

1 Charles S. LiMandri (Cal. Bar No. 110841)  
2 Paul M. Jonna (Cal. Bar No. 265389)  
3 Jeffrey M. Trissell (Cal. Bar No. 292480)  
4 Milan L. Brandon (Cal. Bar No. 326953)  
5 LiMANDRI & JONNA LLP  
6 P.O. Box 9120  
7 Rancho Santa Fe, CA 92067  
8 Tel: (858) 759-9930

9 Thomas Brejcha (Ill. Bar No. 0288446)  
10 Peter Breen (Ill. Bar No. 6271981)  
11 THOMAS MORE SOCIETY  
12 309 W. Washington Street, Ste. 1250  
13 Chicago, IL 60606  
14 Tel: (312) 782-1680  
15 (*Pro hac vice* application pending)

16 *Attorneys for Plaintiff*

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SUPERIOR COURT OF THE STATE OF CALIFORNIA  
COUNTY OF SAN DIEGO – CENTRAL DIVISION

CHILDREN OF THE  
IMMACULATE HEART,

Plaintiff;

v.

KIMBERLEY JOHNSON, in her official  
capacity as Director of the California  
Department of Social Services;  
CALIFORNIA DEPARTMENT OF  
SOCIAL SERVICES; and DOES 1–10,  
inclusive,

Defendants.

**ELECTRONICALLY FILED**  
Superior Court of California,  
County of San Diego

**12/30/2019** at 05:12:00 PM

Clerk of the Superior Court  
By Melinda McClure, Deputy Clerk

Case No.: 37-2019-00061761-CU-WM-CTL

**IMAGED FILE**

**VERIFIED FIRST AMENDED  
PETITION FOR WRIT OF MANDATE  
[Code. Civ. Proc., § 1085] AND  
COMPLAINT FOR DECLARATORY  
AND INJUNCTIVE RELIEF AND  
DAMAGES**

**Jury Trial Demanded**

## INTRODUCTION

1. Sex trafficking is the fastest-growing illegal enterprise in California. In San Diego County alone, over 5,000 victims each year are forced into the commercial sex trade, generating an estimated \$810 million annually for gangsters and pimps. Many of these victims are children. Indeed, the ongoing commercial sexual exploitation of children—particularly young girls—is San Diego’s most endemic violation of human rights.

2. Children of the Immaculate Heart (“CIH”) is a Catholic charity that houses and cares for trafficked women. CIH’s holistic, one-on-one approach has helped over a dozen women recover their stolen dignity and find hope for the future. Because of its success working with adult women, CIH aspires to open the Refuge, a therapeutic group home for commercially sexually exploited minor girls. But after four years of government stonewalling and nearly \$600,000 in sunk costs, the Refuge sits empty. That is because state bureaucrats have resolved to advance an anti-Catholic agenda rather than rescue young girls enslaved in sex trafficking.

3. The California Department of Social Services (the “Department”), which regulates California’s foster system, refuses to license the Refuge because of Children of the Immaculate Heart’s sincere religious beliefs about human sexuality. Since submitting its licensing application in June 2018, CIH has repeatedly asked the Department to either license the Refuge or explain definitively why it will not. The Department has done neither. To be sure, the Refuge meets and exceeds all applicable licensing regulations. Yet the government refuses to take any action. In fact, licensing officials had a statutory duty to make a determination on the Refuge’s application over one year ago.

4. The Refuge’s ongoing vacancy is not simply the result of plodding bureaucratic paper pushing. As alleged in this Complaint, the Department’s licensing officials have arbitrarily put CIH to a choice: If it wants to open the Refuge, then it must pledge to support programs and activities that violate its religious beliefs about sexual orientation, contraception, and abortion. As a consequence of this Mandate, the government is imposing a penalty on CIH’s religious exercise that must withstand the strictest scrutiny.

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5. The Department fails to meet this burden. Discriminating against CIH on the basis of religion advances no compelling interest, and even if it did, it would not be the least restrictive means of achieving that end. By contrast, the government's religiously discriminatory stonewalling is irreparably harming CIH's religious freedom, liberty of speech, and equal protection rights under the California Constitution. But more importantly, the government is hurting those abused and unloved girls in desperate need of a *refuge*.

6. Children of the Immaculate Heart has never been accused of discrimination, and for good reason—it does not and would not. The Refuge’s caretakers would love and nurture every foster girl regardless of their sexual orientation, gender identity, or reproductive choices. But the government ignores all that, because it has adjudged that CIH’s Catholic identity and Christ-centered mission are “offensive” and thus anathema to its political orthodoxy. But “[i]t is not, as the Court has repeatedly held, the role of the State or its officials to prescribe what shall be offensive.” (*Masterpiece Cakeshop, Ltd. v. Colo. Civ. Rights Com.* (2018) 138 S. Ct. 1719, 1731.)

7. Without judicial relief and with no other remedy available, Children of the Immaculate Heart will continue to suffer irreparable harm. CIH therefore seeks (1) a traditional writ of mandate ordering the Department to make a final determination on the Refuge's application; (2) a judgment declaring that the government is violating CIH's fundamental constitutional rights; and (3) preliminary and permanent injunctions prohibiting the government from further discriminating against CIH.

## JURISDICTION AND VENUE

8. This action arises under the United States and California Constitutions and applicable state law. CIH alleges that Defendants have violated article I, sections 1, 4, and 7 of the California Constitution and the First Amendment to the United States Constitution.

9. This Court may issue a Writ of Mandate under Code of Civil Procedure section 1085 and because CIH has no available administrative remedy. This Court may grant declaratory and injunctive relief under Code of Civil Procedure sections 525, 526, and 1060, and under Government Code section 11350.

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10. Venue is proper in this Court under Code of Civil Procedure section 393, subdivision (b), and section 401, subdivision (1).

## THE PARTIES

11. Plaintiff Children of the Immaculate Heart (“CIH”) is a 501(c)(3) nonprofit religious charity incorporated in California and based in San Diego, California. CIH’s mission statement is “Restore All Things in Christ: Serving Survivors of Sex Trafficking.” Founded in 2013, CIH provides housing and “wraparound services” for women and children vulnerable to prostitution, trafficking, and other forms of sexual exploitation.

12. Defendant Kimberley Johnson is the Director of the California Department of Social Services (the “Department”). Johnson is responsible for the Department’s administration and operations. Johnson is sued only in her official capacity.

13. Defendant California Department of Social Services is an executive agency of the California government. The Department is responsible for administering the State's child welfare system, which includes regulating community care facilities.

14. CIH believes each designated Doe defendant is legally responsible in some manner for causing CIH's injuries and damages as alleged. The Doe defendants are fictitiously named, and CIH will seek leave to amend this Complaint when the true names of these Defendants are revealed.

15. Unless context indicates otherwise, the defendants are referred to collectively as the “Department.”

## BACKGROUND

## Children of the Immaculate Heart, its Mission, and its Religious Beliefs

### **A. Children of the Immaculate Heart’s Mission: “To Restore All Things in Christ”**

16. Grace Williams contemplated becoming a nun—but God had other plans for her. Grace took seriously the Church’s “New Evangelization,” which focuses on caring for the downtrodden and oppressed. Grace first developed a heart for helping suffering children during mission trips to Papua New Guinea and Madagascar and volunteering to care for sex-trafficking survivors.

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1 17. Based on these experiences and other encounters, Grace knew God had called her to  
2 devote her life to helping victims of commercial sexual exploitation. And so in 2013, she founded  
3 Children of the Immaculate Heart in San Diego County.

4 18. CIH's first client was a twenty-six-year-old woman on the run from sex traffickers. She  
5 had first sought help from other service agencies. But none offered assistance for trafficked  
6 mothers, and she had four children. At the same time, only three private rescue homes for  
7 trafficking survivors operated in San Diego, with fewer than thirty available beds. All those beds  
8 were filled. She and her children had nowhere to go.

9 19. That is when CIH acted. Backed by a group of dedicated donors, CIH's caregivers  
10 leased an apartment for the woman and her children. They outfitted the family with new clothes,  
11 stocked their cupboards with food, drove them to medical appointments, and helped them with  
12 other necessities. But more importantly, CIH's caregivers offered the woman a relationship-based  
13 support system built on love and trust.

14 20. Within two years, CIH's relationship-focused caretaking model gained national  
15 recognition, leading to partnerships with the San Diego District Attorney's Office, the Juvenile  
16 Justice Court, and prominent community- and faith-based groups. In December 2015, Grace  
17 Williams was elected Vice-chair of the Victim Service Committee of the San Diego County  
18 Regional Human Trafficking and Commercial Sexual Exploitation of Children Advisory Council.

19 21. Through its adult housing and rehabilitation program, CIH currently serves over a  
20 dozen women and their children.

## 21 **B. CIH's Catholic Identity and Religious Apostolate**

22 22. The Catholic faith is inseverable from CIH's mission. CIH's staff, board members, and  
23 volunteers all understand that its Catholic identity forms the foundation of its mission and  
24 apostolate.

25 23. CIH derives its name from the Immaculate Heart of Mary, which emanates the grace of  
26 God and overflows with maternal love for all souls. In imitation of Mary, CIH aspires to nourish  
27 young girls and women through Christ-centered maternal love.

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1           24. CIH's theological beliefs are grounded in the Magisterium of the Catholic Church,  
2 which is the Church's divinely appointed authority to interpret God's Word. All Catholics must  
3 believe and abide by the Magisterium's teachings. Indeed, acting against the Church's teachings is  
4 sinful, and believing something contrary to those teachings is heresy.

5           25. Because of its Catholic identity, CIH cannot carry out any part of its mission that would  
6 conflict with its religious beliefs.

### 7 **C. CIH's Beliefs about Human Sexuality**

8           26. CIH believes the rise of human trafficking stems from the widespread cultural  
9 objectification of women, extramarital sexual relations, contraception, abortion, and the breakdown  
10 of the traditional family.

11           27. Because human trafficking is a societal ill, CIH believes that each woman and child  
12 saved from commercial sexual exploitation lays the foundation for a family-centered "Culture of  
13 Life."

14           28. For this reason, CIH upholds the Church's teaching that the "Right to Life" is the most  
15 fundamental human right. The Church instructs: "Human life must be respected and protected  
16 absolutely from the moment of conception. From the first moment of his existence, a human being  
17 must be recognized as having the rights of a person—among which is the inviolable right of every  
18 innocent being to life."<sup>1</sup> CIH therefore works to protect the life and dignity of every person from  
19 conception until natural death.

