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DEBRA P. HACKETT, CLK
U.S. DISTRICT COURT
MIDDLE DISTRICT ALA

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DARCY CORBITT, DESTINY CLARK,
and JOHN DOE,

Plaintiffs,

vs.

HAL TAYLOR, in his official capacity as
Secretary of the Alabama Law Enforcement
Agency; Colonel CHARLES WARD, in his
official capacity as Director of the
Department of Public Safety; DEENA
PREGNO, in her official capacity as Chief of
the Driver License Division, and JEANNIE
EASTMAN, in her official capacity as
Driver License Supervisor in the Driver
License Division

Defendants.

Civil Action No. 2:18-cv-91

**COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF**

Plaintiffs Darcy Corbitt, Destiny Clark, and John Doe¹, through their undersigned attorneys, complain against Defendant Hal Taylor, in his official capacity as Secretary of the Alabama Law Enforcement Agency, Charles Ward, in his official capacity as Director of the Department of Public Health, Deena Pregno, in her official capacity as Chief of the Driver

¹ A Motion to Proceed Under a Pseudonym accompanies this Complaint.

License Division, and Jeannie Eastman, in her official capacity as Driver License Supervisor and supervisor of the Medical Unit in the Driver License Division, as follows:

INTRODUCTION

1. Defendants are responsible for the establishment and enforcement of a policy that prevents transgender people in Alabama from obtaining a driver license that reflects their gender, unless they undergo surgical procedures and disclose information about those procedures to the government. Under the policy, proof of surgery is required for an accurate driver license regardless of whether the surgery is necessary, desired, safe, or within the financial means of the individual.

2. Defendants accept only some forms of gender-confirming surgery, while rejecting others. Thus, even when a transgender person has undergone surgery, Defendants may continue to deny access to a driver license that reflects the gender of the transgender person. Thus, Defendants' practice sweeps even further than the language of the already unlawful and discriminatory policy.

3. As a result of the state's driver license policy, many transgender Alabamians cannot obtain a license that they can use without disclosing highly sensitive information, risking discrimination and attack, compromising their own health and wellbeing, and endorsing a message about their gender with which they strongly disagree.

4. The plaintiffs, Ms. Darcy Corbitt, Ms. Destiny Clark, and Mr. John Doe, have all been personally harmed by this policy. Ms. Corbitt was loudly called an "it" in a public area of a crowded driver license office. Ms. Clark avoids lawful activities that could lead her to have to show her license. Mr. Doe experiences distress whenever he sees the gender listed on his own license.

5. The policy is not rationally related to any legitimate purpose, much less narrowly tailored to serve a compelling one.

6. Defendants' policy violates the privacy, due process, free speech, and equal protection rights of Ms. Corbitt, Ms. Clark, Mr. Doe, and transgender people in Alabama.

JURISDICTION AND VENUE

7. Jurisdiction is proper pursuant to 28 U.S.C. §§ 1331, 1343 because Plaintiffs seek redress for the deprivation of rights secured by the Constitution of the United States. Plaintiffs' federal claims are brought pursuant to 42 U.S.C. § 1983.

8. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201-2202, Fed. R. Civ. P. 57, 65, and the legal and equitable powers of this Court.

9. Venue is proper in the Middle District of Alabama pursuant to 28 U.S.C. § 1391(b)(2) because this is a judicial district in which a substantial part of the events or omissions giving rise to Plaintiffs' claims have occurred.

PARTIES

10. Plaintiff Darcy Corbitt is an adult living in Auburn, Alabama. She is a woman who has not been able to obtain an Alabama driver license.

11. Plaintiff Destiny Clark is an adult residing in St. Clair County, Alabama. She is a woman with an Alabama driver license that wrongly describes her as male.

12. Plaintiff John Doe is an adult residing in Alabama. He is a man with an Alabama driver license that wrongly describes him as female.

13. Defendant Hal Taylor is the Secretary of the Alabama Law Enforcement Agency (ALEA). In that capacity, he serves as the executive head of the agency and the head of the Department of Public Safety. Ala. Code § 41-27-2 (a).

14. Defendant Charles Ward is the Director of Public Safety within ALEA. In that capacity he has the power to create rules concerning the operation of motor vehicles in the state. Ala. Code § 32-6-13.

15. Defendant Deena Pregno is the Chief of the Driver License Division, a division within ALEA and the Department of Public Safety. Driver License Policy Order No. 63 (“Policy Order 63”) states that it is the policy of the Chief of the Driver License Division. *See Policy Order 63, Exhibit A, attached.*

16. Jeannie Eastman supervises the Medical Unit, a unit within the Driver License Division. In that capacity, she implements and interprets Policy Order 63.

FACTUAL ALLEGATIONS

I. Policy Order 63

17. Policy Order 63 provides for changing the gender on a driver license only “due to gender reassignment surgery,” and requires applicants to submit “[a]n amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure.”

18. Defendants Hal Taylor, Charles Ward, and Deena Pregno, or their predecessors, caused Policy Order 63 to be issued.

19. Upon information and belief, Defendants have issued no written guidance explaining how to apply this policy or defining “gender reassignment surgery.”

20. Defendant Jeannie Eastman has refused to change the gender marker for a driver license even when a transgender person has complied with the language of Policy Order 63. Upon information and belief, Defendants accept only some forms of gender-confirming surgery as sufficient, while rejecting others as insufficient.

21. No Alabama statute requires individuals to provide an amended birth certificate to change an Alabama driver license or non-driver identification card to document a person's correct gender.

22. No Alabama statute requires gender-confirming surgery to update the gender listed on a state driver license or non-driver identification card.

23. No Alabama statute refers to gender on driver licenses or non-driver identification cards. A statute requires that a license contain a color photograph, name, birthdate, address, signature, and "description of the licensee." Ala. Code § 32-6-6.

24. A statute requires gender-confirming surgery to correct the gender on a person's Alabama birth certificate. Ala. Code § 22-9A-19(d). That statute does not apply to driver licenses or non-driver identification cards.

25. Upon information and belief, Defendants permit applicants to change other descriptive characteristics, such as height and hair color, on a driver license or non-driver identification card without any additional documentation or medical certification.

26. Upon information and belief, Defendants permit transgender people to receive a driver license that reflects their gender without surgery if and only if they move to Alabama for the first time after having updated their gender marker in another state that does not require surgery. That is so because Defendants do not routinely inquire about transgender status, transgender people moving to Alabama for the first time could present documents that showed only their actual gender, and Defendants would have no previous records listing a different gender.

27. Policy Order 63 and Defendants' practices, by placing onerous, and in many cases insurmountable, obstacles to prevent transgender persons from correcting the gender listed on their Alabama driver licenses, stands in contrast with the decisions of the federal government and

numerous states to align the gender listed on a person's identification documents with the gender the person lives as every day without requiring proof of any particular medical care. These decisions are designed to conform policies to current scientific knowledge, the medical standard of care for treating persons diagnosed with gender dysphoria, and the needs and dignity of transgender community members.

28. The U.S. Department of State requires only that a doctor certifies that a person seeking a gender change on a passport "has had appropriate clinical treatment for gender transition to the new gender" in order to obtain a passport with the correct gender. 7 Foreign Affairs Manual 1300 Appendix M (March 31, 2016), <https://fam.state.gov/FAM/07FAM/07FAM1300apM.html>.

29. The U.S. Office of Personnel Management, the Veterans Health Administration, the United States Citizenship and Immigration Services, Department of Defense, and the Social Security Administration have similar requirements to change gender markers in their records. None of these agencies require evidence of surgery. *See The Guide to Personnel Recordkeeping*, U.S. Office of Pers. Mgmt. 4.14-15 (2017), <http://bit.ly/2FOcwvW>; VHA Directive 2013-003(4)(b)(1)(b) (2017), <https://www.va.gov/vhapublications/publications.cfm?pub=1>; *Adjudicator's Field Manual*, U.S. Citizenship and Immigration Servs. 10.22, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-1067/Chapter10-22.html>; 32 C.F.R. § 161.23(d) (Table 33) (DoD); *Program Operations Manual System*, Soc. Sec. Admin. 10212.200 (2013), <https://secure.ssa.gov/poms.nsf/lnx/0110212200>.

30. To change the gender marker on a driver license, most states accept a form filled out by any medical professional, and do not require documentation of any specific form of medical or surgical treatment. American Association of Motor Vehicle Administrators, *Resource Guide on Gender Designation on Driver's Licenses and Identification Cards* (2016),

<https://www.aamva.org/Best-Practices-and-Model-Legislation/>. The American Association of Motor Vehicle Administrators (AAMVA) instructs states to not require surgery, a court order, or an amended birth certificate. Instead, AAMVA instructs states to accept certification of gender identity from a variety of licensed providers and to accept passports, birth certificates, or other identification cards from governmental agencies as an alternative to medical provider certification. *Id.* at 4.

31. Thus, Policy Order 63 and Defendants' practices are not required by any state law, and are at odds with the requirements and recommendations of the federal government, the majority of state governments, the D.C. government, and AAMVA, as well as with ALEA's own policies and practices for other descriptive information. Because transgender people who move to Alabama for the first time after changing their gender marker in another jurisdiction may not need to produce evidence of surgery, Policy Order 63 and Defendants' practices are not even consistently applied.

II. Transgender People, Gender, and Gender Dysphoria

32. Transgender people are people who have a gender identity different from their assigned sex at birth.

33. Gender identity refers to a person's fundamental, internal sense of belonging to a particular gender. There is a medical consensus that gender identity is innate and that efforts to change a person's gender identity are unethical and harmful to a person's health and well-being.

34. According to the American College of Physicians, American Psychiatric Association, and other major medical organizations, every person has a gender identity, which "cannot be altered voluntarily" and "cannot be ascertained immediately after birth." Brief of Amici Curiae American Academy of Pediatrics, American Psychiatric Association, American College of Physicians, and 17 Additional Medical and Mental Health Organizations in Support

of Respondent at 8, *Gloucester Cty. Sch. Bd. v. G.G.*, No. 16-273, 2017 WL 1057281 at *8 (U.S.).

35. The gender marker designated on a birth certificate at the time of birth (“assigned sex at birth”) is almost always based solely on the appearance of an infant’s external genitalia.

36. When components of sex, including genitalia, chromosomes, hormones, reproductive anatomy, secondary sex characteristics, and gender identity, do not align as all typically male or all typically female, a person’s gender identity is what determines the gender a person lives as, and how the person should be recognized for all social and legal purposes.

37. Gender dysphoria is a medically-recognized condition defined by a marked incongruence between a person’s gender identity and the sex they were assigned at birth, when accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning. Many transgender people experience gender dysphoria.

38. Gender dysphoria is a serious medical condition that, if left untreated, can lead to debilitating depression, and even suicidal thoughts and acts.

39. Treatment of gender dysphoria is guided by the Standards of Care (“SOC”) set forth by the World Professional Association for Transgender Health (“WPATH”), which was initially published in 1979 and is now in its seventh version. These guidelines reflect the professional consensus about the psychological, psychiatric, hormonal, and surgical management of gender dysphoria.

40. It is the recognized standard of care to address gender dysphoria with treatment designed to bring a person’s body and expression of gender in line with their gender identity. This course of treatment has different components depending on the particular needs of each transgender person. A professional recommends an individualized course of treatment based on the exercise of professional judgment to achieve the goal of reducing a patient’s gender

dysphoria. As with other forms of healthcare, the patient considers the information from the provider and makes treatment decisions in consultation with that provider.

41. Treatment for gender dysphoria – sometimes called gender reassignment – does not “change” a person’s gender. Instead, it brings a person’s social interactions, appearance, and body into greater alignment with the person’s already-existing gender identity, which helps to alleviate the distress associated with gender dysphoria. Treatment for gender dysphoria may involve one or more of hormone treatment, non-surgical voice therapy, supportive psychotherapy, social transition, or gender-confirming surgery or surgeries.

42. Social transition involves shifting one’s presentation and social functioning so that it is consistent with one’s gender identity. Typically, it involves some or all of the following:

- a. Change in clothing, hair, or appearance;
- b. Change of name;
- c. Change in pronouns (i.e., “she” “he” or “they”);
- d. Change in participating in gender-specific activities, events, or spaces; and
- e. Change of the gender marker on identifying documents, including driver license and passport.

43. Thus, treatment for gender dysphoria includes living one’s life consistently with one’s gender identity, including using identity documents that reflect one’s gender identity.

44. Forcing transgender people to use identity documents that do not match their gender identity, or forcing them to go without identity documents, is inconsistent with medical protocols. It can cause anxiety and distress to the transgender person and result in discrimination and violence against them.

45. A driver license is a critically important form of identification. For many people, a driver license makes it possible for them to secure a job and otherwise care for their needs and

the needs of their family. This is especially true in places like Alabama where most people need to drive every day to go to work, school, stores, doctors' offices, or visits with friends and family, and where identification is required to vote.

46. Recognizing the importance of identification documents, the American Medical Association has adopted a policy urging states to eliminate any requirement that transgender people have surgery in order to amend their birth certificates. *Conforming Birth Certificate Policies to Current Medical Standards for Transgender Patients H-65.967*, Am. Med. Ass'n (2014), <http://bit.ly/2EhkCQy>.

47. Additionally, for those who have struggled for years with the impact of external invalidation of their identity, the knowledge that one's identification documents label one with the wrong gender can, by itself, cause serious psychological injury.

48. While social transition is adequate to treat gender dysphoria for some transgender people, others need one or more other forms of treatment, such as hormone treatment, supportive psychotherapy, non-surgical voice therapy, or gender-confirming surgery or surgeries.

49. Gender-confirming surgeries may include augmentation mammoplasty, chest reconstruction surgery, facial feminization surgery, hysterectomy, orchiectomy, vaginoplasty, metaoidioplasty, phalloplasty, and other procedures.

50. In a recent survey, chest reconstruction surgery was the most common form of treatment other than hormone therapy, counseling, and social transition among men who are transgender. See Sandy E. James, et. al, *The Report of the 2015 U.S. Transgender Survey 101* (2016), <http://bit.ly/2BXZcma> ("USTS"). Among women who are transgender, laser hair removal or electrolysis was the most common other form of treatment, followed by nonsurgical voice therapy, vaginoplasty with labiaplasty, and augmentation mammoplasty, in that order. *Id.* at 102.

51. Like all surgical procedures, gender-confirming surgeries involve some risk. Also, while some gender-confirming surgeries have little or no impact on physical reproductive capacity, others permanently eliminate reproductive capacity.

52. Gender-confirming surgery is not medically necessary for all transgender people. For some, surgery is not only unnecessary but also medically contraindicated. Additionally, for many, surgery is cost-prohibitive.

53. Among those who do receive gender-confirming surgery, the specific procedure or procedures received vary based on individual needs. Some transgender people need several surgical procedures in treatment for gender dysphoria, while others need none, one, or two.

54. Only about one-quarter of transgender people report having had any form of gender-confirming surgery. USTS at 100.

55. Like other major healthcare decisions – especially those that may involve invasive procedures, impact on one's reproductive options, possible relief of significant suffering, and possible complications—decisions about gender-confirming surgery are profoundly personal.

56. Transgender people often risk harassment, harm, and social stigma when others learn that they are transgender.

57. The transgender community is more likely to suffer abuse, harassment, discrimination, and violence than the population at large. According to the USTS:

- a. Around a quarter (24%) of respondents had been physically attacked in a K-12 school because people thought they were transgender, with higher rates for American Indian (49%), Middle Eastern (36%), multiracial (31%), and Black (28%) respondents. In Alabama specifically, 13% of respondents faced such severe mistreatment that they left a K-12 school.

- b. In the year prior to completing the survey, 27% of respondents who had a job reported being fired, denied a promotion, or experiencing some other form of mistreatment in the workplace due to their gender identity or expression. That number was similar (26%) among Alabama respondents only.
- c. Nearly half (47%) of respondents had been sexually assaulted during their lifetime, with higher rates for American Indian (65%), multiracial (59%), Middle Eastern (58%), and Black (53%) respondents.
- d. Among respondents who had interacted with police, 58% of those whom the police perceived as transgender experienced some form of mistreatment. The rate was similar (57%) in Alabama. Rates were higher for American Indian (74%), multiracial (71%), Latino/a (66%), Black (61%), and disabled (68%) respondents.
- e. Thirty-nine percent of respondents experienced serious psychological distress in the month prior to completing the survey, compared with only 5% of the U.S. population. Among Alabama respondents only, 45% experienced serious psychological distress in the month prior to completing the survey.
- f. Forty percent of respondents attempted suicide in their lifetime—nearly nine times the attempted suicide rate in the U.S. population (4.6%).

58. People are often asked to show a driver license to verify their identity. A driver license that fails to match one's gender leads to the disclosure of private, intimate information about one's transgender status, and it often leads to physical harm, harassment, discrimination, or groundless accusations of fraud.

59. Twenty-five percent of transgender people were verbally harassed, 16% denied services or benefits, 9% asked to leave a location or establishment, and 2% assaulted or attacked after showing identification with a name or gender marker that did not match their gender

presentation. USTS at 82. The rates of assault and attack were twice as high for Black transgender people, three times as high for American Indian transgender people, and almost five times as high for Middle Eastern transgender people. *Id.* at 90. In Alabama specifically, 28% of respondents had had one or more of these negative experiences after showing identification that did not match their gender presentation. Only 9% of Alabama respondents had their gender correctly listed on all their identification documents, while 80% of respondents had no identification document that correctly listed their gender.

III. Policy Order 63's Impact on Plaintiffs

Darcy Corbitt

60. Plaintiff Darcy Corbitt is a 25-year-old woman who lives in Auburn, Alabama.

Corbitt Photo, Exhibit B, attached.

61. Ms. Corbitt is transgender. She was assigned male at birth, and she has known she was female since preschool.

62. Ms. Corbitt was born in Louisiana, but grew up in Alabama. She moved to North Dakota as a young adult, where she founded a not-for-profit organization that she still runs.

63. Ms. Corbitt has completed a legal name change.

64. While living in North Dakota, Ms. Corbitt began updating the gender listed for her in government records. Her North Dakota driver license, United States passport, and Social Security records now reflect her gender as female.

65. When Ms. Corbitt received a license and passport that accurately reflected her female gender, she was moved to tears. In the weeks that followed, she felt like a burden had lifted from her shoulders.

66. Because Ms. Corbitt is perceived as a woman in her day-to-day life, every time she had to show a driver license that listed "male," she was forced to disclose that she was

transgender. She feared violence or other negative reactions. Ms. Corbitt has received death threats for speaking out on transgender issues in the past.

67. As a result, before her gender was updated on her driver license, Ms. Corbitt tried to avoid situations where she would have to show identification. With a driver license listing her as female, she no longer had to avoid making large purchases, ordering alcohol in restaurants, or doing any other activities that required identification. When she did show her driver license, she no longer felt embarrassed, ashamed, or afraid.

68. In the summer of 2017, Ms. Corbitt returned to Alabama to attend graduate school at Auburn University, where she is pursuing a Ph.D. in developmental psychology.

69. In August 2017, Ms. Corbitt visited the Lee County Driver License Office to obtain an Alabama license to replace her North Dakota license. At first, the clerk in the office referred to Ms. Corbitt correctly as a woman and treated her with courtesy and respect. When the clerk reviewed agency records from when Ms. Corbitt lived in Alabama previously, she saw that Ms. Corbitt had been listed as male. Her demeanor changed abruptly.

70. The clerk prepared paperwork to issue Ms. Corbitt an Alabama driver license listing her gender as male. The clerk asked Ms. Corbitt to review the papers and sign to verify that the information was accurate. Ms. Corbitt explained that she could not do so because the gender information was not accurate.

71. The clerk began referring to Ms. Corbitt as a "he" and an "it." She asked Ms. Corbitt for personal information about her anatomy and medical history. The clerk spoke to the clerk's direct supervisor as well as a supervisor at a central ALEA office about Ms. Corbitt's gender. The clerk did all of this loudly, in front of many other people in the office. The clerk declined to issue Ms. Corbitt an Alabama driver license listing her gender as female. Ms. Corbitt left the office without an Alabama driver license.

72. Ms. Corbitt has completed all necessary medical treatment for her gender dysphoria at this time. She wishes to make future treatment decisions free from government coercion through policies or practices requiring her to have surgery to obtain a driver license.

73. Ms. Corbitt would have liked to consider relocating to Alabama permanently after completing her studies. However, doing so would require her to trade in her North Dakota license for an Alabama license. Ala. Code § 32-6-1(a). Because of Policy Order 63, Ms. Corbitt does not believe it would be possible for her to remain in the state permanently without sacrificing her safety, privacy, autonomy, and dignity.

Destiny Clark

74. Plaintiff Destiny Clark is a 33-year-old woman who lives in Saint Clair County, Alabama. *Clark Photo, Exhibit C, attached.*

75. Ms. Clark is transgender. She was assigned male at birth, and she knows herself to be female.

76. Ms. Clark grew up in Saint Clair County. She moved away as a young adult, but returned to care for her father when he was ill. Ms. Clark works in a restaurant and has a leadership role in a community organization.

77. Ms. Clark has completed a legal name change, and she has corrected her gender with the Social Security Administration.

78. Ms. Clark has tried to change the gender listed on her Alabama license multiple times.

79. First, Ms. Clark went to the Pell City driver license office in Saint Clair County. There, a clerk told her that they could not help her, and she would have to contact the Medical Unit in Montgomery.

80. Ms. Clark contacted the Medical Unit, where she spoke to Defendant Jeannie Eastman. Ms. Eastman advised her to fax her medical documentation. Ms. Clark did so.

81. Ms. Eastman informed Ms. Clark that the medical documentation was not sufficient, and that her doctor would have to provide more specific information. Ms. Clark obtained an additional letter from her doctor with more information, and sent the letter to Ms. Eastman.

82. Having not heard back from Ms. Eastman, Ms. Clark called her to check on the status of the letter. Ms. Eastman told Ms. Clark that the treatment was inadequate according to policy and that she did not want to change the gender on her license.

83. Later, Ms. Clark had medically necessary gender-confirming surgery. She sent a letter to Ms. Eastman from her surgeon to that effect.

84. Upon information and belief, Ms. Eastman or an individual working under the supervision of Ms. Eastman called Ms. Clark's surgeon's office, identified themselves as a government official, and requested and received detailed information about Ms. Clark's surgery, including the type of anesthesia administered and the exact procedures performed. Ms. Clark did not give permission for this information to be shared.

85. Even with proof of surgery, Ms. Eastman informed Ms. Clark that she would not change Ms. Clark's license. Ms. Eastman claimed that her decision was required by policy, but did not explain how.

86. Ms. Clark's license still wrongly lists her gender as male. As a result, Ms. Clark experiences a high level of anxiety going about her daily life.

87. During a traffic stop in Odenville, a police officer treated Ms. Clark politely when asking for her license. After seeing her license, though, the officer became hostile and accusing.

88. Ms. Clark tries to avoid using her license as much as possible. She does not go to clubs or bars where she believes she will be asked to show identification. She does not order alcohol in restaurants. If she wants to buy alcohol in a store, she asks her boyfriend to buy it for her so she will not have to show her driver license.

89. Because Ms. Clark is typically perceived as a woman, any time she shows her license, the person seeing it observes the male gender designation and learns that she is transgender. As a woman who is transgender, Ms. Clark is at a high risk of discrimination and violence. The wrong gender on her driver license increases that risk.

John Doe

90. John Doe is a man living in Alabama. Because of concerns about his privacy and safety, he seeks to proceed in this case under a pseudonym. *See Motion to Proceed Under a Pseudonym.*

91. Mr. Doe is transgender. He was assigned female at birth, and he knows himself to be male.

92. Mr. Doe was born and raised in Alabama, and he currently lives and works full time in Alabama.

93. Mr. Doe went to the Probate License main office in Montgomery to update his name on his license, and asked for information on how to correct his gender marker. The clerk told him he would have to supply proof of surgery.

94. Mr. Doe has received medical treatment for gender dysphoria, but he has not received any surgical treatment. While he believes one form of surgical treatment will be necessary for him, he is not yet eligible for insurance coverage for the procedure.

95. Because he believes it would be futile, Mr. Doe has not applied to change his gender marker on his Alabama driver license.

96. Mr. Doe considers his transgender identity and assigned sex at birth to be highly sensitive, personal information. He wishes to keep this information consistently private.

97. Mr. Doe has been diagnosed with gender dysphoria and depression.

98. Whenever Mr. Doe pulls his license out of his wallet, he sees the female gender marker, which causes him pain he finds difficult to describe. It sends him into a tailspin, aggravating his gender dysphoria and depression.

99. Because he is typically perceived as male, whenever Mr. Doe shows his driver license to someone, that person observes that his gender is designated as female and begins to question whether Mr. Doe's driver license is real or whether Mr. Doe's gender is truly male. Typically, people who see his driver license learn that he is transgender.

100. When people refer to him as if he were female upon seeing his driver license, Mr. Doe's symptoms of gender dysphoria and depression intensify.

101. When Mr. Doe traveled internationally using a passport that incorrectly designated him as female, on three occasions customs or security officers were confused by the contrast between the gender listed on his passport and his appearance. This confusion led to officers questioning him loudly about his gender in front of others, causing stress, embarrassment, and delay.

102. As a Black man who is transgender, Mr. Doe is at high risk of experiencing discrimination and violence. He wants to minimize the chances that he will experience discrimination or violence. He believes that having a driver license that matches his gender will reduce the chances that he will face discrimination or violence when applying to jobs or graduate schools, as well as in other situations.

CLAIMS FOR RELIEF UNDER 42 U.S.C. § 1983

COUNT I

POLICY ORDER 63 VIOLATES PLAINTIFFS' RIGHT TO PRIVACY

103. Plaintiffs re-allege paragraphs 1 through 102 as if fully set forth herein.

104. The Due Process Clause of the Fourteenth Amendment places limitations on state action that deprives individuals of life, liberty, or property.

105. Substantive protections of the Due Process Clause include the right to avoid disclosure of sensitive, personal information.

106. Plaintiffs have a fundamental right of privacy in preventing the release of, and in deciding in what circumstances to release: (1) personal information whose release could subject them to bodily harm; and (2) information of a highly personal and intimate nature.

