



September 14, 2022

The Honorable Mae A. D'Agostino
United States District Court
Northern District of New York
James T. Foley U.S. Courthouse
445 Broadway, Suite 509
Albany, NY 12207

Re: *New Hope Family Services, Inc. v. James et al.*, 5:21-cv-1031 (MAD)(TWD)

Dear Judge D'Agostino:

This letter addresses the effect the September 6, 2022 Memorandum-Decision and Order in *New Hope Family Services, Inc. v. Poole* (5:18-CV-1419, ECF No. 80) has on the pending motions, as well the status of the investigation by the New York State Division of Human Rights. In short, the State continues to harass New Hope. Just yesterday the State told New Hope that it issued a probable cause determination immediately after the Court issued its permanent injunction in *Poole*. See Exhibit 1. The State is now demanding that New Hope participate in an intrusive public hearing that could lead to New Hope being punished for the very same religious speech, practices, and policy protected in *Poole*. An injunction therefore is urgently needed.

A. New Hope urgently needs an injunction.

After sitting on the discrimination complaint for over a year, the State Division of Human Rights found probable cause that New Hope “engaged in or is engaging in [an] unlawful discriminatory practice.” Ex. 1 at 1. It made this determination the day after the permanent injunction ruling in *Poole*, and it notified New Hope by email just yesterday. The State now demands that New Hope participate in an intrusive public hearing, where it will be threatened with cease-and-desist orders, money damages (compensatory and punitive), attorney fees, fines up to \$100,000, and possible jailtime. *Id.* at 1, 5, 12; see also N.Y. Exec. Law §§ 297(4)(c) & 299. Yet all New Hope did was tell an inquirer that, consistent with its religious beliefs, it “works with adoptive

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families built around a married husband and wife.” VC ¶ 81. And it did so when an in-force preliminary injunction in *Poole* protected New Hope’s religious speech and practices.

Unfortunately, the State’s latest attempt to evade judicial authority is unsurprising. The State once demanded that New Hope close its adoption program within 15 days while New Hope’s appeal was pending before the Second Circuit—a brazen demand that required, and resulted in, emergency relief. *See Order, New Hope v. Poole*, No. 19-1715 (2d Cir. Nov. 4, 2019), ECF No. 160. The State has also insisted it has a duty to investigate all complaints against New Hope—no matter how baseless—and has argued that the Court can do nothing to halt those investigations or otherwise protect New Hope. ECF No. 34-6 at 10–20. But that is wrong. The State can “pass upon complaints” without investigating, N.Y. Exec. Law § 295(6)(a), and *Younger* abstention does not apply, *see* ECF No. 37 at 10–21. In any event, the State’s most recent actions definitively prove that “bad faith,” “harassment,” or “other unusual circumstances” exist for the requested injunction. *Mitchum v. Foster*, 407 U.S. 225, 230 (1972).

B. The permanent injunction in *Poole* compels a preliminary injunction here.

The decision in *Poole* makes this case easy. At bottom, the State is trying to do what this Court said it could not do in *Poole*. It is threatening to punish New Hope for the same religious speech, practices, and policy. So the same factual findings and legal analysis in *Poole* warrant an injunction here. To conclude otherwise would lead to inconsistent and conflicting judgments.

Principles of claim and issue preclusion also warrant an injunction. Claim preclusion (or *res judicata*) bars the State’s defenses because: “(1) the earlier decision [in *Poole*] was a final judgment on the merits; (2) the decision was rendered by a court of competent jurisdiction; (3) the same parties or their privies were involved; and (4) the decision involved the same cause of action.” *Overview Books, LLC v. United States*, 755 F. Supp. 2d 409, 415 (E.D.N.Y. 2010), *aff’d*, 438 F. App’x 31 (2d Cir. 2011); *see also Emerson Elec. Co. v. Holmes*, No. 16-CV-1390 (PKC)

