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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

SHANNON ROSE and JANE BROOKS,
Plaintiffs,

v.

OLIVE CREST FAMILY CARE AND
ADOPTION AGENCY, DONALD
VERLEUR II, and DOES 1-10,
Defendants.

Case No.:

COMPLAINT

I. INTRODUCTION

1. This case concerns discrimination on the basis of sexual orientation against a same-sex couple who sought to adopt children in California's foster care system. Such discrimination, by an adoption agency that performs public functions and is closely entwined with state and county agencies that provide care and placement to children in state custody, violates plaintiffs' constitutional rights under the Equal Protection and Due Process clauses of the Fourteenth Amendment. The discrimination also violates plaintiffs' rights under various state laws, including the Unruh Civil Rights Act; statutory prohibitions against discrimination by organizations that receive state funds, unfair business practices, and false advertising; and common-law protections against fraudulent misrepresentation and infliction of emotional distress.
2. Plaintiffs Shannon Rose ("Dr. Rose"), a doctor, and Jane Brooks ("Ms. Brooks"), a law student, planned to become certified as foster/adoptive parents with the goal of adopting a foster child or children, through defendant Olive Crest Family Care and Adoption Agency ("Olive Crest"). During their initial contact with Olive Crest in July, 2002, and in every subsequent contact with Olive Crest, plaintiffs requested and received assurances that they would not be discriminated against on the basis of their sexual orientation. Based on these assurances, plaintiffs entered into an agreement with Olive Crest, completed numerous forms and other requirements, and completed the "home study" process required for certification as a foster/adoptive home.
3. In mid-September 2002, Olive Crest told plaintiffs that their adoption process had been suspended and informed them of Olive Crest's new Foster Family Recruitment Policy. This policy states that Olive Crest "prefers to place children with nuclear families," that "other applicants will be considered on a case by case basis," and that Olive Crest would refer applicants whose qualifications "do not agree with Olive Crest's values, guiding principles or treatment philosophy" to

1 other agencies. Plaintiffs were also told by their former social worker at Olive
2 Crest that this policy was specifically intended to allow for discrimination on the
3 basis of sexual orientation, and that she was quitting her job in protest against
4 Olive Crest's handling of plaintiffs' case.

- 5 4. Later in the Fall of 2002, plaintiffs received a few sporadic contacts from Olive
6 Crest employees, but nobody told them when the "suspension" of their
7 certification process would end or how their case would be handled in the future.
8 Finally, in February 2003, plaintiffs decided to start over with a different agency,
9 because it had become apparent that their case would never be handled effectively
10 or fairly by Olive Crest.
- 11 5. In this action, plaintiffs seek declaratory and injunctive relief to end Olive Crest's
12 discriminatory practices, and compensatory and punitive damages.

13 II. PARTIES

14 6. Plaintiff Shannon Rose is a resident of the State of California and the County of
15 San Diego.

16 7. Plaintiff Jane Brooks is a resident of the State of California and the County of
17 San Diego.

18 8. Defendant Donald Verleur II, ("Donald Verleur") is the Chief Executive Officer
19 of Olive Crest.

20 9. Defendant Olive Crest is a non- profit corporation organized under the laws of the
21 State of California, with its principal place of business in the city of Santa Ana, in
22 Orange County, California. Olive Crest has approximately 96 employees, and
23 provides services to approximately 3,500 children and families annually.

24 10. Defendant Olive Crest has an annual budget of approximately \$29 million dollars.
25 Over eighty percent of Olive Crest's annual budget consists of federal, state, and
26 county funds; the remaining twenty percent consists mainly of charitable
27 donations.

1 11. Olive Crest has contracts with four California counties-Orange, San Diego,
2 Los Angeles, and Riverside-to provide placement, care, services and treatment to
3 foster children, and to recruit, train, certify and provide ongoing services and
4 support to foster parents and adoptive parents. Olive Crest operates over 20 group
5 homes and children's centers that provide placement and care for foster children,
6 and operates Foster Family and Adoption Agencies in Orange, San Diego, Los
7 Angeles and Riverside counties.

