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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

MASHA ALLEN, by her Parent and  
Guardian, FAITH ALLEN,  
  
Plaintiff,

v.

FAMILIES THRU INTERNATIONAL  
ADOPTION, INC.; et als.,  
  
Defendants,

and

FAMILIES THRU INTERNATIONAL  
ADOPTION, INC.,  
  
Third Party Plaintiff,

v.

ADAGIO HEALTH, INC. (formerly  
known as Family Health Council, Inc., and  
trading as "Family Adoption Center")  
  
Third Party Defendant.

Civil Action No.:  
08-4614 (JHR)(AMD)

**PLAINTIFF'S MOTION FOR  
LEAVE TO FILE AMENDED  
COMPLAINT**

Motion returnable:  
February 1, 2010

TO: ALL COUNSEL OF RECORD

YOU ARE HEREBY notified that on the 1st day of February, 2010, at  
9:00 a.m., or as soon thereafter as counsel may be heard, at the Mitchell H.

Cohen Building and United States Courthouse, 4<sup>th</sup> and Cooper Streets, Camden, New Jersey, 08101, Plaintiff Masha Allen, by her parent and guardian, Faith Allen, by and through counsel, shall move for leave to file an amended complaint.

In support of this Motion, Plaintiff will rely upon the attached Brief. Oral argument is not requested on this Motion.

You are hereby notified that if you do not respond to this Motion within the time allowed by the Federal Rules of Civil Procedure, relief may be granted in the form requested in the attached proposed Order.

Respectfully submitted,

/s/ Francis P. Maneri

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/s/ Darren Summerville

Darren Summerville  
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2170 Defoor Hills Road  
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Dated: December 31, 2009 *Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

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MASHA ALLEN, by her Parent and  
Guardian, FAITH ALLEN,  
  
Plaintiff,

Civil Action No.:  
08-4614 (JHR)(AMD)

v.

FAMILIES THRU INTERNATIONAL  
ADOPTION, INC., et als.,  
  
Defendants,

and

FAMILIES THRU INTERNATIONAL  
ADOPTION, INC.,  
  
Third-Party Plaintiff,

v.

ADAGIO HEALTH, INC. (formerly  
known as Family Health Council, Inc.,  
and trading as "Family Adoption Center",  
  
Third-Party Defendant.

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**PLAINTIFF’S BRIEF IN SUPPORT OF MOTION FOR LEAVE TO FILE  
AMENDED COMPLAINT**

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Of Counsel:  
Francis P. Maneri, Esquire  
Darren Summerville, Esquire

On the Brief:  
Darren Summerville, Esquire  
Thomas Vecchio, Esquire

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*Attorneys for Plaintiff*

## TABLE OF AUTHORITIES

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### **Federal Cases**

*Bjorgung v. Whitetail Resort, LP*, 550 F.3d 263, 266 (3d Cir. 2008)..... 1

*Foman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962)..... 1

### **Federal Rules**

Fed. R. Civ. P. 14(a)(3)..... 1

Fed. R. Civ. Pro. 15(a)(2)..... 1

Plaintiff Masha Allen seeks leave to file her Amended Complaint pursuant to Fed. R. Civ. P. 14(a)(3) and 15(a)(2). Succinctly, the Amended Complaint would bring new legal claims against all named party defendants, based upon long-known facts, as well as bring direct claims against Adagio Health, currently a third-party defendant. A copy of the Amended Complaint is attached as Exhibit A. See L. Civ. R. 7.1(f)

Under Rule 15, a court should “freely give leave” to amend a pleading “when justice so requires.” Fed. R. Civ. Pro. 15(a)(2), Here, Plaintiff’s additional, meritorious claims would be brought well within the statute of limitation (as Plaintiff is still a minor), as well as within an open discovery period, before motion practice has really commenced.