107. The Policy Order 63 and Defendants' practices force Ms. Clark and Mr. Doe to disclose highly personal information—that they are transgender—to each person who sees their driver license. Given the high rates of violence against transgender people, this disclosure places Ms. Clark and Mr. Doe at risk of bodily harm. Policy Order 63 and Defendants' practices condition Ms. Corbitt's receipt of an Alabama driver license on being forced to make such disclosures.

108. No compelling state interest is furthered by Policy Order 63 and Defendants' practices, nor are they narrowly tailored or the least restrictive alternative for promoting a state interest. Policy Order 63 and Defendants' practices are not even rationally related to a legitimate state interest.

109. In addition, Plaintiffs' privacy interests outweigh any purported interest the Defendants could assert.

COUNT II

**POLICY ORDER 63 VIOLATES PLAINTIFFS' LIBERTY INTEREST IN REFUSING
UNWANTED MEDICAL TREATMENT**

110. Plaintiffs re-allege paragraphs 1 through 102 as if fully set forth herein.

111. The Fourteenth Amendment's Due Process Clause protects individuals' substantive rights to be free to make certain private decisions without unjustified governmental intrusion.

112. The right to make certain private decisions without unjustified governmental intrusion includes the right to refuse unwanted medical treatment.

113. Policy Order 63 and Defendants' practices force transgender people who live in Alabama either to undergo certain kinds of gender-confirming surgery to secure a correct driver license or endanger their health and safety with an incorrect driver license.

114. Not all transgender people undergo gender-confirming surgery. For some, the surgery is not medically necessary or even safe. Many do not have health insurance coverage and cannot afford to pay out-of-pocket. Of those who do receive surgical treatment, not all need or receive the same surgical treatment. While some need and receive multiple forms of gender-confirming surgery, others need and receive only one procedure.

115. Ms. Corbitt has not yet determined whether she wants and needs any gender-confirming surgery. She wishes to make this important, intimate healthcare decision without being pushed into a certain outcome by the government. She also wishes to obtain a driver license without having to disclose to the government intimate medical information irrelevant to her ability to drive.

116. Ms. Clark has had gender-confirming surgery, but Defendants have refused to accept her surgery as sufficient. No further gender confirming surgery is medically necessary for her or desired by her.

117. Mr. Doe believes that one form of gender-confirming surgery will likely be necessary for him, but has not yet obtained it. No other forms of gender-confirming surgery are necessary for him or desired by him.

118. As a result of not having had gender-confirming surgery, Ms. Corbitt and Mr. Doe are unable to secure an Alabama driver license that accurately reflects their gender, and that they can use without risk to their health and safety. As a result of not having had a type of gender-confirming surgery Defendants find acceptable, Ms. Clark also is unable to secure an Alabama driver license that accurately reflects her gender, and that she can use without risk to her health and safety.

119. Policy Order 63 and Defendants' practices are neither narrowly tailored nor the least restrictive alternative to further a compelling government interest and therefore violate the liberty interests of Ms. Corbitt, Ms. Clark, and Mr. Doe. Nor are Policy Order 63 and Defendants' practices rationally related to a legitimate governmental interest.

COUNT III

POLICY ORDER 63 VIOLATES THE FIRST AMENDMENT

120. Plaintiffs re-allege paragraphs 1 through 102 as if fully set forth herein.

121. The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech." U.S. Const. amend. I. It is made applicable to the states through the Fourteenth Amendment. U.S. Const. amend. XIV.

122. The First Amendment protects the right to speak and to refrain from speaking.

123. Policy Order 63 and Defendants' practices violate the First Amendment rights of Ms. Clark and Mr. Doe to refrain from speaking by forcing them to disclose to each person who sees their license private information about their transgender status and their medical condition,

and by forcing them to identify themselves to each person who sees their license by a gender that conflicts with their core identity.

124. Policy Order 63 and Defendants' practices further violate the First Amendment rights of Ms. Clark and Mr. Doe to refrain from speaking by forcing them to endorse the government's position on their own gender, as well as on the meaning of gender generally, through the license they must carry daily and show to others. The gender marker listed on Ms. Clark's and Mr. Doe's license conveys the state's ideological message that gender is determined solely by the appearance of external genitals at the time of birth unless modified through certain surgical procedures, a message with which Ms. Clark and Mr. Doe vehemently disagree.

125. Policy Order 63 and Defendants' practices violate Ms. Corbitt's First Amendment rights to refrain from speaking by denying her access to an Alabama driver license unless she signs a form stating something is true that she knows to be false, and then carries a license that forces her to make unwanted personal disclosures, identify herself in a way that conflicts with who she knows herself to be, and endorse a government message about her own gender and gender in general with which she strongly disagrees.

126. Policy Order 63 and Defendants' practices do not further any compelling state interest, nor are they narrowly tailored or the least restrictive alternative for promoting a state interest.

COUNT IV

POLICY ORDER 63 VIOLATES EQUAL PROTECTION

127. Plaintiffs re-allege paragraphs 1 through 102 as if fully set forth herein.

128. The Equal Protection Clause of the Fourteenth Amendment provides that no state shall "deny to any person within its jurisdiction the equal protection of the laws." U.S. Const. amend. 14, § 1.

129. Policy Order 63 and Defendants' practices are directed solely at transgender people and discriminate against them on the basis of sex, as well as on the basis of transgender status.

130. Defendants deprive transgender people, and only transgender people, access to a driver license that they can use without sacrificing their privacy, health, safety, dignity, and autonomy.

131. The differential treatment of transgender people furthers no compelling or important government interest, nor is the differential treatment narrowly tailored, substantially related to, or the least restrictive alternative for promoting a state interest. Nor is there even a rational connection between any legitimate governmental interest and Defendants' disparate treatment of transgender people.

132. Policy Order 63 and Defendants' practices are subject to heightened scrutiny because they are based on sex and transgender status.

133. Policy Order 63 and Defendants' practices are invalid under any form of constitutional scrutiny because they were put in place for the improper purpose of disadvantaging a specific class, are founded in animus toward transgender Alabamians, and serve no legitimate governmental interest.

LACK OF LEGAL REMEDY

134. Plaintiffs' harm is ongoing and cannot be alleviated except by injunctive relief.

135. No other remedy is available at law.

RELIEF REQUESTED

WHEREFORE, Plaintiffs request that this Court:

- (1) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring Policy Order 63 and Defendants' practice of refusing to update the gender marker on driver licenses of transgender people unconstitutional for the reasons and on the counts set forth above;
- (2) Permanently enjoin Defendants from enforcing Policy Order 63 unless and until it has been revised to comply with constitutional requirements;
- (3) Order Defendants to change the gender marker on Alabama driver licenses for otherwise-eligible transgender people who seek such change;
- (4) Award Plaintiffs their costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- (5) Grant such other relief as the Court finds just and proper.

Respectfully submitted this 6th day of February 2018.



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DOC. 24

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DARCY CORBITT, DESTINY)	
CLARK, and JOHN DOE,)	
)	
Plaintiffs,)	
)	
v.)	Civil Action No.
)	2:18-cv-00091-MHT-GMB
HAL TAYLOR, in his official capacity)	
as Secretary of the Alabama Law)	
Enforcement Agency; Colonel)	
CHARLES WARD, in his official)	
capacity as Director of the Department)	
of Public Safety; DEENA PREGNO, in)	
her official capacity as Chief of the)	
Driver License Division, and JEANNIE)	
EASTMAN, in her official capacity as)	
Driver License Supervisor in the Driver)	
License Division,)	
)	
Defendants.)	

ANSWER TO PLAINTIFFS' COMPLAINT

Defendants Hal Taylor, Charles Ward, Deena Pregno, and Jeannie Eastman file this answer to plaintiffs' complaint:

INTRODUCTION

1. Defendants admit that they are responsible for establishing policies regarding an individual's description on a driver license, that a driver license identifies an individual's sex as set out on their birth certificate, and that an

amended state birth certificate or written proof of gender reassignment surgery by the physician performing the procedure is required to change an individual's sex on a driver license. The remaining allegations of paragraph 1 of the complaint are denied.

2. Defendants admit that an amended state birth certificate or written proof of gender reassignment surgery by the physician performing the procedure is required to change an individual's sex on a driver license. The remaining allegations of paragraph 2 of the complaint are denied.

3. Defendants deny the allegations of paragraph 3 of the complaint.

4. Defendants deny that plaintiffs "have all been personally harmed by this policy" in any way that implies legal liability on the part of Defendants and deny that any Alabama Law Enforcement Agency ("ALEA") employee called plaintiff Corbitt an "it." Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 4 of the complaint and accordingly these allegations are denied.

5. The allegations of paragraph 5 of the complaint are denied.

6. The allegations of paragraph 6 of the complaint are denied.

JURISDICTION AND VENUE

7. The allegations of paragraph 7 of the complaint are admitted.

8. Defendants admit the statutes and rules of procedure cited authorize plaintiffs to bring suit. Defendants deny that any claim for declaratory or injunctive relief is warranted.

9. The allegations of paragraph 9 of the complaint are admitted.

PARTIES

10. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 10 of the complaint and accordingly these allegations are denied.

11. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 11 of the complaint and accordingly these allegations are denied.

12. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 12 of the complaint and accordingly these allegations are denied.

13. The allegations of paragraph 13 of the complaint are admitted.

14. The allegations of paragraph 14 of the complaint are admitted.

15. The allegations of paragraph 15 of the complaint are admitted.

16. The allegations of paragraph 16 of the complaint are admitted.

FACTUAL ALLEGATIONS

17. Defendants deny that Policy Order 63 provides for the changing of “gender” on a driver license. Defendants admit that written guidance to Policy Order 63 states that “an individual wishing to have the sex changed on their driver license due to gender reassignment surgery” is required to submit “[a]n amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure.”

18. The allegations of paragraph 18 of the complaint are admitted.

19. Defendants admit they have issued no written definition of “gender reassignment surgery.” The remaining allegations of paragraph 19 of the complaint are denied.

20. Defendants deny that Jeannie Eastman has refused to change the sex designation for a driver license even when a transgender person has complied with the language of policy Order 63. Defendants admit that an amended state birth certificate or written proof of gender reassignment surgery by the physician performing the procedure is required to change an individual’s sex designation on a driver license. The remaining allegations of paragraph 20 of the complaint are denied.

21. Defendants admit that no statute requires individuals to provide an amended birth certificate to change an Alabama driver license or non-driver

identification card to document a person's correct gender. Defendants deny that a driver license or non-driver identification card documents an individual's "gender."

22. The defendants admit that no statute enumerates requirements for changing an individual's sex on a driver license but that Ala. Code § 32-6-13 grants the Director of Public Safety rulemaking authority with respect to driver licenses. Defendants deny that a driver license or non-driver identification card lists an individual's "gender."

23. The allegations of paragraph 23 of the complaint are admitted.

24. Defendants deny that the said statute "requires gender-confirming surgery to correct the gender on a person's Alabama birth certificate." The remaining allegations of paragraph 24 of the complaint do not require a response as the statute speaks for itself.

25. Defendants deny that they permit applicants to change descriptive characteristics, such as height and hair color, on a driver license or non-driver identification card to whatever they wish contrary to what is observable to the ALEA employee responsible for processing the application. Defendants admit that they do not always require additional documentation or medical certification to permit an applicant to change a descriptive characteristic to within observable limits of the ALEA employee responsible for processing the application.

26. Defendants deny that an Alabama driver license reflects an individual's "gender" or that they keep records listing an individual's "gender." The remaining allegations of paragraph 26 of the complaint are admitted.

27. The allegations of paragraph 27 of the complaint are denied.

28. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 28 of the complaint and accordingly these allegations are denied.

29. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 29 of the complaint and accordingly these allegations are denied.

30. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 30 of the complaint and accordingly these allegations are denied.

31. Defendants deny that Policy Order 63 is not required by state law as state law grants ALEA rulemaking authority for driver license requirements. Defendants deny that the acceptance of the sex designation from other states' driver licenses where they have no previous record of the applicant's sex is proof of inconsistent application of Policy Order 63. Defendants deny that Policy Order 63 is "at odds" with "ALEA's own policies and practices for other descriptive information." Defendants lack knowledge or information sufficient to form a belief

about the remaining allegations in paragraph 31 of the complaint and accordingly these allegations are denied.

32. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 32 of the complaint and accordingly these allegations are denied.

33. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 33 of the complaint and accordingly these allegations are denied.

34. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 34 of the complaint and accordingly these allegations are denied.

35. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 35 of the complaint and accordingly these allegations are denied.

36. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 36 of the complaint and accordingly these allegations are denied.

37. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 37 of the complaint and accordingly these allegations are denied.

38. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 38 of the complaint and accordingly these allegations are denied.

39. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 39 of the complaint and accordingly these allegations are denied.

40. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 40 of the complaint and accordingly these allegations are denied.

41. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 41 of the complaint and accordingly these allegations are denied.

42. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 42 of the complaint and accordingly these allegations are denied.

43. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 43 of the complaint and accordingly these allegations are denied.

44. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 44 of the complaint and accordingly these allegations are denied.

45. Defendants admit that non-governmental individuals and entities use a driver license as a form of identification. Defendants deny that a driver license is necessary for all of the activities listed.

46. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 46 of the complaint and accordingly these allegations are denied.

47. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 47 of the complaint and accordingly these allegations are denied.

48. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 48 of the complaint and accordingly these allegations are denied.

49. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 49 of the complaint and accordingly these allegations are denied.

50. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 50 of the complaint and accordingly these allegations are denied.

51. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 51 of the complaint and accordingly these allegations are denied.

52. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 52 of the complaint and accordingly these allegations are denied.

53. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 53 of the complaint and accordingly these allegations are denied.

54. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 54 of the complaint and accordingly these allegations are denied.

55. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 55 of the complaint and accordingly these allegations are denied.

56. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 56 of the complaint and accordingly these allegations are denied.

57. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 57 of the complaint and accordingly these allegations are denied.

58. Defendants admit that on some occasions individuals are asked to show a driver license to verify their identity. The remaining allegations of paragraph 58 of the complaint are denied.

59. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 59 of the complaint and accordingly these allegations are denied.

60. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 60 of the complaint and accordingly these allegations are denied.

61. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 61 of the complaint and accordingly these allegations are denied.

62. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 62 of the complaint and accordingly these allegations are denied.

63. The allegations of paragraph 63 are admitted.

64. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 64 of the complaint and accordingly these allegations are denied.

65. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 65 of the complaint and accordingly these allegations are denied.

66. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 66 of the complaint and accordingly these allegations are denied.

67. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 67 of the complaint and accordingly these allegations are denied.

68. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 68 of the complaint and accordingly these allegations are denied.

69. Defendants admit that plaintiff Corbitt visited an Opelika Driver License Office to obtain an Alabama license to replace her North Dakota license. Defendants admit that, based on a computer search using Corbitt's social security number, the driver license examiner printed out an application containing information from Corbitt's previous Alabama driver license, including a designation of her sex as "M." The remaining allegations of paragraph 69 are denied.

70. Defendants deny that the paperwork listed Corbitt's "gender" as male. The remaining allegations of paragraph 70 are admitted.

71. Defendants admit that the driver license examiner spoke with her supervisor and contacted the Medical Unit to verify the requirements Corbitt must meet to have the sex designation on her driver license changed. Defendants admit that they declined to issue Corbitt an Alabama driver license designating her sex as "F" but did offer to issue her a driver license with an "M" sex designation consistent with policy. Defendants admit that Corbitt left the driver license office after threatening to sue. The remaining allegations of paragraph 71 of the complaint are denied.

72. Defendants deny that plaintiff Corbitt was "coerced" in any way. Defendants lack knowledge or information sufficient to form a belief about the

remaining allegations in paragraph 72 of the complaint and accordingly these allegations are denied.

73. Defendants deny that Corbitt obtaining an Alabama license with the sex designation required by Policy Order 63 would require her to “sacrific[e] her safety, privacy, autonomy, and dignity.” Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 73 of the complaint and accordingly these allegations are denied.

74. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 74 of the complaint and accordingly these allegations are denied.

75. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 75 of the complaint and accordingly these allegations are denied.

76. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 76 of the complaint and accordingly these allegations are denied.

77. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 77 of the complaint and accordingly these allegations are denied.

78. Defendants admit that plaintiff Clark has tried to change the sex listed on her Alabama driver license on at least one occasion. Defendants deny that an Alabama driver license lists an individual's "gender." Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 78 of the complaint and accordingly these allegations are denied.

79. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 79 of the complaint and accordingly these allegations are denied.

80. Defendants admit that Jeannie Eastman received letters from a physician other than the physician that performed an unspecified medical procedure on Clark. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 80 of the complaint and accordingly these allegations are denied.

81. Defendants admit that the documentation provided by a physician other than the one that performed an unspecified medical procedure on Clark was insufficient. Defendants admit that additional documentation was provided by the same physician, who was not the physician that had performed the procedure on Clark. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 81 of the complaint and accordingly these allegations are denied.

82. Defendants admit that the documentation provided failed to comply with Policy Order 63 as the documentation was not from the physician that performed the procedure. Defendants admit that Clark's sex designation on her license was not changed pursuant to this policy. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 82 of the complaint and accordingly these allegations are denied.

83. Defendants admit that Jeannie Eastman received a third letter—this time from the physician that performed the surgery. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 83 of the complaint and accordingly these allegations are denied.

84. Defendants admit that Jeannie Eastman was informed by the office of the doctor that performed the procedure that plaintiff Clark did not receive complete gender reassignment surgery. The remaining allegations of paragraph 84 are denied.

85. Defendants admit that Jeannie Eastman would not change the sex designation on Clark's license because the office of the physician that performed the procedure on Clark verified that she had not had complete gender reassignment surgery. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 85 of the complaint and accordingly these allegations are denied.

86. Defendants deny that Clark's driver license lists her "gender." Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 86 of the complaint and accordingly these allegations are denied.

87. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 87 of the complaint and accordingly these allegations are denied.

88. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 88 of the complaint and accordingly these allegations are denied.

89. Defendants deny that a person learns Clark is transgender "any time she shows her license." Defendants deny that Clark's license designates her "gender" or that the "wrong gender on her driver license increases that risk [of violence]." Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 89 of the complaint and accordingly these allegations are denied.

90. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 90 of the complaint and accordingly these allegations are denied.

91. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 91 of the complaint and accordingly these allegations are denied.

92. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 92 of the complaint and accordingly these allegations are denied.

93. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 93 of the complaint and accordingly these allegations are denied.

94. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 94 of the complaint and accordingly these allegations are denied.

95. Defendants admit it would be futile for plaintiff Doe to attempt to change his sex designation on his license without complying with Policy Order 63. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 95 of the complaint and accordingly these allegations are denied.

96. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 96 of the complaint and accordingly these allegations are denied.

97. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 97 of the complaint and accordingly these allegations are denied.

98. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 98 of the complaint and accordingly these allegations are denied.

99. Defendants deny that a person “[t]ypically” learns that Doe is transgender “whenever Mr. Doe shows his driver license to someone” Defendants deny that Doe’s license designates his “gender.” Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 99 of the complaint and accordingly these allegations are denied.

100. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 100 of the complaint and accordingly these allegations are denied.

101. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 101 of the complaint and accordingly these allegations are denied.

102. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 102 of the complaint and accordingly these allegations are denied.

CLAIMS FOR RELIEF UNDER 42 U.S.C. § 1983

COUNT I

103. Defendants reincorporate their responses to paragraphs 1-102.

104. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 104 are denied.

105. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 105 are denied.

106. This paragraph does not require a response as it is a statement of law. Defendants further state that the scope of the right alleged is far from settled. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 106 are denied.

107. The allegations of paragraph 107 of the complaint are denied.

108. The allegations of paragraph 108 of the complaint are denied.

109. The allegations of paragraph 109 of the complaint are denied.

COUNT II

110. Defendants reincorporate their responses to paragraphs 1-109.

111. This paragraph does not require a response as it is a statement of law. Defendants further state that the scope of the right alleged is far from settled. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 111 are denied.

112. This paragraph does not require a response as it is a statement of law. Defendants further state that the scope of the right alleged is far from settled. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 112 are denied.

113. The allegations of paragraph 113 of the complaint are denied.

114. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 114 of the complaint and accordingly these allegations are denied.

115. Defendants deny that Policy Order 63 forces plaintiff Corbitt to have a surgical procedure she does not wish to have. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 115 of the complaint and accordingly these allegations are denied.

116. Defendants deny that the surgical procedure plaintiff Clark's doctor confirmed she had received satisfies the requirements of Policy Order 63 to allow a

change in the sex designation on her license. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 116 of the complaint and accordingly these allegations are denied.

117. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 117 of the complaint and accordingly these allegations are denied.

118. The allegations of paragraph 118 of the complaint are denied.

119. The allegations of paragraph 119 of the complaint are denied.

COUNT III

120. Defendants reincorporate their responses to paragraphs 1-119.

121. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 121 are denied.

122. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 122 are denied.

123. The allegations of paragraph 123 of the complaint are denied.

124. The allegations of paragraph 124 of the complaint are denied.

125. The allegations of paragraph 125 of the complaint are denied.

126. The allegations of paragraph 126 of the complaint are denied.

COUNT IV

127. Defendants reincorporate their responses to paragraphs 1-126.

128. This paragraph does not require a response as it is a statement of law.

To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 128 are denied.

129. The allegations of paragraph 129 of the complaint are denied.

130. The allegations of paragraph 130 of the complaint are denied.

131. The allegations of paragraph 131 of the complaint are denied.

132. The allegations of paragraph 132 of the complaint are denied.

133. The allegations of paragraph 133 of the complaint are denied.

134. The allegations of paragraph 134 of the complaint are denied.

135. The allegations of paragraph 135 of the complaint are denied.

RELIEF REQUESTED

Defendants deny that they are liable to plaintiffs. Defendants deny that plaintiffs are entitled to the relief requested.

AFFIRMATIVE DEFENSES

1. Defendants deny any allegation in plaintiffs' complaint that is not expressly admitted above.

2. Plaintiffs fail to state a claim upon which relief can be granted.

3. Some or all of plaintiffs lack standing.

4. Defendants assert that, to the extent that plaintiffs are attempting to assert any claim arising out of any act or omission that took place before February 6, 2016, such a claim is barred by the statute of limitations.

Respectfully submitted,

Steve Marshall
Attorney General

By:

/s Brad A. Chynoweth
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Counsel for Defendants

CERTIFICATE OF SERVICE

I certify that on April 3, 2018, I filed the foregoing electronically using the Court's CM/ECF system, which will serve all counsel of record.

/s Brad A. Chynoweth
Counsel for Defendants

DOC. 38

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION

DARCY CORBITT, et al.,)	
)	
Plaintiffs,)	Civil Action No. 2:18-cv-91-MHT-GMB
vs.)	
)	
HAL TAYLOR, in his official capacity as)	
Secretary of the Alabama Law Enforcement)	
Agency, et al.,)	
)	
Defendants.)	
)	FIRST AMENDED COMPLAINT FOR
)	DECLARATORY AND INJUNCTIVE
)	RELIEF
)	
)	
)	
)	
)	

Plaintiffs Darcy Corbitt, Destiny Clark, and Jane Doe,¹ through their undersigned attorneys, complain against Defendant Hal Taylor, in his official capacity as Secretary of the Alabama Law Enforcement Agency, Charles Ward, in his official capacity as Director of the Department of Public Health, Deena Pregno, in her official capacity as Chief of the Driver License Division, and Jeannie Eastman, in her official capacity as Driver License Supervisor and supervisor of the Medical Unit in the Driver License Division, as follows:

INTRODUCTION

1. Defendants are responsible for the establishment and enforcement of a policy that prevents transgender people in Alabama from obtaining a driver license that reflects their gender, unless they undergo surgical procedures and disclose information about those procedures to the

¹ A Motion to Proceed Under a Pseudonym accompanies this Complaint.

government. Under the policy, proof of surgery is required for an accurate driver license regardless of whether the surgery is necessary, desired, safe, or within the financial means of the individual.

2. Defendants accept only some forms of gender-confirming surgery, while rejecting others. Thus, even when a transgender person has undergone surgery, Defendants may continue to deny access to a driver license that reflects the gender of the transgender person. Thus, Defendants' practice sweeps even further than the language of the already unlawful and discriminatory policy.

3. As a result of the state's driver license policy, many transgender Alabamans cannot obtain a license that they can use without disclosing highly sensitive information, risking discrimination and attack, compromising their own health and wellbeing, and endorsing a message about their gender with which they strongly disagree.

4. The plaintiffs, Ms. Darcy Corbitt, Ms. Destiny Clark, and Ms. Jane Doe, have all been personally harmed by this policy. Ms. Corbitt was loudly called an "it" in a public area of a crowded driver license office. Ms. Clark avoids lawful activities that could lead her to have to show her license. Ms. Doe was told she was "going to hell" and refused service when a bank teller saw the name on her license.

5. The policy is not rationally related to any legitimate purpose, much less narrowly tailored to serve a compelling one.

6. Defendants' policy violates the privacy, due process, free speech, and equal protection rights of Ms. Corbitt, Ms. Clark, Ms. Doe, and transgender people in Alabama.

JURISDICTION AND VENUE

7. Jurisdiction is proper pursuant to 28 U.S.C. §§ 1331, 1343 because Plaintiffs seek redress for the deprivation of rights secured by the Constitution of the United States. Plaintiffs' federal claims are brought pursuant to 42 U.S.C. § 1983.

8. Plaintiffs' claims for declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201-2202, Fed. R. Civ. P. 57, 65, and the legal and equitable powers of this Court.

9. Venue is proper in the Middle District of Alabama pursuant to 28 U.S.C. § 1391(b)(2) because this is a judicial district in which a substantial part of the events or omissions giving rise to Plaintiffs' claims have occurred.

PARTIES

10. Plaintiff Darcy Corbitt is an adult living in Auburn, Alabama. She is a woman who has not been able to obtain an Alabama driver license.

11. Plaintiff Destiny Clark is an adult residing in St. Clair County, Alabama. She is a woman with an Alabama driver license that wrongly describes her as male.

12. Plaintiff Jane Doe is an adult residing in Alabama. She is a woman with an Alabama driver license that wrongly describes her as male.

13. Defendant Hal Taylor is the Secretary of the Alabama Law Enforcement Agency (ALEA). In that capacity, he serves as the executive head of the agency and the head of the Department of Public Safety. Ala. Code § 41-27-2 (a).

