

1 PAUL Q. GOYETTE, SBN 137250
A Member of GOYETTE & ASSOCIATES, INC. Law Firm
2 11344 COLOMA ROAD #145
GOLD RIVER, CA 95670
3 Telephone: 916-851-1900
Facsimile: 916-851-1995

4 goyettep@goyette-assoc.com

5 ATTORNEYS FOR PLAINTIFFS
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8 **UNITED STATES DISTRICT COURT**
9 **EASTERN DISTRICT OF CALIFORNIA**
10 **(SACRAMENTO DIVISION)**

11 LISA BOE, FRANK BOE, AND Z. B., a
minor, represented by and through his
12 guardian ad litem, LISA BOE

13 Plaintiffs

14 v.

15 CHRISTIAN WORLD ADOPTION,
INC., A South Carolina Corporation,
16 CHRISTIAN WORLD FOUNDATION,
INC., a South Carolina Corporation,
17 CHRISTIAN WORLD ADOPTION,
INC. dba CHRISTIAN WORLD
18 ADOPTION, ETHIOPIA, TOMILEA
HARDING, individually, and in her
19 official capacity as CEO of CHRISTIAN
WORLD FOUNDATION, INC.,
20 TOMILEA HARDING, individually and
in her official capacity as CEO of
21 CHRISTIAN WORLD ADOPTION,
INC., ROBERT L. HARDING,
22 individually, and in his official capacity as
Officer of CHRISTIAN WORLD
23 FOUNDATION, INC., and ROBERT L.
HARDING, individually, and in his
24 official capacity as Officer of
CHRISTIAN WORLD ADOPTION,
25 INC., TRACY FROIDCOEUR,
individually, and in her official capacity
26 as Director of CHRISTIAN WORLD
ADOPTION, INC. dba CHRISTIAN
27 WORLD ADOPTION, ETHIOPIA and
DOES 1-50
28

CASE NO.

COMPLAINT

1. Wrongful Adoption
2. Breach of Contract
3. Breach of Covenant of Good Faith and Fair Dealing
4. Breach of Fiduciary Duty
5. Negligent Nondisclosure
6. Negligence
7. Negligent Misrepresentation
8. Fraud/Intentional Misrepresentation
9. Negligent Infliction of Emotional Distress
10. Intentional Infliction of Emotional Distress
11. Civil Conspiracy
12. Negligent Supervision of a Minor

DEMAND FOR JURY TRIAL

I.

JURISDICTION

1. Subject matter jurisdiction is proper pursuant to 28 U.S.C. § 1332. Plaintiffs are domiciled in Janesville, Lassen County, California.
2. Christian World Adoption, Inc., is a corporation organized and existing under the laws of the State of South Carolina and the laws of North Carolina with principal place of business in Charleston, South Carolina and Flat Rock North Carolina.
3. Christian World Foundation, Inc., is a corporation organized and existing under the laws of the State of South Carolina with principal place of business in Mount Pleasant, South Carolina.
4. Plaintiffs are informed and believe and on that basis allege that Christian World Adoption Ethiopia (“CWAE”) is an unincorporated division of Christian World Adoption, Inc. with its principal place of business in Charleston, South Carolina and Flat Rock, North Carolina.
5. Plaintiffs are informed and believe and on that basis allege that Robert L. Harding and Tommilea Harding, in their official capacities as CEO and Chief Financial Officer/Secretary/Treasurer, respectively, of Christian World Adoption, Inc. and Christian World Foundation, Inc. and as individuals are domiciled in South Carolina.
6. Plaintiffs are informed and believe and on that basis allege that Tracy Froidcoeur, in her official capacity as Director of CWAE, and as individual, is domiciled in North Carolina.
7. The amount in controversy exceeds the sum or value of \$75,000, exclusive of costs and interest.
8. Defendants, and each of them, have sufficient minimum contacts with the State of California to confer jurisdiction upon this Court such that the maintenance of this suit does not offend traditional notions of fair play and substantial justice.

1 9. Plaintiffs are ignorant of the true names and capacities of defendants sued herein
2 as DOES 1-10, inclusive, and therefore sues these defendants by fictitious names.
3 Plaintiffs will amend this Complaint to add their true names and capacities when
4 ascertained. Plaintiffs are informed and believe, and on that basis allege, that each
5 of these fictitiously names defendants is responsible in some manner for the acts or
6 omissions alleged in this Complaint and that Plaintiffs' injuries were proximately
7 caused by the acts or omissions of these defendants. Plaintiffs are unable to name
8 these defendants as documents relating to the adoption have not yet been obtained
9 from Ethiopia.

10 10. Plaintiffs are informed and believe and on that basis allege that, at all times herein
11 mentioned, each of the defendants was the agent and/or employee of each of the
12 remaining defendants and, in doing things hereinafter alleged, was acting in the
13 course and scope of such agency and/or employment.

14 **II.**

15 **VENUE**

16 11. Venue in this Court is proper pursuant to 28 U.S.C. §1391(b) in that this is the
17 judicial district in which a substantial part of the events or omissions giving rise to
18 the claim occurred.

19 **III.**

20 **FACTUAL BACKGROUND**

21 12. Plaintiffs Frank Boe and Lisa Boe are a married couple and have been since
22 October 7, 2000.

23 13. Plaintiffs Frank Boe and Lisa Boe are at all times relevant to this Complaint,
24 citizens of California, residing together in Lassen County, California.

25 14. Both Christian World Adoption, Inc. and Christian World Foundation, Inc. are
26 non-profit corporations with Christian World Adoption, Inc. acting as an adoption
27 agency with Christian World Adoption Ethiopia acting as an adoption agency
28

1 relating to adoptions from Ethiopia, whose director was at all times relevant to this
2 complaint Tracy Froidcoeur. Tommilea Harding was at all times relevant to this
3 complaint CEO of these organizations and Robert Harding was at all times
4 relevant to this complaint Secretary/Treasurer/CFO of these organizations.