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(SIL), 2020 WL 4592808, at *16 n.16 (E.D.N.Y. August 11, 2020) (recognizing “defense preclusion”). The decision in *Poole* plainly meets the first two elements. It also meets the third because both New Hope and the State, through its executive agencies, were involved in *Poole*. See *Overview Books*, 755 F. Supp. 2d at 417–18 (different agencies and agency officials of the same government are privies). And it satisfies the final element because the legal claims and defenses in both lawsuits are virtually identical, arising from a “common nucleus of operative facts.” *Waldman v. Village of Kiryas Joel*, 207 F.3d 105, 108 (2d Cir. 2000). Moreover, claim preclusion applies when, as here, “a different judgment in the second action would impair or destroy rights or interests established by the judgment entered in the first action.” *Lucky Brand Dungarees, Inc. v. Marcel Fashions Grp., Inc.*, 140 S. Ct. 1589, 1595 (2020).

As for issue preclusion, the State may not “relitigat[e] an issue actually decided in a prior case and necessary to the judgment.” *Lucky Brand*, 140 S. Ct. at 1594. And here, both this Court and the Second Circuit have already determined that New Hope’s adoption services are laden with private speech and that forcing New Hope “to place children with unmarried and same-sex couples” unconstitutionally compels and restricts that speech. *New Hope Family Servs., Inc. v. Poole*, 966 F.3d 145, 176–77 (2d Cir. 2000); see also Mem.-Decision & Order at 8–10. What’s more, the Court in *Poole* determined that the regulation challenged there was not narrowly tailored to advance the State’s purported interests in avoiding discrimination and increasing the number of children available to adoptive families. Mem.-Decision & Order at 12. Like in *Poole*, the State’s enforcement of the challenged laws here (1) “fails to provide the accommodation for religious beliefs that was signaled in the amendment of Domestic Relations Law § 110”; (2) “runs contrary to the state’s interest in maximizing the number of families for adoption”; and (3) is not a “more narrowly tailored means of avoiding discrimination” than New Hope’s “recusal-and-referral practice.” Mem.-Decision & Order at 12.

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Respectfully Submitted,

/s/Mark Lippelmann

Mark Lippelmann
Counsel for Plaintiff

cc (via ECF): All counsel of record

EXHIBIT 1:

Determination After Investigation



**Division of
Human Rights**

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

NEW YORK STATE DIVISION OF
HUMAN RIGHTS on the Complaint of

MICHAEL P. MCWILLIAMS,

Complainant,

v.

NEW HOPE FAMILY SERVICES, INC.,

Respondent.

DETERMINATION AFTER
INVESTIGATION

Case No.
10213155

On 8/23/2021, Michael P. McWilliams filed a complaint with the New York State Division of Human Rights (“Division”), charging the above-named Respondent with an unlawful discriminatory practice relating to public accommodation because of marital status, sexual orientation in violation of N.Y. Exec. Law, art. 15 (“Human Rights Law”).

After investigation, the Division has determined that it has jurisdiction in this matter and that PROBABLE CAUSE exists to believe that the Respondent has engaged in or is engaging in the unlawful discriminatory practice complained of.

Pursuant to the Human Rights Law, this matter is recommended for public hearing. The parties will be advised of further proceedings.

Dated: **SEP 07 2022**
Rochester, New York

STATE DIVISION OF HUMAN RIGHTS

By: *Julia B Day*
Julia B. Day
Regional Director

Information to the Parties
Following Determination of Probable Cause

The New York State Division of Human Rights (“Division”) is the administrative agency charged with enforcing the New York State Human Rights Law. The Division investigates complaints of discrimination, determines whether there is probable cause to believe that discrimination has occurred, and conducts a public hearing of the complaint where probable cause is found. Probable cause has been found in this case, and the matter will now proceed to a public hearing before an Administrative Law Judge.

If a Complainant does not have a private attorney, the Division will assign an attorney to present the case in support of the complaint. The Division attorney at all times represents the Division, not the Complainant personally. Substitutions and reassignments of Division attorneys and Administrative Law Judges are within the Division’s discretion.

The hearing process will start with the preliminary conference conducted by telephone, at which time the hearing dates for the taking of testimony will be agreed upon. There is no formal discovery. Parties must exchange document and witness lists prior to the preliminary conference.