20           29. CIH accordingly affirms the Church's teachings on abortion. The Catechism of the  
21 Catholic Church professes that "every procured abortion" is a "moral evil," and "[t]his teaching  
22 has not changed and remains unchangeable." The Church states: "Direct abortion, that is to say,  
23 abortion willed either as an end or a means, is gravely contrary to the moral law.... Formal  
24 cooperation in an abortion constitutes a grave offense."<sup>2</sup>

25           30. Thus, CIH believes that facilitating an abortion—both directly and indirectly—is a  
26 grave offense.

27 <sup>1</sup> (Catechism of the Catholic Church (1994), ¶ 2270 ["Catechism"].)

28 <sup>2</sup> (Catechism, ¶ 2272.)

1 31. CIH relatedly adheres to the Church’s teaching on contraception. The Church instructs  
2 that the sexual union of husband and wife, through openness to new life, expresses the full meaning  
3 of love and lifelong commitment. For that reason, at the heart of marriage is the mutual gift of  
4 fertility. When married couples deliberately suppress fertility through contraception, it defeats the  
5 inherent meaning of married sexuality.

6 32. CIH relatedly follows the Church’s teachings on marriage and sexuality. The Catechism  
7 notes, “Sexuality is ordered to the conjugal love of man and woman,” in which they “give  
8 themselves to one another through the acts which are proper and exclusive to spouses.”<sup>3</sup> For that  
9 reason, the Church states that homosexual acts are “contrary to the natural law,” in part because  
10 “[t]hey close the sexual act to the gift of life.”<sup>4</sup> And so “[u]nder no circumstances can they be  
11 approved.”<sup>5</sup>

12 33. The Church understands that homosexuality “has taken a great variety of forms  
13 through the centuries and in different cultures” and that “[i]ts psychological genesis remains  
14 largely unexplained.”<sup>6</sup> In all cases, the Church declares “men and women who have deep-seated  
15 homosexual tendencies... must be accepted with respect, compassion, and sensitivity.”<sup>7</sup>

16 34. To that end, the Church’s position on the treatment of LGBTQ persons is clear: “Every  
17 sign of unjust discrimination in their regard should be avoided.”<sup>8</sup> For that reason, CIH does not  
18 discriminate against LGBTQ adults or children. But under no circumstances would CIH encourage  
19 or promote sexual relations outside the marriage of one man and one woman.

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21 <sup>3</sup> (Catechism, ¶ 2360.)

22 <sup>4</sup> (Catechism, ¶ 2357.)

23 <sup>5</sup> (*Ibid.*)

24 <sup>6</sup> (*Id.*) The American Psychological Association agrees that “[t]here is no consensus among  
25 scientists about the exact reasons that an individual develops a heterosexual, bisexual, gay or lesbian  
26 orientation. Although much research has examined the possible genetic, hormonal, developmental,  
27 social and cultural influences on sexual orientation, no findings have emerged that permit scientists  
28 to conclude that sexual orientation is determined by any particular factor or factors.” (*Answers to  
Your Questions: For a Better Understanding of Sexual Orientation and Homosexuality* (2008) Am. Psy.  
Assn. < <https://perma.cc/HST9-K87C> > [as of Nov. 14, 2019].)

<sup>7</sup> (Catechism, ¶ 2358.)

<sup>8</sup> (*Ibid.*)

1           35. In all events, CIH serves minor and adult women regardless of their sexual orientation,  
2 gender identity, or reproductive choices. But CIH will not comply with or cooperate in any program  
3 or activity, formally or indirectly, that violates its sincere religious beliefs.

4 **D. CIH’s Mission to Open a “Refuge” for Commercially Sexually Exploited Girls**

5           36. Since its founding in 2013, Children of the Immaculate Heart has envisioned opening a  
6 residential treatment facility for commercially sexually exploited children, known as CSEC. To that  
7 end, CIH has spent the last four years trying to open the Refuge, to be operated as a specialized  
8 foster group home called a short-term residential therapeutic program (STRTP).

9           37. Out of all the children in foster care,<sup>9</sup> commercially sexually exploited youth require the  
10 most intensive and specialized treatment. Unfortunately, most social workers and foster agencies  
11 lack even a basic understanding of the risk factors, indicators, and dynamics of sex trafficking. For  
12 example, minor sex-trafficking victims have a complex, layered history of childhood trauma—such  
13 as a coinciding exposure to alcohol and substance abuse, domestic violence, and sexual assault.

14           38. Another challenge is that a CSEC’s out-of-home placement often triggers patterns of  
15 running away, which increases a child’s vulnerability to exploiters. Indeed, exploiters know where  
16 foster care group homes are, and they directly recruit girls from these settings because they know  
17 foster girls are vulnerable. Exploiters also coerce and threaten young girls to recruit other youth  
18 living in the group home.

19           39. This all being so, CSEC caretakers must be experienced and highly trained to provide  
20 trauma-informed care, apply harm reduction strategies, and develop a relationship-based approach  
21 for each child. Those demands have consequences: CSEC service providers have alarmingly high  
22 rates of staff turnover. That in turn disrupts the Legislature’s goal to provide stability for foster  
23 youth.

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26  
27 <sup>9</sup> “Foster care” means “the 24-hour out-of-home care provided to children whose own families  
28 are unable or unwilling to care for them, and who are in need of temporary or long-term substitute  
parenting.” (Cal. Code Regs., tit. 22, § 110383.)



40. Relatedly, both the Department and county welfare agencies acknowledge that the most detrimental barrier to effectively serving CSEC in foster care is the lack of suitable placement options—*e.g.*, specialized placements that include stabilization, support, trauma-informed care, transition planning, and aftercare.<sup>10</sup>

41. Indeed, the lack of CSEC-specializing foster care has reached a crisis point.

42. Put simply, the Refuge is desperately needed.

43. Designed and managed by CIH's highly trained and experienced caregivers, the Refuge's program would provide teen sex-trafficking survivors with dynamic, multi-disciplinary treatment. Clinical services would include mental health and substance abuse counseling, crisis intervention, and access to medical care. Therapeutic services include cognitive therapy, behavior coaching, and relationship counseling. Educational and social supports include tutoring, career advising, and life-skills development such as cooking, cleaning, and budgeting. Planned recreational activities include beach days, equine therapy, shopping trips to the mall, painting lessons, and popcorn and movie nights. Caregivers would also offer culturally relevant programs and activities accounting for children's diverse backgrounds.

44. Here are some photographs of the Refuge:



<sup>10</sup> (Cal. Legis. Serv. Ch. 757 (A.B. 2207).)

45. Government agencies and officials have repeatedly expressed the critical need for the Refuge. These include the San Diego County District Attorney’s Office, the San Diego County Board of Supervisors, and the County Probation Department.

46. The San Diego Juvenile RISE Court, a juvenile court subdivision that serves at-risk or actual CSEC youth, has particularly expressed an urgent need for the Refuge. In November 2018, RISE Court officials toured the Refuge for two hours.

47. After the tour, RISE Court officials immediately requested to reserve all the beds. Indeed, one court representative commented that the Refuge was the best foster facility they had ever seen.

## Statutory and Regulatory Background

### A. The Licensing Process for Short-Term Residential Therapeutic Programs

48. In 2015, the California Legislature passed, and Governor Brown signed into law, the Continuum of Care Reform Act (the “Act”), a series of sweeping changes to the State’s foster care system. As part of the Act, the Legislature created a new foster group home category called the Short-Term Residential Therapeutic Program (STRTP).

49. The STRTP reflected the Legislature’s intent for a new residential care facility that would focus on severely emotionally disturbed children who need short-term, specialized, and intensive intervention.<sup>11</sup> Specifically, a STRTP provides dedicated 24-hour behavioral support and mental health services for children who have suffered from deeply disturbing events or situations that prevent them—whether for physical, psychological, or emotional reasons—from being placed in a family-style foster facility.<sup>12</sup> The STRTP’s objective is to provide these children with trauma-informed, round-the-clock treatment until they are ready to transition to a lower level of home-based care.

50. Title 22 of the California Code of Regulations and the California Health and Safety Code govern all community care facilities, including foster homes and STRTP's. The Department's Community Care Licensing Division is the responsible enforcement agency.

<sup>11</sup> (See Welf. & Inst. Code, § 16000.)

<sup>12</sup> (See Health & Saf. Code, § 1502.)

1           51. As with all community care facilities, the STRTP application process is demanding. In  
2 addition to the general licensing guidelines governing community care facilities, the Department  
3 has issued “Interim Licensing Standards” to regulate STRTP’s until the provisions are officially  
4 codified in the California Code of Regulations. (See Cal. Code. Regs., tit. 22, § 8700 et seq.  
5 [hereafter Standards or ILS].).

6           52. A prospective licensee starts the application process by attending a mandatory  
7 orientation at one of the Department’s regional offices. During the orientation, agency officials  
8 explain the licensing process, including the application requirements and relevant laws and  
9 regulations.

10          53. Prospective licensees must then submit a verified application that includes

- 11           ○ A submission fee;
- 12           ○ Letter of recommendation from a county interagency committee;
- 13           ○ “Plan of Operation” and a comprehensive “Program Statement”;
- 14           ○ Staff information, including fingerprints, criminal records, and credit reports; and
- 15           ○ A facility fire clearance for the home.

16          54. Agency officials must also inspect the facility and meet with the prospective licensee to  
17 review the application packet.

18          55. Once agency officials receive the prospective licensee’s application, they are statutorily  
19 required to review it for completeness and notify the applicant of their determination within 90  
20 days.<sup>13</sup> An application is “complete” if the agency has received all required documents and  
21 inspected the STRTP facility. By contrast, an application is “deficient” if has “outstanding and/or  
22 inadequate documents.” The applicant must correct the deficiencies within 30 days of receiving  
23 the notice.<sup>14</sup>

24          56. Despite the various review guidelines and checklists, agency officials ultimately have  
25 unbridled discretion in deciding whether an application is “complete” or “deficient.”  
26

27          <sup>13</sup> (See ILS, § 87031.1.)

28          <sup>14</sup> (Cal. Code Regs., tit. 22, § 80027.)

1 57. Once agency officials decide the application is “complete,” they will either approve or  
2 deny it.<sup>15</sup> They must then send the applicant a written notice of their decision. Both must be done  
3 within 90 days of receiving the final application.<sup>16</sup> If the licensing officials fail to make a  
4 determination on the application within 90 days, they are directed to bring the application to the  
5 Licensing Program Manager’s attention.<sup>17</sup>

6 58. If agency officials determine that the prospective licensee meets all regulatory and  
7 statutory requirements and approves the application, they will issue a provisional, 12-month license  
8 pending a more comprehensive evaluation for permanent licensure.<sup>18</sup>

9 59. In contrast, agency officials will deny a prospective licensee’s application if they decide  
10 the applicant does not provide satisfactory evidence that the program can meet or conform to the  
11 licensing regulations.

