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Attorneys for Plaintiff Jennifer Fletcher

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Jennifer Fletcher,

Plaintiff,

vs.

State of Alaska,

Defendant.

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

**JOINT MOTION TO ENTER
PROPOSED STIPULATED FINAL
JUDGMENT AND ORDER**

Pursuant to this Court's April 22, 2020 Order, ECF No. 67, Plaintiff Jennifer Fletcher and Defendant State of Alaska (the "State") respectfully submit this joint motion

for entry of the concurrently-submitted proposed stipulated final judgment and order. The parties have settled all remaining issues in order for judgment to be entered in the case, including the amount of Ms. Fletcher's damages. The parties respectfully move the Court for entry of the proposed stipulated final judgment and order, which will facilitate an appeal by the State.

Ms. Fletcher commenced this action on June 5, 2018, alleging that the State employee health plan's exclusion of gender transition-related surgery violates Title VII of the Civil Rights Act of 1964 ("Title VII"). ECF No. 1. The Court granted Ms. Fletcher partial summary judgment on liability on March 6, 2020, finding that the exclusion discriminates based on sex under Title VII. ECF No. 60. After that ruling, the parties met and conferred extensively about resolution of all remaining issues in the case for judgment to be entered. The parties have since reached an agreement on all such issues, and now move the Court to enter the concurrently-submitted proposed stipulated final judgment and order, which includes the following terms:

1. The Defendant, State of Alaska, shall pay Ms. Fletcher \$70,000.00 as compensation for her economic and non-economic damages, plus interest from June 1, 2017. Pre-judgment interest shall be paid using the rate specified in A.S. § 09.30.070(a); post-judgment interest shall be paid using the rate specified in 28 U.S.C. § 1961. If Ms. Fletcher remains the prevailing party following a final appellate decision, the State agrees to submit the stipulated damages herein for inclusion in the judgment and claims bill during the legislative session immediately following the final appellate decision. Ms. Fletcher reserves her rights to enforce this judgment if the appropriation is not approved;

2. During the pendency of any appellate review, the State is enjoined from enforcing any categorical exclusion of gender transition-related surgical care in health coverage provided by the AlaskaCare Employee Health Plan or any successor health plan, and, if Ms. Fletcher remains the prevailing party after any appellate review is final, permanently thereafter, provided that all claims for gender transition-related surgical care shall be subject to all other relevant plan provisions;

3. Any motion for attorneys' fees and costs by either party shall be due 45 days after any appellate review is final;

4. This Stipulated Final Judgment neither affects nor extinguishes the Defendant's right to appeal the decision of the court dated March 6, 2020 including any petition for rehearing, *en banc* determination, or writ of certiorari on any appealable issue; and

5. The Court retains jurisdiction to enforce the judgment.

Accordingly, the parties respectfully move the Court to enter the proposed stipulated final judgment and order.

Dated: June 5, 2020

Respectfully submitted,

/s/ Tara L. Borelli

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

Attorneys for Plaintiff Jennifer Fletcher

/s/ Kevin Dilg

William Milks, Alaska Bar No. 0411094

Assistant Attorney General

Kevin Dilg, Alaska Bar No. 1406053

Assistant Attorney General

Attorneys for Defendant State of Alaska

CERTIFICATE OF SERVICE

I hereby certify that on June 5, 2020, I electronically filed the foregoing document and all attachments with the Clerk of the Court by using the CM/ECF system, causing a copy of the foregoing document and all attachments to be served on all counsel of record.

/s/ Tara L. Borelli

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Attorneys for Plaintiff Jennifer Fletcher

UNITED STATES DISTRICT COURT
DISTRICT OF ALASKA

Jennifer Fletcher,

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State of Alaska,

Defendant.

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

[PROPOSED] STIPULATED FINAL JUDGMENT AND ORDER

The plaintiff filed a complaint in this court, initiating the above-captioned matter involving the application of Title VII and its prohibition against sex discrimination to terms of a state employer provided health plan. On March 6, 2020 the Court denied the Defendant's motion for summary judgment and partially granted the Plaintiff's motion for summary judgment. The parties thereafter engaged in a process to resolve any remaining issues and have stipulated to the form of final judgment below, with the Defendant expressly reserving its right to appeal the decision of the court dated March 6, 2020, described above.

STIPULATED FINAL JUDGMENT

1. The Defendant, State of Alaska, shall pay Ms. Fletcher \$70,000.00 as compensation for her economic and non-economic damages, plus interest from June 1, 2017. Pre-judgment interest shall be paid using the rate specified in A.S. § 09.30.070(a); post-judgment interest shall be paid using the rate specified in 28 U.S.C. § 1961. If Ms.

Fletcher remains the prevailing party following a final appellate decision, the State agrees to submit the stipulated damages herein for inclusion in the judgment and claims bill during the legislative session immediately following the final appellate decision. Ms. Fletcher reserves her rights to enforce this judgment if the appropriation is not approved;

2. During the pendency of any appellate review, the State is enjoined from enforcing any categorical exclusion of gender transition-related surgical care in health coverage provided by the AlaskaCare Employee Health Plan or any successor health plan, and, if Ms. Fletcher remains the prevailing party after any appellate review is final, permanently thereafter, provided that all claims for gender transition-related surgical care shall be subject to all other relevant plan provisions;

3. Any motion for attorneys' fees and costs by either party shall be due 45 days after any appellate review is final;

4. This Stipulated Final Judgment neither affects nor extinguishes the Defendant's right to appeal the decision of the court dated March 6, 2020 including any petition for rehearing, *en banc* determination, or writ of certiorari on any appealable issue; and

5. The Court retains jurisdiction to enforce the judgment.

ORDERED, DECREED, AND ADJUDGED at Anchorage, Alaska, this _____ of June, 2020.

Honorable H. Russel Holland
United States District Court Judge