8 **III. JURISDICTION AND VENUE**

9 12. This Court has jurisdiction over plaintiffs' federal civil rights claims, under 28
10 U.S.C. § 1343. This Court has supplemental jurisdiction over plaintiffs' state-law
11 claims arising from the same factual circumstances, events and transactions, under
12 28 U.S.C. § 1367(a).

13 13. Venue is proper in this Court under 28 U.S.C. § 1391(b) because the defendants'
14 principal place of business is in Orange County, California, and defendants also
15 have facilities and do business in Los Angeles and Riverside Counties, and many
16 of the incidents, events, and occurrences giving rise to this action either occurred
17 in, or were directed by persons located in, Orange County and/or Los Angeles
18 County, California.

19 **IV. CALIFORNIA LAW REGARDING FOSTER CARE AND ADOPTION**

20 14. Under Cal. Welf. & Inst. Code §§ 300 et seq., children who have been abused,
21 neglected or abandoned may be removed from their parents' custody and declared
22 dependents of the juvenile court. These children are placed in foster homes, under
23 the supervision of the juvenile court and the County child welfare agency, until
24 the juvenile court determines whether they can safely return home. If a foster
25 child cannot safely return home, the County child welfare agency may initiate
26 proceedings to terminate parental rights, and seek an adoptive home for the child.

27 15. Married couples, unmarried opposite sex and same-sex couples, and single adults
28 are all eligible under California law and California Department of Social Services

1 regulations to become foster and adoptive parents. The regulations explicitly
2 provide that “[a]ny adult shall be permitted to apply for a license regardless of
3 age, sex, race, religion, color, political affiliation, national origin, marital status,
4 or sexual orientation.” Cal. Code Regs. tit. 22, § 89317.

5 16. Foster homes and adoptive homes are regulated, inspected and supervised by the
6 California Department of Social Services’ Division of Community Care Licensing
7 [“CCL”] and by the County child welfare agencies. Before a child is placed in a
8 foster or adoptive home, the prospective foster or adoptive parents must complete
9 a “home study” process, attend parenting classes, be fingerprinted and screened
10 for criminal history, etc., and their house must be inspected for compliance with
11 CCL safety regulations. Once foster or adoptive parents meet all these
12 requirements, they are licensed or certified as a placement for children who are
13 court dependents.

14 17. Many prospective adoptive parents choose to become “foster/adoptive” families,
15 i.e. families that are certified both as foster parents and as adoptive parents, so that
16 children who are likely to need adoptive placements, but whose parental rights
17 have not yet been terminated, can be placed in their homes.

18 18. To help fulfill their duties to provide foster and adoptive homes for children who
19 are dependents of the juvenile court, most County child welfare agencies contract
20 with private non-profit Foster Family Agencies and Adoption Agencies to assist
21 the County agencies in recruiting, training, certifying, and placing children with
22 prospective foster and adoptive parents. These Foster Family Agencies and
23 Adoption Agencies are licensed by CCL, and must comply with CCL regulations
24 as well as with the terms of their contracts with County child welfare agencies.
25 These agencies receive federal, state, and county funds to recruit, train, certify and
26 place children with prospective foster and adoptive parents, and also to provide
27 placements for foster children.
28

V. FACTS COMMON TO ALL CLAIMS

19. Plaintiffs have been domestic partners for approximately ten years, and have wanted to become adoptive parents for several years. Plaintiffs are willing to adopt older children, sibling groups, and/or children with special needs. Plaintiffs planned to become certified as foster parents, so that children could be placed in their home prior to adoption.

20. Before moving to California in 2000, plaintiffs had become licensed as foster and adoptive parents in the state of Minnesota. However, after they were licensed, the adoption agency in Minnesota did not match them with any children, and the agency social worker made comments suggesting she was biased against same-sex couples.

21. After moving to California, plaintiffs decided to wait a year or two before pursuing adoption again, and to make certain to work with an adoption agency that would treat them fairly.

22. On July 6, 2002, plaintiffs attended a community fair in San Diego, at which there were booths representing various local organizations. Olive Crest was one of several adoption agencies with a booth at this event.