14. Defendant Charles Ward is the Director of Public Safety within ALEA. In that capacity he has the power to create rules concerning the operation of motor vehicles in the state. Ala. Code § 32-6-13.

15. Defendant Deena Pregno is the Chief of the Driver License Division, a division within ALEA and the Department of Public Safety. Driver License Policy Order No. 63 ("Policy

Order 63”) states that it is the policy of the Chief of the Driver License Division. *See Policy Order 63, Exhibit A, attached.*

16. Jeannie Eastman supervises the Medical Unit, a unit within the Driver License Division. In that capacity, she implements and interprets Policy Order 63.

FACTUAL ALLEGATIONS

I. Policy Order 63

17. Policy Order 63 provides for changing the gender on a driver license only “due to gender reassignment surgery,” and requires applicants to submit “[a]n amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure.”

18. Defendants Hal Taylor, Charles Ward, and Deena Pregno, or their predecessors, caused Policy Order 63 to be issued.

19. Upon information and belief, Defendants have issued no written guidance explaining how to apply this policy or defining “gender reassignment surgery.”

20. Defendant Jeannie Eastman has refused to change the gender marker for a driver license even when a transgender person has complied with the language of Policy Order 63. Upon information and belief, Defendants accept only some forms of gender-confirming surgery as sufficient, while rejecting others as insufficient.

21. No Alabama statute requires individuals to provide an amended birth certificate to change an Alabama driver license or non-driver identification card to document a person’s correct gender.

22. No Alabama statute requires gender-confirming surgery to update the gender listed on a state driver license or non-driver identification card.

23. No Alabama statute refers to gender on driver licenses or non-driver identification cards. A statute requires that a license contain a color photograph, name, birthdate, address, signature, and “description of the licensee.” Ala. Code § 32-6-6.

24. A statute requires gender-confirming surgery to correct the gender on a person’s Alabama birth certificate. Ala. Code § 22-9A-19(d). That statute does not apply to driver licenses or non-driver identification cards.

25. Upon information and belief, Defendants permit applicants to change other descriptive characteristics, such as height and hair color, on a driver license or non-driver identification card without any additional documentation or medical certification.

26. Upon information and belief, Defendants permit transgender people to receive a driver license that reflects their gender without surgery if they move to Alabama for the first time after having updated their gender marker on their passport and their license in another state that does not require surgery. That is so because Defendants do not routinely inquire about transgender status, transgender people moving to Alabama for the first time could present documents that showed only their actual gender, and Defendants would have no previous records listing a different gender. Upon information and belief, these are the only circumstances under which Alabama permits transgender people to change their gender on a driver license without surgery.

27. Policy Order 63 and Defendants’ practices, by placing onerous, and in many cases insurmountable, obstacles to prevent transgender persons from correcting the gender listed on their Alabama driver licenses, stands in contrast with the decisions of the federal government and numerous states to align the gender listed on a person’s identification documents with the gender the person lives as every day without requiring proof of any particular medical care. These decisions are designed to conform policies to current scientific knowledge, the medical standard

of care for treating persons diagnosed with gender dysphoria, and the needs and dignity of transgender community members.

28. The U.S. Department of State requires only that a doctor certifies that a person seeking a gender change on a passport “has had appropriate clinical treatment for gender transition to the new gender” in order to obtain a passport with the correct gender. 7 Foreign Affairs Manual 1300 Appendix M (March 31, 2016), <https://fam.state.gov/FAM/07FAM/07FAM1300apM.html>.

29. The U.S. Office of Personnel Management, the Veterans Health Administration, the United States Citizenship and Immigration Services, Department of Defense, and the Social Security Administration have similar requirements to change gender markers in their records. None of these agencies requires evidence of surgery. *See The Guide to Personnel Recordkeeping*, U.S. Office of Pers. Mgmt. 4.14-15 (2017), <http://bit.ly/2FOcwwW>; VHA Directive 2013-003(4)(b)(1)(b) (2017), <https://www.va.gov/vhapublications/publications.cfm?pub=1>; *Adjudicator’s Field Manual*, U.S. Citizenship and Immigration Servs. 10.22, <https://www.uscis.gov/ilink/docView/AFM/HTML/AFM/0-0-0-1/0-0-0-1067/Chapter10-22.html>; 32 C.F.R. § 161.23(d) (Table 33) (DoD); *Program Operations Manual System*, Soc. Sec. Admin. 10212.200 (2013), <https://secure.ssa.gov/poms.nsf/lnx/0110212200>.

30. To change the gender marker on a driver license, most states accept a form filled out by any medical professional, and do not require documentation of any specific form of medical or surgical treatment. American Association of Motor Vehicle Administrators, *Resource Guide on Gender Designation on Driver’s Licenses and Identification Cards* (2016), <https://www.aamva.org/Best-Practices-and-Model-Legislation/>. The American Association of Motor Vehicle Administrators (AAMVA) instructs states to not require surgery, a court order, or

an amended birth certificate. Instead, AAMVA instructs states to accept certification of gender identity from a variety of licensed providers and to accept passports, birth certificates, or other identification cards from governmental agencies as an alternative to medical provider certification. *Id.* at 4.

31. Thus, Policy Order 63 and Defendants' practices are not required by any state law, and are at odds with the requirements and recommendations of the federal government, the majority of state governments, the D.C. government, and AAMVA, as well as with ALEA's own policies and practices for other descriptive information. Because transgender people who move to Alabama for the first time after changing their gender marker in another jurisdiction may not need to produce evidence of surgery, Policy Order 63 and Defendants' practices are not even consistently applied.

II. Transgender People, Gender, and Gender Dysphoria

32. Transgender people are people who have a gender identity different from their assigned sex at birth.

33. Gender identity refers to a person's fundamental, internal sense of belonging to a particular gender. There is a medical consensus that gender identity is innate and that efforts to change a person's gender identity are unethical and harmful to a person's health and well-being.

34. According to the American College of Physicians, American Psychiatric Association, and other major medical organizations, every person has a gender identity, which "cannot be altered voluntarily" and "cannot be ascertained immediately after birth." Brief of Amici Curiae American Academy of Pediatrics, American Psychiatric Association, American College of Physicians, and 17 Additional Medical and Mental Health Organizations in Support of Respondent at 8, *Gloucester Cty. Sch. Bd. v. G.G.*, No. 16-273, 2017 WL 1057281 at *8 (U.S.).

35. The gender marker designated on a birth certificate at the time of birth (“assigned sex at birth”) is almost always based solely on the appearance of an infant’s external genitalia.

36. When components of sex, including genitalia, chromosomes, hormones, reproductive anatomy, secondary sex characteristics, and gender identity, do not align as all typically male or all typically female, a person’s gender identity is what determines the gender a person lives as, and how the person should be recognized for all social and legal purposes.

37. Gender dysphoria is a medically-recognized condition defined by a marked incongruence between a person’s gender identity and the sex they were assigned at birth, when accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning. Many transgender people experience gender dysphoria.

38. Gender dysphoria is a serious medical condition that, if left untreated, can lead to debilitating depression, and even suicidal thoughts and acts.

39. Treatment of gender dysphoria is guided by the Standards of Care (“SOC”) set forth by the World Professional Association for Transgender Health (“WPATH”), which was initially published in 1979 and is now in its seventh version. These guidelines reflect the professional consensus about the psychological, psychiatric, hormonal, and surgical management of gender dysphoria.

40. It is the recognized standard of care to address gender dysphoria with treatment designed to bring people’s bodies and expressions of gender in line with their gender identities. This course of treatment has different components depending on the particular needs of each transgender person. A professional recommends an individualized course of treatment based on the exercise of professional judgment to achieve the goal of reducing a patient’s gender dysphoria. As with other forms of healthcare, the patient considers the information from the provider and makes treatment decisions in consultation with that provider.

41. Treatment for gender dysphoria – sometimes called gender reassignment – does not “change” a person’s gender. Instead, it brings a person’s social interactions, appearance, and body into greater alignment with the person’s already-existing gender identity, which helps to alleviate the distress associated with gender dysphoria. Treatment for gender dysphoria may involve one or more of hormone treatment, non-surgical voice therapy, supportive psychotherapy, social transition, or gender-confirming surgery or surgeries.

42. Social transition involves shifting one’s presentation and social functioning so that it is consistent with one’s gender identity. Typically, it involves some or all of the following:

- a. Change in clothing, hair, or appearance;
- b. Change of name;
- c. Change in pronouns (i.e., “she” “he” or “they”);
- d. Change in participating in gender-specific activities, events, or spaces; and
- e. Change of the gender marker on identifying documents, including driver license and passport.

43. Thus, treatment for gender dysphoria includes living one’s life consistently with one’s gender identity, including using identity documents that reflect one’s gender identity.

44. Forcing transgender people to use identity documents that do not match their gender identity, or forcing them to go without identity documents, is inconsistent with medical protocols. It can cause anxiety and distress to the transgender person and result in discrimination and violence against them.

45. A driver license is a critically important form of identification. For many people, a driver license makes it possible for them to secure a job and otherwise care for their needs and the needs of their family. This is especially true in places like Alabama where most people need

to drive every day to go to work, school, stores, doctors' offices, or visits with friends and family, and where identification is required to vote.

46. Recognizing the importance of identification documents, the American Medical Association has adopted a policy urging states to eliminate any requirement that transgender people have surgery in order to amend their birth certificates. *Conforming Birth Certificate Policies to Current Medical Standards for Transgender Patients H-65.967*, Am. Med. Ass'n (2014), <http://bit.ly/2EhkCQy>.

47. Additionally, for those who have struggled for years with the impact of external invalidation of their identity, the knowledge that one's identification documents label one with the wrong gender can, by itself, cause serious psychological injury.

48. While social transition is adequate to treat gender dysphoria for some transgender people, others need one or more other forms of treatment, such as hormone treatment, supportive psychotherapy, non-surgical voice therapy, or gender-confirming surgery or surgeries.

49. Gender-confirming surgeries may include augmentation mammoplasty, chest reconstruction surgery, facial feminization surgery, hysterectomy, orchiectomy, vaginoplasty, metaoidioplasty, phalloplasty, and other procedures.

50. In a recent survey, chest reconstruction surgery was the most common form of treatment other than hormone therapy, counseling, and social transition among men who are transgender. *See* Sandy E. James, et. al, *The Report of the 2015 U.S. Transgender Survey* 101 (2016), <http://bit.ly/2BXZcma> ("USTS"). Among women who are transgender, laser hair removal or electrolysis was the most common other form of treatment, followed by nonsurgical voice therapy, vaginoplasty with labiaplasty, and augmentation mammoplasty, in that order. *Id.* at 102.

51. Like all surgical procedures, gender-confirming surgeries involve some risk. Also, while some gender-confirming surgeries have little or no impact on physical reproductive capacity, others permanently eliminate reproductive capacity.

52. Gender-confirming surgery is not medically necessary for all transgender people. For some, surgery is not only unnecessary but also medically contraindicated. Additionally, for many, surgery is cost-prohibitive.

53. Among those who do receive gender-confirming surgery, the specific procedure or procedures received vary based on individual needs. Some transgender people need several surgical procedures in treatment for gender dysphoria, while others need none, one, or two.

54. Only about one-quarter of transgender people report having had any form of gender-confirming surgery. USTS at 100.

55. Like other major healthcare decisions – especially those that may involve invasive procedures, impact on one’s reproductive options, possible relief of significant suffering, and possible complications—decisions about gender-confirming surgery are profoundly personal.

56. Transgender people often risk harassment, harm, and social stigma when others learn that they are transgender.

57. The transgender community is more likely to suffer abuse, harassment, discrimination, and violence than the population at large. According to the USTS:

- a. Around a quarter (24%) of respondents had been physically attacked in a K-12 school because people thought they were transgender, with higher rates for American Indian (49%), Middle Eastern (36%), multiracial (31%), and Black (28%) respondents. In Alabama specifically, 13% of respondents faced such severe mistreatment that they left a K-12 school.

- b. In the year prior to completing the survey, 27% of respondents who had a job reported being fired, denied a promotion, or experiencing some other form of mistreatment in the workplace due to their gender identity or expression. That number was similar (26%) among Alabama respondents only.
- c. Nearly half (47%) of respondents had been sexually assaulted during their lifetime, with higher rates for American Indian (65%), multiracial (59%), Middle Eastern (58%), and Black (53%) respondents.
- d. Among respondents who had interacted with police, 58% of those whom the police perceived as transgender experienced some form of mistreatment. The rate was similar (57%) in Alabama. Rates were higher for American Indian (74%), multiracial (71%), Latino/a (66%), Black (61%), and disabled (68%) respondents.
- e. Thirty-nine percent of respondents experienced serious psychological distress in the month prior to completing the survey, compared with only 5% of the U.S. population. Among Alabama respondents only, 45% experienced serious psychological distress in the month prior to completing the survey.
- f. Forty percent of respondents attempted suicide in their lifetime—nearly nine times the attempted suicide rate in the U.S. population (4.6%).

58. People are often asked to show a driver license to verify their identity. A driver license that fails to match one's gender leads to the disclosure of private, intimate information about one's transgender status, and it often leads to physical harm, harassment, discrimination, or groundless accusations of fraud.

59. Twenty-five percent of transgender people were verbally harassed, 16% denied services or benefits, 9% asked to leave a location or establishment, and 2% assaulted or attacked after showing identification with a name or gender marker that did not match their gender

presentation. USTS at 82. The rates of assault and attack were twice as high for Black transgender people, three times as high for American Indian transgender people, and almost five times as high for Middle Eastern transgender people. *Id.* at 90. In Alabama specifically, 28% of respondents had had one or more of these negative experiences after showing identification that did not match their gender presentation. Only 9% of Alabama respondents had their gender correctly listed on all their identification documents, while 80% of respondents had no identification document that correctly listed their gender.

III. Policy Order 63's Impact on Plaintiffs

Darcy Corbitt

60. Plaintiff Darcy Corbitt is a 25-year-old woman who lives in Auburn, Alabama.

Corbitt Photo, Exhibit B, attached.

61. Ms. Corbitt is transgender. She was assigned male at birth, and she has known she was female since preschool.

62. Ms. Corbitt was born in Louisiana, but grew up in Alabama. She moved to North Dakota as a young adult, where she founded a not-for-profit organization that she still runs.

63. Ms. Corbitt has completed a legal name change.

64. While living in North Dakota, Ms. Corbitt began updating the gender listed for her in government records. Her North Dakota driver license, United States passport, and Social Security records now reflect her gender as female.

65. When Ms. Corbitt received a license and passport that accurately reflected her female gender, she was moved to tears. In the weeks that followed, she felt like a burden had lifted from her shoulders.

66. Because Ms. Corbitt is perceived as a woman in her day-to-day life, every time she had to show a driver license that listed "male," she was forced to disclose that she was

transgender. She feared violence or other negative reactions. Ms. Corbitt has received death threats for speaking out on transgender issues in the past.

67. As a result, before her gender was updated on her driver license, Ms. Corbitt tried to avoid situations where she would have to show identification. With a driver license listing her as female, she no longer had to avoid making large purchases, ordering alcohol in restaurants, or doing any other activities that required identification. When she did show her driver license, she no longer felt embarrassed, ashamed, or afraid.

68. In the summer of 2017, Ms. Corbitt returned to Alabama to attend graduate school at Auburn University, where she is pursuing a Ph.D. in developmental psychology.

69. In August 2017, Ms. Corbitt visited the Lee County Driver License Office to obtain an Alabama license to replace her North Dakota license. At first, the clerk in the office referred to Ms. Corbitt correctly as a woman and treated her with courtesy and respect. When the clerk reviewed agency records from when Ms. Corbitt lived in Alabama previously, she saw that Ms. Corbitt had been listed as male. Her demeanor changed abruptly.

70. The clerk prepared paperwork to issue Ms. Corbitt an Alabama driver license listing her gender as male. The clerk asked Ms. Corbitt to review the papers and sign to verify that the information was accurate. Ms. Corbitt explained that she could not do so because the gender information was not accurate.

71. The clerk began referring to Ms. Corbitt as a “he” and an “it.” She asked Ms. Corbitt for personal information about her anatomy and medical history. The clerk spoke to the clerk’s direct supervisor as well as a supervisor at a central ALEA office about Ms. Corbitt’s gender. The clerk did all of this loudly, in front of many other people in the office. The clerk declined to issue Ms. Corbitt an Alabama driver license listing her gender as female. Ms. Corbitt left the office without an Alabama driver license.

72. Ms. Corbitt has completed all necessary medical treatment for her gender dysphoria at this time. She wishes to make future treatment decisions free from government coercion through policies or practices requiring her to have surgery to obtain a driver license.

73. Ms. Corbitt would have liked to consider relocating to Alabama permanently after completing her studies. However, doing so would require her to trade in her North Dakota license for an Alabama license. Ala. Code § 32-6-1(a). Because of Policy Order 63, Ms. Corbitt does not believe it would be possible for her to remain in the state permanently without sacrificing her safety, privacy, autonomy, and dignity.

Destiny Clark

74. Plaintiff Destiny Clark is a 33-year-old woman who lives in Saint Clair County, Alabama. *Clark Photo, Exhibit C, attached.*

75. Ms. Clark is transgender. She was assigned male at birth, and she knows herself to be female.

76. Ms. Clark grew up in Saint Clair County. She moved away as a young adult, but returned to care for her father when he was ill. Ms. Clark works in a restaurant and has a leadership role in a community organization.

77. Ms. Clark has completed a legal name change, and she has corrected her gender with the Social Security Administration.

78. Ms. Clark has tried to change the gender listed on her Alabama license multiple times.

79. First, Ms. Clark went to the Pell City driver license office in Saint Clair County. There, a clerk told her that they could not help her, and she would have to contact the Medical Unit in Montgomery.

80. Ms. Clark contacted the Medical Unit, where she spoke to Defendant Jeannie Eastman. Ms. Eastman advised her to fax her medical documentation. Ms. Clark did so.

81. Ms. Eastman informed Ms. Clark that the medical documentation was not sufficient, and that her doctor would have to provide more specific information. Ms. Clark obtained an additional letter from her doctor with more information, and sent the letter to Ms. Eastman.

82. Having not heard back from Ms. Eastman, Ms. Clark called her to check on the status of the letter. Ms. Eastman told Ms. Clark that the treatment was inadequate according to policy and that she did not want to change the gender on her license.

83. Later, Ms. Clark had medically necessary gender-confirming surgery. She sent a letter to Ms. Eastman from her surgeon to that effect.

84. Upon information and belief, Ms. Eastman or an individual working under the supervision of Ms. Eastman called Ms. Clark's surgeon's office, identified themselves as a government official, and requested and received detailed information about Ms. Clark's surgery, including the type of anesthesia administered and the exact procedures performed. Ms. Clark did not give permission for this information to be shared.

85. Even with proof of surgery, Ms. Eastman informed Ms. Clark that she would not change Ms. Clark's license. Ms. Eastman claimed that her decision was required by policy, but did not explain how.

86. Ms. Clark's license still wrongly lists her gender as male. As a result, Ms. Clark experiences a high level of anxiety going about her daily life.

87. During a traffic stop in Odenville, a police officer treated Ms. Clark politely when asking for her license. After seeing her license, though, the officer became hostile and accusing.

88. Ms. Clark tries to avoid using her license as much as possible. She does not go to clubs or bars where she believes she will be asked to show identification. She does not order alcohol in restaurants. If she wants to buy alcohol in a store, she asks her boyfriend to buy it for her so she will not have to show her driver license.

89. Because Ms. Clark is typically perceived as a woman, any time she shows her license, the person seeing it observes the male gender designation and learns that she is transgender. As a woman who is transgender, Ms. Clark is at high risk of discrimination and violence. The wrong gender on her driver license increases that risk.

Jane Doe

90. Jane Doe is a woman living in Alabama. Because of concerns about her privacy and safety, she seeks to proceed in this case under a pseudonym. *See Motion to Proceed Under a Pseudonym.*

91. Ms. Doe is transgender. She was assigned male at birth, and she knows herself to be female.

92. Ms. Doe was born and raised in Alabama. She left the state to pursue career opportunities in her earlier life, but eventually returned to Alabama, where she has lived and worked full time since 2005.

93. In 2013, Ms. Doe began hormone treatment. She believes that one or more forms of gender-confirmation surgery are necessary for her care. Ms. Doe has not yet been able to receive any gender-confirmation surgical procedures because of cost.

94. Ms. Doe has completed a legal name change, currently reflected on her driver license, and she has corrected her gender with the Social Security Administration and on her passport.

95. Ms. Doe has tried to change the gender listed on her Alabama driver license multiple times.

96. Ms. Doe initially attempted to make this change at her local driver license office. The clerk who was processing her request was prevented from doing so by her supervisor.

97. Ms. Doe tried again when she went into the local driver license office to take a new driver license photo. However, her request was not honored.

98. Ms. Doe next traveled to Montgomery to the Department of Public Safety, where she offered a doctor's note confirming her gender. However, the officials at that office refused to correct her license.

99. She contacted the central office in Montgomery again by phone, and someone told her that the employees at the local office would change the gender on her driver license if she showed them her passport with the correct gender listed. Thus, she brought in her passport to a local driver license office, but a supervisor again refused to honor her request. The supervisor said that no change was possible without amending a birth certificate first.

100. Despite her multiple attempts, Ms. Doe's driver license still wrongly lists her gender as male. As a result, she has experienced anxiety and discrimination in her daily life.

101. Once, while visiting her bank, Ms. Doe had to show her driver license to the teller. The teller responded by telling Ms. Doe that she was "going to hell," saying that she could not "condone this," and refusing to serve her.

102. On various other occasions, Ms. Doe has experienced people viewing her with hostility when they see her driver license. Because Ms. Doe is typically perceived as a woman, these people would likely not have known that she is transgender had she not been required to display a driver license wrongly listing a male gender designation.

103. As a woman who is transgender, Ms. Doe is at high risk of discrimination and violence. Having the wrong gender on her driver license increases that risk.

CLAIMS FOR RELIEF UNDER 42 U.S.C. § 1983

COUNT I

POLICY ORDER 63 VIOLATES PLAINTIFFS' RIGHT TO PRIVACY

104. Plaintiffs re-allege paragraphs 1 through 103 as if fully set forth herein.

105. The Due Process Clause of the Fourteenth Amendment places limitations on state action that deprives individuals of life, liberty, or property.

106. Substantive protections of the Due Process Clause include the right to avoid disclosure of sensitive, personal information.

107. Plaintiffs have a fundamental right of privacy in preventing the release of, and in deciding in what circumstances to release: (1) personal information whose release could subject them to bodily harm; and (2) information of a highly personal and intimate nature.

108. The Policy Order 63 and Defendants' practices force Ms. Clark and Ms. Doe to disclose highly personal information—that they are transgender—to each person who sees their driver license. Given the high rates of violence against transgender people, this disclosure places Ms. Clark and Ms. Doe at risk of bodily harm. Policy Order 63 and Defendants' practices condition Ms. Corbitt's receipt of an Alabama driver license on being forced to make such disclosures.

109. No compelling state interest is furthered by Policy Order 63 and Defendants' practices, nor are they narrowly tailored or the least restrictive alternative for promoting a state interest. Policy Order 63 and Defendants' practices are not even rationally related to a legitimate state interest.

110. In addition, Plaintiffs' privacy interests outweigh any purported interest the Defendants could assert.

COUNT II

POLICY ORDER 63 VIOLATES PLAINTIFFS' LIBERTY INTEREST IN REFUSING UNWANTED MEDICAL TREATMENT

111. Plaintiffs re-allege paragraphs 1 through 110 as if fully set forth herein.

112. The Fourteenth Amendment's Due Process Clause protects individuals' substantive rights to be free to make certain private decisions without unjustified governmental intrusion.

113. The right to make certain private decisions without unjustified governmental intrusion includes the right to refuse unwanted medical treatment.

114. Policy Order 63 and Defendants' practices force transgender people who live in Alabama either to undergo certain kinds of gender-confirming surgery to secure a correct driver license or endanger their health and safety with an incorrect driver license.

115. Not all transgender people undergo gender-confirming surgery. For some, the surgery is not medically necessary or even safe. Many do not have health insurance coverage and cannot afford to pay out-of-pocket. Of those who do receive surgical treatment, not all need or receive the same surgical treatment. While some need and receive multiple forms of gender-confirming surgery, others need and receive only one procedure.

116. Ms. Corbitt has not yet determined whether she wants and needs any gender-confirming surgery. She wishes to make this important, intimate healthcare decision without being pushed into a certain outcome by the government. She also wishes to obtain a driver license without having to disclose to the government intimate medical information irrelevant to her ability to drive.

117. Ms. Clark has had gender-confirming surgery, but Defendants have refused to accept her surgery as sufficient. No further gender confirming surgery is medically necessary for her or desired by her.

118. Ms. Doe believes that one or more forms of gender-confirming surgery will likely be necessary for her, but has not yet obtained it and cannot afford it. She wishes to obtain a driver license without having to undergo surgery that she cannot presently afford, and without sharing intimate medical information with the government..

119. As a result of not having had gender-confirming surgery, Ms. Corbitt and Ms. Doe are unable to secure an Alabama driver license that accurately reflects their gender, and that they can use without risk to their health and safety. As a result of not having had a type of gender-confirming surgery Defendants find acceptable, Ms. Clark also is unable to secure an Alabama driver license that accurately reflects her gender, and that she can use without risk to her health and safety.

120. Policy Order 63 and Defendants' practices are neither narrowly tailored nor the least restrictive alternative to further a compelling government interest and therefore violate the liberty interests of Ms. Corbitt, Ms. Clark, and Ms. Doe. Nor are Policy Order 63 and Defendants' practices rationally related to a legitimate governmental interest.

COUNT III

POLICY ORDER 63 VIOLATES THE FIRST AMENDMENT

121. Plaintiffs re-allege paragraphs 1 through 119 as if fully set forth herein.

122. The First Amendment provides that "Congress shall make no law . . . abridging the freedom of speech." U.S. Const. amend. I. It is made applicable to the states through the Fourteenth Amendment. U.S. Const. amend. XIV.

123. The First Amendment protects the right to speak and to refrain from speaking.

124. Policy Order 63 and Defendants' practices violate the First Amendment rights of Ms. Clark and Ms. Doe to refrain from speaking by forcing them to disclose to each person who sees their license private information about their transgender status and their medical condition, and by forcing them to identify themselves to each person who sees their license by a gender that conflicts with their core identity.

