

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

DREW ADAMS, a minor, by and through
his next friend and mother, ERICA
ADAMS KASPER,

Plaintiff,

v.

THE SCHOOL BOARD OF ST. JOHNS
COUNTY, FLORIDA,

Defendant.

Case No. 3:17-cv-00739-TJC-JBT

**PLAINTIFF’S MOTION *IN LIMINE* TO EXCLUDE EVIDENCE AND
ARGUMENT REGARDING THE PROPER MEDICAL TREATMENT FOR
GENDER DYSPHORIA, INCLUDING TESTIMONY AND EVIDENCE
RELATING TO DESISTANCE, CONVERSION/REPARATIVE THERAPY, AND
PUBERTY BLOCKERS, AND SUPPORTING MEMORANDUM OF LAW**

Pursuant to Federal Rules of Evidence 401, 402, and 403, Plaintiff, Drew Adams, a minor, by and through his next friend and mother, Erica Adams Kasper (“Plaintiff”), and by and through their undersigned counsel, respectfully moves through the instant Motion *in Limine* to preclude Defendant School Board of St. Johns County, Florida (“Defendant” or the “School Board”) from offering any evidence, argument, or opinion – including through the testimony and exhibits of its designated expert witnesses, Dr. Allan Josephson and Dr. Paul Hruz (collectively, “Defendant’s Experts”) – regarding the proper medical treatments for gender dysphoria. Specifically, Plaintiff moves to exclude any evidence, argument, or opinion regarding purported desistence or persistence rates among children with gender dysphoria; the

efficacy or propriety of standard treatment methods and protocols for gender dysphoria, such as puberty blockers and hormone therapy; conversion or reparative therapy (which controversially, and illegally in some states, endeavors to change a patient's gender identity to correspond to their sex assigned at birth); and informed consent by transgender patients regarding treatment methods and protocols. As explained below, such evidence, argument, or opinions should be excluded because: (1) these issues are irrelevant to the claims and defenses pled in this case and are therefore excludable under Federal Rules of Evidence ("Rule") 401 and 402; (2) the evidence and argument is prejudicial under Rule 403; and, (3) presentation of this information would be a waste of judicial resources as they are unhelpful under Rule 611.

While discussion of how Defendant's discriminatory policy impacts Plaintiff's gender dysphoria is clearly relevant, none of the above-referenced information has anything to do with that issue. On the contrary, by and large this information relates to a wholly different fact pattern. Here, there is no dispute that Drew is transgender, no dispute that he was diagnosed with gender dysphoria, and no dispute that he is well into his transition, including hormone therapy and top surgery. The testimony and opinions offered by Defendant's Experts relates to purported treatments (unsupported by the medical community by and large, and even illegal in some states) and theories that would be apply to non-transgender children. Since it is undisputed that Drew is a transgender boy who has transitioned, the opinions Defendant's Experts want to introduce simply have no application or relevance here.

Moreover, any discussion of the aforementioned issues should be excluded as prejudicial, a waste of time and resources. This is a case about unlawful discrimination based

on Plaintiff's transgender status and sex. Here, there is no dispute about Drew's transgender status and the propriety of his medical treatment is not at issue, this evidence must be excluded.

BACKGROUND

On June 28, 2017, Plaintiff filed a complaint alleging that the School Board's policy preventing him from using the bathroom which corresponds to his gender identity constitutes impermissible discrimination under the Equal Protection Clause of the Fourteenth Amendment based on sex and transgender status, and unlawful sex discrimination under Title IX of the Education Amendments of 1972, 20 U.S.C. §1681 *et seq.* ("Title IX"). Plaintiff's complaint asserts that Plaintiff is a boy, who is transgender, and who has been diagnosed with gender dysphoria. Plaintiff seeks a declaratory judgment that his exclusion from the boys' restroom by the School Board violates the Equal Protection Clause and Title IX, as well as injunctive relief enjoining the School Board from denying him equal access, as well as compensatory and non-economic garden variety damages.

As such, the issue in this case is narrow, limited solely to whether Defendant's policy prohibiting transgender students—in this case a transgender boy—from using the restroom consistent with their gender identity is discriminatory and violates Title IX and the Equal Protection Clause of the United States Constitution. There is no dispute that Drew is transgender and Defendant certainly has not and cannot introduce evidence to dispute this fact. Indeed, neither of Defendant's experts or other witnesses has disputed this fact. There is likewise no dispute that Drew has already taken steps to socially and medically transition.

Defendant has identified Dr. Allan Josephson as an expert witness and Dr. Paul Hruz as a rebuttal expert witness; Defendant has also indicated that it intends to call them at trial.¹ See Dkt. 100. Dr. Josephson is a psychiatrist who purports to be “an expert in the assessment and treatment of adolescents.” Josephson’s November 3, 2017 Report at para. 4. Dr. Hruz is an endocrinologist with purportedly “extensive experience in treating infants and children with disorders of sexual development.” Hruz’s November 3, 2017 Report at para. 5. Dr. Hruz, however, admits to having *zero experience* treating transgender patients for gender dysphoria. *Id.* at para. 8. And notably, neither Dr. Josephson nor Dr. Hruz have spoken to, treated, or evaluated Plaintiff. See Josephson Report; Hruz Report. See also Hruz Depo. Tr. 17:9-18:2; *id.* at 46:23-47:22; Josephson Depo. Tr. 9:24-10:7.² In fact, Dr. Josephson had not even reviewed Plaintiff’s medical records when he submitted his Report (Josephson Report, para. 9), and testified that he is not offering an opinion regarding the medical care received by Drew. Josephson Depo. Tr. 21:4-21:7. Neither of these experts question Drew’s status as transgender, or that he was diagnosed with gender dysphoria. Given their testimony, the expert testimony on points that have no relationship to the merits of this case is clearly designed to indirectly do what Defendant’s Experts cannot do directly, to wit: call into question Drew’s status as transgender and the treatment he has received. Ignoring for a minute that Defendant would

¹ Plaintiff intends to file *Daubert* motions to exclude the testimony of both Dr. Josephson and Dr. Hruz.

² The relevant excerpts of Dr. Hruz’s deposition transcript are attached hereto as “Exhibit A” and the relevant excerpts of a rough draft of Dr. Josephson’s deposition transcript are attached hereto as “Exhibit B.” Because Dr. Josephson was deposed just yesterday, November 28, 2017, Plaintiff only has access to a rough draft of the deposition transcript at this time, of which excerpts are included with this motion.

have no standing to do so in any event, since this is not a case about the efficacy of Drew's medical care, the reality is that Defendant cannot try and back door expert testimony on subjects that are irrelevant and prejudicial.

Instead of addressing issues relevant to this litigation, Dr. Josephson's Report is replete with inapposite and unhelpful, generalized "expert" opinions and unsupported assertions regarding: gender dysphoria in general and Dr. Josephson's apparent disagreement with the diagnostic features of the DSM-5 and medical standards of care; "the validity of a transgender diagnosis" (a blatant misnomer since being transgender is one's identity and not a diagnosis); Dr. Josephson's call for rejecting what he calls the "transgender proposition" and instead advocating for conversion or reparative therapy to "align[] gender identity with birth sex"; Dr. Josephson's questioning the efficacy of standard treatments for gender dysphoria, generally such puberty blockers, hormone therapy, and surgery; and purported desistence or persistence rates among children who suffer from gender dysphoria. *Id.* at para. 16, 24, 28, 30, 37. Notably, Dr. Josephson has testified that Drew is a transgender boy, that he was diagnosed with gender dysphoria and he has no basis to question Drew's medical treatment or whether Drew will persist. Josephson Depo. Tr. 21:4-21:7 ("Q. Yes. Thank you. Are you offering any opinions about the propriety of Drew's transition-related medical care he's received? A. No."); *id.* at 20:3-20:5 ("Q. Do you agree that Drew Adams was diagnosed with gender dysphoria by his medical providers? A. Yes"); *id.* at 18:16-18-18 ("Q. Okay. Do you have any reason to doubt that Drew identifies as male? A. No.").

