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2 ATTORNEY GENERAL

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12 *Attorneys for defendant*

13 **IN THE UNITED STATES DISTRICT COURT**  
14 **FOR THE DISTRICT OF ALASKA**

15 JENNIFER FLETCHER, )  
16 )  
17 Plaintiff, ) CIVIL ACTION  
18 )  
19 v. ) CASE NO. 1:18-cv-00007-HRH  
20 )  
21 STATE OF ALASKA, )  
22 ) **AFFIDAVIT OF COUNSEL**  
23 Defendant. )  
24 )  
25 )  
26 )

27 STATE OF ALASKA )  
28 ) ss.  
29 FIRST JUDICIAL DISTRICT )

30 I, Kevin M. Dilg, first duly sworn, deposes and says:

31 1. I am the Assistant Attorney General assigned to the above-captioned matter.

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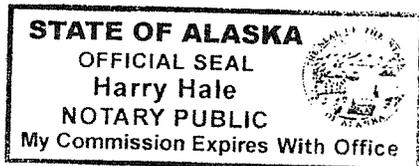
- 2. Attached as Exhibit A is a true and correct copy of the State of Alaska's Responses to Plaintiff's First Set of Interrogatories, verified on December 17, 2018
- 3. Attached as Exhibit B is a true and correct copy of State of Alaska's Responses to Plaintiff's First Set of Requests for Admission, dated November 30, 2018.
- 4. Attached as Exhibit C is a true and correct copy documents received from Plaintiff consisting of the U.S. Department of Justice Notice of Right to Sue letter marked FLETCHER 002728, and communications between Plaintiff and Aetna marked FLETCHER 003541-003561.
- 5. Attached as Exhibit D is a true and correct copy of the State of Alaska's First Supplemental Responses to Plaintiff's First Set of Interrogatories, verified on February 22, 2019.

DATED: August 16, 2019.

Kevin M. Dilg

SWORN TO AND SUBSCRIBED before me this 16 day of August, 2019.

Notary public in and for Alaska  
My commission expires: with office



1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on August 16, 2019, a copy of the foregoing was served  
3 electronically via ECF pursuant to the Court's electronic filing procedures on the  
4 following parties of record:

5 Peter C. Renn	Tara L. Borelli	Eric Croft
LAMBDA LEGAL	LAMBDA LEGAL	THE CROFT LAW
DEFENSE END	DEFENSE END	OFFICE
EDUCATION FUND,	EDUCATION FUND,	
INC.	INC.	

8  
9  
10 /s/Harry Hale  
11 Harry Hale  
12 Law Office Assistant II

13  
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21  
22  
23  
24  
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26  
ATTORNEY GENERAL, STATE OF ALASKA  
Diamond Courthouse  
PO Box 110300, JUNEAU, ALASKA 99811  
PHONE (907) 465-3600



1 Healthcare for the treatment of gender dysphoria in the AlaskaCare plan.

2           **ANSWER:** Title VII is not a national health insurance law and it does not  
 3 mandate health insurance coverage for particular medical treatments. Instead, it is a  
 4 federal statute that prohibits employment discrimination on the basis of “race, color,  
 5 religion, sex, or national origin.” Where a health plan excludes coverage of a treatment  
 6 for all employee plan beneficiaries regardless of their race, color, religion, sex, or  
 7 national origin, there is no claim under Title VII. Moreover, Plaintiff has not presented  
 8 any evidence that any medical expenses she incurred were medically necessary,  
 9 appropriate, or otherwise comply with any terms of the AlaskaCare Employee Health  
 10 Plan. On information and belief, Plaintiff traveled outside the United States to obtain her  
 11 various procedures. The AlaskaCare Employee Health Plan excludes any  
 12 “non-emergency charges incurred outside of the United States if you traveled to such  
 13 location to obtain medical services, prescription drugs, or supplies, even if otherwise  
 14 covered under the medical plan.”  
 15

16           **INTERROGATORY NO. 2:** Identify all Persons with involvement in, or  
 17 knowledge of, the creation, review, and maintenance of the exclusion of coverage for  
 18 surgical interventions as part of Transition-Related Healthcare in the AlaskaCare plan  
 19 for plan years 2016, 2017, 2018, and once available, 2019.  
 20

21           **ANSWER:** Objection to relevancy, overbreadth, vagueness, and privilege. The  
 22 request is overly expansive and vague when it requests “all Person with . . . knowledge  
 23 of” the challenged exclusion. This request seeks disclosure of every person that has ever  
 24

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STATE OF ALASKA’S RESPONSES TO  
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1 read the AlaskaCare employee health plan and is not proportional to whether a sex  
2 neutral health benefit exclusion is prohibited under Title VII of the Civil Rights Act of  
3 1964 and is not reasonably calculated to lead to the discovery of admissible evidence.  
4 Moreover, the request potentially seeks privileged communications between state  
5 officials and attorney client or work product communications. In addition,  
6 attorney-client privilege attaches to any discussions former State officials had with their  
7 attorneys in their capacity as State employees. Without waiving said objections, and to  
8 the extent the request is asking for people with relevant information, they are listed as  
9 follows:  
10

11  
12 Michele Michaud  
13 Chief Health Official  
14 Division of Retirement and Benefits *Attorney-Client*  
15 Department of Administration *Privilege*  
16 State of Alaska  
17 c/o Office of the Attorney General  
18 P.O. Box 110300  
19 Juneau, AK 99811-0300  
20 (907) 465-3600

21  
22 Emily Ricci  
23 Chief Health Policy Official *Attorney-Client*  
24 Division of Retirement and Benefits *Privilege*  
25 Department of Administration  
26 State of Alaska  
c/o Office of the Attorney General  
P.O. Box 110300  
Juneau, AK 99811-0300  
(907) 465-3600

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1 Steve Ramos  
2 Vendor Manager  
3 Division of Retirement and Benefits  
4 Department of Administration  
5 State of Alaska  
6 c/o Office of the Attorney General  
7 P.O. Box 110300  
8 Juneau, AK 99811-0300  
9 (907) 465-3600

*Attorney-Client  
Privilege*

7 Leslie Ridle  
8 Former Commissioner of Administration  
9 Department of Administration  
10 State of Alaska  
11 c/o Office of the Attorney General  
12 P.O. Box 110300  
13 Juneau, AK 99811-0300  
14 (907) 465-3600

12 Sheldon Fisher  
13 Former Commissioner of Administration  
14 State of Alaska  
15 c/o Office of the Attorney General  
16 P.O. Box 110300  
17 Juneau, AK 99811-0300  
18 (907) 465-3600

17 John Boucher  
18 Former Deputy Commissioner of Administration  
19 State of Alaska  
20 c/o Office of the Attorney General  
21 P.O. Box 110300  
22 Juneau, AK 99811-0300  
23 (907) 465-3600

22 **INTERROGATORY NO. 3:** Describe in detail the specific reasons that  
23 Defendant commissioned the September 20, 2016 memorandum analyzing the inclusion  
24 of Transition-Related Healthcare benefits on the AlaskaCare plan by Segal Consulting.