Trial courts typically grant leave to amend unless “the plaintiff’s delay in seeking to amend is undue, motivated by bad faith, or prejudicial to the opposing party.” *Bjorgung v. Whitetail Resort, LP*, 550 F.3d 263, 266 (3d Cir. 2008); see *Foman v. Davis*, 371 U.S. 178, 182, 83 S. Ct. 227, 9 L. Ed. 2d 222 (1962). (“Leave shall be freely given in the absence of undue delay, bad faith or dilatory motive on the part of the movant, repeated failure to cure deficiencies in previous amendments, undue prejudice or futility of the amendment.”).

None of those factors are present here. Plaintiff’s request to amend is within the Court’s own scheduling order, set down after numerous conferences with all

parties. Bad faith is simply not an issue, as the claims to be raised in the Amended Complaint are straightforward. Finally, no prejudice to any other party is likely. The existing named Defendants will likely be subject to the same discovery and other litigation burdens under an Amended Complaint scenario as would be the case otherwise. Additionally, third-party Defendant Adagio Health will face the same claims as have already been asserted by the named Defendants – that is, Masha Allen’s wrongful adoption is also Adagio’s fault.

Based upon the foregoing, Plaintiff respectfully asks this Court to grant her motion for leave to file an Amended Complaint to add additional counts against the named Defendants, and direct claims against the third-party Defendant.

Respectfully submitted,

/s/ Francis P. Maneri

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Dated: December 31, 2009 *Attorneys for Plaintiff*

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*Attorneys for Plaintiff*

**UNITED STATES DISTRICT COURT  
 FOR THE DISTRICT OF NEW JERSEY**

MASHA ALLEN, by her Parent and	:	
Guardian, FAITH ALLEN,	:	
	:	
Plaintiff,	:	Civil Action No.:
	:	08-4614 (JHR)(AMD)
	:	
v.	:	
	:	
FAMILIES THRU INTERNATIONAL	:	
ADOPTION, INC.; et al.,	:	
	:	
Defendants,	:	

**AMENDED COMPLAINT**

Plaintiff, Masha Allen, by and through her undersigned counsel,<sup>1</sup> by and through her undersigned counsel, hereby files this Amended Complaint and, in support thereof, avers as follows:

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<sup>1</sup> Faith Allen, the initial representative of minor Masha Allen, is no longer Masha’s adoptive parent or proper representative. Accordingly, counsel for Masha Allen file this pleading on her behalf, as a motion to substitute a proper representative is currently pending.

## **INTRODUCTORY STATEMENT**

Plaintiff filed the instant action on September 15, 2008, against Defendant Families Thru International Adoption, Inc. (“FTIA”), amongst others. This lawsuit is based on the Defendants’ negligent approval of an adoption that allowed Matthew Mancuso, a pedophile, to adopt Masha Allen, a minor. As a result, of that negligent oversight, Masha Allen endured relentless sexual, physical, and emotional abuse.

On January 13, 2009, Defendant FTIA filed a third-party claim against Adagio Health, Inc. (“Adagio”), seeking to hold Adagio responsible for negligent pre- and post-adoption services related to Masha Allen’s placement. This Amended Complaint adds Plaintiff Masha Allen’s direct claim against Third-Party Defendant Adagio Health, Inc.

The Amended Complaint also adds claims for negligence *per se* and punitive damages.

## **JURISDICTION AND VENUE**

1. Jurisdiction is conferred upon this Court by virtue of the parties’ diversity of citizenship pursuant to 28 U.S.C. § 1332.

2. The amount in controversy is in excess of Seventy-Five Thousand Dollars (\$75,000) exclusive of interest and costs.



3. Venue is properly placed in the District Court of New Jersey pursuant to 28 U.S.C. § 1391 because the defendants reside in the district or have conducted business in this district.

### **FACTS**

4. The minor plaintiff, Masha Allen, is a minor citizen of the Commonwealth of Pennsylvania, who resides in Pennsylvania with foster parents.

5. Defendant Families Thru International Adoption, Inc. (“FTIA”) is a state licensed child placement agency, organized and existing under the laws of Indiana, with offices located at 400 Bente Wes Court, Evansville, Indiana 47715.

6. At all times relevant hereto, FTIA acted through its agents, servants, and/or employees acting within the course and scope of their employment.