5 Defendants, hereinafter, are collectively referred to as "CWA".

6 15. At all times relevant hereto, employees, contractors, and/or agents of CWA were
7 either acting individually or within the course and scope of their employment,
8 contract and/or agency with CWA.

9 16. CWA is bound by the actions and/or omission of its employees and agents and are
10 liable to the Boes for their damages through the application of the doctrine of
11 Respondeat Superior.

12 17. In 2006, Frank Boe became aware of CWA through the internet and Lisa and
13 Frank Boe contacted CWA to help them facilitate the adoption of a child from
14 Ethiopia.

15 18. CWA internet website expressly advertised CWA as an adoption agency that
16 worked in compliance with the laws of the United States, the Hague Convention,
17 and the Joint Council on International Children's Services (hereinafter, "JCICS").
18 JCICS requires agencies who adopt their standards to comply with their standards
19 as well as those for Intercountry Adoptions set forth under the Hague Convention.

20 19. The requirements for adoption agencies as enumerated at 42 U.S.C.A. § 14901 et.
21 seq. , JCICS and the Hague Convention include the directives that an adoption
22 agency in conforming to these standards must send medical records of the child to
23 be adopted, translated if necessary and at all possible, to the prospective adoptive
24 parents at least two weeks prior to any intercountry adoption taking place.

25 20. CWA is also required to comply with all laws related to adoption in the adoptive
26 parents' State of residence, including assuring that a homestudy is performed on
27 the prospective parents to ascertain whether the prospective permanent home of
28

1 the prospective child to be adopted is suitable for the type of child to be placed.

2 21. In Frank and Lisa Boes' initial communications with CWA, the Boes indicated
3 they wanted to adopt one to two boys from Ethiopia who were no older than six
4 years old and in generally good health, but they would consider a child that was
5 hearing impaired or had minor developmental delays.

6 22. On March 9, 2007, in the town of Janesville, Lassen County, California, an
7 agreement was entered into between Frank Boe, Lisa Boe, the Adoptive Parents,
8 and CWA by which CWA agreed to engage in services toward securing the
9 placement of a child in generally good health from the international community
10 including but not limited to contacting adoption sources in the foreign countries to
11 obtain information and data concerning available, eligible children, communicate
12 with the Adoptive Parent regarding available children, assist in the completion and
13 processing of the Adoptive Parent's documents to obtain necessary federal, state
14 and foreign pre-adoption approvals, take action as required by the Adoptive
15 parents' State of residence to complete the adoption process, and assist in the
16 coordination of attorneys, social workers, judges, orphanages and guides in the
17 adoptee's country of origin, in exchange for fees of over \$10,700 each child. A
18 true and correct copy of the agreement is attached as Exhibit "A" to this Complaint
19 (hereinafter, the "Contract").

20 23. The Contract indicated that CWA and its agents would use "best efforts" to
21 observe safeguards that exist for the protection of the rights of the birth parents
22 and to make a "reasonable attempt" to prevent a child with medical problems being
23 placed as a healthy child.

24 24. CWA further agreed to provide necessary information and documentation in a
25 timely manner and to act in a courteous, legal and responsible manner.

26 25. In addition to paying the aforementioned sums, the Boes agreed to undergo a home
27 study to assess whether the Boes' home was suitable for a healthy child.

28 26. The home study was completed on or about May 12, 2007 by which the Boes were

1 approved to adopt a child in general good health.

2 27. The Boes completed all of their obligations under the Contract.

3 28. During the adoption process, the Boes received pictures and some information
4 from CWA regarding various children including a child named Tegegne Bekele,
5 whom they eventually chose to adopt.

6 29. Thereafter, they were assured by CWA that medical records related to Tegegne
7 Bekele would be sent to them prior to the adoption being finalized.

8 30. They were further told by CWA that the adoption of their son would go through
9 many stages. The first step would be that he would be brought to an orphanage and
10 lawfully abandoned by the caregiver. He would then be brought from the
11 orphanage to the CWA transitional housing units set up by CWA to house children
12 who had been placed for adoption awaiting the hearing finalizing their adoption by
13 the family in the United States.

14 31. The Boes were told these transitional units were very well maintained, and that a
15 nurse was available at the site and a doctor visited these units regularly.

16 32. In addition, the Boes were told that their son already had "first medicals" and
17 would undergo "second medicals" upon his arrival in the transitional housing
18 units.

19 33. In addition, CWA represented to the Boes that papers stating that the Boes had
20 received and reviewed the medical records and history of their prospective child
21 would need to be approved by the Boes and brought before the court in Ethiopia
22 before the Ethiopian court would approve the adoption.

23 34. Prior to review of the medical records, the Boes were told that their adoption of
24 Tegegne Boe had been approved and finalized at a hearing by the Ethiopian court
25 on April 28, 2008.

26 35. Despite several requests by the Boes to CWA, the Boes never received medical
27 records prior to the adoption of Tegegne Bekele.

28 36. Lisa Boe traveled to Ethiopia in May 2008 and was introduced to her son. It was

1 immediately apparent to her that Tegegne Bekele, who they named Z.B.

2 (hereinafter, "Z.B.") was not healthy.

3 37. CWA wrongfully neglected Z.B. while he was housed in the CWA transitional
4 housing units by failing to give Z.B. proper medical care despite the fact that he
5 had regular seizures and incontinence as a result of serious medical conditions.

6 38. CWA further wrongfully mistreated Z.B. while in the CWA housing units when
7 they disciplined him for incontinence related to his medical conditions.

8 39. While Lisa Boe was in Ethiopia in May 2008, CWA intentionally misrepresented
9 to Lisa Boe that her son had been examined and was found to be of general good
10 health.

