

**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 MEMORANDUM OF LAW IN OPPOSITION TO
DEFENDANT’S MOTION TO EXCLUDE EXPERT TESTIMONY OF
DEANNA ADKINS, M.D. AND DIANE EHRENSAFT, Ph.D.**

Plaintiff Drew Adams (“Drew”), a minor, by and through his next friend and mother, Erica Adams Kasper (collectively, “Plaintiff”), respectfully submits this memorandum in opposition to Defendant’s Motion to Exclude the Expert Testimony of Dr. Adkins and Dr. Ehrensaft (“Defendant’s Motion”).¹ Because the expert testimony of Dr. Adkins and Dr. Ehrensaft is both highly relevant to this case and probative of important questions of law and fact in this matter, Defendant’s Motion to exclude their expert testimony should be denied.

INTRODUCTION

Defendant has failed to identify any legitimate basis to exclude the expert testimony of either of Plaintiff’s experts. Defendants do not question—indeed, they cannot—the

¹ Plaintiff believes that Defendant’s Motion is likely moot, at a minimum, as it applies to Dr. Ehrensaft, as Defendant agreed to the submission of the Declaration of Dr. Ehrensaft at trial, along with its discovery deposition of this expert. *See* Court Exhibits 3, 4, and 5.

qualifications of Dr. Adkins and Dr. Ehrensaft to offer expert testimony to this Court regarding the nature of gender identity, its relationship to a person's sex, and the proper treatment—including social affirmation—of transgender persons. *See* Court Exhibit 3; Dkt. 137-1 (Dr. Adkins's Expert Report); and Dkt. 137-2 (Dr. Ehrensaft's Expert Report).

The extensive credentials, study and research of gender identity, and combined decades of experience treating hundreds of transgender patients possessed by Dr. Adkins and Dr. Ehrensaft evinces their qualifications. Moreover, their testimony and opinions in this case are consistent with current scientific literature as well as the standards of care, clinical guidelines, and official position statements of the major medical and mental health organizations in the United States and internationally, including the medical associations that inform their practice areas as well as those of Defendant's previously proposed experts (neither of whom Defendant actually offered at trial). In support of their opinions, Dr. Adkins and Dr. Ehrensaft rely on current, peer-reviewed scientific literature, as well as the generally accepted standards of care, clinical guidelines, and official position statements of the American Medical Association ("AMA"), American Psychiatric Association, American Psychological Association ("APA"), the Endocrine Society, and the World Professional Association on Transgender Health ("WPATH"). The reliance by Dr. Adkins, a pediatric endocrinologist, and Dr. Ehrensaft, a development and clinical psychologist, on the facts or data contained in the aforementioned materials are exactly the type of facts or data that other "experts in the[ir] particular field would reasonably rely on . . . in forming an opinion on the subject." Fed. R. Evid. 703.

Further, the expert opinions and testimony of Dr. Adkins and Dr. Ehrensaft are relevant, authoritative, reliable, and highly probative of important issues surrounding this case. For

example, their testimony definitively establishes that: (1) gender identity—a person’s inner sense of belonging to a particular gender, such as male or female—is a deeply felt and core component of human identity that cannot be changed or altered; (2) that sex is made up of multiple characteristics, which are not always in alignment; and (3) that when a person’s sex-related characteristics are not in alignment (as is the case with transgender persons), gender identity is the primary and appropriate determinant of a person’s sex. This testimony is highly relevant to and probative of the question of whether Plaintiff, a transgender boy, was discriminated against on the basis of sex by being prohibited from using the boys’ restroom at Nease High School, as every other boy is allowed to do. In addition, Dr. Adkins and Dr. Ehrensaft provide expert testimony of how social transitioning, including access to the restrooms consistent with one’s gender identity, is a critical component of treatment for transgender people, including transgender youth. This testimony is consistent with and supported by the positions of the AMA, American Psychiatric Association, APA, Endocrine Society, and other major medical and mental health organizations in the United States. Their testimony is also probative of the *general* effects of the denial of access to restrooms consistent with a transgender student’s gender identity, such as how it interferes with that transgender student’s social transitioning and how it can be confusing and damaging to the student by causing distress, anxiety, and failing to recognize the student’s identity.

