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**IN THE UNITED STATES DISTRICT COURT**

**FOR THE DISTRICT OF IDAHO**

ADREE EDMO,

Plaintiffs,

vs.

IDAHO DEPARTMENT OF  
CORRECTION; HENRY ATENCIO, in  
his official capacity; JEFF ZMUDA, in  
his official capacity; HOWARD KEITH  
YORDY, in his official and individual  
capacities; CORIZON, INC.; SCOTT  
ELIASON; MURRAY YOUNG;  
RICHARD CRAIG; RONA SIEGERT;  
CATHERINE WHINNERY; AND  
DOES 1-15;

Defendants.

) Case No. 1:17-cv-151-BLW

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) **IDOC DEFENDANTS' FIRST MOTION**  
) **FOR DISPOSITIVE RELIEF**

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COME NOW Defendants Idaho Department of Correction, Henry Atencio, Jeff Zmuda, Howard Keith Yordy, Richard Craig and Rona Siegert (collectively referred to as the “IDOC Defendants”), by and through their counsel of record, Moore Elia Kraft & Hall, LLP, and pursuant to Rules 12(b) and 56 of the Federal Rules of Civil Procedure, hereby respectfully move this Court for an Order dismissing the following claims and causes of action from Plaintiff Adree Edmo’s Second Amended Complaint (Dkt. 36):

- All of Ms. Edmo’s claims for damages sought under 42 U.S.C. § 1983 stemming from incidents that have not been properly exhausted pursuant to the Prison Litigation Reform Act of 1995, 42 U.S.C. § 1997e(a).
- All of Ms. Edmo’s claims for damages sought under 42 U.S.C. § 1983 stemming from incidents that occurred more than two years prior to the filing of this lawsuit on April 6, 2017 pursuant to Idaho Code § 5-219(4);
- Ms. Edmo’s “Fourth Claim for Relief” for alleged violations of the Americans with Disabilities Act, 42 U.S.C. § 12101;
- Ms. Edmo’s “Fifth Claim for Relief” for alleged violations of the Affordable Care Act, 42 U.S.C. § 18116; and
- All of Ms. Edmo’s state negligence claims for damages.

The grounds upon which this motion is based are set forth in the *Memorandum of Support of the IDOC Defendants’ First Motion for Dispositive Relief and Declaration of Dana Maybon*. Pursuant to Dist. Local Rule Civ. 7.1(b)(1), this motion is also supported by a separate *Statement of Material Facts in Support of the IDOC Defendants’ First Motion for Dispositive Relief*. Defendants request oral argument.

DATED this 1<sup>st</sup> day of November, 2017.

Moore Elia Kraft & Hall, LLP

*/s/Brady J. Hall*

*Attorneys for Defendants Idaho Department of Correction, Henry Atencio, Jeff Zmuda, Howard Keith Yordy, Richard Craig, and Rona Siegert*

### **CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 1<sup>st</sup> day of November, 2017, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Dylan Eaton  
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*/s/Brady J. Hall*





COME NOW Defendants Idaho Department of Correction, Henry Atencio, Jeff Zmuda, Howard Keith Yordy, Richard Craig and Rona Siegert (collectively referred to as the “IDOC Defendants”), by and through their counsel of record, Moore Elia Kraft & Hall, LLP, and pursuant to District Local Rule Civ. 7.1(b)(1), hereby submit this separate statement of material facts which the IDOC Defendants contend are not in dispute.