The preliminary conference will include an opportunity for the parties to discuss possible settlement of the case. If Respondent wishes to make an offer of settlement prior to that time, Respondent should contact the Director of Prosecutions at (718) 741-8396.

The parties have a continuing obligation to keep the Division advised as to all changes in the case including:

1. Changes in name, address, email address and/or telephone number of the parties and successors in interest. **Due to COVID-19 the Division is conducting public hearings by video conference. Therefore, an email address must be provided if you have not already provided one.** See further information below in the FAQs.
2. Commencement of proceedings in another forum.
3. Settlement of the case.

Any of the above information should be timely provided to the Division, IN WRITING on the attached form to the following by mail, email or fax:

New York State Division of Human Rights
Attn: Chief Administrative Law Judge
One Fordham Plaza, 4th Floor
Bronx, New York 10458
Fax: (718) 741-8333
Email: hearings@dhr.ny.gov

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If the Complainant wishes to seek dismissal of this matter to proceed in an alternate forum, an application should be filed with the Chief Administrative Law Judge at the above listed address, preferably within twenty (20) days of the date of this determination.

The parties also have a continuing obligation to maintain certain information and records such as:

1. Parties must keep track of the whereabouts of their witnesses.
2. Parties are obligated to identify and preserve all evidence relating to the case, including evidence relating to any incidents which relate to the case that occur after the Division makes a finding of probable cause, and including all evidence whether for or against that party's interests.
3. Parties are responsible for recording and keeping evidence relating to any increase or reduction in damages.

Finally, if you would like to request a copy of the investigation file, please do so promptly. Put your request in writing to:

New York State Division of Human Rights
Attn: FOIL Officer
One Fordham Plaza, 4th Floor
Bronx, New York 10458
Fax: (718) 741-8256
Email: foil@dhr.ny.gov

Please note that your request for documents, or the Division's response or date of response thereto, will not affect the date of the hearing, and cannot be used to request a postponement or rescheduling of the hearing. Costs for copying, established by statute, will apply.

INFORMATION ABOUT THE HEARING PROCESS

The following are general responses to frequently asked questions. The responses are not legal advice and should be used for informational purposes only.

WHAT LAWS GOVERN THE HEARING PROCESS?

The New York State Human Rights Law (N.Y. Exec. Law, art. 15), and the Division's Rules of Practice (9 N.Y.C.R.R. § 465) outline the policies and procedures that govern the hearing process held at the New York State Division of Human Rights. The Human Rights Law and the Division's Rules of Practice are available on the Division's website at www.dhr.ny.gov. The New York Civil Practice Law and Rules and the Federal Rules of Procedure and Evidence are inapplicable to Division proceedings, although they are relied upon as a guide for the orderly introduction and acceptance of evidence. Please cite to New York State case law wherever possible in all submissions to the Division.

WHAT IS A PUBLIC HEARING?

Where the Division finds probable cause after investigation, the Human Rights Law requires that the entire case be heard at a public hearing before an administrative law judge, where all relevant evidence is presented and the testimony of witnesses is taken under oath and subject to cross-examination.

A public hearing is a trial-like proceeding at which relevant evidence is placed in the hearing record. It is a hearing *de novo*, which means that the Commissioner's final decision on the case is based solely on the content of the hearing record. The public hearing is presided over by an Administrative Law Judge (ALJ), and a verbatim transcript is made of the proceedings.

The hearing may last one or more full days. The hearing sessions are generally scheduled on consecutive days. Parties are notified of all hearing sessions in advance, and the case may be adjourned to a later date only for good cause.

Respondent can retain private counsel for the hearing. If Respondent is a corporation, it is required to be represented by legal counsel. Complainant can retain private counsel for the hearing but is not required to do so. If Complainant is not represented by private counsel, the Division's counsel prosecutes the case in support of the complaint. Attorneys for the parties or for the Division may issue subpoenas for documents and/or to compel the presence of witnesses.

After the public hearing is concluded, the ALJ prepares a recommended order that is sent to the parties for comment.