7. Defendant Child Promise, Inc. (formerly known as Reaching Out Thru International Adoption, Inc.) is a business entity organized and existing under the laws of the State of New Jersey, with offices located at 144 South White Horse Pike, Somerdale, New Jersey, 08083.

8. Child Promise, Inc. is the successor in interest and liability to Reaching Out Thru International Adoption, Inc.

9. Reaching Out Thru International Adoption, Inc. (“ROTIA”) is an international adoption agency, which may or may not have been licensed by the

State of New Jersey at various material times, with offices located at 144 South White Horse Pike, Somerdale, New Jersey, 08083.

10. At all times relevant hereto, ROTIA acted through its agents, servants and employees acting within the course and scope of their employment.

11. Defendant Jeannene Smith is an adult individual, founder/operator of Reaching Out Thru International Adoption, Inc. who resides at 312 South Lincoln Avenue, Cherry Hill, New Jersey 08002.

12. At all times relevant hereto, Jeannene Smith acted through her agents, servants and/or employees within the course and scope of their agency.

13. At all times relevant hereto, Jeannene Smith was the agent, servant and employee of FTIA and thereafter ROTIA and Child Promise, Inc. and acted in furtherance of the business of FTIA and ROTIA.

14. Adagio Health, Inc. (“Adagio”) is a Pennsylvania corporation that may be served with process in Allegheny County, Pennsylvania, through its registered office located at 960 Penn Avenue, Suite 500, Pittsburgh, PA 15222.

15. At all times relevant hereto, Adagio acted through its agents, servants and employees acting within the course and scope of their employment.

16. The minor Plaintiff was born in Russia on August 26, 1992. At the approximate age of three, the minor Plaintiff was placed by the Russian Government in an orphanage.

17. In or about July of 1996, Defendant Smith became an employee and/or agent of FTIA for the purpose of identifying potential clients for FTIA and for creating awareness of FTIA's adoption program in the New Jersey/Pennsylvania vicinity. Defendant Smith provided these services in and about the state of New Jersey.

18. In September of 1997, Matthew Mancuso, a single 39-year old divorced male, residing in New Kensington, PA, submitted an adoption application to FTIA by and through Defendant Smith.

19. In application papers submitted by Matthew Mancuso to FTIA, Mancuso indicated that he preferred to adopt a five-year-old female from Russia.

20. In or about September 1998, Mr. Mancuso submitted an application for a home family study to be performed by Adagio in conjunction with his attempt to adopt a young child from Russia.

21. In Pennsylvania and New Jersey, a home study report, required under 23 PA. C.S. § 2530 and N.J.S.A. § 9:3-54.2 respectively, is an evaluation of the fitness of a potential adopting parent(s) to provide a loving, stable home environment for an adopted child.

22. 23 PA. C.S. § 2530 provides in pertinent part:

No intermediary shall place a child in the physical care or custody of a prospective adoptive parent or parents unless a home study containing a favorable recommendation for placement of a child with the

perspective parent or parents has been completed within three years prior thereto . . .

23. N.J.S.A. §9:3-54-2 provides in pertinent part:

. . . [A] home study completed by an approved agency shall include a recommendation regarding the suitability of the home for the placement of the child . . .

24. A reasonable and objective review of the home study performed by Adagio reveals that not only had Mancuso not been in a stable and supportive relationship with another person, let alone a child, for years, but that the last personal relationship ended in divorce whereby he became estranged from his own biological daughter. Nonetheless, this man was specifically seeking the adoption of a 5-year old girl under the auspices that he could provide a stable family relationship and family environment for her.

25. Prior to issuing an approved home study, Adagio was required to comply with all statutes, standards, and regulations governing preparation of home studies.

26. In or about late November of 1997, Adagio issued a written home study for Mancuso, approving him for an adoption placement and specifically recommending the placement of a child from Russia, age five or six.

27. Adagio knew or should have known that other adoption agencies and child placement institutions would rely upon the approved home study issued by

Adagio for Mancuso, and that adoptees such as Plaintiff would be adopted into improper and/or unsafe homes.