11 40. CWA further intentionally misrepresented to Lisa Boe that certain medical records
12 were those pertaining to Z.B., which were actually records relating to a different
13 child.

14 41. In addition, upon talking with doctors hired by CWA to examine Z.B. prior to his
15 adoption, Lisa Boe came across documents indicating doctors had communicated
16 to CWA concerns about Z.B.'s medical condition and had referred Z.B. to further
17 medical treatment.

18 42. Upon finding these documents, plaintiffs' allege upon information and belief, that
19 CWA altered these documents in order to conceal the findings of the CWA
20 physicians.

21 43. In addition, in order to facilitate the processing of the adoption in Ethiopia,
22 plaintiffs' allege upon information and belief that CWA intentionally and willfully
23 misrepresented material information concerning Z.B.'s medical conditions and the
24 Boes' knowledge thereof to the court of Ethiopia.

25 44. Upon arrival back in the United States, Z.B. was diagnosed with Cerebral Palsy
26 caused by the existence of a very large cyst within the left side of his brain.

27 45. Z.B. was also diagnosed with an abnormally small head or microencephaly.

28 46. His Cerebral Palsy and microencephaly caused developmental delay in his gross

1 motor skills, and caused his foot to turn inward as well as frequent seizures and
2 cognitive difficulties.

3 47. Z.B. was also diagnosed with intermittent strabismus and nystagmus in his right
4 eye and night urination.

5 48. Z.B.'s physicians in the United States confirmed that his medical symptoms,
6 including difficulty walking, talking, understanding, incontinence, and frequent
7 seizures, were present since birth such that his need for medical care would have
8 been obvious to those who were with Z.B. prior to his adoption.

9 49. As a result of the acts and/or omissions of CWA as set forth in this complaint, the
10 Boes have suffered injuries and will continue to suffer injuries, damages and losses
11 including but not limited to medical and psychological costs, costs related to
12 accommodation for Z.B.'s physical needs, costs related to lifestyle changes and
13 caregiver expenses, as well as costs related to special education for Z.B..

14 50. The Boes, and each of them, have further suffered severe emotional and mental
15 anguish as a result of CWA's fraudulent and negligent acts and omissions.

16 **FIRST CAUSE OF ACTION**

17 **(Wrongful Adoption Against All Defendants)**

18 51. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

19 52. The decree of adoption granted by the court in Ethiopia and affirmed under the
20 laws of the United States created a family relationship between Frank and Lisa
21 Boe and Z.B..

22 53. That relationship so created is a fundamental liberty interest that is held by this
23 society to be of the highest moral and legal importance.

24 54. As such, CWA, in facilitating the adoption process, had a fiduciary duty to Frank
25 and Lisa Boe as well as to Z.B. to maintain the highest levels of skill, prudence,
26 and diligence and act with integrity and honesty during every aspect of their
27 performance.

28 55. In addition, CWA held itself out to be compliant with all laws of both Ethiopia and

1 the United States, and voluntarily to have adopted even higher standards as
2 promulgated by JCICS and the Hague Convention.

3 56. CWA, in flagrant disregard of their fiduciary, statutory, and contractual duties,
4 gave false information, fraudulently concealed information, failed to communicate
5 material information, and acted in concert and/or allowed others to engage in
6 wrongful conduct throughout the adoption process.

7 57. CWA also failed to inform agencies and the court within Ethiopia and the United
8 States of Z.B.'s special medical needs as required by both countries.

9 58. Frank and Lisa Boe reasonably relied on CWA in facilitating the adoption process
10 to their detriment.

11 59. As a direct result of CWA's fraudulent and negligent acts and omissions, Frank
12 and Lisa Boe were materially misled about the medical condition of their child and
13 other aspects of the adoption process which deprived them of their right to make
14 sound parenting decisions to protect or advance their fundamental liberty interest
15 in establishing their family.

16 60. As a proximate causal connection of the wrongful conduct of CWA, plaintiffs and
17 each of them were injured in that Frank and Lisa Boe must provide 24 hour care to
18 Z.B. who will never be able to fully care for himself, and must provide for
19 medical, cognitive, psychological, physical, speech and other therapies in an
20 amount not contemplated at the time the adoption agreement was entered into.

21 61. Z.B. was also injured by said wrongful adoption in that he was referred to and
22 adopted by parents who were not prepared to take care of a disabled child, whose
23 home was not approved or prepared for a child with special needs.

24 62. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
25 and, therefore, justifies an award of punitive damages, compensatory damages, in
26 an amount to be determined at trial which is fair and just under the circumstances,
27 together with costs, expert fees, interest from the date of injury, and any other
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1 relief the Court deems just and proper.

2 **SECOND CAUSE OF ACTION**

3 **(Breach of Contract Against All Defendants)**

4 63. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

5 64. Frank and Lisa Boe and CWA entered into a Contract attached as Exhibit "A"
6 hereto.

7 65. Frank and Lisa Boe did all, or substantially all, of the significant things that the
8 Contract required them to do.

9 66. All conditions required by the Contract for CWA's performance had occurred.

10 67. CWA, without legal justification, failed to perform pursuant to the Contract in that
11 CWA failed to communicate material information related to the adoption process,
12 fraudulently misrepresented and withheld information related to the adoption
13 process and Z.B. as more fully set forth above, and fraudulently presented false
14 information to the courts and agencies involved in the adoption process in the
15 United States and Ethiopia in express contradiction of the terms set forth in the
16 Contract.

17 68. Frank and Lisa Boe were harmed by those failures.

18 69. As a third party beneficiary to said Contract, Z.B. was also harmed by CWA's
19 breach as more fully set forth above.

