

1 **Scharf-Norton Center for Constitutional Litigation at the**
2 **GOLDWATER INSTITUTE**

3 Aditya Dynar (031583)
4 500 E. Coronado Rd.
5 Phoenix, Arizona 85004
6 (602) 462-5000
7 litigation@goldwaterinstitute.org

8 **COOPER & KIRK, PLLC**

9 Michael W. Kirk (admitted *pro hac vice*)
10 Brian W. Barnes (admitted *pro hac vice*)
11 Harold S. Reeves (admitted *pro hac vice*)
12 1523 New Hampshire Ave., N.W.
13 Washington, D.C. 20036
14 (202) 220-9600
15 (202) 220-9601 (fax)
16 *Attorneys for Plaintiffs*

17 **IN THE UNITED STATES DISTRICT COURT**
18 **FOR THE DISTRICT OF ARIZONA**

19 A.D. and C. by CAROL COGHLAN
20 CARTER, their next friend;
21 S.H. and J.H., a married couple;
22 M.C. and K.C., a married couple;
23 for themselves and on behalf of a class of
24 similarly-situated individuals,
25 Plaintiffs,

26 vs.

27 KEVIN WASHBURN, in his official
28 capacity as Assistant Secretary of BUREAU
OF INDIAN AFFAIRS;
SALLY JEWELL, in her official capacity as
Secretary of Interior, U.S. DEPARTMENT
OF THE INTERIOR;
GREGORY A. McKAY, in his official
capacity as Director of ARIZONA
DEPARTMENT OF CHILD SAFETY,
Defendants.

No. CV-15-1259-PHX-NVW

PLAINTIFFS' STATUS REPORT

1 The Court ordered Plaintiffs to file a status report by February 29 that
2 includes whether and when they plan to amend their Complaint and add additional
3 plaintiffs. This status report follows.

4 **First Amended Complaint**

5 Plaintiffs are prepared to file their first amended complaint under Fed. R. Civ. P.
6 15 and LRCiv 15.1 on or before March 4.

7 In their first amended complaint, Plaintiffs will add four new plaintiffs, K.R. and
8 P.R., who are foster/pre-adoptive parents of two children in their care, baby girl L.G. and
9 baby boy C.R., who are half-siblings with different birth fathers. Plaintiffs will also add a
10 new plaintiff, Dr. Ronald Federici as a next friend to named and putative class member
11 children in addition to Ms. Carol Carter who will continue to be the next friend to the
12 named and putative class member children.

13 Baby girl A.D., S.H., and J.H., will remain as plaintiffs in the amended complaint.
14 Their state court adoption proceeding is currently stayed pending a decision from the
15 Arizona Court of Appeals on the question of transfer of jurisdiction to tribal court pursuant
16 to ICWA.

17 Plaintiffs M.C., and K.C., and baby boy C. (baby boy C.C. after adoption), will
18 continue as named plaintiffs in the amended complaint. Although the adoption of C.C. by
19 M.C. and K.C. has been finalized, they, along with other plaintiffs, will be seeking
20 nominal damages in the amended complaint, pursuant to Title VI of the Civil Rights Act,
21 42 U.S.C. §§ 2000d–2000d-7, to redress the impermissible use of race in their child
22 custody proceedings.

23 **Discovery**

24 Plaintiffs have informed Defendants that they will be adding K.R., P.R., L.G., and
25 C.R. as plaintiffs and invited discovery in regard to these new plaintiffs. Defendants
26 promptly served requests for production, and Plaintiffs served responses thereto on
27 February 18, 2016. Federal defendants have informed Plaintiffs that they will file a motion
28 with this Court to obtain state court records pursuant to the protective order.

1 Plaintiffs served requests for production of documents on both state and federal
2 Defendants on February 25, 2016.

3

4 **RESPECTFULLY SUBMITTED** this 29th day of February, 2016 by:

5

/s/ Aditya Dynar

6

Aditya Dynar (031583)

7

**Scharf-Norton Center for Constitutional Litigation
at the GOLDWATER INSTITUTE**

8

9

Michael W. Kirk (admitted *pro hac vice*)

10

Brian W. Barnes (admitted *pro hac vice*)

11

Harold S. Reeves (admitted *pro hac vice*)

COOPER & KIRK, PLLC

12

Attorneys for Plaintiffs

13

14

15

16

17

18

19

20

21

22

23

24

25

26

27

28

CERTIFICATE OF SERVICE

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24
25
26
27
28

Document Electronically Filed and Served by ECF this 29th day of February, 2016.

MARK BRNOVICH
ATTORNEY GENERAL
John S. Johnson
Dawn R. Williams
Gary N. Lento
Melanie G. McBride
Joshua R. Zimmerman
1275 West Washington Street
Phoenix, Arizona 85007
John.Johnson@azag.gov
Dawn.Williams@azag.gov
Gary.Lento@azag.gov
Melanie.McBride@azag.gov
Joshua.Zimmerman@azag.gov

Steven M. Miskinis
Ragu-Jara Gregg
U.S. Department of Justice
ENRD/ Indian Resources Section
P.O. Box 7611
Ben Franklin Station
Washington, D.C. 20044-7611
Steven.miskinis@usdoj.gov
RGregg@ENRD.USDOJ.GOV

Courtesy Copy Mailed this 29th day of February, 2016 to:

Honorable Neil V. Wake
United States District Court
Sandra Day O'Connor U.S. Courthouse, Ste. 524
401 W. Washington St., SPC 52
Phoenix, AZ 85003-2154

/s/ Lindsay M. Brown
Lindsay M. Brown