28. Despite the red flags concerning Mancuso's request for adoption and the home study, FTIA and/or ROTIA failed to perform any investigation into Mr. Mancuso or the veracity of the information he supplied. At no time did FTIA investigate Mancuso's fitness to adopt a child or question the reasonableness of the information contained in the home study report.

29. On or about January 26, 1998, Mancuso sent FTIA a written letter as to why he wanted to adopt, as well as reference letters including one that he forged which was purportedly from his own daughter, Rachel Mancuso Byers. In Mr. Mancuso's letter, he writes:

“it became clear to me that I really need the day to day routine and family to make my life complete. I then began investigating the possibility of adopting.”

30. At no time did FTIA, Jeannene Smith, or subsequently ROTIA question Mancuso as to why he sought to create a family through the adoption of a 5-year old girl and not the customary means of dating, marriage and procreation. At no time did FTIA, Jeannene Smith, or subsequently ROTIA question the reasonableness of why a single man who had been divorced over 11 years with no evidence that he had engaged in a stable relationship with another person during that 11 year period, needed to create a family with a 5-year old girl.

31. Despite the red flags, FTIA, Jeannene Smith and subsequently ROTIA failed to investigate or otherwise determine the veracity of Mr. Mancuso's statement.

32. At no time did FTIA, ROTIA or Smith contact the Mancuso's birth daughter to determine the veracity of the forged reference letter.

33. Although FTIA was not the agency that ultimately placed the minor Plaintiff with Mancuso, FTIA facilitated the adoption process and at no time acted on the red flags evident in Mancuso's efforts to adopt a young girl.

34. In or about February 1998, Defendant Smith ceased her employment relationship with FTIA and formed the entity known as ROTIA.

35. Upon information and belief, ROTIA may not have been a properly incorporated and/or properly licensed business in the State of New Jersey for a period of time relevant to this matter.

36. In or about July 1998, ROTIA and Defendant Smith facilitated the adoption of Plaintiff from Russia by Mr. Mancuso.

37. On or about July 11, 1998, Mr. Mancuso returned to the United States from Russia with the Plaintiff.

38. Russian law required Mancuso to undergo four post-placement visits performed at six, twelve, twenty-four and thirty-six months. Reports generated by those visits were to be forwarded to the Russian government.

39. ROTIA and Smith never informed the Commonwealth of Pennsylvania that a child had been placed in the home of Mancuso.

40. Upon information and belief, ROTIA and Smith never informed Adagio that a child had been placed with Mancuso nor sought Adagio's assistance in performing post-placement evaluations of Mancuso.

41. ROTIA and Smith knew that Mancuso was not obtaining appropriate post placement evaluations but failed to investigate and take appropriate actions to have a proper post placement evaluation performed.

42. On or about March 23, 1999, ROTIA and Smith received a post placement evaluation of Mancuso and the minor Plaintiff from an entity called Social Services of Western Pennsylvania. Neither ROTIA nor Smith knew of an entity called Social Services of Western Pennsylvania and, in fact, no such entity existed and the evaluation was another forgery.

43. ROTIA and Smith failed to take appropriate and reasonable action to determine whether Social Services of Western Pennsylvania was a viable agency.

44. In November of 2000, ROTIA and Smith performed a post-placement evaluation by telephone with Mr. Mancuso despite the fact that post-placement evaluations are required to be performed in person.

45. Had ROTIA and Smith performed an in person post-placement evaluation of Mr. Mancuso, they would have determined that Mr. Mancuso did not

provide the Plaintiff with her own bedroom and required the Plaintiff to sleep with him.

46. Had Adagio not approved Mr. Mancuso for an adoption placement and specifically recommended the placement of a child from Russia, age five or six, the Plaintiff's adoption by Mancuso would not have occurred.

47. Had FTIA acted on the red flags evident in Mancuso's adoption application and home study, the Plaintiff's adoption by Mancuso would not have occurred.

48. Had ROTIA and Smith acted on the red flags evident in Mancuso's adoption application and home study and had properly performed post-placement evaluations, the Plaintiff's adoption by Mancuso would not have occurred and/or would have been terminated.

