

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

NEW HOPE FAMILY SERVICES, INC.,

Plaintiff,

ANSWER

-against-

21-CV-1031

LETITIA JAMES, in her official capacity
as New York State Attorney General;
LICHA NYIENDO, in her official capacity
as Commissioner of the New York Division
of Human Rights; MELISSA FRANCO,
in her official capacity as Deputy
Commissioner for Enforcement of the New
York Division of Human Rights; GINA
MARTINEZ, in her official capacity as
Deputy Commissioner for Regional Affairs
of the New York Division of Human
Rights; JULIA DAY, in her official
capacity as Syracuse Regional Director of
the New York Division of Human Rights;
WILLIAM FITZPATRICK, in his official
capacity as Onondaga County District
Attorney,

MAD/TWD

Defendants.

Defendant Gina Martinez, Maria L. Imperial¹, Julia B. Day, Letitia James and Melissa Franco, by her attorney, Letitia James, Attorney General of the State of New York, Adrienne J.

¹New York Division of Human Rights Commissioner Maria L. Imperial replaces former Commissioner Licha Nyiengo, and should be substituted as a Defendant pursuant to Fed. R. Civ. P. 25(d).

Kerwin, Assistant Attorney General, of counsel, answer the Complaint, dated September 17, 2021, ECF No. 1 (“Complaint”), as follows:

No response is required to the four unnumbered paragraph of the Complaint under the heading “INTRODUCTION” on pages 3 and 4 of the Complaint. However, to the extent that a response is deemed necessary, Defendants deny the contents of the paragraph.

1. Deny the allegations contained in paragraph **1** of the Complaint, except admit that Plaintiff relies upon the cited statute for jurisdiction.

2. Deny the allegations contained in paragraph **2** of the Complaint, except admit that Plaintiff relies upon the cited statutes for the relief Plaintiff seeks.

3. Deny the allegations contained in paragraph **3** of the Complaint, except admit that Plaintiff relies upon the cited statute for venue.

4. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **4** of the Complaint.

5. Deny the allegations contained in paragraph **5** of the Complaint, except admit that Defendant Letitia James is the New York State Attorney General and sued in her official capacity, and respectfully refer the Court to the statutes cited as the best evidence of what is stated and contained therein.

6. Deny the allegations contained in paragraph **6** of the Complaint, but admit that Maria L. Imperial is the Commissioner of the New York Division of Human Rights and should be substituted herein for Defendant Licha Nyiendo pursuant Fed. R. Civ. P. 25(d) as being sued in her official capacity, and respectfully refer the Court to the statutes cited as the best evidence of what is stated and contained therein.

7. Deny the allegations contained in paragraph **7** of the Complaint, except admit that Defendant Melissa Franco is the Deputy Commissioner for Enforcement of the New York Division of Human Rights and is being sued in her official capacity.

8. Deny the allegations contained in paragraph **8** of the Complaint, except admit that Defendant Gina Martinez is the Deputy Commissioner for Regional Affairs of the New York Division of Human Rights and is sued in her official capacity.

9. Deny the allegations contained in paragraph **9** of the Complaint, except admit that Defendant Julia Day is the Regional Director of the New York Division of Human Rights regional office in Syracuse, New York and is sued in her official capacity, and respectfully refer the Court to the referenced letter as the best evidence of what is stated and contained therein.

10. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **10** of the Complaint, except admit that Defendant William Fitzpatrick is the District Attorney for Onondaga County, New York.

11. Deny the allegations contained in paragraph **11** of the Complaint, except respectfully refer all issues of law to the Court.

12. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **12** of the Complaint.

13. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **13** of the Complaint.

14. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **14** of the Complaint.

15. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **15** of the Complaint.

16. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **16** of the Complaint.

17. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **17** of the Complaint.

18. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **18** of the Complaint.

19. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **19** of the Complaint.

20. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **20** of the Complaint.

21. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **21** of the Complaint.

22. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **22** of the Complaint, except respectfully refer the Court to the case cited as the best evidence of what is stated and contained therein.

23. Deny the allegations contained in paragraph **23** of the Complaint.

24. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **24** of the Complaint, except respectfully refer the Court to the website cited as the best evidence of what is stated and contained therein.

25. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **25** of the Complaint.

26. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **26** of the Complaint.

27. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **27** of the Complaint.

28. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **28** of the Complaint.

29. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **29** of the Complaint.

30. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **30** of the Complaint.

31. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **31** of the Complaint.

32. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **32** of the Complaint.

33. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **33** of the Complaint.

34. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **34** of the Complaint.

35. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **35** of the Complaint.

36. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **36** of the Complaint.

37. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **37** of the Complaint.

38. Deny the allegations contained in paragraph **38** of the Complaint.

39. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **39** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents and placement of children for adoption.

40. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **40** of the Complaint, except respectfully refer the Court to the statutes and regulations applicable to a determination of the best interests of the child in the adoption context.

41. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **41** of the Complaint.

42. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **42** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents and placement of children for adoption.

43. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **43** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents and placement of children for adoption.

44. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **44** of the Complaint.

45. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **45** of the Complaint.

46. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **46** of the Complaint.

47. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **47** of the Complaint, except respectfully refer the Court to the statutes and regulations applicable to a determination of the best interests of the child in the adoption context.

48. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **48** of the Complaint, except respectfully refer the Court to the statutes and regulations applicable to a determination of the best interests of the child in the adoption context.

49. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **49** of the Complaint, except respectfully refer the Court to the statutes and regulations applicable to a determination of the best interests of the child in the adoption context.

50. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **50** of the Complaint.

51. Deny the allegations contained in paragraph **51** of the Complaint.

52. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **52** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents and placement of children for adoption.

53. Deny the allegations contained in paragraph **53** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what

is legally required and permissible in the approval of prospective adoptive parents, placement of children for adoption and determining the best interests of the child in the adoption context.

54. Deny the allegations contained in paragraph **54** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents, placement of children for adoption and determining the best interests of the child in the adoption context.

55. Deny the allegations contained in paragraph **55** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents, placement of children for adoption and determining the best interests of the child in the adoption context.

56. Deny the allegations contained in paragraph **56** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents, placement of children for adoption and determining the best interests of the child in the adoption context.

57. Deny the allegations contained in paragraph **57** of the Complaint, except respectfully refer the Court to all applicable state laws and regulations as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents, placement of children for adoption and determining the best interests of the child in the adoption context.

58. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **58** of the Complaint.

59. Respectfully refer the Court to the laws cited in paragraph **59** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws. Respectfully refer

the Court to the laws cited in paragraph **59** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws.

60. Respectfully refer the Court to the laws cited in paragraph **60** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws. Respectfully refer the Court to the laws cited in paragraph **60** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws.

61. Respectfully refer the Court to the laws cited in paragraph **61** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws. Respectfully refer the Court to the laws cited in paragraph **61** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws.

62. Respectfully refer the Court to the laws cited in paragraph **62** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws. Respectfully refer the Court to the laws cited in paragraph **62** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws.

63. Respectfully refer the Court to the laws cited in paragraph **63** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in

those paragraph to the extent that they misstate or characterize the cited laws. Respectfully refer the Court to the laws cited in paragraph **63** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in those paragraph to the extent that they misstate or characterize the cited laws.

64. Deny the allegations contained in paragraph **64** of the Complaint.

65. Deny the allegations contained in paragraph **65** of the Complaint, except respectfully refer the Court to the regulation cited and other relevant law as the best evidence of what is legally required and permissible in the approval of prospective adoptive parents and placement of children for adoption.

66. Respectfully refer the Court to the regulation quoted in paragraph **66** of the Complaint as the best evidence of what is stated and contained therein, and deny the allegations contained in that paragraph to the extent that they misstate or characterize the cited regulation.

67. Deny the allegations contained in paragraph **67** of the Complaint, and respectfully refer the Court to the laws and case cited as the best evidence of what is stated and contained therein.

68. Deny the allegations contained in paragraph **68** of the Complaint, and respectfully refer the Court to the laws and case cited as the best evidence of what is stated and contained therein.

69. Deny the allegations contained in paragraph **69** of the Complaint, and respectfully refer the Court to the laws and case cited as the best evidence of what is stated and contained therein.

70. Deny the allegations contained in paragraph **70** of the Complaint, and respectfully refer the Court to the laws and case cited as the best evidence of what is stated and contained therein.

71. Deny the allegations contained in paragraph **71** of the Complaint, and respectfully refer the Court to the laws and case cited as the best evidence of what is stated and contained therein.