Finally, the testimony of Dr. Adkins and Dr. Ehrensaft is probative of questions relating to the Court’s determination about the proper standard of review of the Plaintiff’s claim under the Equal Protection Clause of the Fourteenth Amendment. Specifically, both Dr. Adkins and Dr. Ehrensaft provide testimony about how transgender people form a small and discrete

minority whose ability and talents to make contributions to society are no different than any other person's; how gender identity cannot be changed or altered, and how efforts to do so have proven ineffective and are considered unethical; and how transgender people have experienced and continue to experience discrimination in this country. Put simply, the expert testimony of Dr. Adkins and Dr. Ehrensaft is not only relevant, but also highly probative of key questions currently before the Court.

Accordingly, Defendant's argument that these expert opinions are unnecessary to aid the Court is without merit. Indeed, several courts have disagreed with Defendant's claim and have both accepted and cited to expert testimony similar to that of Dr. Adkins and Dr. Ehrensaft presented here in other cases involving challenges to the denial of bathroom access to transgender individuals as discriminatory. Defendant's arguments that the opinions of these experts should be excluded because (1) they are not qualified to opine on school policy; and (2) they offer opinions regarding causation, also completely miss the mark. Dr. Adkins and Dr. Ehrensaft simply do not offer any affirmative opinions regarding the school policy, Plaintiff's damages, or that is specific to the causation of the harms that Plaintiff has endured. Rather, as explained below, their expert testimony is aimed to providing this Court with the necessary context for the factual issues that underlie the ultimate legal determinations in this case.

For these reasons, and those outlined below, Defendant's Motion should be denied.

MEMORANDUM OF LAW

A. FEDERAL RULE OF EVIDENCE 702 DOES NOT SUPPORT EXCLUSION OF THE EXPERT TESTIMONY OF DR. ADKINS AND DR. EHRENSAFT.

The admissibility of expert testimony is governed by the framework set out in Federal Rule of Evidence 702 and *Daubert v. Merrell Dow Pharms., Inc.*, 509 U.S. 579 (1993). According to Rule 702,

If scientific, technical, or other specialized knowledge will assist the trier of fact to understand the evidence or to determine a fact in issue, a witness qualified as an expert by knowledge, skill, experience, training, or education, may testify thereto in the form of an opinion or otherwise, if (1) the testimony is based upon sufficient facts or data, (2) the testimony is the product of reliable principles and methods, and (3) the witness has applied the principles and methods reliably to the facts of the case.

Fed. R. Evid. 702.

And while the party seeking to have the expert testimony admitted bears the burden of demonstrating its admissibility, *United States v. Frazier*, 387 F.3d 1244, 1260 (11th Cir. 2004) (en banc), “the inquiry envisioned by Rule 702 is a flexible one.” *In re Trasylol Prod. Liab. Litig.*, No. 08-MD-01928, 2010 WL 1489730, at *1 (S.D. Fla. Mar. 19, 2010). Indeed, “[a] review of the case law after *Daubert* shows that the rejection of expert testimony is the exception rather than the rule.” *Frazier*, 387 F.3d at 1293-94. That is because “Federal Rules 702 and 703 grant expert witnesses testimonial latitude unavailable to other witnesses on the assumption that the expert’s opinion will have a reliable basis for knowledge and experience.” *United States v. Davies*, 2016 WL 614434, at *1 (D. Co. 2016) (internal citations omitted).

Put simply, Rule 702 is not intended to displace the ordinary methods of challenging evidence by way of cross-examination and presentation of contrary evidence. *Id.*; *see also*

Quiet Technology DC-8, Inc. v. Hurel-Dubois UK Ltd., 326 F.3d 1333, 1345 (11th Cir. 2003) (stating that challenging expert testimony is “precisely the role of cross-examination”).