12 60. A denied applicant may appeal the agency officials’ decision by requesting a hearing  
13 within 15 days after agency officials mail the notice of denial.<sup>19</sup>

14 **B. Licensing Application’s Regulations Related to LGBTQ Programs, Contraception, and**  
15 **Abortion**

16 61. At issue are (1) the Department’s abuse of discretion in evaluating CIH’s application  
17 and (2) the Department’s discriminatory interpretation and enforcement of the licensing  
18 regulations governing STRTP’s.

19 62. As said above, a prospective licensee must include with its STRTP application a Plan  
20 of Operation and Program Statement.<sup>20</sup> The Program Statement must describe in part the  
21 population the STRTP intends to serve; the facility’s capability to support “the diverse needs of  
22 children and their families”; how the facility will safeguard the children’s “personal rights”; and  
23 how caregivers will ensure children can attend age and developmentally appropriate

24  
25 <sup>15</sup> (See ILS, § 87031.1.)

26 <sup>16</sup> (ILS, § 87031.)

27 <sup>17</sup> (See Cal. Dep’t of Soc. Servs., Eval. Manual: Children’s Residential Program, § 3-0325.)

28 <sup>18</sup> (Cal. Code Regs., tit. 22, § 84030.1.)

<sup>19</sup> (See Health & Saf. Code, § 1526; Cal. Code Regs., tit. 22, § 80040.)

<sup>20</sup> (Health & Saf. Code, § 1562.01, subd. (d)(1).)

1 extracurricular, enrichment, cultural, and social activities.<sup>21</sup>

2 63. Relevant here, the Standards require an STRTP applicant to describe in its Program  
3 Statement the following:

- 4 ○ “The practice models or interventions that will be utilized and/or tailored  
5 to serve ... lesbian, gay, bisexual, transgender, and queer/questioning  
6 children”;
- 7 ○ how the applicant “will engage the community, community-based  
8 organizations, or providers that work with [lesbian, gay, bisexual,  
9 transgender, and queer/questioning children]”;
- 10 ○ how the applicant will arrange for transporting children to and from  
11 “lesbian, gay, bisexual, transgender, and queer/questioning affirming  
12 activities”;
- 13 ○ how the applicant will provide “enrichment, cultural, and social  
14 activities,” including “community events” for “lesbian, gay, bisexual,  
15 transgender, queer/questioning, and gender expansive children and youth  
16 activities”;
- 17 ○ details of applicant’s “planned educational activities and services,”  
18 including “[p]roviding a safe learning environment for the lesbian, gay,  
19 bisexual, transgender, and queer/questioning” children;
- 20 ○ “how the agency will advocate through the child and family team meetings  
21 to include, but is not limited to, a child or youth’s lesbian, gay, bisexual,  
22 transgender, and queer/questioning”; and
- 23 ○ “[h]ow the STRTP will support visits for lesbian, gay, bisexual,  
24 transgender, queer/questioning, and gender expansive children and youth  
25 with adults who are affirming of their sexual orientation, gender identity,  
26 and gender expression regardless of their biological connection.”<sup>22</sup>

27 64. The Standards also require STRTP applicants to certify that children have  
28 transportation to health-related services, which includes abortion.

65. Specifically, the Standards provide:

Unless other arrangements are specified in the Needs and Services Plan  
or the Transitional Independent Living Plan for a child or nonminor  
dependent, a licensee shall ensure transportation is provided to the  
following: (1) Health-related services. (2) School, including to the child’s

<sup>21</sup> (See ILS, § 87022.1.)

<sup>22</sup> “Sexual orientation” means “a person’s emotional, romantic or sexual attraction to others that  
may be shaped at an early age.” (Cal. Code Regs., tit. 22, § 84001.)

1 school of origin. (3) Extracurricular, enrichment, and social activities,  
2 provided the transportation to these activities is reasonable.<sup>23</sup>

3 66. The regulations further provide:

4 A foster youth must be provided transportation to health-related services  
5 (See Welfare & Institution Code, § 16001.9, subdivision (a)(4); 22 CCR  
6 §§ 80075, subdivision(a), and 89374, subdivision (c)(1). Many  
7 reproductive health services are time-sensitive (e.g. emergency  
8 contraception), therefore transportation is to be provided in a timely  
9 manner in order to meet the requirement.<sup>24</sup>

10 67. As applied to CIH, the Department has mandated that CIH certify that it will affirm the  
11 sexual lifestyle choices of “lesbian, gay, bisexual, transgender, and queer/questioning children”  
12 and ensure children are provided with contraception and access to abortion.

13 68. There is no legal authority for forcing foster care providers to support a child’s “sexual  
14 attraction” to others. Nor is there legal authority for forcing foster care providers to personally  
15 ensure children may terminate the life of a fetus.

### 16 **C. The Licensing Regulation’s System of Exceptions and Allowances**

17 69. The STRTP provisions related to sexual orientation and reproduction do not facially  
18 discriminate on the basis of religion.

19 70. But they are not generally applicable because the Standards and the general regulations  
20 provide for numerous allowances, and exceptions.

21 71. Both the Standards and the general licensing regulations governing community care  
22 facilities provide for numerous exceptions to the Department’s rules.

23 72. For example, STRTP administrators and staff must make day-to-day decisions when  
24 caring for children under the “Reasonable and Prudent Parent Standard.” This standard, which

25 <sup>23</sup> (ILS, § 87074.)

26 <sup>24</sup> “Health-related services” include “services related to the prevention or treatment of  
27 pregnancy, sexual assault or rape; and at 12 years of age or older, the prevention, diagnosis, or  
28 treatment of sexually-transmitted diseases.” (ILS, § 87072.) The regulations clarify that the  
“prevention or treatment of pregnancy includes contraception, pregnancy testing and counseling,  
abortion, and prenatal care.” (ILS, § 87072.)

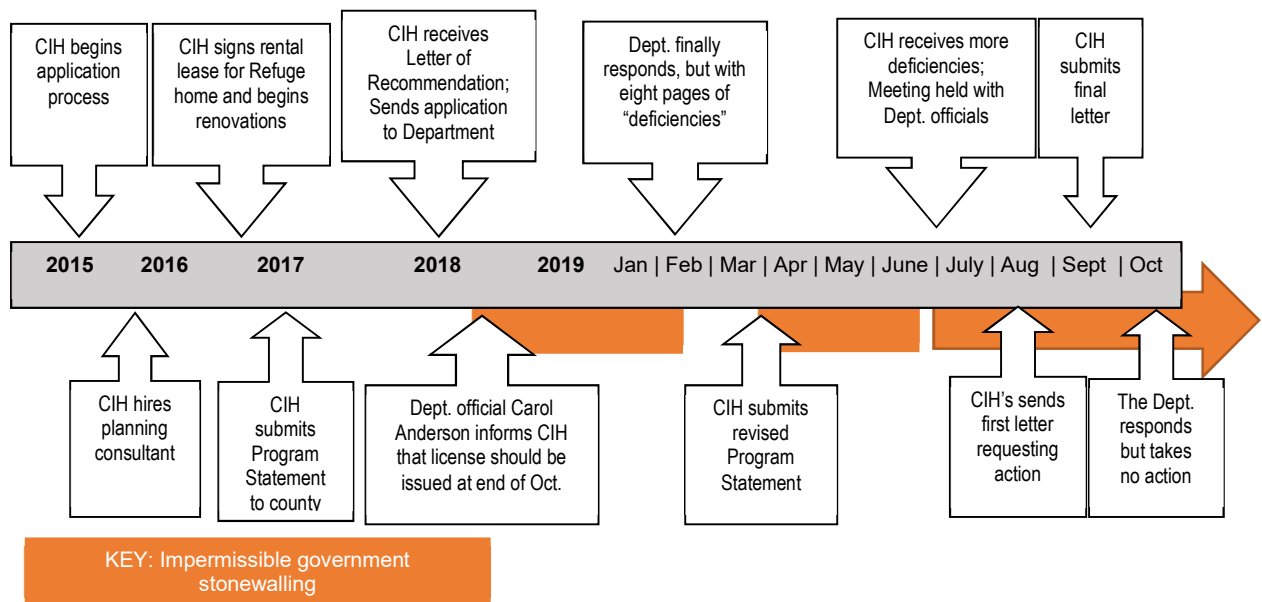
1 vests caretakers with extensive discretionary decisionmaking authority, is defined as “the careful  
2 and sensible parental decisions that maintain a child’s health, safety, and best interests.”<sup>25</sup>

3 73. Caregivers also have discretionary parental authority according to the foster child’s  
4 “Needs and Services Plan,” (NSP) the blueprint that identifies the child’s individual needs and  
5 outlines the services to meet those needs. The NSP is developed as a collaboration between the  
6 child, her authorized representative, placement agency, social worker, the provider, and other  
7 interested parties. Because it is a binding document, the NSP prohibits a caretaker from sponsoring  
8 or permitting any action that would impair the child’s health and safety or otherwise violate her  
9 NSP.<sup>26</sup>

10 74. California has never enacted any law mandating that a community care facility promote  
11 or take part in programs and activities that undermine the “Reasonable and Prudent Parent  
12 Standard” and undercut the child’s “Needs and Services Plan.”

### 13 Factual Background

#### 14 A. Background of the Refuge’s Application Process



25 (ILS, § 87001.)

26 (ILS, § 87068.2.)

1           75. Within two years of its founding, CIH had a fully developed program model and was  
2 poised to expand its mission. As a result, CIH's Board of Directors voted to open the Refuge as a  
3 residential facility for trafficked girls currently in the juvenile court system.

4           76. CIH started the license application in August 2015 when its executive director, Grace  
5 Williams, attended the Community Care Licensing Orientation at the Department's San Diego  
6 Regional Office.

7           77. In March 2016, donors had pledged enough funds for CIH to hire a full-time consultant  
8 to help design the Refuge and navigate the byzantine licensing process.

9           78. Later that year, a Child Welfare Services official from County of San Diego Health and  
10 Human Services Agency summarily informed CIH that the county welfare agency had ceased  
11 evaluating STRTP applications for the rest of 2016.

12           79. CIH resumed its application process in January 2017. The next month, CIH signed a  
13 lease for a home in San Diego County to be the Refuge. Donors and volunteers joined CIH staff to  
14 begin renovating and furnishing the Refuge so that it would be ready to accept girls as soon as the  
15 home was licensed.

