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**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF IDAHO**

ADREE EDMO (a/k/a MASON EDMO),

Plaintiff,

v.

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-00151-BLW

**PLAINTIFF'S NOTICE OF MOTION AND
MOTION TO STRIKE PORTIONS OF
DECLARATION OF APRIL DAWSON, M.D.**

Complaint Filed: April 6, 2017
Discovery Cut-Off: None Set
Motion Cut-Off: None Set
Trial Date: None Set

MEMORANDUM OF POINTS AND AUTHORITIES

On October 31, 2019, Defendants filed a declaration from April Dawson, M.D., in support of their Expedited Motion to Stay Order Requiring Defendants Provide All Pre-Surgical Treatments and Related Corollary Appointments or Consultations Necessary for Gender Confirmation Surgery Pending Appeal. ECF No. 228-2.

Plaintiff objects to portions of Dr. Dawson's declaration as impermissible hearsay and double-hearsay under Fed. R. Evid. 801 and 802 because Dr. Dawson attests to multiple third parties' purported communications to her, including information Dr. Stiller allegedly told her, statements Dr. Stiller allegedly made regarding Ms. Edmo's communications to him, and communications other Corizon personnel have had with other individuals, and submits her own attestation for the truth of the matter asserted. Dr. Dawson provided no declaration, affidavit, or other evidence containing statements directly from Dr. Stiller, Ms. Edmo, or other third parties to whose communications or knowledge she attests. Dr. Dawson's hearsay statements, including the double-hearsay attestation of Ms. Edmo's intent and desire regarding surgery to Dr. Stiller, is not admissible for the truth of the matter. Nor does these hearsay statements meet any indicia of reliability given that they are made by an employee of Defendant Corizon solely for the purpose of buttressing Defendants' position in a motion, and Dr. Dawson does not demonstrate any basis for attesting to this information based on her own personal knowledge. *See* Fed. R. Evid. 602.

For the foregoing reasons, Plaintiff moves to strike the following portions of Dr. Dawson's declaration:

¶ 10: "When I spoke with Dr. Stiller on October 21, he confirmed that two options for vaginoplasty were discussed with Ms. Edmo, the penile inversion and the colovaginoplasty. (Dr. Stiller acknowledged there is another surgical option, where the male genitalia is removed, but no vagina is created. This surgical option would be for a patient that did not desire intercourse. It is my understanding this option was not discussed with Ms. Edmo.) Dr. Stiller told me that the penile inversion is much a more popular vaginoplasty, but the colovaginoplasty is also an option. He confirmed he is leaving it up to Ms. Edmo to choose which surgery she wants. Dr. Stiller told

me that Ms. Edmo seemed to be leaning toward choosing the penile inversion surgery at the initial consult, but was not entirely sure which option she wanted.”

¶ 11: “With respect to the penile inversion surgery, Dr. Stiller confirmed with me during our October 21 telephone call that hair removal (either by laser or by electrolysis) in the genital area is a part of such surgery. This hair removal process is expected to take 6 to 9 months with regular treatments approximately every month. In talking with Dr. Stiller and based on my own medical understanding, the hair can grow back after the first few appointments. However, once all the treatment sessions are complete over the 6 to 9 months, the hair removal in the treated area is permanent.”

¶ 12: “It is my understanding in talking with Dr. Stiller that hair removal in the genital area is not medical necessary as a part of the colovaginoplasty surgery option.”

¶ 13: “Dr. Stiller told me that hormone therapy will need to be stopped about three weeks prior to the surgery regardless of whether the surgery is the penile inversion or the colovaginoplasty. Although it varies from one patient to another, it is my understanding that symptoms (after the hormone therapy is stopped) can range from sharp mood swings, dizziness and nausea to the appearance of clearly masculine traits (facial hair, involuntary erections, etc.).”

¶ 14: “The Idaho Corizon Regional Office, where I work, has contacted Boise Electrolysis (who provides genital hair removal) and they have declined to accept Ms. Edmo as a patient.”

¶ 15: “It is my understanding that Dr. Stiller needs referral letters from a treating doctor (i.e., the doctor provided hormones) and two mental health providers or clinicians for the surgery. I am not aware of any Corizon employees that can provide these recommendations at this time based on their medical or mental health judgements. Dr. Alviso is the offsite physician who has agreed to provide hormone therapy treatment recommendations to inmates, including Ms. Edmo. Dr. Alviso is not a Corizon employee. It is my understanding that Dr. Alviso is not in

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 5th day of November, 2019, 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:

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/s/ - Shaleen Shanbhag
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