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IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF OHIO  
EASTERN DIVISION

~~~~~

STACIE RAY, BASIL ARGENTO, JANE DOE,  
AND ASHLEY BREDA,  
Plaintiffs,

vs. Civil Action No.

2:18-CV-00272-MHW-CMV

AMY ACTON, IN HER OFFICIAL CAPACITY  
AS DIRECTOR OF THE OHIO DEPARTMENT  
OF HEALTH, et al.,

Defendants.

~~~~~

Deposition of  
BASIL ARGENTO

August 29, 2019

11:00 a.m.

Taken at:

Calfee Halter & Griswold, LLP  
41 South High Street, Suite 1200  
Columbus, Ohio

Kimberly A. Kaz, RPR, Notary Public

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APPEARANCES:

On behalf of the Plaintiffs:

American Civil Liberties Union of  
Ohio Foundation, by  
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1           BASIL ARGENTO, of lawful age,  
2 called for examination, as provided by the  
3 Federal Rules of Civil Procedure, being by me  
4 first duly sworn, as hereinafter certified,  
5 deposed and said as follows:

6           EXAMINATION OF BASIL ARGENTO

7 BY MR. BLAKE:

8           Q.       Okay. Mr. -- is it "Argento" or  
9 "Argento"?

10          A.       "Argento." It's Italian.

11          Q.       "Argento." It's Italian.

12                    Okay. Could you spell your name  
13 for the record, please?

14          A.       Basil, B-a-s-i-l, Argento,  
15 A-r-g-e-n-t-o.

16          Q.       Great. Thank you.

17                    And have you ever had your  
18 deposition taken before?

19          A.       No.

20          Q.       All right. So I'm just going to go  
21 over a few ground rules, then, just so we can  
22 be on the same page regarding how this is going  
23 to proceed and so we don't trip over ourselves.  
24 So as you know, there's a court reporter here.  
25 The court reporter is typing everything I say,

1 is going to type everything you say and  
2 everything your attorney says, but in order to  
3 do that, she needs us to all talk -- well, for  
4 us to talk one at a time. We can't talk over  
5 one another. So when I ask you a question,  
6 please wait for me question to finish, and as  
7 you answer the question, I'll try to do the  
8 same, I'll try to wait until you finish before  
9 I ask another question. Does that make sense?

10 A. Uh-huh. Yes.

11 Q. So you've just brought up the  
12 second rule, which is all of your answers need  
13 to be oral, auditory. You can't nod your head  
14 because the court reporter can't indicate that  
15 on the -- on her transcript, and because things  
16 like "uh-huh," "huh-uh" look ambiguous on a  
17 transcript, to the extent the answer calls for  
18 a "yes" or "no" response, I would appreciate it  
19 if you said "yes" or "no" or affirmative or  
20 "correct" or something similar. And if you  
21 don't, I may ask you to clarify.

22 The other rule is it's your  
23 deposition, so if at any time you want to stop,  
24 take a break, get a glass of water, go to the  
25 restroom, anything like that, that's perfectly

1     okay.    The only caveat to that is that if  
2     there's a question pending, I'd ask that you  
3     finish the question or answer the question  
4     before we take a break.   Does that make sense?

5             A.     Yes.

6             Q.     All right.   And just for your  
7     information, you know, we've taken two other of  
8     the plaintiffs' depositions in this case, and  
9     they've each gone three hours or so, and I  
10    anticipate that that's probably about the  
11    length of time yours will go, okay?

12            A.     Yep.

13            Q.     All right.   So if there are other  
14    things that we've missed, we'll sort of learn  
15    on the way, but for me, that's about all I have  
16    as far as ground rules, so we can kind of  
17    proceed into the substantive portion of your  
18    deposition, all right?

19            A.     (Nods head.)

20            Q.     "Yes"?

21            A.     Yes.

22            Q.     Okay.   All right.   So I'm going to  
23    use several terms, and there's a lot of  
24    disagreement about what terms mean in this  
25    case.   I just want to make sure you understand

1 what I mean when I use certain terminology in  
2 this case, okay?

3 A. Yep.

4 Q. And that's another -- that's  
5 another important point. If I ask a question  
6 and it's unclear or confusing to you, you need  
7 to tell me because if you answer the question,  
8 I'm going to assume and the record's going to  
9 reflect that you understood the question and  
10 you were -- you were answering it, okay?

11 A. Yes.

12 Q. So if you need me to clarify, just  
13 say so, okay?

14 MS. BONHAM: And just because we've  
15 been through this before, I'm just going to put  
16 a standing objection on the record, if I can to  
17 the extent that any of the terminology calls  
18 for us to accept any of defendants' definition,  
19 we don't, and to the extent that any question  
20 or use of terminology calls for expert or legal  
21 testimony, we'll just put a standing objection  
22 on the record, if that's okay with you.

23 MR. BLAKE: Yeah. I agree. You  
24 guys can have your standing objection, and I  
25 would appreciate it if we treated it that way

1 and so it wouldn't be necessary, then, to  
2 object on that grounds at every question.

3 Q. Okay. So the first term is "ODH,"  
4 and that generically stands for the Ohio  
5 Department of Health, which is one of the  
6 defendants in this case. You know that, right?

7 A. Yes.

8 Q. And when I refer to "ODH," because  
9 there's multiple defendants that have been  
10 sued, I'm referring to all of them. So do you  
11 understand that?

12 A. Yes.

13 Q. To the extent I need to refer to  
14 any one of the defendants as an individual or  
15 in their individual capacity, I'll let you  
16 know. I'll make that clear on the record,  
17 okay?

18 A. Yes.

19 Q. All right. The term "transgender,"  
20 "transgendered," "transgenderism" or any  
21 related term is someone whose gender identity  
22 does not align with their birth or biological  
23 sex. When I use that term or terms, that's  
24 what I mean. Do you understand that?

25 A. I understand that you think that's

1 what that means.

2 Q. And we'll get into what your  
3 definition is during the deposition, okay?

4 And then "cisgendered" is someone  
5 whose gender identity aligns with their birth  
6 or biological sex. Do you understand that's  
7 what I mean when I use that term?

8 A. I understand that's what you mean.

9 Q. Okay. All right. Mr. Argento,  
10 what is your address?

11 [REDACTED]  
12 [REDACTED]

13 Q. And how long have you lived there?

14 A. Moved in July 2nd of this year.

15 Q. And where did you live before that?

16 A. In Columbus.

17 Q. Where did you live in Columbus?

18 A. Think of my address.

19 Q. I don't need the address, but, you  
20 know, just part of town.

21 A. [REDACTED]  
22 [REDACTED]

23 Q. When you said "we," who did you  
24 live with?

25 A. My husband.

1 Q. And did your husband move out to  
2 Colorado with you?

3 A. Yes.

4 Q. What's his name?

5 A. [REDACTED] [REDACTED]

6 Q. [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

7 A. [REDACTED]

8 Q. How long have you been married?

9 A. Two years approximately.

10 Q. So married approximately 2017?

11 A. Yeah. [REDACTED] [REDACTED] [REDACTED]

12 Q. And before you were married, did  
13 you have a relationship with [REDACTED] [REDACTED]

14 A. Yes.

15 Q. I mean, would you -- would you call  
16 it, like, a dating relationship? Were you guys  
17 a couple?

18 A. Yes.

19 Q. How long were you guys together  
20 before you got -- before you were married  
21 approximately?

22 A. Between three and four years.

23 Q. And so you started seeing  
24 [REDACTED] [REDACTED] sometime 2013, 2014. Is that about  
25 right?

1 A. That's about right, yeah.

2 Q. And how long have you lived with  
3 [REDACTED] [REDACTED] approximately?

4 A. Around three -- I would say three,  
5 three-and-a-half years.

6 Q. Okay. So you met him and things  
7 were going well. You guys moved in together  
8 pretty soon thereafter?

9 A. Uh-huh.

10 Q. "Yes"?

11 A. Yes.

12 Q. Okay. All right. What is your --  
13 what's your highest level of education?

14 A. I have a Bachelor's degree, and I  
15 am currently pursuing my Master's.

16 Q. Is that a Bachelor's of Arts or a  
17 Bachelor's of Science?

18 A. Bachelor of Arts.

19 Q. What was your Bachelor of Arts in?

20 A. Psychology.

21 Q. And when did you -- when did you  
22 obtain the degree?

23 A. 2010.

24 Q. From what institution did you  
25 obtain the degree?

1 A. Columbia College.

2 Q. Is that an online university or  
3 where is that university located?

4 A. They're in Missouri. They also  
5 have online.

6 Q. And did you take the classes  
7 remotely?

8 A. Yes.

9 Q. When did you start taking classes  
10 at Columbia College?

11 A. Probably about a year before I  
12 graduated. I had transferred and had credits.

13 Q. So you started taking classes at  
14 Columbia College in 2009, right?

15 A. Approximately.

16 Q. And it took you a year or so to  
17 complete your Bachelor's of Arts in psychology;  
18 is that right?

19 A. Yes.

20 Q. And you said you had some transfer  
21 credits. Where did you obtain those credits?

22 A. Oh, about ten different schools  
23 over ten or 15 years.

24 Q. So you started taking college  
25 classes in the late '90s, mid-'90s or so. Does

1 that sound about right?

2 A. Yes.

3 Q. And you -- it wasn't, like, one  
4 continuous course of study, you -- you changed  
5 schools throughout that time, right?

6 A. Yes.

7 Q. Were those schools all online  
8 schools or were some of them brick and mortar?

9 A. Some were brick and mortar.

10 Q. Okay. And I don't intend to go  
11 through all ten or so schools over the last ten  
12 or 15 years, but in general, what -- what was  
13 the reason why you decided to leave or stop  
14 attending the various schools?

15 A. I mean, there were lots of  
16 different reasons at different times in my  
17 life. The first one, I was, you know, dealing  
18 with the transition and I was poor.

19 Q. So at least with regard to some of  
20 them, it was issues related to your gender  
21 transition, right, and then --

22 A. Yes.

23 Q. And then other times, it had to do  
24 with, you know, not having the finances to  
25 continue on with your education at that time,

1 right?

2 A. Yes.

3 Q. Okay. But you stuck with it and  
4 eventually obtained your degree in 2010?

5 A. Yes.

6 Q. Okay. And you said now you're  
7 pursuing a Master's degree?

8 A. Yes.

9 Q. When did you start pursuing your  
10 Master's degree?

11 A. About a year and a half ago.

12 Q. So 2018, 2017-ish?

13 A. Yeah. Yes.

14 Q. And from what institution are you  
15 seeking your Master's degree from?

16 A. Adams State University.

17 Q. And is the Master's degree also in  
18 psychology?

19 A. It's in clinical mental health  
20 counseling.

21 Q. Is that a branch of psychology?

22 A. I mean, that depends on your  
23 opinion. It's focused on counseling as a  
24 profession.

25 Q. Is a psychology degree required

1 before you can take a Master's course in  
2 clinical mental health counseling?

3 A. No.

4 Q. Is it common?

5 A. As far as I understand, there's  
6 people from many different backgrounds that  
7 change to get a Master's in that, in that  
8 specialty.

9 Q. Is Adams State another online  
10 university or is that one located in Colorado  
11 somewhere?

12 A. It's located in Colorado and they  
13 also have online classes.

14 Q. Do you attend classes in person or  
15 do you do them online?

16 A. I do most of them online, but I go  
17 in the summer to face-to-face courses.

18 Q. When you anticipate graduating?

19 A. July 2020, I believe.

20 Q. All right. What is your current  
21 employment?

22 A. I'm not employed.

23 Q. You're unemployed?

24 A. I just go to school right now.

25 Q. Is there a reason why you only do

1 the in-person classes during the summer as  
2 opposed to all year?

3 A. That's how the program's set up.

4 Q. As part of your coursework in  
5 clinical mental health counseling, has there  
6 been any additional coursework or special  
7 emphasis on issues or gender or sex?

8 MS. BONHAM: Objection. We've been  
9 through a long line of questioning now about  
10 his educational background, and I want to  
11 clarify for the record that he's not testifying  
12 as an expert and he's not going to testify as  
13 an expert, he's testifying only on his personal  
14 experience, and so his education related to the  
15 issues in the case is irrelevant. Go ahead.

16 THE WITNESS: There's not been a  
17 class in the Master's program.

18 Q. What about when you obtained your  
19 Bachelor of Arts in psychology, was there any  
20 special class or coursework or course of study  
21 that was directed towards issues relating to  
22 sex or gender?

23 MS. BONHAM: Same objection. Go  
24 ahead.

25 THE WITNESS: Yeah. Yes, I believe

1 there was a general sexuality course.

2 Q. You said there was a general  
3 sexuality course?

4 A. I believe so, yeah.

5 Q. Did you take that class?

6 A. Yes.

7 Q. Did that course talk about gender  
8 and gender identity and gender issues?

9 MS. BONHAM: Same objection.

10 THE WITNESS: This has been -- it's  
11 been a long time ago, and what I believe is it  
12 was very briefly talked about as far as  
13 transgender.

14 Q. So you recall taking a general  
15 sexuality course as part of your Bachelor's of  
16 Arts when you were studying psychology, right?

17 A. Yes.

18 Q. And although it was several years  
19 ago, you do recall that there was at least  
20 some -- some small amount of discussion  
21 regarding transgender issues. Is that your  
22 recollection?

23 A. Yes.

24 Q. Approximately how long ago did you  
25 take the general sexuality course during your

1 studies?

2 A. If I had to guess, probably six to  
3 eight years ago.

4 Q. Was that the only coursework you  
5 took in either your Bachelor of Arts or  
6 Master's programs that looked at transgender  
7 issues?

8 MS. BONHAM: Objection. Asked and  
9 answered. Continuing objection to the  
10 questions that seem to get at expert testimony.  
11 Go ahead.

12 THE WITNESS: I honestly -- I think  
13 one or two classes, they may have, like,  
14 briefly mentioned it in a paragraph, but  
15 nothing extensive.

16 Q. Is it your understanding that sex  
17 and gender are different?

18 MS. BONHAM: Objection. Calls for  
19 expert testimony. Go ahead.

20 THE WITNESS: It's a very complex  
21 topic, and I don't think you can say something  
22 like that and have it be accurate, no.

23 Q. So you believe that sex and gender  
24 are the same?

25 MS. BONHAM: Same objection.

1 Misstates testimony.

2 THE WITNESS: It's a very complex  
3 thing. You can't just, like, make a blanket  
4 statement like that, in my opinion.

