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UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA

HOPSCOTCH ADOPTIONS, INC., and
ROBIN SIZEMORE,

Plaintiffs,

vs.

VANESSA KACHADURIAN,

Defendant.

Case No. CV F 09-2101 MJS

**DEFENDANT VANESSA
KACHADURIAN'S MEDIATION BRIEF**

Date: 10/25/11
Time: 9:30 A.M.
Mediator: Hon. Rebecca Westerfield (Ret.)
Location: JAMS
2 Embarcadero Center, #1500
San Francisco, CA
Action Filed: 12/2/2009

I. PARTIES

1. Plaintiffs Hopscotch Adoptions, Inc. and Robin Sizemore are represented by
Bennet G. Kelley, Esq. of the Internet Law Center and Christopher E. Seymour, Esq. of Dowling,
Aaron & Keeler.

2. Defendant Vanessa Kachadurian is represented by Martin J. Ambacher, Esq. and
John C. Adams, Esq. of McNamara, Ney, Beatty, Slattery, Borges & Ambacher LLP. (Ms.
Kachadurian is being defended in this action pursuant to a full reservation of rights by Safeco
Insurance Company. Vince San Filippo will be present on behalf of Safeco.)

II. INTRODUCTION

This is an alleged internet defamation case at its core. But as everyone knows, the internet
is a big place and, like every other business, there are some unflattering things about plaintiffs

DEFENDANT VANESSA KACHADURIAN'S
MEDIATION BRIEF

1 online. Plaintiffs have blamed defendant Vanessa Kachadurian for much of it even though her
2 authorship can't be established, and there are a number of other people on the internet who are
3 critical of international adoptions generally and plaintiffs specifically. Beyond this obvious
4 problem (which impacts liability and damages), it turns out that much of the allegedly defamatory
5 statements are privileged, true, or barred by the statute of limitations. And assuming that
6 plaintiffs can prove liability, they have zero evidence to support their claimed economic losses:
7 three of the four couples that plaintiffs say changed their mind about adopting because of
8 defendant failed to back up these claims, and plaintiffs' financial records show that their business
9 continues to grow despite the worst economy in our lifetime. Defendant comes to this mediation
10 with an open mind, but any settlement will need to take into consideration the issues highlighted
11 herein.

12 III. STATEMENT OF FACTS

13 A. Vanessa Kachadurian's Background

14 Vanessa Kachadurian is a longtime Fresno resident who has worked as a
15 biotech/pharmaceutical sales representative since 1991. She is very active in the Fresno and
16 Armenian communities, and helps a number of organizations. Ms. Kachadurian is a co-founder
17 of the Central California Ballet Company and a sustaining member of the Lively Arts Foundation.
18 She is a past board member of the Charlie Keyan Armenian Community School, which is the
19 oldest Armenian school on the west coast. She is also a volunteer with the Armenian General
20 Benevolent Union (AGBU) and Armenian Youth Federation (AYF). In addition, Ms.
21 Kachadurian has made countless goodwill trips to Armenia, assisting hospitals, schools, and
22 orphanages in the country.

23 Of particular interest to Ms. Kachadurian is the treatment of Armenian children whose
24 birth parents or families are unable or unwilling to care for them. She wants these children to
25 receive the love and care they need, whether it be through the Armenian foster care system *or*
26 adoption. Contrary to plaintiffs' portrayal of her, she is not against international adoption so long
27 as the laws are followed.

28 ////

1 **B. Allegations In The Amended Complaint**

2 Plaintiffs filed their Complaint on December 2, 2009, and it included an inapplicable
3 cause of action for violation of the Computer Fraud and Abuse Act (18 U.S.C. § 1030 et seq.).
4 After defendant filed a motion for judgment on the pleadings, plaintiffs dropped this cause of
5 action and filed their Amended Complaint. The six operative causes of action are (1) defamation,
6 (2) false light, (3) tortious interference with contractual relations, (4) tortious interference with
7 prospective economic relations, (5) negligent interference with prospective advantage, and (6)
8 invasion of privacy. The gravamen of this action is that defendant allegedly posted on the
9 internet or e-mailed untruthful statements about plaintiffs, thereby interfering in their business.

10 Plaintiffs allege that Ms. Kachadurian has told their clients and prospective clients that
11 they engage in illegal practices; that Ms. Sizemore was fired from Carolina Adoption Services
12 because of illegal and unethical practices; and that Ms. Sizemore was connected to the arrest of
13 her in-country facilitator in the Republic of Georgia. In addition, and with the alleged intent to
14 frustrate Hopscotch, Ms. Kachadurian has supposedly mischaracterized Armenian adoption laws
15 and requirements. Plaintiffs further claim that Ms. Kachadurian has posed online as a Hopscotch
16 representative, allegedly posting that it mostly adopts out sickly children. Finally, plaintiffs
17 allege that she has referred to Ms. Sizemore as an "odar" (which, even if true, is not defamatory
18 and simply means "other" in Armenian). Ms. Kachadurian denies plaintiffs' allegations.

19 **III. LIABILITY**

20 **A. Ms. Kachadurian Denies She Is The Phantom E-mailer Or Poster**

21 Importantly, Ms. Kachadurian denies that she is the person responsible for the alleged
22 statements. In the Amended Complaint, plaintiffs allege she has a litany of e-mail addresses and
23 screen names, but they're not hers with a few exceptions. And even the three that belonged to
24 Ms. Kachadurian are old addresses.

25 **B. Plaintiffs Will Have A Difficult If Not Insurmountable Task In Proving The Origin**
26 **Of The Allegedly Defamatory E-mails and Posts**

27 The second problem plaintiffs will face at trial is actually a causation issue: they can't
28 prove that the e-mails and posts were actually written by Ms. Kachadurian. There is absolutely

1 no forensic evidence linking Ms. Kachadurian to most of the e-mail addresses and screen names
2 plaintiffs claim in the Amended Complaint are hers. It's true that records produced by AOL and
3 Yahoo! indicate that some of the e-mail addresses she's denied using are registered to her;
4 however, the defense has spoken to not one but two computer experts who have both said that
5 neither internet provider verifies user registration information. In other words, anyone can go
6 online and register for an AOL or Yahoo! account by providing someone else's name. The reality
7 is that linking a particular e-mail or post to a specific internet user is very difficult, and plaintiffs
8 do not have the evidence they need to connect the dots.

9 Moreover, the defense can prove that some of the alleged defamatory e-mails do not
10 belong to Ms. Kachadurian. For example, plaintiffs have claimed several times that Ms.
11 Kachadurian has posed as profjohnaking@yahoo.com. However, defense counsel has spoken to
12 attorney John King and he sent the e-mails from that address, not defendant.

13 **C. Since The Statements Involve Matters of Public Concern, Plaintiffs Will Have The**
14 **Burden Of Proving The Allegedly Defamatory Statements Are Untruthful**

15 The statements in question involve matters of public concern because they pertain to the
16 broad issue of international adoptions, and society has a strong interest in ensuring that adoption
17 laws are followed. If the statements involve matters of public concern, plaintiffs must prove that
18 the statements were false. (CACI 1702, Defamation Per Se – Essential Factual Elements (Private
19 Figure – Matter of Public Concern).) Moreover, plaintiffs can only recover assumed or punitive
20 damages if they show by clear and convincing evidence that defendant knew the statements were
21 false or had serious doubts about the truth of those statements. (*Ibid.*)

22 **D. There Is No Liability For Defamation When The Alleged Statements Are Just**
23 **Opinion**

24 Even a cursory review of the allegedly defamatory statements reveals that most of the
25 content is just opinion. No liability can be found for expressing opinions: The definitions of libel
26 and slander "can be meaningfully applied only to statements that are capable of being proved as
27 false or true." (*Savage v. Pacific Gas & Electric Co.* (1993) 21 Cal.App.4th 434, 445.) "Thus,
28 'rhetorical hyperbole,' 'vigorous epithet[s],' 'lusty and imaginative expressions[s]' of ...