20 70. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
21 and, therefore, justifies an award of punitive damages, compensatory damages, and
22 an amount to be determined at trial which is fair and just under the circumstances,
23 together with costs, expert fees, interest from the date of injury, and any other
24 relief the Court deems just and proper.

25 **THIRD CAUSE OF ACTION**

26 **(Breach of Covenant of Good Faith and Fair Dealing Against All Defendants)**

27 71. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.
28

1 72. CWA owed as an implied covenant of the Contract herein, an obligation of good
2 faith and fair dealing.

3 73. CWA had a duty to perform the terms of the Contract in good faith, and CWA had
4 a concomitant duty to refrain from doing things that would deprive the Boes of the
5 reasonable and mutually anticipated benefits of those agreements.

6 74. CWA breached the implied covenant of good faith and fair dealing when it
7 fraudulently misrepresented information regarding Z.B., when it failed to remit
8 medical records related to Z.B. to the Boes in a timely manner prior to his
9 adoption, and when it failed to follow legal protocols established in Ethiopia and
10 the United States related to intercountry adoptions.

11 75. CWA's breach of the implied covenant of good faith and fair dealing caused the
12 Boes' damages in amounts to be proven at trial.

13 76. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
14 and, therefore, justifies an award of punitive damages, compensatory damages, and
15 an amount to be determined at trial which is fair and just under the circumstances,
16 together with costs, expert fees, interest from the date of injury, and any other
17 relief the Court deems just and proper.

18 **FOURTH CAUSE OF ACTION**

19 **(Breach of Fiduciary Duty Against All Defendants)**

20 77. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

21 78. A fiduciary relationship exists between CWA and the Boes because under the
22 circumstances trust and confidence reasonably may be and was reposed by the
23 Boes, as prospective adoptive parents, in the integrity and fidelity of CWA.

24 79. CWA has a fiduciary's duty to act in the highest good faith and undivided service
25 and loyalty.

26 80. As such, CWA has a duty to make full disclosure and communicate to Lisa and
27 Frank Boe, as well as those responsible for acting on behalf of the prospective
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1 adoptee child, all information that is material to the adoption process.

2 81. Under the circumstances of intercountry adoptions, the Boes reasonably relied
3 upon, trusted, and put their confidence in CWA who held itself out to be compliant
4 with all applicable laws as well as higher standards set forth under the Hague
5 Convention and JCICS.

6 82. CWA breached its fiduciary duties when it negligently and fraudulently concealed,
7 omitted, and falsified material information related to the adoption of Z.B., and
8 furthermore, acted against the interests of all plaintiffs.

9 83. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
10 and, therefore, justifies an award of punitive damages, compensatory damages, and
11 an amount to be determined at trial which is fair and just under the circumstances,
12 together with costs, expert fees, interest from the date of injury, and any other
13 relief the Court deems just and proper.

14 **FIFTH CAUSE OF ACTION**

15 **(Negligent Nondisclosure by a Fiduciary/Constructive Fraud)**

16 84. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

17 85. A fiduciary relationship existed between plaintiffs and CWA as more fully set
18 forth above.

19 86. CWA possessed information material to plaintiffs' interest as more fully set forth
20 above.

21 87. CWA knew or should have known that this information was material to plaintiffs'
22 interest.

23 88. CWA failed to disclose this material information to plaintiffs and others involved
24 in the adoption process.

25 89. This nondisclosure caused plaintiff to suffer injury, damage, and harm.

26 90. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
27 and, therefore, justifies an award of punitive damages, compensatory damages, and
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1 an amount to be determined at trial which is fair and just under the circumstances,
2 together with costs, expert fees, interest from the date of injury, and any other
3 relief the Court deems just and proper.

4 **SIXTH CAUSE OF ACTION**

5 **(Negligence Against All Defendants)**

6 91. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

7 92. CWA had a legal duty to conform to the laws and standards applicable to
8 intercountry adoptions established to protect the plaintiffs, and each of them.

9 93. CWA failed to meet these standards of conduct when they acted fraudulently,
10 failed to act in a timely fashion, and failed to follow laws and protocols established
11 to prevent harm to the plaintiffs.

12 94. CWA's failure was the proximate or legal cause of the resulting injuries.

13 95. Plaintiffs were damaged as more fully set forth above.

14 96. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
15 and, therefore, justifies an award of punitive damages, compensatory damages, and
16 an amount to be determined at trial which is fair and just under the circumstances,
17 together with costs, expert fees, interest from the date of injury, and any other
18 relief the Court deems just and proper.

19 **SEVENTH CAUSE OF ACTION**

20 **(Negligent Misrepresentation Against All Defendants)**

21 97. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

22 98. Plaintiffs were harmed because CWA negligently misrepresented important
23 material facts related to Z.B. and the adoption process.

24 99. CWA represented to Frank and Lisa Boe that important facts were true, namely
25 that they would receive medical records related to Z.B. prior to their adoption of
26 him, and that CWA was acting lawfully and in the interests of all the Boes
27 throughout its performance of the Contract.
28

1 100. CWA's representations were not true.

2 101. CWA had no reasonable grounds for believing the representations to be true when
3 CWA made them.

4 102. CWA intended that the Boes and those responsible for Z.B.'s best interests rely on
5 these representations;

6 103. Plaintiffs reasonably relied on CWA's representations.

7 104. Plaintiffs were harmed as a result of so relying.

8 105. Plaintiffs' reliance on CWA's representations were a substantial factor in causing
9 plaintiffs' harm.

10 106. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
11 and, therefore, justifies an award of punitive damages, compensatory damages, and
12 an amount to be determined at trial which is fair and just under the circumstances,
13 together with costs, expert fees, interest from the date of injury, and any other
14 relief the Court deems just and proper.

15 **EIGHTH CAUSE OF ACTION**

16 **(Fraud/Intentional Misrepresentation Against All Defendants)**

17 107. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

18 108. CWA made false representations of fact, failed to disclose material facts where
19 there was a duty to disclose such facts, and concealed material facts in
20 contradiction to both their contractual, fiduciary and legal duties.

