

Peter C. Renn (Admitted *Pro Hac Vice*)
prenn@lambdalegal.org
Nora Huppert (Pending Admission *Pro Hac Vice*)
nhuppert@lambdalegal.org
Lambda Legal Defense and Education Fund, Inc.
4221 Wilshire Blvd., Suite 280
Los Angeles, CA 90010
Tel: (213) 382-7600 | Fax: (213) 351-6050

Kara N. Ingelhart (Admitted *Pro Hac Vice*)
kingelhart@lambdalegal.org
Lambda Legal Defense and Education Fund, Inc.
65 E. Wacker Pl., Suite 2000
Chicago, IL 60601
Tel: (312) 663-4413 | Fax: (312) 663-4307

Monica G. Cockerille (ISB No. 5532)
monica@cockerillelaw.com
Cockerille Law Office, PLLC
100 W. Main St., Ste. 204
Boise, ID 83702
Tel: (208) 343-7676 | Fax: (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.

DAVID JEPPESEN,¹ 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' MOTION TO
SHORTEN TIME ON BRIEFING
FOR MOTION FOR
CLARIFICATION OF MARCH 5,
2018 ORDER**

¹ Pursuant to Federal Rule of Civil Procedure 25(d), David Jeppesen, the current director of the Idaho Department of Health and Welfare, is automatically substituted for Russell Barron.

Plaintiffs F.V. and Dani Martin, by and through their undersigned counsel, move to shorten time on briefing for their concurrently filed motion for clarification of this Court’s March 5, 2018 Order. The motion for clarification seeks to confirm that this Court’s March 5, 2018 Order, which permanently enjoined Defendants from categorically banning transgender people from correcting their birth certificates in order to match their gender identity, bars enforcement of Idaho House Bill 509 (“HB 509”), which reinstates a categorical ban effective July 1, 2020. At present, the motion for clarification would not be fully briefed until late May and thus a decision may not be issued until the summer. That motion should be granted for all the reasons explained in Plaintiffs’ accompanying memorandum; however, in the event that this Court were to deny the motion for clarification, additional litigation would be required to enjoin HB 509 before its effective date of July 1. To ensure that the Court would have adequate time to resolve any additional litigation—which would already likely require significantly expedited briefing—Plaintiffs move to shorten time on the briefing schedule for the motion for clarification.

Plaintiffs propose the following modest adjustments to the briefing schedule:

- Defendants’ opposition to the motion for clarification should be due on May 1; and
- Plaintiffs’ reply in support of the motion should be due on May 11.

That adjustment reduces each side’s briefing time by less than a week.¹ However, that adjustment would put the Court in the position of being able to rule expeditiously on the motion for clarification—and with sufficient time to facilitate adjudication of any additional litigation (should it be required) to enjoin HB 509 before July 1.

Regardless of how this Court resolves the motion for clarification, it has already

¹ Any conceivable burden on Defendants is also minimized by the fact that Plaintiffs gave Defendants notice on April 2, 2020 that they would file a motion for clarification upon learning of Defendants’ position that HB 509 is not enjoined by the Court’s permanent injunction.

recognized the serious constitutional injuries that are inflicted where the government denies transgender people access to birth certificates matching their gender identity. *F.V. v. Barron*, 286 F. Supp. 3d 1131, 1145 (D. Idaho 2018). At a minimum, the gravity of those injuries warrants sufficient time for litigation over whether HB 509 may be enforced. While Plaintiffs are particularly reluctant to seek to shorten time in light of the challenges associated with COVID-19—which has imposed burdens both on the Court and on litigants—the State’s decision to enact HB 509 at this juncture, and with an effective date of July 1, 2020, has necessitated this request.

DATED: April 16, 2020

By: /s/ Monica G. Cockerille

Monica G. Cockerille (ISB No. 5532)
monica@cockerillelaw.com
Cockerille Law Office, PLLC
100 W. Main St., Ste. 204
Boise, ID 83702
Tel: (208) 343-7676 | Fax: (866) 226-2499

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Chicago, IL 60601
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on the 16th day of April, 2020, 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:

David Jeppesen
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