Similarly, Dr. Hruz's Report fails to direct his report to the actual Plaintiff or issues relevant to this litigation. *See* Hruz Depo. Tr. 46:23-47:22. Instead, Dr. Hruz focuses on his

generalized opinions regarding: “Desistance (i.e. reversion to gender identity concordant with sex) . . . as a desired goal”; the medical “[t]reatment of gender dysphoric children who experience persistence symptoms”; activities that “encourage[] or perpetuate[] transgender persistence”; Dr. Hruz’s questioning the efficacy of standard treatments for gender dysphoria, generally such puberty blockers, hormone therapy, and surgery; purported desistance or persistence rates among children who suffer from gender dysphoria; and any discussion about “making informed consent” to medical treatments for gender dysphoria. Hruz Report at para. 28, 37, 39, 43, 46. As with Dr. Josephson, Dr. Hruz has not and cannot testify that any of his musings apply to this Plaintiff, or to any individual that is transgender. Rather, Defendant’s Experts focus on their generic view that before treating a gender dysphoric pre-pubescent child, a full exploration should be performed. Obviously, that is not the case for this Plaintiff, who is a post-pubescent 17-year-old boy who has been diagnosed with gender dysphoria and who has already undertaken medical treatment to address his gender dysphoria.³ Accordingly, the generalized views of Defendant’s Experts on transitioning and the treatments relating to the same simply have no application here.

Put simply, Plaintiff is transgender and has been diagnosed with gender dysphoria, and neither of Defendant’s purported experts disputes such facts. Hruz Depo. Tr. 16:10-16:14; *id.* at 23:4-23:8; *id.* at 25:24-26:5; Josephson Depo. Tr. 20:3-20:5; *id.* at 20:23-20:25; *id.* at 18:16-18-18. The tangential opinions of Dr. Josephson and Dr. Hruz – regarding, *inter alia*, the

³ Put another way, this is a case about whether Plaintiff was subjected to unlawful discrimination based on his transgender status and sex. ***This is not a case about the propriety of the medical treatment Plaintiff has received for his undisputed gender dysphoria diagnosis.***

persistence or desistence rates of gender dysphoria among children; the efficacy or propriety of standard treatments for gender dysphoria such as hormone therapy, conversion or reparative therapy, and issues of informed consent – go far afield from Plaintiff’s personal diagnosis and transgender status (which they have acknowledged they cannot dispute) and address issues that have no bearing on the ultimate outcome of Plaintiff’s Fourteenth Amendment or Title IX claims.

Moreover, the outlier opinions of Drs. Josephson and Hruz on general matters relating to the medical treatment of gender dysphoria or whether some children with gender dysphoria persist or desist (recognizing that there is a difference between being transgender and having a gender dysphoria diagnosis or engaging in exploration of one’s gender expression as a young child) are not relevant to the issues before the Court. Given the limited time available for this trial, it would be wasteful to have Defendant’s Experts to devote their testimony on irrelevant information that simply has no application to the present case. As detailed below, all evidence relating to these matters should be excluded.

ARGUMENT

The purpose of a motion *in limine* is “to exclude anticipated prejudicial evidence before the evidence is actually offered.” *Luce v. United States*, 469 U.S. 38, 40 n. 2 (1984). In doing so, it “narrow[s] the evidentiary issues for trial and . . . eliminate[s] unnecessary trial interruptions.” *Bradley v. Pittsburgh Board of Education*, 913 F. 2d 1064, 1069 (3d Cir. 1990). Here, any evidence, including the testimony by Defendant’s expert witnesses on the persistence or desistence of gender dysphoria among children; the efficacy of hormone treatments and puberty suppression regimens; and the concept of reparative or conversion

therapy, all fall outside the scope of pertinent issues in the present case. Granting this motion will therefore limit the evidentiary discussion at trial to the core of the case, which is whether Plaintiff has been subjected to unlawful discrimination under the Equal Protection Clause of the Fourteenth Amendment and Title IX.

All evidence must be relevant to be admissible. Evidence is relevant if it “has any tendency to make a fact more or less probable than it would be without the evidence,” and that fact “is of consequence in determining the action.” Fed. R. Evid. 401. In other words, “[t]he evidence must be probative of the proposition it is offered to prove, and the proposition must be one that is of consequence to the determination of the action.” *United States v. Troya*, 733 F. 3d 1125, 1131 (11th Cir. 2013) (quoting *United States v. Glasser*, 773 F. 2d 1553, 1559 n. 4 (11th Cir. 1985)). Evidence which is not relevant is inadmissible. Fed. R. Evid. 402. “[T]he party introducing evidence carries the burden of demonstrating the evidence’s relevance.” *Dowling v. United States*, 493 U.S. 342, 351 n. 3 (1990). Relevant evidence should nevertheless be excluded if its introduction will result in “unfair prejudice, confus[ion of] the issues, [or] misleading the jury.” Fed. R. Evid. 403.

Expert testimony is not automatically relevant or admissible. The testimony of a purported expert must both “rest on a reliable foundation and [be] relevant to the task at hand.” *Daubert v. Merrell Dow Pharmaceuticals, Inc.*, 509 U.S. 579, 597 (1993). In order to be relevant, the testimony must “assist the trier of fact, through the application of scientific, technical, or specialized expertise, to understand the evidence or determine a fact in issue.” *City of Tuscaloosa v. Harcross Chemicals, Inc.*, 158 F. 3d 548, 562 (11th Cir. 1998). Testimony which fails to provide such assistance does not meet the evidentiary standards of

the Federal Rules, and should be excluded. *Daubert*, 590 U.S. at 591; *see also* Plaintiff's forthcoming *Daubert* motions.

A. Any Evidence, Argument, or Opinion Regarding Rates of Desistence or Persistence of Gender Dysphoria Among Children Must Be Excluded.

In his report, Dr. Josephson opines that there are some children diagnosed with gender dysphoria who will not ultimately continue to suffer gender dysphoria “[a]t the end of adolescence,” which he refers to as “desistence.” Josephson Report, para. 30. Hruz makes a nearly identical claim in his own report. Hruz Report, para. 66. However, the persistence or desistence rates of gender dysphoria in children in general has no bearing on Plaintiff's specific gender dysphoria diagnosis, or whether Plaintiff is transgender. Even assuming *arguendo* that some children with gender dysphoria ultimately identify with a gender that matches their birth sex at the end of adolescence, that is not the case here. That is not Drew's situation and has no bearing on his diagnosis of gender dysphoria or his transgender status. Nor does it make the School Board's policy less discriminatory. It is undisputed that there are transgender children and adolescents, so what is the relevance of this testimony? This testimony will not aid the trier of fact in deciding the ultimate issue: whether the School Board has engaged in unconstitutional and unlawful discrimination against Plaintiff based on his sex and transgender status, a status that is not in question. The only plausible explanation is that Defendant wishes to cast doubt generally on the validity of a diagnosis of gender dysphoria, an issue not before this Court. Indeed, Plaintiff is a 17-year-old transgender boy; he is not a child who is unsure about his gender identity.

