

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF LOUISIANA**

OREN ADAR, individually and as parent and next friend of J.C.A.-S., a minor, and **MICKEY RAY SMITH**, individually and as parent and next friend of J.C.A.-S., a minor,

versus

DARLENE W. SMITH, in her official capacity as State Registrar and Director, Office of Vital Records and Statistics, State of Louisiana Department of Health and Hospitals.

CIVIL ACTION

NO. 07-6541

**SECTION: A
JUDGE: HON. JAY C. ZAINEY**

**MAGISTRATE NO. 4
MAGISTRATE KAREN ROBY**

ATTACHMENT NO. 3

In Support Of Plaintiffs' Statement Of Undisputed Material Facts

Affidavit of Plaintiff Mickey Ray Smith

Dated November 18, 2008

STATE OF CALIFORNIA)
COUNTY OF SAN DIEGO) §§

AFFIDAVIT OF MICKEY RAY SMITH

I, Mickey Ray Smith, being of lawful age and having been duly sworn, state as follows:

1. The statements made in this affidavit are based on personal knowledge, I am competent to testify to them and, if called as a witness as trial, my testimony would be consistent with them.
2. I am one of the Plaintiffs in the Civil Action No. 07-6541 filed in the United States District Court of the Eastern District of Louisiana, styled *Oren Adar, individually and as parent and next friend of J.C.A.-S., a minor, and Mickey Ray Smith, individually and as parent and next friend of J.C.A.-S., a minor, Plaintiffs, versus Darlene W. Smith, in her official capacity as State Registrar and Director, Office of Vital Records and Statistics, State of Louisiana Department of Health and Hospitals, Defendant.*
3. I used to think that being gay would prevent me from having children of my own, a part of life that has always seemed natural to me. I grew up in a large family in Texas, and all of my siblings have children. I enjoyed being Uncle Mickey, but knew that I wanted to have my own children.
4. When I met Oren Adar in New York, I knew that we would build our lives together. As part of my personality and as an accountant, I had always been a list maker, planner, etc. I would always weigh out all of the aspects before I made a decision. It was no different when Oren and I decided to adopt.
5. I weighed out all of the aspects both positive and negative and I honestly felt there were no real negatives. So Oren and I went into the adoption process with our eyes wide open.

There were many ups and downs and it was an emotional and trying period for both of us. However, our resolve was strong and with each adoption that failed to materialize and every road block that surfaced, we just kept pressing on.

6. The day Oren and I heard about “Infant J” was one of the most exciting days of our lives. The fact that the child was a premature baby was a bit scary, but as a couple we faced it head on. I will never forget changing Infant J’s diaper for the first time in the Shreveport airport. The child was so small that Oren and I were a bit nervous, but we just did it and quickly Infant J’s needs became second nature for the both of us.
7. Oren and I adopted Infant J in an adoption proceeding in the Ulster County, New York Family Court at Kingston, New York on April 27, 2006. A true and correct copy of the Order of Adoption is attached to this Affidavit as Exhibit 1.
8. As with any couple, Oren and I took on very distinct roles. I had always taken on the role of “bread winner”, while Oren had been more of a stay-at-home parent. When Oren inquired of the Louisiana registrar’s office about Infant J’s birth certificate, we were told it would not be issued. I was very upset. To make matters worse, my employer notified us that if we did not produce a birth certificate, Infant J would not be covered by my company’s medical insurance. Even though we sent copies of the adoption decree, as well as copies of all of the legal documents we could find, the benefits administrator still refused to cover our child. Only after numerous phone calls and some pressure from Human Resources did the benefits administrator accept coverage for Infant J. Unfortunately, with every audit conducted by my company’s benefits department, I am forced to go through this process each and every year – each year we receive the phone call asking for Infant J’s birth certificate.