1 contempt,' and language used 'in a loose, figurative sense' have all been accorded constitutional
2 protection.'" (*Perlauto v. Hamsher* (1999) 74 Cal.App.4th 1394, 1401.) The internet is full of
3 blogs, posts, tweets, and other expressions of opinion such as alleged against Ms. Kachadurian.
4 In fact, websites such as Yelp are based on such a principle.

5 **E. The Defense Has Verified Or Will Be Able To Verify The Truth Of A Number Of**
6 **The Alleged Defamatory Statements, Which Further Undermines Plaintiffs' Case**

7 Truth is an absolute defense to defamation. Significantly though, Ms. Kachadurian
8 doesn't have to prove a statement was true in every detail so long as the statement was
9 substantially true. (CACI 1720, Affirmative Defense – Truth.)

10 **1. There Is Substantial Evidence That Hopscotch Pays Bribes To Local Officials In**
11 **Armenia**

12 Under Armenian law, an informal payment to government officials or civil servants
13 performing their duties is a bribe. Yet Hopscotch's standard written service contract expressly
14 sets aside thousands of dollars for gifts to service providers.

15 [REDACTED]
16 [REDACTED]
17 [REDACTED]
18 [REDACTED]
19 [REDACTED]
20 [REDACTED]
21 [REDACTED]
22 [REDACTED]
23 [REDACTED]
24 [REDACTED]
25 [REDACTED]
26 [REDACTED]
27 [REDACTED]
28 [REDACTED]

1 [REDACTED]
2 [REDACTED] The only reasonable explanation [REDACTED]
3 [REDACTED] is that
4 people on the ground are giving and receiving bribes with the fees paid by prospective adoptive
5 parents to Hopscotch. And regardless of the legalities, most jurors will not think this conduct is
6 ethical.

7 Attached hereto as Exhibit "A" is an article dated 4/26/11 addressing this issue and
8 Hopscotch's culpability, written by Emil Danielyan, a correspondent with Radio Free
9 Europe/Radio Liberty.

10 **2. Hopscotch Is Also In Apparent Violation Of Our Government's Prohibitions On**
11 **Child Buying**

12 In addition to violating Armenian law, Hopscotch's Fee Agreement also appears to violate
13 the Code of Federal Regulations. Our State Department requires adoption agencies to follow
14 these rules on child buying:

15 (a) The agency or person prohibits its employees or agents from
16 giving money or other consideration, directly or indirectly, to a
17 child's parent(s), other individual(s), or an entity as payment for the
18 child or as an inducement to release the child. If permitted or
19 required by the child's country of origin, an agency or person may
20 remit reasonable payments for activities related to the adoption
21 proceedings, pre-birth and birth medical costs, the care of the child,
22 the care of the birth mother while pregnant and immediately
23 following birth of the child, or the provision of child welfare and
24 child protection services generally. Permitted or required
25 contributions shall not be remitted as payment for the child or as an
26 inducement to release the child.

27 (b) The agency or person has written policies and procedures in
28 place reflecting the prohibitions in paragraph (a) of this section and
reinforces them in its employee training programs.

(22 C.F.R. 96.32.)

25 Although agencies may pay for adoption proceedings, medical care, and other items to
26 benefit the birth mother and her child, there is no exception in the C.F.R. for gifts to local
27 government officials. Moreover, Hopscotch's training program seems quite lax with respect to
28 the State Department's educational mandate set forth in subsection (b) above. Ms. Sizemore

1 testified that it has been four years since she has had any training that addresses child buying, and
2 she also didn't know the last time any of her clinical staff underwent such training. And Mr.
3 Amalyan – who handles everything on the ground in Armenia – hasn't had any training on child
4 buying.

5 **3. Armenian Adoption Laws Pertaining To The Placement Of Children Were Not**
6 **Followed In The Notorious Case Of Sonia Vigilante**

7 There is strong evidence that adoption rules were not followed in the case of one
8 Hopscotch adoptive parent, Sonia Vigilante. In Armenia, there is a registry of children available
9 for adoption. Children cannot be offered for adoption to foreigners unless they have been on the
10 registry for at least three months, so that Armenians have the first opportunity to adopt Armenian
11 children.

12 Activist Ara Manoogian began investigating Armenian adoptions as part of his interest in
13 human rights. During his investigation, he learned about a baby girl born on or about September
14 17, 2007 who was eventually adopted by Ms. Vigilante and her husband through Hopscotch. Ms.
15 Vigilante's online blog originally stated that she was offered the child for adoption in October
16 2007, which would have made the baby about a month old at the time. Mr. Manoogian also
17 confirmed this when speaking to Ms. Vigilante via telephone about the circumstances of her
18 adoption. However, after Mr. Danielyan published his article on 4/26/11 mentioning this incident
19 (Exhibit "A"), Ms. Vigilante quickly changed her blog to remove this information. A text version
20 of Ms. Vigilante's blog as it previously appeared is attached as Exhibit "B".

21 In a peculiar twist to this case, Ms. Vigilante – who is one of plaintiffs' witnesses – has
22 taken it upon herself to go after Ms. Kachadurian. Attached as Exhibit "C" are some online posts
23 Ms. Vigilante has made in an attempt to intimidate Ms. Kachadurian.

24 **4. Further Discovery Will Likely Show That Ms. Sizemore Was Asked To Resign**
25 **Or Was Fired By Her Former Employer**

26 There is also some evidence to indicate that Ms. Sizemore was in fact asked to resign her
27 position at Carolina Adoption Services (CAS) or was fired. She testified that she resigned on
28 January 4, 2006 because CAS' then-director, Rosemary Martin, attempted to break up her

1 “proprietary” relationships with people on the ground in Georgia and Armenia. However, Ms.
2 Sizemore claimed that she didn’t know why Ms. Martin did this. Interestingly, in her resignation
3 letter dated January 4, 2006, Ms. Sizemore requested that all CAS board members sign a mutual
4 nondisparagement clause. However, no CAS representative signed the clause and Ms. Sizemore
5 professed not to know why. In any event, it would be highly unusual for a departing employee to
6 request such a clause if everyone was departing on good terms.

7 Ms. Kachadurian hopes to settle this case at mediation and the defense has held off on
8 deposing Ms. Martin and the current director of CAS, Julie Glandt. However, both women will
9 be deposed if this case cannot be settled. At least one prospective adoptive parent has said that
10 Ms. Glandt told her several years ago that Ms. Sizemore had in fact been fired.

11 **5. There Is No Disputing That Ms. Sizemore’s Former Facilitator In The Republic**
12 **Of Georgia Was Arrested For Abusing Adoption Laws**

13 While Ms. Sizemore was still with CAS, she used a facilitator in the Republic of Georgia
14 named Mariza. Ms. Sizemore admitted at her deposition that Mariza was arrested in September
15 2005 and charged with “warehousing babies”. This is a pejorative term for holding children for
16 adoption like dogs at a pound. Furthermore, after returning from the Republic of Georgia, Ms.
17 Sizemore sent out an e-mail to over thirty families that said Mariza had been arrested and charged
18 with “warehousing babies”. Ms. Kachadurian was not a recipient of Ms. Sizemore’s e-mail and
19 it’s certainly not her fault that this negative information has leaked onto the internet. At any rate,
20 any statements that Ms. Sizemore’s former Georgia facilitator was arrested are true.

21 **6. The Alleged Mischaracterization Of Adoption Requirements Or Of Plaintiffs’**
22 **Business Model Is Not Defamatory And, In Any Case, Ms. Sizemore And/Or**
23 **Hopscotch Are The Source Of Any Confusion**

24 The alleged mischaracterization of Hopscotch’s adoption requirements or of adoption
25 laws in general doesn’t constitute defamation even if these allegations were true. Moreover,
26 plaintiffs are to blame if anyone misunderstands the various, ever-changing adoption
27 requirements.

28 Attached as Exhibit “D” is a copy of an advertisement for Hopscotch that appeared on the
Reece’s Rainbow website a few years ago. It’s for a boy named David who Hopscotch eventually

1 placed with an American family. It plainly states that "only Christian families (per country law)"
2 may adopt him and there is also a "\$100k+ income requirement" for those families.

