we  
22 explained that we -- essentially what we  
23 wanted them to do, which would be receive  
24 inquiries and conduct initial intake of  
25 prospective foster parents and then make a

1 MULLOOLY

2 referral to one of two -- one of the two URM  
3 provider agencies.

4 Q. Did it indicate to USCRI that  
5 either USCCB or LIRS had specific criteria or  
6 religious objections in processing potential  
7 foster parent inquiries?

8 A. Was that -- you're asking if  
9 that was discussed with USCRI?

10 Q. Yes.

11 A. No.

12 Q. Why not?

13 A. We did explain that we wanted to  
14 develop this consortium to ensure that all  
15 prospective foster parents in the Dallas-Fort  
16 Worth area had an opportunity to work with a  
17 URM provider agency to determine if they were  
18 eligible to be licensed in the State of  
19 Texas.

20 Q. And the government's aware of  
21 USCCB's religious objections based on the  
22 provisions that you've seen in the past and  
23 they did not indicate this to -- did they  
24 indicate this to USCRI?

25 MR. LYNCH: Object to the form

1 MULLOOLY

2 A. No. No constraints.

3 Q. Why not?

4 A. LIRS and USCCB administer the  
5 program. So they are responsible for the  
6 financial oversight. They keep track of  
7 their subgrantees in terms of staffing,  
8 children in care, costs associated with  
9 providing the required services and then they  
10 would communicate to ORR, USCCB and LIRS  
11 would communicate to us that we actually need  
12 more money because our provider is doing a  
13 great job with recruiting and we accepted all  
14 these kids into care.

15 So, there's no -- the initial  
16 budget estimate or any budget estimate is not  
17 a constraint. At any time they can tell us  
18 that they need more money.

19 MR. LYNCH: Thank you. That's  
20 all the questions that I have for you.

21 - - -

22 EXAMINATION

23 - - -

24 BY MR. RAIMER:

25 Q. Just very quickly, Ms. Mullooly,

1 MULLOOLY

2 I believe you testified that the consortium  
3 seeks to ensure that all prospective foster  
4 parents in the Dallas-Fort Worth area have  
5 the opportunity to work with an URM provider.  
6 Is that correct?

7 A. Correct.

8 Q. Okay. So, if a same sex couple  
9 in the Dallas-Fort Worth area now sought to  
10 foster a child through the consortium, would  
11 the fact that they are in a same sex  
12 relationship preclude them from being  
13 referred to a URM provider?

14 A. No.

15 Q. As you sit here today, are you  
16 aware of anything that precludes a couple in  
17 a same sex relationship in the Dallas-Fort  
18 Worth area from having their application to  
19 serve as a foster parent processed by the  
20 consortium?

21 A. No.

22 Q. So, if the plaintiffs in this  
23 case now sought to foster a child through the  
24 consortium, would the fact that they are in a  
25 same sex relationship preclude them from

1  
2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24  
25

MULLOOLY

doing so?

A. No.

Q. Have plaintiffs in this case sought to foster a child through the consortium?

A. The federal government is not aware of that.

MR. RAIMER: Okay. Thanks.  
That's all I have.

MS. CULORA: I just have two questions on the budget.

- - -

EXAMINATION

- - -

BY MS. CULORA:

Q. Earlier you testified about the budget estimates from LIRS and USCCB.

Do you recall that?

A. Can you repeat that? I didn't quite hear the whole question.

Q. Earlier you testified about the budgets from LIRS and USCCB. Do you recall?

A. Yes. When you asked me about it or when Mr. Lynch just asked?