“An expert witness may offer opinions which address an ultimate issue of fact in a case, or which may be relevant to the evaluation of a factual issue. The Court must focus on the methodology or scientifically valid reasoning of expert testimony, rather than on an expert’s conclusions.” *Richter v. Home Depot U.S.A., Inc.*, No. 8:05-CV-2153-T-17MAP, 2009 WL 2912781, at *5 (M.D. Fla. Feb. 20, 2009). Under Rule 702, an expert’s “testimony is relevant” if “it assists the trier of fact, through the application of . . . specialized expertise, to understand the evidence and to determine a fact in issue.” *Frazier*, 387 F.3d at 1260. As such, “Rule 702 favors admissibility if the testimony will assist the trier of fact . . . and doubts regarding whether an expert’s testimony will be useful should generally be resolved in favor of admissibility.” *Clark v. Hill*, No. 2:12-CV-239-VEH, 2013 WL 6987627, at *6 (N.D. Ala. Dec. 11, 2013) (citation and quotation omitted); *see also Richter*, 2009 WL 2912781, at *5 (“Any doubt as to the usefulness of expert testimony should generally be resolved in favor of admissibility.”).

Here, Dr. Adkins and Dr. Ehrensaft are highly qualified experts in their respective fields and possess specialized knowledge about the nature of gender identity, its relation to a person’s sex, and the importance of social affirmation, including access to restrooms consistent with one’s gender identity, as part of the generally-accepted treatment of transgender persons. This testimony will provide substantial assistance to the Court in understanding these issues, and is testimony that “concerns matters that are beyond the understanding of the average lay person.” *Frazier*, 387 F.3d at 1262. Moreover, their

testimony is based not only on years of their own clinical experience, but also on their careful and comprehensive review and study of scientific, peer-reviewed literature as well as the standards of care, clinical guidelines, and position statements of the major medical organizations in the United States. *See In re Mentor Corp. ObTape Transobturator Sling Prod. Liab. Litig.*, 711 F. Supp. 2d 1348, 1371 (M.D. Ga. 2010) (permitting expert testimony based on the experts’ “familiarity with the relevant published literature, and their own clinical experiences”). Accordingly, the expert testimony of Dr. Adkins and Dr. Ehrensaft should be admitted because they are qualified, the testimony is both relevant and probative of issues in this case, and the methodology they employ is that which is typically used in their respective fields.

B. NUMEROUS COURTS HAVE ACCEPTED SIMILAR TESTIMONY IN AID OF UNDERSTANDING THE ISSUES PRESENTED HERE.

The type of testimony and expert opinions presented here by Dr. Adkins and Dr. Ehrensaft is precisely the type of expert evidence courts across the country have relied upon in informing the issues that face transgender youth, including understanding gender identity, its relation to sex, the effects of prohibiting the access to restrooms consistent with one’s gender identity, and the factors considered by the courts in determining the proper standards of review under the Equal Protection Clause. *See, e.g., Whitaker v. Kenosha Unified School District*, 858 F.3d 1034, 1045 (7th Cir. 2017) (noting how “experts opined that use of the boys’ restrooms is integral to Ash’s transition and emotional well-being”). As it happens, Dr. Ehrensaft’s expert testimony has been noted and cited by federal courts evaluating similar circumstances to the ones presented by this case. *See Evancho v. Pine-Richland School District*, 237 F. Supp. 3d. 267, 275 (W.D. Pa. 2017) (noting expert testimony “of Dr. Diane

Ehrensaft, a developmental and clinical psychologist who has declared that she has considerable educational and professional experience in the area of gender identity matters.”); *id.* at 277 n. 12; *Bd. of Educ. of the Highland Local Sch. Dist. v. United States Dep’t of Educ.*, 208 F. Supp. 3d 850, 855, 857 (S.D. Ohio 2016) (noting expert testimony of “Diane Ehrensaft, a developmental and clinical psychologist who specializes in working with children and adolescents with gender dysphoria”). And Dr. Adkins has provided expert testimony in similar cases, as well. *See, e.g., Carcaño v. McCrory*, 203 F. Supp. 3d 615, 642 (M.D.N.C. 2016).