5 Q. So it's your -- your understanding  
6 of the difference between sex and gender is  
7 that it's a complicated question and you  
8 can't -- you can't definitively say one way or  
9 the other whether they're the same?

10 MS. BONHAM: Objection. Misstates  
11 testimony. Foundation. Go ahead.

12 THE WITNESS: My opinion, it's a  
13 very complex personal issue for each person to  
14 decide for themselves.

15 Q. And have you -- have you reached a  
16 decision on that -- on that complicated issue?

17 A. For me, myself, my sex and gender  
18 are the same.

19 Q. And on what basis have you  
20 concluded that your sex and gender are the  
21 same?

22 A. I'm not sure how to answer what  
23 basis. This is just my reality.

24 Q. It's just what you believe?

25 MS. BONHAM: Objection.

1 THE WITNESS: It's the reality that  
2 I live with, yes.

3 Q. You're not a medical doctor, right?

4 A. No.

5 Q. And you don't consider yourself an  
6 expert on a person's biological sex, right?

7 A. I'm only an authority for my own  
8 life, as is each individual person.

9 Q. So that's a no, you don't consider  
10 yourself an expert on a person's biological  
11 sex?

12 A. I'm not an expert on another person  
13 outside of myself.

14 Q. Do you understand from a medical  
15 perspective how a person's sex is determined?

16 MS. BONHAM: Objection. Calls for  
17 expert testimony. Go ahead.

18 THE WITNESS: You'd have to restate  
19 your question. That question does not compute.

20 Q. Sure. From a medical perspective,  
21 do you know how a person's sex can be  
22 determined?

23 A. You're asking me to believe in a  
24 whole system of thought that I don't believe  
25 in.

1 Q. Do you believe that medical  
2 professionals are capable of determining  
3 someone's sex?

4 MS. BONHAM: Objection. Calls for  
5 expert testimony. Foundation. Calls for  
6 speculation. Go ahead.

7 THE WITNESS: Could you repeat the  
8 question?

9 Q. Yeah. I'm asking whether or not  
10 you personally believe whether the medical  
11 profession is capable of determining a person's  
12 biological sex.

13 MS. BONHAM: Same objection.

14 THE WITNESS: Biology is quite  
15 misunderstood. The biological idea that gender  
16 can be determined by, you know, things, is -- I  
17 do not believe that is correct, no.

18 Q. You don't believe that medical  
19 professionals using science, using biology can  
20 determine a person's gender. Is that what your  
21 belief is?

22 MS. BONHAM: Objection. Misstates  
23 testimony. Calls for expert testimony.

24 THE WITNESS: There have been many  
25 scientific studies showing there's not just

1 genetics. It's very complex stuff. It's not  
2 something simplistic.

3 Q. I understand you believe it's  
4 complicated, but my question was a little  
5 different. My question was whether or not you  
6 believe -- you said gender, whether you believe  
7 gender can be determined using biology and  
8 science.

9 MS. BONHAM: Objection. Vague.  
10 Asked and answered. Calls for expert  
11 testimony.

12 THE WITNESS: I believe that each  
13 individual person can determine and tell you  
14 their gender.

15 Q. But that a medical doctor can't  
16 tell you your gender?

17 MS. BONHAM: Objection. Vague.  
18 Misstates testimony. Continuing objection to  
19 calls for expert testimony.

20 THE WITNESS: When you're asking me  
21 about an individual doctor, I could possibly  
22 answer that question. A particular doctor  
23 might be able to, another doctor might not be  
24 able to.

25 Q. Do you have an understanding of how

1 a particular doctor would be able to determine  
2 someone's gender?

3 MS. BONHAM: Objection. Calls for  
4 expert testimony.

5 THE WITNESS: By asking.

6 Q. Any other ways besides just asking  
7 them?

8 A. No other ways are necessary.

9 Q. I didn't ask you whether or not  
10 they were necessary, sir, I asked you whether  
11 or not you were aware of any other methods  
12 besides simply asking somebody.

13 MS. BONHAM: Same objection.

14 THE WITNESS: No. I do not think  
15 that's necessary, no.

16 Q. And then what about a particular  
17 doctor's ability to determine someone's  
18 biological sex, are you aware of the ways in  
19 which a medical doctor might be able to do  
20 that?

21 MS. BONHAM: Objection. Calls for  
22 expert testimony. Objection to the term  
23 "biological sex."

24 THE WITNESS: Well, you're saying  
25 biological sex as a way to determine someone's

1 gender, which I don't want -- I don't see why  
2 we're bringing that up.

3 Q. So did you -- I don't think I heard  
4 an answer in there. I think I heard you say  
5 something about what you were inferring from my  
6 question, so let me re-ask it.

7 Do you have an understanding of how  
8 a medical professional could determine  
9 someone's biological sex?

10 MS. BONHAM: Same objection. Calls  
11 for speculation. Vague.

12 THE WITNESS: No, I don't. I do  
13 not believe that that's a possibility.

14 Q. You don't know if it's possible to  
15 determine someone's biological sex from a  
16 medical perspective, or you don't have an  
17 understanding of how they -- they make that  
18 determination?

19 MS. BONHAM: Objection. Asked and  
20 answered. Calls for expert testimony. He's  
21 asked you whether or not you can think of how.

22 THE WITNESS: It's a loaded  
23 question. You know, you're asking me to accept  
24 your definition.

25 Q. I haven't asked you to accept a

1 definition, I've asked you simply to say  
2 whether or not you're aware of ways in which a  
3 medical professional can or does determine  
4 someone's biological sex.

5 MS. BONHAM: Objection. Vague.  
6 Asked and answered.

7 THE WITNESS: Again, you're asking  
8 me to accept that that is the reality, that  
9 somebody could -- you're asking me if I have an  
10 understanding of something that I don't  
11 believe.

12 Q. You don't believe that there's such  
13 a thing as biological sex?

14 A. Correct.

15 MS. BONHAM: Objection to the term  
16 "biological sex."

17 THE WITNESS: Yes.

18 Q. Do you believe that there's such a  
19 thing as gender?

20 A. That's another really complicated  
21 thing. I mean, I believe in gender.

22 Q. You believe in gender?

23 A. As a range, not in a black or white  
24 way.

25 Q. You don't view gender as an

1 either/or construct; is that correct?

2 A. Yes.

3 Q. You believe gender -- or you  
4 believe gender is a spectrum; is that fair?

5 A. Yes.

6 Q. Are -- is it fair to say the ends  
7 of the spectrum for gender are one end male and  
8 one end female, or is that not a fair  
9 characterization?

10 MS. BONHAM: Objection. Vague.  
11 Calls for expert testimony. Calls for  
12 speculation.

13 THE WITNESS: That's -- I mean,  
14 that's up to each individual person, how they  
15 view gender.

16 Q. Well, what is your belief?

17 A. I can only speak for myself, and  
18 I'm male, and that's all I can say about that.

19 Q. I guess I was asking you about your  
20 belief about the spectrum. I wasn't asking  
21 about what your belief about your gender is, I  
22 was asking you about your belief about the  
23 spectrum and whether or not you believe that  
24 one end of the spectrum is male and the other  
25 end of the spectrum is female. That's all I

1 was asking.

2 A. I mean, you can make any number of  
3 models for how it could possibly work. I don't  
4 see any value in creating a specific --

5 Q. So you don't necessarily agree that  
6 the spectrum would be male to female, right?

7 A. No.

8 Q. You think it could be any number of  
9 different ways to characterize the ends of that  
10 spectrum, not necessarily male and female?

11 A. Yes. It's up to each person how  
12 they view gender.

13 Q. Okay. And so my question to you  
14 was how do you personally view it. You agreed  
15 with my characterization of it as a spectrum,  
16 and I was just wondering how you viewed -- in  
17 your view, how you viewed that spectrum.

18 MS. BONHAM: Objection. Calls for  
19 speculation. Calls for expert testimony.

20 THE WITNESS: I view people as  
21 individuals, and they can tell me their gender  
22 or how they feel about it or their model of  
23 what the gender or whatever you want to call it  
24 looks like.

25 Q. Do you believe biological sex is on

1 a spectrum?

2 MS. BONHAM: Objection. Calls for  
3 expert testimony. Continuing objection to the  
4 term "biological sex."

5 THE WITNESS: Biological sex,  
6 that's just -- it's a concept, you know, and  
7 it's a concept that I don't believe is correct.

8 Q. But like you said before, you're  
9 not a medical doctor, so you don't consider  
10 yourself an expert on biological sex, right?

11 A. Of course not.

12 Q. And you don't consider yourself an  
13 expert on gender either, do you?

14 A. Of course not. I'm only an expert  
15 in my own life.

16 Q. And you haven't received any  
17 certifications or degrees regarding sex and  
18 gender, right?

19 A. No.

20 Q. You haven't published any papers  
21 regarding sex and gender, right?

22 A. No.

23 Q. And you haven't given any talks or  
24 presentations on the topics of sex and gender,  
25 right?

1 A. No.

2 Q. Do you believe birth certificates  
3 are a form of identification?

4 A. Yes.

5 Q. Do you believe that birth  
6 certificates reflect biological data that  
7 exists at the time of birth?

8 A. Some of it, yes.

9 Q. Okay. Do you know whether the  
10 information on a birth certificate is recorded  
11 by the individual whose birth record is  
12 reflected or by the Ohio Department of Health?

13 A. The Ohio Department of Health is --  
14 issues birth certificates and has control over  
15 them.

16 Q. It's not the responsibility of the  
17 individual who was just born to, you know, fill  
18 in or fill out their birth certificate, right?

19 A. Of course not.

20 Q. And at the time that the birth  
21 certificates are made, does the individual have  
22 any control over what information is recorded  
23 or displayed on the birth record?

24 A. Of course not.

25 Q. And the individual doesn't certify

1 or attest to the accuracy of the birth record,  
2 right?

3 MS. BONHAM: Objection.

4 THE WITNESS: Of course not.

5 Q. It's ODH that certifies the  
6 accuracy of the birth record, right?

7 A. Yes.

8 Q. Do you hold yourself as a  
9 transgendered to the public?

10 A. That's a complicated matter. I am  
11 out in some circumstances and not in others.

12 Q. What circumstances are you out in?

13 A. With family and friends and with  
14 other trans people, especially trans youth and  
15 in my counseling practice.

16 Q. Do you have a counseling practice?

17 A. Yes. I just began it.

18 Q. Oh, 'cause earlier, you said you  
19 were unemployed. Is that until recently you've  
20 been unemployed?

21 A. I just -- well, I just signed the  
22 lease for my office space, so I haven't started  
23 yet. Will be shortly.

24 Q. In the next week or two or --

25 A. Probably in about two weeks, yeah.

1 Q. Did you have a counseling practice  
2 before that?

3 A. I had a practicum.

4 Q. What is a practicum?

5 A. It's where you work under another  
6 professional.

7 Q. Counseling professional?

8 A. Yes.

9 Q. And when did you leave there?

10 A. May of last year.

11 Q. May of 2018?

12 A. May of this year.

13 Q. May of 2019. And that was in  
14 Denver?

15 A. That was in Columbus, Ohio.

16 Q. Oh, that's right, 'cause you just  
17 moved in July, right?

18 A. Yes.

19 Q. Who did you work for in Columbus,  
20 Ohio?

21 A. I have to look up her name. I  
22 can't think of her name right now.

23 Q. How long did you work there?

24 A. Five months.

25 Q. And what kind of counseling did you

1 do there?

2 A. I counseled many different kinds of  
3 clients, and then I also counseled people in  
4 the -- in the substance abuse program we had  
5 there. I remember her name. It's [REDACTED]  
6 [REDACTED].

7 Q. And then otherwise, it was just  
8 general counseling?

9 A. Yes.

10 Q. How long did you do that for?

11 A. It was about five months.

12 Q. Oh, I think I asked you that.

13 Before that, were you employed as a  
14 counselor anywhere else or --

15 A. No.

16 Q. Did you have any other form of  
17 employment prior to that?

18 A. In my life?

19 Q. Well, just in the last few years.

20 A. I have a few websites that I  
21 created that I sell merchandise from.

22 Q. So you were selling things online?

23 A. Yes.

24 Q. Like, through Pinterest or  
25 something like that?

1 A. Did you say Pinterest?

2 Q. Yeah.

3 A. Oh, no. Just -- just my own  
4 website. It wasn't on another --

5 Q. It wasn't hosted by anybody?

6 A. No.

7 Q. What kind of things did you sell?

8 A. On my main website, I sell, you  
9 know, like, gender and sexuality products for  
10 transgender men.

11 Q. Like, personal care products or  
12 clothing? Like, what are you talking about?

13 A. Sexuality-related products.

14 Q. Okay. Do you still operate that  
15 website?

16 A. It still exists, but I don't  
17 have -- I haven't had time to work on it, so...

18 Q. Okay. You said that it was more  
19 than one. What other kinds of -- what other  
20 kinds of websites did you sell things on?

21 A. They were basically other -- other  
22 sexuality-related items, but not specifically  
23 for transgender people.

24 Q. When you say "sexuality products,"  
25 are you referring to, like, items used during

1 sex or during intimate moments, things like  
2 that?

3 A. Yes.

4 Q. Okay. I just -- it wasn't clear to  
5 me.

6 All right. While we're on the  
7 topics, and you don't have to pull these out,  
8 but these are the interrogatories and discovery  
9 requests that were served in this case. Do you  
10 recall providing your counsel with information  
11 so that those could be answered and returned to  
12 me?

13 A. Yes.

14 Q. Okay. So in response to one of  
15 the -- well, one of the interrogatories called  
16 for social media accounts and things of that  
17 nature. Do you recall that?

18 A. Yes.

19 Q. And in response to that, you -- you  
20 identified an Instagram page called "Eat  
21 Me Organic." Does that ring a bell?

22 A. Yes.

23 Q. And I went on the page, and it  
24 looked like a baked goods store or some sort of  
25 advertisement for baked goods; is that

1 accurate?

2 A. Yes.

3 Q. All right. So is that another one  
4 of the things that you sell and market online,  
5 or is that kind of a defunct website?

6 A. It's defunct now. It was a project  
7 I did for probably three or four months.

8 Q. That was something you were doing  
9 in Ohio?

10 A. Yes.

11 Q. Okay. So besides the gender  
12 sexuality products, the baked goods, anything  
13 else you can recall selling online, or is that  
14 the landscape?

15 A. Yeah. That's it as far as online.

16 Q. Okay. What about not online, did  
17 you ever sell anything, like, in a storefront  
18 or out of your house or anything?