49. Over the period of approximately five years, Mr. Mancuso molested the Plaintiff and sexually abused her on a nightly basis. At times, Mr. Mancuso chained the Plaintiff in the basement.

50. To prevent the Plaintiff from maturing, Mancuso starved her and only provided her small rations of food, to prevent her maturing in a normal biological fashion.

51. Over a period of approximately five years, Mancuso took hundreds of sexually explicit photographs of the Plaintiff and posted them on the Internet.



Mancuso subjected the Plaintiff to extreme exploitation, sadomasochism, starvation and forced exhibitionism.

52. On May 23, 2003, Mr. Mancuso was arrested and charged with various counts of child abuse. The Plaintiff was then removed from his home and his custody.

### **COUNT I – NEGLIGENCE**

#### ***As to Defendant FTIA***

53. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1 through 52 as if fully set forth herein.

54. The negligence of FTIA consisted of the following:

- a. Failure to properly investigate Mancuso to determine his fitness to adopt;
- b. Failure to corroborate the information provided by Mancuso;
- c. Failure to check and corroborate references supplied by Mancuso;
- d. Failure to properly evaluate information contained in the home study;
- e. Failure to properly assess whether the home study report reflected that Mancuso had appropriate parenting skills;
- f. Failure to properly assess the home study report to determine the nature of the family life Mancuso would provide the Plaintiff;
- g. Failure to properly question and assess the import of Mancuso's request to adopt a five-year-old girl;

- h. Failure to properly question and assess Mancuso's inability to maintain a relationship with his biological daughter;
- i. Failure to properly question and assess the lack of any relationships in Mancuso's life since his divorce;
- j. Improperly facilitating an adoption by a pedophile;
- k. Failure to notify a state agency of Mancuso's adoption;
- l. Failure to investigate the lack of post placement evaluations;
- m. Failure to properly question the veracity of an alleged post-placement evaluation performed by Social Services of Western Pennsylvania;
- n. Failure to provide appropriate post-placement evaluations;
- o. Improperly conducting a post-placement evaluation by telephone;
- p. Facilitating an adoption without a proper license;
- q. Violating the laws and regulations of the State of New Jersey.

55. As a result of the defendant's negligence, the Plaintiff was adopted by a pedophile and suffered horrific physical harm and mental anguish. The Plaintiff will continue to suffer horrific mental anguish into the future.

56. As a result of the defendant's negligence, Plaintiff has in the past and will in the future suffer a loss of enjoyment of life and quality of life.

57. As a result of the defendant's negligence, Plaintiff has in the past and will in the future incur otherwise unnecessary medical expenses, treatment and costs.

58. As a result of defendant's negligence, the Plaintiff may suffer a loss in earning capacity.

**COUNT II – NEGLIGENCE**

***As to Defendant Child Promise, Inc.***

59. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1 through 58 as if fully set forth herein.

60. The negligence of Child Promise, Inc. consisted of the following:

- a. Failure to properly investigate Mancuso to determine his fitness to adopt;
- b. Failure to corroborate the information provided by Mancuso;
- c. Failure to check and corroborate references supplied by Mancuso;
- d. Failure to properly evaluate information contained in the home study;
- e. Failure to properly assess whether the home study report reflected that Mancuso had appropriate parenting skills;
- f. Failure to properly assess the home study report to determine the nature of the family life Mancuso would provide the Plaintiff;
- g. Failure to properly question and assess the import of Mancuso's request to adopt a five-year-old girl;
- h. Failure to properly question and assess Mancuso's inability to maintain a relationship with his biological daughter;
- i. Failure to properly question and assess the lack of any relationships in Mancuso's life since his divorce;
- j. Improperly facilitating an adoption by a pedophile;

- k. Failure to notify a state agency of Mancuso's adoption;
- l. Failure to investigate the lack of post placement evaluations;
- m. Failure to properly question the veracity of an alleged post-placement evaluation performed by Social Services of Western Pennsylvania;
- n. Failure to provide appropriate post-placement evaluations;
- o. Improperly conducting a post-placement evaluation by telephone;
- p. Facilitating an adoption without a proper license;
- q. Violating the laws and regulations of the State of New Jersey.