3 Ms. Sizemore also admitted that at one time on Hopscotch's website it said that
4 prospective adoptive parents who were not of Armenian heritage could only adopt children with
5 special needs or older children. The Hopscotch website also said at one point in time that
6 Armenia requires adopted children to be placed in Protestant households if the parents are not in
7 the Armenian Apostolic Church.

8 Similarly, plaintiffs have variously claimed that Ms. Kachadurian has maligned their
9 business by saying they focus on children with special needs. So what? [REDACTED]
10 [REDACTED]

11 **F. Many Of The Allegedly Defamatory Posts Are Actually Protected By The Common-**
12 **Interest Privilege**

13 Civil Code section 47(c) grants a conditional privilege against defamation to
14 communications made without malice on subjects of mutual interest. A communication that falls
15 under the purview of this privilege must be between persons with a common interest or who have
16 a special relationship, or it must be made in response to a request for information. (Civil Code §
17 47(c).)

18 Many of the allegedly defamatory statements were made on websites where users are
19 asked to review adoption agencies, and for those not providing reviews, their only reason for
20 being on the website is to read reviews or get information. Thus, any negative reviews of
21 Hopscotch or Ms. Sizemore on agency rating websites would be privileged even if defamatory
22 absent a showing of actual malice.

23 **G. Many Of The Allegedly Defamatory Posts Are Barred By The Statute Of Limitations**

24 Defamation has a one-year statute of limitations. (Code Civ. Proc. § 340(c).) Causes of
25 action for economic interference generally have a two-year statute of limitations under Code of
26 Civil Procedure section 339(1), but if the interference is based on defamation, the one-year statute
27 of limitations applies. (*Romano v. Wilbur Ellis & Co.* (1947) 82 Cal.App.2d 670, 673 – 674.)
28 This means that many of the allegedly defamatory statements will never make it into evidence

1 because they are barred by the statute of limitations because they were made before December 2,
2 2008.

3 **II. The Salacious Allegations In The Amended Complaint About Across the World**
4 **Adoptions And Leslie Siegel Have No Bearing On This Case**

5 Plaintiffs' Amended Complaint contains allegations about Ms. Kachadurian's prior
6 relationship with Across the World Adoptions (ATWA) and its executive director, Leslie Siegel.
7 ATWA and Ms. Siegel both attempted to obtain restraining orders against Ms. Kachadurian in
8 2006, but those petitions were denied after a full and fair hearing. The reality is that anyone can
9 file a lawsuit, and these particular allegations were unfounded and eventually dismissed.
10 Whatever happened with ATWA and Ms. Siegel is irrelevant and has no bearing on the present
11 case, and any such evidence will be barred at trial.

12 **IV. DAMAGES**

13 Plaintiffs' claimed damages are suspect to say the least. On close examination, none of
14 their arguments in favor of special damages make any sense whatsoever.

15 **A. The Non-Existent Withdrawn Applications and Broken Contracts**

16 In their Amended Complaint, plaintiffs identified three couples as prospective adoptive
17 parents by initials. All three supposedly withdrew applications or broke adoption contracts
18 because of Ms. Kachadurian. Plaintiffs subsequently identified a fourth couple that also allegedly
19 withdrew an application or broke a contract. Yet plaintiffs stalled when it came to actually
20 disclosing the names and contact information for these people, and the defense only received this
21 information after moving to compel.

22 The four couples who allegedly withdrew applications or cancelled contracts are [REDACTED]

23 [REDACTED]
24 [REDACTED] Now that defense counsel has spoken to all of them, it's no wonder plaintiffs
25 didn't want to disclose their information.

26 **1. [REDACTED]**

27 The [REDACTED] are a friendly couple, and [REDACTED] They signed
28 up to adopt a child through Hopscotch and worked primarily with Hopscotch employee Jeanie

1 Sobie [REDACTED] But they quickly became concerned because they felt like
2 the timelines were changing. What's more, they had a lot of concerns about the international
3 adoption process, but never felt like those concerns were adequately addressed. Overall, they
4 were unhappy with the customer service they received. Since the [REDACTED] didn't have a good
5 feeling, they decided to change agencies and go with one that could provide them with more
6 attention. However, they never completed their adoption because [REDACTED] unexpectedly
7 became pregnant. [REDACTED] said that she never read anything negative about Hopscotch online,
8 and [REDACTED] said he didn't think he had read anything negative either. Their decision not to
9 use Hopscotch was related to poor customer service and nothing else.

10 2. [REDACTED]

11 [REDACTED] were also friendly and willing to share their experience
12 attempting to adopt. In 2009, they decided that they wanted another child. (They already had a
13 3-year old son who was conceived through IVF.) They entered into a contract to adopt through
14 Hopscotch, and they also began their home study. Ultimately, however, they interrupted their
15 home study because they had second thoughts about adopting. They didn't feel right about it
16 from an emotional standpoint and decided to try IVF again. In particular, they were
17 uncomfortable with the uncertainties involved in international adoption and also felt that waiting
18 a couple of years for a healthy child was outside of their timeframe. The [REDACTED] denied that
19 their decision to end the adoption process had anything to do with anything that they read about
20 Hopscotch online.

21 3. [REDACTED]

22 The [REDACTED] weren't interested in speaking to anyone about this case because, in their
23 words, they didn't know anything. Defense counsel received this e-mail from [REDACTED] in
24 response to an inquiry:

25 H[.] While we did in fact begin an adoption process through
26 Hopscotch, we have no knowledge nor have ever heard of the other
27 person. We really don't have any thing [sic] to say about it since
28 we don't know anything. Let me know if you still need to talk to
 us.

1 Defense counsel was able to speak to [REDACTED] on the telephone. He said that they
2 started the adoption process with Hopscotch, but it didn't work out. Their decision to back out
3 had nothing to do with anything they read on the internet or in an e-mail. In fact, he hasn't read
4 anything negative about Hopscotch online, nor had he received any negative e-mails about
5 Hopscotch. He also said that his wife told him she didn't know anything about the case and
6 wanted to be left alone. [REDACTED] further stated that he is not aware of her reading anything
7 negative about Hopscotch online or in an e-mail.

8 **4. [REDACTED]**

9 In early 2009, the [REDACTED] decided that they wanted to adopt a girl from overseas. On
10 March 4, 2009, [REDACTED] posted on her website that they were sending an application to
11 Hopscotch to adopt from Armenia. However, in a subsequent post on March 10, 2009, she stated
12 that they were denied approval to adopt a child from Russia. (Plaintiffs have never had a Russia
13 program, which clearly indicates that the [REDACTED] were not all that committed to Hopscotch.) On
14 March 16, 2009, [REDACTED] posted that the family had decided to go with Hopscotch, but needed
15 to raise \$5,500 to put a little girl named Dolly "on hold". [REDACTED] was obviously very
16 confused about what Hopscotch could do for her family because one does not put a child "on
17 hold".) Importantly, in her March 16th post, [REDACTED] said that "[i]f anyone has heard
18 anything about them (Hopscotch). Please email me and tell me your experience."

19 Someone named Ruzanne left a post in response to [REDACTED] post of March 16, 2009.
20 Ruzanne never told [REDACTED] not to use Hopscotch or Ms. Sizemore. In fact, she instructed the
21 [REDACTED] to do their homework on Hopscotch and other adoption agencies, and to investigate the
22 various legal requirements to adopt from Armenia. Thereafter, the [REDACTED] changed their mind
23 about using Hopscotch before signing any contract.