After comments are received, the Commissioner issues a final order. The Commissioner either dismisses the complaint or finds that discrimination occurred. If the Commissioner finds that discrimination occurred, Respondent will be ordered to cease and desist and take appropriate action, such as reinstatement, training of staff, or provision of reasonable accommodation to a

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known disability. The Commissioner may award money damages to Complainant, including back pay and compensatory damages for mental pain and suffering, and in certain instances, punitive damages and attorney fees. The Commissioner may also order Respondent to pay civil fines and penalties to the State of New York. Either party may appeal the Commissioner's Order to the State Supreme Court within 60 days. Orders after hearing are transferred by the State Supreme Court to the Appellate Division for review.

IMPORTANT

See below for frequently asked questions that may assist with the hearing process. Please note, you may contact the office of the calendar clerk if you require individualized assistance at hearings@dhr.ny.gov or (718) 741-8400. However, we do request that you reach out only if the situation is urgent. We cannot provide you with the status of your case, but we will contact *you* at the appropriate time. Frequent inquiries can interfere with the expeditious processing of your hearing. *Please do not contact your regional office; they do not have any information on the hearing process.*

FREQUENTLY ASKED QUESTIONS

1. How is the Division conducting public hearings during the COVID-19 pandemic?

During the COVID-19 pandemic, all public hearings are conducted via videoconferencing, Zoom. The Division has suspended all in-person public hearings until further notice.

2. Will my hearing be a public hearing, although it is conducted via Zoom?

Yes. All scheduled public hearings will be posted on the Division's website, with instructions to the public about how to gain access to the public hearings by sending an email to: hearings@dhr.ny.gov.

3. When should an answer to the complaint be filed?

At least two business days prior to the scheduled preliminary conference, Respondent and any necessary party, must file a written answer to the complaint, sworn to and subject to the penalties of perjury. The written answer must be filed with the assigned ALJ and served upon each of the other parties to the proceeding. The answer must contain all affirmative defenses.

4. When should the preliminary conference statement be filed?

At least five days before the scheduled preliminary conference date, the parties must submit the following information to the assigned Administrative Law Judge, a copy of which must be served upon each of the other parties: (a) a brief statement of each issue in the case; (b) a detailed description of each proposed exhibit and its relevance to the issues identified; and

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(c) a list of proposed witnesses, with an explanation of their identity and the scope of their knowledge of the facts of the case.

5. When should the parties exchange exhibits?

The parties must exchange their proposed exhibits at least five days before the scheduled preliminary conference.

6. How do I communicate with the ALJ?

All formal papers, including, but not limited to the answer, must be submitted via personal service, mail or fax (with an original to follow), with a copy to all parties, for proper docketing and timely filing. Formal papers submitted via electronic mail (hearings@dhr.ny.gov) are deemed courtesy copies and do not constitute proper service.

7. Can I speak with the ALJ?

Ex-parte communication (i.e., by only one party) with the ALJ assigned to the case is strictly prohibited. The parties may jointly request a conference with the ALJ through the Office of Administrative Law Judges.

8. What do I bring to the public hearing, such as documents, witnesses, etc.?

You should bring all documents and witnesses relevant to your claims and/or defenses. You should also bring proper identification.

9. What if I need interpretation services?

Interpretation services will be provided at no charge. Please alert your Division representative and the Office of Administrative Law Judges at (718) 741-8255 if an interpreter is required.

10. What should I do if I have a conflict with the hearing date that is scheduled?

You should submit, as soon as possible, a written request for an adjournment of the hearing, stating the basis for your request, to the ALJ assigned and all parties.

11. On what basis will the ALJ grant an adjournment?

No adjournment of the hearing shall be granted except for actual engagement before a higher tribunal or for other good cause shown. **Settlement discussions or settlement in principle do not constitute good cause.**

12. What is the proper attire?

Please dress in a manner that shows respect for these important proceedings.

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13. Am I allowed to eat during the public hearing?

No. But you are allowed to bring water.

14. What do I do with my cellphone or other electronic device?

All cellphones and other electronic devices must be turned off or placed in silent mode during the hearing, unless you are participating by telephone or videoconferencing.