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1 September 20, 2016 memorandum beyond providing copies to Plaintiff in response to a  
2 public records request.

3 **INTERROGATORY NO. 5:** Identify all Persons involved in Communications  
4 relating to the September 20, 2016 memorandum analyzing the inclusion of  
5 Transition-Related Healthcare benefits on the AlaskaCare plan by Segal Consulting,  
6 including any and all steps taken by Defendant in response to the memorandum.

8 **ANSWER:** See Answer to Interrogatory #2.

9 **INTERROGATORY NO. 6:** Describe in detail Defendant's criteria, policies,  
10 practices, and procedures for establishing coverage for procedures relating to  
11 vaginoplasty, and mammoplasty and/or breast reconstruction surgery for plan years  
12 2014, 2015, 2016, 2017, 2018, and once available, 2019.

14 **ANSWER:** Objection to vagueness, overbreadth, and relevancy. Vaginoplasty is  
15 a broad term encompassing many distinct procedures including, without limitation,  
16 separation of congenitally fused urethra and vagina, repair of a urethra that is short,  
17 vaginal construction, vaginal vault prolapse, and treatment of Mullerian agenesis.  
18 Likewise, mammoplasty and breast reconstruction surgery are broad terms covering  
19 many medically distinct procedures. Moreover, the State's policies for determining  
20 coverage for medical procedures are not reasonably calculated to lead to the discovery of  
21 admissible evidence on whether a sex neutral health plan exclusion violates Title VII  
22 and is not proportional to the issues raised in the Complaint. For example, the fact that  
23 State is legally required to provide for reconstructive surgery following a mastectomy

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1 under the Women’s Health and Cancer Rights Act, is irrelevant to the issues contained  
 2 in the Complaint. Without waiving said objections, the State answers that the  
 3 AlaskaCare Employee Health Plan is reviewed periodically (at least annually) by the  
 4 Division of Retirement and Benefits and changes and recommendations are submitted to  
 5 the Commissioner of Administration for review and approval. The Division of  
 6 Retirement and Benefits makes its determinations in consultation with its current  
 7 third-party administrator—which provides information on the current medical consensus  
 8 about various procedures—and fiscal consultants and through research into other public  
 9 and private health plans. The Division considers applicable state and federal health care  
 10 mandates and adjusts its coverage accordingly.

13 **INTERROGATORY NO. 7:** Describe in detail all Communications that took  
 14 place between or among any employee of the State of Alaska Department of  
 15 Administration Division of Retirement and Benefits and/or any other Alaska state  
 16 agency relating to Ms. Fletcher and the underlying events of this action (beginning with  
 17 Ms. Fletcher’s initial inquiries to the Division of Retirement and Benefits in 2016 to the  
 18 present).

20 **ANSWER:** See response to request for production.

21 **INTERROGATORY NO. 8:** Identify all conditions, diagnostic codes, or  
 22 instances where vaginoplasty coverage is available under AlaskaCare for plan years  
 23 2014, 2015, 2016, 2017, 2018, and once available, 2019. Include in that identification:

- 24 a. Diagnostic code(s);

- 1 b. Procedure code(s);
- 2 c. Medical necessity criteria.

3 **ANSWER:** Objection to vagueness, overbreadth, and relevancy. Vaginoplasty is  
4 a broad term encompassing many distinct procedures. Moreover, the State’s policies for  
5 determining coverage for medical procedures are not reasonably calculated to lead to the  
6 discovery of admissible evidence on whether a sex neutral health plan exclusion violates  
7 Title VII and is not proportional to the issues raised in the Complaint. Finally,  
8 identification of all “instances” of coverage conceivably requires review of all claims for  
9 medical benefits submitted to AlaskaCare for a period of approximately five years,  
10 which likely exceeds several million individual claims. Without waiving said objections,  
11 see response to request for production.

12 **INTERROGATORY NO. 9:** Identify all conditions, diagnostic codes, or  
13 instances where mammoplasty and/or breast reconstruction surgery coverage is available  
14 under AlaskaCare for plan years 2014, 2015 2016, 2017, 2018, and once available, 2019.  
15 Include in that identification:

- 16 a. Diagnostic code(s);
- 17 b. Procedure code(s);
- 18 c. Medical necessity criteria.

19 **ANSWER:** Objection to vagueness, overbreadth, and relevancy. Mammoplasty  
20 and breast reconstruction are broad terms encompassing many distinct procedures.  
21 Moreover, the State’s policies for determining coverage for medical procedures are not

1 reasonably calculated to lead to the discovery of admissible evidence on whether a sex  
2 neutral health plan exclusion violates Title VII and is not proportional to the issues  
3 raised in the Complaint.

4  
5 Finally, identification of all “instances” of coverage conceivably requires review  
6 of all claims for medical benefits submitted to AlaskaCare for a period of approximately  
7 five years, which likely exceeds several million individual claims. Without waiving said  
8 objections, see response to request for production.

9  
10 **INTERROGATORY NO. 10:** Describe in detail the reasons for Defendant’s  
11 removal of the exclusion of coverage for hormone therapy and counseling and/or therapy  
12 as part of Transition-Related Healthcare in the AlaskaCare plan for the 2018 plan year.

13  
14 **ANSWER:** Objection to relevancy and privilege to the extent the question calls  
15 for information related to decisional activity protected by deliberative process or  
16 attorney-client privilege. In addition, the State’s revision to the prior exclusion for  
17 certain service Plaintiff links to “Transition-Related Healthcare” is not reasonably  
18 calculated to lead to discovery of admissible evidence related to whether a sex neutral  
19 health plan exclusion violates Title VII and is not proportional to the issues raised in the  
20 Complaint. Without waiving said objections, the State responds by stating that the  
21 Division of Retirement and Benefits routinely and periodically reviews the AlaskaCare  
22 employee health plan’s provisions, terms, and conditions in order to ensure compliance  
23 with various state and federal laws and regulations and to adjust coverage based on  
24 current consensus of medically relevant procedures and terminology, and fiscal

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1 considerations. The AlaskaCare employee health plan has historically provided coverage  
 2 for conditions such as Gender Dysphoria and other gender-identity disorders that did not  
 3 conflict with the provisions, terms, and conditions of the plan. The Division of  
 4 Retirement and Benefits consults and advises the Commissioner of Administration  
 5 regarding potential plan changes. In 2016, the Division and the Commissioner's office  
 6 began reviewing the challenged coverage exclusion as a part of its periodic review  
 7 process. This review considered potential costs associated with various treatments  
 8 associated with Gender Dysphoria and other gender-identity related conditions, the  
 9 expected utilization of said treatments, the fact that some of the various treatments were  
 10 covered under alternative plan provisions, and the medical consensus on the efficacy,  
 11 safety, and expert recommendations for the various treatments. After review of the  
 12 available information, the decision was made to clarify the availability of mental health  
 13 counseling for gender-identity issues and allow for hormone therapy.