72. Deny the allegations contained in paragraph **72** of the Complaint, and respectfully refer the Court to the laws and case cited as the best evidence of what is stated and contained therein.

73. Deny the allegations contained in paragraph **73** of the Complaint, and respectfully refer the Court to the laws and case cited as the best evidence of what is stated and contained therein.

74. Deny the allegations contained in paragraph **74** of the Complaint, except respectfully refer the Court to the statute cited as the best evidence of what is stated and contained therein.

75. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **75** of the Complaint.

76. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **76** of the Complaint, except respectfully refer the Court to the complaint of the referenced lawsuit as the best evidence of what is stated, contained and alleged therein.

77. Deny the allegations contained in paragraph **77** of the Complaint, except respectfully refer the Court to the decision cited as the best evidence of what is stated, contained and held therein.

78. Deny the allegations contained in paragraph **78** of the Complaint, except respectfully refer the Court to the decision cited as the best evidence of what is stated, contained and held therein.

79. Deny the allegations contained in paragraph **79** of the Complaint.

80. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **80** of the Complaint.

81. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **81** of the Complaint, except respectfully refer the Court to the communication cited as the best evidence of what is stated and contained therein.

82. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **82** of the Complaint, except respectfully refer the Court to the communication cited as the best evidence of what is stated and contained therein.

83. Deny the allegations contained in paragraph **83** of the Complaint, except admit that a complaint was filed on August 23, 2021 and respectfully refer the Court to that complaint as the best evidence of what is stated and contained therein.

84. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **84** of the Complaint.

85. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **85** of the Complaint.

86. Defendant James denies knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **86** of the Complaint. Defendants Martinez, Imperial, Day and Franco deny the allegations contained in paragraph **86** of the Complaint, except admit that the Division of Human Rights sent a letter to New Hope enclosing the complaint and respectfully refer the Court to that letter as the best evidence of what is stated and contained therein.

87. Deny the allegations contained in paragraph **87** of the Complaint, except respectfully refer the Court to the letter and complaint as the best evidence of what is stated and contained therein.

88. Deny the allegations contained in paragraph **88** of the Complaint, except respectfully refer the Court to the cases cited as the best evidence of what is stated, contained and held therein.

89. Deny the allegations contained in paragraph **89** of the Complaint, except respectfully refer the Court to the statute cited as the best evidence of what is stated and contained therein.

90. Deny the allegations contained in paragraph **90** of the Complaint.

91. Deny the allegations contained in paragraph **91** of the Complaint, except respectfully refer the Court to the statute cited as the best evidence of what is stated and contained therein and admit that the statute contains a religious exemption.

92. Deny the allegations contained in paragraph **92** of the Complaint, except respectfully refer the Court to the Human Rights Law as the best evidence of what is stated and contained therein.

93. Deny the allegations contained in paragraph **93** of the Complaint, except respectfully refer the Court to the letter cited as the best evidence of what is stated and contained

therein, and to all relevant laws as the best evidence of if and when an enforcement action may be commenced, and by whom.

94. Deny the allegations contained in paragraph **94** of the Complaint.

95. Deny the allegations contained in paragraph **95** of the Complaint.

96. Deny the allegations contained in paragraph **96** of the Complaint.

97. Defendant James denies knowledge or information sufficient to form a belief as to the truth of the allegations contained in paragraph **97** of the Complaint. Defendants Martinez, Imperial, Day and France deny the allegations contained in paragraph **97** of the Complaint.

98. Deny the allegations contained in paragraph **98** of the Complaint.

99. Deny the allegations contained in paragraph **99** of the Complaint, except respectfully refer the Court to the statutes cited as the best evidence of what is stated and contained therein.

100. Deny the allegations contained in paragraph **100** of the Complaint.

101. Deny the allegations contained in paragraph **101** of the Complaint.

102. Deny the allegations contained in paragraph **102** of the Complaint.

103. Deny the allegations contained in paragraph **103** of the Complaint.

104. As to the allegations contained in paragraph **104** of the Complaint, respectfully refer the Court to all prior responses as fully stated herein.

105. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **105** of the Complaint, except refer respectfully refer the Court to the statutes and regulations applicable to a determination of the best interests of the child in the adoption context.

