

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

SHARONELL FULTON, <i>et al.</i> ,	:	
	:	
Plaintiffs,	:	No. 2:18-cv-02075
	:	
v.	:	
	:	
CITY OF PHILADELPHIA, <i>et al.</i> ,	:	
	:	
Defendants.	:	

**DECLARATION OF FRANK P. CERVONE,
EXECUTIVE DIRECTOR OF
SUPPORT CENTER FOR CHILD ADVOCATES**

I, Frank P. Cervone, declare as follows:

1. I am an attorney and have been licensed to practice law in Pennsylvania since 1982.
2. I have served as a staff member of the Support Center for Child Advocates (“Child Advocates”) since 1990, and I have served as the agency’s Executive Director since 1992.
3. The Support Center for Child Advocates is a nonprofit organization that provides legal representation and social services advocacy to children in addition to training lay and professional caregivers of children and advocating for public policy that supports children’s well-being. The mission statement of Child Advocates is “to advocate for victims of child abuse and neglect with the goal of securing safety, justice, well-being and a permanent, nurturing environment for every child.” Child Advocates seeks to advance the interests of children involved with the child welfare system, including children in or needing foster care placement.
4. Child Advocates is appointed by the Family Court of Philadelphia under the auspices of the Pennsylvania Juvenile Act to serve as counsel and guardian ad litem for individual children in

various types of court proceedings, including dependency proceedings for children in foster care.
42 Pa. Const. Stat. Ann. § 6300 *et seq.*

5. The agency represented 1,100 children in the fiscal year that ended June 30, 2017. We are representing a similar number of children in the current fiscal year, and we are in court every day advocating in matters involving our clients' safety and well-being.

6. For decades, Child Advocates has also been active in litigation and advocacy aimed at bringing about changes to Philadelphia's public child welfare system to improve the system's ability to serve the best interests of children.

7. I have served as a member of the Pennsylvania Supreme Court Juvenile Court Procedural Rules Committee, which serves as an advisory body to the Supreme Court for developing and evaluating the rules and standards governing procedure and practice in dependency and delinquency cases.

8. I served as Chair of the Advisory Committee on Children and Youth Services for the Joint State Government Commission, the research arm of the Pennsylvania General Assembly.

9. In the early 1990s, on behalf of Child Advocates, I served as Next Friend to the plaintiff class of children in the federal class action lawsuit, *Baby Neal v. Ridge et al.* The decade-long litigation brought about sweeping reforms to the child welfare and Family Court systems in Philadelphia.

10. From 2010 to 2014, I served on the Steering Committee for the Philadelphia Department of Human Services' (Phila-DHS) reform initiative "Improving Outcomes for Children," which created, *inter alia*, the network of case management organizations known as Community Umbrella Agencies, or CUAs, including the CUA operated by the plaintiff Catholic Social Services

(CSS). Child Advocates is knowledgeable about the operations manuals, policies, and procedures currently in use by Phila-DHS and the CUAs.

11. From 2016 to the present, I have served as a member of the Pennsylvania Department of Human Services' (PA-DHS) Child Welfare Council, a statewide leadership body providing guidance and oversight for all child welfare services, including foster care placements, licensing, and adoptions.

12. Child Advocates has received several awards for our work, including four Glaxo Community Health Impact Awards and the Please Touch Museum's Great Friend to Kids Award, and was named the 2012 Non-Profit of the Year by the Greater Philadelphia Chamber of Commerce.

13. The Pennsylvania child welfare system pursues four fundamental priorities for the children and families it serves: protecting children; promoting strong families; promoting child well-being; and providing timely permanency. Pennsylvania Dependency Benchbook, 1-1, 2014.

14. As a child-centered system of care, this public child welfare system sets the best interests of the child standard as paramount to all decision-making; for example, the Juvenile Act sets forth its purpose as "to provide for the care, protection, safety and wholesome mental and physical development of children coming" under its jurisdiction. 42 Pa. Cons. Stat. Ann. § 6301 (b)(1)(1.1).

15. Placement in the legal custody of a county children and youth agency and placement in foster care is a form of disposition under the Juvenile Act. 42 Pa. Cons. Stat. Ann. § 6351(a)(2)(ii). All dispositions must be "best suited to the safety, protection and physical, mental, and moral welfare of the child," a legal standard that is colloquially summarized as "in the best interests of the child." *Id.*

16. Catholic Social Services (“CSS”) has declared that it has a policy of refusing to license qualified same-sex parents to be foster parents based on CSS’s religious objections.

17. Turning away qualified foster parents based on religious criteria conflicts with professional and accepted child welfare practice standards that exist to protect children.

18. Achieving a foster care placement in the best interests of a particular child requires having as large a pool as possible of qualified, licensed foster parents to choose from to optimize the “fit” between the child and the home.

19. Achieving a foster care placement in the best interests of a particular child also requires having a diverse a pool of qualified, licensed foster parents, including LGBT parents. Indeed, for some LGBT youth, having an LGBT foster parent may be vital to the child’s wellbeing.

20. There is a shortage of qualified, licensed foster parents in Philadelphia.

21. In order for the public child welfare system to properly serve the best interests of children, critical decisions about what home a child should be placed in, in either the short- or long-term, must be based on considerations about what is in the child’s best interests, and the City’s subcontracting agencies must not refuse to work with qualified parents for reasons unrelated to the best interests of children.

22. Child Advocates has a long and positive history of cooperation and collaboration with CSS and its several service programs, and we bear no hostility to the mission or character of their programs. However, the religious criteria that CSS seeks to use to exclude qualified prospective foster parents have nothing to do with the best interests of the children whom we serve together.

23. As a result, CSS's policy of rejecting qualified prospective foster parents or refusing to place children in loving homes with qualified same-sex foster parents based on religious considerations may result in harm to children.

24. When an agency ceases to provide care under contract with the City, which can happen for a variety of reasons, it is important for the City to ensure that processes are put in place to maintain the stability of existing child placements. Accordingly, Child Advocates has an interest in participating in this litigation to ensure that neither party is permitted or forced to take unnecessary action that would disrupt the lives of children currently under the care of CSS.

25. Relevant to the present case, we believe that our mission statement compels Child Advocates to advocate for the best interests of the children, and each of them, and to seek the most inclusive approach possible in order to finding loving and stable homes appropriate for them.

26. Child Advocates seeks to intervene to protect the children it represents from damage as a result of the outcome or conduct of this litigation, as well as to protect the organization's own interests. Child Advocates expends resources to advocate for the best interest of children and the improvement of the system, and will have to expend additional resources or divert resources to fix the problems that will arise if religious tests can govern child placement decisions and deal with the damage that may result to children and their well-being.

27. Because the relief sought by CSS in this case would undermine the proper functioning of the public child welfare system designed to protect the best interests of children, and may harm the children that Child Advocates serves and represents, and in order to ensure that decisions made in the context of this litigation do not have a deleterious effect on children in placement, I respectfully ask the Court for leave for the Support Center for Child Advocates to intervene in the above-captioned case as a Defendant.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 6/14/18

A handwritten signature in black ink, appearing to read "F. Cervone", written over a horizontal line.

Frank P. Cervone