14 **INTERROGATORY NO. 11:** Identify all Persons involved in and Documents  
 15 related to Interrogatory 10.

16 **ANSWER:** See response to Interrogatory #2 and response to request for  
 17 production.

18 **INTERROGATORY NO. 12:** Identify and describe in detail every instance in  
 19 which a State agency or entity currently provides partial or full coverage for  
 20 Transition-Related Healthcare of any kind, including but not limited to counseling  
 21

1 and/or therapy, hormone therapy, or surgery. Include in your answer the date such  
2 coverage began.

3           **ANSWER:** Objection to overbreadth, and relevancy. The basis for Plaintiff’s  
4 claim is a single exclusion from the AlaskaCare employee health plan and whether such  
5 an exclusion to health benefits constitutes discriminations on the basis of sex under the  
6 terms of Title VII. Consequently, the actions of numerous state agencies such as the  
7 Department of Corrections or the Department of Health and Social Services is not  
8 reasonably calculated to lead to discoverable information regarding the establishment  
9 and maintenance of an exclusion in the AlaskaCare plan as those agencies have no  
10 control over the AlaskaCare plan and are not necessarily in privity with the Department  
11 of Administration, Division of Retirement and Benefits. The fact the State of Alaska  
12 provides for medical care in a multitude of situations has no relevance as to whether the  
13 challenged language in the AlaskaCare employee health plan violates Title VII.

14 Moreover, the question calls for the disclosure of protectable personal information  
15 related to individuals on Medicaid or currently incarcerated not contemplated by the  
16 terms of the agreed to protective order in this matter. Review of all “instances” of  
17 coverage is overboard because it conceivably requires review of all claims for medical  
18 benefits submitted to AlaskaCare or to State agencies not in privity with the Department  
19 of Administration, Division of Retirement and Benefits for a period of approximately  
20 five years which consists of millions of individual claims to determine if the claim was  
21 for services related to “Transition-Related Healthcare”. It is functionally impossible and  
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1 irrelevant to review State sponsored health benefit plans separate and distinct from the  
2 AlaskaCare employee health plan and such requests are not proportional to the claims  
3 raised by the Complaint, in that the Plaintiff does not participate in other State sponsored  
4 health benefit plans, AlaskaCare has no control of other State sponsored health benefit  
5 plans, and the Plaintiff may never participate in other State sponsored health benefit  
6 plans. Finally, despite Plaintiff’s attempt to define “Transition-Related Healthcare,”  
7 services may have been provided under alternative provisions of the various State run  
8 medical benefit programs or associated with diagnostic classifications not related to—or  
9 comorbid with—gender-identify issues. Without waiving said objections, AlaskaCare  
10 has historically provided counseling service for gender-identity disorder and—starting  
11 January 1, 2018, covers hormone treatment and counseling in apparent compliance with  
12 Plaintiff’s definition of “Gender-Transition Healthcare” and see response to request for  
13 production.  
14  
15

16 DATED: December 14, 2018.

17 KEVIN G. CLARKSON  
18 ATTORNEY GENERAL

19  
20 By: /s/ Kevin M. Dilg  
21 Kevin M. Dilg  
22 Assistant Attorney General  
23 Alaska Bar No. 1406053  
24  
25  
26

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that on December 14, 2018 a copy of the foregoing was served  
3 via email on the following parties of record. Due to the size of the production file and  
4 technical issues in preparing it, it will be provided via ZendTo FTP and on DVD via  
5 U.S. Mail on December 17, 2018:

6 Peter C. Renn  
7 LAMBDA LEGAL DEFENSE END  
8 EDUCATION FUND, INC.  
9 4221 Wilshire Boulevard, Ste. 280  
10 Los Angeles, CA 90010  
11 prenn@lambdalegal.org

12 Tara L. Borelli  
13 LAMBDA LEGAL DEFENSE END  
14 EDUCATION FUND, INC.  
15 730 Peachtree St. NE, Ste. 640  
16 Atlanta, GA 30308  
17 tborelli@lambdalegal.org

18 Eric Croft  
19 THE CROFT LAW OFFICE  
20 738 H Street  
21 Anchorage, AK 99501  
22 eric@croftlawoffice.com

23 /s/ Richard J. Carter  
24 Richard J. Carter, Law Office Manager



1 JAHNA LINDEMUTH  
2 ATTORNEY GENERAL  
3 William Milks (Alaska Bar No. 0411094)  
4 Kevin Dilg (Alaska Bar No. 1406053)  
5 Assistant Attorneys General  
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11 Email: [bill.milks@alaska.gov](mailto:bill.milks@alaska.gov)

12 *Attorneys for defendant*

13 **IN THE UNITED STATES DISTRICT COURT**  
14 **FOR THE DISTRICT OF ALASKA**

15 JENNIFER FLETCHER, )  
16 )  
17 Plaintiff, )  
18 )  
19 v. )  
20 )  
21 STATE OF ALASKA, )  
22 ) CIVIL ACTION  
23 Defendant. )  
24 ) CASE NO. 1:18-cv-00007-HRH  
25 )  
26 )

27 **STATE OF ALASKA'S RESPONSES TO PLAINTIFF'S FIRST SET OF**  
28 **REQUESTS FOR ADMISSION**

29 Defendant State of Alaska responds to plaintiff's first set of requests for  
30 admission as follows:

31 **REQUEST FOR ADMISSION NO. 1:** Admit that Ms. Fletcher is qualified for  
32 her position as a legislative librarian for the State of Alaska.  
33  
34  
35  
36

1           **RESPONSE:** Admitted to the extent of the knowledge of the individual  
2 answering these requests with the understanding the answerer is not Plaintiff's  
3 supervisor and has no knowledge of Plaintiff's job performance.

4           **REQUEST FOR ADMISSION NO. 2:** Admit that Ms. Fletcher is classified as  
5 female on her employment records with the State of Alaska.

6           **RESPONSE:** Admitted.

7           **REQUEST FOR ADMISSION NO. 3:** Admit that Ms. Fletcher is referred to  
8 using feminine pronouns while at work.

9           **RESPONSE:** Objection to relevance. The Complaint does not allege any  
10 indication of hostile work place or any other cause of action other than whether a gender  
11 neutral health plan exclusion is under the purview Title VII of the Civil Rights Act of  
12 1964. The gender pronouns used by Plaintiff's co-workers have no bearing on the issue  
13 to be decided in this case.