61. As a result of the defendant's negligence, the Plaintiff was adopted by a pedophile and suffered horrific physical harm and mental anguish. The Plaintiff will continue to suffer horrific mental anguish into the future.

62. As a result of the defendant's negligence, Plaintiff has in the past and will in the future suffer a loss of enjoyment of life and quality of life.

63. As a result of the defendant's negligence, Plaintiff has in the past and will in the future incur otherwise unnecessary medical expenses, treatment and costs.

64. As a result of defendant's negligence, the Plaintiff may suffer a loss in earning capacity.

**COUNT III – NEGLIGENCE**

***As to Defendant ROTIA***

65. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1 through 64 as if fully set forth herein.

66. The negligence of ROTIA consisted of the following:

- a. Failure to properly investigate Mancuso to determine his fitness to adopt;
- b. Failure to corroborate the information provided by Mancuso;
- c. Failure to check and corroborate references supplied by Mancuso;
- d. Failure to properly evaluate information contained in the home study;
- e. Failure to properly assess whether the home study report reflected that Mancuso had appropriate parenting skills;
- f. Failure to properly assess the home study report to determine the nature of the family life Mancuso would provide the Plaintiff;
- g. Failure to properly question and assess the import of Mancuso's request to adopt a five-year-old girl;
- h. Failure to properly question and assess Mancuso's inability to maintain a relationship with his biological daughter;
- i. Failure to properly question and assess the lack of any relationships in Mancuso's life since his divorce;
- j. Improperly facilitating an adoption by a pedophile;
- k. Failure to notify a state agency of Mancuso's adoption;
- l. Failure to investigate the lack of post placement evaluations;

- m. Failure to properly question the veracity of an alleged post-placement evaluation performed by Social Services of Western Pennsylvania;
- n. Failure to provide appropriate post-placement evaluations;
- o. Improperly conducting a post-placement evaluation by telephone;
- p. Facilitating an adoption without a proper license;
- q. Violating the laws and regulations of the State of New Jersey.

67. As a result of the defendant's negligence, the Plaintiff was adopted by a pedophile and suffered horrific physical harm and mental anguish. The Plaintiff will continue to suffer horrific mental anguish into the future.

68. As a result of the defendant's negligence, Plaintiff has in the past and will in the future suffer a loss of enjoyment of life and quality of life.

69. As a result of the defendant's negligence, Plaintiff has in the past and will in the future incur otherwise unnecessary medical expenses, treatment and costs.

70. As a result of defendant's negligence, the Plaintiff may suffer a loss in earning capacity.

#### **COUNT IV – NEGLIGENCE**

##### ***As to Defendant Smith***

71. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1 through 70 as if fully set forth herein.

72. The negligence of Smith consisted of the following:

- a. Failure to properly investigate Mancuso to determine his fitness to adopt;
- b. Failure to corroborate the information provided by Mancuso;
- c. Failure to check and corroborate references supplied by Mancuso;
- d. Failure to properly evaluate information contained in the home study;
- e. Failure to properly assess whether the home study report reflected that Mancuso had appropriate parenting skills;
- f. Failure to properly assess the home study report to determine the nature of the family life Mancuso would provide the Plaintiff;
- g. Failure to properly question and assess the import of Mancuso's request to adopt a five-year-old girl;
- h. Failure to properly question and assess Mancuso's inability to maintain a relationship with his biological daughter;
- i. Failure to properly question and assess the lack of any relationships in Mancuso's life since his divorce;
- j. Improperly facilitating an adoption by a pedophile;
- k. Failure to notify a state agency of Mancuso's adoption;
- l. Failure to investigate the lack of post placement evaluations;
- m. Failure to properly question the veracity of an alleged post-placement evaluation performed by Social Services of Western Pennsylvania;
- n. Failure to provide appropriate post-placement evaluations;
- o. Improperly conducting a post-placement evaluation by telephone;
- p. Facilitating an adoption without a proper license;

q. Violating the laws and regulations of the State of New Jersey.