Attorneys, parties, witnesses, and any other persons attending the hearing are prohibited from taking photographs, making video or audio recordings, broadcasting or telecasting the public hearing, at any time, whether or not the public hearing is in session.

15. What happens if I do not appear for the public hearing?

Complainant's failure to appear at a public hearing may result in a dismissal of the complaint. Respondent's failure to appear may result in a default finding against that Respondent.

16. How long is the public hearing?

Public hearings are generally scheduled for two (2) days. Each scheduled date starts at 9:30 a.m. and ends at 5:00 p.m. Be prepared to be present until the end of the day.

17. Can I bring my child(ren) to the public hearing?

No. You must make childcare arrangements.

18. Are electronic signatures accepted?

No. Please refer to the New York Technology Law § 304 and the New York Electronic Signatures and Records Act for more information.

19. May an attorney not admitted in New York State represent a party at a public hearing?

Please see 22 N.Y.C.R.R. § 523.2 and guide yourself accordingly.

20. May a law student admitted to the practice of law pursuant to an Appellate Division Order and under the supervision of a licensed attorney appear at a public hearing?

Please see 22 N.Y.C.R.R. § 805.5, Judiciary Law § 478 and § 484, and relevant Appellate Division rules.

IF YOU MOVE, SETTLE, OR INTEND TO CHANGE FORUM
Complete, sign and date, and return this form to:

New York State Division of Human Rights
Attn: Chief Administrative Law Judge
One Fordham Plaza, 4th Floor
Bronx, New York 10458
Fax: (718) 741-8333
Email: hearings@dhr.ny.gov

Re: Michael P. McWilliams v. New Hope Family Services, Inc.
Case No. 10213155

Name: _____

Address: _____

Telephone: _____ Email address: _____

I will be at my new address after: _____

New NAME ADDRESS EMAIL and/or TELEPHONE NUMBER

Please indicate below the name, address, and telephone number of a person who may be contacted and who will know your whereabouts if the Division cannot locate you:

Commencement of proceedings in another forum, or settlement:

Below please indicate, for other proceedings, the name of the forum and the name, address, and telephone number of the attorney handling the matter. For settlement, please explain briefly the circumstances under which the case was settled, and whether terms have been complied with.

Signature

Date

Print Name

NEW YORK STATE
DIVISION OF HUMAN RIGHTS

TO: Files

REGION: Rochester

FROM: Julia B. Day
Regional Director

DATE:
September 7, 2022

SDHR CASE NO: 10213155-21-P-MI-

SUBJECT: Michael P. McWilliams v. New Hope Family Services, Inc.

FINAL INVESTIGATION REPORT AND BASIS OF DETERMINATION

I. CASE SUMMARY

This is a verified complaint, filed by complainant, Michael P. McWilliams, on Mon 8/23/2021. The complainant who is unmarried and homosexual, charges the respondent with unlawful discriminatory practices in relation to public accommodation because of marital status, sexual orientation.

II. SUMMARY OF INVESTIGATION

Complainant's Position:

The complainant maintains that he contacted the respondent not-for-profit agency, expressing interest in its adoption program. According to the complainant, he was informed that the respondent assists only heterosexual couples who wish to adopt children.

Respondent's Position:

The respondent asserts that it is a religious not-for-profit corporation that works with birthmothers and adoptive parents to place children into permanent homes. According to the respondent, the agency is based on a belief that "God created marriage to consist of the union of one man and one woman for life, and that a family built around this type of marriage is designed by God is the ideal and healthiest family structure." The respondent states that "New Hope does not devote its private resources to placing children with unmarried couples or same-sex couples" and adds that respondent is willing to make referrals to other agencies that are available to assist potential adopters who do not meet respondent's criteria. The respondent also states that it accepts no government funding, and makes references to pending litigation on related issues in other legal forums. The respondent also suggests that the complainant's inquiry to respondent about adoption was not made in good faith.