The Constitutional nature of the issues before the Court does not change the calculus. As this Court recognized, the law is informed by the facts. Trial Tr. vol. 3, 8:22 (Dec. 13, 2017). Indeed, laws do not apply in a vacuum but create pragmatic and factual consequences for the individuals, like Plaintiff, directly impacted by the actions of others, namely Defendant and Defendant’s policy. Whether the policy is discriminatory against Plaintiff, necessarily requires a factual inquiry into the nature of gender identity and its relation to sex; the real life ramifications of what it means to be transgender, including for Plaintiff; and the factual bases for the relevant factors to the level of scrutiny this Court will ultimately apply on Plaintiff’s Equal Protection Claim. Additionally, the testimony will also assist the Court in understanding, for example, why other Courts, like the Eleventh Circuit in *Glenn v. Brumby*, 663 F.3d 1312 (11th Cir. 2011), concluded that discrimination on the basis of gender identity is necessarily sex discrimination.

Similarly, the determination of “sex” and the critical import of gender identity to the meaning and inability to separate the two further will assist in understanding the meaning of “sex” under Title IX. Indeed, Title IX speaks to “sex” and Defendant has steadfastly

maintained that its unwritten policy is based on the undefined and misleading term “biological sex”—a term nowhere to be found in Title IX or its implementing regulations. These experts will explain why that terminology is imprecise and should be avoided, which can shed light for the Court in its application of Title IX.

Finally, it should not be overlooked that without citing to any authority or support Defendant makes claims in a footnote that the “nature of these opinions is developing with disagreement amongst reasoned medical and psychological professionals regarding the appropriateness of therapeutic treatment of individuals with gender dysphoria or who identify as transgender.” Def.’s Motion at 13, n. 5. However, Defendant has not offered a scintilla of evidence to this Court to disregard the opinions of medical and health care professionals who have experience treating the transgender population, nor to disregard the standards of care accepted by the major medical organizations. *See Plaintiff’s Request for Judicial Notice of the Clinical Guidelines, Resolutions, Standards of Care, and Statements by Major Medical and Mental Health Organizations*, Dkt. 115; *Proposed Brief of Amici Curiae Medical, Nursing, Mental Health, and Other Health Care Organizations*, Dkt. 119-1. Rather, Defendant has failed to introduce any evidence to dispute these positions and therefore no reason for the Court to exclude these opinions.

C. PLAINTIFF’S EXPERTS ARE OPINING ON THE NATURE OF GENDER IDENTITY AND THE GENERALLY-ACCEPTED STANDARD OF CARE FOR TRANSGENDER YOUTH, INCLUDING SOCIAL TRANSITIONING, NOT ON SCHOOL BOARD POLICY.

Defendant argues that Dr. Adkins and Dr. Ehrensaft should be excluded from testifying because they attempt to offer opinions on school board policy. That is simply not the case. Neither expert claims any expertise in policy making nor do they purport to offer testimony

regarding school board decision-making processes. However, they do specialize in the treatment and care of transgender youth and, as such, their testimony speaks directly to the effects that policies, such as Defendant's prohibition on the use of restrooms consistent with one's gender identity, have on transgender youth. Plaintiff's experts have specialized knowledge and expertise based on their clinical experience, educational background, scientific study, and careful review of the scientific literature about how a policy, such as Defendant's may negatively affect transgender students' well-being and interfere with a transgender youth's social transitioning. *See, e.g., Highland Local Sch. Dist.*, 208 F. Supp. 3d at 857. Their opinions will also help the Court to illuminate some of the misconceptions that often arise in attempting to address the needs of this population.