73. As a result of the defendant's negligence, the Plaintiff was adopted by a pedophile and suffered horrific physical harm and mental anguish. The Plaintiff will continue to suffer horrific mental anguish into the future.

74. As a result of the defendant's negligence, Plaintiff has in the past and will in the future suffer a loss of enjoyment of life and quality of life.

75. As a result of the defendant's negligence, Plaintiff has in the past and will in the future incur otherwise unnecessary medical expenses, treatment and costs.

76. As a result of defendant's negligence, the Plaintiff may suffer a loss in earning capacity.

### **COUNT V – NEGLIGENCE**

#### ***As to Defendant Adagio***

77. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1 through 76 as if fully set forth herein.

78. The standard of care required Adagio, its agents and/or employees, to thoroughly investigate Matthew Mancuso's suitability as a parent, prior to issuing an approved home study for adoption.

79. Adagio was negligent in its investigation of Matthew Mancuso.



80. The standard of care required Adagio, its agents and/or employees, to accurately verify background information and references for Matthew Mancuso, prior to issuing an approved home study for adoption.

81. Adagio was negligent in failing to accurately verify background information and references for Matthew Mancuso, prior to issuing an approved home study for adoption.

82. The standard of care required Adagio, its agents and/or employees, to conduct post-placement adoption supervision as required by statute or regulation, having provided Mancuso with the home study prior to the adoption of Masha Allen in Russia.

83. Adagio, its agents and/or employees, was negligent in failing to conduct post-placement adoption supervision of Matthew Mancuso for Masha Allen.

84. As a direct and proximate result of Adagio's negligence, Masha Allen suffered significant injuries, including years of sexual abuse and exploitation.

**COUNT VI – NEGLIGENCE *PER SE***

***As to Defendants FTIA, Child Promise, ROTIA, and Smith***

85. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1 through 84 as if fully set forth herein.

86. 23 Pa.C.S. § 2530 prohibited any intermediary from placing a child in the physical care or custody of a prospective adoptive parent unless a home study containing a favorable recommendation had been completed.

87. Under the Pennsylvania Adoption Code, 23 Pa.C.S. § 2102, “intermediary” is defined as any person or agency acting between the parent and the proposed adoptive parent in arranging an adoption. Defendants FTIA, Child Promise, ROTIA, and Smith were each an intermediary within the meaning of the Pennsylvania Adoption Code, 23 Pa.C.S. § 2101, et seq.

88. 23 Pa.C.S. § 2530(b) required that the home study include a pre-placement report based upon an investigation of the home environment, family life, parenting skills, and mental health of Matthew Mancuso, as part of the required home study.

89. The pre-placement report and home study for Matthew Mancuso did not include an adequate investigation of his home environment, in violation of 23 Pa.C.S. § 2530.

90. The pre-placement report and home study for Matthew Mancuso did not include an adequate investigation of his family life, parenting skills, and mental health, in violation of 23 Pa.C.S. § 2530.

91. Defendants FTIA, Child Promise, ROTIA, and Smith did not obtain a complete home study and pre-placement report of Matthew Mancuso prior to placing Masha Allen with him.

92. Masha Allen is a member of the particular class of individuals that 23 Pa.C.S. § 2530 was designed to protect.

93. Defendants' violation of 23 Pa.C.S. § 2530 resulted in the very type of harm the statute was designed to protect against – an unsafe, unhealthy, and harmful home environment for an adopted child.

94. Defendants' violation of 23 Pa.C.S. § 2530 is negligence *per se*, or negligence as a matter of law.

95. As a direct and proximate result of Defendants' violation of 23 Pa.C.S. § 2530, Masha Allen suffered severe physical and sexual abuse, devastating emotional and mental trauma, and other injuries.

#### **COUNT VII – NEGLIGENCE *PER SE***

##### ***As to Defendant Adagio***

96. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1 through 95 as if fully set forth herein.

97. 23 Pa.C.S. § 2530 required that a suitable home study of Matthew Mancuso be completed prior to the placement of Masha Allen with him.