23. Ms. Brooks met Joyce Aligny, an adoptions social worker employed by Olive Crest, who was staffing the Olive Crest booth. Ms. Brooks spoke to Ms. Aligny about the possibility of adopting a child through Olive Crest.

24. Ms. Brooks told Ms. Aligny that she was concerned about whether Olive Crest would discriminate against same-sex couples, and told Ms. Aligny about their previous experience in Minnesota.

25. Ms. Aligny said that since Olive Crest received state and federal funding, Olive Crest would not discriminate against same-sex couples, and also said she would verify this by talking with a supervisor.

1 26. Based on these assurances by Ms. Aligny, Ms. Brooks filled out a form on July 6,
2 2002, indicating her and Dr. Rose's interest in becoming foster and adoptive
3 parents through Olive Crest.

4 27. On July 10, 2002, Ms. Aligny sent an introductory letter, application form and
5 questionnaires to Ms. Brooks and Dr. Rose to complete. Plaintiffs completed
6 these forms and questionnaires.

7 28. On July 24, 2002, Ms. Aligny made an initial visit to plaintiffs' home. Ms.
8 Brooks again asked Ms. Aligny about Olive Crest's policies regarding same-sex
9 couples. Ms. Aligny said she had checked with the director of the San Diego
10 office of Olive Crest, and had been told there was no problem with the fact that
11 Ms. Brooks and Dr. Rose were a same-sex couple.

12 29. During this initial home visit, Ms. Aligny described the adoption process in detail,
13 and gave plaintiffs additional written information about Olive Crest, and about the
14 foster care and adoption processes in general. Plaintiffs filled out and signed
15 various forms, including, among others, an "Olive Crest Foster and Adoption
16 Agency Compliance Agreement," in which they promised to comply with various
17 Olive Crest policies concerning care and treatment of children; a "Withdrawal Fee
18 Agreement" stating that Olive Crest's services would be provided free of charge
19 unless they withdrew from the process or moved outside Olive Crest's area of
20 service; an agreement to be "on call" 24 hours a day regarding potential
21 placements of children; an agreement to give seven days notice prior to
22 discharging any child from placement in their home; an agreement regarding
23 reimbursement for caring for foster children; releases of confidential medical and
24 other information, etc.

25 30. Plaintiffs and Ms. Aligny set up a follow-up visit on July 31, 2002, to conduct the
26 home study process. Between July 24 and July 31, 2002, plaintiffs completed
27 additional forms; got physical examinations and had their doctors fill out forms
28 concerning the results of these examinations; obtained copies of their tax returns

1 and other documents needed for the application process; obtained letters of
2 recommendation from friends and family members; and completed other tasks
3 required for the home study process. Ms. Brooks also registered for CPR training,
4 which was not required for Dr. Rose as she is a licensed physician. Plaintiffs also
5 called Olive Crest to obtain the schedule for the required parenting classes.

6 31. It was emotionally difficult for plaintiffs to complete all these tasks, because these
7 tasks were similar to what they had done to become licensed in Minnesota.

8 Plaintiffs were willing to go through the process again, however, because they had
9 been assured that Olive Crest would not discriminate against them.

10 32. On July 31, 2002, Ms. Aligny conducted a home study visit, lasting between four
11 and six hours, at plaintiffs' home. Ms. Aligny conducted separate interviews with
12 Ms. Brooks and Dr. Rose, followed by a joint interview. During these interviews,
13 Ms. Aligny reviewed with Ms. Brooks and Dr. Rose all the answers from the
14 forms and questionnaires completed by Ms. Brooks and Dr. Rose. Ms. Aligny
15 also conducted a walk-through of the plaintiffs' home, and advised them of minor
16 modifications needed to comply with foster care licensing requirements. Ms.
17 Aligny also discussed with plaintiffs a 'placement matching form' used to indicate
18 prospective adoptive parents' preferences regarding age, sex, race, disabilities,
19 special needs, etc., for the purpose of matching parents with children. Plaintiffs
20 and Ms. Aligny discussed the possibility of adopting two siblings, and Ms. Aligny
21 informed them about rules regarding when siblings can share bedrooms and when
22 they must have separate rooms.