Because discussion about the persistence or desistance rates among children with gender dysphoria is not probative of any fact at issue in this case, any evidence or argument

relating to such persistence or desistance rates should be excluded under Federal Rules of Evidence 401, 402, and 403. As this testimony cannot be used to help determine a fact in issue, it must be excluded.

B. Any Evidence, Argument, or Opinion Regarding Efficacy of Conversion/Reparative Therapy Must Be Excluded.

Dr. Hruz asserts that “[d]esistence . . . provides the greatest lifelong benefit and is the outcome in the majority of cases and should be maintained as a desired goal.” Hruz Report, para. 68. Similarly, Dr. Josephson believes that it is important to encourage gender dysphoric children to embrace, rather than “avoid or deny” the “prospects, expectations, and roles they believe are attached to their given sex.” Josephson Report, para. 8-9. As an initial matter, these views are not supported by any major national or international medical association that speaks with authority on gender dysphoria treatment. *See King v. Governor of the State of New Jersey*, 767 F.3d 216, 221–22 (3d Cir. 2014) (noting the “reports, articles, resolutions, and position statements from reputable mental health organizations opposing” conversion/reparative therapy and that “[m]any of these sources emphasized that such efforts are ineffective and/or carry a significant risk of harm”); *Pickup v. Brown*, 740 F.3d 1208, 1223–24 (9th Cir. 2014) (noting “the well-documented, prevailing opinion of the medical and psychological community that [conversion/reparative therapy] has not been shown to be effective and that it creates a potential risk of serious harm to those who experience it” and noting the legislature reliance’s on position statements, articles, and reports published by the following organizations: the American Psychological Association, the American Psychiatric Association, the American School Counselor Association, the American Academy of Pediatrics, the American Medical Association, the National Association of Social Workers, the

American Counseling Association, the American Psychoanalytic Association, the American Academy of Child and Adolescent Psychiatry, and the Pan American Health Organization.”). Thus, their reliability under *Daubert* and Rule 702 is highly suspect. For this reason, Plaintiff will separately be filing a *Daubert* motion as to both of Defendant’s Experts.

However, even if the Court were to accept the opinions of Drs. Hruz and Josephson as true, their opinions have no bearing on the question of whether the School Board has discriminated against Plaintiff on the basis of *his* sex or transgender status. By presenting gender dysphoria and transgender identity as something which is generally “abnormal” and must be “fixed,” Defendant will only serve to prejudice the Court against Plaintiff by again casting doubt on his diagnosis and identity, two things that are not and cannot be disputed. Defendant’s Experts conceded that they are not offering opinions on either Drew’s transgender status or his diagnosis with gender dysphoria. Hruz Depo. Tr. 25:24-26:5; *id.* at 23:4-23:8; Josephson Depo. Tr. 20:15-20:25. The underlying causes or most effective treatments for gender dysphoria are not before this Court. It is not the role of the School Board to question their students’ medical diagnoses or argue that the prescribed treatment – including social transition and access to restrooms corresponding to one’s gender identity; indeed, even its own experts acknowledge they have no basis to do so. Rather, the focus here is whether Defendant’s policies run afoul of Title IX or the Equal Protection Clause. Even if Drs. Josephson and Hruz’s opinions were supported by the scientific community, *which they decidedly are not*, they would still have no bearing on the present case, and must be excluded.

C. Any Evidence, Argument, or Opinion Regarding Efficacy of Puberty Blockers and Hormonal Treatments Must Be Excluded.

Both Drs. Josephson and Hruz are of the opinion that puberty blockers and hormonal

treatments pose risks to patients, though they openly concede that their opinions regarding treatment for gender dysphoria are contrary to the applicable standards of care, clinical guidelines, and general medical consensus. Josephson Report, para. 36; Hruz Report, para. 37, 39, 41-44. Dr. Hruz has also never treated a single transgender patient. Hruz Report, para. 8. Their assertions regarding medical treatment for gender dysphoria, even if true (which they are not), have no bearing on the present case as Plaintiff has already been through years of psychological evaluation and treatment by multiple doctors in multiple states. The list of medical professionals treating Plaintiff does not include Drs. Josephson or Hruz. Neither of them has ever, by their own admission, treated or consulted with Plaintiff. *See* Hruz Depo. Tr. 17:9-18:2; *id.* at 46:23-47:22; Josephson Depo. Tr. 9:24-10:7; *id.* at 20:3-20:5; *id.* at 20:15-20:22.

The opinions of Dr. Josephson, Dr. Hruz, or Defendant regarding treatment for gender dysphoria generally, let alone for Plaintiff, are irrelevant as they have no basis on which to question Plaintiff's diagnosis or any treatments he has received. Put simply, this is not a case about the propriety of Plaintiff's medical treatment and Defendant cannot indirectly put his medical care at issue by offering their musings on what medical treatments are available or could have been offered.

D. Any Evidence, Argument, or Opinion Regarding Informed Consent by Patients Suffering Gender Dysphoria Must Be Excluded.

Dr. Hruz, in his work with disorders of sexual development, ascribes to the policy that “[d]ecisions on whether to surgically alter the external genitalia to align with sex are generally deferred until the patient is able to provide consent.” Hruz Report, para. 65. Putting aside the fact that gender dysphoria is not considered a disorder of sexual development, *see* Hruz Report,

para. 29, there is no evidence in this case that surgery has been carried out on Plaintiff without his informed consent. Plaintiff has not had any genital surgery, also known as “bottom surgery.” Plaintiff is 17 years old, late in his adolescent development, which is the time at which such surgeries are normally performed if someone is transitioning during adolescence. The implication that Plaintiff somehow could not give “informed consent” to his surgery is a suggestion which, much like suggestions regarding the risks of hormone therapy, are not borne out by the evidence in this particular case.

Moreover, Plaintiff’s medical hormonal treatment has been performed not only with his consent, but that of his parents. *See* Exhibit C – Informed Consent Form by Drew’s Parents. As such, notwithstanding the irrelevancy of this line of argument, there can be no question on whether Plaintiff’s medical treatment has been properly assented to through informed consent.

Defendant does not need to present or explain this “informed consent” theory to defend against Plaintiff’s allegations. As stated previously, the actions of Plaintiff’s doctors, or the effects of Plaintiff’s treatments, have no bearing on whether the School Board’s policy is discriminatory, or whether Plaintiff suffered harm as a result of the policy. The damage that Plaintiff suffers daily as a result of the School Board’s prohibition occurs no matter what the consent protocols for his surgeries happen to be. Thus, Dr. Hruz’s testimony on the standard practices of “informed consent” are utterly irrelevant to the issues at hand, and must be excluded.

CONCLUSION

WHEREFORE, based on the foregoing, Plaintiff respectfully requests that the Court grant the instant motion *in limine* in full and preclude Defendant from offering any evidence,

argument, or opinion regarding the proper medical treatment for gender dysphoria, as well as specifically exclude any evidence, argument, or opinion regarding purported desistence or persistence rates among children with gender dysphoria; the efficacy or propriety of standard treatment methods and protocols for gender dysphoria, such as puberty blockers and hormone therapy; conversion or reparative therapy; and informed consent by transgender patients regarding treatment methods and protocols.