14           **REQUEST FOR ADMISSION NO. 4:** Admit that Ms. Fletcher is transgender.

15           **RESPONSE:** Objection as the question calls for information outside the  
16 knowledge, control, or custody of the State. The State admits Plaintiff has alleged she is  
17 transgender in her complaint.

18           **REQUEST FOR ADMISSION NO. 5:** Admit that Ms. Fletcher's gender  
19 identity is female.

20           **RESPONSE:** Objection as the question calls for information outside the  
21 knowledge, control, or custody of the State. The State has no knowledge of Plaintiff's

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23 STATE OF ALASKA'S RESPONSES TO  
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1 personal thoughts, attitudes, or opinions of herself beyond the fact that Plaintiff has  
2 alleged her gender identity is female in her complaint.

3 **REQUEST FOR ADMISSION NO. 6:** Admit that Ms. Fletcher identifies as a  
4 woman.

5 **RESPONSE:** Objection as the question calls for information outside the  
6 knowledge, control, or custody of the State. The State has no knowledge of Plaintiff's  
7 personal thoughts, attitudes, or opinions of herself beyond the fact that Plaintiff has  
8 alleged she is woman in her complaint.

9 **REQUEST FOR ADMISSION NO. 7:** Admit that Ms. Fletcher is a woman.

10 **RESPONSE:** Objection as the question calls for information outside the  
11 knowledge, control, or custody of the State. Moreover, the term "woman" is vague  
12 based upon Plaintiff's own arguments regarding the transmutable nature of sex and  
13 gender. The State is without knowledge as to Plaintiff's personal medical information  
14 and cannot formulate an answer beyond the State admits Plaintiff presents herself and  
15 wishes others to identify her as a stereotypical "woman."  
16

17 **REQUEST FOR ADMISSION NO. 8:** Admit that Ms. Fletcher has been  
18 enrolled for health care coverage through the self-funded AlaskaCare plan throughout  
19 her employment with the State.

20 **RESPONSE:** Admitted.

21 **REQUEST FOR ADMISSION NO. 9:** Admit that Ms. Fletcher was denied  
22 coverage for her vaginoplasty because of the exclusion for transition-related surgical  
23

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1 care in AlaskaCare.

2           **RESPONSE:** The State admits Plaintiff requested pre-certification for services  
3 that did not require pre-certification under the terms of AlaskaCare. Based on the State's  
4 best information as of the date of this response, Plaintiff has not submitted a claim for  
5 vaginoplasty for coverage under the terms of the AlaskaCare plan or appealed any  
6 determination of the State's third-party administrator. The State admits that surgical  
7 procedures related to changing sex or sexual characteristics including procedures to  
8 alter the appearance or function of the body are excluded from benefits.

9  
10           **REQUEST FOR ADMISSION NO. 10:** Admit that Ms. Fletcher was denied  
11 coverage for a mammoplasty and/or breast reconstruction surgery because of the  
12 exclusion for transition-related surgical care in AlaskaCare.

13  
14           **RESPONSE:** The State admits Plaintiff requested pre-certification for services  
15 that did not require pre-certification under the terms of AlaskaCare. Based on the State's  
16 best information as of the date of this response, Plaintiff has not submitted a claim for  
17 vaginoplasty for coverage under the terms of the AlaskaCare plan or appealed any  
18 determination of the State's third-party administrator. The State admits that surgical  
19 procedures related to changing sex or sexual characteristics, including procedures to  
20 alter the appearance or function of the body, are excluded from benefits.

21  
22           **REQUEST FOR ADMISSION NO. 11:** Admit that the State of Alaska serves  
23 as the plan administrator for AlaskaCare.

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1           **RESPONSE:** Denied to the extent the request conflicts with AS 39.30.090-.095;  
2 AS 39.35.003; AS 14.25.003; and AS 22.25.025, otherwise Admitted.

3           **REQUEST FOR ADMISSION NO. 12:** Admit that Aetna Life Insurance  
4 Company (“Aetna”) serves as the medical claims administrator for AlaskaCare.

5           **RESPONSE:** Admitted as through December 31, 2018.

6           **REQUEST FOR ADMISSION NO. 13:** Admit that in its capacity as medical  
7 claims administrator for AlaskaCare, Aetna denied Plaintiff’s request for  
8 pre-certification for transition-related surgery in or around November 2016.

9           **RESPONSE:** Admitted.

10           **REQUEST FOR ADMISSION NO. 14:** Admit that in response to Plaintiff’s  
11 request for pre-certification for transition-related surgery, Aetna informed Plaintiff that  
12 AlaskaCare excludes coverage for transition-related surgery.

13           **RESPONSE:** Admitted pending a complete review of all communications  
14 between Plaintiff, Aetna, and the State. Despite diligent efforts to review all materials,  
15 the State has been unable to fully review all relevant documents and materials before the  
16 deadline for the response to these requests.

17           **REQUEST FOR ADMISSION NO. 15:** Admit that in response to Plaintiff’s  
18 request for pre-certification for transition-related surgery, Aetna informed Plaintiff that  
19 plan design decisions are made by the State of Alaska as the plan administrator.

20           **RESPONSE:** Admitted pending a complete review of all communications  
21 between Plaintiff, Aetna, and the State. Despite diligent efforts to review all materials,

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1 the State has been unable to fully review all relevant documents and materials before the  
2 deadline for the response to these requests. Denied to the extent Plaintiff's definition of  
3 "plan administrator" conflicts with AS 39.30.090-.095; AS 39.35.003; AS 14.25.003;  
4 and AS 22.25.025.

5  
6 **REQUEST FOR ADMISSION NO. 16:** Admit that the exclusion of  
7 transition-related surgery in AlaskaCare is a health plan decision made by the State of  
8 Alaska as the plan administrator.

9 **RESPONSE:** Admitted to the extent "transition-related surgery" is excluded  
10 under the terms of the AlaskaCare plan. Denied to the extent Plaintiff's definition of  
11 "plan administrator" conflicts with AS 39.30.090-.095; AS 39.35.003; AS 14.25.003;  
12 and AS 22.25.025.

13  
14 **REQUEST FOR ADMISSION NO. 17:** Admit that Aetna denied Plaintiff's  
15 request for pre-certification for transition-related surgery because of AlaskaCare's  
16 exclusion for such surgery.

17 **RESPONSE:** Denied to the extent the request for pre-certification was denied  
18 because "transition-related surgery" is not on the list of conditions that require  
19 pre-certification.

20  
21 **REQUEST FOR ADMISSION NO. 18:** Admit that Aetna was required to deny  
22 Plaintiff's request for pre-certification for transition-related surgery because of  
23 AlaskaCare's exclusion for such surgery.

