

**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. 2**

**In Support Of Plaintiffs' Statement Of Undisputed Material Facts**

Affidavit of Plaintiff Oren Adar

Dated November 18, 2008

STATE OF CALIFORNIA )  
COUNTY OF San Diego ) §§

**AFFIDAVIT OF OREN ADAR**

I, Oren Adar, 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 at 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 met Mickey Ray Smith just over ten years ago and, finding him to be a thoughtful, considerate and gentle man, knew that Mickey was the right person for me – the person with whom I wanted to create a life and rear a family. Mickey and I both wanted children and, as a same-sex couple, we knew that the best way to create our family was through adoption.
4. I am an adopted child myself and I felt adoption was the prefect solution. We started the process for adoption about four years ago. It was a year of social workers, lawyers, consultants, multitudes of phone calls, trips to meet birth mothers, doctor appointments with birth mothers and, unfortunately, three adoptions that did not materialize. It was a discouraging and emotional process, but Mickey and I were committed to add a child to

our lives and not only give the child the best home that could be provided, but provide a future that the child might never otherwise have.

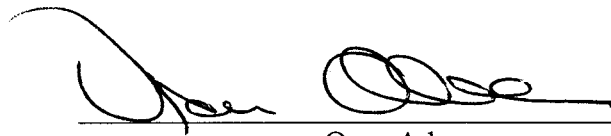
5. On a snowy day in December of 2005, Mickey and I received a phone call from our consultant about an infant in Louisiana that was born pre-maturely at 29 weeks. We didn't hesitate and said that we were ready. Within a week we headed to Shreveport to pick up our five-pound baby. "Infant J" had spent the first month of life at the hospital and was released to the birth mother, who subsequently gave up Infant J to Mickey and me. It was an emotional day for all, our joy and a mother's sadness. Mickey and I were very lucky to spend a few days with Infant J's birth mother and got to know a wonderful woman who just wanted a good home for her child. She was very clear that she could not take care of Infant J as she already had three other kids.
6. The challenges of a premature baby were unique, including many doctor appointments, but Mickey and I met these challenges extremely well and, by the age of three, Infant J is thriving and right on target (some even say that he looks like a five year old). He is a happy child and some teachers at pre-school say that Infant J is the class clown.
7. Mickey 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. Once the adoption was finalized, Mickey and I waited about 30 days before we applied for Infant J's birth certificate. We contacted the registrar's office about 30 days later and were told that it would take some time as the department was still dealing with the many requests for documents in the aftermath of Hurricane Katrina. We waited and then called again to find out that Infant J would not receive a birth certificate, because we were told

issuing the birth certificate was against Louisiana's public policy for a same-sex couple to adopt a child, regardless of the New York State court order of adoption. A Deputy Registrar tried to assist us as best as he could, but after his communications with the State Attorney General's office he was told that it was simply against Louisiana public policy.

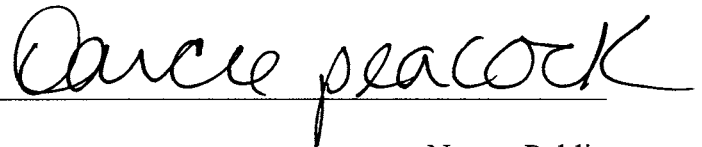
9. This really opened up many of the old wounds that Mickey and I had felt during the adoption process. We just wanted to move on with our lives and get all the paper work out of the way.
10. Many friends and relatives asked why Mickey and I care so much about Infant J's birth certificate, given that the child has a social security number and a passport. I tell them that, as an adopted child myself, I understand the need a child has to feel like he or she belongs. I remember as a child wanting to see my own birth certificate and to see my parents listed because it gave me sense of belonging, a sense of identity and a sense of dignity. I want our child to see Mickey's name and my name as parents on the birth certificate.
11. Mickey and I travel frequently with Infant J. Once we were stopped on a trip by airline personnel who suspected Infant J was being kidnapped (since the child is of a different race than we are). Without a birth certificate, I was unable to satisfy them short of providing a copy of the Adoption Decree, which, unlike a birth certificate, contains private information concerning the details of adoption, a disclosure Mickey and I both feel is intrusive and unnecessary. We fortunately found an airline employee who recognized us from our many prior flights and resolved the issue, but every time we fly we fear this could happen again.

12. Infant J is always going to be different. The child has two fathers that are white and Infant J is African-American. Society is going to make Infant J feel different but, as parents, it is our job to make Infant J feel like one who belongs. So the piece of paper with Mickey's name and my name on it holds a great value for our family.
13. As parents Mickey and I take seriously our responsibility to love and protect our child and we love Infant J more than anything else in the world. We want our child to have the same rights as every other person in society and we believe a birth certificate represents not only those rights but also the dignity of being treated the same as other children.

FURTHER AFFIANT SAIETH NOT.

  
\_\_\_\_\_  
Oren Adar

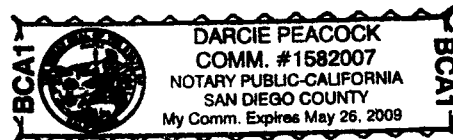
Subscribed and sworn to before me this 18 day of November, 2008.

  
\_\_\_\_\_

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 O. 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 4<sup>th</sup> 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**  
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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



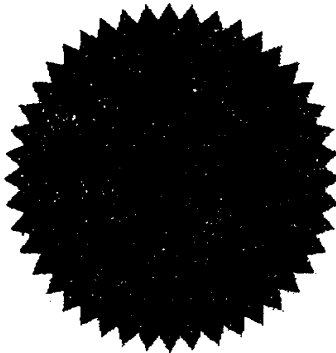
## Certificate of Adoption

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