19 A. I mean, the -- the cookie business  
20 was in person. I would go to festivals.

21 Q. Okay. All right. We were talking  
22 about the number of people that you were,  
23 quote/unquote, out with regarding your status  
24 as a transgendered person. You identified  
25 family, friends, other trans people and folks

1 that you were counseling; is that accurate?

2 A. Yes. Not all clients that I  
3 counsel, but some.

4 Q. Okay. Is there anything particular  
5 that would cause you to reveal that information  
6 during a counseling session?

7 A. Yes. I would reveal that during  
8 counseling for someone who is transgender or  
9 gender questioning.

10 Q. Okay. Was that a -- was that a  
11 large number of your clients?

12 A. Maybe a third.

13 Q. How many people would you say  
14 you've disclosed or revealed your transgender  
15 status to?

16 A. How many people, like, in my life?

17 Q. Yeah.

18 A. I have no idea. How could I  
19 possibly -- I mean, it's been -- I  
20 transitioned --

21 Q. I'm sorry. You said you  
22 transitioned when what?

23 A. When I was pretty young. I don't  
24 know how many people's been told.

25 Q. Would you say it's in the hundreds?

1 A. Probably not hundreds, no.

2 Q. Greater than 50?

3 A. Yeah.

4 Q. Somewhere between 50 and a hundred  
5 people; is that fair?

6 A. As far as I can guesstimate.

7 Q. You don't keep a running list,  
8 right?

9 A. Of course not.

10 Q. Do you know how many people have  
11 found out about your transgendered status due  
12 to your birth certificate?

13 A. Maybe around ten, but they're not  
14 people I've chose to disclose to, I was forced  
15 to.

16 Q. Has the disclosure of your birth  
17 certificate ever led to bodily harm?

18 A. Bodily harm, no.

19 Q. Those ten people or so that you've  
20 disclosed your birth certificate to that's led  
21 to the revelation of your transgendered status,  
22 have those all been people that have been in  
23 connection with some sort of state or federal  
24 government agency?

25 A. Yes.

1 Q. You used to be a Buckeye, at least.  
2 You no longer are, but I'm sure that you're  
3 familiar with the Pride festival in Columbus;  
4 is that fair?

5 A. Yes.

6 Q. And you would agree that it's a  
7 celebration of a lot of things, but one of  
8 those things is transgendered individuals,  
9 right?

10 A. It should be. It is not always.

11 Q. Okays. In your experience, though,  
12 has that celebration included transgender  
13 celebration and -- well, celebration of  
14 transgendered people?

15 A. Usually, yes, at least in small  
16 part.

17 Q. Have you ever participated in the  
18 Pride festival?

19 A. I've attended it.

20 Q. Okay. What about in Colorado, is  
21 there a similar festival out there?

22 A. Probably.

23 Q. You just -- you don't know, you  
24 haven't been there long enough?

25 A. Right.

1 Q. And if there is, is it your intent  
2 to participate in the future?

3 A. Yes.

4 Q. The fact that you're a  
5 transgendered person doesn't humiliate you,  
6 does it?

7 MS. BONHAM: Objection.

8 THE WITNESS: My status as  
9 transgender is very personal, and it does not  
10 humiliate me in itself, what's humiliating is  
11 how people have treated me, particularly these  
12 government officials once I've been forced to  
13 disclose.

14 Q. Okay. And being transgendered  
15 isn't something that you're ashamed about,  
16 right?

17 A. No.

18 MS. BONHAM: Objection.

19 THE WITNESS: No, I'm not.

20 Q. You're proud of your status as a  
21 transgendered person, right?

22 A. Yes.

23 Q. And it's fair to say that you're so  
24 proud of that transgendered status, that you're  
25 happy to share your story about being

1 transgendered with anyone who's willing to  
2 listen; isn't that right?

3 MS. BONHAM: Objection.  
4 Argumentative. Misstates testimony.

5 THE WITNESS: That's absolutely  
6 incorrect.

7 Q. You said that --

8 A. It's absolutely incorrect. I'm not  
9 happy to share it with just anyone. It's very  
10 personal and I've had very, very bad  
11 experiences with certain people.

12 Q. I'm going to ask you to take a look  
13 at Exhibit 9, Defendants' Exhibit 9, which your  
14 counsel should have.

15 - - - - -  
16 (Thereupon, Deposition Exhibit 9,  
17 E-mail Communications, was marked  
18 for purposes of identification.)

19 - - - - -  
20 MS. BONHAM: I'm just going to put  
21 on the record, so this is a video deposition.  
22 Opposing counsel has e-mailed us the exhibits  
23 that he intends to use, and we'll put them up  
24 on an adjacent screen here during the  
25 deposition. So you said Exhibit 9?

1 MR. BLAKE: Yes, Exhibit 9. Let me  
2 know when you have it on the screen.

3 MS. BONHAM: All right. We're  
4 ready.

5 Q. Defendants' Exhibit 9 is a group  
6 exhibit of e-mails that was provided by counsel  
7 in response to some of our document requests.  
8 Mr. Argento, do you, at least on the top page,  
9 recognize this document?

10 A. Yes.

11 Q. Okay. And if you could turn to --  
12 and at the bottom -- well, at the bottom are a  
13 sear of Bates numbers. The first page is Bates  
14 numbered 000026. Do you see that?

15 A. Yes.

16 Q. And if you could turn to Bates  
17 No. 41, 000041, and let me know when you're  
18 there.

19 A. Yes.

20 Q. At the bottom of -- I guess, the  
21 middle is an e-mail from a woman named Alana  
22 Jochum. Do you see that?

23 A. Yes.

24 Q. And Alana Jochum has an e-mail  
25 address that indicates that she is affiliated

1 with qualityohio.org. Do you see that?

2 A. Yes.

3 Q. Are you familiar with the  
4 organization qualityohio.org?

5 A. Yes.

6 Q. And if you look over to the right,  
7 there's a date of Wednesday, July 27th, 2016.  
8 Do you see that?

9 A. Yes.

10 Q. And according to this e-mail, at  
11 that date and time, she sent you, among others,  
12 an e-mail to an account,

13 [REDACTED]. Do you see that?

14 A. Yes.

15 Q. Is [REDACTED] your  
16 e-mail address?

17 A. Yes.

18 Q. Is it still your e-mail address?

19 A. Yes.

20 Q. Okay. And do you recall receiving  
21 this e-mail or at least communicating with  
22 Ms. Jochum or about --

23 A. Yes.

24 Q. -- Wednesday, July 27th, 2016?

25 A. Yes.

1 Q. Okay. And as far as you can tell,  
2 is there a true and accurate copy of that  
3 e-mail correspondence?

4 A. Yes.

5 Q. All right. If you look down to the  
6 middle paragraph in this e-mail, and it begins  
7 with the sentence "Of Course..." Do you see  
8 that?

9 A. Yes.

10 Q. And she says: Of course, we will  
11 continue to change the policy here causing this  
12 issue in the first place.

13 Do you see that?

14 A. Yes.

15 MS. BONHAM: Objection. That  
16 slightly misstates document. It reads: Of  
17 course, we will continue to work to change the  
18 policy here.

19 Q. Causing this issue in the first  
20 place! Right? I tried to read it accurately,  
21 and it's probably the additional buffer of  
22 technology that we have between us maybe cuts  
23 out. So I'm not going to misread anything  
24 that's quoted directly in front of us, at least  
25 not intentionally.

1           Okay. So we all agree what it says  
2 now. My question is: What was your  
3 understanding of the issue she was referring to  
4 in that -- in that sentence?

5           A. The issue is that I was trying to  
6 get my Italian citizenship recognized, and they  
7 were giving me a lot of difficulties because of  
8 the fact that my Ohio birth certificate said  
9 the wrong gender on it.

10          Q. Okay. And that issue was related  
11 to your status as a transgendered person,  
12 right?

13          A. Yes.

14          Q. Okay. That same day, you  
15 responded, and if we go to the e-mail below  
16 that, it's an e-mail before you back to  
17 Ms. Jochum and others. Do you see that e-mail?

18          A. Yes.

19          Q. And you respond: Alana, I would be  
20 happy to share my story in any way that is  
21 helpful, and I am grateful for your assistance  
22 with this issue.

23                   Do you see that?

24          A. Yes.

25          Q. So at least with regards to what

1 Ms. Jochum was talking about, you were happy to  
2 share your story with anyone, right?

3 A. Not with anyone. I'm happy to  
4 share my story in a way that would help fix  
5 this terrible problem that we're discussing  
6 here today.

7 Q. Okay. So you would share your  
8 story in any way that would help fix that  
9 problem, but not necessarily to anyone; is that  
10 accurate?

11 A. Yes.

12 Q. Okay. Let's go to Bates No. 69,  
13 000069. Let me know when you're there. It's  
14 about four pages from the back of the document.

15 A. Okay.

16 Q. Okay. This is another e-mail  
17 correspondence with Ms. Jochum, right?

18 A. Yes.

19 Q. And this one occurred on or about  
20 April 6th, 2017. Do you see that?

21 A. Yes.

22 Q. And like the other one, as far as  
23 you're aware, is there a true and accurate copy  
24 of the e-mail correspondence you had with  
25 Ms. Jochum on or about that date?

1 A. Yes.

2 Q. And if you look at --

3 MS. BONHAM: That's April 2017. I  
4 realize, Jake, you're trying to read this  
5 accurately, and I just want to make a good  
6 record on the transcript.

7 MR. BLAKE: Yeah. What did I say?

8 MS. BONHAM: 2016.

9 MR. BLAKE: Well, 2017 it is.

10 Q. So if you look at the last full  
11 e-mail on April 6th, 2017 at 3:54 p.m. from  
12 Ms. Jochum, do you see that?

13 A. Yes.

14 Q. And she says: Would you be willing  
15 to share your story about this process and the  
16 hurdles you had to go through due to the fact  
17 that Ohio does not have a clear process to  
18 correct a person's gender marker on their birth  
19 certificate?

20 Did I read that accurately?

21 A. Yes.

22 Q. And then you responded a few  
23 minutes later: I would love to. Nothing I  
24 would love more than to have that happen in  
25 this state. Thank you for all your efforts.

1 Do you see that?

2 A. Yes.

3 Q. So it's accurate to say you were  
4 more than willing to share your story, to tell  
5 people, to let people know about this -- this  
6 transgender issue that was impacting you and  
7 others, right?

8 A. Well, let me be clear. I would not  
9 choose to be doing this if it wasn't so  
10 important. In this context, I am willing to do  
11 this, and it's in invasive and it's  
12 uncomfortable. I don't want to be doing it,  
13 but transgender people are marginalized and at  
14 risk and young trans people die of suicide,  
15 and, therefore, I'm here.

16 Q. So is that a "yes"?

17 A. Yes.

18 Q. And have you, in fact, been sharing  
19 your story with others?

20 MS. BONHAM: Objection. Vague.

21 THE WITNESS: I mean, can you  
22 restate that?

23 Q. Sure. You -- you promised  
24 Ms. Jochum that you would be happy to share  
25 your story with others. Have you, in fact,

1 done that since you made that promise in  
2 April 2017 and at other times?

3 A. Okay. So you're asking me if I did  
4 in that specific instance. She never contacted  
5 me further about doing so. I would have, but I  
6 didn't -- I wasn't asked.

7 Q. What about with others besides  
8 people affiliated with Quality Ohio and  
9 Ms. Jochum?

10 A. Of course I've told certain people  
11 about parts of my life.

12 Q. So other than your communications  
13 with your counsel here, have you worked with  
14 any other organizations or advocacy groups  
15 trying to get your story out and talk about the  
16 issues that we're talking about today in this  
17 case?

18 A. No.

19 Q. One of the claims in the complaint  
20 is that the -- that ODH discriminates against  
21 transgendered people because they are not  
22 permitted to change the sex identifier on their  
23 birth certificate, right?

24 A. Yes.

25 Q. Are you aware of any laws in Ohio

1 related to birth certificates that mention  
2 transgender individuals?

3 MS. BONHAM: Objection. Calls for  
4 a legal conclusion.

5 THE WITNESS: I mean, I don't know  
6 any specifics about laws.

7 Q. So are you aware of any laws in  
8 Ohio related to birth certificates that make  
9 any mention to gender?

10 MS. BONHAM: Same objection.

11 THE WITNESS: No.

12 Q. Do you know whether Ohio laws  
13 permit anyone, regardless of gender, to change  
14 their sex marker on their birth certificate?

15 MS. BONHAM: Objection. Vague and  
16 calls for a legal conclusion.

17 THE WITNESS: I mean, I talked  
18 to -- I've talked to people at the Ohio  
19 Department of Health who told me it was  
20 impossible to change it.

21 Q. It's your understanding that ODH  
22 will not change a birth certificate based on  
23 gender identity, right?

24 MS. BONHAM: Same objection.

25 THE WITNESS: It's my understanding

1 that they will not change the gender listed on  
2 a birth certificate.

3 Q. For any reason or based on a change  
4 in gender identity?

5 MS. BONHAM: Objection. Calls for  
6 legal conclusions. Vague. Objection to the  
7 terms "sex" and "gender" and "gender identity"  
8 as they're being used.

9 THE WITNESS: It's my understanding  
10 that if they believe they made an error, they  
11 will change it, but that's up to them to decide  
12 what was an error.

13 Q. And when you say "they," you mean  
14 if ODH made an error?

15 A. Yes.

16 Q. Do you know when Ohio's laws  
17 related to birth certificates were enacted?

18 MS. BONHAM: Objection.  
19 Foundation. Calls for a legal conclusion.

20 THE WITNESS: No.

21 Q. Do you know whether Ohio law  
22 applies differently to transgendered or  
23 cisgendered individuals?

24 MS. BONHAM: Same objections.

25 THE WITNESS: Yes, it clearly does.

1 Q. In what way does Ohio law apply  
2 differently to transgendered or cisgendered  
3 individuals?

4 MS. BONHAM: Same objections.

5 THE WITNESS: Cisgendered people  
6 have an accurate birth certificate and  
7 transgendered people cannot have an accurate  
8 birth certificate.

9 Q. In what way is a transgendered  
10 birth certificate inaccurate?

11 MS. BONHAM: Objection. Vague.

12 THE WITNESS: The gender is  
13 incorrect.

14 MS. BONHAM: Let's take a break.  
15 We got to take a bathroom break.

16 MR. BLAKE: Sure.

17 (Recess taken.)

18 - - - - -  
19 (Thereupon, Deposition Exhibit 6,  
20 Birth Certificate, was marked for  
21 purposes of identification.)