98. As part of the home study, 23 Pa.C.S. § 2530(b) required Defendant Adagio to prepare a pre-placement report based upon an investigation of the home environment, family life, parenting skills, and mental health of Matthew Mancuso, as part of the required home study.

99. Defendant Adagio did not adequately investigate the home environment of Matthew Mancuso as part of the pre-placement report and home study, in violation of 23 Pa.C.S. § 2530.

100. Defendant Adagio failed to adequately investigate the family life, parenting skills, and mental health of Matthew Mancuso as part of the pre-placement report and home study, in violation of 23 Pa.C.S. § 2530.

101. Masha Allen is a member of the particular class of individuals that 23 Pa.C.S. § 2530 was designed to protect.

102. Defendant Adagio's violation of 23 Pa.C.S. § 2530 resulted in the very type of harm the statute was designed to protect against – an unsafe, unhealthy, and harmful home environment for an adopted child.

103. Defendant Adagio's violation of 23 Pa.C.S. § 2530 is negligence *per se*, or negligence as a matter of law.

104. As a direct and proximate result of Defendant Adagio's violation of 23 Pa.C.S. § 2530, Masha Allen suffered severe physical and sexual abuse, devastating emotional and mental trauma, and other injuries.

**COUNT VI – PUNITIVE DAMAGES**

*As to All Defendants*

105. Plaintiff re-alleges and incorporates the allegations set forth in Paragraphs 1 through 104, as if fully set forth herein.

106. Defendants' actions described in this Amended Complaint constitute clear and convincing evidence of intentional, willful, wanton, or reckless conduct, thereby warranting an award of punitive damages in this case.

**WHEREFORE**, Plaintiff Masha Allen demands judgment against Defendants, jointly and severally, for compensatory damages, pre-judgment interest thereon, as well as punitive damages, and attorneys' fees and litigation costs, and for such other and further relief that the Court deems equitable and just under the circumstances.

Respectfully submitted,

/s/ Francis P. Maneri

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/s/ Darren Summerville

Darren Summerville  
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Dated: December 31, 2009

*Attorneys for Plaintiff*



**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

MASHA ALLEN, by her Parent and  
Guardian, FAITH ALLEN,

Plaintiff,

v.

FAMILIES THRU INTERNATIONAL  
ADOPTION, INC.; et als.,

Defendants,

and

FAMILIES THRU INTERNATIONAL  
ADOPTION, INC.,

Third Party Plaintiff,

v.

ADAGIO HEALTH, INC. (formerly  
known as Family Health Council, Inc., and  
trading as "Family Adoption Center")

Third Party Defendant.

Civil Action No.:  
08-4614 (JHR)(AMD)

**ORDER**

AND NOW, this \_\_\_\_\_ day of \_\_\_\_\_, 2010, upon consideration of the Plaintiff's Motion for Leave to File an Amended Complaint, and any response thereto, it is hereby **ORDERED** that the Motion is Granted. It is further ORDERED that the Amended Complaint attached to Plaintiff's Motion for Leave to File an Amended Complaint shall be docketed by the clerk of the court as Plaintiff's Amended Complaint.

BY THE COURT;

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**UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF NEW JERSEY**

MASHA ALLEN, by her Parent and  
Guardian, FAITH ALLEN,  
  
Plaintiff,

v.

FAMILIES THRU INTERNATIONAL  
ADOPTION, INC.; et als.,  
  
Defendants,

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ADOPTION, INC.,  
  
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ADAGIO HEALTH, INC. (formerly  
known as Family Health Council, Inc., and  
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Third Party Defendant.

Civil Action No.:  
08-4614 (JHR)(AMD)

**CERTIFICATE OF SERVICE**



I, Francis P. Maneri, attorney for plaintiff, hereby certify and state that a true and correct copy of the Plaintiff's Motion for Leave to File Amended Complaint was served ECF Electronic Filing and First Class Mail on the 31st day of December, 2009, upon the following:

Ms. Jeannene Smith  
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/s/ Francis P. Maneri  
\_\_\_\_\_  
Francis P. Maneri