CERTIFICATE OF CONFERENCE PURSUANT TO LOCAL RULE 3.01(g)

Pursuant to 3.01(g) of the Local Rules of the Middle District of Florida, the undersigned certifies that he has conferred with the attorneys representing Defendant regarding the relief requested in the motion. The parties were unable to reach a resolution and Defendant's counsel does not consent to the relief requested.

Dated this 29th of November, 2017.

Respectfully submitted,

/s/ Omar Gonzalez-Pagan

Omar Gonzalez-Pagan

(admitted pro hac vice)

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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2017, the foregoing motion was filed electronically using the Court's ECF system, which will provide electronic notice to all counsel of record, including:

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EXHIBIT A

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UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF FLORIDA

DREW ADAMS, a minor,)
)
Plaintiff,)
)
vs.) Civil Action
) No.3:17-cv-00739-TJC-JBT
THE SCHOOL BOARD OF ST.)
JOHNS COUNTY, FLORIDA,)
)
Defendant.)

VIDEOTAPED DEPOSITION OF PAUL W. HRUZ, M.D., Ph.D
Taken on behalf of Plaintiff
November 20, 2017
(Starting time of the deposition: 8:58 a.m.)

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I N D E X O F E X A M I N A T I O N

	Page
Questions by Mr. Gonzalez-Pagan	7
Questions by Mr. Kostelnik	286
Further Questions by Mr. Gonzalez-Pagan	292

INDEX OF EXHIBITS

EXHIBIT	DESCRIPTION	PAGE
For the Plaintiff:		
Exhibit 1	Subpoena	11
Exhibit 2	Expert Declaration	29
Exhibit 3	Growing Pains Article	29
Exhibit 4	Letter	68
Exhibit 5	Article	163
Exhibit 6	Article	231
Exhibit 7	Article	246
Exhibit 8	Article	249

(The original exhibits were retained by the court reporter, to be attached to Mr. Gonzalez-Pagan's transcript.)

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UNITED STATES DISTRICT COURT
FOR THE
MIDDLE DISTRICT OF FLORIDA

DREW ADAMS, a minor,)
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Plaintiff,)
)
vs.) Civil Action
) No.3:17-cv-00739-TJC-JBT
THE SCHOOL BOARD OF ST.)
JOHNS COUNTY, FLORIDA,)
)
Defendants.)

VIDEOTAPED DEPOSITION OF WITNESS, PAUL W.
HRUZ, M.D., Ph.D., produced, sworn, and examined on
the 20th day of November, 2017, between the hours of
nine o'clock in the forenoon and six o'clock in the
evening of that day, at the offices of Veritext Legal
Solutions, 515 Olive Street, Suite 300, St. Louis,
Missouri before BRENDA ORSBORN, a Certified Court
Reporter within and for the State of Missouri, in a
certain cause now pending in the United States
District Court for the Middle District of Florida,
wherein Drew Adams, a minor, is the Plaintiff and The
School Board of St. Johns County, Florida is the
Defendant.

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A P P E A R A N C E S

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The Videographer: Ms. Kimberlee Lauer

1 IT IS HEREBY STIPULATED AND AGREED, by and
2 between counsel for Plaintiffs and counsel for
3 Defendants that the VIDEOTAPED DEPOSITION OF PAUL W.
4 HRUZ, M.D., Ph.D., may be taken in shorthand by Brenda
5 Orsborn, a Certified Court Reporter, and afterwards
6 transcribed into typewriting; and the signature of the
7 witness is expressly not waived.

8 * * * * *

9 VIDEOGRAPHER: Good morning. We're going on
10 the record at 8:58 a.m. on Monday, November 20th,
11 2017. Please note that the microphones are sensitive
12 and may pick up whispering and private conversations
13 and cellular interference. Please turn off all cell
14 phones or place them away from the microphones as they
15 can interfere with the deposition audio. Audio and
16 video recording will continue to take place unless all
17 parties agree to go off the record.

18 This is Media Unit No. 1 of the video
19 recorded deposition of Dr. Paul Hruz, taken by counsel
20 for the Plaintiffs in the matter of Drew Adams versus
21 the School Board of St. Johns County, Florida, filed
22 in the United States District Court for the Middle
23 District of Florida. This deposition is being held at
24 Veritext Legal Solutions, located at 515 Olive Street
25 in St. Louis, Missouri.

1 My name is Kimberlee Lauer from Veritext,
2 and I'm the videographer. Our court reporter is
3 Brenda Orsborn, also from Veritext. I am not
4 authorized to administer an oath. I am not related to
5 any party in this action. Nor am I financially
6 interested in the outcome.

7 Counsel and all present in the room and
8 everyone attending remotely will now please state your
9 appearances and affiliations for the record, and if
10 there are any objections to proceeding, please state
11 them at the time of your appearance beginning, please,
12 with the noticing attorney.

13 MR. GONZALEZ-PAGAN: Thank you. Omar
14 Gonzalez-Pagan of Lambda Legal for the Plaintiff.

15 MS. RIVAUX: Good morning. Shani Rivaux
16 with Pillsbury Winthrop Shaw Pittman, on behalf of the
17 Plaintiff.

18 MR. KOSTELNIK: Good morning, Kevin
19 Kostelnik of Sniffen & Spellman on behalf of the
20 Defendant.

21 THE WITNESS: Paul Hruz --

22 MR. HARMON: And this is Terry Harmon on the
23 phone, as well, for the Defendant.

24 THE WITNESS: And Paul Hruz, pediatric
25 endocrinologist, witness for the defense.

1 DR. PAUL HRUZ,
2 of lawful age, being produced, sworn and examined on
3 behalf of the Plaintiff, deposes and says:

4 EXAMINATION

5 QUESTIONS BY MR. GONZALEZ-PAGAN:

6 Q. All right. Dr. Hruz, thank you for being
7 here today. I know you're a busy man. As you're
8 aware, I represent Drew Adams, the Plaintiff in this
9 litigation, and I'll be asking some questions about
10 your opinions in this case today. I just want to go
11 over some ground rules just to get started. First, do
12 you understand that you're under oath today?

13 A. Yes, I do.

14 Q. And that -- that this requires to testify
15 truthfully?

16 A. Yes, I do.

17 Q. We cannot be speaking at the same time. It
18 will be annoying to the court reporter. It will make
19 it difficult for you to hear me, me to hear you. So
20 please let me finish a question before you start
21 answering it, and I'll strive to do the same as well,
22 and let you finish answering before I go into another
23 question. Is that agreed?

24 A. Very good. Yes.

25 Q. If you don't understand something I ask,

1 and again --

2 Q. Okay. So knowing that those are the
3 general, is there anything else that you would like to
4 add to that?

5 A. Again, my opinions, and I -- I -- I prepared
6 my expert declaration based upon a consideration of
7 all of the information I had available to me, and I
8 tried to include everything that was pertinent in that
9 statement.

10 Q. Okay. So now that you've given us your
11 general opinions on this, are you offering an opinion
12 on whether Drew Adams is transgender?

13 A. I am not.

14 Q. Would you agree with me that there are
15 transgender people?

16 A. I would agree with that there are people
17 that fulfill the criteria of gender dysphoria as
18 delineated in the DSM-5.