22 - - - - -

23 Q. So I was going to show you  
24 Defendants' Exhibit 6, so let me know when you  
25 have that pulled up on your screen.

1 MS. BONHAM: Okay.

2 Q. All right. Do you have 6 in front  
3 of you?

4 A. Yes.

5 Q. All right. Defendants' Exhibit 6  
6 is a document, which is a copy of your  
7 certification of birth. Have you seen this  
8 before?

9 A. Yes.

10 Q. And right before we left for break,  
11 you had indicated that one way, at least, in  
12 which you thought that Ohio laws discriminated  
13 against transgendered people was because the  
14 gender was inaccurate for a transgendered  
15 person, but accurate for a cisgendered person.  
16 Do you recall that testimony?

17 A. Yes.

18 Q. All right. Where on this document  
19 does the word "gender" appear?

20 A. It's the sex, which is the same as  
21 gender, in my opinion.

22 Q. But you acknowledge that the Ohio  
23 birth record does not contain the word  
24 "gender," right?

25 A. It has "sex," which is the same as

1 gender, yes.

2 Q. Do you know how the Ohio Department  
3 of Health received information about your sex  
4 at the time of your birth?

5 MS. BONHAM: Objection.  
6 Foundation.

7 THE WITNESS: I wasn't there. You  
8 know, I was there, but I was a baby.

9 Q. So you don't know how the Ohio  
10 Department of Health received this information  
11 at or near the time of your birth; is that  
12 accurate?

13 A. Not without speculating.

14 Q. Do you have any understanding about  
15 how they received that information?

16 A. Again, not without speculating how  
17 it happened.

18 Q. So you have an understanding, but  
19 it's just a guess; is that accurate?

20 MS. BONHAM: Objection. Misstates.

21 THE WITNESS: I mean, it could --  
22 it could be any number of ways. I don't know.

23 Q. Well, what are the ways in which  
24 you believe that ODH could have received this  
25 information?

1 MS. BONHAM: Objection.

2 Foundation. Calls for speculation. Asked and  
3 answered.

4 THE WITNESS: I mean, it could have  
5 been -- I don't know if it was erred from the  
6 hospital. That's just a guess.

7 Q. It could have been reported from  
8 the hospital, right? Right?

9 A. Yes.

10 Q. Could have been reported by your  
11 parents, right?

12 A. Yes.

13 Q. Any other ways?

14 MS. BONHAM: Same objections.

15 THE WITNESS: Sure. There's any  
16 number of ways.

17 Q. Well, I can't think of any, so I  
18 was just wondering if you could.

19 A. No.

20 Q. Okay. Let's assume it's one of  
21 those two ways, and I understand you don't know  
22 for sure, right, but do you believe that it was  
23 incorrect to report your sex as female at or  
24 near the time of your birth?

25 A. Yes.

1 Q. On what basis do you believe that  
2 was inaccurate?

3 A. Because I -- you can't -- because  
4 you can't tell gender just from looking at  
5 someone.

6 Q. All right. Can you tell sex just  
7 by looking at someone?

8 A. No.

9 Q. But you're not a medical doctor,  
10 right?

11 A. Of course not.

12 Q. Do you have any evidence to  
13 contradict that your sex was recorded as female  
14 by ODH based on information provided by the  
15 medical provider at or near the time of your  
16 birth?

17 MS. BONHAM: Objection. Compound.  
18 Vague.

19 THE WITNESS: Like I said, I don't  
20 know what happened. I was a baby.

21 Q. Would it have been -- would it have  
22 been accurate for the medical provider to  
23 report that your sex was male to ODH at or near  
24 the time of your birth?

25 A. It would have been just as valid as

1 putting that. I mean, it's just a guess.

2 Q. Do you have any information about  
3 what a medical provider uses to report sex at  
4 the time of birth to ODH?

5 MS. BONHAM: Asked and answered.

6 THE WITNESS: I mean, I can guess  
7 what they do, but...

8 Q. What's your guess?

9 A. My guess is they just look at a  
10 person's genitals, a baby's genitals.

11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]  
14 [REDACTED]

15 MS. BONHAM: Objection.

16 THE WITNESS: It doesn't -- a  
17 person's genitals does not reflect gender or  
18 sex, in my opinion.

19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]  
22 [REDACTED]  
23 [REDACTED]

24 MS. BONHAM: Objection.

25 THE WITNESS: You're asking me to

1 agree with that -- with, you know, that whole  
2 philosophy, which I cannot.

3 [REDACTED]  
4 [REDACTED]  
5 [REDACTED]  
6 [REDACTED]  
7 [REDACTED]  
8 [REDACTED]

9 MS. BONHAM: Objection.

10 [REDACTED]  
11 [REDACTED]  
12 [REDACTED]  
13 [REDACTED]

14 Q. It's your belief that the Ohio  
15 Department of Health shouldn't track a person's  
16 sex at the time of birth?

17 MS. BONHAM: Objection.

18 THE WITNESS: Yes.

19 [REDACTED]  
20 [REDACTED]  
21 [REDACTED]

22 MS. BONHAM: Objection.

23 [REDACTED]  
24 [REDACTED]  
25 [REDACTED]

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[REDACTED]

9 MS. BONHAM: Objection. Misstates  
10 testimony. Calls for speculation. Calls for  
11 expert testimony. Calls for a legal  
12 conclusion.

13 THE WITNESS: It's my belief that  
14 sex or gender should not have been reported  
15 based on a baby's genitalia.

16 Q. What basis do you have to support  
17 your assertion that the sex recorded on your  
18 birth certificate was incorrect at the time of  
19 birth?

20 MS. BONHAM: Objection. Calls for  
21 expert testimony. Calls for legal conclusions.  
22 To the extent he's able to give a lay answer.  
23 Asked and answered.

24 THE WITNESS: Well, I mean, just my  
25 reality. I've always felt male from my

1 earliest memories, and I believe there was no  
2 need for them to report either way on a birth  
3 certificate or to track it on a birth  
4 certificate at all.

5 Q. Are you aware of any method by  
6 which a medical provider can identify gender at  
7 the time of birth?

8 MS. BONHAM: Objection. Calls for  
9 expert testimony.

10 THE WITNESS: I mean, this is the  
11 same question you're asking me if someone can  
12 tell genitalia and classify them as male or  
13 female, which I do not believe is reflective of  
14 reality.

15 Q. Well, it's because you -- you -- as  
16 you testified before, you don't believe  
17 biological sex is a real thing, right?

18 MS. BONHAM: Objection. Misstates  
19 testimony. Calls for a legal conclusion.  
20 Calls for expert testimony.

21 THE WITNESS: Biological sex, in my  
22 opinion, it's in the brain.

23 Q. And so it's your belief that a  
24 medical doctor can determine neither biological  
25 sex nor gender identity at the time of birth?

1 MS. BONHAM: Objection. Misstates  
2 testimony. Calls for expert testimony.

3 THE WITNESS: Yes.

4 Q. Could you pull up Exhibit 3?

5 A. Okay.

6 Q. All right. The document that's  
7 being shown to you is a document which was  
8 previously marked as Exhibit 3. I'll represent  
9 to you that this is the template for the long  
10 form of data which is collected and recorded by  
11 the Ohio Department of Health at or near the  
12 time of birth. Do you see that document?

13 A. Yes.

14 Q. Do the words "gender" or "gender  
15 identity" appear anywhere in that form?

16 A. The word "sex" is on there, which  
17 is the same as gender, in my opinion.

18 MS. BONHAM: And I just want to let  
19 the record reflect, this looks like a 14-page  
20 document. He's scrolling through it and he  
21 didn't produce it and can't authenticate it.

22 Q. Have you finished reviewing the  
23 document?

24 A. Yes.

25 Q. And did you see the word "gender"

1 or "gender identity"?

2 A. There's a synonym for "gender,"  
3 which is "sex."

4 Q. Okay. But other than the sex  
5 identifier, which is included on that -- that  
6 document, you don't see the word "gender" or  
7 "gender identity," right?

8 A. No. But like I said, "sex" is a  
9 synonym for "gender," so it's the same as if it  
10 said "gender" on it.

11 Q. And that's your personal opinion,  
12 right?

13 A. That is my opinion, yes.

14 Q. Are you aware of any forms or  
15 records maintained by ODH that track a person's  
16 gender or gender identity?

17 MS. BONHAM: Objection.  
18 Foundation.

19 THE WITNESS: Sex, which is the  
20 same, yes.

21 Q. So just the birth certificate and  
22 the long form that I've shown you. Any other  
23 documents besides those two?

24 MS. BONHAM: Same objection.

25 THE WITNESS: You're asking me

1 what -- what other documents they have in their  
2 internal system?

3 Q. I'm asking you whether or not  
4 you're aware of any other documents which track  
5 gender or gender identity. You've testified to  
6 two documents, which include the word "sex,"  
7 which you consider a synonym, and I'm asking  
8 you whether you're aware of any other -- any  
9 other such documents.

10 A. No.

11 Q. And your gender identity is male,  
12 right?

13 A. Yes.

14 Q. Which contradicts with the sex,  
15 which is identified on your birth certificate  
16 as female, right?

17 A. The gender or sex as a synonym is  
18 incorrect on my birth certificate, yes.

19 Q. Are you familiar with the term  
20 "karyotype"?

21 A. I have heard of it, yes.

22 Q. And if I told you someone had XX  
23 chromosomes, that would indicate a sex as  
24 female, right?

25 MS. BONHAM: Objection.

1 Foundation. Calls for expert testimony. Calls  
2 for speculation.

3 THE WITNESS: That's actually  
4 incorrect. There are people that have XX  
5 chromosomes who are male and there are people  
6 with XY chromosomes who are female. Some have  
7 even given birth. That's just incorrect.  
8 There's also many other besides XX or XY.

9 Q. So when you say someone with XX  
10 chromosomes is male, are you referring to their  
11 gender or their biological sex?

12 MS. BONHAM: Objection.

13 THE WITNESS: Those are the same,  
14 in my opinion.

15 Q. Okay. So is it your understanding,  
16 then, that your chromosomes do not dictate your  
17 biological sex?

18 MS. BONHAM: Same objection.

19 THE WITNESS: It's not an  
20 understood science and it's been highly  
21 oversimplified by popular science.

22 Q. So what science are you relying on  
23 when you say that you do not believe that an XX  
24 chromosome indicates someone's sex is female?

25 MS. BONHAM: Objection.

1 Foundation. Asked and answered. Calls for  
2 expert testimony. He's obviously not relying  
3 on science as a lay witness.

4 THE WITNESS: There have been  
5 plenty of studies outside of whatever  
6 mainstream beliefs, but you can look up and  
7 find out that there are people with XY  
8 chromosomes who have given birth and there are  
9 people with, you know, XX, XO, XX, whatever,  
10 there's many different variations.

11 Q. Do you recall any of those studies  
12 or papers that you're referring to?

13 A. Not off the top of my head, but  
14 there are many.

15 [REDACTED]  
16 [REDACTED]

17 MS. BONHAM: Objection.

18 THE WITNESS: [REDACTED]

19 Q. [REDACTED]  
20 [REDACTED]

21 MS. BONHAM: Objection.

22 Argumentative. Foundation.

23 THE WITNESS: [REDACTED]  
24 [REDACTED]

25 Q. In your opinion, right?

1 A. In my opinion.

2 Q. [REDACTED]  
3 [REDACTED]  
4 [REDACTED]

5 MS. BONHAM: Same objections.

6 THE WITNESS: [REDACTED]  
7 [REDACTED]

8 Q. And you're not aware of any  
9 procedure by which a person can change their  
10 chromosomes, right?

11 MS. BONHAM: Same objections.

12 THE WITNESS: I am not aware of a  
13 procedure that a person can change their  
14 chromosomes, but there are variations besides  
15 XX or XY.

16 Q. Are you aware of any legislative  
17 purpose when Ohio enacted its laws related to  
18 birth certificates?

19 MS. BONHAM: Objection.  
20 Foundation. Calls for a legal conclusion.

21 THE WITNESS: I don't really  
22 understand your question. I don't understand  
23 that question and I don't know about legal type  
24 of matters. That's why I have counsel.

25 Q. Do you have any evidence at all

1 that Ohio's laws regarding the amendment of its  
2 birth records were motivated by an hatred or  
3 animus or ill will towards transgendered  
4 people?

5 MS. BONHAM: Same objections.  
6 Calls for legal conclusions.

7 THE WITNESS: Yeah. I mean, I can  
8 speculate on what people were thinking when  
9 they created whatever laws are there, but it's  
10 clear that now, in the present day, they are  
11 motivated to keep transgendered people from  
12 having accurate records.

13 Q. What basis do you have to say that  
14 ODH is motivated to keep transgendered people  
15 from having accurate birth records?

16 A. Because it's a very simple matter  
17 to change somebody's birth certificate for  
18 other reasons such as name change or such as  
19 adopted parents and will not even having any  
20 sort of way to change -- to correct a  
21 transgendered person's record.

22 Q. Are you aware that specific  
23 statutes which allow a person to undergo a name  
24 change or a change of parentage on their birth  
25 certificate?

1 MS. BONHAM: Objection. Calls for  
2 a legal conclusion. Foundation.

3 THE WITNESS: I don't specifically  
4 know the law specifically about that, no.

5 Q. Is it your understanding that ODH  
6 will only change the sex marker on a birth  
7 certificate if there is a clerical error  
8 reporting or recording the sex at the time of  
9 birth?

10 A. It's my understanding that they  
11 judge what a clerical error is, and that is the  
12 only way they will allow as evidence to be  
13 changed, yes.

14 Q. And you would agree that there was  
15 no clerical error on your birth certificate,  
16 right?

17 MS. BONHAM: Objection.  
18 Argumentative. Calls for a legal conclusion.

19 THE WITNESS: No, I would not agree  
20 with that.

21 Q. You think there was a clerical  
22 error on your birth certificate?

23 MS. BONHAM: Same objections.

24 THE WITNESS: Yes.

25 Q. What was the clerical error?

1           A.       Putting down a gender or sex. Sex  
2 or gender, synonym.

3           Q.       Let's turn back to Exhibit 9. Let  
4 me know when it's in front of you.

5           A.       Yeah.

6           Q.       All right. And if you turn to the  
7 third page, which is Bates numbered 000028, let  
8 me know when you're there.

9           A.       Okay.

10          Q.       Starting at the top, there's a --  
11 an e-mail from you to  
12 probateinfo@franklincountyohio.gov. Do you see  
13 that e-mail?