125. Policy Order 63 and Defendants' practices further violate the First Amendment rights of Ms. Clark and Ms. Doe to refrain from speaking by forcing them to endorse the government's position on their own gender, as well as on the meaning of gender generally, through the license they must carry daily and show to others. The gender marker listed on Ms. Clark's and Ms. Doe's license conveys the state's ideological message that gender is determined solely by the appearance of external genitals at the time of birth unless modified through certain surgical procedures, a message with which Ms. Clark and Ms. Doe vehemently disagree.

126. Policy Order 63 and Defendants' practices violate Ms. Corbitt's First Amendment rights to refrain from speaking by denying her access to an Alabama driver license unless she signs a form stating something is true that she knows to be false, and then carries a license that forces her to make unwanted personal disclosures, identify herself in a way that conflicts with who she knows herself to be, and endorse a government message about her own gender and gender in general with which she strongly disagrees.

127. Policy Order 63 and Defendants' practices do not further any compelling state interest, nor are they narrowly tailored or the least restrictive alternative for promoting a state interest.

COUNT IV

POLICY ORDER 63 VIOLATES EQUAL PROTECTION

128. Plaintiffs re-allege paragraphs 1 through 126 as if fully set forth herein.

129. The Equal Protection Clause of the Fourteenth Amendment provides that no state shall “deny to any person within its jurisdiction the equal protection of the laws.” U.S. Const. amend. 14, § 1.

130. Policy Order 63 and Defendants’ practices are directed solely at transgender people and discriminate against them on the basis of sex, as well as on the basis of transgender status.

131. Defendants deprive transgender people, and only transgender people, access to a driver license that they can use without sacrificing their privacy, health, safety, dignity, and autonomy.

132. The differential treatment of transgender people furthers no compelling or important government interest, nor is the differential treatment narrowly tailored, substantially related to, or the least restrictive alternative for promoting a state interest. Nor is there even a rational connection between any legitimate governmental interest and Defendants’ disparate treatment of transgender people.

133. Policy Order 63 and Defendants’ practices are subject to heightened scrutiny because they are based on sex and transgender status.

134. Policy Order 63 and Defendants’ practices are invalid under any form of constitutional scrutiny because they were put in place for the improper purpose of disadvantaging a specific class, are founded in animus toward transgender Alabamans, and serve no legitimate governmental interest.

LACK OF LEGAL REMEDY

135. Plaintiffs’ harm is ongoing and cannot be alleviated except by injunctive relief.

136. No other remedy is available at law.

RELIEF REQUESTED

WHEREFORE, Plaintiffs request that this Court:

- (1) Issue a judgment, pursuant to 28 U.S.C. §§ 2201-2202, declaring Policy Order 63 and Defendants' practice of refusing to update the gender marker on driver licenses of transgender people unconstitutional for the reasons and on the counts set forth above;
- (2) Permanently enjoin Defendants from enforcing the Policy Order 63 unless and until it has been revised to comply with constitutional requirements;
- (3) Order Defendants to change the gender marker on Alabama driver licenses for otherwise-eligible transgender people who seek such change;
- (4) Award Plaintiffs their costs and attorneys' fees pursuant to 42 U.S.C. § 1988; and
- (5) Grant such other relief as the Court finds just and proper.

Respectfully submitted this 25th day of July 2018.

s/ Brock Boone
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CERTIFICATE OF SERVICE

I certify that on July 25, 2018, I filed the foregoing electronically using the Court's CM/ECF system, which will serve all counsel of record.

s/ Brock Boone

DOC. 40

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF ALABAMA
NORTHERN DIVISION**

DARCY CORBITT, DESTINY CLARK, and)
JOHN DOE,)

Plaintiffs,)

v.)

Civil Action No.
2:18-cv-00091-MHT-GMB

HAL TAYLOR, in his official capacity as)
Secretary of the Alabama Law Enforcement)
Agency; Colonel CHARLES WARD, in his)
official capacity as Director of the Department)
of Public Safety; DEENA PREGNO, in her)
official capacity as Chief of the Driver License)
Division, and JEANNIE EASTMAN, in her)
official capacity as Driver License Supervisor)
in the Driver License Division,)

Defendants.)

ANSWER TO PLAINTIFFS' FIRST AMENDED COMPLAINT

Defendants Hal Taylor, Charles Ward, Deena Pregno, and Jeannie Eastman file this answer to plaintiffs' first amended complaint (hereinafter "complaint"):

INTRODUCTION

1. Defendants admit that they are responsible for establishing policies regarding an individual's description on a driver license, that a driver license identifies an individual's sex as set out on their birth certificate, and that an amended state birth certificate or written proof of gender reassignment surgery by the physician performing the procedure is required to change an individual's sex on a driver license. The remaining allegations of paragraph 1 of the complaint are denied.

2. Defendants admit that an amended state birth certificate or written proof of gender reassignment surgery by the physician performing the procedure is required to change an individual's sex on a driver license. The remaining allegations of paragraph 2 of the complaint are denied.

3. Defendants deny the allegations of paragraph 3 of the complaint.

4. Defendants deny that plaintiffs "have all been personally harmed by this policy" in any way that implies legal liability on the part of Defendants and deny that any Alabama Law Enforcement Agency ("ALEA") employee called plaintiff Corbitt an "it." Defendants lack knowledge or information sufficient to form a belief about the truth of the remaining allegations of paragraph 4 of the complaint and accordingly these allegations are denied.

5. The allegations of paragraph 5 of the complaint are denied.

6. The allegations of paragraph 6 of the complaint are denied.

JURISDICTION AND VENUE

7. The allegations of paragraph 7 of the complaint are admitted.

8. Defendants admit the statutes and rules of procedure cited authorize plaintiffs to bring suit. Defendants deny that any claim for declaratory or injunctive relief is warranted.

9. The allegations of paragraph 9 of the complaint are admitted.

PARTIES

10. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 10 of the complaint and accordingly these allegations are denied.

11. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 11 of the complaint and accordingly these allegations are denied.

12. Defendants lack knowledge or information sufficient to form a belief about the truth of the allegations contained in paragraph 12 of the complaint and accordingly these allegations are denied.

13. The allegations of paragraph 13 of the complaint are admitted.

14. The allegations of paragraph 14 of the complaint are admitted.

15. The allegations of paragraph 15 of the complaint are admitted.

16. The allegations of paragraph 16 of the complaint are admitted.

FACTUAL ALLEGATIONS

17. Defendants deny that Policy Order 63 provides for the changing of “gender” on a driver license. Defendants admit that written guidance to Policy Order 63 states that “an individual wishing to have the sex changed on their driver license due to gender reassignment surgery” is required to submit “[a]n amended state certified birth certificate and/or a letter from the physician that performed the reassignment procedure.”

18. The allegations of paragraph 18 of the complaint are admitted.

19. Defendants admit they have issued no written definition of “gender reassignment surgery.” The remaining allegations of paragraph 19 of the complaint are denied.

20. Defendants deny that Jeannie Eastman has refused to change the sex designation for a driver license even when a transgender person has complied with the language of Policy Order 63. Defendants admit that an amended state birth certificate or written proof of gender reassignment surgery by the physician performing the procedure is required to change an

individual's sex designation on a driver license. The remaining allegations of paragraph 20 of the complaint are denied.

21. Defendants admit that no statute requires individuals to provide an amended birth certificate to change an Alabama driver license or non-driver identification card to document a person's correct gender. Defendants deny that a driver license or non-driver identification card documents an individual's "gender."

22. The defendants admit that no statute enumerates requirements for changing an individual's sex on a driver license but that Ala. Code § 32-6-13 grants the Director of Public Safety rulemaking authority with respect to driver licenses. Defendants deny that a driver license or non-driver identification card lists an individual's "gender."

23. The allegations of paragraph 23 of the complaint are admitted.

24. Defendants deny that the said statute "requires gender-confirming surgery to correct the gender on a person's Alabama birth certificate." The remaining allegations of paragraph 24 of the complaint do not require a response as the statute speaks for itself.

25. Defendants deny that they permit applicants to change descriptive characteristics, such as height and hair color, on a driver license or non-driver identification card to whatever they wish contrary to what is observable to the ALEA employee responsible for processing the application. Defendants admit that they do not always require additional documentation or medical certification to permit an applicant to change a descriptive characteristic to within observable limits of the ALEA employee responsible for processing the application.

26. Defendants deny that an Alabama driver license reflects an individual's "gender" or that they keep records listing an individual's "gender." The remaining allegations of paragraph 26 of the complaint are admitted.

27. The allegations of paragraph 27 of the complaint are denied.

28. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 28 of the complaint and accordingly these allegations are denied.

29. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 29 of the complaint and accordingly these allegations are denied.

30. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 30 of the complaint and accordingly these allegations are denied.

31. Defendants deny that Policy Order 63 is not required by state law as state law grants ALEA rulemaking authority for driver license requirements. Defendants deny that the acceptance of the sex designation from other states' driver licenses where they have no previous record of the applicant's sex is proof of inconsistent application of Policy Order 63. Defendants deny that Policy Order 63 is "at odds" with "ALEA's own policies and practices for other descriptive information." Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 31 of the complaint and accordingly these allegations are denied.

32. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 32 of the complaint and accordingly these allegations are denied.

33. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 33 of the complaint and accordingly these allegations are denied.

34. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 34 of the complaint and accordingly these allegations are denied.

35. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 35 of the complaint and accordingly these allegations are denied.

36. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 36 of the complaint and accordingly these allegations are denied.

37. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 37 of the complaint and accordingly these allegations are denied.

38. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 38 of the complaint and accordingly these allegations are denied.

39. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 39 of the complaint and accordingly these allegations are denied.

40. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 40 of the complaint and accordingly these allegations are denied.

41. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 41 of the complaint and accordingly these allegations are denied.

42. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 42 of the complaint and accordingly these allegations are denied.

43. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 43 of the complaint and accordingly these allegations are denied.

44. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 44 of the complaint and accordingly these allegations are denied.

45. Defendants admit that non-governmental individuals and entities use a driver license as a form of identification. Defendants deny that a driver license is necessary for all of the activities listed.

46. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 46 of the complaint and accordingly these allegations are denied.

47. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 47 of the complaint and accordingly these allegations are denied.

48. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 48 of the complaint and accordingly these allegations are denied.

49. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 49 of the complaint and accordingly these allegations are denied.

50. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 50 of the complaint and accordingly these allegations are denied.

51. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 51 of the complaint and accordingly these allegations are denied.

52. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 52 of the complaint and accordingly these allegations are denied.

53. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 53 of the complaint and accordingly these allegations are denied.

54. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 54 of the complaint and accordingly these allegations are denied.

55. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 55 of the complaint and accordingly these allegations are denied.

56. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 56 of the complaint and accordingly these allegations are denied.

57. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 57 of the complaint and accordingly these allegations are denied.

58. Defendants admit that on some occasions individuals are asked to show a driver license to verify their identity. The remaining allegations of paragraph 58 of the complaint are denied.

59. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 59 of the complaint and accordingly these allegations are denied.

60. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 60 of the complaint and accordingly these allegations are denied.

61. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 61 of the complaint and accordingly these allegations are denied.

62. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 62 of the complaint and accordingly these allegations are denied.

63. The allegations of paragraph 63 are admitted.

64. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 64 of the complaint and accordingly these allegations are denied.

65. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 65 of the complaint and accordingly these allegations are denied.

66. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 66 of the complaint and accordingly these allegations are denied.

67. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 67 of the complaint and accordingly these allegations are denied.

68. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 68 of the complaint and accordingly these allegations are denied.

69. Defendants admit that plaintiff Corbitt visited an Opelika Driver License Office to obtain an Alabama license to replace her North Dakota license. Defendants admit that, based on a computer search using Corbitt's social security number, the driver license examiner printed out an application containing information from Corbitt's previous Alabama driver license, including a designation of her sex as "M." The remaining allegations of paragraph 69 are denied.

70. Defendants deny that the paperwork listed Corbitt's "gender" as male. The remaining allegations of paragraph 70 are admitted.

71. Defendants admit that the driver license examiner spoke with her supervisor and contacted the Medical Unit to verify the requirements Corbitt must meet to have the sex designation on her driver license changed. Defendants admit that they declined to issue Corbitt an Alabama driver license designating her sex as "F" but did offer to issue her a driver license with an "M" sex designation consistent with policy. Defendants admit that Corbitt left the driver license office after threatening to sue. The remaining allegations of paragraph 71 of the complaint are denied.

72. Defendants deny that plaintiff Corbitt was "coerced" in any way. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 72 of the complaint and accordingly these allegations are denied.

73. Defendants deny that Corbitt obtaining an Alabama license with the sex designation required by Policy Order 63 would require her to "sacrific[e] her safety, privacy, autonomy, and dignity." Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 73 of the complaint and accordingly these allegations are denied.

74. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 74 of the complaint and accordingly these allegations are denied.

75. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 75 of the complaint and accordingly these allegations are denied.

76. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 76 of the complaint and accordingly these allegations are denied.

77. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 77 of the complaint and accordingly these allegations are denied.

78. Defendants admit that plaintiff Clark has tried to change the sex listed on her Alabama driver license on at least one occasion. Defendants deny that an Alabama driver license lists an individual's "gender." Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 78 of the complaint and accordingly these allegations are denied.

79. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 79 of the complaint and accordingly these allegations are denied.

80. Defendants admit that Jeannie Eastman received letters from a physician other than the physician that performed an unspecified medical procedure on Clark. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 80 of the complaint and accordingly these allegations are denied.

81. Defendants admit that the documentation provided by a physician other than the one that performed an unspecified medical procedure on Clark was insufficient. Defendants admit that additional documentation was provided by the same physician, who was not the physician that had performed the procedure on Clark. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 81 of the complaint and accordingly these allegations are denied.

82. Defendants admit that the documentation provided failed to comply with Policy Order 63 as the documentation was not from the physician that performed the procedure. Defendants admit that Clark's sex designation on her license was not changed pursuant to this policy. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 82 of the complaint and accordingly these allegations are denied.

83. Defendants admit that Jeannie Eastman received a third letter—this time from the physician that performed the surgery. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 83 of the complaint and accordingly these allegations are denied.

84. Defendants admit that Jeannie Eastman was informed by the office of the doctor that performed the procedure that plaintiff Clark did not receive complete gender reassignment surgery. The remaining allegations of paragraph 84 are denied.

85. Defendants admit that Jeannie Eastman would not change the sex designation on Clark's license because the office of the physician that performed the procedure on Clark verified that she had not had complete gender reassignment surgery. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 85 of the complaint and accordingly these allegations are denied.

86. Defendants deny that Clark's driver license lists her "gender." Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 86 of the complaint and accordingly these allegations are denied.

87. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 87 of the complaint and accordingly these allegations are denied.

88. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 88 of the complaint and accordingly these allegations are denied.

89. Defendants deny that a person learns Clark is transgender “any time she shows her license.” Defendants deny that Clark’s license designates her “gender” or that the “wrong gender on her driver license increases that risk [of violence].” Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 89 of the complaint and accordingly these allegations are denied.

90. Defendants admit that plaintiff Jane Doe has filed a Motion to Proceed Under a Pseudonym. Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 90 of the complaint and accordingly these allegations are denied.

91. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 91 of the complaint and accordingly these allegations are denied.

92. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 92 of the complaint and accordingly these allegations are denied.

93. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 93 of the complaint and accordingly these allegations are denied.

94. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 94 of the complaint and accordingly these allegations are denied.

95. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 95 of the complaint and accordingly these allegations are denied.

96. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 96 of the complaint and accordingly these allegations are denied.

97. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 97 of the complaint and accordingly these allegations are denied.

98. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 98 of the complaint and accordingly these allegations are denied.

99. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 99 of the complaint and accordingly these allegations are denied.

100. Defendants deny that plaintiff Jane Doe's Alabama driver license lists her "gender." Defendants lack knowledge or information sufficient to form a belief about the remaining allegations in paragraph 100 of the complaint and accordingly these allegations are denied.

101. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 101 of the complaint and accordingly these allegations are denied.

102. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 102 of the complaint and accordingly these allegations are denied.

103. Defendants deny that plaintiff Jane Doe's driver license designates her "gender" or that the sex designation on her license as such increases her risk of discrimination or violence. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 103 of the complaint and accordingly these allegations are denied.

CLAIMS FOR RELIEF UNDER 42 U.S.C. § 1983

COUNT I

104. Defendants reincorporate their responses to paragraphs 1-103.

105. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 105 are denied.

106. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 106 are denied.

107. This paragraph does not require a response as it is a statement of law. Defendants further state that the existence and scope of the right alleged is far from settled. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 107 are denied.

108. The allegations of paragraph 108 of the complaint are denied.

109. The allegations of paragraph 109 of the complaint are denied.

110. The allegations of paragraph 110 of the complaint are denied.

COUNT II

111. Defendants reincorporate their responses to paragraphs 1-110.

112. This paragraph does not require a response as it is a statement of law. Defendants further state that the scope of the right alleged is far from settled. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 112 are denied.

113. This paragraph does not require a response as it is a statement of law. Defendants further state that the scope of the right alleged is far from settled. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 113 are denied.

114. The allegations of paragraph 114 of the complaint are denied.

115. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 115 of the complaint and accordingly these allegations are denied.

116. Defendants deny that Policy Order 63 forces plaintiff Corbitt to have a surgical procedure she does not wish to have. Defendants lack knowledge or information sufficient to form

a belief about the allegations in paragraph 116 of the complaint and accordingly these allegations are denied.

117. Defendants deny that the surgical procedure plaintiff Clark's doctor confirmed she had received satisfies the requirements of Policy Order 63 to allow a change in the sex designation on her license. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 117 of the complaint and accordingly these allegations are denied.

118. Defendants lack knowledge or information sufficient to form a belief about the allegations in paragraph 118 of the complaint and accordingly these allegations are denied.

119. The allegations of paragraph 119 of the complaint are denied.

120. The allegations of paragraph 120 of the complaint are denied.

COUNT III

121. Defendants reincorporate their responses to paragraphs 1-120.

122. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 122 are denied.

123. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 123 are denied.

124. The allegations of paragraph 124 of the complaint are denied.

125. The allegations of paragraph 125 of the complaint are denied.

126. The allegations of paragraph 126 of the complaint are denied.

127. The allegations of paragraph 127 of the complaint are denied.

COUNT IV

128. Defendants reincorporate their responses to paragraphs 1-127.

129. This paragraph does not require a response as it is a statement of law. To the extent this paragraph alleges defendants are liable for any alleged injury, the allegations of paragraph 129 are denied.

130. The allegations of paragraph 130 of the complaint are denied.

131. The allegations of paragraph 131 of the complaint are denied.

132. The allegations of paragraph 132 of the complaint are denied.

133. The allegations of paragraph 133 of the complaint are denied.

134. The allegations of paragraph 134 of the complaint are denied.

135. The allegations of paragraph 135 of the complaint are denied.

136. The allegations of paragraph 136 of the complaint are denied.

RELIEF REQUESTED

Defendants deny that they are liable to plaintiffs. Defendants deny that plaintiffs are entitled to the relief requested.

AFFIRMATIVE DEFENSES

1. Defendants deny any allegation in plaintiffs' complaint that is not expressly admitted above.

2. Plaintiffs fail to state a claim upon which relief can be granted.

3. Some or all of plaintiffs lack standing.

4. Defendants assert that, to the extent that plaintiffs are attempting to assert any claim arising out of any act or omission that took place before February 6, 2016, such a claim is barred by the statute of limitations.

5. Defendants assert that some or all of plaintiffs' claims are barred by laches.

Defendants assert that discovery is ongoing and they reserve the right to seek to add additional affirmative defense.

Respectfully submitted,

Steve Marshall
Attorney General

By:

/s Brad A. Chynoweth
Brad A. Chynoweth (ASB-0030-S63K)
Winfield J. Sinclair (ASB-1750-S81W)
Assistant Attorneys General

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Counsel for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on August 8, 2018, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to the following:

Brock Boone
Randall C. Marshall
ACLU OF ALABAMA
P.O. Box 6179
Montgomery, AL 36106-0179
(334) 265-2754
bboone@aclualabama.org
rmarshall@aclualabama.org

Rose Saxe
Gabriel Arkles
ACLU LGBT & HIV Project/ACLU
Foundation
125 Broad St., 18th Floor
New York, NY 10004
(212) 549-2605
rsaxe@aclu.org
garkles@aclu.org
Admitted Pro Hac Vice

/s Brad A. Chynoweth
Counsel for Defendants

DOC. 48-1

Exhibit 1

Deposition of Destiny Clark

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and Jane Doe v.
Hal Taylor, etc., et al.*

*Destiny Clark
November 8, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
www.BakerRealtime.com*

Original File 11-8-18 Destiny Clark.txt

Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
 2 FOR THE MIDDLE DISTRICT OF ALABAMA
 3 NORTHERN DIVISION
 4
 5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
 6
 7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
 8 Plaintiffs,
 9 v.
 10 HAL TAYLOR, in his official capacity as
 11 Secretary of the Alabama Law Enforcement
 12 Agency, et al.,
 13 Defendants.
 14
 15 DEPOSITION OF DESTINY CLARK
 16 November 8, 2018
 17
 18 Taken before Elaine Scott, CCR,
 19 Commissioner for the State of Alabama at
 20 Large, in the Law Offices of the Alabama
 21 Attorney General, 501 Washington Avenue,
 22 Montgomery, Alabama, on Thursday, November 8,
 23 2018, commencing at approximately 9:00 a.m.

Page 3

1 A P P E A R A N C E S (continued)
 2
 3 ALSO PRESENT:
 4 Meredith Barnes
 5
 6 COURT REPORTER:
 7 BAKER REALTIME WORLDWIDE REPORTING & VIDEO
 8 Elaine Scott
 9 250 Commerce Street
 10 Third Floor, Suite One
 11 Montgomery, Alabama 36104
 12
 13
 14
 15
 16
 17
 18
 19
 20
 21
 22
 23

Page 2

1 A P P E A R A N C E S
 2
 3 FOR THE PLAINTIFFS:
 4 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
 5 Gabriel Arkles
 6 125 Broad Street
 7 18th Floor
 8 New York, New York 10004
 9
 10 ALABAMA CIVIL LIBERTIES UNION FOUNDATION
 11 Brock Boone
 12 Randall C. Marshall
 13 P.O. Box 6179
 14 Montgomery, Alabama 36106
 15
 16 FOR THE DEFENDANTS:
 17 OFFICE OF THE ATTORNEY GENERAL, STATE OF
 18 ALABAMA
 19 Brad A. Chynoweth
 20 501 Washington Avenue
 21 Montgomery, Alabama 36130
 22
 23

Page 4

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 5 BY MR. ARKLES 78
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Page 5

1 S T I P U L A T I O N S
2 It is hereby stipulated and agreed by
3 and between counsel representing the parties
4 that the deposition of DESTINY CLARK is taken
5 pursuant to stipulation and agreement; that
6 all formalities with respect to procedural
7 requirements are waived; that said deposition
8 may be taken before Elaine Scott, Certified
9 Court Reporter and Commissioner for the State
10 of Alabama at Large, without the formality of
11 a commission; that objections to questions
12 other than objections as to the form of the
13 questions need not be made at this time but
14 may be reserved for a ruling at such time as
15 the deposition may be offered in evidence or
16 used for any other purpose as provided for by
17 the Alabama Rules of Civil Procedure.
18 It is further stipulated and agreed
19 by and between counsel representing the
20 parties that the filing of the deposition may
21 be introduced at the trial of this case or
22 used in any manner by either party hereto
23 provided for by the Statute.

Page 7

1 Alabama. I represent those officials in this
2 lawsuit.
3 I'm going to be asking you some
4 questions this morning, and I just want to go
5 over some general ground rules with you.
6 First of all, have you ever had a deposition
7 taken?
8 A. I have not.
9 Q. I'm going to ask you some
10 questions, and you will need to give a verbal
11 response, yes or no, so that the court
12 reporter can take down your testimony. If I
13 ask you a question and you don't understand,
14 please feel free to tell me that you don't
15 understand. Otherwise, I will assume that you
16 understood my question.
17 If you need a break at any time,
18 just let me know. But if I have asked you a
19 question, I would ask that you answer the
20 question before we take a break.
21 A. Sure.
22 Q. And with that, we'll proceed. Can
23 you state your name?

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1 It is further stipulated and agreed
2 by and between the parties hereto and the
3 witness that the signature of the witness to
4 this deposition is NOT hereby waived.
5
6 DESTINY CLARK,
7 The witness, having first been duly
8 sworn or affirmed to speak the truth, the
9 whole truth and nothing but the truth,
10 testified as follows:
11
12 THE COURT REPORTER: Usual
13 stipulations?
14 (Affirmed by counsel.)
15
16 EXAMINATION
17 BY MR. CHYNOWETH:
18 Q. Good morning. My name is Brad
19 Chynoweth. I'm an attorney with the Alabama
20 Attorney General's Office. I'm here to take
21 your deposition this morning in the matter of
22 Corbitt v. Taylor, a lawsuit that was filed
23 against certain officials at the State of

Page 8

1 A. Destiny Clark.
2 Q. When were you born?
3 A. [REDACTED], 1984.
4 Q. And that would make you how old?
5 A. Thirty-four. But a lady never
6 tells her age.
7 Q. Well -- I'm going to submit
8 Defendant's Exhibit 1.
9 (Defendant's Exhibit Number 1 was
10 marked for identification. A copy
11 is attached.)
12 Q. Is this an accurate copy of your
13 birth certificate?
14 A. Yes, it is.
15 Q. And what is the name on the birth
16 certificate?
17 A. The name on the birth certificate
18 is my given name at birth. It's [REDACTED].
19 [REDACTED].
20 Q. And what is the sex on the birth
21 certificate?
22 A. The sex I was assigned at birth is
23 male.

Page 9

1 Q. So where did you grow up?
 2 A. I grew up in Odenville, Alabama.
 3 Q. That's in St. Clair County?
 4 A. It is.
 5 Q. Did you go to high school there?
 6 A. I did.
 7 Q. Where did you go to high school?
 8 A. St. Clair County High School.
 9 Q. What did you do after you graduated
 10 high school?
 11 A. I volunteered with a fire
 12 department and so I worked with an ambulance
 13 and the sheriff's office for a little bit.
 14 And then I moved to Birmingham.
 15 Q. Approximately when did you move to
 16 Birmingham?
 17 A. Oh, goodness. I graduated in -- so
 18 '04, late '04.
 19 Q. And what did you in Birmingham
 20 around 2004?
 21 A. I had a list of jobs from
 22 servers -- mainly food industry.
 23 Q. And what did you do after that?