16           80. In September 2017, San Diego County District Attorney Summer Stephan submitted a  
17 letter to the Department endorsing CIH and recommending that the Department issue the license  
18 for the Refuge. In the letter, Stephan described CIH as "a strong partner with the San Diego  
19 County District Attorney's Office, proactively working toward ending human trafficking in San  
20 Diego County" and "a constant presence in the fight against human trafficking." Stephan  
21 concluded, "We highly support Children of the Immaculate Heart and The Refuge application and  
22 are fully committed to assisting in any way that would benefit its implementation."

23           81. That same month, CIH submitted copies of the Refuge's Program Statement to a San  
24 Diego County multi-agency review committee, as required by the regulations.

25           82. The County committee's review of the Refuge's Program Statement lasted nine  
26 months. On June 7, 2018, the committee approved the Program Statement and officially  
27 recommended that the Department issue a license for the Refuge.

28 ///



1           83. The very next day, on June 8, 2018, CIH submitted its completed application to the  
2 Department's Community Care Licensing Division. Upon information and belief, CIH was the  
3 first organization to apply for a new STRTP license in San Diego County.

4           84. The licensing regulations required the government to notify CIH in writing the result  
5 of its evaluation of the Refuge's application within 90 days of receipt. But other than a letter  
6 acknowledging receipt of the application on June 14, CIH received no official communication from  
7 the government until late September or early October 2018, when Carol Anderson, the Licensing  
8 Division official responsible for processing the Refuge's application, called CIH.

9           85. During the call, Ms. Anderson stated that licensing officials would perform a walk-  
10 through of the Refuge soon and that she planned to have the Refuge licensed by the end of October.

11           86. Overjoyed at the news, CIH made a major announcement to its donors that the Refuge  
12 would soon be opening its doors to start rescuing girls.

13           87. But CIH never heard from Ms. Anderson that month—nor for the next three months.

14 **B. The Department Targets CIH for its Sincere Religious Beliefs**

15           88. Cracks in the Department's wall of neutrality began appearing in February 2019.  
16 Licensing official Carol Anderson finally contacted CIH on February 11 for the first time since the  
17 October 2018 call. Despite claiming four months prior that the Refuge's application was ready for  
18 approval, Ms. Anderson emailed CIH eight pages of what government evaluators had considered  
19 "deficiencies" in the Refuge's Program Statement.

20           89. The deficiencies (and corresponding directions) in the Refuge's Program Statement  
21 included:

- 22           ○ Did not provide explanation/procedure to ensure there is no  
23 discrimination against any youth or NMD [non-minor dependent] based  
on sexual orientation, gender identity, or expression.
- 24           ○ Describe how program will ensure transportation services will be  
25 provided to outside activities to include [] LGBTQ programs and  
activities.... Describe who provides transportation and how it is provided.
- 26           ○ Describe how the program affirms/supports visits for Lesbian, Gay,  
27 Bisexual, Transgender, Queer/Questioning and Gender Expansive  
28 Youth.

- Describe procedure for dispensing transition related medications for Transgender Youth.
- Describe in detail how a youth's sexual orientation, gender identity, religious beliefs, ethnic and cultural practices are not violated, discriminated against or punished.

90. Ms. Anderson suggested that CIH submit a revised Program Statement by March 4. But because of the overwhelming and unexpected number of deficiencies, CIH asked for more time.

91. On March 27, CIH employees Amy Sorensen and Christina Vasquez held a phone conference with Licensing Division officials to review the Refuge's Program Statement. During the call, Ms. Sorensen sought clarification about the Refuge having to dispense sex-change medications for transgender youth. Upon information and belief, a licensing program analyst named Paul Van Veen replied that it was a condition of licensing.

92. The next month, CIH resubmitted its Program Statement.

93. Ninety days passed with no word from the Department.

94. On July 10, licensing program analyst Carol Anderson contacted CIH to schedule a "technical assistance" meeting for July 17 with officials from the Continuum of Care Reform Branch, the Community Care Licensing Division, and San Diego's Child Welfare and Behavioral Health Services.

95. On July 12, just five days before the meeting, Ms. Anderson emailed CIH copies of two documents, dated June 30, 2019, and July 11, 2019, respectively, of "deficiencies" in the Refuge's revised Program Statement. Both documents identified *even more* deficiencies than the Department's February 2019 review.

96. As to the LGBTQ-related conditions, the Department stated:

- Need more detail and specifics on how STRTRP affirms/supports LGBTQ, Gay, Bisexual, Transgender, Queer/Questioning, and Gender Expansive youth.
- Any LGBTQ/SOGIE community resources? How will you make these resources available to youth who request them?
- How facility programs will demonstrate the ability to support differing needs of children, NMDs, and their families, including those from

different backgrounds or experiences, including race, ethnicity, sexual orientation, gender identity, or a child/NMD who is gender non-conforming.

97. In its review of the Refuge's Plan of Operation's "Vision, Mission, Purpose, Goals, and Philosophies" section, the Department commented:

Mission bullet states providing opportunities for their restoration in Jesus Christ... What is [sic] the youth not religious? Does not have religious beliefs? Does not believe in Jesus Christ/GOD? The statement being made with victims of trafficking being in the same sentence is offensive. Youth who have been trafficked may have not lost their faith in their religion and it should not be assumed that they have!

98. CIH was shocked that the Department would describe its mission statement as "offensive." Moreover, no government official had mentioned CIH's mission statement before. After reviewing the "deficiencies" and the dogged emphasis on the LGBTQ issue, CIH suspected the government was stonewalling the Refuge's application because of the charity's religious beliefs about sexual orientation, contraception, and abortion.

### **C. The Department's Severe Religious Hostility Surfaces at the July 2019 Meeting**

99. On July 17, the Department met with CIH representatives at the Community Care Licensing Division Regional Office in San Diego. Attending for the government were two officials from San Diego's Child Welfare and Behavioral Health Services department and two officials from the Licensing Division, including Carol Anderson. Participating by phone were Department officials based in Sacramento, including Stacie Kinney, a Policy Analyst from the Continuum of Care Reform Branch.

100. Before long, CIH perceived that the Department had adopted a de facto criterion to specifically evaluate the Refuge's application. That sole criterion was whether, in the government's judgment, CIH's religious beliefs were offensive and discriminatory.

101. To apply this criterion, government officials trolled through CIH's religious beliefs about sexual orientation, contraception, and abortion.

102. The government's questions and criticisms were highly specific. Thus, to decide whether CIH's religious beliefs were discriminatory, the officials had to determine how CIH's

1 Catholic beliefs are derived and to discern the boundary between Catholic theological principles  
2 and the government's endorsement of LGBTQ acts, contraception, abortifacients, and abortion.

3 103. For example, during the meeting, the government officials criticized CIH's mission  
4 statement, declaring it would be best if CIH removed all references to religion. Indeed, Ms. Kinney  
5 asked why Christ was even in the mission statement.

6 104. Grace Williams, CIH's executive director, replied that the Refuge would not remove  
7 references to religion from its mission statement because the facility is an exercise of CIH's  
8 religious apostolate to care for minor victims of sex trafficking. Ms. Williams further noted that  
9 CIH is registered with the Internal Revenue Service as a 501(c)(3) religious organization.

10 105. The government officials also asked whether CIH would force the Refuge's staff and  
11 residents to go to church or pray. Ms. Williams pointed out that the Refuge's application already  
12 stated the program has no religious requirements. Ms. Williams then suggested that CIH could  
13 emphasize that point by adding an express clause in the Plan of Operation.

14 106. Next, the Department analysts probed CIH on its beliefs on human sexuality.  
15 Without citing a statute, a Child Welfare Services representative announced that it "expects" the  
16 Refuge's caregivers to drive residents to LGBTQ-affirming activities.

17 107. In response, Ms. Williams reminded the officials that CIH had certified in the  
18 Refuge's Program Statement that it does not discriminate based on sexual orientation, gender  
19 identity, and gender expression. And she again affirmed that the Refuge's programs and activities  
20 would be open to all residents and that a resident may attend extracurricular activities that do not  
21 threaten her health or safety and that fit with her NSP. She reiterated, however, that the Refuge  
22 would neither formally nor materially cooperate in any program or activity that conflicts with CIH's  
23 sincere religious beliefs.

24 108. Ms. Williams asked why the government would not consider the many reasonable  
25 transportation options, such as the resident's family, friends, probation officer, social worker, or  
26 even authorized volunteers.

27 109. Ms. Kinney did not answer, instead replying that she would have to discuss this with  
28 her branch manager.

1           110. Moving on, Ms. Kinney pointedly asked about CIH's position on contraception and  
2 abortion. She posed multiple hypotheticals, including whether Refuge staff would hand out  
3 "condoms" and drive girls to "Planned Parenthood" to obtain abortions.

4           111. Ms. Williams responded that childcare staff would ensure residents have access to  
5 health and medical care. But she reaffirmed that the Refuge would not condone, promote, nor  
6 facilitate any activity that violates the Catholic Church's teachings on the sanctity of human life,  
7 which includes prohibitions against contraception and abortion.

8           112. Ms. Anderson pressed that "these girls, where they come from, dating is going to be  
9 very important to them—so that is going to be an issue—sex, abortions, things like that, because  
10 of where they come from." She speculated that resident girls would likely complain to the  
11 Department about the Refuge's position, and consequently she would have to "write up" CIH.

12           113. Ms. Williams finally asked whether the Department would deny the Refuge's  
13 application because CIH would not comply with the Mandate.

14           114. Ms. Kinney replied that "this is going to be a much bigger problem than I thought"  
15 and that "we don't normally hear this." She then said she would discuss CIH's religious objections  
16 with her senior manager right after the meeting and would respond by the end of the day.

17           115. As the meeting concluded, Ms. Williams asked Ms. Anderson whether CIH's  
18 Catholic beliefs would be a "dealbreaker."

19           116. Ms. Anderson shrugged and replied, "The law is the law."

20           117. Ms. Williams asked which law. Ms. Anderson replied that it was a provision from the  
21 Health and Safety Code and that she would email it to her.

22           118. Even so, Ms. Anderson remarked to Ms. Williams, "You're just going to have a  
23 problem with that religious thing."

24 **D. The Department's Actions and Statements Confirm that It Is Abusing the Licensing**  
25 **Regulations to Enforce an Arbitrary Mandate against CIH**

26           119. By deliberately refusing to make a determination on CIH's application and based on  
27 the offensive statements made by government officials at the July 17 meeting, it is clear the  
28 Department has imposed an arbitrary Mandate on CIH. That is, the Department will not issue CIH

1 the STRTP license unless the charity certifies in word and on an ongoing basis that it will support  
2 and affirm LGBTQ acts, contraception, and abortion.