23 33. During the July 31, 2002 meeting, Ms. Brooks again inquired if there could be a
24 problem due to their being a same-sex couple. Again Ms. Aligny reassured her
25 that this would not be a problem.

26 34. On August 5, 2002, plaintiffs received a letter from Olive Crest congratulating
27 them on being "pre-certified as an Olive Crest foster/adoptive family," and
28 including a checklist of remaining tasks to be completed. These tasks involved

1 ensuring that plaintiffs' home met all foster care licensing requirements, and
2 gathering and providing copies of various documents such as drivers' licenses,
3 proof of insurance, proof of income, birth certificates for all household members,
4 etc.

5 35. In August 2003, plaintiffs gathered these additional documents; obtained first aid
6 and CPR certifications; ensured that the friends listed as emergency contacts also
7 obtained first aid and CPR certification; were fingerprinted for the purpose of
8 checking for prior criminal records and records of child abuse; and scheduled their
9 parenting classes.

10 36. At the end of August or in early September 2002, Ms. Aligny called plaintiffs and
11 informed them that she was quitting her job at Olive Crest, and a new social
12 worker would be assigned to their case. Ms. Brooks felt alarmed, because she
13 trusted Ms. Aligny and was worried about what this meant for their case.

14 37. Later in September 2002, Ms. Aligny called plaintiffs again, and said she had
15 more news. Ms. Aligny told plaintiffs that Olive Crest was suspending their
16 adoption process, and that there was a new Olive Crest policy she'd been
17 instructed to read to them over the phone. Joyce read them a "Foster Parent
18 Recruitment Policy," which stated in part that:

19 Olive Crest prefers to place children in nuclear families. All other
20 applicants will be considered on a case-by-case basis and such
21 applications will require the review and approval of the Board of
22 Directors or their designee. . . . When a prospective applicant's
23 qualifications do not agree with Olive Crest's values, guiding principles
24 or treatment philosophy, and Olive Crest believes it is not capable of
25 serving that applicant in the child's best interest, Olive Crest will refer
26 or recommend another appropriate foster family or adoption agency.

27 38. Ms. Brooks was upset and asked for clarification as to what this policy meant.

28 Ms. Aligny responded that she had quit her job due to Olive Crest's handling of

1 their application process. She said this policy was intended to sanction
2 discrimination against same-sex couples. Ms. Aligny told Ms. Brooks that there
3 was nothing about them as individuals that should disqualify them from being
4 foster or adoptive parents, and their home study had been fine.

5 39. Plaintiffs were extremely disturbed by this phone call, and were not sure what to
6 do next. They waited to hear from Olive Crest again.

7 40. On or about October 1, 2002, plaintiffs received two phone calls from someone
8 who identified herself as a "certification coordinator," and stated that she had
9 been assigned to the San Diego office of Olive Crest because of a staff shortage
10 there, and she was checking on the status of pending cases. She asked whether or
11 not Ms. Brooks and Dr. Rose had scheduled their parenting classes yet.

12 41. Plaintiffs told the certification coordinator they had signed up for parenting
13 classes scheduled to begin on October 12, 2002, but were not sure if they should
14 attend because had been told by Olive Crest that their adoption process was
15 suspended. The certification coordinator said she did not know anything about
16 that. The certification coordinator also stated that she thought October 12 was not
17 the correct date for the first parenting class. She said she would check on the
18 dates and call back. Plaintiffs never heard from this person again.

19 42. Plaintiffs did not hear from anyone at Olive Crest again until January 2003,
20 when they received a letter from defendant Verleur saying he believed they had
21 decided to seek another agency to assist them in becoming foster/adoptive parents.
22 Plaintiffs replied to this letter on January 11, 2003, pointing out that they had not
23 taken any action to end their relationship with Olive Crest, and the last they had
24 heard, their adoption process had been suspended by Olive Crest.

25 43. In late February 2003, plaintiffs received another letter from defendant Verleur
26 demanding a written commitment from them to continue working with Olive
27 Crest. By this time, it had become apparent to plaintiffs that their adoption
28

1 process would not be completed by Olive Crest in a fair, timely and appropriate
2 manner, and they then decided to pursue adoption through another agency.