21 109. The facts which were misrepresented falsely and/or intentionally concealed, were
22 material to the transaction at hand.

23 110. The facts made falsely and/or intentionally concealed, were made with knowledge
24 of their falsity, or with such utter disregard and recklessness as to whether they
25 were true or false that knowledge may be inferred.

26 111. These misrepresentations and concealments of material facts were made with the
27 intent of misleading plaintiffs and those responsible for the adoption process into
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1 relying upon them.

2 112. Plaintiffs did justifiably rely upon the representations and/or concealments.

3 113. The plaintiffs' justifiable reliance on said facts and/or concealments resulted in
4 injury proximately caused by the reliance.

5 114. In addition, the facts relied upon were known or accessible only to CWA, and
6 CWA knew they were not known to or reasonably discoverable by the plaintiffs.

7 115. CWA actively concealed material facts from the plaintiffs.

8 116. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
9 and, therefore, justifies an award of punitive damages, compensatory damages, and
10 an amount to be determined at trial which is fair and just under the circumstances,
11 together with costs, expert fees, interest from the date of injury, and any other
12 relief the Court deems just and proper.

13 **NINTH CAUSE OF ACTION**

14 **(Negligent Infliction of Emotional Distress Against All Defendants)**

15 117. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

16 118. CWA'S' conduct caused Plaintiffs, and each of them, to suffer serious emotional
17 distress.

18 119. CWA was negligent in actively concealing, giving false information, and acting
19 unlawfully as more fully set forth above.

20 120. Plaintiffs have suffered and continue to suffer serious emotional distress.

21 121. CWA's negligence was a substantial factor in causing Plaintiffs' serious emotional
22 distress.

23 122. Plaintiffs' distress includes but is not limited to feelings of suffering, anguish,
24 fright, nervousness, grief, anxiety, worry, and shock.

25 123. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
26 and, therefore, justifies an award of punitive damages, compensatory damages, and
27 an amount to be determined at trial which is fair and just under the circumstances,
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1 together with costs, expert fees, interest from the date of injury, and any other
2 relief the Court deems just and proper.

3
4 **TENTH CAUSE OF ACTION**

5 **(Intentional Infliction of Emotional Distress Against All Defendants)**

6 124. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

7 125. The conduct of CWA was outrageous as more fully set forth above.

8 126. The conduct of CWA caused plaintiffs to suffer severe emotional distress,
9 including but not limited to suffering, anguish, fright, horror, nervousness, grief,
10 anxiety, worry, shock, humiliation, and shame.

11 127. CWA intended to cause plaintiffs emotional distress.

12 128. The conduct of CWA was a substantial factor in causing plaintiffs' severe
13 emotional distress.

14 129. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
15 and, therefore, justifies an award of punitive damages, compensatory damages, and
16 an amount to be determined at trial which is fair and just under the circumstances,
17 together with costs, expert fees, interest from the date of injury, and any other
18 relief the Court deems just and proper.

19 **ELEVENTH CAUSE OF ACTION**

20 **(Civil Conspiracy against all Defendants)**

21 130. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

22 131. Plaintiffs were harmed by CWA's fraudulent conduct.

23 132. CWA was part of a conspiracy to commit an unlawful goal or accomplish the goal
24 through unlawful means when it hired and/or contracted with independent parties
25 and/or agents including but not limited to physicians, hospitals, and government
26 officials to effect the adoption of Z.B. through unlawful means.

27 133. CWA agreed to conspire with two or more persons or entities to commit these
28

1 wrongful acts.

2 134. Such agreements were made orally and/or in writing or are implied by the conduct
3 of the conspiring parties.

4 135. CWA was aware that other parties planned to conceal and/or fraudulently
5 misrepresent material facts regarding the subject adoption.

6 136. CWA agreed with the co-conspirators and intended that the fraudulent
7 misrepresentations be made and/or material information be concealed.

8 137. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
9 and, therefore, justifies an award of punitive damages, compensatory damages, and
10 an amount to be determined at trial which is fair and just under the circumstances,
11 together with costs, expert fees, interest from the date of injury, and any other
12 relief the Court deems just and proper.

13 **TWELFTH CAUSE OF ACTION**

14 **(Negligent Supervision of a Minor against all Defendants)**

15 138. Plaintiffs hereby incorporate by reference the preceding paragraphs herein.

16 139. During the time after Z.B. was adopted, and before Lisa Boe arrived in Ethiopia to
17 pick up her son, Z.B. resided in the transitional housing unit owned and operated
18 by CWA.

19 140. As such, CWA was responsible to take care of Z.B. as if they were his parents.

20 141. Although Z.B. experienced seizures, incontinence, inability to communicate or
21 understand fully, Z.B. was denied medicine or other medical attention that would
22 have been of help to him.

23 142. CWA had a duty as guardians to Z.B. to exercise ordinary care in the supervision,
24 protection and care of the minor child.

25 143. CWA failed to use ordinary care by failing to give medical aid and attention to
26 Z.B. who had obvious medical needs.

27 144. CWA's failure to use ordinary care caused injury to Z.B..
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1 145. Z.B. was injured by the lack of ordinary care administered during his stay in the
2 transitional housing.

3 146. CWA's conduct was negligent, intentional, malicious, fraudulent and oppressive
4 and, therefore, justifies an award of punitive damages, compensatory damages, and
5 an amount to be determined at trial which is fair and just under the circumstances,
6 together with costs, expert fees, interest from the date of injury, and any other
7 relief the Court deems just and proper.