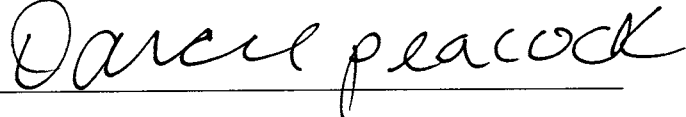
9. I pride myself on being a provider for our family and the thought that my child could possibly be denied certain rights makes me anxious. Oren and I have spent time and money with an attorney preparing all sorts of documents we hope will protect our family, but the lack of a birth certificate looms over us.
10. Oren and I understand that our family looks different than some families, but we want Infant J to have a sense of stability, to know that this child is loved and belongs. When I look at our child, I feel like Infant J is part of me, genetics being the only thing that sets us apart.
11. I consider Infant J's life and the issues that the child will confront. I want to provide everything to make success in life possible to fight for what our child deserves as an equal citizen of this country. Treating Infant J different than (and worse than) other children just because the child is adopted or because our family looks different relegates Infant J to second class citizenship and deprives Infant J of dignity that every child deserves. Like most parents, Oren and I only want what is best for our child.

FURTHER AFFIANT SAIETH NOT.



 Mickey Ray Smith

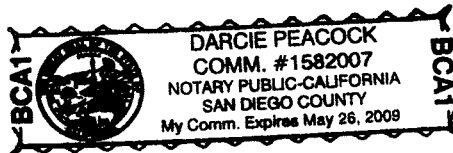
Subscribed and sworn to before me this 18 day of November, 2008.



Notary Public

My commission expires:

MAY 26 2009



AT A TERM OF THE FAMILY COURT
OF THE STATE OF NEW YORK, HELD
IN AND FOR THE COUNTY OF ULSTER
AT KINGSTON, NEW YORK, ON
April 27, 2006

PRESENT:

HON. Marianne D. Mizel

JUDGE OF THE FAMILY COURT

.....
In the Matter of the Adoption of
A Child Whose First Name is

D [REDACTED]

File No:
A-157 /06

ORDER OF ADOPTION
(Agency)

.....
The Petition of Oren Adar and Mickey R. Smith, verified the 4th day of January, 2006, having been duly presented to this Court, together with an agreement on the part of the petitioning adoptive parents to adopt and treat as their own lawful child the adoptive child having the given first name of D [REDACTED] and whose birthday is [REDACTED], 2005, and who was born at Louisiana State University Hospital, Shreveport, Louisiana, as set forth in the Verified Schedule annexed to the Petition for Adoption herein, said Schedule having been attached thereto and made a part thereof a document setting forth all available information comprising the adoptive child's medical history; together with the Affidavits of Child & Family Adoption, Inc., and the petitioning adoptive parents, and the consent of Child & Family Adoption, Inc.;

AND the aforesaid petitioning adoptive parents and the adoptive child and all other persons whose consents are required as aforesaid having personally appeared before this Court for examination;

AND an investigation having been ordered and made, and the written report of such investigation having been filed with the Court, as required by the Domestic Relations Law;

AND that the verified report of Child & Family Adoption, Inc., the authorized agency, dated 3/30/06, is hereby accepted, pursuant to Section 113 of the Domestic Relations Law, as the report of investigation required by Section 112 of the Domestic Relations Law;

AND the adoptive child having resided with the petitioning adoptive parents since December 20, 2005;

EXHIBIT
/

AND the Court having inquired of the statewide central register of child abuse and maltreatment and having been informed that the adoptive child and the adoptive parents are not the subject of or another person named in an indicated report filed with such register as such terms are defined in Section 412 of the Social Services Law, and the Court having given due consideration to any information contained therein;

AND this Court being satisfied that the best interests of the adoptive child will be promoted by the adoption and that there is no reasonable objection to the proposed change of name of the adoptive child;

NOW, on motion of Michael S. Goldstein, attorney for the Petitioners herein, and upon all the papers and proceedings herein, it is