3 120. The Department has full knowledge that CIH abides by the Catholic Church's  
4 teachings on sexual orientation, contraception, and abortion. And the Department knows the  
5 essence of those beliefs. Yet the Department is intentionally discriminating against CIH for those  
6 beliefs and its unwillingness to sacrifice them.

7 121. The Mandate has no basis in any state law or regulation. Nor is it justified by any  
8 compelling interest. Thus, the Mandate discriminates on the basis of religion and imposes a  
9 substantial burden on CIH's religious exercise.

10 **E. The Department Is Stonewalling the Refuge's Application to Force CIH to Comply with**  
11 **the Mandate**

12 122. Because CIH refuses to comply with this Mandate, the Department is deliberately  
13 stonewalling the Refuge's application.

14 123. The evasion resumed the very day after the meeting, when Grace Williams emailed  
15 policy analyst Stacie Kinney to follow up about the Mandate, noting that she did not respond that  
16 afternoon.

17 124. Ms. Kinney replied to Ms. Williams by email the next day:

18 I followed up with my management team about what we discussed on the  
19 TA call and they are going to provide me with an update as soon as  
20 possible. The moment I hear back from them I will follow up with you.  
21 My suggestion at this time is to move forward with your revisions and  
22 leave that as is since I do not have the information right now to provide to  
23 you.

23 125. In response, Ms. Williams informed Ms. Kinney that CIH was "concerned about  
24 spending the time and money to move forward in a process that generally has several months of  
25 turnaround time if this is going to be a dealbreaker for the state."

26 126. Ms. Williams also asked Ms. Kinney when CIH could expect a response from  
27 management.

28 127. Ms. Kinney did not respond.

1           128. Two days after the technical assistance meeting, CIH received a letter from the  
2 Department that declared the Refuge's STRTP application still did not meet the licensing  
3 standards.

4           129. On July 22, Ms. Williams emailed Carol Anderson about the "discrimination" law  
5 to which she had referred at the meeting. Ms. Williams also asked about Ms. Kinney's discussion  
6 with her manager about the Mandate:

7                   Any word from Stacie/CCR yet about our question in regards to  
8 transportation? In the call she or one of you mentioned that you could get  
9 an answer by the end of that day, but we are getting worried because it has  
10 been almost a week now. Could we please request an extension of the  
11 July 31st deadline? It will be difficult to meet that deadline without a clear  
12 answer as to whether or not we will be able to proceed with the licensing  
process given our concerns about protecting our conscience in regards to  
the question in Section K we discussed during the TA call.

13           130. Ms. Anderson replied the same day and wrote that she "will look for the health and  
14 safety law regarding discrimination." She did not answer about the extension.

15           131. The next day, Ms. Anderson emailed Ms. Williams with a citation to section 1522.41  
16 of the California Health & Safety Code. Ms. Anderson specifically cited section 1522.41 (c)(1)(H):

17                   The administrator certification programs for group homes shall require a  
18 minimum of 40 hours of classroom instruction that provides training on a  
19 uniform core of knowledge in each of the following areas:

20                                   \* \* \*

21                   (H) Resident admission, retention, and assessment procedures, including  
22 the right of a foster child to have fair and equal access to all available  
23 services, placement, care, treatment, and benefits, and to not be subjected  
24 to discrimination or harassment on the basis of actual or perceived race,  
25 ethnic group identification, ancestry, national origin, color, religion, sex,  
sexual orientation, gender identity, mental or physical disability, or HIV  
status.

26           132. Upon information and belief, the provision does not apply to the Mandate. The  
27 section is not a general anti-discrimination provision; it is about administrator certification training,  
28 to which CIH has no religious objection.

1           133. On July 25, Grace Williams emailed policy analyst Stacie Kinney. She pointed out  
2 that eight days had passed since the meeting with no word from Ms. Kinney about discussing CIH's  
3 religious objection to the Mandate. Ms. Williams further noted:

4                   We are just concerned about spending the time and money proceeding  
5 with the process without an end date of when we might have an answer if  
6 we will be able to comply with the standards in the way we stated. It would  
7 cost us approximately \$45,000 (staff salaries and facility expenses) to go  
8 through the next round of revisions if it only takes 3 months, knowing that  
9 we might be denied over these issues.

10           134. That same day, licensing official Carol Anderson emailed Ms. Williams, telling her  
11 to call her. During the call, Ms. Anderson reiterated that CIH's religious objections to the Mandate  
12 were a problem: "It's the law; you just have to comply with the law."

13           135. CIH submitted its revised Plan of Operation and Program Statement on August 6  
14 after receiving a short extension.

15           136. The Program Statement included the Refuge's non-discrimination policy and  
16 emphasized that youth who wanted to attend LGBT-affirming activities had reasonable alternative  
17 options available. The revised Program Statement provides in part:

18                   The Refuge staff also take advantage of taking residents to community  
19 events such as health/wellness fairs, cultural events, live music, theater,  
20 and worship services (when requested/for those who are interested).  
21 Youth wishing to attend LGBTQ activities may request that this be a part  
22 of their NSP [Needs and Services Plan] created by their CFT [Child and  
23 Family Team] or at any time. *The Refuge will not discriminate against any  
youth for reasons of religion/creed, ethnicity, sexual orientation, race,  
cultural practices, age, or disability. Transportation to LGBTQ activities  
may be provided by a family member, friend, placement agent, or whoever  
the CFT or placement agent designates.*

24           137. The Department provided no response to CIH's resubmission. So Grace Williams  
25 sent Ms. Kinney and Ms. Anderson a letter on August 22 to confirm the Department's position on  
26 CIH's religious objections to the Mandate.

27           138. Ms. Williams also expressed concern about the Department's trivializing treatment  
28 during the application process, stating in part:



1 Every time that we have sent in a revised Program Statement and Plan of  
2 Operation, however, it has taken a very long time to hear back from CDSS  
3 (3 to 8 months). Right now, we pay approximately \$15,000 per month to  
4 maintain The Refuge and pay for the salaries of our development staff....  
5 To date, we have also spent approximately \$600,000 in fees and costs  
6 since doing our orientation with CCL in August 2015 trying to secure a  
7 license for The Refuge. The fact that we have been trying since August  
8 2015 to obtain a license is also confusing to many of our supporters.  
9 Numerous San Diego officials have all expressed eagerness to see The  
10 Refuge open up.

11 139. Ms. Williams requested that the Department provide a substantive response by  
12 September 6. She added, "Since we are spending \$15,000 a month just waiting, we need to decide  
13 whether to continue with the process of trying to get licensed, or whether we should simply turn  
14 The Refuge into a home for adult women."

15 140. On August 26, Policy Analyst Stacie Kinney emailed Ms. Williams, noting that the  
16 August 22 letter "has been received and has been elevated to management and a response will be  
17 provided shortly."

18 141. By September 12, the Department had not responded to CIH's August 22 letter, so  
19 Ms. Williams sent a second letter to Ms. Kinney and Ms. Anderson "to follow up one last time and  
20 give you 10 more days to respond (by Monday, September 23, 2019)." CIH further stated in part:

21 If we don't hear from you by then, CIH will have no choice but to assume  
22 that our proposed reasonable accommodations will be unacceptable to  
23 CDSS, that our religious beliefs will be a bar to licensure, and that  
24 continuing this process will be fruitless. The community here in San  
25 Diego is eagerly awaiting the use of The Refuge, and I cannot keep telling  
26 our supporters that we are continuing to waste \$15,000 a month just  
27 waiting to hear from CDSS.

28 142. On October 2, Ms. Kinney sent a letter to CIH:

The Department is in receipt of your letter dated September 12, 2019  
inquiring about the status of the Department's response to your letter  
dated August 22, 2019. The Department will provide a response by  
Friday, October 18, 2019.

1           143. On October 17, Ms. Kinney sent CIH the Department’s “response,” which stated:

2           For the reasons set forth herein, the Department needs additional time to  
3           respond to your STRTP application and other communications. The  
4           reasons for this are twofold. First, the Department must consult with  
5           other parts of the Agency that have a substantial interest in the approval  
6           of STRTP’s. Additionally, there were many areas of the application that  
7           were deficient that warrant the Department’s continued review. Although  
8           we have made progress in these areas, further work is necessary before we  
9           can give you a definitive response. Additionally, some parts of the review  
          process are not within the Department’s control. As soon as we know the  
          timeframe for responding to your application and letters in full, we will  
          share that information with you.

10          144. Based on a plain reading, the Department’s October 17 letter provided no  
11          substantive response to CIH’s request for administrative action. The letter failed to state a deadline  
12          for *when* the Department will make a determination on the Refuge’s application. Instead, it merely  
13          stated that licensing officials will notify CIH *when* they find out *how long* it will take to respond to  
14          CIH’s inquiries—the very inquiries that asked *how long* the Department will take for a final  
15          decision.<sup>45</sup> Upon information and belief, on October 3, the Department issued a provisional  
16          license to Hidden Treasures Foundation, a San Diego-based nonprofit organization, so that it may  
17          open Tiffany’s Place, a STRTP for commercially sexually exploited adolescents.

18          146. Upon information and belief, Hidden Treasures Foundation applied for an STRTP  
19          license *after* CIH submitted its application in June 2018.

20          147. Upon information and belief, the Department issued Hidden Treasures Foundation  
21          a STRTP license on October 3 even though the Program Statement for Tiffany’s Place did not  
22          substantially comply with the Standards at that time. Thus, upon information and belief, the  
23          Department issued Hidden Treasures Foundation a conditional license allowing Tiffany’s Place to  
24          open if it would bring its Program Statement into substantial compliance during the provisional  
25          period.

26          148. Upon information and belief, the Department did not apply and enforce the Mandate  
27          against Hidden Treasures Foundation. Upon information and belief, the Department is  
28          interpreting and applying the Standards to CIH differently from Hidden Treasures Foundation.

1 149. Because of the Department's discriminatory and selective enforcement of the  
2 Standards, CIH continues to spend \$15,000 per month on an empty rescue home. And young girls  
3 who could otherwise be rescued are still pimped, abused, and dehumanized.

4 **F. The Department's Post-Lawsuit Ongoing Stonewalling**

5 150. CIH filed this action on November 19, seeking declaratory, mandamus, and  
6 injunctive relief.

7 151. On November 27, CIH applied ex parte for a temporary restraining order and for an  
8 order to show cause about a preliminary injunction and writ of mandate.