14          A.       Yes.

15          Q.       And it's dated July 8th, 2016,  
16 right?

17          A.       Yes.

18          Q.       And there's a series of e-mails  
19 following that. Looks like three or four  
20 communications. To the best of your knowledge,  
21 is that a true and accurate reflection of the  
22 correspondence you had with the probate court  
23 in Franklin County?

24          A.       Yes.

25          Q.       All right. And at the very top,

1 the first e-mail in the chain, it says: Hello.  
2 Can you tell me if there's a form or procedure  
3 for a legal gender change?

4 Do you see that?

5 A. Yes.

6 Q. And the probate court responded  
7 four minutes later, which is incredible for  
8 lots of reasons, but they say: Was there an  
9 error on the birth certificate?

10 Do you see that?

11 A. Yes.

12 Q. And you said: It is a case of  
13 transsexualism, not a clerical error.

14 Do you see that?

15 A. Yes.

16 Q. Okay. So you being transgendered  
17 and you having female on your birth certificate  
18 isn't a clerical error, right?

19 MS. BONHAM: Objection. Calls for  
20 a legal conclusion.

21 THE WITNESS: Well, I'm speaking as  
22 somebody trying to quickly help them understand  
23 my situation. I was not going to try to act as  
24 if I wasn't transgender, I was trying to  
25 explain that. I still consider it a clerical

1 error because, you know, I'm -- I've been male  
2 my entire life. I was trying to quickly  
3 explain myself to the person.

4 Q. You described it -- you described  
5 it to the probate court as not a clerical  
6 error, right?

7 A. Yes. I said that, but that is so I  
8 can explain to them my situation. I do  
9 consider it a clerical error, but I did not  
10 want to misrepresent that I'm not trans.

11 MS. BONHAM: To the extent that the  
12 term "clerical error" is going to create legal  
13 conclusions, we'll have a standing objection to  
14 the use of that term in the interchange.

15 MR. BLAKE: Well, it's his word,  
16 not mine.

17 THE WITNESS: It was them.

18 Q. Whatever you told to the probate  
19 court, it's your testimony today, though, that  
20 it's not a clerical error. Is that my  
21 understanding?

22 MS. BONHAM: Objection. Misstates  
23 testimony.

24 THE WITNESS: Well, as I said, I  
25 was trying to explain myself in a quick, simple

1 way to a bureaucrat, but I do consider it a  
2 clerical error, yes.

3 Q. In what way was the state's  
4 recording of your sex at birth as female a  
5 clerical error?

6 A. Because it's not accurate.

7 Q. How is it inaccurate?

8 A. You can't tell someone's gender by  
9 just looking at them.

10 Q. What about their sex, can you tell  
11 someone's sex by looking at them?

12 MS. BONHAM: Objection.

13 THE WITNESS: Again, sex, no, you  
14 cannot tell because "sex" is a synonym of  
15 "gender."

16 Q. Earlier, you testified that you  
17 didn't think biological sex existed. Is that  
18 still accurate?

19 MS. BONHAM: Objection. Misstates  
20 testimony. Calls for expert testimony.

21 THE WITNESS: Biological sex is  
22 complicated and misunderstood, and it's usually  
23 that term used to oppress trans people.

24 Q. Do you know why the state records  
25 sex at the time of birth?

1 MS. BONHAM: Objection.

2 Foundation. Calls for speculation.

3 THE WITNESS: The state is a straw  
4 man or human people, you know, like, people  
5 deciding to do things. I can't speculate on  
6 why they did that.

7 Q. You don't know whether the state or  
8 the Department of Health has any particular  
9 interest or reason for tracking people's birth  
10 sex?

11 MS. BONHAM: Same objections.

12 THE WITNESS: I don't know what  
13 their reasons are, but I believe that it's not  
14 necessary.

15 Q. Upon what do you base your belief  
16 that it's not necessary to track someone's  
17 birth sex?

18 MS. BONHAM: Objection to the term  
19 "birth sex."

20 THE WITNESS: Yes, because when  
21 you're saying "birth sex," the state or the  
22 Ohio Department of Health has no business  
23 knowing anything about people's genitals.

24 Q. Do you know what the CDC is?

25 A. It's in there somewhere. No. Tell

1 me.

2 Q. No.

3 Do you know what Social Security  
4 is?

5 A. Yes.

6 Q. Okay. Are you aware that the  
7 Department of Social Security collects  
8 information regarding individuals' birth sex  
9 for enrollment in the Social Security program?

10 A. I'm aware that they do it, not that  
11 they have a good reason for it.

12 Q. Do you know what an infant growth  
13 chart is?

14 A. I mean, I've heard of such a thing.

15 Q. Have you ever heard your friends  
16 discuss their kids or your own kid and have a  
17 doctor or someone say they're in such and such  
18 percentile for weight or height? Have you ever  
19 heard that?

20 A. Yes.

21 Q. And are you aware that there are  
22 different growth charts for males and females?

23 A. Yes, but individuals don't fall  
24 immediately to a chart. That is on an average.

25 Q. Do you know who compiles that

1 information?

2 A. No.

3 Q. Do you know why that information's  
4 compiled?

5 A. I can speculate.

6 Q. What do you speculate?

7 A. A growth chart, I'm sure, is to see  
8 how healthy a child is.

9 Q. And you would degree that if we  
10 didn't track information about the birth weight  
11 and sex of children at birth and at various  
12 times through life, there would be no way to  
13 compile that information and present it as a  
14 chart, right?

15 A. I agree that that would be  
16 possible, but I do not agree that that is  
17 necessary.

18 Q. So you're not a medical doctor,  
19 right?

20 A. No.

21 Q. Okay. And you don't believe that a  
22 medical provider should have reported your sex  
23 at birth as male, right?

24 MS. BONHAM: Objection.

25 THE WITNESS: I don't believe there

1 was any reason to report gender or sex at all.

2 Q. So you don't think they should have  
3 reported male or female, right?

4 A. Right.

5 Q. When did you determine that your  
6 gender did not match your biological sex?

7 MS. BONHAM: Objection.

8 THE WITNESS: Again, I don't  
9 believe in the term "biological sex." I  
10 remember when I was three years old becoming  
11 aware of myself as a person, when I was three  
12 years old, and being shocked that I had been  
13 dressed in a stereotypically female way 'cause  
14 I thought I would be dressed like my father.

15 Q. And have you, since that time,  
16 identified yourself as female?

17 A. No.

18 Q. What have you identified yourself  
19 as?

20 A. Well, I always felt male and I  
21 always believed myself to be male, but I didn't  
22 know until I was in -- probably around 1996  
23 that it was possible to correct my gender.

24 Q. So from the age of three until the  
25 mid-'90s, you felt yourself as a male. And

1 were you aware that that was incongruous with  
2 what your sex was?

3 MS. BONHAM: Objection.

4 THE WITNESS: I was aware that it  
5 was incongruous with what people told me I was  
6 supposed to be.

7 Q. If you go to Defendants' Exhibit 5.  
8 Let me know when you have that in front of you.

9 A. Okay.

10 Q. And if you look on Page 3, it's  
11 Interrogatory No. 2.

12 A. Okay.

13 Q. And we asked you to identify the  
14 date you understood that your biological sex  
15 did not align with your gender identity. Do  
16 you see that interrogatory?

17 A. Yes.

18 Q. And you responded. Your response  
19 is on the following page and it says that your  
20 first memory of bodily awareness was at the age  
21 of three years old. That's consistent with  
22 what you just testified with, right?

23 A. Yes.

24 Q. And at that time, you knew yourself  
25 to be a boy and knew that your gender identity

1 as a boy did not align with the feminine  
2 clothing that you were dressed in, right?

3 A. Yes.

4 MS. BONHAM: I'll note that that  
5 answer was made subject to objections that  
6 we're not waiving. And also with the  
7 documents, just want to note that there's a  
8 protective order in this case, and if we could  
9 agree to keep any exhibits already designated  
10 as confidential or attorneys eyes' only under  
11 the protective order with that same designation  
12 in the depositions.

13 MR. BLAKE: Sure. Yeah. These  
14 interrogatory responses were not marked and  
15 you'll have an opportunity to designate,  
16 obviously, after the transcript is prepared.

17 Q. What do you mean new -- and I'm  
18 changing, obviously, the pronouns from  
19 "himself" to "yourself" because I'm talking to  
20 you in the first person now. But what do you  
21 mean when you stated that you knew yourself to  
22 be a boy? What does that mean?

23 A. The same as any other boy knows  
24 himself to be a boy. There's no way to -- it's  
25 just you know.

1 Q. Something internal? Something  
2 innate? I mean, what was it?

3 A. Yeah. It was just how I always  
4 felt.

5 Q. And in what ways at that time did  
6 you identify as a boy instead of a girl?

7 A. In all ways.

8 Q. I mean, what are some of those way?  
9 I don't --

10 MS. BONHAM: Objection. Vague.

11 THE WITNESS: I mean, I could tell  
12 you stereotypically male things like to do, but  
13 that doesn't mean anything. I mean, a lot of  
14 other people do things that are not  
15 stereotypically things that are part of their  
16 gender.

17 Q. So at the age of three, what are  
18 the stereotypical boy things that you wanted to  
19 do?

20 A. Well, at three, I mean, I don't  
21 know, I just felt male. I mean, when I was a  
22 little older, I played baseball, things like  
23 that. I didn't have any interest in girlie  
24 things or anything like that.

25 Q. So sports and more traditionally

1 boys clothing. Anything else?

2 A. I think that's basically it.

3 Q. And so at least in your early  
4 years, your interest in sports and the type of  
5 clothing you preferred was an indication to you  
6 that -- that you were, in fact, a male and not  
7 a female, right?

8 MS. BONHAM: Objection. Misstates  
9 testimony. I also played sports.

10 THE WITNESS: Yeah. Not -- that's  
11 not right because I knew internally, and  
12 there's no real -- how do you know you're a  
13 girl? How do you know you're a boy? I just  
14 knew, and that's just how it was.

15 Q. Is there anything about your  
16 knowing yourself to be a boy as early as the  
17 age of three which could have been detected or  
18 reported at the time of your birth?

19 MS. BONHAM: Objection. Calls for  
20 speculation. Calls for expert testimony.

21 THE WITNESS: I mean, that's  
22 impossible to say. I don't know.

23 Q. You're not aware of anything,  
24 right?

25 A. I mean, I'm not aware of any reason

1 that they have to put a gender on there.

2 Q. And you're not aware of any way in  
3 which they could have detected what your  
4 gender, which you identified at three years  
5 old, was, right?

6 MS. BONHAM: Same objections.

7 THE WITNESS: At three, they could  
8 have asked me at three. When I was a baby --

9 Q. You're not aware of anything when  
10 you were a baby, right?

11 A. No.

12 Q. They couldn't have asked you when  
13 you were a baby, right?

14 A. Right.

15 Q. And you wouldn't have known  
16 anyways, right?

17 MS. BONHAM: Objection. Calls for  
18 speculation.

19 THE WITNESS: Nobody knows anything  
20 when they're a baby.

21 Q. They know some things. I mean,  
22 come on, right? I mean, they know how to feed  
23 to some degree and there's some involuntary  
24 things that happen, right?

25 A. Nothing to do with higher level

1 intellectual development.

2 Q. Right. Like, for example, gender  
3 identity, correct?

4 MS. BONHAM: Objection.

5 THE WITNESS: Gender identity or  
6 awareness of one's self.

7 Q. All right. You're familiar with  
8 the term "gender dysphoria," right?

9 A. Yes.

10 Q. And my understanding of that -- of  
11 gender dysphoria is that it's a clinical  
12 diagnosis where a person's biological sex does  
13 not match his or her gender identity. Does  
14 that comport with your understanding of that  
15 diagnosis?

16 MS. BONHAM: I'm going to object to  
17 the use of the terms and to questions that call  
18 for expert testimony.

19 THE WITNESS: That is a diagnosis  
20 that is -- well, first of all, it's hotly  
21 contested. I see it as something that it makes  
22 it easy to explain to cisgender people what the  
23 situation is, but it does not reflect reality,  
24 you know, as far as -- you know, I don't accept  
25 that there's the biological sex that's

1 separated from the gender identity.

2 Q. Like you said about not being a  
3 medical doctor, you're not an expert in  
4 diagnosing gender dysphoria either, are you?

5 A. No, I'm not an expert. That is  
6 also not just limited to the medical  
7 profession.

8 Q. You received a diagnosis of gender  
9 dysphoria in early 2000; is that right?

10 A. Yes.

11 Q. Sorry. Are you finished?

12 A. I was just going to say I was  
13 forced into the situation to get medical  
14 treatment, yes.

15 Q. Forced in by whom?

16 A. In order to get medical treatment  
17 at that time, you had to get a diagnosis of  
18 gender dysphoria. It was not an option to do  
19 any other method.

20 [REDACTED]

21 [REDACTED]

22 [REDACTED]

23 [REDACTED]

24 [REDACTED]

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[REDACTED]

A. Yes.

Q. Okay. You were approximately 25 at that time?

A. Yes.

Q. Before your diagnosis, had you heard of gender dysphoria?

A. Yes.

Q. So according to the diagnosis, if your biological sex and your gender identity do not match, that means that the biological sex and the gender identity are different, right?

MS. BONHAM: Objection.

THE WITNESS: No. I mean, they don't know -- they don't know the complex biology of a person, they're just using the term for simplification or to, you know, treat people with hormones or whatever treatment they need.

Q. And by that, you mean the medical experts who are actually rendering the diagnosis of gender dysphoria, they're the ones that you say don't understand the complexity of

1 gender and sex. Is that your testimony?

2 MS. BONHAM: Objection. Objection.  
3 Misstates testimony. Calls for expert  
4 testimony.

5 THE WITNESS: I can't answer for  
6 every doctor out there, what they're thinking.  
7 There are certain people that know very well  
8 that this term is just something used to get  
9 people treatment, and it does not mean  
10 biological sex and gender identity are  
11 different.

12 Q. Which people know that?

13 A. I don't understand that question.

14 Q. Well, you said there are certain  
15 people out there who know that these two things  
16 don't mean biological sex and gender identity  
17 are different. I'm just curious to know what  
18 your understanding is of who those people are.

19 A. Well, the people who know their  
20 head from their ass from a hole in the ground.

21 Q. Okay. So --

22 A. There's not a specific person I can  
23 point to. There are plenty of people who know.

24 Q. Can you name any?

25 A. Can I name, like, specific doctors?

1 Q. Sure. Sure.

2 A. No.

3 Q. Okay. You would agree, logically,  
4 though, that two items that are incongruent  
5 with one another can't be the same, correct?

