

Peter C. Renn (Admitted *Pro Hac Vice*)  
prenn@lambdalegal.org  
Lambda Legal Defense and Education Fund, Inc.  
4221 Wilshire Blvd., Suite 280  
Los Angeles, CA 90010  
Telephone: (213) 382-7600  
Facsimile: (213) 351-6050

Kara N. Ingelhart (Admitted *Pro Hac Vice*)  
kingelhart@lambdalegal.org  
Lambda Legal Defense and Education Fund, Inc.  
105 W. Adams St., 26th Fl.  
Chicago, IL 60603  
Telephone: (312) 663-4413  
Facsimile: (312) 663-4307

Monica G. Cockerille (ISB No. 5532)  
monicacockerille@me.com  
Cockerille Law Office, PLLC  
2291 N. 31<sup>st</sup> St.  
Boise, ID 83703  
Telephone: (208) 343-7676  
Facsimile: (866) 226-2499

Attorneys for Plaintiffs F.V. and Dani Martin

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

F.V. and DANI MARTIN,

*Plaintiffs,*

v.

RUSSELL BARRON, in his official capacity as Director of the Idaho Department of Health and Welfare; ELKE SHAW-TULLOCH, in her official capacity as Administrator of the Division of Public Health for the Idaho Department of Health and Welfare; and JAMES AYDELOTTE, in his official capacity as State Registrar and Chief of the Bureau of Vital Records and Health Statistics,

*Defendants.*

No. 1:17-cv-00170-CWD

**PLAINTIFFS' RESPONSE TO  
DEFENDANTS' SUPPLEMENTAL  
AUTHORITY**

Plaintiffs F.V. and Dani Martin submit this response to Defendants' supplemental authority, pursuant to the Court's invitation at the hearing on February 1, 2018. Plaintiffs submit that the voluntary acknowledgment of paternity process is potentially relevant for two reasons.

First, as noted in Plaintiffs' motion for summary judgment (ECF No. 28-1 at 22), the process illustrates that there are circumstances in which Defendants already routinely issue revised birth certificates without disclosing the original information displayed on the certificate. Defendants agree there is no reason they could not do the same for transgender people seeking corrected birth certificates, without the mandatory inclusion of information that could reasonably disclose their transgender status, such as their birth name.

Second, the voluntary acknowledgement of paternity process can rely solely upon a declaration from the putative parent at issue affirming paternity. Idaho Code § 7-1106(1). Defendants have failed to meet their burden of showing why a similar process—one relying on written substantiation of gender identity from the transgender individual at issue, submitted to Defendants—would be inadequate. *See* ECF No. 32 at 13 n.2 (noting jurisdictions employing such a requirement). That is particularly true under heightened scrutiny, but it is also true under rational basis review: Defendants have failed to argue, let alone demonstrate, that there is any legitimate interest in refusing to correct the birth certificate of any transgender man or any transgender woman to conform to his or her gender identity, and Plaintiffs have shown that no such interest exists. Even a ruling limited to rational basis review would necessarily need to confirm that proposition—thereby identifying the *reason* why Defendants' current policy is impermissible—regardless of the precise scope of declaratory and injunctive relief issued.

DATED: February 7, 2018

By: /s/ Monica G. Cockerille

Monica G. Cockerille (ISB No. 5532)  
monicacockerille@me.com

Cockerille Law Office, PLLC  
2291 N. 31<sup>st</sup> St.  
Boise, ID 83703  
Telephone: (208) 343-7676  
Facsimile: (866) 226-2499

Peter C. Renn\*  
prenn@lambdalegal.org  
Lambda Legal Defense and Education Fund, Inc.  
4221 Wilshire Blvd., Suite 280  
Los Angeles, CA 90010  
Telephone: (213) 382-7600  
Facsimile: (213) 351-6050

Kara Ingelhart\*  
kingelhart@lambdalegal.org  
Lambda Legal Defense and Education Fund, Inc.  
105 W. Adams St., 26th Fl.  
Chicago, IL 60603  
Telephone: (312) 663-4413  
Facsimile: (312) 663-4307

\*Admitted *Pro Hac Vice*

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on the 7th day of February, 2018, I filed the foregoing electronically through the CM/ECF system, which caused the following parties or counsel to be served by electronic means, as more fully reflected on the Notice of Electronic Filing:

Russell Barron  
Office of the Director  
Idaho Department of Health and Welfare  
10th Floor, Pete T. Cenarrusa Building  
450 W. State Street  
Boise, ID 83720-0036

Elke Shaw-Tulloch  
Administrator, Division of Public Health  
Idaho Department of Health and Welfare  
4th Floor, Pete T. Cenarrusa Building  
450 W. State Street  
Boise, ID 83720-0036

James Aydelotte  
Chief and State Registrar  
Bureau of Vital Records and Health Statistics  
1st Floor, Pete T. Cenarrusa Building  
450 West State Street  
Boise, ID 83720-0036

/s/ Monica G. Cockerille  
Monica G. Cockerille  
Attorney for Plaintiffs