19 Q. What do you understand transgender to mean?

20 A. Are you speaking of -- just to clarify, are
21 you speaking about gender dysphoria or the general
22 term of transgender --

23 Q. The term transgender.

24 A. Transgender are -- is the condition in which
25 individuals have an identity -- a sexual -- or an

1 identity, a gender identity, that does not correspond
2 with their sex.

3 Q. Okay. So now understanding that term, I ask
4 you, would you agree with me that there are
5 transgender people?

6 A. I would agree that there are individuals
7 that have a gender identity that does not match their
8 sex.

9 Q. Okay. Have you met with Drew Adams?

10 A. I have not.

11 Q. Did you request to meet with Drew Adams?

12 A. I did not.

13 Q. Did anyone tell you you could not meet with
14 Drew Adams?

15 A. No.

16 Q. Have you evaluated Drew Adams?

17 A. Clarify what you mean by "evaluate."

18 Q. As a doctor, you conduct evaluations of your
19 patients.

20 A. So I have not participated in the medical
21 care of Drew Adams.

22 Q. Okay. So you have not treated Drew Adams
23 either?

24 A. That is correct.

25 Q. And you haven't examined him, medically

1 examined Drew Adams either?

2 A. I have never met him.

3 Q. Did you ask for an independent medical
4 examination?

5 A. I did not.

6 Q. Have you ever met with either of Drew Adams'
7 parents?

8 A. I have not.

9 Q. Have you spoken with any of Drew Adams'
10 treating physicians?

11 A. I'm -- I'm just trying to see if -- if the
12 ones that were listed, if I've ever met them at a
13 meeting. I've never spoke with them directly related
14 to this case, no.

15 Q. So if you've spoken to any of the doctors,
16 okay, you have never spoken with them about Drew
17 Adams?

18 MR. KOSTELNIK: Form.

19 A. That is correct.

20 Q. (By Mr. Gonzalez-Pagan) Did anyone advise
21 you that you could not speak to Drew Adams' treating
22 physicians?

23 A. No.

24 Q. Do you believe that speaking with Drew
25 Adams' treating physicians would have enabled you to

1 A. I -- as I said earlier, he is a biological
2 female that identifies as a male. By that definition,
3 he would qualified as a transgender individual.

4 Q. Is Drew a transgender boy?

5 A. Again, you have to be very careful when you
6 make the designation. The -- the terminology that is
7 often used right now would classify him as a
8 transgendered male.

9 Q. If Drew told you he was a boy, would you
10 accept that?

11 MR. KOSTELNIK: Form.

12 A. It would depend on what he was asking in
13 terms of that, if he was asking about his gender
14 identity or his biology. If he was asking about
15 whether he was biologically male or female, I would
16 say that he's biologically female.

17 Q. (By Mr. Gonzalez-Pagan) And if he told you
18 that his gender identity was male?

19 A. I would take him at his word.

20 Q. If Drew told you he uses male pronouns,
21 would you use male pronouns?

22 A. My practice is to use as much respect as I
23 can and within the confines of scientific and
24 biological reality, I would not have [sic] not an
25 objection to be able to identify him as he wished.

1 A. Well, again, if you would -- yeah, that is
2 true for -- for the -- the patient -- somebody like
3 Drew Adams that was biologically normal. I have
4 certainly cared for hundreds of patients that have
5 disorders of sexual development. Many practitioners
6 will include those in that designation. I believe
7 that they are a completely different patient
8 population than Drew Adams.

9 Q. (By Mr. Gonzalez-Pagan) What is gender
10 dysphoria?

11 A. Gender dysphoria is the discomfort that one
12 experiences related to gender identity that does not
13 conform with one's biological sex.

14 Q. Is that the definition in the DSM?

15 A. Yes.

16 Q. It uses the word "discomfort"?

17 A. I'd have to go look back at the exact
18 wording of that. It's the difficulty that they
19 experience, psychological difficulty with that, yes.

20 Q. Okay. And based on your testimony, would
21 you agree that you have not treated any transgender
22 patients for gender dysphoria?

23 A. Yes, I would agree.

24 Q. Would you agree that Drew's treating
25 physicians have diagnosed him with gender dysphoria?

1 A. I would agree, yes.

2 Q. Would you agree that Drew Adams suffers from
3 gender dysphoria?

4 A. Based on the information presented to me, I
5 would accept that. I have nothing to dispute that.

6 Q. What do you understand gender-affirming
7 treatment to mean?

8 MR. KOSTELNIK: Form.

9 A. So gender-affirming treatment?

10 Q. (By Mr. Gonzalez-Pagan) Yes.

11 A. That is the treatment paradigm that rather
12 than challenging the discrepancy between biological
13 sex and gender identity, it is affirmed and validated
14 in the individual, his -- encouraged in that
15 transgendered identity.

16 Q. So I just want to clarify a little bit,
17 because you used different words there for what's
18 being -- you said not challenge, correct?

19 A. That is correct.

20 Q. You said that it's accepted, that they
21 accept the gender identity of the --

22 A. And -- and I would say even encourage.

23 Q. So that's where I was going.

24 A. Yes.

25 Q. So you think not challenging is the same as

1 not -- not proven.

2 Q. Do you have any basis to dispute the claim?

3 A. No.

4 Q. Having never met, evaluated, examined or
5 treated Drew Adams, can you offer an opinion regarding
6 Drew Adams specifically?

7 MR. KOSTELNIK: Form.

8 A. My opinions in this case are based upon a
9 review of the medical literature and in the condition
10 itself, and that is what I am offering to the court in
11 my serving as an expert witness.

12 Q. (By Mr. Gonzalez-Pagan) Okay. Can you point
13 me to where you have specific opinions with regards to
14 Drew Adams in your report?

15 A. I specifically cover the medical
16 information. I do have a paragraph in there where
17 I -- I go through the details of what the allegations
18 are, and --

19 Q. Is that Paragraph 12?

20 A. I -- yes, that is correct.

21 Q. Is that a description of the case details?

22 A. That is correct.

23 Q. Is there any opinion specific as to Drew
24 Adams in Paragraph 12?

25 A. No.

1 Q. Is there any opinion specific as to Drew
2 Adams anywhere else in the report?

3 A. No. My opinions are based on -- near the
4 end of my declaration, I specifically state the
5 concerns in a -- in a general sense of all patients
6 that are -- are faced with this particular condition.
7 And I think that that certainly is pertinent to Drew
8 Adams in addition to the many other individuals that
9 are suffering from this condition.

10 Q. Okay. But none of those opinions are
11 specific to Drew Adams?

12 A. They are applicable to all individuals that
13 present as Drew Adams does.

14 MR. GONZALEZ-PAGAN: Move to strike as
15 nonresponsive.

16 Q. (By Mr. Gonzalez-Pagan) Are they specific to
17 Drew Adams?

18 A. They include Drew Adams. They are not
19 limited to Drew Adams.

20 Q. Would you agree that those opinions are
21 general in nature and not specific to Drew Adams?

22 A. Yes.

23 Q. Having never met, evaluated, examined or
24 treated Drew Adams, can you make an assessment as to
25 whether Drew Adams suffers from gender dysphoria?

EXHIBIT B



KENTUCKIANA
— COURT REPORTERS —

NO. 3:17-CV-00739-TJC-JBT

DREW ADAMS, ET AL.

v.

THE SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA

DEPONENT:

ALLAN JOSEPHSON, M.D.