8 **PRAYER FOR RELIEF**

9 Wherefore, plaintiffs pray for the following:

- 10 1. Judgment in plaintiffs' favor and against defendants.
11 2. For compensation in an amount according to proof at trial.
12 3. For punitive damages in an amount to be determined at trial.
13 4. For attorneys' fees pursuant to California Code of Civil Procedure, section
14 1021.5.
15 5. For costs of suit.
16 6. For such other and further relief as the Court deems just and proper.

17 **DEMAND FOR JURY TRIAL**

18 147. Plaintiffs hereby demand a jury trial pursuant to Fed.R.Civ.P. section 38.

19 DATED:

20 1.20.10

GOYETTE & ASSOCIATES, INC.
A Professional Law Corporation

21
22
23 By:



PAUL Q. GOYETTE

EXHIBIT 'A'



PURSUANT TO THE CODE OF SOUTH CAROLINA 15-48-10,
THIS AGREEMENT IS SUBJECT TO BINDING ARBITRATION

CHRISTIAN WORLD ADOPTION, INC.
A NON-PROFIT CORPORATION
AGENCY AGREEMENT

THIS AGENCY AGREEMENT, made this 9 day of March, 2007.

by Frank K Boe and Lisa A Boe
(adoptive parent) (adoptive parent)

of Janesville, California, (hereafter referred to collectively, if appropriate, as
(city & state)

"Adoptive Parent") and CHRISTIAN WORLD ADOPTION, INC., a non-profit corporation, of 111 Ashley Avenue, Charleston, SC 29401, (hereinafter referred to as "Adoption Agency").

WITNESSETH

WHEREAS, Adoptive Parent desires to engage the services of Adoption Agency toward securing placement of a child from the international community; and

WHEREAS, the parties desire to reach an understanding and to enter into an agreement as to the obligations and responsibilities of each party during the adoption process;

NOW, THEREFORE, in consideration of the mutual promises and covenants hereinafter set forth, the parties hereto agree as follows:

I. ADOPTIVE PARENT UNDERSTANDS AND ACKNOWLEDGES

- A. Eligibility of Adoptive Parent: Adoption Agency cannot guarantee placement of a child with Adoptive Parent. The Adoption Agency is bound by the laws and standards of the child's country, the United States, the State of South Carolina and the state of residence of the Adoptive Parent and the forwarding home study agency. If it is determined that Adoptive Parent does not meet eligibility requirements for adoption established under domestic or the relevant foreign law, Adoption Agency shall have no further obligation thereunder and shall be entitled to retain such portion of the fees specified herein as shall have been paid at the time such determination is made, as compensation for the services therefore rendered.
- B. Rights of Others: Best efforts also will be made to observe safeguards that exist for the protection of the rights of the birth parent(s).
- C. Matters Beyond Adoption Agency Control: Adoptive Parent is seeking to adopt a child in a society and culture that may be different in many ways from our own. Adoptive Parent acknowledges that there is much in the course of an international adoption which Adoptive Agency has no control, including but not limited to the availability of children in a particular country, political upheaval, dishonest officials, attorneys, facilitators, doctors and orphanage personnel in the country of origin, changes in the law or administrative requirements of the United States or the country of origin which may delay or even preclude the adoption, and delays in processing which frequently occur even without changes in the relevant law. Adoption Agency cannot guarantee the time or success of the adoption process, or that the child referred will be from a particular country.

- D. **Child's Future:** Adoption Agency cannot predict or guarantee an adoptive child's present or future intelligence, personality, allergies or other medical problems, learning disabilities, appearance inherited characteristics *social, psychiatric, or emotional disorders* or other problems which may arise in parenting a child. Medical records and general history for a child may be incomplete or inaccurate and Adoptive Parent is specifically encouraged not to rely on these documents. Reasonable attempt is made to prevent a child with medical problems from being placed as a healthy child; however, there are times when medical conditions are not or cannot be diagnosed in infants and small children, especially under circumstances where the most sophisticated medical practitioners and facilities are not available. There are occasions where misdiagnosis, inaccurate and/or incomplete information exist, or where misrepresentations are made by care givers or medical practitioners in the country or origin. It is the responsibility of the Adoptive Parent at his/her own expense to satisfy himself/herself of the child's physical and mental condition and of any other matter of interest to the Adoptive Parent. It is also possible that a child may become ill during the trip to the United States. These risks are assumed by the Adoptive Parent. Adoption Agency does not guarantee the health, behavior, mental condition or emotional stability of an adoptive child.
- E. **Anticipated Completion Time:** The time from referral, which generally occurs when all preliminary documentation is complete, until the child arrives in the United States depends upon the time needed for the legal procedures in the foreign country, and may be affected by other circumstances, but is usually between four and twelve months. Adoption Agency will attempt to provide more detailed information regarding completion time when the country of origin is determined; although, as stated above, no assurances can be provided in this regard. Adoption Agency does not guarantee the completion time for adoptions.
- F. **Release of Information:** Adoptive Parent specifically gives the right for the Adoption Agency to obtain and release confidential information to any Court, agency or authority, or any other entity or person who in the sole discretion of the Adoption Agency should receive said information in relation to the adoption process. Adoptive Parent agrees to indemnify and hold harmless the Adoption Agency for any harm, which may result from the release of any confidential information by the Adoption Agency or its entities or agents.

II. SERVICES OF ADOPTION AGENCY

The services of Adoption Agency may include and are specifically limited to the following:

- A. Contact with adoption sources in the foreign countries to obtain information and data concerning available, eligible children.
- B. Communication with Adoptive Parent regarding available, eligible children.
- C. Assisting with completion and processing of Adoptive Parent's documents to obtain necessary federal, state and foreign pre-adoption approvals.
- D. Take such action as required by the Adoptive Parent's State of residence to commence and complete the adoption process, including, if required, re-adoption within and under the laws of such state. Likewise, if the child's birth country requires the adoption be finalized in the United States, the Adoptive Parent will comply.
- E. Assisting with coordinating the efforts of attorneys, social workers, judges, orphanages and guides. In the sole discretion of the Adoption Agency, this may include travel to the birth country by Adoption Agency to locate children, obtain licensing and to attempt to resolve any difficulties, which may arise. Adoptive Parent understands that none of the above are agents, employees or in any other way connected with the Adoption Agency.