The Respondent maintains that enforcement of the Human Rights Law's protections against discrimination impinges upon various First Amendment rights that it is entitled to as a religious entity. It argues that it is not a place of public accommodation under the Human Rights Law. Letter from Mark A. Lippelmann, Esq., counsel for Respondent to Julia B. Day, Regional Director, State Division of Human Rights, Oct. 18, 2021, (hereafter "Respondent's Position Statement"), pp. 2-3.

Investigator's Observations:

In his rebuttal to the respondent's response, the complainant reasserts his allegations and objects to the respondent's comment that his query was not in good faith. It is noted that the complainant's complaint includes documentation that the complainant had received extensive prior screening as a potential adoptive parent, had a strong desire to adopt, and was evaluated by another placement agency as qualified to adopt.

There is no dispute that the respondent denied the complainant the opportunity to receive adoption services through its agency, because the complainant is not part of a heterosexual married couple.

As regards the enforceability of the Human Rights Law, the Respondent relies upon *New Hope Family Servs., Inc. v. Poole*, 966 F.3d 145 (2d Cir. 2020), *on remand*, 493 F.Supp.3d 44 (N.D.N.Y. 2020), in which the Federal District Court, on remand, granted a preliminary injunction preventing the New York State Office of Children and Family Services (OCFS) from revoking the Respondent's perpetual authorization for placing children foster care or adoption in accordance with an agency regulation barring discrimination based upon sexual orientation. However, in holding that the Respondent in that case had made out a plausible claim of violations of First Amendment rights, the Second Circuit noted, "We need not here consider what discrimination concerns this might raise if New Hope qualified as a public accommodation under New York law, *see* N.Y. Exec. Law §§292(9), 296, because OFCS does not attempt formally to denominate it as such." *New Hope Family Servs., Inc., supra*, 966 F.3d at 166. Thus, the Second Circuit did not resolve whether claims under the Human Rights Law may be pursued against the Respondents or similarly-situated parties.

The Respondent asserts that *Fulton v. City of Philadelphia, Pa.*, ___ U.S. ___, 141 S.Ct 1868 (2021) settled the question that it cannot be a place of public accommodation. Respondent's Position Statement, p. 4. In *Fulton*, the Supreme Court held that the City of Philadelphia violated the First Amendment rights of a religious agency by stating its intent not to enter into a future contract with that agency to provide foster care placements owing to a contractual provision barring discrimination because of sexual orientation. *Id.*, 141 S.Ct. at 1875-1876. The Supreme Court held that the contractual language did not constitute a generally applicable law, as the contract allowed the city's commissioner to grant exceptions to the contractual requirement. *Id.*, 141 S.Ct. at 1878-1879. The Supreme Court also found that the religious agency was not a place of public accommodation under a Philadelphia city ordinance. *Id.*, 141 S.Ct. 1879-1881. However, the Supreme Court's interpretation of the city law, which is not binding on Pennsylvania state courts, is not necessarily one that the Commissioner of Human Rights, or a court reviewing her determination, has to adopt.



Submitted by: _____

Julia B. Day
Regional Director

III. BASIS FOR DETERMINATION

The complainant contacted the respondent agency about receiving its services to assist him in adopting a child. The respondent refused to assist the complainant with adoption, because the respondent accepts only heterosexual married couples as adopters, while the complainant is unmarried and homosexual. Therefore, there is probable cause to conclude that the complainant was unlawfully denied services by the respondent based on the complainant's sexual orientation and marital status.

The determination of probable cause is not a final disposition of the issues of fact and law in this case, but a non-final conclusion that there is reason to believe that the Respondents may have violated the Human Rights Law. At the *de novo* public hearing, the Respondent will have a full opportunity to raise its defenses, including those related to constitutional rights and statutory interpretation, for consideration of the Commissioner, the agency's final arbiter.



Reviewed & Approved: _____

Julia B. Day
Regional Director

IV. DETERMINATION

Based on the foregoing, I find probable cause to support the allegations of the complaint.