In particular, Dr. Adkins and Dr. Ehrensaft provide expert testimony that sheds light on the significance of denial of access to a bathroom consistent with one's gender identity. Indeed, the testimony from these experts on what it means to be transgender, what it means to have an incongruence of one's gender identity and how that is best treated amongst the transgender youth patient population. Indeed, Dr. Ehrensaft, based on her knowledge, experience, and training, offers opinions regarding the impact to individuals when there is a lack of support at schools with a transgender youth that is undergoing transition:

In the school setting, providing appropriate support includes ensuring that teachers and other staff refer to transgender students by their chosen names and correct pronouns, permitting the transgender student to use the sex-separated facilities that are consistent with their gender identity on the same terms as their peers, and generally treating transgender students in a manner consistent with their gender identity for all purposes. Failing to recognize and support a transgender student's gender identity sends a message—both to the transgender student and to others—that the transgender student is different from his or her peers and needs to be segregated, causing the transgender student to experience shame.

Decl. of Diane Ehrensaft at ¶41 (Dkt. 22-3, admitted at trial as Court Exhibit 3). This of course, is not an opinion on policy making at schools but rather speaks to the impact of supportive environments—or lack thereof—for transgender youth consistent with their gender identity.

D. CONTRARY TO DEFENDANT’S ASSERTIONS, PLAINTIFF’S EXPERTS DO NOT PROVIDE SPECIFIC TESTIMONY ON THE CAUSATION OF HIS EMOTIONAL DISTRESS.

As a threshold matter, this Court cannot and should not exclude expert testimony based on opinions that were never elicited at trial.² From the outset, Plaintiff has made clear that he only seeks garden-variety non-economic damages, which does not require an inquiry into Plaintiff’s medical condition or any expert testimony. *See Laboy v. Emeritus Corp.* No. 5:13-CV-582, 2014 WL 1293440, at *1 (M.D. Fla. Mar. 28, 2014); *Ortiz-Carballo v. Ellspermann*, No. 5:08-CV-165-OC-10GRJ, 2009 WL 961131 at *2 (M.D. Fla. Apr. 7, 2009); *Robinson v. Jacksonville Shipyards*, 118 F.R.D. 525 (M.D. Fla. 1988). As such, Plaintiff’s experts provide general expert testimony about the nature of gender identity, its relation to a person’s sex, the importance of access to restrooms consistent with one’s gender identity as part of social transitioning, and the negative effects of denial to access consistent with gender identity on transgender youth. Still, ignoring the repeated assertions by Plaintiff that he only seeks garden variety damages, Defendant spends considerably time arguing that Dr. Adkins and Dr. Ehrensaft should be precluded from testifying about Plaintiff’s “alleged damages.” Def.’s Motion at 7. Because such a request misconstrues the nature of Plaintiff’s expert testimony

² Indeed, as stated throughout this case, including the Joint Pretrial Statement (*see* Dkt. 116 at 17), Plaintiff only seeks general, non-economic, garden-variety damages.

and is at odds with what has already occurred at trial, the Court should deny Defendant's Motion.

First, neither of Plaintiff's experts testified, or even suggested, that they diagnosed Plaintiff's gender dysphoria, the exacerbation of which is only one of the many harms Defendant's actions has caused Plaintiff to suffer, nor do they testify as to the causation of Plaintiff's gender dysphoria or distress. Dr. Adkins and Dr. Ehrensaft have not testified as to causation of Plaintiff's distress, let alone damages. To the contrary, that testimony, as permitted by this Court's case law for garden-variety emotional distress claims, was elicited and supported with Plaintiff's own testimony as well as the testimony of other witnesses (e.g. his parents) that was introduced by him at trial. *See Myers v. Cent. Florida Investments, Inc.*, No. 604-CV1542-ORL-28DAB, 2008 WL 4710898, at *14 (M.D. Fla. Oct. 23, 2008); *see also Highland Local Sch. Dist.*, 208 F. Supp. 3d at 870-71 ("Testimony from Joyce Doe and Jane herself indicates that Jane feels stigmatized and isolated when she is forced to use a separate bathroom and otherwise not treated as a girl. . . . Even without considering the evidence in the record from experts on both sides regarding gender dysphoria and its effects, the Court concludes that Jane is likely to be able to show harm from Highland's discriminatory policy.").