9 152. The Court heard argument on CIH's TRO request on December 3. During the  
10 hearing, the Department's counsel informed the Court that the State was "prepared to issue  
11 another notice of deficiencies" to CIH "within the next two weeks."<sup>27</sup> That notice would respond  
12 to CIH's revised application submitted to the Department on August 6.

13 153. Based on that representation to the Court, the Department would have issued CIH  
14 that notice of deficiencies no later than December 18.

15 154. At the time of this filing, the Department has not issued that notice. Nor has it issued  
16 any notice of determination about CIH's August 6 application, although it was statutorily required  
17 to do so no later than November 6.

18 155. Thus, even after CIH sued, the Department continues to violate state statute and  
19 refuse to make a determination on CIH's application.

20 **ALLEGATIONS**

21 **The Mandate Forces Children of the Immaculate Heart's Formal and Material**  
22 **Cooperation in Actions Contrary to Catholic Doctrine**

23 156. Based on Catholic moral teachings, complying with the Mandate would cause  
24 Children of the Immaculate Heart to formally cooperate with grave wrongdoing. Under Church  
25 teaching, "formal cooperation" in wrongdoing is directly intending to contribute to another's  
26 wrongful acts. If CIH certifies in the Refuge's Program Statement that it will indorse wrongful  
27

28 <sup>27</sup> (TRO Hr'g Tr. 16:14-16.)

1 programs and activities, then it would be sharing the Department's intention to carry out wrongful  
2 acts. Obeying the Mandate is therefore formal cooperation with wrongdoing, no matter if the  
3 wrongful acts are never actually carried out.

4 157. Moreover, complying with the Mandate would involve CIH's impermissible material  
5 cooperation in actions contrary to Catholic doctrine. "Material cooperation" occurs when the  
6 cooperator—here, CIH—facilitates or participates in a forbidden action without sharing that  
7 wrongful intention. By transporting children to LGBTQ-affirming events or to abortion clinics,  
8 CIH would be materially cooperating in immoral actions prohibited under Catholic teaching.

9 158. In addition, CIH's compliance with the Mandate in any form would cause  
10 "scandal"—that is, it would lead or influence others to do wrongful acts. Complying with the  
11 Mandate would send a clear message that CIH endorses the Mandate's objectives. That would  
12 undermine its Catholic identity, betray the trust of its board members and donors, dishonor the  
13 local Diocese, and persuade other religious community care facilities to subordinate their spiritual  
14 beliefs to the prevailing government orthodoxy.

15 159. In all events, the Mandate places a substantial burden on CIH's sincere religious  
16 beliefs because it forces CIH's cooperation in morally violable acts. At a minimum, it puts  
17 substantial pressure on CIH to abandon its faith only so that it may open and operate the Refuge.

18 **The Department's Discriminatory Actions Irreparably Harm CIH**  
19 **and Endanger Commercially Sexually Exploited Girls**

20 160. At all times relevant to this Petition and Complaint, the alleged acts are attributable  
21 to Defendants, who acted under color of California state law.

22 **A. The Department's Stonewalling and Refusal to Make a Final Determination on the**  
23 **Refuge's Application is an Unlawful Abuse of Discretion**

24 161. The general licensing regulations set forth a time limit within which the Department  
25 must either approve or deny a community care facility license application. This time limit "protects  
26 applicants from the caprice and arbitrariness associated with protracted and unjustified delays by  
27 the government." (*Bickel v. City of Piedmont* (1997) 16 Cal.4th 1040, 1049.)

28 ///

1           162. The time limit for the Refuge’s licensing process started running when the  
2 Department’s Community Care Licensing Division received Children of the Immaculate Heart’s  
3 application, which was submitted on June 8, 2018. The licensing division was thus statutorily  
4 required to respond by the middle of September 2018.

5           163. The Department has a clear and present duty to make a determination on the  
6 Refuge’s application within the timeframe required by the general licensing requirements and  
7 related regulations.

8           164. Yet the Department continues to prejudicially abuse its discretion by refusing to act  
9 on the Refuge’s application, in which CIH is beneficially interested.

10          165. Unless this Court grants the requested writ of mandate, the Department will  
11 continue to abuse its discretion, causing CIH irreparable harm with no remedy of law available.

12          166. To be clear, the Department’s “reasons” that it explained in its October 17 letter for  
13 not acting on the Refuge’s application directly undercut both the general licensing regulations and  
14 the Interim Licensing Standards.

15          167. First, no other “Agency” has a “substantial interest” in the Refuge’s licensure other  
16 than those agencies—*e.g.*, the Continuum of Care Reform Branch and the Community Care  
17 Licensing Division—that have already reviewed the Refuge’s application.

18          168. Second, under Department regulations, whatever parts of the Refuge’s application  
19 the licensing division considered “deficient” do not prevent the Licensing Division from issuing  
20 CIH the standard *provisional* license. As it did with Hidden Treasures Foundation, upon  
21 information and belief, the Department may issue CIH a provisional license under the condition  
22 that the program will bring its operations into “substantial compliance” under the Interim  
23 Licensing Standards within eight months.

24          169. Third, the Department’s vacuous claim that “some parts of the review process are  
25 not within the Department’s control” is false, and it squarely conflicts with state law. The  
26 Department is *exclusively* responsible for licensing and regulating STRTP’s.

27          170. In short, the October 17 letter fails to justify the Department’s ongoing abuse of  
28 discretion, and therefore CIH will continue to suffer irreparable harm without a writ of mandate.

**B. The Department’s Ongoing Religious Discrimination Violates CIH’s Free Exercise of Religion, Liberty of Speech, and Equal Protection Rights**

171. Both the Standards as applied and the Mandate violate CIH’s free exercise, liberty of speech, and equal protection rights under the United States and California Constitutions.

172. By selectively applying and enforcing the licensing standards to CIH based on illogical hypothetical scenarios, the Department has made clear it plans to deny *one of the only* CSEC short-term residential therapeutic programs *in the entire state* unless CIH certifies that it will violate its religious beliefs.

173. Upon information and belief, the Department has never interpreted and applied the licensing regulations as it has to CIH. This new and inconsistent interpretation of the Refuge’s application exposes the government’s discriminatory targeting of a set of religious beliefs and practices.

174. California has enacted no law or regulation *mandating* that community care facilities transport all minor residents to LGBTQ-related events or to “Planned Parenthood.” Instead, licensing regulations provide facility caregivers with broad discretionary authority under the “Reasonable and Prudent Parent Standard” and each child’s “Needs and Services Plan.” Thus, the Department’s discriminatory actions are directly frustrating, rather than complying with, the licensing standards.

175. The Department’s speculation that the Refuge would inevitably discriminate against LGBTQ children is baseless. No evidence exists of a single discrimination complaint against CIH during its six years serving trafficked women. And the Refuge has an express anti-discrimination policy consistent with state law prohibiting discrimination based on sexual orientation and gender identity.

176. CIH has not requested a formal waiver or accommodation request based on its religious beliefs, because it neither discriminates against any protected class nor objects to a resident exercising her personal rights. An accommodation is unwarranted because a resident may choose from many transportation options to engage in activities that CIH cannot promote. Thus, the Mandate is not the least restrictive means of achieving the government’s implied compelling

1 interests.

2 177. All told, the Department's unreasonable standpoint shows a clear hostility toward  
3 CIH's religious beliefs.

4 178. Indeed, through written and verbal statements, government officials have been open  
5 about their disagreement with CIH's Catholic beliefs on human sexuality. For example, the  
6 Department's written comment that the Refuge's religious mission is "offensive" is clear and  
7 impermissible hostility toward CIH's sincere religious beliefs. Neither the government nor its  
8 officials may declare which religious beliefs are offensive.

9 179. By contrast, the Department's trolling inquiries into CIH's religious beliefs are  
10 blatantly offensive—and unconstitutional. In short, the Department's judgmental dismissal of  
11 CIH's sincere religious beliefs is antithetical to the California Constitution and cannot withstand  
12 strict scrutiny. At a minimum, the Department's comments are unfitting for an agency required to  
13 evaluate the Refuge's STRTP application fairly and neutrally.

14 180. The Department's unlawful actions also have real-world consequences. Local  
15 agencies repeatedly ask why the Refuge has not opened its doors. That shows the urgent need to  
16 save commercially sexually exploited girls in San Diego. The answer is clear: The Department is  
17 conditioning the Refuge's license on CIH's pledge to violate its sincere Catholic beliefs. Tragically,  
18 each day the Refuge stays closed, young women who could be rescued remain at risk of commercial  
19 sexual exploitation. Yet the government believes it is more important to promote an anti-Catholic  
20 political agenda than it is to save children currently being pimped and prostituted.

21 181. The Mandate unlawfully forces CIH to choose between engaging in speech  
22 endorsing religiously objectionable activities and its religious exercise of serving vulnerable  
23 survivors of sex trafficking. Consequently, CIH is suffering imminent and irreparable harm to its  
24 liberty of speech.

25 182. The Standards as applied expressly discriminate against an otherwise eligible  
26 STRTP applicant by denying it a license only because of its status as a Catholic charity. The  
27 Standards put CIH to a choice: It may receive a government license or remain a Catholic  
28 organization. By conditioning the STRTP license this way, the Department is imposing a penalty

1 on CIH's free exercise of religion that must withstand strict scrutiny.

2 183. The Department's ongoing religious hostility has forced CIH to undertake  
3 extraordinary measures to secure the Refuge's license. The Department is specifically imposing  
4 the rigors of the bureaucratic process to burden, hinder, and punish CIH because of its religious  
5 beliefs. The Department's discriminatory impositions have denied, and continue to deny, CIH's  
6 right to equal protection under the law.

7 184. CIH is also facing severe economic consequences. Indeed, if the Department denies  
8 the Refuge's STRTP license, CIH will have wasted years of work and nearly \$600,000 in costs.

9 185. CIH has no adequate or speedy remedy at law. Without an injunction, CIH will  
10 continue to suffer irreparable harm to its constitutional rights.

## 11 CLAIMS

### 12 COUNT I

#### 13 Writ of Mandate (Code Civ. Proc., § 1085)

#### 14 (Against All Defendants)

15 186. CIH incorporates by reference all preceding paragraphs.

16 187. "A refusal to exercise discretion is itself an abuse of discretion." (*Sunset Dr. Corp. v.*  
17 *City of Redlands* (1999) 73 Cal.App.4th 215, 222.) CIH has repeatedly demanded that Defendants  
18 either approve the application or concretely advise CIH that the license will be denied because of  
19 CIH's religious objections. The Department has done neither.