24 **5. None Of Plaintiffs' Causes Of Action For Economic Interference Are Viable**

25 Based on the facts, plaintiffs have no basis to allege causes of action for economic
26 interference. [REDACTED] changed their mind about using Hopscotch for reasons
27 completely unrelated to the alleged defamatory statements. [REDACTED] apparently also fall into
28 this category. As to the [REDACTED], they never signed a contract so the cause of action for

1 interference with contractual relations is inapplicable. Moreover, [REDACTED] sent out a request
2 for information, and Ruzanne's response clearly falls within the purview of the common-interest
3 privilege. What's more, causes of action for interference with prospective economic relations or
4 advantage require proof that plaintiff probably would have received a future economic benefit.
5 Yet [REDACTED] was still investigating adopting through at least one other agency after submitting
6 the Hopscotch application and before Ruzanne posted anything, which indicates a lack of
7 commitment to plaintiffs.

8 Adopting from Armenia involves a significant time and financial commitment. It
9 normally takes two to three years for a family to adopt a healthy child, and there are numerous
10 hurdles along the way. Prospective adoptive parents also change their mind for a number of
11 reasons including financial concerns, lack of time or other time commitments, family opposition,
12 and emotional issues associated with adopting a child, as evidenced by the comments noted
13 above. Ms. Sizemore also admitted that she has heard parents cite all of these reasons when
14 dropping out of Hopscotch's program. Just because Hopscotch accepts an application doesn't
15 mean the prospective adoptive parent will eventually adopt a child.

16 **B. Plaintiffs' CPA's Analysis Of Claimed Damages Is Entirely Unsupported**

17 Because the prospective adoptive parents discussed immediately above are of no help to
18 plaintiffs, they have come up with an alternative argument in support of their claimed damages.
19 Hopscotch's CPA is Ronda Russell and she prepared a declaration attributing \$116,786.25 in
20 economic losses to defendant. However, she didn't indicate any knowledge of current or past
21 adoption trends, and her analysis is deficient for other reasons as well.

22 Ms. Russell attested to reviewing the number of contracts for all of Hopscotch's adoption
23 programs from 2008 through April 2010, and she noticed a steep decline in its Armenian adoption
24 program after the second quarter of 2009 that allegedly coincided with increased internet postings
25 about Hopscotch by defendant. By annualizing the rate of contracts from the first two quarters of
26 2009 and assuming that the rate would have remained the same but for defendant, Ms. Russell
27 projected a loss of \$116,786.25 in net revenue. The most glaring problem with Ms. Russell's
28 analysis is that she used a six-month sample period in order to extrapolate losses going forward.

1 A six-month time period doesn't provide a true picture of any business. According to Ms.
2 Russell's own charts, Hopscotch handled only nine Armenian adoptions in the first six months of
3 2008, whereas it handled 27 in the first six months of 2009 (which served as the sample period).
4 Quite interestingly, the charts also show that Hopscotch handled 35 Armenian adoptions in the
5 last six months of 2008. This indicates a fair amount of volatility in the number of adoptions,
6 which further calls into question the limited sample size.

7 The facts show that plaintiffs have no verifiable economic losses. [REDACTED]

8 [REDACTED] Likewise, Hopscotch's
9 tax returns show increases in revenue from 2007 to 2010: its revenue was \$240,433 in 2007,
10 \$361,660 in 2008, \$369,312 in 2009, and \$400,238 in 2010! Thus, there was no drop off in
11 business despite the allegedly defamatory statements. What's more, Ms. Sizemore's personal
12 compensation as executive director increased from \$36,500 in 2008 to \$58,167 in 2009. These
13 numbers are compelling evidence that plaintiffs have suffered no economic losses.

14 C. Any Business Loss Claimed By Plaintiffs Is In Large Part Attributable To The
15 Economy

16 Any analysis of claimed damages that fails to account for current economic realities is
17 obviously questionable. The reality is that the American economy went into a recession in late
18 2007 or early 2008, and then fell off a cliff in September 2008. The economy has been stuck in
19 the doldrums ever since, affecting almost everyone. There is no reason to think that the business
20 of international adoptions is exempt from this downturn. There are two things that everyone can
21 agree on when it comes to foreign adoptions: they're expensive and time consuming. Fewer and
22 fewer couples have the wherewithal or the inclination to spend large amounts of money, and you
23 don't need an economic expert to point this out to a jury.

24 D. There Are A Number Of Internet Sites Critical Of Plaintiffs And No One Can Say
25 That These Aren't The Cause Of Plaintiffs' Claimed Economic Losses

26 If Hopscotch or Ms. Sizemore are somehow able to prove economic losses, proving those
27 losses are due to Ms. Kachadurian would be impossible. As Exhibit "A" demonstrates,
28 Hopscotch has its critics. Ms. Sizemore acknowledged at her deposition that this article was

1 republished on "multiple" internet sites. Another critical article was published on 9/19/11 and is
2 attached as Exhibit "E". At least once a week, someone asks Ms. Sizemore about Exhibit "A"
3 and, presumably, people have already started asking her about Exhibit "E". There is also a
4 website hosted by Brandeis University that includes a number of articles critical of Armenian
5 adoptions going back many years.

6 **E. Plaintiffs' Claimed Damages Also Fail To Account For The Overall Drop In**
7 **International Adoptions**

8 Setting aside the economy or bad publicity, there is at least one other reason why
9 plaintiffs' business could have declined: international adoptions are down 52% since 2004.
10 Attached as Exhibit "F" is an article from USA Today dated 7/25/11 addressing this issue. As the
11 article points out, legal requirements abroad are being tightened and international adoption is
12 increasingly seen as the last resort in sending countries.

13 It's no different in Armenia, and the country has recently implemented the Hague
14 Convention. Unless prospective adoptive parents are seeking a child with special needs, fewer
15 and fewer children are available and the "demand" exceeds the "supply" in Armenia. That is
16 probably why current Hopscotch clients wait two to three years to complete the adoption of a
17 healthy child. In a letter to an acquaintance in early 2010, Ms. Sizemore complained about a
18 supposedly corrupt orphanage director in Armenia who was holding children back from adoption.
19 Ms. Sizemore identified six children at the orphanage who she already had "families for". She
20 further stated that she could find a family for "any" Armenian child.

21 Other American adoption agencies (i.e., plaintiffs' competitors) have been losing business
22 and closing their programs. Ms. Sizemore's former employer, Carolina Adoption Services, is a
23 prime example: its revenue was \$1,931,750 in 2007, \$1,725,314 in 2008, and \$1,182,243 in 2009.
24 According to its website, its Armenia program is on hold until its current customers complete
25 adoptions. Adopt Abroad and World Links have also had declining revenues since 2007 and
26 World Links even shuttered its Armenia program. Once again, if plaintiffs suffered any losses,
27 those losses are not attributable to defendant who is just one person living in Fresno.

28 ////

McNAMARA, NEY, BEATTY, SLATTERY, BORGES & AMBACHER LLP
ATTORNEYS AT LAW
P.O. BOX 2164, WALNUT CREEK, CA 94596
TELEPHONE: (925) 938-5733

1 **F. Plaintiffs Will Not Recover Their Attorney's Fees Here**

2 Plaintiffs have no theory of liability which allows for recovery their attorney's fees in this
3 action.

4 **V. SETTLEMENT NEGOTIATIONS**

5 Plaintiffs very recently made a settlement demand for \$200,000. However, they also
6 stated that they will accept \$125,000 if defendant apologizes and removes the allegedly
7 defamatory internet content.

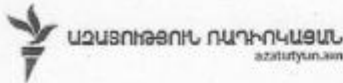
8 Dated: October 21, 2011

McNAMARA, NEY, BEATTY, SLATTERY,
BORGES & AMBACHER LLP

9
10 By: _____

11 Martin J. Ambacher
12 John C. Adams
13 Attorneys for Defendant
14 Vanessa Kachadurian
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EXHIBIT “A”



Տպել 

☐ Հարգելի մեկնադրումներ (0)

Փոխել տարեթիվ մեկնադրելը.

26.04.2011

Integrity of Foreign Adoptions In Armenia Still In Question

Emil Danielyan

What is an informal payment made to an Armenian government official or civil servant performing their duties?

Armenia's Criminal Code defines it as a bribe that could be punishable by a lengthy prison sentence.