To be sure, the general expert testimony of Dr. Adkins and Dr. Ehrensaft provides confirmation that Plaintiff's testimony is consistent with their experience and expertise treating transgender youth, but that does not mean that the opinions of these experts has been offered to suggest or explain to the Court the causal connection between denial of access to bathrooms at Nease High School and Plaintiff's damages. And none of the testimony at trial put forth by these expert witnesses seeks to make that causal relationship. Defendant spends a considerable

portion of its Motion (*see* Def.'s Motion at 8-10) arguing that this Court should disregard Dr. Ehrensaft's observations of Plaintiff prior to trial; however, Plaintiff did not introduce any evidence of Dr. Ehrensaft's observations at trial. The "direct" examination of Dr. Ehrensaft is contained within her declaration that Plaintiff submitted in support of his Motion for Preliminary Injunction, well-before Dr. Ehrensaft met with Plaintiff. *See* Dkt. 22-3 (also admitted as Court Exhibit 3).³ Additionally, as it relates to Dr. Adkins, her testimony includes her treatment and care of Plaintiff and the comments Plaintiff made to her about the denial of access to the boys' bathrooms at his high school that Plaintiff made in the course of her endocrinology treatment of Plaintiff, as well as her personal observations.⁴ Put simply, neither of Plaintiff's experts have offered the type of testimony Defendant seeks to exclude.

The Court should decide Defendant's Motion "in the context of the evidence presented at trial, rather than ruling in a vacuum." *Clark v. S. Broward Hosp. Dist.*, No. 12-61164-CIV, 2013 WL 12177346, at *2 (S.D. Fla. Sept. 30, 2013); *cf. United States v. Brown*, 415 F.3d 1257, 1263 (11th Cir. 2005) ("The court decided that because it was a bench trial the court would hear all the testimony, including Steele's, and determine later whether it should be

³ Notably, Dr. Ehrensaft's expert declaration in this case is substantially similar to the expert testimony other federal courts accepted from her in the following cases: *Evancho v. Pine-Richland School District*, 237 F. Supp. 3d 267 (W.D. Pa. 2017); *Highland Local School District v. U.S. Dept. of Education*, 208 F. Supp. 3d 850 (S.D. Ohio 2016).

⁴ Defendant also mischaracterizes Dr. Adkins' role in Plaintiff's transition. Indeed, Dr. Adkins prescribes Plaintiff testosterone as part of Plaintiff's gender-affirming care. In this context of the gender affirming model of care, testosterone is but one part of Plaintiff's social and medical transition. Dr. Adkins, in addition to prescribing testosterone also recommended to Plaintiff, consistent with the generally-accepted prevailing standards of care and clinical guidelines, to continue with his social transition, of which bathroom use consistent with his gender identity is an inseparable part of this recommendation.

treated as expert testimony.”). Here, it was Plaintiff and his mother who offered this Court testimony specific to the garden-variety, non-economic damages arising out of the emotional distress and other harms suffered by Plaintiff. And, as explained above, Plaintiff’s expert witnesses offered the Court with a necessary perspective to understand the nature of gender identity, the treatment of transgender youth, and how access to restrooms consistent with gender identity forms an integral and inextricable part of transgender youth’s social transition. This testimony (*see* Court Exhibits 1, 2, 3) is consistent with the generally-accepted and prevailing standards of care, clinical guidelines, and position statements of major medical organizations in the United States. *See* Dkt. 115 and 119.

CONCLUSION

For the foregoing reasons, Plaintiff respectfully requests that the Court deny Defendant’s Motion to Exclude the Expert Testimony of Dr. Adkins and Dr. Ehrensaft.

Dated this 20th day of December, 2017.