3 44. As a result of Olive Crest's discriminatory practices, plaintiffs were deprived of
4 their right to be treated fairly and equally during the adoption process.

5 45. As a result of being told that Olive Crest did not discriminate against same-sex
6 couples, plaintiffs entered into agreements with Olive Crest, completed numerous
7 requirements for certification as foster/adoptive parents, and made a substantial
8 investment of their time, trust, and emotional well-being in working with Olive
9 Crest to become adoptive parents. During the period of time that they were
10 working with Olive Crest, plaintiffs were induced to forego any and all
11 opportunities to become adoptive parents by other means than through Olive
12 Crest.

13 46. As a result of being told that Olive Crest did not discriminate against same-sex
14 couples, relying on that assurance, and then having their adoption process
15 suspended for discriminatory reasons, plaintiffs suffered emotional harm and
16 experienced substantial delay in achieving their goal of becoming adoptive
17 parents.

18 **VI. CLAIMS FOR RELIEF**

19 **FIRST CLAIM FOR RELIEF**

20 **(Equal Protection – 42 U.S.C. § 1983)**

21 47. Plaintiffs re-allege and re-plead all of the allegations in paragraphs 1 - 46 of this
22 Complaint and incorporate them by reference.

23 48. Defendant Olive Crest performs the public functions of recruiting, training,
24 and certifying foster parents and adoptive parents, and providing foster and
25 adoptive placements, care, and services for children who are dependents of the
26 courts of the State of California.

27 49. Defendant Olive Crest performs these public functions using federal, state,
28 and county funds.

1 50. Defendant Olive Crest is closely integrated and entwined with the state and
2 county government system that recruits, trains, certifies and places children with
3 foster and adoptive parents, and that provides placement, care and services to
4 children who are dependents of the juvenile court, as implemented by the
5 California Department of Social Services and the children's services departments
6 of San Diego, Orange, Los Angeles and Riverside Counties.

7 51. Defendant Olive Crest's and defendant Verleur's actions toward prospective
8 foster and adoptive parents constitute actions under color of law.

9 52. Defendants discriminated against plaintiffs and denied them fair and equal
10 treatment in the recruitment, certification and placement processes for foster and
11 adoptive parents, solely on the basis of plaintiffs' sexual orientation.

12 53. Plaintiffs' right to Equal Protection of the laws under the Fourteenth Amendment
13 to the United States Constitution was violated by this discrimination.

14 54. Plaintiffs have a cause of action for violation of their constitutional right to equal
15 protection under the Civil Rights Act, 42 U.S.C. § 1983.

16 **SECOND CLAIM FOR RELIEF**

17 **(Substantive Due Process—42 U.S.C. § 1983)**

18 55. Plaintiffs re-allege and re-plead all of the allegations in Paragraphs 1 through 54
19 of this Complaint and incorporate them by reference.

20 56. Defendant Olive Crest performs the public functions of recruiting, training, and
21 certifying foster parents and adoptive parents, and providing foster and adoptive
22 placements, care, and services for children who are dependents of the courts of the
23 State of California.

24 57. Defendant Olive Crest performs these public functions using federal, state, and
25 county funds.

26 58. Defendant Olive Crest and defendant Verleur's actions toward prospective foster
27 and adoptive parents constitute actions under color of law.
28

1 59. Under color of law, defendants discriminated against plaintiffs and restrained their
2 liberty by denying them their right to be treated fairly in the recruitment,
3 certification and placement processes for foster and adoptive parents, solely on the
4 bases of plaintiffs' sexual orientation.

5 60. Defendants' discrimination deprived plaintiffs of their Constitutional right to
6 liberty and violated plaintiffs' right to Due Process of the laws under the
7 Fourteenth Amendment to the United States Constitution.

8 61. Defendants' discrimination deprived Plaintiffs of their Constitutional rights in
9 violation of the Civil Rights Act, 42 U.S.C. § 1983, by implementing a policy to
10 discriminate against Plaintiffs' solely on the basis of their sexual orientation.

11 **THIRD CLAIM FOR RELIEF**

12 **(Unruh Civil Rights Act – Cal. Civ. Code § 51)**

13 62. Plaintiffs re-allege and re-plead all of the allegations in paragraphs 1 - 61 of this
14 Complaint and incorporate them by reference.