Yet some private U.S. agencies arranging international adoptions of children call it a mere "gift of gratitude" that reflects a long-established local custom and is not illegal. They have for years charged clients in the United States thousands of dollars for such payments which they say are necessary for adopting Armenian orphans.

The practice appears to have continued unabated in recent years despite a major toughening of foreign adoption requirements and procedures set by the Armenian government.

The government embarked on a thorough revision of its opaque rules following a June 2003 report by RFE/RL's Armenian service which suggested that the process may be tainted by corruption. The report was based on online correspondence between Ara Manooogian, an Armenian-American activist, blogger and human rights advocate, and a host of U.S. adoptive parents. Some of them claimed to have paid between \$9,000 and \$13,000 to adoption "facilitators" in Yerevan and said they believe a large part of that money was spent on financial "gifts" to Armenian officials dealing with foreign adoptions.

Then-Social Security Minister Aghvan Vartanian asked Armenian prosecutors to investigate the report. Although nobody is known to have been prosecuted as a result, Vartanian acknowledged "some worrisome practices" in this area in September 2003.

A set of administrative and legislative measures taken by the government in the following months was meant to make the process more rigorous. Armenia's Family Code adopted in 2004 stipulates that foreign nationals can adopt Armenian orphans only if the state fails to find local adoptive parents for them.

Also, the Armenian parliament ratified in 2006 an international convention on inter-country adoption that was signed in The Hague in 1993. It aims to prevent the abduction, sale or trafficking of children through a better regulation of their cross-border adoption.

In line with the Hague convention, the Armenian government approved in March 2010 a new adoption procedure that sets concrete time frames for every stage of the process handled by several state institutions, including courts and the full cabinet of ministers. Officials in Yerevan say that a foreign couple now typically spends between one or two years adopting an Armenian child, compared with only several months needed in the past.

However, some aspects of the process, chief among them being the payment of "gifts," have clearly not changed. At least two U.S. adoption agencies, both of them accredited by the U.S. government, have specified such cash handouts in their service contracts offered to American clients.

One of them, Hopscotch Adoptions, has placed several dozen Armenian children with American families since 2004. A sample contract sent by the North Carolina-based agency to a potential client in 2007 estimated the total cost of its facilitation services in Armenia and as well as neighboring Georgia at \$30,540 per child.

It explained that almost \$5,000 of that sum would be spent on "gifts to foreign service providers and government functionaries performing ministerial tasks as an offer of thanks for prompt service."

"It is customary [in Armenia and Georgia] to provide a nominal gift to a government functionary who, for instance, prepares a passport, notarizes a document or places a seal after the service is provided," reads the draft Hopscotch contract obtained by Manoogian recently. "The custom stems from the economic reality that a service provider or entry level civil servant earns less than \$75 a week – hardly enough to feed a family."

The document also notes that such payments are "never offered to any government official who renders a substantive decision regarding a Client's adoption."

In her written answers to questions from RFE/RL's Armenian service, Robin Sizemore, Hopscotch's founder and executive director, declined to comment on these provisions. "In Armenia and in any other country that prohibits gifts or gratuities, no gifts or gratuities are distributed or permitted," she said.

The draft Hopscotch contract claimed the opposite, however.

"Gifts and gratuities" is also a separate spending category in a sample agreement which is currently offered by another, Pennsylvania-based agency, Adopt Abroad. The latter will charge clients \$1,200 for that purpose. The agreement does not elaborate on such payments.

"That's an absolutely illegal practice in Armenia, and it is punishable by articles of the Criminal Code dealing with bribery," said Varuzhan Hektanian, executive director of the Anti-Corruption Center, the Armenian affiliate of Transparency International. "One just needs to clarify whether the American agencies simply try to extort additional payments from their clients."

Hmayak Navasardian, head of an Armenian Justice Ministry department coordinating foreign adoption procedures since 2010, agreed. "Naturally, if there is such a thing, it means not paying for [legal] services but paying bribes," Navasardian told RFE/RL's Armenian service.

"If there is such a thing, any individual, especially an official, must be concerned," he said.

But Lala Ghazarian, head of a department on family, women's and children's issues at the Ministry of Labor and Social Affairs, was more dismissive. "I am sure that there are no such processes," she said, ruling out the possibility of corrupt practices within relevant state structures.

Ghazarian's department draws up and maintains a national registry of orphans eligible for adoption and thus plays a major role in their referral to prospective adoptive parents. Under the Family Code, Armenian children can be made available for international adoption only three months after their inclusion on that registry – if they are not taken in by Armenian citizens.

This legal restriction appears to have been violated in at least two cases in 2007. In one such example, an American couple living near Washington, DC adopted a little Armenian girl through Hopscotch in May 2008. Sonia Vigilante, the adoptive mother, revealed on her blog that the girl was less than one month old when she and her husband were first shown her pictures and offered to adopt her in October 2007.

The Hopscotch contract stressed that the U.S. Embassy in Armenia is aware of the fact that "the customary 'gift' is built into the international fee which our foreign attorney charges." "The payment of these nominal gifts does not affect the legality of the adoption under U.S., or foreign law," it said. According to Sizemore, the Embassy has received full copies of Hopscotch's agreements signed in the U.S.

The embassy did not confirm or deny this. It said only that U.S. consular officials in Yerevan interviewing American adoptive parents investigate "any case where we suspect illegitimate fees have been tendered." "Cases where we suspect these fees have been paid are referred to the U.S. Citizen and Immigration Services for review," an embassy spokesman told RFE/RL's Armenian service in a written statement.

The official did not specify whether the stated "gifts" are deemed illegitimate by the U.S. mission, saying only that any form of "child buying" is illegal in the U.S. "Fees paid to expedite processing an application do not constitute 'child buying,'" he added.

The informal payments are channeled through Yerevan-based facilitators working for U.S. and other adoption agencies and essentially brokering adoptions in Armenia. The agencies reward them quite handsomely. Hopscotch paid its Armenian "attorneys" \$10,500 per child at least until 2007, while Adopt Abroad currently charges a "facilitators fee" of as much as \$19,000. None of these adoption brokers is known to be officially licensed or registered with tax authorities.

Their fees, which do not include thousands of dollars spent on the translation and certification of adoption documents required by Armenia, are suspiciously high given the fact that Armenian authorities levy a state duty of just 30,000 drams (\$80) for a single adoption. Whether a part of the hefty attorney fees is also spent on "gifts" is anybody's guess.

Posing as a childless man from Texas, Manogian privately (and separately) spoke to three Adopt Abroad clients in the U.S. who paid the agency up to \$40,000 each to adopt babies from three different Armenian orphanages in 2007 and 2008.

They said they would have been charged \$5,000 less had the orphans been aged over 18 months at the time. All three women dealt with the same Armenian facilitators identified by them as David Tevosian and Marine Manukian.

"It's not like doing a domestic [U.S.] adoption where you have attorneys and everything is by the book, cut and dry," one of them confided to Manogian. "When we were over there [in Armenia], we were told that 'You know, we had to give the orphanage so much money to hold your child so no one else could adopt him at the time.'"

She said she replied to the two facilitators that "I paid \$20,000 for you to do what you did and I don't want to know what it cost you and what you had to do under the table, behind the books."

"I'm under the impression that my child was put in a state-run orphanage to be hidden until she was old enough to be put up for international adoption," said another Adopt Abroad client.

"It's almost a business for them [Armenians]," explained the third American woman. "Who gets that \$5,000? I don't know ... That part we didn't care. It didn't matter to us."

Just how legal the activities of the adoption agencies and their middlemen in Armenia are is another question. Article 115 of the Armenian Family Code prohibits any "intermediary activity in adoption." At the same time, it allows Armenian and foreign nationals to manage the adoption process "through their legal representatives."

Armenian officials claim that the adoption agencies do not actually operate inside Armenia and that their activities are confined to the collection and dispatch of necessary documents to relevant Armenian state bodies.

"We are not working with [foreign agencies]," insisted the Justice Ministry's Navasardian. "We are only in touch with the central [adoption] authorities of foreign states."