6 MS. BONHAM: Objection. Vague.

7 THE WITNESS: Two items that are  
8 incongruent with each other can't be the same?  
9 I'm not sure that I understand. I mean, I see  
10 where you're trying to go with that, but I  
11 don't really have an answer to that one.

12 Q. So you don't know one way or the  
13 other whether incongruence indicates sameness?

14 MS. BONHAM: Objection. Vague.  
15 Incomplete hypothetical.

16 THE WITNESS: The terms mean that,  
17 but you're applying it to transgender people,  
18 which does not apply.

19 Q. Okay. So from a general sense,  
20 that might be true, but as applied to  
21 transgendered folk, it's your opinion that that  
22 is not true, the statement is incorrect?

23 MS. BONHAM: Objection. Misstates  
24 testimony. Vague.

25 THE WITNESS: Your statement that

1 sex and gender identity are incongruent, I do  
2 not agree with.

3 Q. Okay. Even for someone with a  
4 diagnosis of gender dysphoria, you disagree  
5 that that means that sex and gender are  
6 incongruent?

7 MS. BONHAM: Continuing objections  
8 to the terms as defendants have defined them.

9 THE WITNESS: Again, my diagnosis  
10 is contested and it does not mean the same  
11 thing to everyone.

12 MR. BLAKE: All right. Can we take  
13 a quick break?

14 MS. BONHAM: Yeah.

15 (Recess taken.)

16 Q. Do you recall when you first  
17 realized that the sex identifier on your birth  
18 record did not match your gender identity?

19 MS. BONHAM: Objection.

20 THE WITNESS: I honestly don't  
21 remember the first time I saw my birth  
22 certificate, but it was when I was very young  
23 and felt the gender was incorrect on it.

24 Q. You don't remember approximately  
25 when that -- that was?

1 A. I would guess I was maybe ten.

2 Q. Do you have a driver's license?

3 A. Yes.

4 Q. Is it issued by the State of Ohio?

5 A. Yes.

6 Q. Does that reflect your sex as male  
7 or female?

8 A. Male.

9 Q. How often do you update your  
10 driver's license?

11 A. Update it how?

12 Q. Well, I mean, have you ever had to  
13 update your driver's license?

14 A. Well, I renew it. I mean, not  
15 really updating it.

16 Q. Okay. So how many -- so you've  
17 renewed your driver's license, I take it,  
18 probably several times?

19 A. Yes.

20 Q. And you intend to get a driver's  
21 license in Colorado, too?

22 A. Yes. I actually tried.

23 Q. Go ahead.

24 A. This comes to one of my -- back to  
25 the injury thing that we haven't really talked

1 about, but I tried to get my Colorado Driver's  
2 License and I brought all the paperwork they  
3 said I needed, Social Security card, passport,  
4 and two pieces of mail, I think, and they would  
5 not process my driver's license here because my  
6 middle initial is "J" and they said that they  
7 had to see my birth certificate because they  
8 did not believe that my middle initial was just  
9 "J" and they wanted to see my whole,  
10 quote/unquote, middle name, so I have not been  
11 able to get my driver's license yet and I will  
12 be forced to show them my birth certificate  
13 with the incorrect gender on it.

14 Q. Are you fearful that someone at the  
15 Colorado Bureau of Motor Vehicles is going to  
16 injure or harm you when you show them your  
17 birth certificate?

18 A. My usual experience with showing  
19 bureaucratic officials my birth certificate is  
20 that they treat me very poorly and then do  
21 whatever they can to make it more difficult to  
22 get whatever I'm trying to do done.

23 Q. But you don't fear bodily harm by  
24 the Colorado official, right?

25 A. I don't fear bodily harm, I just

1 know that there's emotional trepidation and it  
2 will not be pleasant.

3 Q. All right. So you talked about  
4 having to renew your Ohio Driver's License  
5 periodically while you were a resident of Ohio,  
6 and acknowledging now that you're a resident of  
7 Colorado, you're going to need to get a  
8 Colorado Driver's License. When you've  
9 conducted these renewals, have you ever changed  
10 your hair color on your driver's license?

11 A. I don't believe so.

12 Q. Have you ever changed your weight?

13 A. Yes. My weight has changed over  
14 the years.

15 Q. And you've updated that information  
16 on your driver's license, right?

17 A. Yes.

18 Q. What about your address, have you  
19 ever had to update or change your address on a  
20 driver's license?

21 A. Yes. At least one time when it was  
22 renewed, yeah.

23 Q. When you initially got your  
24 driver's license in the State of Ohio, what sex  
25 did you put on it?

1           A.       When I first got my driver's  
2 license, they, of course, forced me to put  
3 female.

4           Q.       And when did you change it to male?

5           A.       Around 2000, I believe.

6           Q.       Was that before or after you had  
7 underwent transition?

8           A.       After.

9           Q.       Have you ever been pulled over?

10          A.       Yes.

11          Q.       And when you were pulled over, the  
12 officer asked you to show your driver's  
13 license, among other things, right?

14          A.       Yes.

15          Q.       Did police officer ever ask you for  
16 your birth certificate during a traffic stop?

17          A.       They don't have for people's birth  
18 certificate at a traffic stop.

19          Q.       You would agree that a driver's  
20 license needs to be current so that law  
21 enforcement can, you know, do its law  
22 enforcement job, right?

23                   MS. BONHAM:  Objection.

24                   Foundation.  Calls for speculation.

25                   THE WITNESS:  It's to be updated to

1 circumstances. So it's, you know, human using  
2 the identity document has, you know, their full  
3 dignity, yeah.

4 Q. Have you ever used your birth  
5 certificate to buy beer?

6 A. That's not a thing.

7 Q. Have you ever used your birth  
8 certificate to get into an R rated movie?

9 A. That's not a thing either.

10 Q. Have you ever used your birth  
11 certificate to get into a bar?

12 A. None of these things you're listing  
13 would accept a birth certificate.

14 Q. What about to verify a credit card  
15 purchase?

16 A. I don't believe, no. They wouldn't  
17 accept that, I'm sure.

18 Q. Have you ever had to show your  
19 birth certificate to TSA when boarding a plane?

20 A. No. They wouldn't accept that.

21 Q. What about renting a car?

22 A. No.

23 Q. But in all those circumstances, you  
24 have used your driver's license or other state  
25 identification, right?

1           A.       Yes, but that doesn't mean I don't  
2       also need a birth certificate.

3           Q.       And you would agree that a driver's  
4       license is a much different form of  
5       identification document than a birth  
6       certificate, right?

7           MS. BONHAM:   Objection.   Calls for  
8       a legal conclusion.   Argumentative.

9           THE WITNESS:   No.   I don't consider  
10       them much different.   I consider them that they  
11       have separate uses in certain situations.

12          Q.       Well, we've identified some very  
13       common uses for state identification document  
14       or a driver's license, and you've testified  
15       that none of those -- the birth certificates  
16       are used in none of those circumstances, but  
17       nevertheless, it's still your testimony that  
18       they're similar documents?

19          A.       They are both identity documents  
20       that every person needs to have in their life  
21       and it needs to be accurate.

22          Q.       Your picture is not on your birth  
23       certificate, right?

24          A.       Right.

25          Q.       You don't routinely carry your

1 birth certificate with you when you go places,  
2 right?

3 A. No.

4 Q. How many times a month would you  
5 say you look at your birth certificate?

6 A. I don't look at it on purpose  
7 because it's upsetting that it has an incorrect  
8 gender on it.

9 Q. So less than one time per month?

10 A. I only get it out when I absolutely  
11 need to.

12 Q. How many times a month would you  
13 say you handle or look at your Ohio Driver's  
14 License?

15 A. Probably at least every other day.

16 Q. All right. Let's go to Exhibit 2.  
17 Let me know when you have it in front of you.

18 A. Okay.

19 Q. All right. What is -- what has  
20 been marked as Defendants' Exhibit 2 is a copy  
21 of the complaint, which you filed with others  
22 against ODH. Do you see that?

23 A. Yes.

24 Q. Have you seen this document before?

25 A. Yes.

1 Q. Did you provide information to  
2 counsel so that they could prepare this  
3 document and make the allegations contained  
4 within it?

5 A. Yes.

6 Q. All right. Turn to Page 14, if you  
7 would. Let me know when you're there.

8 A. Okay.

9 Q. Paragraph 59 just states that:  
10 Plaintiff, Basil Argento, is a 42-year-old man  
11 who was born in Tuscarawas County, Ohio, and  
12 currently resides in Columbus, Ohio.

13 Do you see that?

14 A. Yes.

15 Q. That's, obviously, not correct.  
16 Since the time that this was filed, you've  
17 moved to Colorado, right?

18 A. Yes.

19 Q. Okay. If you turn to the next  
20 page, Page 15, and go to Paragraph 67. Let me  
21 know when you're there.

22 A. Okay.

23 Q. Paragraph 67 describes an incident  
24 when you attempted to get an Italian passport,  
25 right?

1 A. Yes.

2 Q. And you presented the consular  
3 officials at the Italian Consulate with your  
4 birth certificate, right?

5 A. Yes.

6 Q. And the birth record indicates your  
7 birth sex as female, correct?

8 A. Yes.

9 Q. And you also presented the consular  
10 officials with your driver's license, right?

11 A. Yes.

12 Q. Which indicates your sex is male,  
13 correct?

14 A. Yes.

15 Q. And the consular officials told you  
16 that they did not know how to proceed with  
17 processing your application for an Italian  
18 passport in that circumstance, right?

19 A. Yes.

20 Q. And that resulted in a lot of back  
21 and forth between you and the officials at the  
22 Italian Consulate, right?

23 A. Yes.

24 Q. And the correspondence, phone  
25 calls, I presume e-mails, went on for over a

1 year, right?

2 A. Yes.

3 Q. You tried to get the Consulate to  
4 process your application, and they would say  
5 they couldn't do it, right?

6 A. Yes.

7 Q. And the reason why they couldn't do  
8 it was this incongruence between the sex  
9 identified on your birth certificate as female  
10 and the sex identified on your driver's license  
11 as male; is that accurate?

12 A. Yes.

13 Q. But, eventually, they did figure  
14 out how to do it and they processed your  
15 application, right?

16 A. They did. It took three years  
17 instead of the typical one year it would take  
18 for a cisgendered person. It took extra -- I  
19 had to drive from Columbus to Detroit extra  
20 times. And also, now, I'm trying to get them  
21 to issue my passport, which would be absolutely  
22 no problem for a cisgendered person, but they  
23 will not issue my passport due to still this  
24 problem with the gender being wrong on my birth  
25 certificate.

1 Q. All right. So you're a citizen of  
2 Italy, but you don't yet have the passport; is  
3 that accurate?

4 A. Yes.

5 Q. Okay. When you presented your  
6 birth record to the consular officials at the  
7 Italian Consulate, were you in any way fearful  
8 that you were going to be physically harmed by  
9 those officials?

10 A. There are cameras in places like  
11 that, so, of course, nobody working at the  
12 consulate was going to physically harm me.

13 Q. All right. And you would agree  
14 that it's not the Ohio Department of Health's  
15 responsibility to set the guidelines for what  
16 Italy requires to grant citizenship to a  
17 foreign-born individual?

18 MS. BONHAM: Objection. Vague.  
19 Compound. Calls for legal conclusions.  
20 Foundation.

21 THE WITNESS: My opinion is the  
22 ability to have documents reflect the living  
23 people's circumstances because birth  
24 certificates are for use by living people.

25 Q. But that doesn't answer the

1 question. ODH has no responsibility over  
2 whether the Italian Consulate grants  
3 citizenship to a U.S. born individual, right?

4 MS. BONHAM: Objection. Calls for  
5 a legal conclusion.

6 THE WITNESS: They're not  
7 responsible for that, however -- for that  
8 specific thing, however, they are -- they  
9 should be responsible to make someone's birth  
10 certificate accurate. And if I had -- if I  
11 had -- if I were a cis person, then this  
12 process would have been easy and, you know, it  
13 would have been less expensive and less  
14 harrowing.

15 Q. I mean, that's your opinion that if  
16 you were a cis person, the process would have  
17 been easier. I mean, you don't know that for a  
18 fact, right?

19 A. I do know that for a fact. There  
20 are forums online where people talk about how  
21 long it took them, and the average is one year  
22 for somebody who doesn't even have their  
23 documents completely all together, and I had my  
24 documents all completely together and it took  
25 three years.

1 Q. Would you consider yourself an  
2 expert on what it takes to obtain Italian  
3 citizenship?

4 A. That depends on your definition of  
5 expert. Do I know all the ins and outs of it,  
6 yes.

7 Q. Okay. So it's based on your  
8 expert -- on your expert opinion that one year  
9 should be all that's required to obtain -- for  
10 U.S. born citizen to obtain Italian  
11 citizenship?

12 MS. BONHAM: Objection. Misstates  
13 testimony. He's obviously testifying as a lay  
14 witness.

15 THE WITNESS: Yes. My opinion and  
16 from what I've seen and read is the average is  
17 one year.

18 Q. Other than what you've read on, I  
19 assume, what is the Italian Consulate's  
20 website, do you have any personal experience  
21 with how long it would take a cisgendered  
22 person to obtain their Italian citizenship?

23 A. No, other than online forums. They  
24 were not on the Consulate website.

25 Q. Okay. And ODH doesn't have any

1 control over how long it takes Italy to process  
2 citizenship requests, right?

3 MS. BONHAM: Objection. Calls for  
4 a legal conclusion.

5 THE WITNESS: They only have  
6 control over whether they update my birth  
7 certificate to be correct or not.

8 Q. So that's a no, ODH doesn't have  
9 any control, right?

10 MS. BONHAM: Objection.

11 THE WITNESS: They only have  
12 control, again, over my birth certificate.  
13 They don't have control over any other  
14 authorities.

15 Q. They don't dictate what information  
16 Italy requires to process its passport  
17 applications, right?

18 A. No, but they dictate what  
19 information they're going to get.

20 Q. They dictate -- they dictate what  
21 information is reported at the time of birth  
22 and reflected on the birth certificate. Is  
23 there any other information that ODH dictates?

24 MS. BONHAM: Objection. Compound.

25 THE WITNESS: It's not just what

1 was recorded at birth, it is a reflection of my  
2 current -- should be a reflection of my current  
3 reality, such as name and things like that, so,  
4 I mean, that's what they have control over.