Page 10

1 A. Can you explain? What do you mean
 2 what did I do after that?
 3 Q. How long were you in Birmingham
 4 beginning in 2004?
 5 A. Goodness. I was there for maybe
 6 five years.
 7 Q. And where did you go then from
 8 approximately 2009 when you left Birmingham?
 9 A. North Carolina.
 10 Q. And where did you move to in North
 11 Carolina?
 12 A. Asheville or Boone.
 13 Q. Do you recall when that was?
 14 A. It was eight years ago, eight, nine
 15 years ago.
 16 Q. So around 2010?
 17 A. Yeah, somewhere in that area.
 18 Q. And what did you do in Asheville,
 19 North Carolina?
 20 A. I was in the food industry again.
 21 Q. And how long were you in Asheville,
 22 North Carolina?
 23 A. Less than a year.

Page 11

1 Q. And where did you move to?
 2 A. I moved back home, back to
 3 St. Clair County.
 4 Q. So you moved to St. Clair County in
 5 approximately 2011?
 6 A. Sounds right, yes.
 7 Q. And when did you move to the
 8 address that is on your current driver's
 9 license?
 10 A. That was five years ago. We're
 11 going into our sixth year at our -- at the
 12 current house.
 13 Q. What did you do in 2011 when you
 14 returned to St. Clair County?
 15 A. So I immediately started working
 16 for Cracker Barrel Old Country Store.
 17 Q. Okay. And how long did you work at
 18 that job?
 19 A. I'm currently still employed there.
 20 Q. So you've worked continuously at a
 21 Cracker Barrel in St. Clair County from 2011
 22 to the present?
 23 A. Yes. I have two jobs currently.

Page 12

1 Q. What is your second job?
 2 A. I am a project recruiter and case
 3 manager for Birmingham AIDS Outreach as well.
 4 Q. You said project recruiter --
 5 A. Uh-huh.
 6 Q. -- and case manager?
 7 A. And a case manager.
 8 Q. For -- what was the organization?
 9 A. Birmingham AIDS Outreach.
 10 Q. Is that paid or volunteered?
 11 A. It is paid.
 12 Q. How many times a week do you work
 13 for that organization?
 14 A. I work there five days a week,
 15 full-time, forty hours.
 16 Q. So your position at Cracker Barrel
 17 is a part-time position?
 18 A. It is part-time now.
 19 Q. And so you work primarily on
 20 weekends at Cracker Barrel?
 21 A. Weekends. Some days I go in after
 22 I leave my other job.
 23 Q. Do you have any plans on leaving

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1 the state any time in the future?
 2 A. I do not.
 3 Q. So your current intent is to remain
 4 in the state for the foreseeable future?
 5 A. This is my home, yes.
 6 Q. I'm going to introduce Defendant's
 7 Exhibit 2.
 8 (Defendant's Exhibit Number 2 was
 9 marked for identification. A copy
 10 is attached.)
 11 Q. Can you tell me what Exhibit 2 is?
 12 A. It is my state driver's license.
 13 Q. And what is the sex designation on
 14 the driver's license?
 15 A. It is the sex that I was assigned
 16 at birth, male.
 17 Q. And just for purposes of this
 18 deposition, when I use the word sex
 19 designation I'm just referring to the field on
 20 your driver's license that says sex and
 21 whether it says M or F. That's what I mean by
 22 sex designation. Is that fair?
 23 A. That's fair.

Page 14

1 Q. I'm going to introduce Defendant's
 2 Exhibit 3.
 3 (Defendant's Exhibit Number 3 was
 4 marked for identification. A copy
 5 is attached.)
 6 Q. Can you tell me what this document
 7 is?
 8 A. This is the order from Judge Mike
 9 Bowling when I legally changed my name.
 10 Q. And when is the date of this
 11 document?
 12 A. April 17th, 2015.
 13 Q. What is your current gender
 14 identity?
 15 A. I am a female.
 16 Q. When did you first become aware
 17 that you were a female?
 18 A. I have known from an early age that
 19 I've been female. I think maybe five is when
 20 I really realized I was female.
 21 Q. Is there an age where one can say
 22 that your awareness of your identity was
 23 complete?

Page 15

1 A. Can you -- what do you mean by your
 2 question?
 3 Q. Thank you for asking that. When
 4 were you first fully aware that you were
 5 female?
 6 A. Safely I would say I was fully
 7 aware that I was not like my brother and my
 8 cousins when I was about six. I was never the
 9 type to go and do boy things. I would stay
 10 inside with my grandmother and cook, make
 11 quilts. When we did play, we would play super
 12 heroes. I would always be the female
 13 character. My favorite character was Zena.
 14 So I would pretend to be Zena. So at an early
 15 age. I would safely say about six.
 16 Q. Do you identify yourself as
 17 transgender?
 18 A. I identify myself as a transgender
 19 female. However, I am a female.
 20 Q. Can you explain, in your own words,
 21 what it means when you say you are a
 22 transgender female?
 23 A. So in -- what I am, my gender

Page 16

1 identity, is a female, a trans female, meaning
 2 that I was assigned male at birth, but I have
 3 since transitioned to female.
 4 Q. Can you explain the significance of
 5 legally changing your name in that process?
 6 A. The significance, I present as
 7 female. People in my everyday life respect me
 8 as a female. Strangers look at me, they see
 9 female. [REDACTED] is not a male name -- or is not
 10 a female name, so I wanted a name that matched
 11 who I was. And so -- and I also still wanted
 12 to honor my mom and my dad, so that is where I
 13 left my middle name and my last name. But
 14 Destiny is the name that I chose.
 15 Q. When did you first obtain an
 16 Alabama driver's license?
 17 A. Oh, goodness. When I was sixteen.
 18 It's been a few years ago.
 19 Q. So when you were sixteen. And how
 20 old were you when this name change was
 21 completed?
 22 A. That was in 2015. Thirty -- I
 23 just -- twenty-nine, thirty.

Page 17

1 Q. When you first obtained your
2 driver's license at sixteen, what was the sex
3 designation on your driver's license?
4 A. The sex that I was assigned at
5 birth was male.
6 Q. Did you identify with the sex on
7 your license at that time?
8 A. I presented as male at that time.
9 Q. Did you consider yourself to be a
10 male at that time?
11 A. I have never considered myself to
12 be a male. I have always considered myself to
13 be a female. However, at the time of my
14 sixteenth birthday when I obtained my driver's
15 license I had to identify as male.
16 Q. What do you mean when you say you
17 had to identify as male?
18 A. My parents and family would not
19 accept me transitioning.
20 Q. I see. When did you move out from
21 living with your parents?
22 A. When I was eighteen years old.
23 Q. Was there a time when you were able

Page 19

1 A. Yes.
2 Q. And I believe you said that the
3 first stage was identifying as a gay male?
4 A. Yes. At first I identified as a
5 gay male.
6 Q. And can you recall approximately
7 what age you were when you reached that first
8 stage?
9 A. Eighteen. That was right after I
10 moved out of my parents' house.
11 Q. And what would have been the next
12 stage after that?
13 A. The next stage as far as when did I
14 publicly or --
15 Q. I think the next stage -- in
16 whatever order. The next stage in your
17 awareness as you said that -- as I understand
18 it you said it's a process.
19 A. Uh-huh.
20 Q. And I'm just asking you
21 chronologically to take me through this
22 process.
23 A. Sure. So, like I said, I've always

Page 18

1 to establish your identity independently as
2 fully female?
3 A. So in a transgender person's life
4 they have many stages of coming out. I
5 originally came out as gay to hide the stigma
6 that was related to transpeople. Transpeople
7 have never been openly accepted in the world,
8 and this is Alabama. So I originally came out
9 as male. I started to secretly take hormones
10 and dress privately as female -- in my own
11 home as female. Several of my close friends
12 knew, but outwardly I still presented as a
13 male.
14 Q. And you referred to stages of
15 coming out.
16 A. Uh-huh.
17 Q. Can you just take me through the
18 stages of your becoming or recognizing
19 yourself as female?
20 A. Can you elaborate on your
21 question?
22 Q. So you said that there were certain
23 stages.

Page 20

1 known I was female. I did not know another
2 transgender individual until I moved to
3 Birmingham, and then I could actually put
4 something on there. I was about twenty-one
5 when I met another trans individual and could
6 sit down and talk with her, and we connected.
7 It was just like the light bulb came on.
8 Q. And what do you mean by that when
9 you say the light bulb came on?
10 A. So I didn't feel like I was
11 mentally ill. I felt like I knew what I was.
12 I knew it felt like I knew who I was. It was
13 just getting to the point where I could be who
14 I am.
15 Q. Would it be accurate to say that
16 when you were twenty-one and you met this
17 individual and had these conversations you
18 became aware of what you had always been?
19 A. So are you asking if when I met
20 this person is that when I started to identify
21 or what is your question?
22 Q. When you understood what it meant
23 to be a transgendered individual.

Page 21

1 A. Yeah, I would safely say that was
2 when I --
3 Q. When you understood what it was to
4 be a transgender individual?
5 A. Yes.
6 Q. And that you were such an
7 individual?
8 A. Yes.
9 Q. And that you were a female?
10 A. Yes.
11 Q. So that was approximately when you
12 were twenty-one?
13 A. Uh-huh.
14 Q. And you had an Alabama driver's
15 license at that time?
16 A. I did.
17 Q. And the sex on that license was
18 male?
19 A. It was male, the --
20 Q. The sex -- I'm sorry. The sex
21 designation on your license at that time was
22 male?
23 A. Correct. It was my assigned birth.

Page 23

1 say -- when I started and stopped my
2 transition, there were times when I would
3 start hormones and then for one reason or the
4 other I would stop, whether it be financial
5 because medical insurance wasn't steadily
6 available or I just could not get the hormones
7 at the time for one reason or the other.
8 Q. And so this was around the time
9 when you were living in Birmingham in 2004?
10 A. Uh-huh.
11 Q. And you would dress as a woman in
12 drag shows?
13 A. Yes.
14 Q. Would you dress as a woman in your
15 everyday life?
16 A. Not at work, but if I was at home,
17 privately I identified as female.
18 Q. And what would be the next stage in
19 your transition then from this time period?
20 A. After I moved to North Carolina and
21 then back, I found my current doctor,
22 Dr. Weisberg. I started to see him for
23 hormone therapy. I then went to Dr. Keith

Page 22

1 Q. What was the next stage as you put
2 it after the occasion when you were twenty-one
3 and met this individual and had an
4 understanding of what it meant to be
5 transgender? Would there be another stage or
6 development after that?
7 A. For me personally -- each
8 individual has different stories. For me
9 personally, I started to transition and then
10 stopped for one reason or the other, whether
11 it be fear of rejection from society, fear of
12 rejection from family, fear of rejection from
13 friends. So I kept my trans identity very
14 private until I was about twenty-six, twenty-
15 seven.
16 Q. And when you say you started your
17 transition and stopped it, are you referring
18 to publicly identifying yourself as --
19 A. No. I have always dressed
20 privately and with friends -- one of the ways
21 that I made cash at that point in time was I
22 would perform at local drag shows. So I've
23 always been known as Destiny, but when I

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1 Abrams for my letter to start hormones. You
2 have to legally see a psychiatrist in the
3 State of Alabama before you are able to start
4 hormones. That's when I was diagnosed with
5 gender dysphoria and I legally started my
6 hormones, and I have been on hormones ever
7 since and I will be on hormones every day for
8 the rest of my life.
9 Q. Are you aware that your attorneys
10 have objected to you revealing any of these
11 medical conditions about yourself?
12 A. Can you -- what do you mean by
13 that?
14 Q. Are you aware that the state
15 requested the plaintiffs identify medical
16 conditions about themselves, such as whether
17 the plaintiffs had been diagnosed with gender
18 dysphoria and that your attorneys declined to
19 answer those questions?
20 A. Uh-huh.
21 MR. ARKLES: Can we take a break?
22 MR. CHYNOWETH: Yes.
23 (Break taken.)

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1 MR. ARKLES: So just to state, we
2 don't have any objections to the questions
3 that you've been asking today. They are
4 different than the questions in the
5 interrogatories and we feel -- we have no
6 objections to the questions you've been asking
7 thus far.
8 MR. CHYNOWETH: Okay.
9
10 BY MR. CHYNOWETH:
11 Q. I believe where we left off you
12 were discussing when you had returned to
13 St. Clair County from Asheville, North
14 Carolina; is that correct?
15 A. We were talking about my medical
16 history and Dr. Abrams and Dr. Weisberg.
17 Q. I'm going to ask you some questions
18 and your attorneys might make an objection.
19 Can you state whether you have been diagnosed
20 with gender dysphoria disorder?
21 A. From Dr. Keith Abrams.
22 Q. When was that?
23 A. Oh, goodness. I do not recall the

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1 exact -- it was right when I began legally my
2 legal/medical transition.
3 Q. That would have been sometime after
4 2010 or 2011 when you returned to the state?
5 A. I think so, yes, correct. But,
6 again, I don't know the exact date. So I --
7 if I -- yeah. I can get the information. I
8 just don't know it right off the top of my
9 head.
10 Q. Where is Dr. Abrams located?
11 A. He is located in Birmingham.
12 Q. When you returned -- did you obtain
13 a North Carolina license when you were living
14 in North Carolina?
15 A. I did not have -- I kept my Alabama
16 state license.
17 Q. So you -- have you had an Alabama
18 driver's license continuously since the age of
19 sixteen?
20 A. Yes, I have.
21 Q. And at all times the sex
22 designation on that license was M?
23 A. Yes, it was.

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1 Q. When you were diagnosed with gender
2 dysphoria, what was the next stage in your
3 transition after that point?
4 A. To start hormones legally and
5 medically.
6 Q. And what was the next stage after
7 that?
8 A. So there's not a road map to be
9 transgender and to be trans and to
10 transition. My next stage was to change my
11 name legally.
12 Q. And so we know that occurred on
13 April 17th, 2015, correct?
14 A. Correct.
15 Q. Was your transition complete at
16 that time?
17 A. No, it was not.
18 Q. When was your transition complete?
19 A. So for my -- there are different --
20 transpeople transition differently, and
21 different transpeople are different. So my
22 transition was complete for me after I had
23 breast augmentation.

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1 Q. And when was that?
2 A. Three years ago.
3 Q. Can you identify as specifically as
4 possible when that was?
5 A. It was in March three years ago.
6 Q. Was that before you completed your
7 name change --
8 A. No.
9 Q. -- which was in April of 2015?
10 A. That was after.
11 Q. After you completed your name
12 change?
13 A. Right. I had my breasts done after
14 I was legally my true name.
15 Q. Would you say that was within a
16 matter of two or three months of having your
17 name changed?
18 A. No.
19 Q. But it was in 2015?
20 A. I honestly do not remember the
21 year. I want to say it was about three years
22 ago because I tell them happy birthday every
23 March. I know it's odd to tell your breasts

Page 29

1 happy birthday, but --

2 Q. When did you first begin publicly

3 dressing as a woman?

4 A. Twenty-six or so.

5 Q. And so that's when you were

6 living -- where were you living?

7 A. I had just moved back to Alabama

8 when I publicly started to -- excuse me --

9 when I publicly started to. It was after I

10 moved back.

11 Q. So when you returned to Alabama

12 around 2011, this is the time when you began

13 to see Dr. Weisberg and Dr. Abrams?

14 A. Correct.

15 Q. And it was around this time that

16 you begin publicly dressing as a woman?

17 A. Correct. Again, there are

18 different stages, so --

19 Q. Would it be -- I'm trying to tie

20 all this together, this conversation about

21 stages and transitioning. So would you say

22 that your physical transition was complete

23 with the breast augmentation?

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1 A. For myself my transition became

2 complete when I had my breasts done, correct.

3 Q. What about your mental transition

4 if it's different from the physical

5 transition?

6 A. There's not a mental transition.

7 I'm not crazy.

8 Q. I'm just trying to understand.

9 A. Okay.

10 Q. But you said that -- we can

11 understand gender to have a physical component

12 and a mental component. Is that -- do you

13 agree with that statement?

14 A. Can you elaborate that?

15 Q. Can gender have a mental and a

16 physical component?

17 A. It can in my opinion. In my

18 opinion it can.

19 Q. I'm asking you about you. I'm not

20 asking you about what other people might

21 believe.

22 A. Okay.

23 Q. So your understanding of your

Page 31

1 physical transition from male to female was

2 that that was completed with breast

3 augmentation?

4 A. That wasn't my understanding. That

5 was the choice I choose to make.

6 Q. So -- and turning to the mental

7 component of gender, would you agree that your

8 mental or psychological gender would depend on

9 the gender that you identified with?

10 A. So mentally -- and I have always

11 identified as female. I have always been

12 female mentally. There is nothing that

13 changed with that. However, outwardly

14 appearance and physical appearance then

15 changed when I -- as I could change who I am,

16 to start to transition.

17 Q. So I think I understand. So I --

18 you have always been mentally female?

19 A. Correct.

20 Q. There was a transition process of

21 physically conforming to your mental gender?

22 A. Correct.

23 Q. Have you ever had any other

Page 32

1 government identification document besides

2 your Alabama driver's license?

3 A. My Alabama driver's license, my

4 birth certificate, my Social Security card.

5 Q. But you have always been aware that

6 your Alabama license had M as the sex

7 designation on it?

8 A. Yes. It's never changed.

9 Q. Was there a time where it first

10 bothered you that your sex on your license was

11 M?

12 A. Yes, when I was sixteen when I got

13 the driver's license.

14 Q. It has bothered you ever since that

15 time?

16 A. Very much so.

17 Q. Can you state your understanding of

18 the state's policy for when you can change

19 your sex on a driver's license?

20 A. So the policy states, when I was

21 finally able to read the policy -- and I do

22 not know this word-by-word -- once a person

23 has gender-confirming surgery. It does not

Page 33

1 state what gender-confirming surgery you have
 2 to have, so --
 3 Q. Can you explain to me in your own
 4 words how your inability to change the sex on
 5 your driver's license has harmed you?
 6 A. Sure. I try not to show my ID at
 7 all. It's a pain in the butt to show my ID.
 8 People look at it differently. There was a
 9 time I was pulled over by a police officer as
 10 we were leaving for vacation. We left late at
 11 night so we can get there early in the
 12 morning. The demeanor of the officer changed
 13 when the officer realized that I identified as
 14 female but my driver's license says male.
 15 If we go out to a restaurant and I
 16 order drinks, I try to avoid showing my ID at
 17 all costs. So I try not to drink socially
 18 unless I know the bartender or the person
 19 knows me and knows that I'm a legal adult.
 20 This recent instance is this past
 21 Tuesday during voting. I presented as
 22 female. I am a female. The clerk at the
 23 polling place referred to me with male

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1 pronouns and called me a sir in front of fifty
 2 or so people.
 3 So it's very dangerous for a
 4 transperson to have that identification
 5 because of the way people treat you and the
 6 way -- the officer easily could have been
 7 worse than what he was. If someone would have
 8 heard the polling person call me sir and refer
 9 to me with male pronouns and they wanted to
 10 cause a ruckus outside of the polling place,
 11 it's a danger to myself.
 12 Q. I'm going to ask you some questions
 13 about some of the allegations in the
 14 complaint, and I'm going to give you a copy
 15 for your reference. I'm not going to put it
 16 in as an exhibit, if that's okay with you.
 17 MR. ARKLES: That's fine.
 18 A. What page are you starting from?
 19 Q. Can you turn to paragraph four?
 20 And I believe we just covered some of this,
 21 but do you see in paragraph four where it says
 22 Ms. Clark avoids lawful activities that could
 23 lead her to have to show her license?

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1 A. Uh-huh.
 2 Q. Can you tell me what that
 3 allegation is based on?
 4 A. Well, the -- it's not an
 5 allegation. It's those events that I just
 6 previously described to you: Being pulled
 7 over by a police officer; I don't show my ID
 8 at grocery stores to buy alcohol; I don't go
 9 to places where I would be required to show my
 10 ID; just this past week with voting. So those
 11 are some of the things.
 12 Q. So when you voted on Tuesday you
 13 used your Alabama driver's license as your
 14 photo ID?
 15 A. I do. It was this photo -- this
 16 driver's license right here.
 17 Q. And you're pointing to Defendant's
 18 Exhibit 2?
 19 A. My -- Exhibit Number 2.
 20 Q. Can you turn to page 15? Does it
 21 say in paragraph 77 that you have corrected
 22 your gender with the Social Security
 23 Administration?

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1 A. Yes, it does.
 2 Q. What did that process involve?
 3 A. The process involved I took the
 4 probate order from Judge Bowling to the Social
 5 Security office in Trussville. The nice lady
 6 behind the desk said I assume you would like
 7 me to change this from male to female, and I
 8 said yes, please. She changed it right then
 9 and there.
 10 Q. So the only thing that was required
 11 was the proof of your change of name?
 12 A. Correct.
 13 Q. Do you see paragraph 78 where it
 14 says Ms. Clark has tried to change the gender
 15 listed on her Alabama license multiple times?
 16 A. I do.
 17 Q. Do you recall how many times you
 18 have tried to change the gender on your
 19 license?
 20 A. Three. And then I stopped.
 21 Q. Can you tell me when you recall the
 22 first time was?
 23 A. The first time was shortly after I

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1 changed my name legally.
 2 Q. So that would have been in
 3 approximately April of 2015?
 4 A. Correct.
 5 Q. Where was that?
 6 A. That was in Pell City.
 7 Q. Can you tell me what happened when
 8 that happened?
 9 A. Sure. I went to the driver's
 10 license office, and they sent me downstairs to
 11 the state examiner. The state examiner then
 12 told me I had to contact the Montgomery
 13 office. I contacted the Montgomery office,
 14 and that was when I first spoke with
 15 Ms. Eastman. That was when she said it's a
 16 simple process. All I have to do is backspace
 17 the M and put an F and the next day you're
 18 ready to get your driver's license changed. I
 19 just need the documents from your doctor.
 20 That is when I sent all of the information I
 21 had, plus my letter from my doctor. And
 22 that's when it was denied the first time.
 23 Q. Can you tell me any other details

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1 you recall about your conversation with
 2 Ms. Eastman?
 3 A. It was very -- at first she was
 4 really friendly, and then when she saw the
 5 letter she was really, really hateful.
 6 Q. I am going to give you Defendant's
 7 Exhibit 4.
 8 (Defendant's Exhibit Number 4 was
 9 marked for identification. A copy
 10 is attached.)
 11 A. Sure.
 12 Q. And you'll notice at the bottom
 13 right that these documents are numbered P1 and
 14 P2.
 15 A. Okay.
 16 Q. And I would like to ask you about
 17 P2, which is dated the earliest of these two
 18 documents.
 19 A. Sure.
 20 Q. Can you tell me what this document
 21 is?
 22 A. This is a letter from my general
 23 practitioner, Dr. Weisberg, stating that I had

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1 transitioned medically with his -- with his
 2 consent.
 3 Q. Was this letter obtained as a
 4 result of your conversation with Ms. Eastman
 5 that first time you tried to change your sex
 6 on your license?
 7 A. No. This was -- I had this -- I'm
 8 not sure -- well, maybe. I'm not -- I can't
 9 be one hundred percent correct.
 10 Q. Sure. How -- so this first time
 11 you attempted to change your license, which to
 12 the best of your recollection was around April
 13 2015, how was that situation resolved? How
 14 did it end?
 15 A. It ended with me being very angry
 16 and very upset because of my treatment from
 17 Ms. Eastman, and I just left it alone for just
 18 a little bit until I get my breast
 19 augmentation.
 20 Q. So did you send medical
 21 documentation to Ms. Eastman at that time?
 22 A. I can't recall. I -- if I did
 23 anything, I'm not one hundred percent sure.

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1 Q. So it's possible you just had a
 2 telephone conversation about what was required
 3 to change your sex on your license at that
 4 time?
 5 A. Yeah, correct.
 6 Q. And it would be fair to say that
 7 this resulted in denial of your request to
 8 change your sex at that time?
 9 A. Yes, correct.
 10 Q. And was there another time in which
 11 you attempted to change the sex on your
 12 license?
 13 A. Sure. It was right after I got my
 14 breast augmentation and --
 15 Q. Okay. So that would have been --
 16 well, we haven't quite pinned that down, have
 17 we?
 18 A. Well, the date on this says 2017,
 19 but it was not in 2017. So my breast
 20 augmentation had to be in 2016. This letter
 21 was -- yeah, March 2nd, 2016, was the date of
 22 my breast augmentation.
 23 Q. So -- and you are referring to P1?

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1 A. Yes, P1. I apologize.
 2 Q. The letter in P1. So Dr. Bowling
 3 in that letter refers to a surgical procedure
 4 related to gender transformation on March 2nd,
 5 2016. Is that referring to breast
 6 augmentation surgery?
 7 A. That is correct.
 8 Q. Do you recall -- so you recall a
 9 second time in which you attempted to have
 10 your sex changed on your driver's license?
 11 A. Yes.
 12 Q. And P1 was submitted in connection
 13 with that second request?
 14 A. Correct.
 15 Q. Do you -- can you tell me the
 16 details of that process?
 17 A. So I sent this -- this to
 18 Ms. Eastman. I did not give her any further
 19 information other than this, and that is when
 20 she says, well, if you have it, we can do it.
 21 And I sent it to her and I did not hear
 22 anything from her. That was the second time I
 23 called. Two days later without hearing

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1 A. So, again, sexual reassignment, the
 2 full surgery is different for different
 3 individuals. For myself the full surgery
 4 was -- ended at my breast augmentation.
 5 Q. Do you understand what Ms. Eastman
 6 meant by full sex reassignment surgery?
 7 A. I can only assume she meant that
 8 she wanted me to have the full sexual
 9 reassignment surgery.
 10 Q. Which would be what?
 11 A. It would mean that I would have to
 12 go through a full sex change.
 13 Q. And do you understand what that
 14 process entails?
 15 A. I do.
 16 Q. So we've talked about two attempts
 17 to change your driver's license in which you
 18 had conversations with Ms. Eastman. Has there
 19 been any other attempt to change your license?
 20 A. There has not.
 21 Q. So can you tell me whether the
 22 allegations in paragraphs 79 through 85 refer
 23 to the first or the second of those

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1 anything from anyone from earlier I called and
 2 spoke with someone who was under Ms. Eastman.
 3 And then she said Ms. Eastman called the
 4 doctor's office without my permission to
 5 receive information about my medical care, and
 6 that was when Ms. Eastman then denied the
 7 change again.
 8 Q. Do you recall any discussions with
 9 Ms. Eastman about what kind of medical
 10 documentation would be sufficient to have your
 11 sex changed on your license?
 12 A. She said the full surgery. So the
 13 full surgery for me is breast augmentation.
 14 Q. What did you understand her to mean
 15 by full surgery?
 16 A. My understanding was that she
 17 wanted the full surgery. So for my full
 18 surgery, my full surgery was breast
 19 augmentation. The only thing I can assume
 20 that she was thinking was she wanted that I
 21 have the full sexual reassignment surgery.
 22 Q. And do you understand what full
 23 sexual reassignment surgery means?