However, U.S. adoption brokers are known to regularly fly to Yerevan and meet government officials there. Carolina Adoption Services (CAS), another U.S. agency, announced on its website last November that its assistant director, Julie Glandt, has just traveled to Armenia and can report that "Armenian officials would like to continue to work with CAS."

One Armenian official dealing with adoptions acknowledged that Sizemore, the Hopscotch director, visits Armenia once a year. According to the Hopscotch contract, the agency has a whole "in-country team of translators, attorneys and administrative support" in Yerevan. Adopt Abroad likewise refers to Armenian "office expenses" in its service agreements with clients.

This might explain why the number of foreign adoptions has barely decreased in the last several years despite the more

stringent rules set by the Armenian authorities. Data from the Justice Ministry show that 142 Armenian children were adopted last year and 69 of them were taken abroad. According to the U.S. State Department, less than one-third of them found adoptive families in the U.S.

The total number of foreign adoptions in 2010 was down from the peak level of 76 reported in 2003. There were 68 and 63 such cases officially registered in 2005 and 2009 respectively.

"I don't think that the toughening of procedures was supposed to affect adoption statistics," said Navasardian. The government's main goal was to increase the integrity and transparency of the process, added.

"I'm glad to say that we really have results in terms of ruling out legal loopholes, making the process as transparent as possible and bringing it into conformity with international standards," Ghazarian, the Labor Ministry official, said.

Both officials insisted that most of the Armenian orphans placed abroad had some mental or physical health problems. Armenians are less willing to adopt such children than foreigners, they said. According to Ghazarian's department, about 90 children are currently available for international adoption and less than a fifth of them are completely healthy.

Ghazarian believes that for many of these orphans foreign adoption is the only realistic chance of regaining their "lost family, lost childhood and lost happiness." Sizemore made a similar point, saying that media should highlight not only the integrity of foreign adoptions but also "the gift of a permanent family for these children."

"Hopscotch is honored to have the opportunity to serve these children in particular, and the families we have had the pleasure to work within their placement are exceptional, even remarkable," she said.

But Manoogian, who has lived and worked in Nagorno-Karabakh since 1998 as a representative of the Shahan Natalie Family Foundation, an Armenian-American charity, dismissed these arguments. He said agencies like Hopscotch and Adopt Abroad must be banned from doing business in Armenia, comparing their activities with human trafficking.

"I find nothing wrong with international adoption when the system works to the letter of the law," Manoogian told RFE/RL. "But for me, there is nothing more outrageous than cashing in on these voiceless children, who are being deprived of their birthright as Armenians as a result of the circumvention of the system in place."

"The adoption process in Armenia today on the surface appears to be more transparent than it did in 2003, yet the sophistication of the way the system is manipulated has surpassed that of how adoptions were carried out in 2003," he said.

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<http://www.azatutyun.am/content/article/16794730.html>

EXHIBIT "B"

Our "Referral"

On October 11, 2007, we received information on our daughter and some photos and videos. We instantly fell in love with her. She has beautiful large brown eyes, dark brown hair, and is very alert. Since then we have received numerous photos and videos, which are precious.

In early December, Kevin and I traveled to Yerevan, Armenia, to meet Annalea. I was unfortunately sick and did not get to hold her very much. But Kevin did and it was a wonderful bonding experience for him. She even looks like his daughter!! We loved our stay in Armenia and the people we met.

So today we are waiting to travel to pick up our precious daughter, who is now 7 months old. We expect to be traveling in mid-May. As we get updates on our plans and preparation, we will post here.

Thanks for reading!!

Posted by Sonia at 11:45 AM 1 comments

[Home](#)

EXHIBIT “C”



DCP_0011

Washington DC, eat, eat, stuffing our faces

Comments and faves

[swigilante](#) 6 months ago
Ughhh, those fangs under the eyes...juck. You need to do something about the eyebrows too. You have that fely American gone...a little threading goes a long way.

[swigilante](#) 6 months ago
is that a glass of milk? Thought you didn't drink?

Add your comment here...

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By [Vanessa Kachadurian](#)
[vanessa.kachadurian](#) [+ Add Contact](#)

This photo was taken on June 7, 2003 using a Kodak DX3900.

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frontwhithouse

Front of Obama's house

Comments and faves

- svigilante (3 months ago)

That's as close as you'll ever get.
- svigilante (3 months ago)

And your bag is ugly.
- Shad Simon (3 months ago)

Yash Gucci bags are way too expensive.
- Shad Simon (3 months ago)

Close to what? The white house? Who wants to go inside the white house, the tour is boring.
- svigilante (3 months ago)

We have been in the oval office, we in dc have connections unlike losers from Peoria.
- svigilante (3 months ago)

Gucci has never been my style...much too poudy. Besides I am sure it's a fake..all you can afford these days Miss V.
- ArchieMalk (3 months ago)

Who is we? You and Kevin? We would hope so after he donated so much money to the republican party that the former president would invite you to one of their many get togethers. Doubtful that the current president would have you since he is a flaming liberal like BK. White House is nothing special. But being the friends of the First family of America is. too bad you will never be, even your money can't buy you that. And about that vapid pose...why do you speak about unimportant materialistic things, hardly worth the space to type about it. Get a life Vlgilante Dragon Lady.

By Vanessa Kachadurian
vanessa.kachadurian + Add Content

This photo was taken on December 1, 2008 using a Kodak DX600.

57 views 13 comments

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■ ■ DC connections like through BERN Go back to being a media, it suits you much better, trying to move on up the social chain. In DC there are many people in line - in front of you with bigger bucks like the Kennedys that mopped the floor with you and your hubby. What was the cost of that, oh that is right \$1 million in campaign expenses. If you had friends in the right place your hubby would not have lost the race to drug addict Patrick (BRI's friend) and you would not have had to pay a middle man for a child. You would have had the connections now wouldn't you have? You have no kids do you? How about another article like the Radio Free Europe one—maybe soon - how proud you must be to be the star in such an article. How proud you must be indeed.

■ ■ AshotWolk (5 months ago)
 Vanessa you and your family are looking great, thank you for your shipment. We watch over you and yours faithfully as part of our family.
 Love from Armenia
 AM.

■ ■ AshotWolk (5 months ago)
 ** Guest is available very reasonable in Armenia, if you are interested.

■ ■ evigilante (5 months ago)
 Oh my Vanessa, you are an idiot.

■ ■ AshotWolk (5 months ago)
 Oh My Sonia Vigilante you are really a Vigilante Dragon Lady aren't you.
 Too bad you cannot see the truth, it was hidden nicely from you, but we understand the loyalty to the person who purchased your baby for you, because you had no connections to conduct this transaction on your own.
 Still up for a Guest, we have some nice imports in Armenia. We just love the Italians ask Robin about how much we love them.

■ ■ evigilante (5 months ago)
 Great because Kevin is funny in Italian, yet we found that the Armenians just loved Kevin (and me of course).

■ ■ Add your comment here...

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Favorite Actions Share Newer Older



DCP_0006

I could be king in DC.

Comments and faves



Vanessa Kachadurian (12 months ago)
maybe Potomac, Maryland would be better.



vigilante (8 months ago)
Fat ass



vigilante (8 months ago)
That's a bad angle for you...I would delete this one.



Shad Simun (8 months ago)
She is really pretty. Wow!!



Shad Simun (8 months ago)
I think you are jealous of this beautiful woman. RTW why did you close down your blog? Get something to hide? We miss your ranting postings about chadonmag. Too bad you don't have friends in the right places like this person does.



vigilante (8 months ago)
Dag is not open Vanessa, with Shad. Add this alias to the DC chers. Must alien Robin.



vigilante (8 months ago)
I meant to say blog is NOW open...come on by and take a look at my beautiful family!! Life is good for the vigilantes!

AshotMelik (8 months ago)



By Vanessa Kachadurian
vanessa.kachadurian + Add Content

This photo was taken on December 5, 2008 using a Kodak DX3600.

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are up against many people. So your blog is live open and doubtless free of humiliating information, too bad it is already being examined by the ministry officers, they are shocked and amazed at your tactlessness and lack of interest in the welfare of Hayastan.