20 188. CIH has complied with the Department's requests for revisions because it has a  
21 beneficial interest in the Refuge's licensure. Despite CIH's compliance, the Department has  
22 refused to make a determination on CIH's application within the time mandated by licensing  
23 regulations.

24 189. Neither state law nor the Department's own regulations, including the Standards,  
25 grant licensing officials the authority to refuse to complete its application review.

26 190. Rather, the Department had a clear and present duty over one year ago to make a  
27 final determination on the Refuge's application. CIH currently has no available administrative  
28 remedy to compel the performance of that duty. A writ of mandate is therefore needed to order the



1 Department to perform its legal obligations.

2 191. CIH is not asking the Court to order the Department to issue a license to the Refuge  
3 but merely to order the Department to review CIH's application in compliance with the statutory  
4 timeline. CIH seeks a writ because it has a beneficial interest in the prompt processing of the  
5 Refuge's application.

6 192. No plausible reason exists for the Department's gross indifference to, if not outright  
7 defiance of, its statutory mandates other than its hostility toward CIH's sincere religious beliefs.

8 193. The Department's actions are a clear and flagrant abuse of discretion, and CIH has  
9 no plain, speedy, and adequate remedy at law. Mandamus is thus needed to compel the Department  
10 to complete the application process and make a final determination on the Refuge's application.

## 11 **COUNT II**

### 12 **Violation of the United States Constitution**

#### 13 **Free Exercise Clause of the First Amendment**

14 194. CIH incorporates by reference all preceding paragraphs.

15 195. The First Amendment protects CIH's right to freely exercise its religious beliefs.

16 196. The First Amendment prevents the government from excluding CIH from a public  
17 benefit based solely on its religious beliefs. It prevents the government from interfering with CIH's  
18 faith and mission. And it protects CIH from government hostility toward, and discrimination  
19 against, its religious beliefs and practices.

20 197. The Mandate and the STRTP Interim Licensing Standards as applied targets and  
21 discriminates against CIH because of its religious beliefs and practices. The Department knows  
22 that CIH is a religious charity faithful to the Magisterium of the Catholic Church. Yet it  
23 intentionally designed and applied the Mandate to make it impossible for CIH to comply with both  
24 its religious beliefs and the Mandate.

25 198. The First Amendment requires the Department to act in a neutral and generally  
26 applicable manner toward CIH and its religious beliefs and practices. It bars even subtle departures  
27 from neutrality on matters of religion. This protection applies even on slightest suspicion that  
28 government actions stem from disagreement with religious beliefs or practices.

1           199. Based on its sincerely held religious beliefs, CIH must carry out its ministry in  
2 accordance with Catholic teaching. CIH's sincerely held religious beliefs motivate the charity to  
3 care for victims of human trafficking and specifically for commercially sexually exploited children.

4           200. Because the Refuge is an exercise of its religion, CIH cannot cooperate in morally  
5 objectionable programs and activities, either formally or informally. Yet the Department has  
6 conditioned the Refuge's license on CIH's willingness to renounce or violate its religious beliefs  
7 about human sexuality.

8           201. The Mandate imposes a substantial burden on CIH's religious beliefs because it  
9 coerces the charity to change or violate its religious beliefs.

10          202. Forcing CIH to certify that it will promote LGBTQ activities and transport children  
11 to abortion clinics substantially burdens its religious exercise because it coerces CIH to choose  
12 between violating its beliefs and losing the opportunity to care for commercially sexually exploited  
13 children.

14          203. Forcing CIH to certify that it will promote LGBTQ activities and transport children  
15 to abortion clinics substantially burdens its religious exercise because it undermines its faith-based  
16 message of saving trafficked children through "Restoration in Jesus Christ."

17          204. The First Amendment prohibits the government from punishing the profession of a  
18 religious belief or imposing special disabilities on the basis of stating disfavored religious views.

19          205. The Department is enforcing the Mandate against CIH because of the charity's  
20 expression of its religious belief in the Refuge's Plan of Operation and Program Statement. The  
21 Department therefore is arbitrarily imposing special disabilities on CIH because of the Refuge's  
22 Christ-centered mission.

23          206. Licensing officials are excluding CIH from the State's foster care system so long as  
24 CIH maintains the Refuge's Christ-centered mission statement. That ultimatum chills CIH's  
25 religious exercise.

26          207. The Mandate and the STRTP Interim Licensing Standards as applied are neither  
27 neutral nor generally applicable because they punish CIH for its disfavored religious beliefs; they  
28 impose special disabilities for professing or exercising those religious views; and the statutory and

1 regulatory licensing scheme is littered with secular, nonreligious exemptions.

2 208. The Mandate and the STRTP Interim Licensing Standards as applied show the  
3 Department's hostility toward CIH's religious beliefs about human sexuality.

4 209. The Department's refusal to make a determination on the Refuge's application—as  
5 required by law—shows the government's hostility toward CIH's religious beliefs about human  
6 sexuality.

7 210. Statements made by licensing officials in emails and during meetings show that  
8 animus toward CIH and its “offensive” religious beliefs motivates their evaluation of the Refuge's  
9 application.

10 211. Defendants' probing inquiries into CIH's religious beliefs and practices at the July 17  
11 meeting were impermissible individualized assessments in weighing against issuing the Refuge a  
12 license.

13 212. The Department has not enforced the licensing regulations evenhandedly, showing  
14 that its enforcement against CIH is designed to target particular religious beliefs and practices.

15 213. Both the general licensing regulations and the STRTP Interim Licensing Standards  
16 provide for individualized exemptions because they vest Department officials with unbridled  
17 discretion to decide whether to apply the licensing regulations similarly to all STRTP applicants.

18 214. Both the Mandate and the STRTP Interim Licensing Standards as applied are  
19 underinclusive because the licensing regulations are riddled with categorical exemptions, including  
20 the “Reasonable and Prudent Parent Standard” and a child's “Needs and Services Plan.”

21 215. Neither the Mandate nor the STRTP Interim Licensing Standards as applied serves  
22 any compelling, legitimate, or even valid interest.

23 216. Forcing CIH to promote LGBTQ activities, dispense transgender hormone  
24 medication, and transport children to abortion clinics, in violation of its religious beliefs, are not  
25 narrowly tailored means to serve any interest. The Department has alternative, less restrictive  
26 means to achieve any government interest rather than forcing CIH to abandon its First Amendment  
27 rights.

28 217. The Department's actions also violate the hybrid-rights doctrine because the

1 Mandate and the STRTP Interim Licensing Standards as applied implicate free exercise rights  
2 along with other constitutional protections like the rights to free speech and equal protection.

3 218. Without injunctive and declaratory relief, CIH will continue to suffer irreparable  
4 harm to its First Amendment free exercise rights.

### 5 **COUNT III**

#### 6 **Violation of the United States Constitution**

#### 7 **Free Speech Clause of the First Amendment**

8 219. CIH incorporates by reference all preceding paragraphs.

9 220. CIH believes that affirming and supporting sexual acts outside the marriage between  
10 one man and one woman violates its religious beliefs and practices. CIH also believes that formally  
11 and materially cooperating in facilitating access to contraception, abortifacients, and abortion  
12 violates its religious beliefs and practices.

13 221. The Mandate compels CIH to certify in writing that it will affirm and support  
14 programs and activities that violate its beliefs about human sexuality. It also compels CIH to make  
15 affirmative statements that contradict the charity's religious beliefs.

16 222. The Department is conditioning the Refuge's license, and CIH's ability to engage in  
17 the religious exercise of helping commercially sexually exploited children, on the charity's  
18 willingness to make such statements.

19 223. CIH's statements about its religious beliefs and practices are protected speech.

20 224. A causal link exists between CIH's protected speech and the Department's adverse  
21 actions against CIH. The Department is unlawfully censoring and retaliating against CIH for its  
22 protected speech about Catholic teachings.

23 225. The Mandate vests Department officials with unbridled discretion to determine  
24 whether an applicant's religious beliefs or practice of those religious beliefs are acceptable in the  
25 State's foster care system. The Department's actions therefore violate CIH's right not to be  
26 subjected to a system of unbridled discretion when engaging in speech or when engaging in  
27 religious exercise.

28 226. The Mandate's speech restrictions further no compelling interest, nor are they

1 narrowly tailored to further any government interest.

2 227. Without injunctive and declaratory relief, CIH will continue to suffer irreparable  
3 harm to its First Amendment free speech rights.

#### 4 **COUNT IV**

#### 5 **Violation of the United States Constitution**

#### 6 **Establishment Clause of the First Amendment**

7 228. CIH incorporates by reference all preceding paragraphs.

8 229. The Establishment Clause prohibits the government from officially discriminating  
9 against a religious group for its religious beliefs and practices.

10 230. The Department discriminates between STRTP applicants according to the  
11 government's subjective approval of the applicants' moral positions on human sexuality.

12 231. Upon information and belief, the Department has issued STRTP licenses to other  
13 religious organizations with Program Statements aligned enough with agency officials' views on  
14 human sexuality. But the Department refuses to issue a license for CIH because it has judged that  
15 the Refuge's Program Statement is anathema to its views on homosexuality, transgenderism, and  
16 abortion.

17 232. Upon information and belief, the Department issued a STRTP license to Hidden  
18 Treasures Foundation yet not to CIH because the government decided that the Foundation's  
19 Program Statement was more aligned with their position on human sexuality. Yet the Department  
20 refuses to issue the Refuge its license because CIH's Catholic beliefs conflict with the  
21 government's position on human sexuality and reproduction.

22 233. The Department therefore expressly discriminates among religious organizations.

23 234. The Establishment Clause prohibits the government from singling out a religious  
24 organization for disfavored treatment.

25 235. The Department is explicitly interpreting and applying the Interim Licensing  
26 Standards in a way that disfavors CIH because of the charity's sincere religious beliefs.

27 236. The Department has adopted and enforced the Mandate against CIH because of the  
28 government's animus toward CIH's Catholic beliefs. Government officials' hostile actions and

1 statements send a clear message that CIH's religious beliefs and identity are "offensive."

2 237. The Department has no compelling interest for discriminating against CIH. Even if  
3 it did, violating CIH's religious liberties is not narrowly tailored to achieve that interest.

4 238. Without injunctive and declaratory relief, CIH will continue to suffer irreparable  
5 harm to its First Amendment Establishment Clause rights.

6 **COUNT V**

7 **Violation of the California Constitution**

8 **Free Exercise of Religion**

9 **(Against All Defendants)**

10 239. CIH incorporates by reference all preceding paragraphs.