DATE:

November 28, 2017



✉ schedule@kentuckianareporters.com

☎ 877.808.5856 | 502.589.2273

1 UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF FLORIDA
3 JACKSONVILLE DIVISION
4 NO. 3:17-CV-00739-TJC-JBT

5
6 DREW ADAMS, ET AL.,
7 PLAINTIFFS

8
9 VS.

10
11 THE SCHOOL BOARD OF ST. JOHNS COUNTY, FLORIDA,
12 DEFENDANT

13
14 **ROUGH DRAFT**

15
16 DEPONENT: DR. ALLAN JOSEPHSON, M.D.

17 DATE: NOVEMBER 28, 2017

18 REPORTER: MEGAN BROWN
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Page 2

1 APPEARANCES

2

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21 ON BEHALF OF THE DEFENDANT, THE SCHOOL BOARD OF ST. JOHNS

22 COUNTY, FLORIDA:

23 KEVIN KOSTELNIK

24 TERRY HARMON

25 SNIFFEN & SPELLMAN, P.A.

Page 4

1 EXHIBITS

2

3 1 POWERPOINT

4 2 EXPERT DISCLOSURE

5 3 ARTICLE

6 4 POWERPOINT

7 5 ARTICLE

8 6 ARTICLE

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1 STIPULATION

2

3 The VIDEO deposition of DR. ALLAN JOSEPHSON taken at

4 KENTUCKIANA COURT REPORTERS, 730 WEST MAIN STREET,

5 SUITE 100, LOUISVILLE, KENTUCKY 40202 on TUESDAY, the

6 28TH day of NOVEMBER, 2017 at approximately 9:01 A.M.;

7 Said deposition was taken pursuant to the FEDERAL Rules

8 of Civil Procedure. It is agreed that MEGAN BROWN,

9 being a Notary Public and Court Reporter for the State

10 of Kentucky, may swear the witness.

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Page 6

1 PROCEEDINGS

2 VIDEOGRAPHER: Okay. We are now on record. My

3 name is Alex Glasnovic. I'm the video technician

4 today, and Megan Brown is the court reporter. Today

5 is the 28th day of November, 2017. The time is 9:01

6 a.m. We are at the offices of the Kentuckiana Court

7 Reporters located in Louisville Kentucky to take the

8 deposition of Allan Josephson, M.D. in the matter of

9 Drew Adams, et al. v. the School Board of St. Johns

10 County, Florida, pending in the United States

11 District Court for the Middle District of Florida,

12 Jacksonville Division, Number 3:17-CV-00739-TJC-JBT.

13 Will Counsel please identify themselves for the

14 record?

15 MS. NARDECCHIA: Good morning. Natalie

16 Nardecchia for the plaintiff.

17 MR. KOSTELNIK: Good morning. Kevin Kostelnik

18 for the defendant.

19 MS. ALTMAN: Jennifer Altman from Pillsbury

20 Winthrop Shaw Pittman for the plaintiff.

21 MR. PINGERRA: Anthony Pingerra for the

22 plaintiff.

23 VIDEOGRAPHER: Thank you. Dr. Josephson, will

24 you please raise your right hand to be sworn in by

25 the reporter?

Page 7

1 COURT REPORTER: Do you solemnly swear or

2 affirm that the testimony you're about to give will

3 be the truth, the whole truth and nothing but the

4 truth?

5 THE WITNESS: I do.

6 COURT REPORTER: Thank you.

7 MR. KOSTELNIK: Natalie, are you okay with just

8 saying "form" for any objections rather than "object

9 to form"?

10 MS. NARDECCHIA: Sure.

11 MR. KOSTELNIK: Just to speed things up.

12 MS. NARDECCHIA: That's fine.

13 MR. KOSTELNIK: Okay.

14 DIRECT EXAMINATION

15 BY MS. NARDECCHIA:

16 Q Okay. Good morning, Dr. Josephson. Could you

17 please state and spell your full name for the record?

18 A Allan Mark Josephson. A-L-L-A-N, M-A-R-K, J-

19 O-S-E-P-H-S-O-N.

20 Q Now, the oath that you've just taken is the

21 same that you would take as if you were in the court of

22 law. Do you understand that you're testifying under

23 penalty of perjury?

24 A Yes.

25 Q Okay. You've had your deposition taken

Page 8

1 before, correct?

2 A Yes.

3 Q How many times?

4 A Oh, boy. Maybe ten. Testing my memory. I'm

5 just estimating ten.

6 Q Okay. So I'll just be quick then in going

7 over the deposition ground rules. So everything that's

8 being said in the room today is being transcribed by the

9 court reporter. So please speak clearly, audibly so

10 that she can take down everything that's being said.

11 Please give a verbal response such as "yes" instead of

12 "uh-huh" or nodding. And please also wait for me to

13 finish asking my question even though you may know what

14 I'm going to ask. And sometimes I take a minute to

15 finish my question. Just let me finish before you

16 respond and I will wait for you to answer before I ask

17 you another question, okay?

18 A (NO VERBAL RESPONSE.)

19 Q Yes?

20 A Yes.

21 Q Okay. I will take it that you understand my

22 question if you respond to it. So if you don't

23 understand my question let me know.

24 A Okay.

25 Q Okay. And if I've asked you a question I'd

Page 9

1 prefer that you answer my question before you take a

2 break if you need to take one, okay?

3 A Okay.

4 Q Is there any reason, either your own physical

5 health or any medications you may be under, that would

6 prevent you from giving your best testimony today?

7 A No.

8 Q Okay. Can you please start off by telling me

9 all the opinions you intend to offer in this case?

10 A That's a broad question. Could you focus that

11 a little more? I mean?

12 Q Not really.

13 A Well, I'm here to provide information related

14 to the diagnosis of gender dysphoria, how it might

15 develop, how I as a physician and psychiatrist go about

16 identifying these problems, helping youth and their

17 families with these problems. And that would be the

18 main thing. The nature of the condition and how it's

19 treated and how that information might be relevant to

20 the attorneys working on this case.

21 Q Okay. You mentioned the nature of the

22 condition. Which condition are you referring to?

23 A Gender dysphoria.

24 Q Have you ever spoken to the Plaintiff in this

25 case, Drew Adams?

1 A I have not.

2 Q You never examined him?

3 A I have not examined him.

4 Q You've never evaluated him?

5 A No.

6 Q Never treated him?

7 A No.

8 Q Have you asked for an independent medical exam
9 of Drew Adams?

10 A No.

11 Q Do you believe that speaking to Drew Adams
12 would have enabled you to provide more accurate opinions
13 in this case?

14 A The information that I've had has been very
15 useful and helpful. Speaking to a patient always
16 clarifies things. But I'm more than able to offer an
17 opinion on this case.

18 Q Did you request of counsel for the school
19 board to interview or meet with Drew?

20 A No.

21 Q Okay. Did anyone tell you you could not meet
22 or evaluate Drew Adams?

23 A No.

24 Q And --

25 A It's my understanding if, you know, I don't

1 have a license in the state of Florida and that
2 precludes doing any clinical practice in the state of
3 Florida. If someone was going to fly him up here that
4 would have been a different issue. But it never came
5 up.

6 Q So your understanding is that since you don't
7 have a license in Florida you're precluded from doing
8 what in the state of Florida?