AshotVelik (5 months ago)
And Vanessa is very pretty, inside and out. We are lucky to know her.

evigfante (5 months ago)
Good, let them examine what ever they want I got my Armenian girl and they cant have her back. You on the other hand will never get a kid because you are nuts. You can see the madness behind those beauty suary eyes.

AshotVelik (5 months ago)
Well now we know you don't know the Kachadurians because they have metz adishgor. Their eyes are typical Armenian eyes large and soulfully deep. Of course, you wouldn't know much about that.

She is not nuts, only speaks the truth. Did you ever find out about the arrest in Republic of Georgia or were you too lost to know these things--like after you gave your money for your purchases.

The only madness we see is with those eyes of yours, when you are sipping Chardronvay and encouraging others to do the same. Vanessa that we know, doesn't even drink and her eyes are hardly daddy nor do they have to use big money looking red glass frames like an owl, stick with the contact lenses or get that American look surgery, surely your sugar daddy can afford that.

Vanessa is an Armenian babe, and is loved by us. Show some interest in Armenia for a change instead of negative or devaluative attitudes toward people who are not respected in Armenia.

evigfante (5 months ago)
Yes, you don't drink because you don't mix it with all the meds you take.

I here we go again about R of G. I couldn't care less about this, so please enough! Why do you keep changing the subject? You are so desperate to make Robin look bad because she is suing the pants off you and rightfully so. Serves you right for scaring off those hopeful adoptive parents to be. And as for the -lystentis in and around Vaytsen they all think you are nuts too. I know about the lady who was helping those sick children who is so angry at you for stealing photos of the children and putting them on your website of charity blog...whatever happens to that blog anyway? Someone suing you for that too? If they aren't, the should. I hope Robin gets every last cent from you. You won't be needing that homeowners insurance after all because you will be bankrupt and homeless. Now that will put a big smile on my face.

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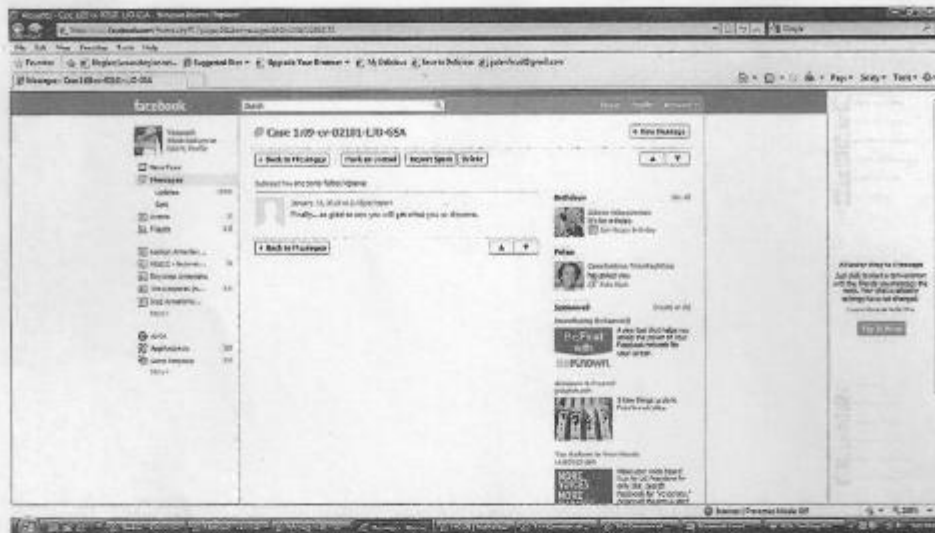


EXHIBIT “D”



David

Boy, 1 year old

Eastern Europe/Central Asia

David was born with an external bladder and hypospadias condition (see www.webmd.com). His bladder has been returned and doctors tell us he will need at least two more surgeries for his kidney function and reconstruction of his penis. David has lots of medical records and some social history, many photos and video. He is the brightest and cheeriest baby and everyone loves him for his good nature and funny ways. He is so much fun. He is very alert, emotional, nice and funny. He says "mama", "dada", "yes" and few other words. He grows great and already can stand in the play pen. Therapist said that not later than in 10 days he will start walking. He is dancing - see picture, and sings.

I have a grant of \$3500!

- Infants to 12 years of age
- 2 trips, 1 parent, 25 days total
- Excellent orphanage care
- Only Christian families (per country law)
- \$100k+ income requirement
- No more than 4 children at home

Hopscotch Adoptions, Inc.
Executive Director, Programs and Placement
robin@hopscotchadoptions.org

EXHIBIT “E”



ԱԶԱՏՈՒԹՅՈՒՆ ՈՒՐԻՈՒԿԱՅՈՒՆ
azatutyun.am

Տպել

☐ Հոդվածի մեկնաբանություններ (0)

Փոխել ստեղծի մեկնությունը.

19.09.2011

Government Plans Fresh Changes In Armenian Child Adoption Rules

Emil Danielyan

The Armenian government is planning to make fresh and potentially far-reaching changes in its rules and procedures for international adoptions of children from Armenia following an RFE/RL report suggesting that they may still be riddled with corruption.

Relevant proposals drawn up by Prime Minister Tigran Sarkisian's office aim to increase the transparency of the process and reduce the role of obscure local middlemen working for Western adoption agencies. They are also meant to make it easier for Armenian families to adopt or bring up orphans.

An April 2011 report by RFE/RL's Armenian service (Azatutyun.am) said that U.S. adoption agencies seem to continue to make thousands of dollars in informal payments to Armenian officials dealing with foreign adoptions. In particular, it cited a sample contract signed by one such agency, Hopscotch Adoptions, with Americans wishing to adopt Armenian and Georgian children.

The contract, offered to a potential client in the United States in 2007, explained that almost \$5,000 of more than \$30,000 charged by Hopscotch for every adoption would be spent on "gifts to foreign service providers and government functionaries performing ministerial tasks as an offer of thanks for prompt service." It claimed that such gifts are "customary" in Armenia and Georgia and do not violate U.S. law.

"Gifts and gratuities" were also a separate spending category in a sample agreement that was offered by another U.S. agency, Adopt Aboard, at least until last April.

Officials at the Armenian Ministry of Justice as well as anti-corruption campaigners in Yerevan agreed at the time that such payments amount to bribes and are therefore illegal in Armenia.

Government sources say Prime Minister Sarkisian took the report very seriously, instructing his senior staff to initiate a major revision of existing adoption rules. They were quick to come up with relevant proposals. Those were submitted in June, along with copies of the Hopscotch contract obtained by RFE/RL, to an inter-agency government commission on adoptions headed by Justice Minister Hrayr Tovmasian.

"The root cause of this problem is a lack of transparency, and we must do something about it," one senior government official told RFE/RL's Armenian service (Azatutyun.am).

Under the existing rules, the Armenian Ministry of Labor and Social Issues draws up and keeps a national registry of children available for domestic and foreign adoption. The list is supposed to be accessible to prospective adoptive parents.

But according to a department on social affairs at the prime minister's office, this has not been the case in reality as even government bodies have trouble accessing information about all children listed on the registry, officially called Manuk (Child) Database.

In a written statement to the government, the Ministry of Labor said that the database comprised a total of 171 children (135 them kept in orphanages) as of May 1, 2011. However, the head of a ministry division handling adoptions, Lala Ghazarian, spoke of only about 90 such orphans when she was interviewed by RFE/RL's Armenian service in April.

In its written proposals discussed by Tovmasian's commission this summer, the government department said that "in some cases" children's inclusion in the database has been a mere formality that legalized pre-arranged adoptions fraught with "corruption risks." It said this is especially true for healthy babies, the most in-demand category of orphans.

The department suggested that the entire database be posted on the ministry website and made available to anyone considering an adoption from Armenia. Tovmasian is said to have personally backed the idea, which also envisages the creation of a separate electronic database of adoption applicants. The latter would thus be put in direct online contact with relevant Armenian authorities in the initial stages of the adoption process.

