



Written by [Bob Adelman](#) on March 23, 2023

## New York Agrees to Pay \$250,000 in Legal Fees in Religious Discrimination Case

After attempting to force a Christian adoption agency in Syracuse, New York, to allow homosexuals to adopt babies in violation of its principles, the state has finally acquiesced and [agreed to pay Alliance Defending Freedom \\$250,000 in legal fees](#) for successfully defending the agency.

ADF Senior Counsel Roger Brooks summarized the case:

The state's attempt to close New Hope [Family Services] violated its core rights protected by the First Amendment and needlessly reduced the number of agencies willing to help vulnerable children.

New Hope is a private religious ministry that doesn't take a dime from the government. Further, New Hope's faith-guided services don't coerce anyone and do nothing to interfere with other adoption providers who have different beliefs about family and the best interests of children.

On behalf of the children waiting to be adopted and the prospective parents partnering with New Hope to provide loving and stable homes, we're pleased to favorably settle this case and ensure the organization can continue its vital service to the Syracuse community.



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A close look at the ruling reveals that part of the court's decision was based on the state's intentional targeting of New Hope for its biblical understanding of marriage.

For years the agency — New York's Office of Children and Family Services (OCFS) — had given New Hope consistently high marks for its services.

Until 2018, that is, when the agency turned against New Hope and gave them two options: 1) allow homosexuals to adopt their babies, or 2) close down.



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That was unacceptable, and New Hope, with the legal assistance of the ADF, filed suit.

Lower courts ruled against New Hope, but the issue was finally resolved in its favor in 2020 in the Second Circuit of the U.S. Court of Appeals.

The court understood the significance of the issue being raised:

What is the proper relationship between the First Amendment—specifically, its guarantees of free exercise of religion and free speech—and laws protecting against various forms of discrimination?

The question has arisen most recently when religious organizations, like Plaintiff here [i.e., New Hope Family Services], seek some exemption from laws prohibiting discrimination on the basis of sexual orientation, arguing that such laws compel them to speak and behave contrary to the dictates of their consciences.

The answer to this question—whether, in particular circumstances, anti-discrimination laws violate First Amendment rights—may profoundly affect our system of ordered liberty.

Its ruling in the case in favor of New Hope answered that question. It was helped by discovery of the extreme bias OCFS exhibited in its attack on New Hope.

Wrote the court:

Another matter bearing on religious hostility and making dismissal premature is the severity of OCFS's actions in ordering New Hope's closure.

It is plainly a serious step to order an authorized adoption agency such as New Hope—operating without complaint for 50 years, taking no government funding, successfully placing approximately 1,000 children, and with adoptions pending or being supervised—to close all its adoption operations.

All the more serious when, as just discussed, the agency has, for five years and without objection by OCFS, used recusal and referral to avoid rejecting applicants on the basis of its religious beliefs.

The court asked for the source of the authority the OCFS used in demanding either compliance with its edict or termination of the service, and questioned that authority:

In response to an inquiry from this court as to the source of its authority to order New Hope's closure, OCFS cites N.Y. Soc. Serv. Law § 34(3)(e), which authorizes the agency to "enforce," inter alia, laws and regulations pertaining to adoption.

But nothing in that section, or any other authority cited by OCFS, indicates the scope of the enforcement authority conferred by § 34(3)(e), specifically, whether OCFS's enforcement authority is akin to that of police and prosecutors, who investigate and charge violators, or whether it also extends to judicial-like authority to prescribe the punishment for violations, specifically, the punishment of closure.

In other words, without authority, the agency assumed the power of judge, jury, and prosecutor against



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New Hope. The court saw through the agency's plea that it was just following the law, and exposed the agency's anti-Christian bias:

In sum, the pleadings, if accepted as true and viewed in the light most favorable to New Hope, do not permit [this] court to conclude as a matter of law that 18 NYCRR § 421.3(d), as promulgated and enforced by OCFS, was neutral and not based on some hostility to New Hope's religious beliefs....

Viewed most favorably to New Hope, then, the pleadings suggest that OCFS is not seeking to avoid having New Hope's views attributed to the State but, rather, is demanding that New Hope—in order to continue operating as an authorized adoption agency—express a State view with which it disagrees, i.e., that it can be in the best interests of a child to be adopted by an unmarried or same-sex couple....

To state the obvious, it is no small matter for the State to order the closure of a privately funded, religious adoption ministry that has, over 50 years of authorized operation, successfully placed approximately 1,000 children in adoptive homes, particularly when there is no suggestion that any placement was not in the best interests of the adopted child.

The court concluded:

- (1) The pleadings, viewed in the light most favorable to plaintiff New Hope, state plausible claims under the Free Exercise and Free Speech Clauses of the Constitution. Among other things, the pleadings,
  - (a) raise a plausible suspicion that OCFS acted with hostility towards New Hope because of the latter's religious beliefs, [and]
  - (b) plausibly allege that New Hope would be compelled to speak or associate in violation of those beliefs if the regulation in question were enforced.

Unfortunately, the state of New York continues to harass New Hope through another agency, its New York Division of Human Rights. In September, another federal court granted New Hope a temporary restraining order against that agency, which is harassing the adoption agency over the same issue.

The war against Christianity by the state will continue, as it has from the birth of the Savior.



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