5 Q. Okay. Do you know why Italy or the  
6 Italian Consulate requires the sex on your  
7 birth certificate and driver's license to  
8 match?

9 MS. BONHAM: Objection.  
10 Foundation.

11 THE WITNESS: They told me many  
12 things over three years. One thing they say,  
13 they could write down two things that mismatch,  
14 then they told me it still took as long as it  
15 did. And then now for my passport, they  
16 won't -- they won't give me a passport with,  
17 you know, even the wrong gender on it because  
18 they said that if it's a male name, it has to  
19 say male, but they won't put male on it because  
20 my birth certificate is wrong.

21 Q. Do you have a U.S. passport?

22 A. Yes.

23 Q. What is the sex reflect on your  
24 U.S. passport?

25 A. Male.

1 Q. Have you been issued any sort of  
2 identification or citizenship card from Italy?

3 A. No. All I have is an e-mail  
4 stating that I'm in the system now and I have  
5 to send in a form that has my current address  
6 updated.

7 Q. Are you working towards getting  
8 your Italian passport?

9 A. I am going to. I haven't moved  
10 forward with it over the past however many  
11 months it been 'cause I've been busy, but, yes,  
12 I am going to do that.

13 Q. What's the next step?

14 A. The next step is probably getting a  
15 lawyer, unless Ohio fixes my birth certificate.  
16 Otherwise, I'm probably going to get a lawyer  
17 in Italy.

18 Q. You said earlier that Italy was  
19 originally willing to issue a passport that  
20 reflected your sex as female; is that right?

21 A. No. They would not do either  
22 because I said, well, if it's wrong, at least  
23 I'll have my passport and then I can work  
24 towards updating it to the correct gender, but  
25 they will not do that because in Italy, if a

1 person has a masculine name, then the gender is  
2 to be male. I cannot put that on there until  
3 my birth certificate is fixed.

4 Q. But at least at some point, you  
5 were willing to have an Italian passport that  
6 reflected female, right?

7 A. Not willing, per se, but it's  
8 better than not having a passport at all  
9 because then you can work towards changing it,  
10 just like I did with my U.S. passport.

11 Q. You were going to be okay with  
12 having a female listed on your passport as long  
13 as you could just get the passport initially,  
14 right?

15 MS. BONHAM: Objection. Misstates  
16 testimony.

17 THE WITNESS: No. I'm not okay  
18 with that at all, but it's better than having  
19 no passport and no proof that I'm an Italian  
20 citizen.

21 Q. Can you turn to Exhibit 9, please?  
22 Let me know when you're there.

23 A. Yes.

24 Q. And if you turn to the page Bates  
25 numbered 000030, it's five pages into the

1 document.

2 A. Okay.

3 Q. This is another e-mail exchange  
4 between you and it looks like the Italian  
5 Consulate in Detroit. Do you recognize these  
6 e-mails?

7 A. Yes.

8 Q. To the best of your knowledge, is  
9 this e-mail chain a true and accurate copy of  
10 the correspondence you had with the Italian  
11 consulate on or about April 18th, 2016?

12 A. Yes.

13 Q. 2016?

14 A. Yes.

15 Q. And it looks like that that  
16 correspondence actually began in 2015. And I  
17 don't speak Italian, so I don't know what month  
18 Giugno is, but I'm going to guess June.

19 A. Yeah.

20 Q. Okay. So it looks like on or about  
21 June 25th, 2015, you sent an e-mail to an  
22 individual at the Italian Consulate, and the  
23 subject was update on case. Do you see that  
24 e-mail at the bottom of Bates Page 000030?

25 A. Yes.

1 Q. And you say: Signore Paladino,  
2 thank you for your help. Do I understand that  
3 my legal name change is not recognized by  
4 Italy? I don't mind the gender marker being  
5 wrong on my Italian passport.

6 Do you see that?

7 A. Yes, I see that.

8 Q. So at least at that time, you  
9 didn't mind having an incorrect gender marker  
10 on your Italian passport, right?

11 MS. BONHAM: Objection. Misstates  
12 testimony and misstates the document, which  
13 goes on to say, quote, I will go to Italy and  
14 petition for it to be changed later, but I  
15 can't live my life as a trans person with the  
16 wrong name on my passport.

17 THE WITNESS: I wrote this because,  
18 obviously, I'm talking to this bureaucrat. I  
19 want him to give me my passport. I do not want  
20 the wrong gender on there, but it is far less  
21 likely that someone will notice the incorrect  
22 gender on the passport than my name being  
23 wrong. I am not okay with it being wrong, but  
24 I do want my Italian passport.

25 Q. Do you know if the Italian passport

1 includes -- is it a sex or gender word that  
2 they use to track male or female, do you know?

3 MS. BONHAM: Objection.

4 THE WITNESS: It's the same word,  
5 so...

6 Q. They only have the one word for it?

7 A. I'm saying, in English "gender" and  
8 "sex" is the same.

9 Q. I got it, I'm just wondering what's  
10 actually on the Italian passport, if you know.

11 A. I don't have one yet.

12 Q. Sorry?

13 A. I don't have one yet, so...

14 Q. So you don't know if it says  
15 "gender" and "sex" on the passport?

16 A. It makes no difference 'cause  
17 that's the same word.

18 Q. Is it the same word in Italian?  
19 'Cause it's not the same word in English. I  
20 mean, they're two words. Do they only?

21 MS. BONHAM: Objection.

22 THE WITNESS: There are many words  
23 in English that mean the same thing.

24 Q. I got it. I'm not asking you  
25 whether or not they're synonymous, I'm asking

1 you what the actual word is.

2 MS. BONHAM: Objection.

3 Foundation. Vague. It sounds like what you're  
4 asking him is to define a word that's disputed  
5 in this case in English in Italian.

6 MR. BLAKE: Nope. That's not what  
7 I'm doing at all.

8 MS. BONHAM: Okay. What's --

9 Q. The U.S. passport says the word  
10 "sex" on it, right?

11 A. I honestly don't know because I  
12 read those words at the same. I don't know  
13 which one.

14 Q. So "sex" is spelled out s-e-x,  
15 right?

16 A. Yes. S-e-x spells sex, and it is  
17 the same word as "gender," though, in my  
18 opinion.

19 Q. Your testimony is that it means the  
20 same word, but they are, in fact, different  
21 words. They appear in different locations in  
22 the dictionary, right?

23 A. Uh-huh.

24 Q. One has three letters and one has  
25 six, seven?

1 A. Yeah. Like kindergarten all over.

2 Q. I guess it's six letters, right?

3 A. I don't know which one's on there.  
4 I never noticed. Like I said, those words mean  
5 the same thing to me.

6 Q. I got it. I was just asking in  
7 case you knew. Do you know if -- well, is the  
8 Italian passport written in English or Italian?

9 A. It's written in Italian.

10 Q. Okay. Do you speak Italian?

11 A. A little bit. I believe it says  
12 "sex," but I could not tell you for certain.

13 Q. Well, I was going to ask you that.  
14 Do you know what the Italian word is for "sex"?

15 MS. BONHAM: Objection. Go ahead.

16 THE WITNESS: "Sessuale."

17 Q. "Sessuale." And that's, what,  
18 probably spelled s-e-x-u-a-l or something like  
19 that?

20 A. No. I think it's s-e-s-s-u-a-l-e,  
21 but I could be wrong.

22 Q. And do you know if there's an  
23 Italian word for "gender"?

24 MS. BONHAM: Objection.

25 THE WITNESS: I'm sure there is.

1 Q. But you don't know?

2 A. I don't know it.

3 Q. You don't know it.

4 A. It may be the same word.

5 Q. Okay. But at least at -- when you  
6 were writing that e-mail to the Italian  
7 Consulate in Detroit, you were okay with the  
8 sessuale -- the sessuale entry on your passport  
9 being female so long as you could just get the  
10 passport, right?

11 A. It was more important to me to get  
12 the passport than not have the passport, yes,  
13 but I'm not okay with it saying the wrong  
14 thing. I would want it changed, but it was a  
15 step in the right direction.

16 Q. Do you travel a lot  
17 internationally?

18 A. A lot, no.

19 Q. In the last five years, have you  
20 had to use your passport?

21 A. Yes.

22 Q. And because you don't have an  
23 Italian passport yet, you've had to use your  
24 U.S. passport, right?

25 A. Yes.

1 Q. Had you had your Italian passport  
2 issued, would you have used your Italian  
3 passport instead of your U.S. passport?

4 A. It depends on the circumstances,  
5 but if we were just going on vacation and it  
6 was to a country that has no problem with U.S.  
7 passports, I would use it.

8 Q. So what countries is it beneficial  
9 to use your Italian passport instead of the  
10 U.S. passport?

11 A. If you're going to be staying a  
12 long time, it is pretty much hassle free if you  
13 have an Italian passport.

14 Q. So would you have -- well, have you  
15 taken any trips like that in the last five  
16 years?

17 A. No, but we plan to. I have family  
18 in Italy.

19 Q. So if you had an Italian passport,  
20 even with an incorrect designation or what you  
21 contend is an incorrect designation, would you  
22 use that passport for this upcoming trip to  
23 Italy?

24 MS. BONHAM: Objection. Incomplete  
25 hypothetical.

1 THE WITNESS: Well, most likely,  
2 I'm going to go to Italy to get this corrected  
3 unless Ohio updates my birth certificate, so  
4 yes, I would have to.

5 Q. And in doing so, you would have to  
6 show people, either the TSA agents or the  
7 people at the port of entry, this passport with  
8 the female designation on it, right?

9 MS. BONHAM: Objection. Incomplete  
10 hypothetical. He, obviously, doesn't have the  
11 hypothetical document 'cause he can't get it.

12 THE WITNESS: Yeah. And that's not  
13 something that anyone wants to do. To have an  
14 identity document with the wrong gender on it  
15 is very stressful.

16 Q. But you nevertheless would disclose  
17 this document with that female sex designation  
18 on it instead of showing them the U.S.  
19 passport, which has the male sex designation on  
20 it, right?

21 MS. BONHAM: Objection. Misstates  
22 testimony. Incomplete hypothetical.

23 THE WITNESS: Only when it was  
24 necessary. I wouldn't use it as a preference,  
25 I would want a document that was correct.

1 Q. But when traveling to Italy to  
2 attempt to change this designation, you would  
3 use the Italian passport, right?

4 MS. BONHAM: Objection. There's --  
5 it appears there's a misunderstanding, and I  
6 just want the record --

7 MR. BLAKE: Well, let him clear it  
8 up. If you think it's inaccurate, let him  
9 clear it up. We don't need speaking  
10 objections. If there's a misunderstanding, let  
11 him answer, you can object, and then we can  
12 take it from there. I don't want to hear your  
13 characterization of what you think the  
14 misunderstanding is, I want to hear his  
15 testimony, okay?

16 MS. BONHAM: I understand, but I'm  
17 telling you, you're continually asking  
18 questions that seem to have the premise wrong,  
19 and we can go off the record and correct it. I  
20 think it's a true misunderstanding, but we can  
21 continue. That's your prerogative.

22 MR. BLAKE: Thank you.

23 Q. Go ahead.

24 A. I am not sure what choice you think  
25 I would have if I had this passport, which I

1 don't. I would have to take it there and show  
2 it to people for a change. There would be no  
3 other option, but I don't have it because of  
4 this situation. I don't have my passport,  
5 correct or incorrect.

6 Q. I guess I was talking about when  
7 you physically got on the plane to Italy,  
8 right, and when you go through customs, right,  
9 they -- you show them a passport and they stamp  
10 it to let you in, would you use the U.S.  
11 passport with the male identifier on it to go  
12 through that process or would you use the  
13 as-of-yet un-obtained Italian passport with the  
14 incorrect, according to you, female designation  
15 for sex?

16 MS. BONHAM: Objection.  
17 Hypothetical.

18 THE WITNESS: I would consult with  
19 the Italian lawyer and ask them if it was the  
20 correct thing to do.

21 Q. Okay. 'Cause you think it might be  
22 required -- if you have the Italian passport to  
23 travel to Italy, it might be required to use  
24 that, the Italian passport versus the U.S.  
25 passport?

1           A.       Yes.

2           Q.       Okay.  You just don't know if  
3       that's true.  If it's not true, you would use  
4       the document with the male sex identifier on  
5       it, right?

6           A.       Yes.

7           Q.       Okay.  All right.  If you go to the  
8       next page -- sorry, Page 17, Paragraph 77.  Let  
9       me know when you're there.  We're on exhibit --  
10      we're still on Exhibit 2.

11          A.       Okay.

12          Q.       Paragraph 77, you state that you  
13      have been required to show your birth  
14      certificate in other contexts.  Do you see  
15      that?

16          A.       Yes.

17          Q.       We've talked about the Italian  
18      Consulate, we've talked about the upcoming  
19      incident or upcoming occurrence with the --  
20      with Colorado.  What other -- what other  
21      incidents have you been required to show your  
22      birth certificate?

23          A.       When I originally tried to change  
24      my Social Security information, I went into the  
25      office in San Jose, California where I lived at

1 the time and gave them my birth certificate and  
2 had to fill out the forms, said I wanted to  
3 update it, and the guy just looked at me like I  
4 was crazy. Said he had no idea what to do, so  
5 he went in the back. But when he went to the  
6 back, one at a time, all the other people that  
7 worked in the office came up to the window,  
8 practically pressed their face against the  
9 window and then left. And they did this, there  
10 were, like, ten of them. They all each came  
11 and stared at me. And then he came back and  
12 said they can't change it, and that was the end  
13 of that. So they basically all treated me like  
14 a zoo specimen and then did not update my  
15 information.

16 Q. Did you feel bodily harm from the  
17 Social Security Administration in San Jose?

18 A. It was not bodily harm, it was  
19 emotional distress.

20 Q. Do you believe that ODH had  
21 anything to do with the policies and rules of  
22 the Social Security Administration in San Jose,  
23 California?

24 A. Well, indirectly, all of this is  
25 due to them not doing the simple thing of

1 updating my birth certificate to reflect my  
2 reality.

3 Q. ODH doesn't control the way in  
4 which employees of the federal government at an  
5 office in San Jose, California react to the  
6 recordation of female on your birth  
7 certificate, right?

8 MS. BONHAM: Objection. Calls for  
9 a legal conclusion. Argumentative.

10 THE WITNESS: They're responsible  
11 for the fact that I have to disclose that in  
12 the first place.

13 Q. ODH is responsible for the policy  
14 or the rule that requires the Social Security  
15 Administration to review your birth  
16 certificate?