III. REQUIREMENTS OF ADOPTIVE PARENT

As a material element of this contract, the Adoptive Parent agrees to:

- A. Provide necessary information and documentation in a timely manner for purposes of the adoption process, as well as access for purposes of such home study investigation as is necessary or desirable.
- B. Travel to the foreign country to accept physical custody of the child or at such other times as may be necessary to complete any legal requirements for the foreign country.
- C. To act in a courteous, legal and responsible manner in other countries so as not to endanger future adoptions and others working there.
- D. Take such action as required by the Adoptive Parent's State of resident to commence and complete the adoption process, including, if required, re-adoption within and under the laws of such state. Likewise, if the child's birth country requires that the adoption be finalized in the United States, the Adoptive Parent will comply. The Adoptive Parent is responsible for arranging for and paying the costs and all related expenses of such process, as well as for securing the child's United States citizenship. Adoptive Parent agrees to furnish Adoption Agency with a copy of the final adoption decree within seven (7) days after the adoption is finalized.
- E. Provide the necessary post-adoption reports and information as required by foreign or local courts or agencies within six (6) months of the completed adoption.

IV. ADOPTION AGENCY FEES

Adoptive Parent will pay the Adoption Agency the fees hereinafter set forth for the services rendered by the Adoption Agency, subject to the conditions recited herein. *Payment of these fees are not contingent upon the completed adoption.*

- A. Basic Fee: Five Thousand Three Hundred Fifty and no/100 (\$5,350.00) Dollars (the "Basic Fee"), payable as follows:
 1. Application Fee: Three Hundred Fifty and no/100 (\$350.00) Dollars paid at the time of Adoptive Parent's registration with Adoption Agency. This is a non-refundable fee. The Application Fee will be waived for the Adoptive Parent who has previously completed an adoption through the Adoption Agency.
 2. Initial Processing Fee: Two Thousand Five Hundred and no/100 (\$2,500.00) Dollars paid when the Adoptive Parent submits Adoption Agency Agreement and before any work is done by the Adoption Agency. This is a non-refundable fee.
 3. Final Processing Fee: Two Thousand Five Hundred and no/100 (\$2,500.00) Dollars paid when the Adoption Parent submits completed documents to the Adoption Agency for final processing before submission to Foreign Government. This is a non-refundable fee.

If a particular referred child's adoption is not finalized for reasons *other than at the request of the Adoptive Parent or beyond the Adoption Agency's control*, the Adoption Agency will attempt to refer another child who satisfied the Adoptive Parent's criteria as soon as possible. The Basic Fee will be applied to a second referral. In such situations, the Adoption Agency *cannot* refund any fee paid to foreign attorneys, authorities or any other person.

- B. Applicable Translation and/or Program Fees: To be paid by Adoptive Parent to the Adoption Agency.
- C. Home Study Investigation Fee: To be paid by the Adoptive Parent to the Adoption Agency, if the Adoptive Parent lives in North Carolina or South Carolina and the Home Study is prepared by a representative of the Adoption Agency. Fee varies according to the Adoptive Country's requirements.
- D. Post Adoption Administration Fee: Five Hundred Fifty and no/100 (\$550.00) Dollars per Child adopted will be paid by the Adoptive Parent to the Adoption Agency for the processing and translation of Post Adoption Reports required by the Adoption Agency and the sending country.
- E. Post Adoption Report Fees: To be determined by the Certified Investigator and to be paid by the Adoptive Parent.
- F. Unrelated Child Fee: Additional Agency Fee of Two Thousand Five Hundred and no/100 (\$2,500.00) Dollars will be paid by the Adoptive Parent to the Adoption Agency if the Adoptive Parent chooses to adopt an additional child who is not a sibling (unrelated).
- G. Non-Resident Fee: One Thousand and no/100 (\$1,000.00) Dollars will be paid by the Adoptive Parent to the Adoption Agency if the Adoptive Parent's primary place of residence is outside of the United States during the adoption process. This is a non-refundable fee.

V. OTHER FEES AND EXPENSES

- A. Documentation and Legal Expenses: The Adoptive Parent will be responsible for the cost of obtaining the approval of the correct notary, county clerk, Secretary of State, U.S. Bureau of Citizenship and Immigration Services costs, as well as the cost of the child's passport, visa and citizenship, and any other documentation or procedures necessary to facilitate the adoption of the child, including all attorneys' fees, domestic and foreign. These payments shall be made by the Adoptive Parent to the domestic and international parties as due. These fees are non-refundable.
- B. International Expenses:
 - 1. International Fees vary with the child's country of origin and include such items as attorneys' fees, court costs, translator service fees, and legal processing fees. Once the country of origin is determined, the Adoption Agency will attempt to provide the Adoptive Parent with a reasonable estimate of what these fees are likely to be, although such amount cannot be guaranteed. The Adoptive Parent will pay the International Fees agreed upon, as directed by the Adoption Agency. Payment of when the International Fees are due can vary, and, are subject to the specific adoption program requirements. The International Fees must be paid by the Adoptive Parent as directed in the Adoption Agency's internet Adoption iPlanner specific to the country of origin. All International Fees will be due before the Adoptive Parent travels to the child's country or the child is escorted to the United States. Since these fees are passed on to other countries and parties, the Adoption Agency cannot refund nor has the ability to secure the refund of these fees.
 - 2. Travel to and from the child's country and the cost of the food and lodging while in the child's country will be paid by the Adoptive Parent. Any travel arrangements are to be scheduled by the Adoptive Parent and are not guaranteed by the Adoption Agency, although Adoption Agency will assist with such arrangements when possible. The time estimated in the foreign country is the minimum time for processing the necessary legal paperwork, and on occasion more time is required. Adoption Agency assumes no responsibility for delays, re-scheduling or lengthened stays in the foreign country.