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1 interactions?
 2 A. This would look like it would mean
 3 about the second interaction with her.
 4 Q. And just to summarize, so there was
 5 a first attempt to change the sex on your
 6 license in approximately April of 2015 around
 7 the time of your name change, correct?
 8 A. Correct.
 9 Q. And you recall having telephone
 10 conversations with Ms. Eastman as part of that
 11 process, correct?
 12 A. Correct.
 13 Q. And you don't recall whether you
 14 provided any medical documentation at that
 15 time?
 16 A. I want to say I did. I want to say
 17 I provided this same letter, P2 --
 18 Q. Okay.
 19 A. -- that I provided the second time
 20 verbatim because it was in my file.
 21 Dr. Weisberg just changed the date. So I want
 22 to say that it was the same letter that I sent
 23 her both times.

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1 Q. So there are two letters here, P1
2 and P2. Can you take me through the process
3 of -- one of these is dated January 15th,
4 2016; is that right?
5 A. Correct.
6 Q. The other is dated January 18th,
7 2017, a full year later, correct?
8 A. Correct.
9 Q. Can you explain to me the time line
10 for when you had these letters sent to ALEA?
11 A. Sure. So this one had -- I'm
12 sorry. P2 had to have been the first time
13 that I had contact with Ms. Eastman, but I
14 sent the same exact letter the second time,
15 and this time it was attached to P1, so --
16 Q. I see.
17 A. It's the same letter word-for-
18 word. Dr. Weisberg didn't change anything.
19 Q. So just to wrap this up, P2 was
20 sent in connection with your first request to
21 change your sex on your license?
22 A. Correct.
23 Q. And in connection with your second

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1 live in the same subdivision. We pulled out.
2 And I noticed a car behind me. It was late at
3 night. The officer waited until right before
4 his jurisdiction ended. Here's the parking
5 lot. Here's the sign that said his
6 jurisdiction ended in a different city. And
7 they pulled me over. And the demeanor of the
8 officer was really nice, where are you headed
9 to, just checking things, it's kind of out
10 late for somebody to be leaving, I just want
11 to be sure everything is okay, can I see your
12 driver's license. I said sure. I gave him my
13 driver's license. He came back. His demeanor
14 was completely changed. At one point in time
15 he told me to slow down, shouldn't be out this
16 late. I'm like okay. So the demeanor of the
17 officer quickly changed when he saw the
18 driver's license.
19 Q. And you believe that this was the
20 result of seeing the sex designation on your
21 driver's license?
22 A. I'm one hundred percent positive.
23 Odenville is a very small town and it's very

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1 attempt to change the sex on your license you
2 sent P1 as well as P2 again?
3 A. Correct.
4 Q. In paragraph 87 does the complaint
5 refer to a traffic stop by a police officer in
6 Odenville?
7 A. It does.
8 Q. Do you recall what year that was?
9 A. I do not. It was two or three
10 years ago. We were -- myself, my sister, my
11 niece, and my boyfriend were going down to see
12 my mother who lives in south Alabama.
13 Q. And were you required to show your
14 driver's license in connection with that
15 traffic stop?
16 A. I was. This is the traffic stop
17 that I previously told you about earlier.
18 Q. Correct. Can you just take me
19 through the details of that incident?
20 A. Sure. So we left late at night
21 because we wanted to drive all night to be
22 there all day to get on the beach. Pulled out
23 of the street we live on. My sister and I

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1 country, so I would definitely say that it was
2 because of the -- my driver's -- the sex
3 designation on my driver's license.
4 Q. Have you ever had other traffic
5 stops with Alabama law enforcement?
6 A. Several years ago.
7 Q. Do you recall where and when that
8 was?
9 A. It was in Odenville again, but it
10 was pretransition, so --
11 Q. Meaning -- when you say you were
12 pretransitioned at the time of that traffic
13 stop, what do you mean?
14 A. I had not physically identified as
15 female. I was still identified as male.
16 Q. Were you dressed as a man or woman
17 at the time of that traffic stop?
18 A. I identified as man at the time of
19 that stop.
20 Q. I asked how you were dressed.
21 A. I was -- had male clothing on.
22 Q. Have you ever on any other occasion
23 shown your Alabama driver's license to an

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1 Alabama law enforcement officer?
 2 A. No, because I try to do the right
 3 thing.
 4 Q. Have you ever showed your Alabama
 5 driver's license in connection with any
 6 Alabama court proceeding?
 7 A. No, I would safely say not.
 8 Q. Did you --
 9 A. Well, I mean --
 10 Q. In connection with your name
 11 change?
 12 A. With the name change, of course. I
 13 apologize. With name change that was when I
 14 showed my ID.
 15 Q. Have you ever gone to court in
 16 Alabama at any other time that you can recall
 17 and shown your Alabama license?
 18 A. No, I don't think I've ever had to
 19 go to court.
 20 Q. Can you explain in connection with
 21 this traffic stop that is discussed in the
 22 complaint how the officer's demeanor changed?
 23 A. Typically -- this is the south --

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1 men are much more politer to women than they
 2 are to regular men. He was very, very, very
 3 nice at first. His demeanor changed after he
 4 saw my ID. He treated me like I was less of a
 5 person.
 6 Q. Do you think he treated you the way
 7 that he would have treated another motorist
 8 had that motorist been male?
 9 A. That is kind of an odd question
 10 because that is only me thinking one thing. I
 11 would safely say he treated me differently
 12 because you're a male, you live in the south,
 13 you have southern manners. He went from
 14 having southern manners to being a complete
 15 and total douche bag after he saw my ID. So
 16 that's --
 17 Q. Did the officer issue you a traffic
 18 ticket?
 19 A. He did not.
 20 Q. So he let you go with a warning?
 21 A. Right. I mean, there was no law
 22 broken.
 23 Q. Why did he pull you over?

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1 A. It was late at night. We were
 2 leaving. He was just checking he says.
 3 Q. The officer didn't explain the
 4 basis for his traffic stop, for instance, you
 5 had a taillight out or you ran through a stop
 6 sign or anything like that?
 7 A. It was late at night and he saw a
 8 car leaving and he -- they do that often in
 9 Odenville, so it wasn't a shocker. Excuse me.
 10 I'm so sorry. It wasn't a shocker that he
 11 pulled me over.
 12 Q. Do you have a Facebook page?
 13 A. I do.
 14 Q. Is it a public Facebook page?
 15 A. My Facebook page is private.
 16 Q. And what does that mean?
 17 A. It means unless you are my friend
 18 you cannot see -- you can't see anything on my
 19 Facebook.
 20 Q. And what do you mean by unless
 21 someone is your friend on Facebook they cannot
 22 see anything on your Facebook page?
 23 A. So I have it so if you're not my

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1 friend you can't see what I post or anything.
 2 Q. If you post something on your time
 3 line on Facebook and someone is not friends
 4 with you on Facebook can the nonfriend see
 5 what is posted on your time line?
 6 A. No. I have my profile set to
 7 private.
 8 Q. Are you sure about that?
 9 A. It was.
 10 Q. To your knowledge, we are not
 11 friends on Facebook, are we?
 12 A. No, I don't -- this is the first
 13 time I've met you.
 14 Q. I'm going to submit Defendant's
 15 Exhibit 5.
 16 (Defendant's Exhibit Number 5 was
 17 marked for identification. A copy
 18 is attached.)
 19 A. Okay. So there are certain --
 20 Q. I'm sorry. Let me just -- what
 21 does Defendant's Exhibit 5 appear to be to
 22 you?
 23 A. Several -- it is my Facebook posts,

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1 but these are my Facebook posts relating to
 2 community events that I'm a participant of.
 3 MR. ARKLES: Brad, do you have a
 4 copy of that?
 5 MR. CHYNOWETH: I can get another
 6 copy at a break. This is the only copy I
 7 have.
 8 MR. ARKLES: Great.
 9 Q. Perhaps we can get -- clear up some
 10 confusion on this.
 11 A. So these posts that I'm looking at
 12 are posts that are typically only related to
 13 the organization I'm a part of that are made
 14 public.
 15 Q. So let me ask a simpler question.
 16 Do you maintain a Facebook page?
 17 A. I do.
 18 Q. Are you aware that in response to
 19 interrogatory -- are you aware in response to
 20 an interrogatory you identified this Facebook
 21 page as your Facebook page?
 22 A. Correct. I was requested and I
 23 gave it to you.

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1 Q. And are those documents posts that
 2 were made on that Facebook page?
 3 A. So these documents are correct,
 4 however these particular -- everything that
 5 I'm seeing here is Facebook -- my profile
 6 picture updated -- are pictures that I have
 7 made -- or posts that I have made public for
 8 one reason or the other.
 9 Q. So these are posts from your
 10 Facebook account that is the documents in
 11 Defendant's Exhibit 5?
 12 A. These are posts from my Facebook
 13 account.
 14 Q. And what I think I understand you
 15 to be saying is that some things that you post
 16 on your Facebook appear publicly and some
 17 things that you post appear privately to only
 18 your Facebook friends; is that accurate?
 19 A. I would safely say that's accurate,
 20 yes.
 21 Q. So what are the things that you
 22 post publicly on your Facebook that can be
 23 seen by people -- anyone who can view

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1 Facebook, not just your Facebook friends?
 2 A. So it only -- my Facebook is only
 3 supposed to be set up that I -- unless I make
 4 it public it's not public.
 5 Q. If I were to represent to you that
 6 Defendant's Exhibit 5 were downloaded by
 7 publicly accessing Facebook, would you have
 8 any reason to contradict that?
 9 A. I would think not. But, then
 10 again, I'm not one hundred percent sure
 11 because this has got stuff that should not
 12 have -- nobody should --
 13 Q. Is it your intent that the
 14 documents contained in Defendant's Exhibit 5
 15 be viewed by the public?
 16 A. I'm sorry. Can you re --
 17 Q. Do you intend for members of the
 18 public to be able to view the posts that are
 19 contained in Defendant's Exhibit 5?
 20 A. These posts are supposed to only be
 21 posts that my friends could see unless I've
 22 made them public.
 23 MR. ARKLES: I'm going to object.

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1 I don't think that it's -- I think you might
 2 want to specify which material. It's a large
 3 stack she's trying to look through.
 4 Q. I think --
 5 A. I mean, I'm not ashamed of anything
 6 I've posted. I don't think nothing -- nothing
 7 is out of line.
 8 Q. Do you understand the difference
 9 between a public Facebook profile and a
 10 private?
 11 A. I do. And it seems like I need to
 12 check my privacy settings.
 13 Q. So earlier I asked you whether you
 14 intended for these to be posted in a way
 15 that's viewable by the public. Is that your
 16 intent?
 17 A. Some of these posts were intended
 18 for public view. Some of these posts were
 19 supposed to be private.
 20 Q. Do you publicly discuss the fact
 21 that you are a transgender on your Facebook
 22 page?
 23 A. I'm a trans activist so I do post

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1 several things about trans, and those who know
 2 me know that I'm trans.
 3 Q. And so some of the things that you
 4 post that are in connection with your work as
 5 a trans activist are publicly viewable?
 6 A. It would seem so, yes.
 7 Q. And that would be part of the point
 8 of Facebook would be to publicize your
 9 activities as a trans activist?
 10 A. Yes. On that note can we take a
 11 break?
 12 Q. Absolutely.
 13 (Break taken.)
 14
 15 MR. ARKLES: So I'm not asking for
 16 a formal stipulation right now, but just to
 17 set my client's mind at ease, she's concerned
 18 about some of the information about pets or
 19 family weddings going into a record in our
 20 motion for summary judgment. Is that
 21 something that you anticipate being interested
 22 in doing at this stage?
 23 MR. CHYNOWETH: No. Excuse me. I

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1 don't mind stipulating that I will not submit
 2 those types of records.
 3 MR. ARKLES: Great.
 4 MR. CHYNOWETH: I think you
 5 understand where I'm going with this line of
 6 questioning.
 7 MR. ARKLES: You're interested in
 8 the posts that are related to transgender
 9 issues, right?
 10 MR. CHYNOWETH: Yes, and whether
 11 they're public or private. That's all I'm
 12 going at here. I'm not -- I don't care about
 13 social media that's not in your name. I don't
 14 care about private communications. I think
 15 you understand where I'm going with this line
 16 of questioning. So with that being said, I
 17 think we can clear the Facebook issue up
 18 pretty quickly here.
 19 MR. ARKLES: Thank you.
 20
 21 BY MR. CHYNOWETH:
 22 Q. Are there some things that you post
 23 on your Facebook page that are publicly

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1 viewable?
 2 A. Yes, there are.
 3 Q. And those are things related to
 4 your activity as a transgender activist?
 5 A. Yes.
 6 Q. That's all. I'm done with that
 7 line of questioning.
 8 Can you explain what you mean by
 9 being a transgender activist?
 10 A. And I shouldn't say transgender
 11 activist because I'm not an activist just for
 12 transpeople. I'm an activist for the LGBTQ
 13 people and the LGBTQ community.
 14 Q. And does that involve your
 15 membership in certain organizations?
 16 A. It does.
 17 Q. And what are some of those
 18 organizations?
 19 A. I am currently the president of
 20 Central Alabama Pride, the largest and oldest
 21 LGBTQ Pride organization in Alabama. I'm also
 22 queen for the Magic City Sisters of Perpetual
 23 Indulgence.

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1 Q. I am going to give you Defendant's
 2 Exhibit 6.
 3 (Defendant's Exhibit Number 6 was
 4 marked for identification. A copy
 5 is attached.)
 6 Q. Can you identify what page this
 7 is?
 8 A. Sure. This is from my Pride web
 9 site centralalabamapride.org.
 10 Q. And it states here that you are the
 11 president of Central Alabama Pride; is that
 12 correct?
 13 A. Yes, it's correct.
 14 Q. What are some of the activities
 15 that you engage in as president of Central
 16 Alabama Pride?
 17 A. We host events throughout the year
 18 to raise money for Pride and other
 19 organizations throughout the south, other
 20 LGBTQ or HIV-AIDS related organizations within
 21 the south.
 22 Q. Does your activity as president of
 23 Central Alabama Pride involve you publicly

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1 disclosing your identify as a transgender
 2 individual?
 3 A. It does.
 4 Q. Would it be fair to say that you're
 5 open about being transgender?
 6 A. That would be perfectly fair to
 7 say, yes.
 8 Q. Does your family know that you're
 9 transgender?
 10 A. Yes.
 11 Q. Do your friends know?
 12 A. Yes.
 13 Q. Does your employer know?
 14 A. Yes.
 15 Q. Do your coworkers know?
 16 A. My coworkers at one job. At
 17 Cracker Barrel most of them do not know.
 18 Q. They just think -- they think
 19 you're a woman?
 20 A. Uh-huh.
 21 Q. And so when we say --
 22 A. They know I'm a woman --
 23 Q. Understood. What do you do with

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1 it's not very private. But it's not like I go
 2 around and yell, hey, I'm transgender like to
 3 people who don't know me.
 4 Q. But I believe you just described
 5 yourself as a transgender activist?
 6 A. Yes, that's correct. But I'm
 7 talking in everyday life. I just don't go up
 8 to somebody and say hi, Brad, my name is
 9 Destiny and I'm a tranny. Hi, my name is
 10 Destiny. It doesn't come up in everyday life.
 11 Q. Can you turn to paragraph 108 in
 12 the amended complaint?
 13 A. Okay.
 14 Q. Is it one of your claims in this
 15 lawsuit that your Alabama driver's license
 16 forces you to disclose your transgender
 17 status?
 18 A. To people who see my driver's
 19 license, yes.
 20 Q. And one of your claims is that
 21 being forced to disclose your transgender
 22 status subjects you to risk of violence?
 23 A. Uh-huh.

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1 the Sisters of Perpetual Indulgence?
 2 A. I'm just a queen.
 3 Q. And what does that entail?
 4 A. I'm just there to look pretty and
 5 be a representative for their organization.
 6 Q. And so the purpose of that is to --
 7 A. Bring awareness to HIV and AIDS.
 8 Q. And to encourage public acceptance
 9 of, among other things, transgender
 10 individuals?
 11 A. It does, yes. But the purpose of
 12 the Magic City Sisters is to raise money for
 13 HIV and AIDS awareness.
 14 Q. That's the primary purpose?
 15 A. That is the purpose, yes.
 16 Q. And I guess we could say that the
 17 means of achieving that purpose would be
 18 through public gatherings?
 19 A. It does, uh-huh.
 20 Q. Do you consider your transgender
 21 status to be a private thing?
 22 A. If you do not know me, then yes, it
 23 is private. However, if you know me, then

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1 Q. Can you answer yes or no for the
 2 court reporter?
 3 A. Oh, yes. Sorry. Yes. I'm so
 4 sorry.
 5 Q. But isn't it true that you just
 6 told me you are very public about your
 7 transgender status?
 8 A. If -- yes.
 9 Q. Isn't it true that you're
 10 voluntarily subjecting yourself to that same
 11 risk of violence through publicly disclosing
 12 your status as transgender?
 13 A. There's a risk of violence walking
 14 down the street every day. There was a
 15 shooting last night in California. So I don't
 16 think that --
 17 Q. Well, my question was don't you
 18 voluntarily accept the risk to you based on
 19 your transgender status when you publicly
 20 disclose your status as transgender?
 21 A. Yes.
 22 Q. Has anyone with the State of
 23 Alabama ever forced you to have medical

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1 treatment you don't want?
2 A. Can you elaborate?
3 Q. You have held an Alabama driver's
4 license continuously since you were sixteen,
5 correct?
6 A. Correct.
7 Q. Have you ever been required to
8 undergo medical treatment you did not want in
9 order to have an Alabama driver's license?
10 A. No.
11 Q. How do you typically carry your
12 driver's license with you?
13 A. It's in my pocketbook in my purse.
14 Q. Do you typically publicly wave your
15 driver's license about?
16 A. No. I purposely try not to ever
17 bring out my driver's license.
18 Q. So you attempt to limit the
19 disclosure of your driver's license?
20 A. Yes.
21 Q. Have you ever attempted to obtain
22 any other form of government identification?
23 A. The only thing -- the only other

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1 (Defendant's Exhibit Number 7 was
2 marked for identification. A copy
3 is attached.)
4 Q. If I were to represent to you that
5 this is the United States passport
6 application, would you have any reason to deny
7 that?
8 A. I would have no reason.
9 Q. Can you look at the top of the
10 first page where -- do you see where it says
11 what to submit with this form?
12 A. I do.
13 Q. And it says, number one, proof of
14 U.S. citizenship. Does it say that?
15 A. It does.
16 Q. And does it say, number two, proof
17 of identity?
18 A. It does.
19 Q. Can you turn to the second page of
20 this document?
21 A. (Witness complies.)
22 Q. Does it say at the very top of this
23 document proof of U.S. citizenship?

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1 government identification that I've tried to
2 obtain is my Social Security card and birth
3 certificate and driver's license.
4 Q. Are you aware that you can obtain a
5 passport that would designate you as female?
6 A. No, I was not aware.
7 Q. Are you aware of the identity of
8 the other two plaintiffs in this lawsuit?
9 A. I know them, yes.
10 Q. And I'm not going to ask you about
11 gender. Do you know Plaintiff Darcy Corbitt?
12 A. I do.
13 Q. Are you aware that Darcy Corbitt
14 has a United States passport that designates
15 her as a female?
16 A. I don't know Darcy personally --
17 like I don't know her --
18 Q. You know that she is a plaintiff in
19 this lawsuit, but you don't know her
20 personally?
21 A. Right. We --
22 Q. I am going to hand you Defendant's
23 Exhibit 7.

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1 A. Yes.
2 Q. Do you see where it says that you
3 can prove your U.S. citizenship by a certified
4 birth certificate?
5 A. I do.
6 Q. And do you see below that a box
7 with proof of identity above it?
8 A. Okay.
9 Q. Do you see where in the first
10 paragraph of that box it says you can prove
11 your identity by a driver's license?
12 A. I do.
13 Q. So if you were to apply for a U.S.
14 passport, could you prove your citizenship
15 with the birth certificate and your identity
16 with your Alabama driver's license?
17 A. Yes.
18 Q. I'm going to hand you Defendant's
19 Exhibit 8.
20 (Defendant's Exhibit Number 8 was
21 marked for identification. A copy
22 is attached.)
23 Q. If I were to represent to you that

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1 this is a list of how much it costs to get a
 2 U.S. passport, would you have any reason to
 3 deny that?
 4 A. I would not.
 5 Q. Do you see at the top where it
 6 discusses adult applicants sixteen years or
 7 older?
 8 A. Okay.
 9 Q. And if you were to apply for a U.S.
 10 passport, you would be an adult applicant,
 11 correct?
 12 A. Correct.
 13 Q. And do you see where it says that
 14 the application fee for a first time adult
 15 passport book is one hundred and ten dollars?
 16 A. I do.
 17 Q. And that the execution fee is
 18 thirty-five dollars?
 19 A. I do.
 20 Q. Would that mean that in order to
 21 obtain a U.S. passport book it would cost one
 22 hundred and forty-five dollars?
 23 A. According to this paper, yes.

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1 Q. Do you understand that you could
 2 obtain a U.S. passport that would designate
 3 your sex as female?
 4 A. According to this? I've not ever
 5 known it to be, so this is a first time seeing
 6 this. I've never had the need for a passport.
 7 Q. Would you like to have a passport
 8 that designated your sex as female?
 9 A. I would like to have a driver's
 10 license that designate it. I mean, I have no
 11 plans to travel so I wouldn't see the need for
 12 a passport.
 13 Q. Well, my question was would you
 14 like to have a passport that said that your
 15 sex was female on it?
 16 A. I don't see a need for it because I
 17 have no plans to travel, and I don't leave the
 18 country.
 19 Q. Can you use a passport for things
 20 other than travel?
 21 A. Well, I assume you can. It is a
 22 United States document.
 23 Q. If you wanted to obtain a passport,

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1 Q. Could you afford to purchase a U.S.
 2 passport book for one hundred and forty-five
 3 dollars?
 4 A. It would take some maneuvering of
 5 bills and saving but, yes, I could probably
 6 obtain it.
 7 Q. And do you see below that where it
 8 says first time adult passport card?
 9 A. I do.
 10 Q. And it says application fee thirty
 11 dollars?
 12 A. I do.
 13 Q. And it says execution fee thirty-
 14 five dollars?
 15 A. I do.
 16 Q. And does that mean that you can
 17 purchase a passport card for sixty-five
 18 dollars?
 19 A. Correct.
 20 Q. If you wanted to obtain a passport
 21 card, could you afford the sixty-five dollar
 22 fee?
 23 A. Yes, I could.

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1 could you obtain a passport?
 2 A. If I wanted to, yes.
 3 Q. If you could obtain a passport with
 4 a female sex designation on it, is that
 5 something you would like to do?
 6 A. Sure.
 7 Q. And there's nothing preventing you
 8 from doing that, is there?
 9 A. I mean, I would have to read it
 10 further.
 11 Q. Based on the questions that I've
 12 asked you about these documents, which I
 13 understand I've just put in front of you for
 14 the first time, is there anything that would
 15 prevent you from getting a U.S. passport based
 16 on what we've covered from these document?
 17 A. It says you would have to have your
 18 driver's license so according to this, proof
 19 of identity, driver's license, my driver's
 20 license is marked as male, so they would still
 21 classify me as male.
 22 Q. So you're saying your understanding
 23 is that your federal passport has to have the

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1 same sex designation as your state driver's
2 license?
3 A. From my understanding of just the
4 short period of time that I've just had the
5 opportunity to read this, yes.
6 Q. Okay. Where on that document does
7 it say that your sex must be the same as your
8 Alabama driver's license?
9 A. Well, I've not read it further,
10 so --
11 Q. So that was just an assumption that
12 you made?
13 A. That was just an assumption.
14 Again, I just got these in front of me, so --
15 Q. If you had a passport or a passport
16 card that designated you as a female, could
17 you use that to establish your identity?
18 A. My identity is already established.
19 Q. Suppose you want to buy alcohol and
20 you were required to prove that you were
21 legally of age to purchase the alcohol, could
22 you use a passport to do that?
23 A. Yes.

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1 Q. Would you not avoid doing those
2 things if you could show a passport instead?
3 A. I can't answer that at this time
4 because there's trauma that's related to
5 having to show it. So I can't say that just
6 would -- it's going to be fixed with that
7 issue of having a passport.
8 Q. Did you say that one of the things
9 that you avoided doing in public was ordering
10 alcoholic beverages?
11 A. Yes, I did.
12 Q. Could you not use a U.S. passport
13 to establish a proof of age to purchase an
14 alcoholic beverage?
15 A. I could.
16 Q. So in many situations you have a
17 choice about what government identification
18 you can display, correct?
19 A. Correct.
20 Q. Earlier when I asked you about your
21 conversation with Ms. Eastman when you were
22 attempting to have the sex changed on your
23 driver's license, do you recall us talking

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1 Q. So you could choose to use a
2 passport instead of your Alabama license for
3 that activity?
4 A. Correct.
5 Q. If you had to prove that you were
6 eligible to work with a potential employer,
7 could you use your passport for that?
8 A. As long as it's a form of legal ID,
9 yes.
10 Q. If you had to present photo ID to
11 vote, could you present a passport for that?
12 A. That I'm not sure. I'm not sure of
13 how the passports and voting works, so I'm
14 unsure of that answer.
15 Q. Fair enough. If you had to
16 establish your residential address, could you
17 use a passport for that?
18 A. I would assume, yes.
19 Q. So I believe earlier you told me
20 that you avoided doing things in public that
21 would require you to show your Alabama
22 license?
23 A. Correct.