Respectfully submitted,

/s/ Omar Gonzalez-Pagan
Omar Gonzalez-Pagan
(*admitted pro hac vice*)
LAMBDA LEGAL DEFENSE
AND EDUCATION FUND, INC.
120 Wall Street, 19th Floor
New York, New York 10005-3919
Telephone: 212-809-8585
Facsimile: 212-809-0055
ogonzalez-pagan@lambdalegal.org

Tara L. Borelli (*admitted pro hac vice*)
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
730 Peachtree Street NE, Suite 640
Atlanta, GA 30308-1210

Kirsten Doolittle, Trial Counsel
Florida Bar No. 942391
THE LAW OFFICE OF KIRSTEN DOOLITTLE, P.A.
The Elks Building
207 North Laura Street, Ste. 240
Jacksonville, FL 32202
Telephone: 904-551-7775
Facsimile: 904-513-9254
kd@kdlawoffice.com

/s/ Shani Rivaux
Shani Rivaux
Florida Bar No: 42095
Jennifer Altman
Florida Bar No: 881384
Markenzy Lapointe

Telephone: 404-897-1880
Facsimile: 404-897-1884
tborelli@lambdalegal.org

Natalie Nardecchia
(*admitted pro hac vice*)
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
4221 Wilshire Boulevard, Suite 280
Los Angeles, CA 90010-3512
Tel. 213-382-7600 | Fax: 213-351-6050
nnardecchia@lambdalegal.org

Paul D. Castillo (*admitted pro hac vice*)
LAMBDA LEGAL DEFENSE
AND EDUCATION FUND, INC.
3500 Oak Lawn Avenue, Suite 500
Dallas, Texas 75219
Telephone: 214-219-8585
Facsimile: 214-219-4455
pcastillo@lambdalegal.org

Florida Bar No: 172601
Aryeh Kaplan
Florida Bar No: 60558
PILLSBURY WINTHROP SHAW PITTMAN, LLP
600 Brickell Avenue Suite 3100
Miami, FL 33131
Telephone: 786-913-4900
Facsimile: 786-913-4901
jennifer.altman@pillsbury.com
markenzy.lapointe@pillsburylaw.com
shani.rivoux@pillsbury.com
aryeh.kaplan@pillsbury.com

William C. Miller
(*admitted pro hac vice*)
PILLSBURY WINTHROP SHAW PITTMAN LLP
1200 Seventeenth Street NW
Washington, DC 20036-3006
Telephone: 202-663-9455
Facsimile: 202-663-8007
william.c.miller@pillsburylaw.com

Richard M. Segal (*admitted pro hac vice*)
Nathaniel R. Smith (*admitted pro hac vice*)
PILLSBURY WINTHROP SHAW PITTMAN LLP
501 W. Broadway, Suite 1100
San Diego, CA 92101
Telephone: 619-234-5000
Facsimile: 619-236-1995
richard.segal@pillsburylaw.com
nathaniel.smith@pillsburylaw.com

Counsel for Plaintiff

CERTIFICATE OF SERVICE

I hereby certify that on December 20, 2017, the foregoing motion was filed electronically using the Court's ECF system, which will provide electronic notice to all counsel of record, including:

Terry J. Harmon (tharmon@sniffenlaw.com)
Robert J. Sniffen (rsniffen@sniffenlaw.com)
Michael P. Spellman (mspellman@sniffenlaw.com)
Lisa B. Fountain (lfountain@sniffenlaw.com)
Kevin Kostelnik (kkostelnik@sniffenlaw.com)
SNIFFEN & SPELLMAN, P.A.
123 North Monroe Street
Tallahassee, Florida 32301

Robert Christopher Barden (rcbarden@mac.com)
RC Barden & Associates
5193 Black Oaks Court North
Plymouth, MN 55446-2603

Attorneys for Defendant, The School Board of St. Johns County, Florida

/s/ Omar Gonzalez-Pagan

Omar Gonzalez-Pagan

(admitted pro hac vice)

LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.

120 Wall Street, 19th Floor

New York, New York 10005-3919

Tel.: 212-809-8585 | Fax: 212-809-0055

ogonzalez-pagan@lambdalegal.org