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25  
26 *Fletcher v. State of Alaska*

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1           **RESPONSE:** Denied to the extent the request for pre-certification was denied  
2 because “transition-related surgery” is not on the list of conditions that require  
3 pre-certification.

4           **REQUEST FOR ADMISSION NO. 19:** Admit that Aetna must follow the  
5 terms of the AlaskaCare plan in its capacity as medical claims administrator.  
6

7           **RESPONSE:** Admitted.

8           **REQUEST FOR ADMISSION NO. 20:** Admit that Aetna may not deviate  
9 from the terms of the AlaskaCare plan in its capacity as medical claims administrator.  
10

11           **RESPONSE:** Admitted to the extent that Aetna cannot independently alter the  
12 terms of the AlaskaCare plan; however, the Plan incorporates many policies from the  
13 third-party administrator and the third-party administrator has control over those policies.

14           **REQUEST FOR ADMISSION NO. 21:** Admit that Aetna was not authorized  
15 to violate the exclusion in the AlaskaCare plan for transition-related surgery by  
16 approving Ms. Fletcher’s request for such coverage.  
17

18           **RESPONSE:** Objection assumes facts not in evidence, to the best of the State’s  
19 knowledge Plaintiff has not submitted any claims for medical benefits for approval or  
20 denial. Without waiving this objection, the State admits that surgical procedures related  
21 to changing sex or sexual characteristics including procedures to alter the appearance or  
22 function of the body are excluded from benefits.  
23

24           **REQUEST FOR ADMISSION NO. 22:** Admit that, even assuming  
25 Ms. Fletcher satisfied all other prerequisites under the AlaskaCare plan for  
26

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1 transition-related surgery, Aetna could not have approved her request because of the  
2 exclusion for transition-related surgery.

3           **RESPONSE:** Objection, calls for speculation beyond applying facts to the law.  
4 Plaintiff does not define “other prerequisites under the AlaskaCare plan for  
5 transition-related surgery.” Without waiving this objection, the State admits the  
6 AlaskaCare plan excludes surgical procedures related to changing sex or sexual  
7 characteristics including procedures to alter the appearance or function of the body,  
8 however the State is without knowledge as to “other prerequisites” that may support  
9 procedures that Plaintiff has defined as “for transition-related surgery.”  
10

11           **REQUEST FOR ADMISSION NO. 23:** Admit that Defendant engaged Segal  
12 Consulting to determine the potential fiscal impact of covering treatment for gender  
13 dysphoria, including surgical care, in AlaskaCare.  
14

15           **RESPONSE:** The State admits it has engaged Segal Consulting to review  
16 multiple issues with the State’s health plans including an analysis of potential costs  
17 associated with expanding coverage for gender dysphoria based on incomplete data  
18 models. The request is denied to the extent Plaintiff’s request implies that all coverage  
19 for gender dysphoria is currently excluded under the terms of the AlaskaCare plan.  
20

21           **REQUEST FOR ADMISSION NO. 24:** Admit that the document Defendant  
22 produced at bates numbers SOA – 001255 through SOA – 001259 constitutes a true and  
23 authentic copy of the genuine original document provided by Segal Consulting to  
24 Defendant (the “Segal Memorandum”), except for redactions applied by Defendant.  
25

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1           **RESPONSE:** Admitted.

2           **REQUEST FOR ADMISSION NO. 25:** Admit that AlaskaCare's expenditures  
3 in 2018 for counseling or therapy, and for hormone therapy, relating to gender dysphoria  
4 have not exceeded the Segal Memorandum's predicted costs of \$60,000.00 (bates  
5 number SOA - 001258).  
6

7           **RESPONSE:** The State is still in the process of compiling data responsive to  
8 this question. Currently, the State is without complete knowledge of the total costs for  
9 counseling or drug therapy for gender dysphoria for 2018, and therefore the request is  
10 denied. The State will supplement this response upon the review of additional data.  
11

12           **REQUEST FOR ADMISSION NO. 26:** Admit that between January 1, 2017  
13 and September 21, 2017, coverage was provided for counseling or therapy relating to  
14 gender dysphoria for six State employees (bates number SOA – 001254).  
15

16           **RESPONSE:** Admitted to the extent the State provided representative claims  
17 data for gender dysphoria treatment in its initial disclosures. Denied to the extent this  
18 information is not an exclusive or exhaustive lists of cost or members receiving care.  
19

20           **REQUEST FOR ADMISSION NO. 27:** Admit that between January 1, 2017  
21 and September 21, 2017, the State expended \$6,439 for counseling or therapy relating to  
22 gender dysphoria (bates number SOA – 001254).  
23

24           **RESPONSE:** Admitted to the extent the State provided representative claims  
25 data for gender dysphoria treatment in its initial disclosures. Denied to the extent this  
26 information is not an exclusive or exhaustive lists of cost or members receiving care.

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**REQUEST FOR ADMISSION NO. 28:** Admit that mammoplasty can be medically necessary for purposes other than gender transition.

**RESPONSE:** Objection to relevance. Medical necessity is a fact driven case-by-case assessment of an individual's current condition. The fact that specific medical procedures are medically necessary for one purpose does not mean they are medically necessary for another purpose. Moreover, the case at issue is focused on whether a gender neutral exclusion in a health benefit plan is under the purview of Title VII, not what coverage AlaskaCare provides or doesn't provide in general. Without waiving this objection, the State admits that mammoplasty can be medically necessary for purposes other than gender transition.

**REQUEST FOR ADMISSION NO. 29:** Admit that breast reconstruction surgery can be medically necessary for purposes other than gender transition.

**RESPONSE:** Objection to relevance. Medical necessity is a fact driven case-by-case assessment of an individual's current condition. The fact that specific medical procedures are medically necessary for one purpose does not mean they are medically necessary for another purpose. Moreover, the case at issue is focused on whether a gender neutral exclusion in a health benefit plan is under the purview of Title VII, not what coverage AlaskaCare provides or doesn't provide in general. Without waiving this objection, the State admits that breast reconstruction surgery can be medically necessary for purposes other than gender transition.

**REQUEST FOR ADMISSION NO. 30:** Admit that the AlaskaCare plan partially

1 or fully covers mammoplasty and/or breast reconstruction surgery for some diagnoses.

2 **RESPONSE:** Admitted.