17 MS. BONHAM: Same objection.  
18 Misstates testimony.

19 THE WITNESS: They're responsible  
20 for not updating my birth certificate and  
21 forcing me to out myself to bureaucratic  
22 officials.

23 Q. But they're not acting in their  
24 official capacity, right?

25 MS. BONHAM: Objection. Calls for

1 a legal conclusion. Vague.

2 THE WITNESS: Who was acting in  
3 their official capacity?

4 Q. These employees. You aren't, like,  
5 out in a park or something and they were  
6 shaking you down for your birth certificate,  
7 right?

8 MS. BONHAM: Objection.

9 THE WITNESS: Well, they require  
10 the birth certificate to update the -- well,  
11 they didn't update it, but they wanted to see  
12 it.

13 Q. And they requested it as part of  
14 their duties that they were performing for the  
15 Social Security Administration, right?

16 A. Yes. If you can call it their  
17 duties staring at someone like a zoo specimen,  
18 yes.

19 Q. And ODH doesn't have anything to do  
20 with whether or not Administration requires  
21 submission of that document, right?

22 MS. BONHAM: Objection. Calls for  
23 a legal conclusion.

24 THE WITNESS: ODH does very well  
25 and at let living people use documents for all

1 kinds of purposes that they need to do in their  
2 lives, so yes.

3 Q. Yes, what?

4 A. They are responsible for that.

5 Q. So when or upon what basis do  
6 you -- do you claim that ODH has set the  
7 requirements or directed the Social Security  
8 agency to review the birth certificate?

9 MS. BONHAM: Objection. Misstates  
10 testimony and calls for a legal conclusion.

11 THE WITNESS: They're not directing  
12 them to do anything, all they control is the  
13 birth certificate, which they refuse to update.

14 Q. Yeah. ODH is the one that puts the  
15 information on the birth certificate, right?

16 A. And refuses to change it, yes.

17 Q. And -- well, they change it  
18 pursuant to what their law requires them to do.  
19 You would agree with that, right?

20 MS. BONHAM: Objection. Calls for  
21 a legal conclusion. Argumentative.

22 THE WITNESS: I don't know what  
23 their law is.

24 Q. Okay. Any other context besides  
25 the Social Security agency that Italian

1 Consulate and the Colorado Bureau of Motor  
2 Vehicles?

3 MS. BONHAM: Yeah. I was also  
4 forced to produce my birth certificate when I  
5 got married in Buffalo, New York, and they  
6 hassled us and we ended up having to go,  
7 instead of Buffalo, we had to go to Niagara to  
8 get our wedding -- what do you call it -- our  
9 marriage license because they just accepted a  
10 passport there, and they did not want to accept  
11 documents that didn't match at the Buffalo  
12 location.

13 Q. All right. And do you -- do you --  
14 well, you would agree that the Ohio Department  
15 of Health doesn't dictate to whatever official  
16 you went to in Buffalo, New York about what  
17 documents they require before they issue a  
18 marriage license, right?

19 A. Of course they don't dictate to any  
20 other authority, they only have control over  
21 the birth certificates they refuse to change.

22 Q. And when you presented this birth  
23 certificate to the official in Buffalo, New  
24 York, you didn't fear bodily harm, did you?

25 A. Again, I don't fear bodily harm

1 from government officials. They usually just  
2 cause emotional distress.

3 Q. Are there any other circumstances  
4 besides the Colorado Bureau of Motor Vehicles,  
5 the Italian Consulate, the Social Security  
6 Administration and the official in Buffalo, New  
7 York who refused to issue the marriage license?

8 MS. BONHAM: Objection. He's  
9 previously testified in the litigation that  
10 it's impossible to list every such  
11 circumstance.

12 THE WITNESS: Another one I can  
13 think of off the top of my head is when I went  
14 to get my United States passport. Several  
15 instances there. My very first passport they  
16 issued, they only gave me a one-year limited  
17 valid passport that had a phrase in it about  
18 the Department of State expressly gives  
19 permission to renew this passport, like I was a  
20 criminal or something. And then a couple years  
21 later, they renewed it one more time and  
22 another one-year limited passport. Like, I  
23 don't know, maybe 15 years, I had a passport  
24 for two years, and when finally -- they changed  
25 the law during the Obama administration, I

1       went -- you have to go to the post office to  
2       present your documents, so I had to give them  
3       to postal worker my birth certificate in. And  
4       I had gone to a different post office than I  
5       normally go to, but it was a gentleman I had  
6       seen before, he did not want to be disclosed  
7       to. He looked at it and turned 20 shades of  
8       red, and so it was very uncomfortable for both  
9       of us. And, yeah, so it's just a lot of  
10      hassles and a lot of emotional suffering.

11           Q.       And like the other circumstances  
12      you've described, ODH doesn't set the policies  
13      or requirements for the U.S. passport service  
14      to what documents they require to issue the  
15      passport, right?

16                   MS. BONHAM:    Objection.

17                   THE WITNESS:   Of course they don't.  
18      They only control their own system and the  
19      things that they decide to do. They don't  
20      control other authorities.

21           Q.       And when you presented the birth  
22      certificate to the folks in connection with  
23      obtaining your U.S. passport, you did not fear  
24      bodily harm, did you?

25           A.       Like I said, I don't fear bodily

1 harm from government officials.

2 Q. None of these government officials  
3 are particularly dangerous, right?

4 MS. BONHAM: Objection.

5 THE WITNESS: I mean, who knows  
6 individually what anybody's capable of, but  
7 they are in a facility with cameras. They're  
8 not going to physically assault me when I come  
9 in.

10 Q. Are there any other circumstances  
11 which you can recollect as you sit here today?

12 A. That's all I can think of right  
13 now.

14 Q. Have you had to produce or provide  
15 your birth certificate to anyone in connection  
16 with attendance at any school?

17 A. I do not believe so, no.

18 Q. Have you ever showed it to any of  
19 your friends?

20 A. No.

21 Q. Have you ever had to show your  
22 birth certificate to any medical professionals?

23 A. I don't believe so.

24 Q. Have you ever had to provide your  
25 birth certificate to receive any insurance?

1 A. I don't believe so.

2 Q. Employee benefits?

3 A. Before I had a passport, yes, I  
4 believe I had to show my birth certificate.  
5 Yes, I did once.

6 Q. You showed your birth certificate  
7 to an employer?

8 A. Yes.

9 Q. Which employer?

10 A. It would have been the Kroger  
11 company in 2001, maybe.

12 Q. You were applying for a position at  
13 Kroger?

14 A. Yes.

15 Q. Did you get the job?

16 A. Yes.

17 Q. And who did you show your birth  
18 certificate to there?

19 A. The HR person.

20 Q. Did they make any comments or  
21 remarks about your birth certificate?

22 A. No.

23 Q. Did you fear bodily harm from the  
24 HR person at Kroger?

25 A. No.

1 Q. Did the HR person harass you in any  
2 way?

3 A. No. Kroger is a very -- very --  
4 what's the word -- fair.

5 Q. Progressive?

6 A. Yes, progressive. They hire lots  
7 of diverse staff.

8 Q. What about any other type of  
9 benefits, governmental or anything like that,  
10 have you ever had to show your birth  
11 certificate in circumstances other than the  
12 ones we've already talked about?

13 A. I don't think so.

14 MR. BLAKE: I think that's all I  
15 have, Elizabeth.

16 MS. BONHAM: Okay. We'll take a  
17 short break. We might have a couple.

18 MR. BLAKE: All right.

19 (Recess taken.)

20 EXAMINATION OF BASIL ARGENTO

21 BY MS. BONHAM:

22 Q. Defendants' counsel has asked you  
23 to testify about whether you feel bodily harm  
24 or physical harm in instances where you have to  
25 disclose your birth certificate. Can you talk

1 about what you do feel in those instances?

2 A. Yeah. There's a lot of anxiety  
3 about how I'll be treated. As you can see,  
4 there are many instances where I was treated  
5 poorly and it's a lot of times dehumanizing  
6 because I'm telling something very personal  
7 about myself that I don't want to be telling, a  
8 stranger, especially one that I think is going  
9 to use it against me to make my life harder.  
10 So, yeah, it's emotional. It takes an  
11 emotional toll. And, you know, it's something  
12 very simple that the Ohio Department of Health  
13 could fix to cause trans people to have a much  
14 easier time in their lives and not have to go  
15 through this.

16 Q. We've also talked today about  
17 several disputed terms and disputed theories  
18 around sex and gender in the litigation. Have  
19 you hired experts in this litigation?

20 A. Yes.

21 Q. And do you work with the experts  
22 you've hired?

23 A. Yes.

24 Q. Are you relying on them to testify  
25 about these matters?

1           A.       Yes.

2           Q.       What are you asking for in the  
3 litigation?

4           A.       I'm asking for my birth certificate  
5 to be corrected to say "male."

6           MS. BONHAM: We don't have anything  
7 further.

8           MR. BLAKE: I'm good. I have  
9 nothing.

10          MS. BONHAM: Okay. Thanks very  
11 much. He'll read and sign.

12                   (The deposition was concluded at  
13 1:55 p.m.)

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1 Whereupon, counsel was requested to give  
2 instruction regarding the witness's review of  
3 the transcript pursuant to the Civil Rules.

4

5 SIGNATURE:

6 Transcript review was requested pursuant to the  
7 applicable Rules of Civil Procedure.

8

9 TRANSCRIPT DELIVERY:

10 Counsel was requested to give instruction  
11 regarding delivery date of transcript.

12 Mr. Blake original regular.

13 Ms. Bonham copy regular.

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REPORTER'S CERTIFICATE

The State of Ohio, )

SS:

County of Fairfield. )

I, Kimberly A. Kaz, RPR, a Notary Public within and for the State of Ohio, duly commissioned and qualified, do hereby certify that the within named witness, BASIL ARGENTO, was by me first duly sworn to testify the truth, the whole truth and nothing but the truth in the cause aforesaid; that the testimony then given by the above-referenced witness was by me reduced to stenotypy in the presence of said witness; afterwards transcribed, and that the foregoing is a true and correct transcription of the testimony so given by the above-referenced witness.

I do further certify that this deposition was taken at the time and place in the foregoing caption specified and was completed without adjournment.

1 I do further certify that I am not  
2 a relative, counsel or attorney for either  
3 party, or otherwise interested in the event of  
4 this action.

5 IN WITNESS WHEREOF, I have hereunto  
6 set my hand and affixed my seal of office at  
7 Cleveland, Ohio, on this 13th day of  
8 September, 2019.

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Handwritten signature of Kimberly A. Kaz in black ink, written over a horizontal dashed line.

14

Kimberly A. Kaz, RPR, Notary Public  
within and for the State of Ohio

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17 My commission expires March 31, 2023.

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Veritext Legal Solutions  
1100 Superior Ave  
Suite 1820  
Cleveland, Ohio 44114  
Phone: 216-523-1313

September 13, 2019

To: Ms. Bonham

Case Name: Ray, Stacie, et al. v. Director, Ohio Department Of Health,  
Et Al.

Veritext Reference Number: 3493802

Witness: Basil Argento                      Deposition Date: 8/29/2019

Dear Sir/Madam:

Enclosed please find a deposition transcript. Please have the witness review the transcript and note any changes or corrections on the included errata sheet, indicating the page, line number, change, and the reason for the change. Have the witness' signature notarized and forward the completed page(s) back to us at the Production address shown

above, or email to [production-midwest@veritext.com](mailto:production-midwest@veritext.com).

If the errata is not returned within thirty days of your receipt of this letter, the reading and signing will be deemed waived.

Sincerely,

Production Department

NO NOTARY REQUIRED IN CA

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DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3493802

CASE NAME: Ray, Stacie, et al. v. Director, Ohio Department  
Of Health, Et Al.

DATE OF DEPOSITION: 8/29/2019

WITNESS' NAME: Basil Argento

In accordance with the Rules of Civil  
Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

I have made no changes to the testimony  
as transcribed by the court reporter.

\_\_\_\_\_  
Date Basil Argento

Sworn to and subscribed before me, a  
Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

They have read the transcript;  
They signed the foregoing Sworn  
Statement; and  
Their execution of this Statement is of  
their free act and deed.

I have affixed my name and official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

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Commission Expiration Date

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DEPOSITION REVIEW  
CERTIFICATION OF WITNESS

ASSIGNMENT REFERENCE NO: 3493802

CASE NAME: Ray, Stacie, et al. v. Director, Ohio Department  
Of Health, Et Al.

DATE OF DEPOSITION: 8/29/2019

WITNESS' NAME: Basil Argento

In accordance with the Rules of Civil  
Procedure, I have read the entire transcript of  
my testimony or it has been read to me.

I have listed my changes on the attached  
Errata Sheet, listing page and line numbers as  
well as the reason(s) for the change(s).

I request that these changes be entered  
as part of the record of my testimony.

I have executed the Errata Sheet, as well  
as this Certificate, and request and authorize  
that both be appended to the transcript of my  
testimony and be incorporated therein.

\_\_\_\_\_  
Date Basil Argento

Sworn to and subscribed before me, a  
Notary Public in and for the State and County,  
the referenced witness did personally appear  
and acknowledge that:

- They have read the transcript;
- They have listed all of their corrections  
in the appended Errata Sheet;
- They signed the foregoing Sworn  
Statement; and
- Their execution of this Statement is of  
their free act and deed.

I have affixed my name and official seal  
this \_\_\_\_\_ day of \_\_\_\_\_, 20\_\_\_\_.

\_\_\_\_\_  
Notary Public

\_\_\_\_\_  
Commission Expiration Date

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ERRATA SHEET  
VERITEXT LEGAL SOLUTIONS MIDWEST

ASSIGNMENT NO: 3493802

PAGE/LINE(S) /	CHANGE	/REASON
121:18 /	insert "must" before "expressly"	transcription error
121:18 /	replace "gives" with "give"	grammar
121:23 /	insert "over" before "maybe"	transcription error
122:2-3 /	replace "them to" with "the"	grammar
122:3 /	omit "in"	grammar
125:23 /	replace "feel" with "fear"	transcription error

10/11/19                      *Basil Argento*  
Date                                      Basil Argento

SUBSCRIBED AND SWORN TO BEFORE ME THIS 11  
DAY OF October, 20 19.

*Michael Wells*  
Notary Public

10/29/2022  
Commission Expiration Date

MICHAEL WELLS  
NOTARY PUBLIC  
STATE OF COLORADO  
NOTARY ID 20184042146  
MY COMMISSION EXPIRES 10/29/2022

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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