1. Plaintiff Mason Dean (“Adree”) Edmo is currently incarcerated under the custody and control of Defendant Idaho Department of Corrections (“IDOC”) in the Idaho State Correctional institution (“ISCI”) in Kuna, Idaho. (Second Amended Complaint, *Dkt. 36*, ¶ 1) Ms. Edmo has been incarcerated at the ISCI continuously since February 2014. (*Declaration of Dana Maybon* (hereinafter “*Maybon Decl.*”), ¶ 10)

2. Ms. Edmo is a transgendered woman who has been diagnosed with Gender Identity Disorder, which is now universally referred to as Gender Dysphoria. (*Dkt. 36*, p. 2, ¶ 1)

3. The IDOC Grievance Process consists of three easy steps requiring offenders, such as Ms. Edmo, to timely and properly (1) submit an Offender Concern Form, (2) file a Grievance, and (3) appeal the reviewing authority’s response to the Grievance. (*Maybon Decl.*, ¶2, 5-9 and Exhs. A, B, C, and D) At all relevant times, the Grievance Process has been available to Ms. Edmo, and Ms. Edmo has successfully completed the Grievance Process on many different occasions since 2014. (*Maybon Decl.*, ¶ 4, 10-11 and Exhs. C and D) (*Dkt. 36*, Exh. A, pp. 27-60)

4. Ms. Edmo commenced this lawsuit on April 6, 2017 by filing a Civil Rights Complaint with the United States District Court in and for the District of Idaho. (Civil Rights Complaint, *Dkt. 3*, p. 1)

5. Ms. Edmo attempted suicide in February 2014 allegedly “as a result of learning

that Defendants were denying her treatment for gender dysphoria.” (Dkt. 36, ¶ 45) Ms. Edmo’s February 2014 suicide attempt occurred more than two years prior to the filing of Ms. Edmo’s initial complaint on April 6, 2017. (*Dkt. 3*, p. 1)

6. Ms. Edmo attempted to self-castrate her testicles on September 29, 2015 allegedly as a result of the Defendants’ “failure to adequately treat Plaintiff’s gender dysphoria.” (Dkt. 36, ¶ 45) Ms. Edmo did not timely and properly complete the IDOC Grievance Process as to the September 29, 2015 self-castration attempt. (*Maybon Decl.*, ¶ 13)

7. Ms. Edmo attempted to self-castrate her testicles on December 31, 2016 allegedly as a result of Defendants’ “failure to adequately treat Plaintiff’s gender dysphoria.” (Dkt. 36, ¶ 45) Ms. Edmo did not timely and properly complete the IDOC Grievance Process as to the December 31, 2016 self-castration attempt. (*Maybon Decl.*, ¶ 14)

8. From 2012 to 2016, Ms. Edmo allegedly experienced “severe symptoms” as a result of the Defendants’ “alleged failure to adequately treat Plaintiff’s gender dysphoria”. (Dkt. 36, ¶¶ 44-45, 49) Ms. Edmo did not timely and properly complete the Grievance Process as to any of the severe symptoms or alleged injuries that Ms. Edmo allegedly suffered between April 6, 2015 and April 6, 2017. (*Maybon Decl.*, ¶ 11 and Exhs. C and D)

9. Ms. Edmo alleges that, in or around August 2016, she was sexually assaulted by another offender at the ISCI. (Dkt. 36, ¶¶ 56-57) On December 12, 2016, Ms. Edmo filed a Notice of Tort Claim with the Secretary of State for the State of Idaho alleging personal and emotional injuries as a result of an undated and unspecified “sexual assault and/or sexual abuse.” (*Declaration of Lisa Mason* (hereinafter “*Mason Decl.*”), ¶ 3 and Exh. B)

10. On February 13, 2017, Ms. Edmo filed a Notice of Claim with the Secretary of State for the State of Idaho alleging personal injuries stemming from the September 29, 2015 and

December 31, 2016 self-castration attempts. (*Mason Decl.*, ¶ 3 and Exh. C) The February 13, 2017 Notice of Claim was not filed within 180 days of the September 29, 2015 self-castration attempt. (*Id.*) The Notice of Claim did not identify or name Defendants Henry Atencio, Jeff Zmuda or Howard Keith Yordy. (*Id.*)

DATED this 1<sup>st</sup> day of November, 2017.

Moore Elia Kraft & Hall, LLP

*/s/Brady J. Hall*

*Attorneys for Defendants Idaho Department of Correction, Henry Atencio, Jeff Zmuda, Howard Keith Yordy, Richard Craig, and Rona Siegert*

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*/s/Brady J. Hall*