3 **REQUEST FOR ADMISSION NO. 31:** Admit that the AlaskaCare plan's  
4 coverage for mammoplasty and/or breast reconstruction surgery includes, when  
5 medically necessary, "all stages of reconstruction of the breast" (bates number  
6 SOA – 000204).  
7

8 **RESPONSE:** Objection to relevance. The quoted language pertains to coverage  
9 required by the Women's Health and Cancer Rights Act of 1998 (29 U.S.C. § 1185b).  
10 There is no allegation that Plaintiff is covered under this act or that the terms of this act  
11 are applicable to this litigation.  
12

13 **REQUEST FOR ADMISSION NO. 32:** Admit that the AlaskaCare plan's  
14 coverage for mammoplasty and/or breast reconstruction surgery includes, when  
15 medically necessary, "protheses" (bates number SOA – 000204).  
16

17 **RESPONSE:** Objection to relevance. The quoted language pertains to coverage  
18 required by the Women's Health and Cancer Rights Act of 1998 (29 U.S.C. § 1185b).  
19 There is no allegation that Plaintiff is covered under this act or that the terms of this act  
20 are applicable to this litigation.

21 **REQUEST FOR ADMISSION NO. 33:** Admit that vaginoplasty can be  
22 medically necessary for purposes other than gender transition.  
23

24 **RESPONSE:** Objection to relevance. Medical necessity is a fact driven  
25 case-by-case assessment of an individual's current condition. The fact that specific  
26

1 medical procedures are medically necessary for one purpose does not mean they are  
2 medically necessary for another purpose. Moreover, the case at issue is focused on  
3 whether a gender neutral exclusion in a health benefit plan is under the purview of  
4 Title VII, not what coverage AlaskaCare provides or doesn't provide in general.  
5  
6 Without waiving this objection, the State admits that vaginoplasty can be medically  
7 necessary for purposes other than gender transition.

8           **REQUEST FOR ADMISSION NO. 34:** Admit that the AlaskaCare plan  
9 partially or fully covers vaginoplasty for some diagnoses.

10           **RESPONSE:** Admitted.

11           **REQUEST FOR ADMISSION NO. 35:** Admit that Aetna's Clinical Policy  
12 Bulletin No. 0615 for "Gender Reassignment Surgery" (bates number SOA – 001236)  
13 states that vaginoplasty can be medically necessary under certain circumstances.  
14

15           **RESPONSE:** The State admits that Aetna's Clinical Policy Bulletin No. 0615  
16 for "Gender Reassignment Surgery" (bates number SOA – 001236) states that  
17 vaginoplasty can be medically necessary under certain circumstances, but denies that  
18 Aetna clinical policy bulletins exclusively control benefit decisions.  
19

20           **REQUEST FOR ADMISSION NO. 36:** Admit that the Public Safety  
21 Employees Association ("PSEA") is a labor union that represents certain State of Alaska  
22 public safety officer employees.

23           **RESPONSE:** Admitted.

24           **REQUEST FOR ADMISSION NO. 37:** Admit that the Public Safety  
25

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1 Employees Association Health and Welfare Trust, governs health insurance coverage for  
2 state employees who are members of PSEA.

3           **RESPONSE:** Objection to relevance. The actions of an independent third-party  
4 has no relevance as to whether the State’s gender neutral health plan exclusion is under  
5 the purview of Title VII or amounts to discrimination on the basis of sex. Without  
6 waiving this objection, the State admits that pursuant to the collective bargaining  
7 agreement between the State and PSEA, which is a legally separate and distinct entity  
8 from the State, health insurance for PSEA members is solely managed by the PSEA.  
9

10           **REQUEST FOR ADMISSION NO. 38:** Admit that state employee members of  
11 the PSEA receive health coverage for sex reassignment surgery, when medically  
12 necessary and not for cosmetic purposes, under the terms of the Public Safety  
13 Employees Association Health and Welfare Trust.  
14

15           **RESPONSE:** Objection to relevance. The actions of an independent third-party  
16 has no relevance as to whether the State’s gender neutral health plan exclusion is under  
17 the purview of Title VII or amounts to discrimination on the basis of sex. Without  
18 waiving this objection, the State lacks sufficient knowledge or information to respond to  
19 this request for admission.  
20

21           **REQUEST FOR ADMISSION NO. 39:** Admit that the Alaska State  
22 Employees Association/American Federation of State, County and Municipal  
23 Employees Local 52 (“ASEA/AFSCME Local 52”) is a labor union that represents  
24 certain administrative support, technical, and other employees of the State of Alaska.  
25

26 *Fletcher v. State of Alaska*

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STATE OF ALASKA’S RESPONSES TO  
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1           **RESPONSE:** Admitted.

2           **REQUEST FOR ADMISSION NO. 40:** Admit that the ASEA/AFSCME Local  
3 52 Health Benefits Trust governs health insurance coverage for State employees who are  
4 members of ASEA/AFSCME Local 52.

5           **RESPONSE:** Objection to relevance. The actions of an independent third-party  
6 has no relevance as to whether the State’s gender neutral health plan exclusion is under  
7 the purview of Title VII or amounts to discrimination on the basis of sex. Without  
8 waiving this objection, the State admits that pursuant to the collective bargaining  
9 agreement between the State and ASEA, which is a legally separate and distinct entity  
10 from the State, health insurance for ASEA members is solely managed by the ASEA.

11           **REQUEST FOR ADMISSION NO. 41:** Admit that state employee members of  
12 the ASEA/AFSCME Local 52 receive health coverage for medically necessary treatment  
13 of gender dysphoria, including transition-related surgery, under the terms of the  
14 ASEA/AFSCME Local 52 Health Benefits Trust.

15           **RESPONSE:** Objection to relevance. The actions of an independent third-party  
16 has no relevance as to whether the State’s gender neutral health plan exclusion is under  
17 the purview of Title VII or amounts to discrimination on the basis of sex. Without  
18 waiving that objection, the State is without knowledge as to the terms and conditions of  
19 health benefits offered by ASEA beyond review of the ASEA Health Trust booklet  
20 which states “services, therapy, drugs, or supplies for sex transitions or related to sex  
21 change surgery or any treatment of gender identity disorders” is an excluded service.

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23 STATE OF ALASKA’S RESPONSES TO  
24 PLAINTIFF’S FIRST SET OF REQUESTS FOR ADMISSION

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1           **REQUEST FOR ADMISSION NO. 42:** Admit that University of Alaska  
2 employees receive health coverage for sex reassignment surgery, when medically  
3 necessary and not for cosmetic purposes.

4           **RESPONSE:** Objection to relevance. The actions of an independent third-party  
5 has no relevance as to whether the State's gender neutral health plan exclusion is under  
6 the purview of Title VII or amounts to discrimination on the basis of sex. Without  
7 waiving that objection, the State lacks sufficient knowledge or information of the terms  
8 and conditions of the University of Alaska health plan to admit or deny this request for  
9 admission.  
10

11           **REQUEST FOR ADMISSION NO. 43:** Admit that University of Alaska  
12 students receive health coverage for sex reassignment surgery, when medically  
13 necessary and not for cosmetic purposes.