Julia B. Day
Regional Director



NY DHR
EVENT HISTORY WITH COMMENTS

Name: Michael P. McWilliams v New Hope Family Services, Inc. (1)

| Complaint ID | Complaint Code | Date Filed | Investigating Office | HRS |
|--------------|----------------|------------|----------------------|-------------|
| 10213155 | 21-P-MI- | 8/23/2021 | Rochester | Jami Kaplan |



**NY DHR
EVENT HISTORY WITH COMMENTS**

Name: Michael P. McWilliams v New Hope Family Services, Inc. (1)

Events (30)

Unit: Regional
 Type: Complaint Filed
 SubType:
 Date: Mon 8/23/2021
 Status: Completed
 Date Completed: 8/23/2021
 Comments:

Unit: Regional
 Type: Serve Complaint on Respondent
 SubType:
 Date: Mon 8/23/2021
 Status: Completed
 Date Completed: 8/23/2021
 Comments: served via email today

Unit: Regional
 Type: Complainant Contact
 SubType: E-mail
 Date: Mon 8/23/2021
 Status: Completed
 Date Completed: 8/23/2021
 Comments: E-mailed CP the confirmation letter.

Unit: Regional
 Type: Notation to file
 SubType:
 Date: Mon 8/23/2021
 Status: Completed
 Date Completed: 8/23/2021
 Comments: Folder made & filed

Unit: Regional
 Type: Respondent Contact
 SubType: E-mail
 Date: Mon 9/20/2021
 Status: Completed
 Date Completed: 9/20/2021
 Comments: A request for injunctive relief was received from rp. This was forwarded to the DHR officials named, and to General Counsel.

Unit: Regional
 Type: Stayed (Investigation)
 SubType: Directed by Deputy Commissioner
 Date: Mon 9/20/2021
 Status: Completed
 Date Completed: 9/20/2021
 Comments: Stayed by Deputy Commissioner because of pending litigation.



**NY DHR
EVENT HISTORY WITH COMMENTS**

Name: Michael P. McWilliams v New Hope Family Services, Inc. (1)

Events (30)

Unit: Regional
 Type: Proceedings Resumed After Stay (Investigation)
 SubType:
 Date: Wed 9/22/2021
 Status: Completed
 Date Completed: 9/22/2021
 Comments:

Unit: Regional
 Type: Notation to file
 SubType:
 Date: Wed 9/22/2021
 Status: Completed
 Date Completed: 9/22/2021
 Comments: I was instructed to remove the stay, but to inform rp that the response is not required at this time.

Unit: Regional
 Type: Respondent Contact
 SubType: E-mail
 Date: Wed 9/22/2021
 Status: Completed
 Date Completed: 9/22/2021
 Comments: See docs tab - rp notified that response not required at this time, pending future communication.

Unit: Regional
 Type: Notation to file
 SubType:
 Date: Fri 10/1/2021
 Status: Completed
 Date Completed: 10/4/2021
 Comments: I was contracted by the Deputy Commissioner to proceed with the investigation

Unit: Regional
 Type: Respondent Contact
 SubType: E-mail
 Date: Mon 10/4/2021
 Status: Completed
 Date Completed: 10/4/2021
 Comments: I emailed the rp atty to inform him that the case is proceeding, and to request a response by October 12

Unit: Regional
 Type: Response Due Date
 SubType:
 Date: Mon 10/18/2021
 Status: Completed
 Date Completed: 10/19/2021
 Comments: 2-wks ext granted requested by RP. RP has been notified of ext approval via email today. Later, the matter was held in abeyance, then when proceedings resumed per DHR Legal, the rp requested and was given an ext to October 18



NY DHR
EVENT HISTORY WITH COMMENTS

Name: Michael P. McWilliams v New Hope Family Services, Inc. (1)