- C. **Child's Expenses:** Custody of the child is given to the Adoptive Parent or the child's authorized escort in the foreign country. All food, clothing, medical needs and medical insurance will thereupon become the Adoptive Parent's responsibility to provide for the child during this time. If the Adoptive Parent decides to leave the child in foster care and return to the United States while the adoption process is finalized, the Adoptive Parent will continue to be responsible for these aforementioned items and expenses during his absence.
- D. **Miscellaneous Expenses:** Each adoption is unique and is impossible to predict all potential scenarios, therefore, it is possible that miscellaneous expenses will arise particular to a specific adoption, an example of which would be translation and/or program fees which will be required to be paid by the Adoptive Parent to the Adoption Agency.

VI. REJECTION OF CHILD

The Adoptive Parent has the right to reject the adoption of any child at any time prior to completion of the adoption process subject to the following provision:

- A. **Medical Problem:** In the event that a medical problem is discovered after the Adoptive Parent travels to the foreign country, the Adoptive Parent must immediately notify the Adoption Agency so that physicians mutually acceptable to both the Adoptive Parent and the Adoption Agency can determine the extent of the problem. If the physicians detect and identify a medical problem and the Adoptive Parent elects not to accept the child prior to receiving legal custody, the Adoption Agency may apply the Basic Fee paid by the Adoptive Parent (adjusted for travel and miscellaneous expenses incurred by the Adoption Agency) *to the adoption of another child*. If medical problems are discovered as stated above, the Adoption Agency cannot refund foreign fees as described in Section IV, item A above.
- B. **Other Reasons:** *Other than rejections for medical reasons as described above, rejection by an Adoptive Parent constitutes a forfeiture of all monies paid.*

VII. SUSPENSION OR CANCELLATION OF AGENCY AGREEMENT

Adoption Agency: Adoption Agency may cancel the Agency Agreement with the Adoptive Parent if the Adoptive Parent fails to carry out his duties as explained herein, such failure constitutes a material breach of this contract, or if it is found that the Adoptive Parent has provided false or misleading information to the Adoption Agency or governmental and adoption authorities in the United States or foreign country. Any monies paid by the Adoptive Parent to the Adoption Agency will be non-refundable.

VIII. HOLD HARMLESS

- A. Recognizing the risks and uncertainties attendant to the process of international adoption, referred to herein, the Adoptive Parent hereby agrees to and hereby does, release and agree to indemnify and hold harmless the Adoption Agency, its directors, officers, agents, advisors, and employees from and with respect to any claims, actions, suits, or damages of any nature whatsoever arising from or pertaining to the adoption process.

B. Arbitration: As further inducement, in consideration for this contract to provide adoption services, the parties hereto agree that it is part of this contract that all claims, disputes, in any controversy between the Adoption Agency and Adoptive Parent arising out of or relating in anyway to the parties, including but not limited to claims for equitable relief, claims based on contract, tort, statute, warranty, or alleged breach, default, negligence, fraud, misrepresentation or suppression of fraud, fact or inducement, will be resolved subject to binding arbitration by submitting the issues in question to the Christian Conciliation Services who shall apply the law of the State of South Carolina. Furthermore, the cost of the arbitration shall be borne by the losing party. Each party may be represented by an attorney and each party will bear the cost of their attorney representation.

IX. SEVERABILITY

If any of the terms or conditions of this agreement are found to be illegal or unconscionable by court of competent jurisdiction (to specifically include appropriate arbitrator), the remaining terms and conditions of this agreement shall stay in full force and effect.

X. ENTIRE UNDERSTANDING

This agreement contains the entire understanding between the Adoption Agency and the Adoptive Parents and supersedes all previous agreements regarding the relative responsibilities of the parties, whether oral or in writing. This agreement cannot be modified or terminated except in accordance with its terms by a writing signed by both parties.

IN WITNESS WHEREOF, the parties hereto set their hands and seals the day and year written beside the name of each.

<u><i>[Signature]</i></u> Adoptive Father Signature	<u><i>[Signature]</i></u> Witness	<u>3-9-07</u> Date
<u><i>[Signature]</i></u> Adoptive Mother Signature	<u><i>[Signature]</i></u> Witness	<u>3-9-07</u> Date
<u><i>[Signature]</i></u> President, Christian World Adoption	<u><i>[Signature]</i></u> Witness	<u>3-14-07</u> Date

Initials
[Handwritten initials]

**PROSPECTIVE ADOPTIVE PARENT AGREEMENT TO PROVIDE
POST ADOPTION INFORMATION AND REPORTS**

I/We, Frank & Lisa Bae (please print) hereby agree to provide Christian World Adoption, Inc. with all post-adoption information and reports due, according to the requirements of this organization and my adopted child's birth country.

I am/We are aware and compliant that post-adoption home visit(s) will be completed by a certified licensed investigator, if deemed necessary. I/We will also send the required number and copies of colored photos of my child in different settings.

I/We will also provide the copies of documents relevant to our child(ren)'s adoption. These copies include, but are not limited to: proof of abandonment, adoption decree, birth certificate from sending country, alien registration card, naturalization certificate, and an adoption report (when appropriate).

<u>[Signature]</u> Adoptive Father Signature	<u>[Signature]</u> Witness	<u>3-9-07</u> Date
<u>Lisa Bae</u> Adoptive Mother Signature	<u>[Signature]</u> Witness	<u>3-9-07</u> Date

[Signature]