11 240. Article 1, section 4 of the California Constitution provides: "Free exercise and  
12 enjoyment of religion without discrimination or preference are guaranteed."

13 241. The California Constitution forbids the government from imposing a regulation that  
14 substantially burdens claimant's sincere religious beliefs unless it can prove that the regulation is  
15 the least restrictive means of furthering a compelling government interest.

16 242. Through the Mandate, the Department is forcing CIH to act contrary to its religious  
17 beliefs and teachings and is preventing the charity from acting consistently with its religious beliefs.

18 243. Consequently, the Department has imposed a substantial burden on CIH's religious  
19 exercise.

20 244. The Department has no compelling interest for its actions, nor has it selected the  
21 least restrictive means to further any interest because, for example, Department officials can  
22 themselves provide transportation for youth to certain activities.

23 245. Without declaratory relief determining that the Department may not apply the  
24 Mandate against CIH and without injunctive relief precluding it from doing so, CIH will continue  
25 to suffer irreparable harm to its free exercise rights under the California Constitution.

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**COUNT VI**  
**Violation of the California Constitution**  
**Discrimination against Religion**  
**(Against All Defendants)**

246. CIH incorporates by reference all preceding paragraphs.

247. Article 1, section 4 of the California Constitution provides: “Free exercise and enjoyment of religion without discrimination or preference are guaranteed.”

248. The Department discriminates among religiously affiliated STRTP applicants by conditioning licenses on their tolerance of the applicants’ moral positions on human sexuality.

249. Upon information and belief, the Department issued STRTP licenses to other religious organizations with Program Statements sufficiently aligned with the government’s position on human sexuality and reproduction. Conversely, the Department refuses to issue a license for CIH because it has judged that the Refuge’s Program Statement is anathema to their view on human sexuality and reproduction.

250. The Department is therefore applying the Standards and the Mandate in a way that expressly discriminates among religious organizations.

251. Article I, section 4 prohibits the government from singling out a religious organization for disfavored treatment.

252. Through the Mandate, the Department is explicitly interpreting and applying the Standards in a way that disfavors CIH because of its sincere religious beliefs. The Department has adopted and enforced the Mandate against CIH because of the government’s animus toward CIH’s Catholic beliefs. The Department’s hostile actions and statements have conveyed a clear message that it considers CIH’s religious beliefs and identity “offensive.”

253. The Department has no compelling interest in discriminating against CIH. Even if it has a compelling interest, burdening CIH’s religious liberties is not narrowly tailored to achieve that interest.

254. Without declaratory relief determining that the Department may not apply the Mandate against CIH and without injunctive relief precluding it from doing so, CIH will continue

1 to suffer irreparable harm to its right under the California Constitution to be free from religious  
2 discrimination.

3 **COUNT VII**

4 **Violation of the California Constitution**

5 **Liberty of Speech**

6 **(Against All Defendants)**

7 255. CIH incorporates by reference all preceding paragraphs.

8 256. Under the California Constitution's liberty of speech clause, "[a] law may not  
9 restrain or abridge liberty of speech or press." (Cal. Const., art. I, § 2.)

10 257. CIH's statements about its religious beliefs and practices are protected speech.

11 258. Yet the Mandate coerces CIH to engage in objectionable speech and expression by  
12 compelling it to affirm and take part in programs and activities that contradict its Catholic beliefs.

13 259. By forcing CIH to make affirmative statements contradicting its religious beliefs and  
14 practices, the Department is conditioning the Refuge's STRTP license, and the ability to engage  
15 in the religious exercise of helping victims of sex trafficking, on CIH's willingness to make such  
16 contradictory statements.

17 260. Forcing CIH to speak in support of programs and activities that violate its religious  
18 beliefs about human sexuality and reproduction serves no compelling interest. Even if there were a  
19 compelling interest, the Department has less restrictive means to achieve it without forcing CIH to  
20 abandon its constitutional rights.

21 261. Without relief declaring that the Department may not apply the Mandate against  
22 CIH and without injunctive relief preventing it from doing so, CIH will continue to suffer  
23 irreparable harm to its liberty of speech under the California Constitution.

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**COUNT VIII**

**Violation of the California Constitution**

**Equal Protection Clause**

**(Against All Defendants)**

262. CIH incorporates by reference all preceding paragraphs.

263. The California Constitution prohibits denial of “equal protection of the laws.” (Cal. Const., art. I, § 7.)

264. The Mandate and the STRTP Interim Licensing Standards as applied violate CIH’s equal protection rights.

265. In applying for a STRTP license, all applicants are similarly situated.

266. Licensing regulations provide that the State may not discriminate against applicants based on religion.

267. Thus, the Department must treat CIH equally to other prospective STRTP licensees regardless of religious affiliation.

268. The Department has singled out CIH for discriminatory treatment on the basis of religion.

269. Upon information and belief, the Department has not applied the Standards to other applicants in the same way it has to CIH. Nor has it imposed the Mandate on other religious STRTP applicants.

270. The Mandate cannot withstand strict scrutiny because it is not narrowly tailored to further any compelling government interest.

271. Without relief declaring that the Department may not apply the Mandate against CIH and without injunctive relief preventing it from doing so, CIH will continue to suffer irreparable harm to its equal protection rights under the California Constitution.

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**REQUEST FOR RELIEF**

WHEREFORE, Children of the Immaculate Heart requests that the Court:

A. Issue a traditional writ of mandate compelling Defendants to

- 1) Comply with their legal obligations by making a final determination on the Refuge's STRTP application; and
- 2) Make that determination in a neutral manner without considering CIH's religious beliefs and practices.

B. Issue preliminary and permanent injunctions prohibiting Defendants from

- 1) Considering CIH's religious beliefs and practices when evaluating and making a final determination on the Refuge's application;
- 2) Interpreting and applying state statutes, regulations, and rules that substantially burden CIH's religious exercise;
- 3) Penalizing CIH for failing to comply with the Mandate; and
- 4) Taking retaliatory action against CIH, including refusing to issue the Refuge a license or, once granted, rescinding the license without just cause, or otherwise penalizing CIH for its religious beliefs.

C. Declare that Defendants' interpretation and application of state regulations, including the STRTP Interim Licensing Standards, violate CIH's free exercise of religion, liberty of speech, and equal protection rights under the United States and California Constitution;

D. Award CIH actual damages for the costs it has incurred and the revenue it has lost as a result of Defendants' unlawful actions;

E. Award CIH nominal damages for the loss of its rights;

F. Award CIH the costs of this action and reasonable attorneys' fees; and

G. Award any other relief the Court considers fair and just.

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1  
2 Date: December 30, 2019

Respectfully submitted,

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4 

5 Charles S. LiMandri  
6 Paul M. Jonna  
7 Jeffrey M. Trissell  
8 Milan L. Brandon  
9 LIMANDRI & JONNA LLP  
10 P.O. Box 9120  
11 Rancho Santa Fe, CA 92067  
12 (858) 759-9930  
13 pjonna@limandri.com


14 Thomas Brejcha\*  
15 Peter Breen\*  
16 THOMAS MORE SOCIETY  
17 309 W. Washington Street  
18 Suite 1250  
19 Chicago, IL 60606  
20 (312) 782-1680  
21 pbreen@thomasmoresociety.org

22 \*Pro hac vice application  
23 pending

24 Attorneys for Plaintiff  
25  
26  
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I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct. Executed on December 30, 2019, at San Diego, California.

  
Grace Williams  
President & Executive Director  
Plaintiff Children of the  
Immaculate Heart

COURT OF THE STATE OF CALIFORNIA COUNTY OF SAN DIEGO - CENTRAL DIVISION		FOR COURT USE ONLY
TITLE OF CASE (Abbreviated) <b>Children of the Immaculate Heart v. Kimberly Johnson, et al.</b>		
ATTORNEY(S) NAME AND ADDRESS Charles S. LiMandri, SBN 110841 Paul M. Jonna, SBN 265389 LiMANDRI & JONNA LLP P.O. Box 9120 Rancho Santa Fe, California 92067 Tele: (858) 759-9930; Fax: (858) 759-9938		
ATTORNEY(S) FOR: Plaintiff Children of the Immaculate Heart	Dept.: C-64	
		CASE NO.: 37-2019-00061761-CU-WM-CTL JUDGE: Hon. John S. Meyer

### **PROOF OF SERVICE**

I, Kathy Denworth, declare that: I am over the age of 18 years and not a party to the action; I am employed in, or am a resident of the County of San Diego, California; where the mailing occurs; and my business address is P.O. Box 9120, Rancho Santa Fe, CA 92067, Telephone number (858) 759-9930; Facsimile number (858) 759-9938. I further declare that I served the following document(s) on the parties in this action:

- **VERIFIED FIRST AMENDED PETITION FOR WRIT OF MANDATE [Code. Civ. Proc., § 1085] AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND DAMAGES.**

by one or more of the following methods of service to:

Darin L. Wessel  
Deputy Attorney General  
Department of Justice  
600 West Broadway, Suite 1800  
San Diego, CA 92101  
Tel: (619) 738-9125; Fax: (619) 645-2012  
E-Mail: darin.wessel@doj.ca.gov  
**Attorneys for Defendants Kimberly Johnson  
in her official capacity as Director of the  
California Department of Social Services and  
California Department of Social Services**

Thomas Brejcha, Esq.  
Peter Breen, Esq.  
ST. THOMAS MORE SOCIETY  
309 W. Washington Street, Suite 1250  
Chicago, IL 60606  
Tel: (312) 782-1680  
E-Mail: tbrejcha@thomasmoresociety.org  
E-Mail: pbreen@thomasmoresociety.org  
**Pro Hac Vice Attorneys for Plaintiff**

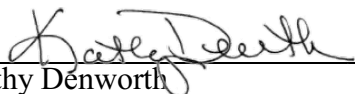
  X   **(BY U.S. MAIL)** I caused such document(s) to be sealed in envelopes, and with the correct postage thereon fully prepaid, either deposited in the United States Postal Service or placed for collection and mailing following ordinary business practices.

       **(BY FACSIMILE)** I caused such document(s) to be transmitted via facsimile to the named persons at their respective fax numbers. I then confirmed receipt of the facsimile transmission. The facsimile machine used complied with the California Rules of court, Rule 2003 and no error was reported by the machine. Pursuant to California Rules of Court, Rule 2006(d), I caused the machine to print a transmission record of the transmission, a copy of which is attached to this declaration.

  X   **(BY ELECTRONIC FILING/SERVICE)** I caused such document(s) to be Electronically Filed and/or Service through the One Legal System.

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

Executed on December 30, 2019.

  
Kathy Denworth