9 A Practicing medicine in any way. In other
10 words, treating a patient, assessing a patient, that
11 kind of thing.

12 Q What precludes you?

13 A Usually state law.

14 Q Which law?

15 A Laws that have to do with practicing medicine.
16 I don't have a license to practice medicine in Florida.

17 Q You could have spoken to Drew Adams, though,
18 right?

19 A Well, it would have been an interesting
20 question. I suppose I could have but what would the
21 nature of that been would be the question. I, as a
22 psychiatrist, why would I speak to him unless it was in
23 a doctor-patient relationship. I'm not an attorney. Put
24 it that way.

25 Q What date did you submit your -- well, let me

1 strike that. You submitted your expert report in this
2 case on October 2, 2017; is that right?

3 MR. KOSTELNIK: Form.

4 A That's correct.

5 Q All right. And when you submitted your expert
6 report had you reviewed any of Drew's medical records?

7 A Yes, I had seen some of them at that point.

8 Q Are you sure?

9 A I'm trying to think. October 2nd. I may not
10 have. I may not have. That report was quite general in
11 nature regarding gender dysphoria and I had seen records
12 on the case about the school district's policies and so
13 forth. But I don't think at that point I had seen his
14 medical records.

15 Q Did you speak with any of Drew's treating
16 physicians at any point?

17 A No.

18 Q Did anyone advise you you could not speak to
19 his treating physicians?

20 A No.

21 Q Do you believe speaking to his treating
22 physicians would have enabled you to provide more
23 accurate opinions in this case?

24 A Perhaps. The materials that I saw and that
25 I've seen subsequently, I've seen the patient himself on

1 self-produced videos and so forth. So I've got a lot of
2 information. If you talk with a physician who treated
3 him it might have given more information.

4 Q Which videos have you seen of Drew Adams?

5 A Four or five of them that he produced. I
6 think he was talking about various aspects of his gender
7 dysphoria, his activism, these types of things.

8 Q Okay. But you hadn't seen those videos prior
9 to submitting your report in this case?

10 A No.

11 Q Have you ever spoken to Drew's mother?

12 A No.

13 Q His father?

14 A No.

15 Q Have you ever evaluated them?

16 A No.

17 Q Do you know if Drew has any siblings?

18 A I believe he does. But I'd have to check
19 that. I'm not sure.

20 Q You can't say for the record as you sit here
21 today if he has a brother or sister or how many?

22 A Not with certainty, no.

23 Q Are you offering an opinion in this case on
24 whether Drew Adams is transgender?

25 A No.

Page 14

1 Q Would you agree with me that Drew Adams is a
 2 boy?
 3 A Depends on how you define boy.
 4 Q Is there any definition of boy that you would
 5 agree -- sorry -- that you would agree Drew Adams is?
 6 MR. KOSTELNIK: Form.
 7 A Drew Adams is a genetic born natal female. At
 8 this point in his life he believes he is male.
 9 Q And his doctors also say that he is male,
 10 correct?
 11 MR. KOSTELNIK: Form.
 12 A Well, he's had a number of different doctors.
 13 I think some have been involved with hormone treatments,
 14 that kind of thing. And they are helping him transition
 15 to be male. But he is a genetic natal female.
 16 Q Do you know where Drew is in his transition?
 17 A He certainly had hormones. I think he has
 18 been, from what he said, he's been desiring that he has
 19 more male characteristics develop, i.e., facial hair and
 20 so forth. So the hormonal treatments are going on. And
 21 I'm not exactly sure where the rest of the transitioning
 22 treatments are.
 23 Q Okay. So you don't know whether or not he's
 24 had any surgeries?
 25 A I'm not sure the extent of that, no.

Page 15

1 Q Okay. So you said Drew believed he is male.
 2 So I take it you do not believe he is male?
 3 A He is a genetic female who feels that he is
 4 male.
 5 Q Do you accept that when people transition at
 6 some point they are the other gender?
 7 MR. KOSTELNIK: Form.
 8 A They believe they're the other gender. But
 9 they're not the other sex.
 10 Q Even if they have legal documents saying that
 11 they were now transitioned to a different gender?
 12 MR. KOSTELNIK: Form.
 13 A Well, the and I'm not sure where that process
 14 is at, either. But once that legal process took place,
 15 then he could be called a male.
 16 Q As you sit here today do you know whether or
 17 not Drew Adams has legal documents identifying him as
 18 male?
 19 A I think he has. He's under 18, which would be
 20 a little unusual in some states. But I think there have
 21 been moves toward that, from what I've seen or heard him
 22 say on the video.
 23 Q Do you know for --
 24 A But that would make -- legally then that would
 25 make him had a male, yes.

Page 16

1 Q Okay. So do you know whether his driver's
 2 license says he's male?
 3 A I don't know.
 4 Q Or his birth certificate?
 5 A I think the birth certificate may have been
 6 changed.
 7 Q Okay.
 8 A And that would allow him to say then that he -
 9 - he is male.
 10 Q And you would accept that?
 11 A Yes. Although I would say that the discussion
 12 we're having is going from fact to a feeling. The fact
 13 of sex, the fact of his male female is a fact and that
 14 cannot change. And that will remain. Now he has felt
 15 that he's female. He is now a legal -- moves to be
 16 female -- I'm sorry -- to be male and those should be
 17 respected and accepted. And where he's actually at on
 18 that journey I'm not sure I have the full information.
 19 Q You say it should be respected and accepted
 20 that he's male if he's transitioned?
 21 A Well, once he goes through the legal
 22 procedures and made that statement how he presents
 23 himself legally to society, yes.
 24 Q Okay.
 25 A Then he would be male.

Page 17

1 Q And you said the fact is he's natal sex. By
 2 that do you mean that his sex when he was born was --
 3 A XX, female.
 4 Q Female. Okay. And he was identified as being
 5 female?
 6 A Yes.
 7 Q Okay. Did you ever do a chromosome test on
 8 Drew Adams?
 9 A No. That is usually not indicated and has
 10 been for hundreds of years, visual inspection is enough
 11 for most people. It is not done in medicine at all
 12 unless there's a disorder of sexual differentiation,
 13 that kind of thing.
 14 Q You said "visual inspection", you meant of the
 15 external genitalia?
 16 A Physical examination, yeah.
 17 Q I'm sorry, of the external genitalia, correct?
 18 A That's typically the most standard way of
 19 doing it. There may be other things pediatricians do,
 20 but a physical exam, yeah.
 21 Q The reason I asked if you'd done a chromosome
 22 test because as you mentioned XY, which is you're
 23 referring to chromosomes, correct?
 24 A Right. Yeah. And so that being natal female,
 25 he would have XX and then XY is the male pattern, yes.

1 Q But I mean you didn't test to know?

2 A No, no, I did not.

3 Q So it sounds like you agree with me that if

4 someone says that they're male you use male pronouns; is

5 that right?

6 A That's kind of by convention. It's out of

7 respect for the person. But it doesn't change the

8 biological nature of the individual.

9 Q Okay.

10 A It's what they want to be called and that's

11 what they feel they should be called. And so I will

12 usually respect that, yeah.

13 Q By "biological nature" again you're referring

14 to natal sex, right?

15 A That's correct.

16 Q Okay. Do you have any reason to doubt that

17 Drew identifies as male?

18 A No.

19 Q Do you have any reason to doubt his medical

20 providers attesting that he is male?

21 A No. I believe they've probably done that,

22 yeah.

23 Q But you don't know?

24 A I'm not sure. I mean the records I -- I think

25 I've seen a couple of attestations they attest that he

1 is now male.