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1 about what kinds of reassignment procedures
2 would have been sufficient for you to get your
3 sex changed on your license?
4 A. Are you asking if you and I had
5 that conversation or --
6 Q. Yes. I'm just asking if you recall
7 those questions from earlier.
8 A. I do, yes.
9 Q. And I believe you said I have had
10 all of the sex reassignment procedures that I
11 required or something to that effect.
12 A. Gender-affirming procedures, yes.
13 Q. Could another transgender
14 individual answer the question differently as
15 to what reassignment procedures that person
16 required?
17 A. I'm sure they could. Each person
18 is different, just like you and I are
19 different. Everyone in this room is
20 different. So, yes, every trans -- another
21 transperson could answer it differently.
22 Q. Is it your claim that that person
23 should be allowed to change the sex on that

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1 person's license?
 2 A. Can you clarify?
 3 Q. Is it your claim that any
 4 transgender individual who claims that they
 5 have received whatever gender-confirming
 6 procedures they believe are sufficient should
 7 be able to change their license?
 8 A. Yes.
 9 Q. But what those procedures are would
 10 be different for different people, correct?
 11 A. Correct.
 12 Q. Would you be willing to sign a
 13 HIPAA release form to allow me to obtain
 14 medical records that have been referred to in
 15 this deposition?
 16 A. No. Other than what you already
 17 have, I think that's all that --
 18 MR. ARKLES: I would object to
 19 that. I don't think it's necessary to get
 20 past medical records.
 21 MR. CHYNOWETH: Okay. We're
 22 getting to the end here. Can you let me take
 23 a quick break to speak with Meredith and

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1 then --
 2 MR. ARKLES: Okay.
 3 (Break taken.)
 4
 5 MR. CHYNOWETH: I have no more
 6 questions for you at this time. Your lawyers
 7 might ask you some questions and I may have
 8 some follow-ups for you.
 9 THE WITNESS: Okay.
 10 EXAMINATION
 11 BY MR. ARKLES:
 12 Q. All right. I would like to ask
 13 some questions. So, first, how many times did
 14 you try to change the sex designation on your
 15 license?
 16 A. Three.
 17 Q. And could you briefly describe the
 18 first time?
 19 A. The first time was in Pell City.
 20 They told me no, I had to go to Montgomery.
 21 The second time was in -- well, contacting --
 22 I've never been down to Montgomery, but I
 23 was -- it was a phone call with Ms. Eastman.

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1 And then the third time was after the breast
 2 augmentation.
 3 Q. Okay. Thank you. And how many
 4 years have you worked in the food industry?
 5 A. Since I was eighteen. So it's been
 6 a good many years, thirteen plus.
 7 Q. And in the course of your work in
 8 the food industry, do you need to verify
 9 people's age before serving them alcohol?
 10 A. Yes.
 11 Q. And how many times has somebody
 12 presented a passport to you to verify their
 13 age in those years?
 14 A. I have never had anyone to present
 15 a passport for age verification.
 16 Q. If somebody did show you a passport
 17 to verify their age, how would you react to
 18 that?
 19 A. It would kind of shock me because
 20 it's never been done, but -- it would take me
 21 a little bit longer to find where the birth
 22 date is because I have never looked at the
 23 passport.

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1 Q. Thank you. And could you describe
 2 how you understand the risk to yourself when
 3 you post on Facebook about a transgender
 4 event?
 5 A. So the risk to myself on Facebook,
 6 there are keyboard warriors, and I can take
 7 keyboard warriors. Those don't necessarily
 8 mean that I'm going to be physically harmed.
 9 They can't come through the computer and punch
 10 me in the face.
 11 Q. Could you describe what you mean by
 12 keyboard --
 13 A. Keyboard warriors are those who
 14 post awful things about transpeople, trans
 15 violence, who -- I think one of my emails I've
 16 gotten is freak, I'm going to kill you, I'm
 17 going to hang you. Those are just some of the
 18 messages.
 19 Q. Okay. And how is that different
 20 from the risk that you anticipate when you
 21 share your license with somebody who is right
 22 in front of you?
 23 A. If I show them right in front of

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1 me, it's a great risk because they see it.
 2 We're feet from each other. The harm is right
 3 there.
 4 Q. What do you mean by right there?
 5 A. It's in the two feet vicinity
 6 from -- if someone wants to see that and wants
 7 to commit a violent crime, they can do so.
 8 Q. Okay. And what is the risk that
 9 you perceive to yourself when you are
 10 participating in -- well, I'm sorry. Withdraw
 11 that.
 12 When you serve as queen with the
 13 Sisters of Perpetual Indulgence what sort of
 14 events do you appear at?
 15 A. The only events that we've ever
 16 really appeared at that -- when I have been
 17 queen has been LGBTQ events to raise funds for
 18 HIV awareness.
 19 Q. Okay. And is it fair to say they
 20 are a lot of LGBTQ people at those events?
 21 A. It's predominantly LGBTQ people and
 22 their allies.
 23 Q. And so what's the risk that you

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1 perceive to yourself when you appear publicly
 2 at those events?
 3 A. At those events I don't -- I don't
 4 feel like I'm at harm because I do have enough
 5 people that if something were to happen I
 6 would be quickly defended.
 7 Q. And how is that different from the
 8 risk that you perceive when showing your
 9 driver's license to a stranger?
 10 A. A stranger, I don't know how
 11 they're going to react with that. There's
 12 always the risk of violence. So if they see
 13 that and they choose to be -- I'm here in the
 14 south -- there are really -- there's a lot of
 15 hate groups. So if one of them particularly
 16 wants -- is a hate -- part of that hate group
 17 and I don't know it and they ask for the ID
 18 it's very simple that they could commit
 19 violence right there, beat me up, shoot me, do
 20 something.
 21 MR. ARKLES: Thank you. Those are
 22 all of my questions. Do you have any follow-
 23 ups?

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1 MR. CHYNOWETH: I don't have any
 2 further questions. I believe we're done.
 3 MR. ARKLES: Thank you. I would
 4 like to revise my earlier agreement to the
 5 usual stipulations. We would like to reserve
 6 the right to review a copy of the transcript
 7 and make any corrections before it is
 8 finalized.
 9
 10 (The deposition of DESTINY CLARK,
 11 concluded on November 8, 2018, at
 12 11:00 a.m.)
 13
 14 FURTHER DEPONENT SAITH NOT
 15
 16
 17
 18
 19
 20
 21
 22
 23

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1 REPORTER'S CERTIFICATE
 2 STATE OF ALABAMA)
 3 JEFFERSON COUNTY)
 4 I, Elaine Scott, Licensed Court
 5 Reporter and Commissioner for the State of
 6 Alabama at Large, hereby certify that on
 7 November 8, 2018, I reported the deposition of
 8 DESTINY CLARK, who was first duly sworn or
 9 affirmed to speak the truth in the matter of
 10 the foregoing cause, and that pages 1 through
 11 84 contain a true and accurate transcription
 12 of the examination of said witness by counsel
 13 for the parties set out herein.
 14 I further certify that I am neither
 15 of kin nor of counsel to any of the parties to
 16 said cause nor in any manner interested in the
 17 results thereof.
 18
 19 ELAINE SCOTT, Court Reporter
 20 and Commissioner for the State
 21 of Alabama at Large,
 22 CCR License No. 354, Expires 9/30/19
 23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

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DOC. 48-2

Exhibit 2

Deposition of Darcy Corbitt

In The Matter Of:

*Darcy Corbitt, Destiny Clark, and Jane Doe v.
Hal Taylor, etc., et al.*

*Darcy Corbitt
November 21, 2018*

*Baker Realtime Worldwide Court Reporting & Video
250 Commerce Street
Third Floor, Suite One
Montgomery, Alabama 36104
www.BakerRealtime.com*

Original File 11-9-18 Darcy Corbitt.txt

Min-U-Script® with Word Index

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1 IN THE UNITED STATES DISTRICT COURT
2 FOR THE MIDDLE DISTRICT OF ALABAMA
3 NORTHERN DIVISION
4
5 CIVIL ACTION NO.: 2:18-CV-00091-MHT-GMB
6
7 DARCY CORBITT, DESTINY CLARK, and JANE DOE,
8 Plaintiffs,
9 v.
10 HAL TAYLOR, in his official capacity as
11 Secretary of the Alabama Law Enforcement
12 Agency, et al.
13 Defendants.
14
15 DEPOSITION OF DARCY CORBITT
16 November 9, 2018
17
18 Taken before Elaine Scott, CCR,
19 Commissioner for the State of Alabama at
20 Large, in the Law Offices of the Alabama
21 Attorney General, 501 Washington Avenue,
22 Montgomery, Alabama, on Thursday, November 9,
23 2018, commencing at approximately 8:57 a.m.

Page 3

1 A P P E A R A N C E S (continued)
2
3 ALSO PRESENT:
4 Meredith Barnes
5
6 COURT REPORTER:
7 BAKER REALTIME WORLDWIDE REPORTING & VIDEO
8 Elaine Scott
9 250 Commerce Street
10 Third Floor, Suite One
11 Montgomery, Alabama 36104
12
13
14
15
16
17
18
19
20
21
22
23

Page 2

1 A P P E A R A N C E S
2
3 FOR THE PLAINTIFFS:
4 AMERICAN CIVIL LIBERTIES UNION FOUNDATION
5 Gabriel Arkles
6 125 Broad Street
7 18th Floor
8 New York, New York 10004
9
10 ALABAMA CIVIL LIBERTIES UNION FOUNDATION
11 Brock Boone
12 Randall C. Marshall
13 P.O. Box 6179
14 Montgomery, Alabama 36106
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16 FOR THE DEFENDANTS:
17 OFFICE OF THE ATTORNEY GENERAL, STATE OF
18 ALABAMA
19 Brad A. Chynoweth
20 501 Washington Avenue
21 Montgomery, Alabama 36130
22
23

Page 4

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Page 5

1 S T I P U L A T I O N S
2 It is hereby stipulated and agreed by
3 and between counsel representing the parties
4 that the deposition of DARCY CORBITT is taken
5 pursuant to stipulation and agreement; that
6 all formalities with respect to procedural
7 requirements are waived; that said deposition
8 may be taken before Elaine Scott, Certified
9 Court Reporter and Commissioner for the State
10 of Alabama at Large, without the formality of
11 a commission; that objections to questions
12 other than objections as to the form of the
13 questions need not be made at this time but
14 may be reserved for a ruling at such time as
15 the deposition may be offered in evidence or
16 used for any other purpose as provided for by
17 the Alabama Rules of Civil Procedure.
18 It is further stipulated and agreed
19 by and between counsel representing the
20 parties that the filing of the deposition may
21 be introduced at the trial of this case or
22 used in any manner by either party hereto
23 provided for by the Statute.

Page 6

1 It is further stipulated and agreed
2 by and between the parties hereto and the
3 witness that the signature of the witness to
4 this deposition is NOT hereby waived.
5
6 DARCY CORBITT,
7 The witness, having first been duly
8 sworn or affirmed to speak the truth, the
9 whole truth and nothing but the truth,
10 testified as follows:
11
12 THE COURT REPORTER: Usual
13 stipulations?
14 (Affirmed by counsel.)
15
16 EXAMINATION
17 BY MR. CHYNOWETH:
18 Q. Good morning. My name is Brad
19 Chynoweth with the Attorney General's Office.
20 I'm here to ask you some questions in a
21 deposition about a lawsuit you've filed
22 against officials with the Alabama Law
23 Enforcement Agency that I represent.

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1 And at the beginning I would like
2 to just lay down a few ground rules so that
3 our deposition goes smoothly. Have you ever
4 given a deposition before?
5 A. I have not.
6 Q. Okay. I'm going to be asking you
7 questions, and because the court reporter is
8 taking down your testimony you will need to
9 respond verbally with a yes or no instead of
10 shaking or nodding your head.
11 A. I understand.
12 Q. If I ask a question that you don't
13 understand, please tell me that you don't
14 understand and I will try to ask it better.
15 A. Okay.
16 Q. If at any time you need to take a
17 break, just let me know. The only thing I
18 would ask is that if I've asked you a
19 question, please answer it before you take a
20 break.
21 A. Okay.
22 Q. Can you state your name for the
23 record?

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1 A. My name is Darcy Jeda Corbitt Hall.
2 Q. And when -- what's your birthday?
3 A. [REDACTED] 1992.
4 Q. Okay. And that makes you how old
5 now?
6 A. 26.
7 Q. Where were you born?
8 A. Baton Rouge, Louisiana.
9 (Defendant's Exhibit Number 9 was
10 marked for identification. A copy
11 is attached.)
12 Q. I'm presenting to you Defendant's
13 Exhibit 9. Can you state what this is?
14 A. This is my birth certificate.
15 Q. And what is the name on your birth
16 certificate?
17 A. [REDACTED].
18 Q. And what is the sex on this birth
19 certificate?
20 A. Male.
21 Q. So you were assigned male sex at
22 birth?
23 A. That is correct.

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1 Q. Where did you grow up?
2 A. I grew up primarily in Auburn,
3 Alabama.
4 Q. How old were you when you moved
5 from Louisiana to Auburn?
6 A. I was thirty days old when my
7 family moved to Gainesville, Georgia, where we
8 lived until I think 1993 or 1994 at which
9 point I moved to Auburn and resided there
10 until I was twenty-three years old, I
11 believe. 2015 was the date that I moved.
12 Q. Where did you go to high school in
13 Auburn?
14 A. Trinity Christian School in
15 Opelika.
16 Q. What year did you graduate Trinity
17 Christian High School?
18 A. 2010.
19 Q. And what did you do after you
20 graduated high school?
21 A. I enrolled at Faulkner University
22 here in Montgomery where I was a student until
23 March 21st, 2011.

Page 10

1 Q. What did you study at Faulkner?
2 A. Biblical studies.
3 Q. And what did you do after you --
4 did you -- did that result in a completed
5 degree?
6 A. It did not.
7 Q. What did you do after March 21st,
8 2011, when you were finished at Faulkner
9 University?
10 A. I moved back to Auburn, Alabama.
11 And I lived there and went to school at
12 Southern Union State Community College in
13 Opelika.
14 Q. So you started in fall of 2011 at
15 Southern Union?
16 A. Summer of 2011.
17 Q. Summer 2011. And how long did you
18 stay in Auburn at Southern Union?
19 A. I was at Southern Union for one
20 year.
21 Q. And what did you do after that?
22 A. I graduated in August 2012 from
23 Southern Union and enrolled at Auburn

Page 11

1 University where I continued my bachelor's
2 work.
3 Q. So you got an associate's degree at
4 Southern Union?
5 A. I did.
6 Q. And in August of 2012 you started
7 at Auburn University?
8 A. That is correct.
9 Q. What were you studying?
10 A. I was studying a double major in
11 English literature and psychology.
12 Q. How long did those studies
13 continue?
14 A. Until 2015.
15 Q. And did you complete your
16 bachelor's at that time?
17 A. I did.
18 Q. In spring of 2015?
19 A. May of 2015.
20 Q. And what did you do after you
21 graduated in May of 2015?
22 A. I moved to Fargo, North Dakota,
23 where I started doctoral work in clinical

Page 12

1 psychology.
2 Q. And that would have been in the
3 fall of 2015?
4 A. That is correct.
5 Q. Where were you in school?
6 A. North Dakota State University.
7 Q. How long -- I'm sorry. What were
8 you studying there?
9 A. Clinical psychology.
10 Q. And was that a master's or a Ph.D.
11 program?
12 A. It was a nonterminal master's
13 transitioning to Ph.D.
14 Q. And how long did you study at North
15 Dakota State?
16 A. I studied until August 2017, I
17 believe.
18 Q. And you said that was a nonterminal
19 degree, so what was the completion of that
20 course of studies?
21 A. I did not complete those studies.
22 Q. And what did you do after August of
23 2017?

Page 13

1 A. My doctoral advisor got a job at
 2 Auburn and invited me to join her at Auburn to
 3 work as her project student there and to
 4 manage a grant-funded project that we had --
 5 would be starting in August. And so I
 6 accepted her offer and moved back to Auburn.
 7 Q. So you relocated to Auburn. Would
 8 that have been August or maybe a little later?
 9 A. It was August.
 10 Q. August of 2017. And were you
 11 enrolled in Auburn at that time or you were
 12 just working for this professor?
 13 A. I was enrolled at Auburn.
 14 Q. And what was your degree?
 15 A. My current degree is doctoral
 16 program in human development and family
 17 studies also known as developmental
 18 psychology.
 19 Q. And are you currently enrolled in
 20 pursuing the same degree at Auburn?
 21 A. I am.
 22 Q. Have you completed all of your
 23 course work?

Page 14

1 A. I have not.
 2 Q. How many semesters of course work
 3 do you have left?
 4 A. This will be my final semester of
 5 master's course work at which point I will
 6 transition to doctoral work.
 7 Q. And what will your doctoral work
 8 consist of?
 9 A. I will be taking some more classes
 10 mostly in statistical methodology and will
 11 work on a dissertation after I am successful
 12 at defending a qualifying exam.
 13 Q. How long do you anticipate it will
 14 take before you have completed the
 15 dissertation process?
 16 A. At this time I'm unable to provide
 17 an answer to that question.
 18 Q. One year?
 19 A. I am unable to provide an answer to
 20 that question at this time.
 21 Q. When you have completed your --
 22 what did you say that it was, your advanced
 23 statistical studies?

Page 15

1 A. Statistical methodology.
 2 Q. When will you be enrolled in that?
 3 A. I don't know.
 4 Q. When you have completed that course
 5 work would you be ABD at that point, all but
 6 dissertation?
 7 A. I assume so, yes.
 8 Q. When do you anticipate -- do you
 9 anticipate seeking employment as an academic?
 10 A. I do.
 11 Q. When do you anticipate that you
 12 will begin applying for jobs?
 13 A. I do not know at this time.
 14 Q. Do you anticipate that you will
 15 apply while you're ABD?
 16 A. No, I will not.
 17 Q. For people who want to get an
 18 academic position in developmental psychology,
 19 is it customary to apply for tenure tract
 20 positions when you're ABD?
 21 A. It is not.
 22 Q. When is it customary to go on the
 23 job market?

Page 16

1 A. When you are close to defending
 2 your dissertation.
 3 Q. So when you are ABD but
 4 substantially finished with your dissertation?
 5 A. Well, I can be ABD and still have
 6 three or four years left on the dissertation,
 7 so I can't really estimate when I will be
 8 looking for a job because at this time point I
 9 don't know how long that process will take.
 10 Q. When you've completed your Ph.D.
 11 and you're applying for academic jobs, is this
 12 something where you will be applying based on
 13 a research specialty?
 14 A. I will.
 15 Q. And is there a list of job openings
 16 that's created for that sort of job
 17 application?
 18 A. I assume so.
 19 Q. And it lists job openings based on
 20 the area of research?
 21 A. Not necessarily. You can apply to
 22 work at a university where people are doing
 23 similar work that you are. Sometimes you

Page 17

1 don't have that luxury. You apply where there
 2 is an open position.
 3 Q. And so when you have completed your
 4 Ph.D., do you anticipate applying to a variety
 5 of universities that have open positions?
 6 A. I do.
 7 Q. And those will be tailored somewhat
 8 to what your specialty is in developmental
 9 psychology?
 10 A. As far as I can.
 11 Q. And do you anticipate a significant
 12 number of those job openings being out of
 13 state?
 14 A. I'm unable to speculate about the
 15 nature of the academic job market in five or
 16 six years, but I can say that Auburn
 17 University is the third highest ranked program
 18 in the country and has the research interest
 19 that I am involved in.
 20 Q. But you would apply based on any
 21 acceptable position regardless of geographical
 22 location of the university?
 23 A. That is true.

Page 18

1 Q. But until the time that you
 2 complete your Ph.D. you do not anticipate
 3 leaving the state?
 4 A. I do not.
 5 Q. What are your areas of research
 6 that you are interested in in your graduate
 7 studies?
 8 A. Bullying and aggression.
 9 Q. If I am putting this together
 10 correctly, were you living in Alabama when you
 11 turned sixteen?
 12 A. I was.
 13 Q. Did you obtain an Alabama license
 14 at that time?
 15 A. I did.
 16 Q. What -- and I'm not good at math.
 17 What year would that have been?
 18 A. Either 2007 or 2008.
 19 Q. And your -- just for the sake of
 20 making sure we're speaking the same language,
 21 I'm going to refer to the sex on a driver's
 22 license that is M or F as a sex designation.
 23 Is that fair?

Page 19

1 A. That's fine.
 2 Q. Your sex designation on your
 3 license that you obtained when you were
 4 sixteen was M?
 5 A. That is correct.
 6 Q. And you possessed an Alabama
 7 driver's license from the time you were
 8 sixteen until when?
 9 A. Sometime in 2015 in the fall.
 10 Q. And that would have been when you
 11 moved to North Dakota?
 12 A. That is correct.
 13 Q. And you obtained a North Dakota
 14 driver's license at that time?
 15 A. I did.
 16 Q. And what was the sex designation on
 17 that driver's license?
 18 A. Male.
 19 Q. Did you ever have the sex on your
 20 North Dakota license changed?
 21 A. I did.
 22 Q. When was that?
 23 A. I'm not sure of the date. It was

Page 20

1 about a year after I moved to North Dakota.
 2 (Defendant's Exhibit Number 10 was
 3 marked for identification. A copy
 4 is attached.)
 5 Q. This is Defendant's Exhibit 11.
 6 A. Should be 10.
 7 Q. Did we skip 10?
 8 A. Yeah.
 9 (Brief pause.)
 10 Q. This is Defendant's Exhibit 10.
 11 Can you tell me what this document is?
 12 A. This is my North Dakota driver's
 13 license.
 14 Q. Do you see where it says issuance
 15 date November 2nd, 2016?
 16 A. Yes.
 17 Q. Would that be the time that you had
 18 your sex on your license changed?
 19 A. It must have been.
 20 Q. To the best of your knowledge?
 21 A. To the best of my knowledge. I
 22 don't know -- I don't remember. I did not
 23 make a note of it.

Page 21

1 Q. Do you have a United States
2 passport?
3 A. I do.
4 Q. When did you obtain that?
5 A. In January of 2017.
6 Q. And you were living in North Dakota
7 at that time?
8 A. I was.
9 Q. What is the sex designation on your
10 U.S. passport?
11 A. Female.
12 Q. And when you returned to Alabama in
13 August 2017, did you obtain an Auburn
14 University student ID?
15 A. I did.
16 (Defendant's Exhibit Number 11 was
17 marked for identification. A copy
18 is attached.)
19 Q. This is Defendant's Exhibit 11.
20 Can you tell me what that is?
21 A. This is my Auburn University ID.
22 Q. So do you currently still hold your
23 North Dakota driver's license that is Exhibit

Page 23

1 year that would have been?
2 A. I don't know the year. I believe I
3 was between the ages of three or four.
4 Q. And what is your current gender
5 identity?
6 A. I am a woman.
7 Q. Would it be fair to say that --
8 strike that. Do you identify yourself as a
9 transgender woman?
10 A. Yes.
11 Q. Can you explain what transgender
12 means to you?
13 A. It means that the way that I
14 understand my gender and my sex is different
15 than that which is listed on my birth
16 certificate.
17 Q. Would it be fair to say that the
18 process of you understanding yourself to be a
19 transgender woman was a transition or involved
20 a transition?
21 A. I would say that it is fair that
22 all human beings undergo some form of
23 transition in their life where they understand

Page 22

1 10?
2 A. I do hold that.
3 Q. You still hold a current valid
4 United States passport?
5 A. I do.
6 Q. And is Exhibit 11 a student ID that
7 you currently hold?
8 A. I do not hold this specific ID any
9 longer. I have a new version of it, same
10 information, different picture, issued a month
11 ago.
12 Q. So your 2018 Auburn University
13 student ID is substantially the same in that
14 it has your name and photograph and it
15 identifies you as a student?
16 A. That is correct.
17 Q. Can you tell me when you first
18 identified as a woman?
19 A. My earliest memory is of me
20 identifying as a woman and finding out that
21 that identification was not consistent with
22 how other people saw me.
23 Q. Do you recall approximately what

Page 24

1 who they are.
2 Q. And in your case one aspect of that
3 transition was becoming aware of your identity
4 as a transgender woman?
5 A. I wouldn't say that I became aware
6 that I was a transgender woman. I would say
7 that I became aware that there was a term that
8 existed to explain how I felt and that there
9 was a future for me and the life I thought was
10 best for me.
11 Q. Do you recall around what age that
12 was when you had that awareness?
13 A. Twenty.
14 (Defendant's Exhibit Number 12 was
15 marked for identification. A copy
16 is attached.)
17 Q. I am going to place into the record
18 Defendant's Exhibit 12. What is this
19 document?
20 A. This is my legal name change
21 document.
22 Q. And is the date on that July 22nd,
23 2013?

Page 25

1 A. That is correct.

2 Q. Can you explain to me the

3 significance of legally changing your name in

4 this process of transition that we've been

5 talking about?

6 A. Of course. I had started living as

7 Darcy full-time on May 11th, 2013, and part of

8 the process for me was making sure that my

9 identification correctly reflected who I was

10 and who I knew myself to be and who my friends

11 knew me to be. And so I went and changed my

12 name at the courthouse, and it was a very

13 scary experience. I did not think that it

14 would be easy. I felt that they would

15 discriminate against me when I told them the

16 reason. They did look at me funny, but they

17 did issue the name change. And it made me

18 feel -- it made me feel -- it made me feel

19 somewhat normal for the first time in my life

20 to have, you know, a legal identity that was

21 closer to who I was as a person.

22 Q. Can you explain what you mean when

23 you said it was a scary experience to go to

Page 27

1 congratulated me on my new name.

2 Q. And I believe you said you went to

3 the title office?

4 A. I did.

5 Q. How was your experience there?

6 A. It was fine.

7 Q. And at the Social Security

8 Administration, how was your experience there?

9 A. It was fine.

10 Q. So I take it the significance of --

11 you said that on May 11th, 2013 --

12 A. Yes.

13 Q. -- you began living as Darcy. That

14 would be your birthday?