Officials say this would narrow down the scope of shady activities of Armenian "facilitators" receiving lump sums from U.S. and other foreign agencies. Hopscotch paid them \$10,500 per child at least until 2007, while Adopt Abroad currently charges a "facilitators fee" of as much as \$19,000. Whether a part of this money is also spent on "gifts" is anybody's guess.

None of the Yerevan-based adoption brokers is known to be registered with tax authorities.

Another major proposal from Prime Minister Sarkisian's staff would increase from three to six months the minimum period of time, after an orphan's inclusion on the database, during which he or she cannot be eligible for international adoption. This requirement, meant to facilitate domestic adoptions, appears to have been violated in at least two cases in 2007.

In one such example, an American couple living near Washington, DC adopted a little Armenian girl through Hopscotch in May 2008. Sonia Vigilante, the adoptive mother, revealed on her blog that the girl was less than one month old when she and her husband were first shown her pictures and offered to adopt her in October 2007.

Vigilante reacted to the RFE/RL report with a litany of abusive e-mails sent to Ara Manoogian, an Armenian-American activist and blogger who privately interviewed her and several other U.S. adoptive parents and shared their experiences in Armenia with an RFE/RL correspondent. Using a fictitious identity, Manoogian posed as a childless man from Texas interested in adopting an Armenian child.

"The girl is mine mine, mine!!!" Vigilante wrote on May 31. "I win, Armenia loses. Hahahahaahahaha!!!" "I don't give a shit what the Armenian crooks think of me anymore," she said in a subsequent note.

Sarkisian aides want to curb foreign adoptions also by reinvigorating a 2004 government program that pays local families to host and raise the orphans until they come of age. The program has had only a limited success, with only 24 children currently placed with foster care providers.

The government launched the child fostering scheme as part of a broader toughening of adoption rules that followed another, June 2003 RFE/RL report that likewise exposed possible corrupt practices. The number of annual foreign adoptions has not changed significantly since then. According to the Ministry of Labor and Social Affairs, 61 Armenian children were adopted by foreigners in 2010.

The ministry informed Justice Minister Tovmasian's commission in July that it has started drafting amendments to Armenia's adoption-related laws and regulations. Those amendments have not been submitted to the commission yet.

Whether ministry officials, who have long played a key role in the controversial adoptions, will propose the kind of radical changes that are sought by Sarkisian aides remains to be seen.

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Drop in international adoptions sparks debate

By John Johnston, The Cincinnati Enquirer

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CINCINNATI – Eleven-year-old Morgan Romano's eyes lit up.

"I see 'em! I see 'em!" he exclaimed as his parents, Chris and Jenny Romano of Deerfield Township, appeared in a walkway at Cincinnati/Northern Kentucky International Airport. Atop Chris' shoulders was Tommy, a smiling 4-year-old boy they had just adopted from Ethiopia.

The Romanos, exhausted but exuberant after 18 hours on planes, soon were surrounded by their four biological children and more than a dozen family members and friends holding welcome signs and balloons. Somebody handed Tommy a small U.S. flag, which he waved enthusiastically.

"Welcome to America," Chris Romano said as he bounced the boy on his arm.

Scenes such as this one, which occurred April 1, are becoming less common as the international adoption landscape shifts dramatically; the number of such placements plummets, and advocates and critics line up on either side of the issue.

In the United States, the number of children adopted internationally has fallen 52 percent – from a high of 22,991 in 2004 to 11,058 last year. In comparison, 25,000-30,000 children were adopted through private agencies and about 50,000 were adopted through the foster care system in 2009, the most recent year for which those numbers are available.

Elizabeth Bartholet, a Harvard law professor and international adoption expert, said those numbers are "pretty stunning. I see it as a crisis for international adoption, which I think is a crisis for children worldwide."

But others say a needed transition is under way, and that international adoption should be the last resort for finding homes for unparented children. Loose regulations and the large sums of money changing hands have spawned corrupt practices, they say, and as abuses are exposed, many countries have shut down or severely limited inter-country adoption.

"Which is as it should be," said Julie Gilbert Rosicky, executive director of the American branch of the International Social Service, a nonprofit active in 140 countries. "We should

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not be adopting children when children are being bought and sold or being stolen."

Some 81 countries have ratified an international adoption protocol called the Hague Convention, aimed at protecting children and safeguarding both birth parents and adoptive parents. But of the top five countries from which Americans adopt, only China is a party to the convention.

Countries that have shut down their adoption programs because of fraud and corruption include Vietnam, Nepal and Guatemala, which a few years ago was one of the biggest sources of international adoption.

Ethiopia is now the No. 2 source country for children adopted by Americans (after China). In March, it announced a new policy, intended to decrease fraud, that could reduce the number of foreign adoptions by up to 90 percent.

"Some (country closures) just come out of the blue," said Thomas DiFilipo, president and CEO of the Joint Council on International Children's Services, a nonprofit that advocates for orphaned and vulnerable children.

Kurdistan, for example, had a system that was working well, he said. "They had a couple of allegations of paperwork corruption, and (three years ago) it just shut down, basically overnight."

Impoverished countries also feel other pressures to curtail international adoption.

"It's easy for those countries' leaders to think it will be popular politically to decry (international adoption) as a modern form of colonialism," Bartholet said. "And it's easy to think it will be popular to stand up to the United States."

And yet, "to close down a service to children is an inappropriate and damaging response," DiFilipo said. "It's abusive to the kids that are in the system (waiting) to be adopted, and it's abusive to the ones who could have found a family and never had the opportunity."

DiFilipo's organization advocates for laws, funding and aggressive prosecution aimed at halting corrupt adoption practices.

"No one is saying that international adoption is the only or even the primary solution. The solution is in-country," said DiFilipo, whose organization has promoted domestic adoption in Albania, Russia, China and Africa. "But until we get to that point, adoption internationally might be the most viable (alternative)."

Certainly there's no lack of people willing to adopt children from other countries, DiFilipo said. "We could be finding homes for tens of thousands of more kids each year."

UNICEF defines an orphan as a child who has lost one or more parents. It estimates there were 132 million such children in sub-Saharan Africa, Asia, Latin America and the Caribbean in 2005. Of those, 13 million had lost both parents.

"The next question is, do they have other family members?" said Rosicky. "That's the heart and soul of our practice here in the U.S. -- if someone doesn't have parents to take care of them, what about aunts, uncles, grandparents?"

"Inter-country adoption is not the first solution, it should be the last solution. Countries should come up with alternatives for permanency in their own countries first."

But she acknowledges that it will take years to build such systems of care and realign priorities. In some African cultures, for example, people are stigmatized when they take in a child from another community.

"The problem is, what do you do with all those kids in the transition, who are in orphanages now, and may or may not be (able to) reunify with their families," Rosicky said. "That's a terrible, terrible place to be. There are no easy answers."

Rosicky said that international adoption will continue to be in the best interest of some children. Meanwhile, for Americans seeking to adopt internationally, the ramifications of the changing landscape are profound.

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"I used to be, five to 10 years ago, that people looking at international adoption had some degree of certainty that at the end of the process they'd be bringing home a child. It was pretty predictable," said Charlie McCarthy, director of Amberley Village-based Adoption Connection, which does home studies.

"Now things have been changing so much, I don't think they have that level of certainty anymore."

Often, people who chose international adoption over domestic did so because of concerns about contact with the birth family. And some families preferred to go overseas because they could adopt healthy, younger children. But new adoption rules have changed the landscape.

"We're seeing a lot of kids that are older, who have either been in institutional care, or who have been victims of some kind of trauma or neglect or poverty in their country. So the situations we deal with once the kids come home are more complicated than they used to be," McCarthy said.

That trend magnifies the importance of local resources -- such as Cincinnati Children's Hospital Medical Center's International Adoption Center -- that can serve families as they deal with more complex adoptions.

For prospective adoptive families, one thing hasn't changed, DiFiippo said.

"It takes a commitment to a child, whether you know who that child is today, or you don't. The commitment is unbelievably important."

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