14           **RESPONSE:** Objection to relevance. The actions of an independent third-party  
15 has no relevance as to whether the State's gender neutral health plan exclusion is under  
16 the purview of Title VII or amounts to discrimination on the basis of sex. Without  
17 waiving that objection, the State lacks sufficient knowledge or information of the terms  
18 and conditions of the University of Alaska health plan to admit or deny this request for  
19 admission.  
20

21           **REQUEST FOR ADMISSION NO. 44:** Admit that the exclusion of  
22 transition-related surgical care only affects transgender individuals enrolled in the  
23 AlaskaCare plan.  
24

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STATE OF ALASKA'S RESPONSES TO  
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**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 45:** Admit that the exclusion of transition-related surgical care disproportionately affects transgender individuals enrolled in the AlaskaCare plan.

**RESPONSE:** Objection, the term “disproportionately affects” is vague and ambiguous. The State notes that any health benefit exclusion differently impacts individuals seeking coverage for services subject to the exclusion. The State denies this difference created any legally significant impact. The State admits the AlaskaCare plan excludes benefits for surgical procedures related to changing sex or sexual characteristics including procedures to alter the appearance or function of the body.

**REQUEST FOR ADMISSION NO. 46:** Admit that the documents Defendant produced at bates numbers SOA – 000001 through SOA – 001379 constitute true and authentic copies of the genuine original documents.

**RESPONSE:** Admitted.

**REQUEST FOR ADMISSION NO. 47:** Admit that all documents Defendant produce in response to Plaintiff’s Requests for Production of Documents and Things constitute true and authentic copies of the genuine original documents. If Defendant is unable to admit that all Documents produced in response to Plaintiff’s Requests for Production of Documents and Things constitute true and authentic copies of the genuine original documents, Defendant shall admit the authenticity of any portion or subset of documents therein that constitute true and authentic copies of the genuine original



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**CERTIFICATE OF SERVICE**

I hereby certify that on November 30, 2018 a copy of the foregoing was served electronically via ECF on the following parties of record pursuant to the Court's electronic filing procedures:

Peter C. Renn	Tara L. Borelli	Eric Croft
LAMBDA LEGAL	LAMBDA LEGAL	THE CROFT LAW
DEFENSE END	DEFENSE END	OFFICE
EDUCATION FUND, INC.	EDUCATION FUND, INC.	

  
Ivy Greever  
Law Office Assistant I

1 KEVIN G. CLARKSON  
2 ATTORNEY GENERAL  
3 William Milks (Alaska Bar No. 0411094)  
4 Kevin Dilg (Alaska Bar No. 1406053)  
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6 Department of Law  
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8 Juneau, AK 99811-0300  
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11 Email: [bill.milks@alaska.gov](mailto:bill.milks@alaska.gov)

12 *Attorneys for defendant*

13 **IN THE UNITED STATES DISTRICT COURT**  
14 **FOR THE DISTRICT OF ALASKA**

15 JENNIFER FLETCHER, )  
16 )  
17 Plaintiff, )  
18 )  
19 v. )  
20 )  
21 STATE OF ALASKA, )  
22 )  
23 Defendant. )

CIVIL ACTION

CASE NO. 1:18-cv-00007-HRH

24 **STATE OF ALASKA'S FIRST SUPPLEMENTAL RESPONSES TO**  
25 **PLAINTIFF'S FIRST SET OF INTERROGATORIES**

26 Defendant State of Alaska, by and through the office of the Attorney General,  
supplements its responses to Plaintiff's first set of interrogatories as follow:

**INTERROGATORIES**

**INTERROGATORY NO. 6:** Describe in detail Defendant's criteria, policies,  
practices, and procedures for establishing coverage for procedures relating to

1 vaginoplasty, and mammoplasty and/or breast reconstruction surgery for plan years  
2 2014, 2015, 2016, 2017, 2018, and once available, 2019.

3           **ANSWER:** The State’s initial response is incorporated and reasserted in  
4 conjunction with this supplementation. The State supplements by stating that the  
5 AlaskaCare Employee Health Plan is a self-insured health benefit coverage program  
6 available to certain classes of State employees and their dependents. While the State is  
7 financially liable for the Plan, the State contracts with a Third-Party Administrator  
8 (TPA) to oversee the day-to-day claims operation of the Plan, including processing and  
9 paying all payable claims under the terms of the Plan, making initial coverage decisions,  
10 and developing reimbursement and medical necessity criteria. As a result, the State does  
11 not have “criteria, policies, practices, and procedures for establishing coverage for  
12 procedures relating to vaginoplasty, and mammoplasty and/or breast reconstruction  
13 surgery.” Rather, the State provides benefits for medical services and procedures that are  
14 medically necessary and not otherwise excluded from the Plan. Neither “vaginoplasty”  
15 nor “mammoplasty/breast reconstruction” are specifically excluded from the Plan *per se*  
16 (the Plan excludes cosmetic surgery and gender reassignment surgery which may  
17 encompass one or both of these procedures). The State relies on its TPA to establish and  
18 define medical necessity. The State establishes specific exclusions based on input from  
19 the TPA, fiscal consultants, and through research into other public and private health  
20 plans. The Division considers applicable state and federal health care mandates and  
21 adjusts its coverage accordingly.

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STATE OF ALASKA’S FIRST SUPPLEMENTAL RESPONSES TO  
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1           **INTERROGATORY NO. 7:** Describe in detail all Communications that took  
2 place between or among any employee of the State of Alaska Department of  
3 Administration Division of Retirement and Benefits and/or any other Alaska state  
4 agency relating to Ms. Fletcher and the underlying events of this action (beginning with  
5 Ms. Fletcher's initial inquiries to the Division of Retirement and Benefits in 2016 to the  
6 present).

7  
8           **ANSWER:** The State's initial response is incorporated and reasserted in  
9 conjunction with this supplementation. The State supplements by referring to its request  
10 for production at pages 004615-004758, 005084-005099, 044660-044716,  
11 046138-046146, 046161-046164, 046192-046254, 046263-046346, 046353-046358,  
12 046394-046428, 046443-046452, 046455-046528, 046544-046595, 046606-04619,  
13 046645-046649, 046726-046772, 046812-046853, 046863-046886, 046894-046898,  
14 046917-046928, 047010-047069, 047112-047128, 047352-047390, 047447-047472,  
15 047530-047669, 047728-047855, 047868-048048, 048590-048591, 049151-049161.  
16

17           **INTERROGATORY NO. 8:** Identify all conditions, diagnostic codes, or  
18 instances where vaginoplasty coverage is available under AlaskaCare for plan years  
19 2014, 2015, 2016, 2017, 2018, and once available, 2019. Include in that identification:  
20

- 21           a. Diagnostic code(s);  
22           b. Procedure code(s);  
23           c. Medical necessity criteria.  
24