106. Respectfully refer the Court to the First Amendment as the best evidence of what is stated and contained therein and deny the allegations contained in paragraph **106** of the Complaint to the extent that they misstate or characterize the First Amendment.

107. Respectfully refer the Court to the First Amendment as the best evidence of what is stated and contained therein and deny the allegations contained in paragraph **107** of the Complaint to the extent that they misstate or characterize the First Amendment.

108. Respectfully refer the Court to the First Amendment as the best evidence of what is stated and contained therein and deny the allegations contained in paragraph **108** of the Complaint to the extent that they misstate or characterize the First Amendment.

109. Respectfully refer the Court to the First Amendment as the best evidence of what is stated and contained therein and deny the allegations contained in paragraph **109** of the Complaint to the extent that they misstate or characterize the First Amendment.

110. Deny the allegations contained in paragraph **110** of the Complaint.

111. Deny the allegations contained in paragraph **111** of the Complaint.

112. Deny the allegations contained in paragraph **112** of the Complaint.

113. Deny the allegations contained in paragraph **113** of the Complaint.

114. As to the allegations contained in paragraph **114** of the Complaint, respectfully refer the Court to all prior responses as fully stated herein.

115. Deny knowledge and information sufficient to form a belief as to the truth of the allegations contained in paragraph **115** of the Complaint.

116. Respectfully refer the Court to the First Amendment as the best evidence of what is stated and contained therein and deny the allegations contained in paragraph **116** of the Complaint to the extent that they misstate or characterize the First Amendment.

117. Respectfully refer the Court to the First Amendment as the best evidence of what is stated and contained therein and deny the allegations contained in paragraph **117** of the Complaint to the extent that they misstate or characterize the First Amendment.

118. Respectfully refer the Court to the First Amendment as the best evidence of what is stated and contained therein and deny the allegations contained in paragraph **118** of the Complaint to the extent that they misstate or characterize the First Amendment.

119. Deny the allegations contained in paragraph **119** of the Complaint, except respectfully refer the Court to the referenced cases as the best evidence of what is stated, contained and held therein.

120. Deny the allegations contained in paragraph **120** of the Complaint.

121. Deny the allegations contained in paragraph **121** of the Complaint, except respectfully refer all issues of law to the Court.

122. Deny the allegations contained in paragraph **122** of the Complaint, except respectfully refer the Court to the statute cited as the best evidence of what is stated and contained therein.

123. Respectfully refer the Court to the statute cited in paragraph **123** of the Complaint, and deny the allegations contained in that paragraph to the extent that they misstate or characterize the statute.

124. Deny the allegations contained in paragraph **124** of the Complaint, except respectfully refer the Court to the referenced statutes and regulations as the best evidence of what is stated and contained therein.

125. Deny the allegations contained in paragraph **125** of the Complaint.

126. Deny the allegations contained in paragraph **126** of the Complaint.

127. Deny the allegations contained in paragraph **127** of the Complaint

Deny that Plaintiff is entitled to any of the relief listed under the heading “PRAYER FOR RELIEF” on pages 39 and 40 of the Complaint.

Deny any allegation of the Complaint not specifically responded to above.

Defenses

128. The Complaint fails to state a claim upon which relief can be granted.

129. The Court must abstain from exercising jurisdiction under *Younger v. Harris*, 401 U.S. 37 (1971).

130. The Division of Human Rights does not enforce the New York Domestic Relations Law, Social Services Law or OCFS regulations.

131. Whether New Hope is a public accommodation under the New York Human Rights Law is an issue of state law for New York to determine in the first instance.

132. Whether New Hope is entitled to a religious exemption under the New York Human Rights Law is an issue of state law for New York to determine in the first instance.

133. The September 28, 2022 preliminary injunction issued in this case prohibited the Division of Human Rights from determining if New Hope was subject to the discrimination provisions of the Human Rights Law or entitled to a religious exemption. The September 7, 2022 determination of probable cause was not a determination of these issues, or a final determination on the merits of the administrative Complaint.

WHEREFORE, Defendants Letitia James, Gina Martinez, Maria L. Imperial, Julia B. Day, and Melissa Franco respectfully request 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
October 14, 2022

LETITIA JAMES
Attorney General
State of New York
Attorney for Defendants Letitia James, Gina
Martinez, Maria L. Imperial, Julia B. Day,
and Melissa Franco
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TO: All counsel of record (via ECF)