

Eric Croft (Alaska Bar No. 9406031)
THE CROFT LAW OFFICE
738 H Street
Anchorage, AK 99501
T: 907-272-3508 | F: 907-274-0146
eric@croftlawoffice.com

Peter C. Renn (admitted *pro hac vice*)
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.
4221 Wilshire Boulevard, Ste. 280
Los Angeles, CA 90010
T: 213-382-7600 | F: 213-351-6050
prenn@lambdalegal.org

Tara L. Borelli (admitted *pro hac vice*)
LAMBDA LEGAL DEFENSE AND EDUCATION FUND, INC.
730 Peachtree St. NE, Ste. 640
Atlanta, GA 30308
T: 470-225-5341 | F: 404-897-1884
tborelli@lambdalegal.org

Attorneys for Plaintiff Jennifer Fletcher

JAHNA LINDEMUTH
ATTORNEY GENERAL

William Milks (Alaska Bar No. 0411094)
Kevin Dilg (Alaska Bar No. 1406053)
Assistant Attorneys General
Department of Law
P.O. Box 110300
Juneau, AK 99801
Telephone: (907) 465-3600
Facsimile: (907) 465-2075
Email: bill.milks@alaska.gov

Attorneys for Defendant State of Alaska

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Jennifer Fletcher,

Plaintiff,

vs.

State of Alaska,

Defendant.

Case No. 1:18-cv-00007-HRH

**SCHEDULING AND PLANNING
CONFERENCE REPORT**

I. **Meeting.** In accordance with Rule 26(f), Federal Rules of Civil Procedure, a meeting was held on August 31, 2018 and was attended by:

Peter Renn and Tara Borelli for Plaintiff; William Milks and Kevin Dilg for Defendant.

As a result of that meeting, the parties recommend the following:

II. **Disclosures.** The information required by Fed. R. Civ. P. 26(a)(1):

A. Has been exchanged by the parties.

B. Will be exchanged by the parties on or before September 21, 2018.

C. Preliminary witness lists:

1. Have been exchanged by the parties.

2. Will be exchanged by the parties on or before September 21, 2018.

III. **Contested Issues of Fact and Law.** Preliminarily, the parties expect the following issues of fact and/or law to be presented to the court:

Plaintiff

Whether the State of Alaska discriminated against Plaintiff Jennifer Fletcher on the basis of sex under Title VII based on the exclusion of transition-related surgical treatment from coverage in its AlaskaCare plan for state employees.

Defendant

1) Does an employer sponsored health plan that includes an exclusion of coverage for a single treatment that applies to all employees violate Title VII?;

2) Does Title VII require an employer sponsored health plan to provide coverage for a specific course of treatment?;

3) If Title VII could require certain health plan coverage, did the plaintiff meet other conditions for reimbursement under the terms of the health care plan?

IV. **Discovery Plan.** The parties jointly propose to the court the following discovery plan.

A. The parties expect that discovery will be needed on the following issues:

Plaintiff anticipates discovery regarding: the State of Alaska's reasons for the exclusion of transition-related surgical treatment from coverage in its AlaskaCare plan for state employees, and the State of Alaska's reasons for the removal of exclusions for non-surgical transition-related care from coverage in its AlaskaCare plan for state employees.

Defendant anticipates discovery regarding: Plaintiff's medical history, efforts to obtain insurance coverage, and the services and circumstances related to her treatment for gender dysphoria.

B. Are there issues about preserving discovery information? Yes No

C. Disclosure or discovery of electronically stored information should be handled as follows: The parties do not anticipate significant amounts of electronically stored information, and they anticipate producing such information in PDF format where feasible and appropriate.

D. Claims of privilege or of protection of trial preparation materials.

1. There is no indication that this will be an issue

2. The parties have entered into a confidentiality agreement.

3. The parties will submit their proposed confidentiality agreement on or before: September 28, 2018.

E. Expert witnesses shall be identified by each party on or before _____. Expert disclosures in accordance with Rule 26(a)(2) shall be made:

1. By all parties on or before: February 15, 2019

2. By plaintiff(s) on or before: (Date)

3. By defendant(s) on or before: (Date)

4. Rebuttal reports on or before: March 15, 2019

F. Supplementation of disclosures and discovery responses under Fed. R. Civ. P. 26(e):

1. At intervals of (Number) days; and final supplements will be served and filed 60 days before the close of fact discovery.