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STATE OF ALASKA'S FIRST SUPPLEMENTAL RESPONSES TO  
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1           **ANSWER:** The State’s initial response is incorporated and reasserted in  
2 conjunction with this supplementation. The State supplements by stating that coverage  
3 for medical treatments and services under the AlaskaCare Employee Health Plan is  
4 available for procedures that are medically necessary and not otherwise excluded under  
5 the terms of the Plan. The State relies on its TPA to determine the medical necessity of  
6 “vaginoplasty” and to identify all conditions, diagnostic codes, or instances of coverage  
7 for “vaginoplasty.” The State does not specifically exclude coverage for “vaginoplasty”  
8 under the terms of the AlaskaCare Employee Health Plan (the Plan excludes cosmetic  
9 surgery and gender reassignment surgery which may encompass this procedure). Aetna  
10 provides coverage and procedure codes in its publically available Clinical Policy  
11 Bulletins. Because the Bulletins are equally accessible to both Plaintiff and Defendant,  
12 are not created, compiled, stored, or published by Defendant, and review of the entire  
13 Bulletin catalogue is equally burdensome to both parties the State refers Plaintiff to  
14 [https://www.aetna.com/health-care-professionals/clinical-policy-bulletins/medical-](https://www.aetna.com/health-care-professionals/clinical-policy-bulletins/medical-clinical-policy-bulletins.html#)  
15 [clinical-policy-bulletins.html#](https://www.aetna.com/health-care-professionals/clinical-policy-bulletins/medical-clinical-policy-bulletins.html#) for more information on this request as well as  
16 Bates No. 049595-049956.  
17  
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20           **INTERROGATORY NO. 9:** Identify all conditions, diagnostic codes, or  
21 instances where mammoplasty and/or breast reconstruction surgery coverage is available  
22 under AlaskaCare for plan years 2014, 2015 2016, 2017, 2018, and once available, 2019.  
23 Include in that identification:

- 24                   a. Diagnostic code(s);

- b. Procedure code(s);
- c. Medical necessity criteria.

**ANSWER:** The State’s initial response is incorporated and reasserted in conjunction with this supplementation. The State supplements by stating that coverage for medical treatments and services under the AlaskaCare Employee Health Plan is available for procedures that are medically necessary and not otherwise excluded under the terms of the Plan. The State relies on its TPA to determine the medical necessity of “mammoplasty and/or breast reconstruction” and to identify all conditions, diagnostic codes, or instances of coverage for “mammoplasty and/or breast reconstruction.” The State does not specifically exclude coverage for “mammoplasty and/or breast reconstruction” under the terms of the AlaskaCare Employee Health Plan (the Plan excludes cosmetic surgery and gender reassignment surgery which may encompass this procedure). Aetna provides coverage and procedure codes in its publically available Clinical Policy Bulletins. Because the Bulletins are equally accessible to both Plaintiff and Defendant, are not created, compiled, stored, or published by Defendant, and review of the entire Bulletin catalogue is equally burdensome to both parties the State refers Plaintiff to <https://www.aetna.com/health-care-professionals/clinical-policy-bulletins/medical-clinical-policy-bulletins.html#> for more information on this request as well as Bates No. 049595-049956.

//  
//

1           **INTERROGATORY NO. 11:** Identify all Persons involved in and Documents  
2 related to Interrogatory 10.

3           **ANSWER:** The State's initial response is incorporated and reasserted in  
4 conjunction with this supplementation. The State supplements by stating it is still reviewing  
5 communications and documents associated with this interrogatory and will supplement its  
6 response when it discovers specifically identifiable persons or documents responsive to this  
7 request. The State also supplements by referencing Bates No. 001015-001379,  
8 046455-046461, 046481-046498, 046520-046525, 046735-046772.  
9

10           **INTERROGATORY NO. 12:** Identify and describe in detail every instance in  
11 which a State agency or entity currently provides partial or full coverage for  
12 Transition-Related Healthcare of any kind, including but not limited to counseling  
13 and/or therapy, hormone therapy, or surgery. Include in your answer the date such  
14 coverage began.  
15

16           **ANSWER:** The State's initial response is incorporated and reasserted in  
17 conjunction with this supplementation. The State supplements by stating treatment,  
18 therapy, surgery, or other procedures related to gender reassignment is excluded from  
19 the State Medicaid system pursuant to 2 AAC 105.110. The Department of Corrections  
20 is required to provide essential health care for incarcerated individuals, which is defined  
21 as clinically appropriate indispensable care to prevent the progression of a disease or the  
22 deterioration of health. As of the date of this response, the Department of Corrections  
23 has not approved or denied a request for gender transition surgery. As to other forms of  
24  
25

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“Transition-Related Healthcare,” the Department of Corrections provides essential health care on a case-by-case basis. Inmate medical records are confidential pursuant to 22 AAC 05.090-.095.

DATED: February 22, 2019.

KEVIN G. CLARKSON  
ATTORNEY GENERAL

By: /s/ Kevin M. Dilg  
Kevin M. Dilg  
Assistant Attorney General  
Alaska Bar No. 1406053

CERTIFICATE OF SERVICE

I hereby certify that on February 22, 2019 a copy of the foregoing was served via email on the following parties of record:

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/s/ Ivy J. Greever  
Ivy J. Greever, Law Office Assistant

1 **IN THE UNITED STATES DISTRICT COURT**  
2 **FOR THE DISTRICT OF ALASKA**

3 JENNIFER FLETCHER, )

4 Plaintiff, )

5 v. )

6 STATE OF ALASKA, )

7 Defendant. )

) CIVIL ACTION

) CASE NO. 1:18-cv-00007-HRH  
9 )

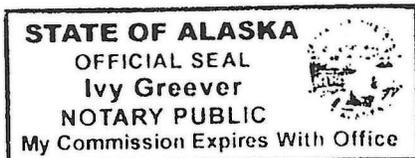
10 **VERIFICATION**

11 I, Ajay Desai, Division Director, State of Alaska, Department of Administration,  
12 Division of Retirement and Benefits, hereby certify and declare that I have read the  
13 interrogatory responses to the **STATE OF ALASKA'S FIRST SUPPLEMENTAL**  
14 **RESPONSES TO PLAINTIFF'S FIRST SET OF INTERROGATORIES** and, but  
15 for the response to Interrogatory No. 12, they are true and correct to the best of my  
16 knowledge and belief. I have no personal knowledge of the operation of the Department  
17 of Health and Social Service or the Department of Corrections.  
18

19 Dated: 2/22/2019

Ajay Desai  
Ajay Desai  
Division Director

22 SUBSCRIBED and SWORN to before me this 22 day of February, 2019.



Ivy Greever  
Notary Public  
My Commission Expires: with office

26 *Fletcher v. State of Alaska*

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

STATE OF ALASKA'S FIRST SUPPLEMENTAL RESPONSES TO  
PLAINTIFF'S FIRST SET OF INTERROGATORIES

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