15 63. Defendant Olive Crest is a business establishment doing business in the State of
16 California.

17 64. Defendants Olive Crest and Donald Verleur denied plaintiffs full and equal
18 accommodations, privileges and services as to the recruitment, certification and
19 placement processes for foster/adoptive parents, solely on the basis of their sexual
20 orientation.

21 65. Defendants' conduct constituted discrimination in violation of Cal. Civ. Code
22 § 51(b).

23 **FOURTH CLAIM FOR RELIEF**

24 **(Cal. Gov't Code § 11135)**

25 66. Plaintiffs re-allege and re-plead all of the allegations in paragraphs 1 - 65 of this
26 Complaint and incorporate them by reference.

27 67. Olive Crest receives substantial funding and financial assistance from the State of
28 California.

1 68. Defendants unlawfully denied plaintiffs fair and equal treatment in the
2 recruitment, certification and placement processes for foster and adoptive parents.

3 69. Defendants' conduct constitutes discrimination in violation of Cal. Gov't Code
4 § 11135.

5 **FIFTH CLAIM FOR RELIEF**

6 **(Unfair Competition - Cal. Bus. & Prof. Code § 17200)**

7 70. Plaintiffs re-allege and re-plead all of the allegations in paragraphs 1 - 69 of this
8 Complaint and incorporate them by reference.

9 71. Plaintiffs bring this claim both as individuals and on behalf of the General Public.

10 72. Defendants Olive Crest and Donald Verleur's conduct in discriminating against
11 prospective foster/adoptive parents on the basis of sexual orientation is an
12 unlawful and unfair business practice.

13 73. Defendants' misleading and untrue statements to plaintiffs as to its non-
14 discrimination policies and practices is a fraudulent business practice.

15 74. Defendants' conduct constitutes unfair competition in violation of Cal. Bus. &
16 Prof. Code § 17200.

17 **SIXTH CLAIM FOR RELIEF**

18 **(False Advertising - Cal. Bus. & Prof. Code § 17500)**

19 75. Plaintiffs re-allege and re-plead all of the allegations in paragraphs 1 - 74 of this
20 Complaint and incorporate them by reference.

21 76. Defendants' recruitment and certification of foster/adoptive parents, and
22 placement of children with foster/adoptive parents, constitutes a provision of
23 services that was advertised by defendant Olive Crest.

24 77. Defendants made untrue or misleading statements in connection with the
25 provision of these services.

26 78. Defendants knew or should have known with the exercise of reasonable care that
27 these statements were false or misleading.
28

1 79. Defendants misled plaintiffs as to their policies concerning recruitment and
2 certification of, and placement of children with, same-sex couples.

3 80. Defendants, intending to induce plaintiffs to enter into a relationship for
4 professional services, made untrue or misleading statements in the advertising and
5 enrollment materials delivered to plaintiffs. Defendants knew, or through the
6 exercise of reasonable care should have known that these statements were untrue
7 or misleading. Defendants therefore violated Cal. Bus. & Prof. Code § 17500.

8 **SEVENTH CLAIM FOR RELIEF**

9 **(Intentional Misrepresentation)**

10 81. Plaintiffs re-allege and re-plead all the allegations in paragraphs 1- 80 of this
11 Complaint and incorporate them by reference.

12 82. Defendants' statements describing their policies regarding recruitment,
13 certification, and placement of children with foster/adoptive parents were false
14 and misleading.

15 83. Defendants' false representations were intentional or made with reckless disregard
16 as to whether they were true or false.

17 84. Defendants knew these representations were material to plaintiffs' decision to
18 agree to become certified as foster/adoptive parents through Olive Crest.

19 85. Plaintiffs relied upon these representations, and their reliance was justifiable.

20 86. Defendants' fraudulent misrepresentations caused plaintiffs to suffer emotional
21 and psychological harm.

22 **EIGHTH CLAIM FOR RELIEF**

23 **(Negligent Misrepresentation)**

24 87. Plaintiffs re-allege and re-plead all of the allegations in paragraphs 1 - 86 of this
25 Complaint and incorporate them by reference.