ORDERED that the Petition of Oren Adar and Mickey R. Smith for the adoption of D [REDACTED] a person born on [REDACTED], 2005 at Louisiana State University Hospital, Shreveport, Louisiana, be and the same hereby is allowed and approved; and it is further

ORDERED that the adoptive child shall henceforth be regarded and treated in all respects as the lawful child of the adoptive parents; and it is further

ORDERED that the name of the adoptive child be and the same hereby is changed to J [REDACTED] and that the adoptive child shall hereafter be known by that name; and it is further

ORDERED that the Clerk prepare, certify and deliver to the Petitioners and to their attorney three (3) copies of this Order; and it is further

ORDERED that the Child's Medical History, heritage of the parents, which shall include nationality, ethnic background and race; education, which shall be the number of years of school completed by the parents at the time of birth of the adoptive child; general physical appearance of the parents at the time of the birth of the adoptive child, including height, weight, color of hair, eyes, skin; occupation of the parents at the time of the birth of the adoptive child; health and medical history of the parents at time of birth of adoptive child, including all available information setting forth conditions or diseases believed to be hereditary, any drugs or medication taken during pregnancy by the mother; any other information which may be a factor influencing the adoptive child's present or future health, talents, hobbies and special interests of the parents as contained in the Petition shall be furnished to the adoptive parents, and it is further;

ORDERED that this Order, together with all other papers pertaining to the adoption, shall be filed and kept as provided in the Domestic Relations Law and shall not be subject to access or inspection except as provided in said Law.

PURSUANT TO SECTION 1113 OF THE FAMILY COURT ACT,
AN APPEAL FROM THIS ORDER MUST BE TAKEN WITHIN 30 DAYS OF RECEIPT
OF THE ORDER BY APPELLANT IN COURT, 35 DAYS FROM THE DATE OF
MAILING OF THE ORDER TO APPELLANT BY THE CLERK OF COURT, OR 30
DAYS AFTER SERVICE BY A PARTY OR THE LAW GUARDIAN UPON THE
APPELLANT, WHICHEVER IS EARLIEST.

Dated: April 27, 2006

ENTER

William G. Keizer
JUDGE OF THE FAMILY COURT
COUNTY OF ULSTER

Date 4-28-06
I hereby certify that the
foregoing is a true copy
of the original on file in
the Ulster County Family
Court.

Pat A. Loh
Chief Clerk of the Court

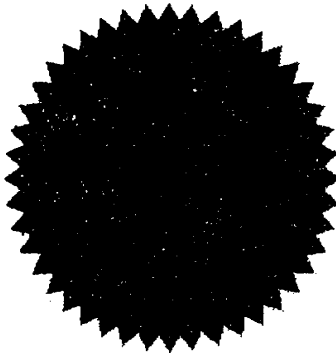
Certificate of Adoption

STATE OF NEW YORK)
COUNTY OF ULSTER) SS:

I, Kathy A. Lasko, Chief Clerk of the Family Court of the said county, do hereby certify that I have inspected the records of this Court in the matter of Adoptions and find that:

AN ORDER OF ADOPTION was signed on the 27th day of April, 2006, by the Honorable Marianne O. Mizel, Judge of the Family Court of the County of Ulster, granting the petition of Oren Adar and Mickey R. Smith then residing at 9 Butler Street, Cos Cob, Connecticut for the adoption of a minor child now known and called by the name of J. [REDACTED] [REDACTED] born in Shreveport, Louisiana on the [REDACTED] day [REDACTED], 2005 and directing that the child shall henceforth be regarded and treated in all respects as the child of said petitioners.

This certificate as to the facts recited herein shall have the same force and effect as a certified copy of an Order of Adoption.



IN TESTIMONY WHEREOF, I have hereunto set my hand
And affixed the seal of the Family Court of the County
of Ulster this 27 day of April, 2006.

Kathy A. Lasko
Clerk of the Family Court of the County of Ulster