2 Q Are you rendering an opinion as to whether

3 Drew Adams suffers from gender dysphoria?

4 A No, because I haven't examined him.

5 Q Do you agree, then, that it would be improper

6 to offer a diagnosis about a patient that you've never

7 examined?

8 MR. KOSTELNIK: Object to form.

9 A Well, it depends on the context. I think when

10 you take a psychiatrist, for example, in this case me,

11 who has 45 years of experience, has seen thousands of

12 patients, has seen thousands of records and has a broad

13 base in psychopathology, in other words, how to diagnose

14 and treat the problems of youth, and then given the

15 history and given the story and let them look at the

16 records, that's a pretty significant thing. And

17 depending on the accuracy of the records, I would feel

18 comfortable in saying this appears to be that type of

19 patient, but I stop short of saying I know the diagnosis

20 because, of course, I would not have seen him.

21 Q Okay. And just so I'm clear, when you said

22 the kind -- you said one of the things you'd want to

23 look at are the records. You're referring to the

24 person's medical records?

25 A Well, any records. School, medical, that

1 reflect his experience, his statements, the way he

2 presents himself, that kind of thing.

3 Q Do you agree that Drew Adams was diagnosed

4 with gender dysphoria by his medical providers?

5 A Yes.

6 Q Okay. And I noticed -- well, I think based on

7 your own testimony you described your expert report as

8 being general in nature with regard to gender dysphoria.

9 Is that accurate?

10 A Right. It was a broad, broad report about

11 these -- these issues and the particular case as it was

12 presented to me and the documents that I read regarding

13 the complaint, the school's position, the policies and

14 so forth.

15 Q So then are you not offering -- sorry. Let me

16 start over so it's a clear question. So then are you

17 offering any opinions on whether Drew Adams gender

18 dysphoria has or will persist?

19 A I'm not offering an opinion on that. I mean I

20 could be asked one and would probably, I think it would

21 be fairly accurate. But I'm not offering it in this

22 case.

23 Q Okay. Are you offering any opinion on whether

24 Drew Adams will seek to identify as being transgender?

25 A No.

1 Q And you're not offering any opinion on the

2 causes of Drew's gender dysphoria; is that also correct?

3 A No. I mean that is correct.

4 Q Yes. Thank you. Are you offering any

5 opinions about the propriety of Drew's transition-

6 related medical care he's received?

7 A No.

8 Q Are you offering any opinions about Drew's

9 home life or anything about his relationship with his

10 family?

11 A No.

12 Q Are you offering any opinions that are

13 specific to the facts of this case?

14 A Yeah. I would be offering the opinion that

15 the school district's policy appears to have responded

16 to his needs. And I have the opinion that, you know,

17 they're not forcing him to go to a female restroom.

18 They're giving him close proximity to a gender-neutral

19 restroom. And that any statements that he is going

20 through significant stress, harm, irreparable harm,

21 these kinds of terms, I'm not supporting that by my

22 opinion.

23 Q Okay.

24 A He seems to be quite comfortable in his

25 current status.

1 she's an independent practitioner. She doesn't have a
2 supervisor.

3 Q And she works with Dr. Kingery, the pediatric
4 endocrinologist; is that right?

5 A Yeah. That's their -- part of their team over
6 there. That's correct.

7 Q Let me just step back to the earlier line of
8 questions just for a second. Can you identify for the
9 record what specific qualifications you have to hold
10 yourself out as an expert in gender dysphoria?

11 MR. KOSTELNIK: Objection. Form.

12 A I haven't held myself out as an expert.

13 Q Okay.

14 A I'm an expert in child and adolescent
15 psychiatry, family psychiatry, developmental
16 psychopathology, and that's what I do. Yeah.

17 Q Okay. Are you holding yourself out in this
18 case as an expert in issues relating -- I'm sorry. Let
19 me strike that. Are you holding yourself out in this
20 case as an expert regarding transgender healthcare?

21 A I feel -- feel I am qualified and fully
22 conversed in the issues about transgender healthcare
23 and, over the last several years, have dramatically
24 increased my involvement with these patients and seeing
25 kind of how it fits or doesn't fit with development

1 looks like a nail." I mean, to -- to take these -- in
2 fact, I have said this publicly recently that this is
3 becoming the only disorder in medicine that it appears
4 in some cases, we make the diagnosis based on what the
5 patient tells us. In other words, they have it, so
6 that's what we do. And it's -- you need to approach it
7 in a different way.

8 Q At the gender clinic, does Dr. Brady approach
9 it that way? If some -- a patient comes in a tells --

10 A I'm not sure --

11 Q Excuse me. Just let me finish.

12 A Okay.

13 Q If the patient comes in and just says, "This
14 is who I am," then they just accept that?

15 MR. KOSTELNIK: Form.

16 A I -- I doubt that she does that. There's a
17 range of responses, and you'd have to ask her. I don't
18 know.

19 Q Okay.

20 A She kind of --

21 Q Do you know of any --

22 A -- practice.

23 Q -- gender clinics where they just -- the
24 patient comes in and just says, "This is what I need,"
25 and they just rubber stamp it and do what the patient

1 psychopathology and family psychopathology, other
2 problems. But when you say holding yourself out, I --
3 it's kind of an interesting term I'm not sure how to
4 interpret.

5 Q Any other qualifications that you would say
6 make you an expert in transgender healthcare or -- well,
7 let me strike that. So are you saying you are an expert
8 in transgender healthcare or not?

9 MR. KOSTELNIK: Form.

10 A I don't know what definition of "expert"
11 you're using.

12 Q Well, you're identified as an expert witness -
13 -

14 A Well, an expert --

15 Q -- in this case, right?

16 A I -- I would say yes in the sense of that I
17 know a great deal about adolescent psychopathology, how
18 kids develop problems, all the psychiatric disorders
19 that many transgender kids have, and am quite adept at
20 sorting out what's cause and effect; in other words,
21 what -- what issues do the transgender experience cause
22 or what predisposing factors kind of lead to transgender
23 issues, all of that kind of -- kind of thing. I'm very
24 expert, and maybe more expert than some who -- to use
25 the phrase, "If all you have is a hammer, everything

1 wants, not evaluating them?

2 A Nobody would tell you that, but I talked with
3 individuals who say that's basically what happens.

4 Q Who -- which --

5 A In other words --

6 Q Which individuals --

7 A In other words --

8 Q -- say that?

9 A In other words, people -- once they come in,
10 they're rarely turned around, and the level of
11 psychological evaluation is questionable. Now, in the
12 standards of care and so forth, it's certainly demanded
13 and expected. My point is: You need to take time and
14 give some time to sort through these issues. But -- but
15 there are clinics where it's -- the -- the affirmation
16 of the patient is confused with affirmation of the
17 diagnosis. Every patient should be affirmed, cared for
18 --

19 Q Okay. But my question was: Which specific
20 individuals say that's what happens, that a patient
21 comes in and demands something and that's rubber
22 stamped?

23 A I -- this is my impression. I -- this is a
24 very specific question, but Dr. Ruse would be one
25 individual who's had experience with -- see, these

EXHIBIT C

I (We) SCOTT ADAMS/ ERICA ADAMS ^{KASPER} am (are) the legal guardian (s) of
(print guardian name)

DREW ADAMS 9/29/00
(print patient's name and date of birth) .

I (We) consent to the initiation of treatment with testosterone for my minor child.

 Date 5/31/16
Parent/guardian Signature(s)

Prescribing Physician _____ Date _____