26 88. Defendants' statements describing their policies regarding recruitment,
27 certification, and placement of children with foster/adoptive parents were false
28 and misleading.

1 89. Defendants had no reasonable basis for making these representations to plaintiffs;
2 they had no reasonable grounds to believe the statements were true.

3 90. Defendants knew these representations were material to plaintiffs' decision to
4 agree to become certified as foster/adoptive parents through Olive Crest.

5 91. Plaintiffs relied upon these representations, and their reliance was justifiable.

6 92. Defendants' negligent misrepresentations caused plaintiffs to suffer emotional and
7 psychological harm.

8 **NINTH CLAIM FOR RELIEF**

9 **(Intentional Infliction of Emotional Distress)**

10 93. Plaintiffs re-allege and re-plead all of the allegations in paragraphs 1 - 92 of this
11 Complaint and incorporate them by reference.

12 94. Defendants knew that plaintiffs would suffer emotional harm if defendants falsely
13 led the plaintiffs to believe they would not be discriminated against in the
14 recruitment, certification, and placement processes for foster/adoptive parents.

15 95. Defendants' conduct in inducing plaintiffs to rely on assurances that they would
16 be treated fairly, but then suspending the certification process for discriminatory
17 reasons, was intentional and outrageous, or at a minimum showed reckless
18 disregard as to the likelihood of causing emotional harm to plaintiffs.

19 96. Defendants' intentional or reckless conduct caused plaintiffs to suffer severe
20 emotional distress and psychological harm.

21 **TENTH CLAIM FOR RELIEF**

22 **(Negligent Infliction of Emotional Distress)**

23 97. Plaintiffs re-allege and re-plead all of the allegations in paragraphs 1 - 96 of this
24 Complaint and incorporate them by reference.

25 98. Defendants were negligent in inducing plaintiffs to rely on assurances that they
26 would be treated fairly in the recruitment, certification, and placement processes
27 for foster/adoptive parents.
28

1 99. Defendants' negligent conduct breached a legal duty of care, and caused plaintiffs
2 to suffer severe emotional distress and psychological harm.

3 **VII. PRAYER FOR RELIEF**

4 WHEREFORE, plaintiffs pray for a judgment in their favor as follows:

5 1. Issue a declaratory judgment that the actions of the defendants described
6 herein violate the Fourteenth Amendment to the United States Constitution.

7 2. Issue an injunction ordering defendants to cease engaging in unfair,
8 unlawful and fraudulent business practices, and to develop policies and procedures
9 and conduct staff training to prevent the recurrence of any such practices.

10 3. For compensatory damages and consequential damages to be awarded
11 Ms. Brooks and Dr. Rose according to proof at trial;

12 4. For exemplary and punitive damages to be awarded Ms. Brooks and Dr.
13 Rose according to proof at trial;

14 5. For costs of suit and attorneys' fees; and

15 6. For such other, further and different relief as the nature of this case may
16 require or may be deemed just and proper by this Court.

17 **VIII. DEMAND FOR JURY**

18 Pursuant to Rule 38(b) of the Federal Rules of Civil Procedure and Rule 38-1
19 of the Local Rules for the Central District of California, Plaintiffs demand trial by
20 jury for all the issues pleaded herein so triable.

21 DATED: May 1, 2003

22 AMERICAN CIVIL LIBERTIES UNION
23 FOUNDATION OF SOUTHERN
24 CALIFORNIA

25 By _____

26 MARTHA A. MATTHEWS
27 Attorneys for Plaintiffs
28 SHANNON ROSE AND JANE BROOKS

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DATED: May 1, 2003

AMERICAN CIVIL LIBERTIES UNION
FOUNDATION OF SAN DIEGO &
IMPERIAL COUNTIES

By _____
JORDAN C. BUDD
Attorneys for Plaintiffs
SHANNON ROSE AND JANE BROOKS

DATED: May 1, 2003

HELLER EHRMAN WHITE & McAULIFFE LLP

By _____
HEIDI MALEY GUTIERREZ
Attorneys for Plaintiffs
SHANNON ROSE AND JANE BROOKS

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