2. As new information is acquired, but not later than 60 days before the close of fact discovery.

G. A final witness list disclosing all lay and expert witnesses whom a party may wish to call at trial will be served and filed: March 15, 2019.¹

H. Time for completing discovery:

1. Fact discovery will be completed on or before: (Date);
2. Expert discovery will be completed on or before: (Date);
3. All discovery will be completed on or before: May 1, 2019.

I. Limitations on discovery.

1. The limitations contained in Fed. R. Civ. P. 26(b), 30, and 33 will apply except as indicated below.

2. The maximum number of depositions by each party will not exceed (Number).

(a) Depositions will not exceed (Number) hours as to any deponent.

(b) Depositions will not exceed (Number) hours as to non-party deponents.

(c) Depositions will not exceed (Number) hours as to party deponents.²

3. The maximum number of interrogatories posed by each party will not exceed (Number).

4. The maximum number of requests for admissions posed by each party will not exceed (Number).

5. Other limitations: (insert other limitations)

V. Pretrial Motions.

A. Are there preliminary motions as to jurisdiction, venue, arbitration, and/or statutes of limitation (*see* D. Ak. L.R. 16.1(c)(5)) that should be filed within 60 days. Yes

No (If yes, explain)

(Explanation)

¹ This date may be more than but not less than 45 days prior to the close of discovery. Only those witnesses disclosed at this time will be permitted to testify at trial.

² Unless otherwise specified, the court will consider corporate officer, Rule 30(b)(6) witness, and expert witness depositions to be subject to the time limitation applicable to party depositions.

- B. Motions subject to D. Ak. L.R. 16.1(c)(6)-(8) and Fed. R. Civ. P. 56(b);
1. Will be served and filed within the times specified in the applicable rules.
 2. Motions to amend pleadings or add parties will be filed not later than (Date).
 3. Motions under the discovery rules will be filed not later than (Date).
 4. Motions *in limine* will be filed not later than (Date).
 5. Dispositive motions (including motions for summary judgment) will be filed not later than (Date).

VI. Other Provisions.

- A. The parties do do not request a conference with the court before the entry of a scheduling order. (If the parties *do* request a conference prior to entry of the order, please explain):

(Explanation)

- B. The parties do do not consent to trial before a magistrate judge.
- C. The disclosure requirements of Fed. R. Civ. P. 7.1, if applicable: N/A
1. Have complied with.
 2. Compliance will be accomplished on or before (Date).
- D. Early settlement/alternative dispute resolution.
1. Do the parties request immediate assistance by way of a settlement conference or alternative dispute resolution? Yes No
 2. Do the parties wish to consider private mediation or settlement conference with a judicial officer of this court at a later date? Yes No.
- E. The scheduling order will make provision of pretrial conferences, certification of the case as ready for trial, and a final pretrial order.

VII. Trial.

- A. The case is expected to take (Number) 2-4 days to try.
- B. 1. A jury trial has been demanded? Yes No.
2. The right to a jury trial is is not disputed. N/A

VIII. **Report Form.**

A. Have counsel experienced any problem(s) in using this form? Yes No.

If yes, explain (Explanation).

B. Are there subjects that counsel would like to see added to this form? Yes No. If Yes, explain (Explanation).

Dated: September 10, 2018

/s/ Peter C. Renn

Peter C. Renn (admitted *pro hac vice*)
Tara L. Borelli (admitted *pro hac vice*)
Eric Croft (Alaska Bar No. 9406031)

Attorneys for Plaintiff Jennifer Fletcher

/s/ Kevin M. Dilg

William E. Milks (Alaska Bar No. 0411094)
Kevin M. Dilg (Alaska Bar No. 1406053)
Assistant Attorneys General
Department of Law

Attorneys for Defendant State of Alaska