

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
ATHENS DIVISION**

SKYLAR MUSGROVE,

Plaintiff,

v.

THE BOARD OF REGENTS OF THE
UNIVERSITY SYSTEM OF GEORGIA,
JAMES HULL, UNIVERSITY OF
GEORGIA, JERE MOREHEAD, KARIN
ELLIOTT, BLUE CROSS BLUE SHIELD
HEALTHCARE PLAN OF GEORGIA, INC.,
AND METROPOLITAN LIFE INSURANCE
COMPANY, AND METLIFE, INC.

Defendants.

Civil Action No.

3:18-cv-00080-CDL

JURY TRIAL DEMANDED

PLAINTIFF'S NOTICE OF CONSTITUTIONAL QUESTION

TO THE ATTORNEY GENERAL OF THE UNITED STATES OF AMERICA:

Please take notice that, pursuant to Fed. R. Civ. P. 5.1, Plaintiff Skyler Musgrove submits this Notice of Constitutional Question.

Plaintiff asserts, *inter alia*, that he was discriminated against based on his gender dysphoria in violation of the Americans with Disabilities Act (“ADA”), 42 U.S.C. § 12101, *et seq.* and Section 504 of the Rehabilitation Act (“Section 504”), 29 U.S.C. § 794, *et seq.*

Defendants have moved to dismiss the claims, arguing that gender dysphoria is not protected by the ADA and Section 504. In his Opposition to Defendant’s Motion to Dismiss, Plaintiff asserts, as a matter of statutory interpretation, that gender dysphoria is not excluded from coverage under the ADA and Section 504. To the extent 42 U.S.C. § 12211(b)(1) of the ADA and 29 U.S.C. § 705(20)(F)(i) of Section 504 are read to exclude gender dysphoria, Plaintiff challenges the constitutionality of these provisions. As drafted, both provisions exclude, *inter alia*, “transsexualism . . . [and] gender identity disorders not resulting from physical impairments.”

If these provisions are read to exclude gender dysphoria, Plaintiff asserts that 42 U.S.C. § 12211(b)(1) of the ADA and 29 U.S.C. § 705(20)(F)(i) of Section 504 violate the United States Constitution because they discriminate on the basis of transgender status, sex, and/or disability in violation of the Fourteenth Amendment.

A copy of Plaintiff’s Opposition to Defendant Blue Cross Blue Shield Healthcare Plan of Georgia Inc.’s Motion to Dismiss Plaintiff’s Complaint is attached hereto as “Exhibit A.”

Respectfully submitted this 22nd day of September, 2018.

/s/ Noah E. Lewis

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CERTIFICATE OF SERVICE

I, Noah E. Lewis, hereby certify that this document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent to those indicated as non-registered participants on September 22, 2018.

I further certify that, in compliance with Fed. R. Civ. P. 5.1(a)(2), on September 22, 2018 I caused a true and correct copy of the Notice of Constitutional Question and attached Exhibit A to be served, via certified mail, upon the following:

United States Attorney General
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001
Certified Mail Article No. 7017 1450 0001 8572 6914

Lee J. Lofthus
United States Assistant Attorney General for Administration
U.S. Department of Justice, Justice Management Division
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/s/ Noah E. Lewis