Events (30)

| |
|---|
| Unit: Regional |
| Type: Response Received from Respondent |
| SubType: |
| Date: Tue 10/19/2021 |
| Status: Completed |
| Date Completed: 10/19/2021 |
| Comments: Received via email |
| Unit: Regional |
| Type: Rebuttal Requested |
| SubType: |
| Date: Tue 10/19/2021 |
| Status: Completed |
| Date Completed: 10/19/2021 |
| Comments: Response and request for rebuttal letter were sent to CP via email today. Email sent to CP has been uploaded into CMS/ Documents. |
| Unit: Regional |
| Type: Rebuttal Received |
| SubType: |
| Date: Tue 10/19/2021 |
| Status: Completed |
| Date Completed: 10/19/2021 |
| Comments: Received via email |
| Unit: Regional |
| Type: Response Received from Respondent |
| SubType: |
| Date: Thu 10/21/2021 |
| Status: Completed |
| Date Completed: 10/21/2021 |
| Comments: HARD COPY |
| Unit: Regional |
| Type: Notation to file |
| SubType: |
| Date: Tue 10/26/2021 |
| Status: Completed |
| Date Completed: 10/26/2021 |
| Comments: Guidance was requested from General Counsel's office. |
| Unit: Regional |
| Type: Rebuttal Due Date |
| SubType: |
| Date: Wed 11/3/2021 |
| Status: Completed |
| Date Completed: 10/19/2021 |
| Comments: |



NY DHR
EVENT HISTORY WITH COMMENTS

Name: Michael P. McWilliams v New Hope Family Services, Inc. (1)

Events (30)

Unit: Regional
 Type: Notation to file
 SubType:
 Date: Fri 1/7/2022
 Status: Completed
 Date Completed: 1/7/2022
 Comments: The regional office was given explicit instructions by the Deputy Commissioner and General Counsel's office to take no action on this case pending litigation.

Unit: All
 Type: Determination Due Date
 SubType:
 Date: Fri 2/18/2022
 Status: Completed
 Date Completed: 9/7/2022
 Comments:

Unit: All
 Type: Administrative Amendment Generated
 SubType:
 Date: Thu 5/12/2022
 Status: Completed
 Date Completed: 5/12/2022
 Comments:

Unit: All
 Type: Serve Amendment
 SubType:
 Date: Thu 5/12/2022
 Status: Completed
 Date Completed: 9/7/2022
 Comments: amendment is being served with the determination

Unit: Regional
 Type: Notation to file
 SubType:
 Date: Wed 9/7/2022
 Status: Completed
 Date Completed: 9/7/2022
 Comments: The regional office was informed by GC that the determination in the case can be issued..

Unit: Regional
 Type: FIRABOD Submitted to Supervisor
 SubType:
 Date: Wed 9/7/2022
 Status: Completed
 Date Completed: 9/7/2022
 Comments:



**NY DHR
EVENT HISTORY WITH COMMENTS**

Name: Michael P. McWilliams v New Hope Family Services, Inc. (1)

Events (30)

| | |
|-----------------|--|
| Unit: | Regional |
| Type: | Supervisory approval submitted |
| SubType: | |
| Date: | Wed 9/7/2022 |
| Status: | Completed |
| Date Completed: | 9/7/2022 |
| Comments: | |
| Unit: | Regional |
| Type: | Probable Cause Determination Issued |
| SubType: | |
| Date: | Wed 9/7/2022 |
| Status: | Completed |
| Date Completed: | 9/7/2022 |
| Comments: | |
| Unit: | Regional |
| Type: | Serve Probable Cause Determination |
| SubType: | |
| Date: | Wed 9/7/2022 |
| Status: | Pending |
| Date Completed: | |
| Comments: | |
| Unit: | Regional |
| Type: | Notation to file |
| SubType: | |
| Date: | Fri 9/9/2022 |
| Status: | Completed |
| Date Completed: | 9/9/2022 |
| Comments: | The final investigation report and basis of determination was prepared under the instructions and guidance of DHR Legal Dept. |
| Unit: | Regional |
| Type: | Notation to file |
| SubType: | |
| Date: | Mon 9/12/2022 |
| Status: | Completed |
| Date Completed: | 9/12/2022 |
| Comments: | On instruction of DHR Attorney Michael Swirsky, the office has refrained from mailing out the issued determination pending further instructions. Later that day, I received instructions to proceed expeditiously. |
| Unit: | All |
| Type: | Commissioner's Order Due Date |
| SubType: | |
| Date: | Mon 11/7/2022 |
| Status: | Cancelled |
| Date Completed: | |
| Comments: | |

Report complete. Number of main records listed: 1