15 A. That is correct.

16 Q. Would it be accurate to say that

17 your transition to your current identity was

18 complete as of that date?

19 MR. BOONE: Form of the question.

20 Could you --

21 MR. CHYNOWETH: I'll try to do

22 better.

23 Q. We've been -- I've been asking you

Page 26

1 the courthouse and have your name changed?

2 Who did you go to see?

3 A. I went to the probate court or the

4 probate judge at Lee County Courthouse in

5 Opelika.

6 Q. Did you visit any other offices in

7 connection with your name change?

8 A. I went to the driver's license

9 office in the courthouse, and I also went to

10 the revenue commissioner's office to update

11 the title of my car and vehicle registration.

12 And then I went to the voter registration

13 office to update my voter registration. And

14 then I went to the Social Security office and

15 updated my Social Security card.

16 Q. How was your experience at the

17 probate office at that time?

18 A. It was not as bad as I expected,

19 but it could have been better.

20 Q. How was your experience at the

21 driver's license office at that time?

22 A. The clerk at that driver's license

23 office was very -- very nice and he

Page 28

1 questions about a transitional process,

2 correct?

3 A. That is correct.

4 Q. Would it be accurate to say that

5 that transitional process was complete on May

6 11th, 2013?

7 A. I would say that that process had

8 begun on May 11th, 2013.

9 Q. On May 11th, 2013, I believe the

10 way you put it was you began living as Darcy?

11 A. Full-time.

12 Q. And prior to that, how had you been

13 living that was different?

14 A. My name was different. I didn't

15 expect people to use Darcy as my name. I

16 didn't expect people to use my gender

17 pronouns. I had been dressing as a woman

18 since approximately June or July 2011, but I

19 had not been consistently asking people to

20 treat me as a woman because at the time I

21 still was uncertain about what gender identity

22 was. I didn't really have a concept of it.

23 Once I did have a concept of it, the process

Page 29

1 involved really coming to terms with how
 2 people would treat me and the things that I
 3 would lose and the people who I would lose
 4 from my life when I came out as transgender.
 5 Q. So May 11th, 2013, describes the
 6 point at which you came out as transgender
 7 publicly?
 8 A. I had come out prior to that in
 9 April -- I believe it was April or March, and
 10 it did not go over well, and I needed to
 11 finish the semester. And so I set my birthday
 12 as the day that I would start from that point
 13 forward not compromising my authenticity to
 14 make other people comfortable.
 15 Q. And you held an Alabama driver's
 16 license on May 11, 2013?
 17 A. I did.
 18 Q. And what was the sex designation on
 19 your Alabama driver's license on that date?
 20 A. Male.
 21 Q. I'm going to ask you some questions
 22 now, and I'm going to pause because your
 23 lawyers may or may not have some objections.

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1 Can you state whether you have been diagnosed
 2 with gender dysphoria disorder?
 3 A. I have.
 4 Q. Can you tell me when that was?
 5 A. I'm unable to provide you with the
 6 date of that.
 7 Q. Do you know a year?
 8 A. Possibly in 2013.
 9 Q. Do you recall the name of the
 10 doctor or the psychologist that made the
 11 diagnosis?
 12 A. Ann Marie Delsignore.
 13 Q. So was that here in Alabama?
 14 A. Yes.
 15 Q. Can you spell the name for me?
 16 A. Ann Marie, A-N-N M-A-R-I-E
 17 D-E-L-S-I-G-N-O-R-E.
 18 Q. And what is her -- what is the
 19 nature of her medical training?
 20 A. She is a -- I think she's finished
 21 with her Ph.D. in counseling psychology. She
 22 was working at the counseling center at Auburn
 23 University.

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1 Q. And at that time you held an
 2 Alabama driver's license with the male sex
 3 designation on it?
 4 A. That is correct.
 5 Q. Have you received treatment for
 6 gender dysphoria from any other medical
 7 professionals?
 8 A. I have.
 9 Q. Can you tell me who the next would
 10 have been after Ann Marie Delsignore in 2013?
 11 A. Yes. Allen Irish.
 12 Q. Irish as in the country?
 13 A. Irish, yes.
 14 Q. And what does he do?
 15 A. He is a licensed counselor in the
 16 State of North Dakota. He works at the NDFC
 17 Counseling Center.
 18 Q. And do you recall what year that
 19 would have been within your fall 2015-2016
 20 time period in North Dakota?
 21 A. I believe it was 2016. I think it
 22 was the spring semester of my first year of
 23 graduate school, but it may have been the

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1 fall. I cannot be entirely sure of the time
 2 line.
 3 Q. Have you continued to receive any
 4 treatment since that time for gender
 5 dysphoria?
 6 A. I have.
 7 Q. And when was that and with who?
 8 A. I started hormone replacement
 9 therapy in 2016, I think, maybe 2017. I'm not
 10 sure. I can't tell you the exact -- I can
 11 tell you the day I started. I can't tell you
 12 the year.
 13 Q. Was that in North Dakota?
 14 A. It was in North Dakota, but the
 15 provider was in Minnesota.
 16 (Defendant's Exhibit Number 13 was
 17 marked for identification. A copy
 18 is attached.)
 19 Q. I'm going to give you Defendant's
 20 Exhibit 13. This is a letter that your
 21 attorneys produced in response to a request
 22 from defendants. Can you identify who this
 23 letter is from?

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1 A. Jennifer Demma, certified nurse
2 midwife in the State of Minnesota. And it is
3 cosigned by Maria Kaefer M.D., her supervisor
4 at Family Tree Clinic.
5 Q. And is this where you received
6 treatment for gender dysphoria at in
7 Minnesota?
8 A. I did.
9 Q. Let's see. I don't see a date on
10 this letter, but do you see in the second
11 sentence it says I have a provider/patient
12 relationship with Darcy and have treated this
13 patient since April 2016?
14 A. That would have been when I
15 started.
16 Q. And did you continue to receive
17 treatment for gender dysphoria after that
18 point?
19 A. I did.
20 Q. And when was that?
21 A. Well, it's been continuous since
22 that time point. I will say before -- I don't
23 know if this person qualifies as a medical

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1 provider -- I was also undergoing voice
2 therapy in Minnesota, which was part of the
3 process of transitioning.
4 Q. Can you explain what voice therapy
5 is?
6 A. Yes. It's a series of different
7 techniques aimed to increase the pitch and
8 resonance of the person's voice so that it
9 sounds more feminine.
10 Q. And that was in North Dakota?
11 A. It was in Minnesota.
12 Q. At the Family Tree Clinic?
13 A. No. At Minnesota State University-
14 Morehead.
15 Q. Was there any other treatment you
16 received during your time in North Dakota?
17 A. I also had permanent hair removal
18 on my face, upper torso, arms and back.
19 Q. And have you continued to receive
20 treatment on your return to Alabama in August
21 of 2017?
22 A. I have.
23 Q. What is the nature of that

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1 treatment?
2 A. I'm still receiving therapy at
3 Student Counseling Services at Auburn
4 University. My provider is Dr. Dustin Elliot
5 who is a licensed psychologist in the State of
6 Alabama. I'm also continuing hormone therapy
7 with Dr. Weisberg in Birmingham.
8 Q. Are there any other treatments you
9 are getting aside from those?
10 A. Not at this time.
11 Q. Can you explain in your own words
12 what the state's policy is on when you can
13 change the sex on your Alabama driver's
14 license?
15 A. As I understand it, the state
16 desires that I have a vagina before they will
17 change my driver's license sex designation.
18 Q. For reference I'm providing you
19 with a copy of the amended complaint in this
20 case. Can you please turn to paragraph four
21 of the amended complaint?
22 A. That -- this page? I don't read
23 legal documents.

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1 Q. Okay.
2 A. Okay.
3 Q. Fair enough. I will be referring
4 to the paragraphs, the numbered paragraphs, as
5 opposed to the numbers at the bottom.
6 A. Okay.
7 Q. And do you see in paragraph four
8 where it says the plaintiffs Ms. Darcy
9 Corbitt, Ms. Destiny Clark, and Ms. Jane Doe
10 have all been personally harmed by this
11 policy? Do you see where it says that in
12 paragraph four?
13 A. I do see that.
14 Q. And do you understand that this
15 policy refers to the policy for when you can
16 change the sex on your driver's license in
17 Alabama?
18 A. I do.
19 Q. Can you explain to me in your own
20 words how this policy has harmed you?
21 A. Of course. From an emotional
22 standpoint it has caused very deep emotional
23 harm. Being publicly humiliated by ALEA

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1 officials in the driver's license office in a
 2 very public way when there were other people
 3 present was very, very emotionally disturbing
 4 to me. The subsequent stress over this
 5 lawsuit and what the outcome will be and what
 6 that means for my future as both a person
 7 living in Alabama as well as a person just
 8 living in general has caused me loss of hours
 9 at work, loss of sleep, increased visits to
 10 the doctor's office, and the need to resume
 11 therapy.
 12 From a practical standpoint it is
 13 very difficult for me to navigate the world
 14 not having a driver's license in the state
 15 where I live. I work in public elementary
 16 schools, and I have to produce a driver's
 17 license in order to access those schools, and
 18 I'm currently having to use a North Dakota
 19 license. And at the time in which I will have
 20 to have an Alabama license if it does not
 21 accurately define my status it will out me to
 22 my employers and it will out me to the schools
 23 where I work. And the schools are mostly in

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1 Q. And I believe you described these
 2 as rural schools?
 3 A. That is correct.
 4 Q. So county school system?
 5 A. I can't answer that question.
 6 Q. Fair enough. And you have to show
 7 a form of photo identification to have access
 8 to the schools?
 9 A. I have to show driver's license.
 10 Q. You can't show any other form of
 11 ID?
 12 A. They scan the license. It's the
 13 same statewide. They scan the license, and it
 14 takes the picture from your license and places
 15 it on a name badge which they have you wear in
 16 the school, and it is formatted for driver's
 17 licenses which all have a uniform format
 18 across the country, to my knowledge. They
 19 can't use any other form of ID because the
 20 picture is not formatted to align with their
 21 scanner. So the alternative is that they have
 22 to make me one by hand which takes longer, and
 23 they can't keep me in their system. So for

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1 rural areas and will not take kindly to a
 2 transperson working with their students.
 3 It also from a philosophical
 4 perspective is incredibly insulting to be
 5 treated differently than other people in my
 6 state, and it is also insulting that had I
 7 gone to any other state and applied for a
 8 driver's license with the documentation that I
 9 have I would have been given a driver's
 10 license that said female, and the only reason
 11 I have a driver's license that says male in
 12 this state is because I was previously
 13 licensed here.
 14 Q. With what schools do you work?
 15 A. I'm not able to provide an answer
 16 to that question.
 17 Q. Do you work in schools in
 18 connection with your graduate studies?
 19 A. I do.
 20 Q. And this is as a student teacher or
 21 intern or in what capacity?
 22 A. I'm the program manager for a
 23 federally funded antibullying program.

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1 schools I've been to before they just look at
 2 my name and print out the badge, and I don't
 3 have to use this process again. But if I were
 4 to have to use my student ID or a federal
 5 passport, I would have to have them handwrite
 6 me a pass every time, and it would delay the
 7 start of my appointments and would require me
 8 to leave earlier in the morning.
 9 Q. Do you have a passport book or a
 10 passport card?
 11 A. I have a passport book.
 12 Q. And do you understand the
 13 difference? Have you ever seen a passport
 14 card?
 15 A. I've had both, but I do not have a
 16 card at this time.
 17 Q. If you had a passport card, do you
 18 think they could scan that in?
 19 A. I don't know.
 20 Q. Have you ever asked?
 21 A. I haven't been interested in
 22 getting a passport card, so I have not asked.
 23 Q. Can you please turn to paragraph 69

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1 of the amended complaint?

2 A. (Witness complies.)

3 Q. Can you tell me what you recall

4 about the basis of the allegations in

5 paragraph 69? That would be your August 2017

6 visit to Lee County driver's license to obtain

7 an Alabama license. Can you tell me what you

8 recall about that event?

9 A. Are you asking for a narrative of

10 what happened at that -- on that occasion?

11 Q. Yes. I'm -- did you attempt -- did

12 you visit a Lee County Driver's License Office

13 in August 2017?

14 A. I did.

15 Q. Did you do so in order to transfer

16 your North Dakota driver's license to an

17 Alabama driver's license?

18 A. I did do so.

19 Q. Can you tell me what you recall

20 about your interaction there?

21 A. Yes. I entered the office. I was

22 seen almost immediately, which was a

23 relatively normal experience for me at that

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1 office. And the clerk was very friendly. We

2 chatted. She said, oh, you lived in North

3 Dakota. I said yeah. We did the normal

4 banter about it being really cold there. She

5 asked me why I moved back to Alabama. I told

6 her. Or why I had moved to Alabama, and I

7 told her because I hadn't told her I had lived

8 in Alabama before.

9 She asked if I had ever been

10 licensed in Alabama before. I said yes,

11 provided her with my Social Security number.

12 To this point she was very friendly and

13 courteous to me. It was normal interaction.

14 And she got really quiet after she looked me

15 up. She didn't look at me. She didn't talk

16 to me. I tried to make conversation and she

17 was very brisk with me.

18 She took my picture. And then

19 she -- I think she asked me if my weight had

20 changed, and it had. Nothing else -- well, my

21 address had changed. I updated that. And

22 then she printed out a little receipt that

23 said all the information on it and was like

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1 can you verify that all this is accurate. And

2 I noticed the sex designation was M, and I

3 said -- I circled it and said this is not

4 accurate.

5 And she said I know, and I never

6 would have known if I hadn't seen your

7 driver's license. And I said, well, that's

8 not accurate. It needs to be updated. She

9 said I am not able to update that for you.

10 And I said, well, I need you to find out how

11 you can update it because it is inconsistent

12 with the other documentation that I have and

13 the other forms of identification that I have

14 and I don't need an inconsistency in

15 identifying documents.

16 And so she called her supervisor

17 over. And her supervisor would not look at me

18 either and was very disinterested and said you

19 just need to call Montgomery and find out. So

20 she called Montgomery. And when she was on

21 the phone with the person in Montgomery --

22 Q. I'm sorry. Let me stop you there.

23 When you said she called Montgomery, are you

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1 referring to the supervisor or the clerk?

2 A. The clerk. The supervisor walked

3 away.

4 Q. And so the examiner called and

5 spoke to someone in Montgomery?

6 A. Yes. And I do not know who that

7 person is.

8 Q. And then what happened?

9 A. She was explaining the situation,

10 and she said he is sitting here, he has a

11 North Dakota license that says female, but his

12 Alabama license says male and he wants to

13 change it and, no, he does not have a note

14 from a doctor.

15 And all this -- before all of this

16 had happened she was referring to me as she.

17 She was treating me like a woman, but when she

18 saw my driver's license from Alabama she

19 started treating me like I was a man. She did

20 so very loudly.

21 It is an open room like this one.

22 There was someone to the right of me and to

23 the left of me. The person to the right of me

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1 was a woman and she looked at me very
 2 pityingly. The people on the left were two
 3 men, and they looked at me with disgust.
 4 There was also a state trooper present who
 5 looked at me and I was afraid of the way that
 6 she was looking at me. I didn't know what it
 7 meant.
 8 I felt very afraid. I did not know
 9 if I was going to be safe. I was also in a
 10 situation where I didn't know how much the
 11 person in front of me could help me and so I
 12 wasn't able to advocate for myself or defend
 13 myself or correct her. And I had to endure
 14 her insulting and detrimental behavior because
 15 I didn't know if she would help me or not.
 16 And this went on for about ten
 17 minutes. At one point she said it is sitting
 18 here or something like that. She referred to
 19 me as it, as an object. And then while she
 20 was on hold she looked at me, and she said I
 21 guess I should be saying she, huh. And to
 22 this point I was being really magnanimous. I
 23 felt like, well, she just doesn't know, but

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1 the fact that she was self-aware to realize
 2 that what she was doing was offensive and then
 3 proceeded to continue to call me he was -- and
 4 naturally that's when she said it was after
 5 she acknowledged she should say she. Then she
 6 said it and then she went back to he. Never
 7 once apologized for any of that behavior.
 8 And she told me that I would need
 9 to either get an amended birth certificate
 10 from the state where I was born or a doctor's
 11 note indicating that I had had surgery before
 12 the license could be updated. And I told her
 13 I refused to surrender my North Dakota
 14 license; I do not want an Alabama license
 15 today; and I will see you in court. And I
 16 left. And I literally ran to my car because
 17 the men on the other side of me were leaving
 18 at the same time and I thought they were going
 19 to beat me up in the parking lot.
 20 Q. Was it your understanding that you
 21 could have obtained an Alabama license at that
 22 time except it would have had an M sex
 23 designation on it?

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1 A. I was unable to obtain an Alabama
 2 license because I wasn't able to verify that
 3 the information provided was accurate.
 4 Q. But you could have obtained a
 5 driver's license with that sex designation on
 6 there at that time, correct?
 7 A. I could have obtained an Alabama
 8 driver's license if I lied and misrepresented
 9 who I was as a person.
 10 Q. Were there any other statements
 11 made to you about why you didn't satisfy the
 12 policy for changing sex other than what you've
 13 stated?
 14 A. There are -- no other statements
 15 were made.
 16 Q. So did you, in fact, threaten to
 17 file a lawsuit at that time?
 18 A. I didn't threaten. I stated that I
 19 would see her in court.
 20 Q. And what do you mean by that?
 21 A. That I would file a lawsuit.
 22 Q. Did you, in fact, file a lawsuit?
 23 A. I did, in fact, call the ACLU as

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1 soon as I got to my car.
 2 Q. Do you remember the name of either
 3 the supervisor or the examiner that you
 4 interacted with?
 5 A. I do not.
 6 Q. Were they both women?
 7 A. They were.
 8 Q. Are you sure that you couldn't have
 9 overheard other people referring to you in the
 10 way that you stated? Could it have been
 11 bystanders -- could it have been bystanders
 12 that made those statements that is referring
 13 to you as it and he?
 14 A. Are you asking me am I sure that
 15 the woman sitting in front of me was saying
 16 that to me?
 17 Q. Rather than a bystander?
 18 A. I'm pretty sure that she was the
 19 one saying it.
 20 Q. Can you turn to paragraph 72?
 21 A. (Witness complies.)
 22 Q. Does paragraph 72 state that
 23 Ms. Corbitt has completed all necessary

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1 medical treatment for her gender dysphoria at
2 this time?
3 A. It does.
4 Q. Is that an accurate statement?
5 A. At this time, yes.
6 MR. CHYNOWETH: I need to take a
7 break.
8 (Break taken.)
9
10 Q. Are you public about your
11 transgender status?
12 A. I am.
13 Q. Do your friends now?
14 A. Yes.
15 Q. Your family members know?
16 A. Majority of my family does.
17 Q. Other people you interact with at
18 graduate school?
19 A. I would say they would if we were
20 close.
21 Q. Do you have a Facebook page?
22 A. Define what you mean by a Facebook
23 page.

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1 (Defendant's Exhibit Number 14 was
2 marked for identification. A copy
3 is attached.)
4 Q. I am placing Defendant's Exhibit 14
5 in front of you. Is that an accurate picture
6 of your Facebook page?
7 A. That is an accurate picture of my
8 public Facebook page, yes.
9 Q. And you said that that Facebook
10 page is public?
11 A. All Facebook pages are public.
12 Q. Can somebody who is not friends
13 with you on Facebook view things posted to the
14 time line of that Facebook profile?
15 A. This is not a Facebook profile. It
16 is a page. There are a difference between the
17 two. This is not something where you friend
18 people. This is something that you like or
19 follow.
20 Q. So that is a Facebook page?
21 A. It is a Facebook page.
22 Q. Maintained by you?
23 A. Maintained by my organization.

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1 Q. And what is your organization?
2 A. Darcy Jeda Corbitt Foundation.
3 Q. And what is the nature of that
4 organization?
5 A. It is a 501(c)3 community
6 foundation that was established to promote the
7 health and global well-being of transgender
8 individuals through free online education,
9 support, and financial assistance.
10 Q. And is that 501(c)3 nonprofit?
11 A. It is a 501(c)3.
12 Q. What state is that incorporated in?
13 A. It is incorporated in North Dakota.
14 Q. When did you incorporate the Darcy
15 Jeda Corbitt Foundation?
16 A. The foundation was incorporated in
17 December of 2016.
18 Q. At the top of the Facebook page
19 maintained by you it references a website,
20 mytransitionpartner.com.
21 A. Yes.
22 Q. Is that website related to the
23 Darcy Jeda Corbitt Foundation?

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1 A. It is their main program.
2 Q. And that is a website that's
3 publicly viewable on the internet?
4 A. That is correct.
5 Q. And what are the activities that
6 are promoted on the website? Let me word that
7 better. What is the purpose of that website?
8 A. To educate people about what it
9 means to be transgender and to help them find
10 their resources and answers they need to
11 facilitate their transition.
12 Q. And are you associated on that
13 website with the foundation? Are there
14 pictures of you on that website?
15 A. There are, yes.
16 Q. And so your identity in connection
17 with the website is on the internet?
18 A. That is correct.
19 Q. Do you post on that Facebook page?
20 Do you make posts that are relevant to your
21 status as a transgender individual?
22 A. Yes.
23 Q. Are those posts publicly viewable?

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1 A. Yes. Everything on that page is
2 publicly viewable.
3 Q. Do you solicit donations for your
4 foundation on that Facebook page?
5 A. I do.
6 Q. Would it be accurate to say that
7 you are a transgender rights activist?
8 A. Define what you mean by transgender
9 rights activist.
10 Q. Do you advocate for the rights of
11 transgender individuals?
12 A. I do.
13 Q. Do you publicly advocate for the
14 rights of transgender individuals?
15 A. I do.
16 Q. And you do so through your Facebook
17 page that is publicly viewable?
18 A. I do.
19 Q. Do you ever engage in public
20 speaking?
21 A. I do.
22 Q. Can you give me some examples in
23 which you addressed a public gathering in your

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1 A. People started paying me to do it.
2 Q. What would be an example of an
3 organization that would pay you?
4 A. The State of North Dakota.
5 Q. What would be -- can you recall an
6 occasion when you received payment from the
7 State of North Dakota to engage in public
8 advocacy for transgender rights?
9 A. Yes.
10 Q. What would an example be?
11 A. I was contracted by the North
12 Dakota Department of Health to review their
13 suicide prevention protocol as it related to
14 LGBTQ people and to author the corresponding
15 sections of their upcoming master plan for
16 reducing suicide in their state.
17 Q. Do you maintain a Twitter account?
18 A. I do.
19 Q. And what is your Twitter
20 identification?
21 A. My handle is @darcycorbitt.
22 Q. Handle. Sorry. And so your handle
23 is your real name?

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1 capacity as an advocate for transgender
2 individuals?
3 A. Of course. The majority of my
4 speaking has been at colleges and universities
5 in classrooms or in auditoriums where I tell
6 my story and talk about the struggles faced by
7 transgender individuals. I also facilitate
8 workshops to help people be more culturally
9 sensitive to transgender people. And I have
10 done some guest lecturing where transgender
11 identity was part of it but not the entire
12 focus.
13 Q. Can you identify approximately when
14 you began these public activities advocating
15 for transgender rights?
16 A. December 2015. Well I
17 professionally began doing it in December of
18 2015, though as a member of the Gay Straight
19 Alliance at Auburn University I did -- I was
20 involved in public panels, and I also did some
21 advocacy at the university.
22 Q. What did you mean when you say you
23 began professionally doing it in 2015?

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1 A. Yes.
2 Q. So you are publicly identifiable
3 through your Twitter account, correct?
4 A. I am.
5 Q. And anyone can view your tweets
6 even if they don't have a Twitter account; is
7 that correct?
8 A. I assume so, yes.
9 Q. Do you have an Instagram?
10 A. I do.
11 Q. What is your handle for your
12 Instagram account?
13 A. @darcycorbitt.
14 Q. Again in your real name?
15 A. Yes.
16 Q. Do you identify -- do you post
17 things on your Twitter account related to your
18 status as a transgender individual?
19 A. My Twitter or my Instagram
20 account?
21 Q. Your Twitter?
22 A. I do.
23 Q. Do you post things on your

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1 Instagram that would identify you as a
2 transgender individual?
3 A. I do.
4 Q. Do you have a YouTube channel?
5 A. I do.
6 Q. And what is the name of the YouTube
7 channel?
8 A. I think it's darcycorbitt or
9 darcyjedacorbitt.
10 Q. So your YouTube channel is in your
11 name as well?
12 A. Yes.
13 Q. Do you make public statements on
14 your YouTube channel about transgender
15 activism?
16 A. I do.
17 Q. Do you have a statement on your
18 YouTube channel about this lawsuit?
19 A. I think so, yes.
20 Q. Is your transgender status private
21 information?
22 A. What do you mean by private?
23 Q. Is the fact that you are -- given

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1 disclose your status as a transgender
2 individual?
3 A. Can you repeat the question?
4 Q. Do you not already publicly
5 disclose your status as a transgender
6 individual through various social media?
7 A. I do. But the likelihood of a
8 random police officer or a random bartender
9 knowing that information when they interact
10 with me is very low.
11 Q. Aren't you disclosing your
12 transgender status to a much larger volume of
13 people by means of social media than by means
14 of any government identification documents?
15 A. In the forms in which I disclose
16 that information I control the narrative. And
17 if I ever felt unsafe, I could pull the
18 Facebook, I could pull the website, I could
19 pull the Twitter, I could pull the Instagram.
20 In the situation of a driver's license I
21 cannot control that narrative.
22 Q. But, of course, you don't have an
23 Alabama driver's license?

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1 the questions that I just asked you, is your
2 status as a transgender individual something
3 that is not publicly known?
4 A. No, it is not a secret.
5 Q. Is your status as a transgender
6 individual something that is confidential?
7 A. Depends on the circumstances.
8 Q. What would be some circumstances in
9 which it would be?
10 A. On a dark country road with a
11 police officer who pulls me over it would be a
12 confidential thing. When I'm getting carded
13 for an alcoholic beverage it would be a
14 confidential thing. And in any other
15 situation where I deem myself to be at
16 significant risk if that information was
17 disclosed it is a confidential thing.
18 Q. Are you not -- are you maintaining
19 that such a disclosure would place you at
20 risk?
21 A. I am indicating that.
22 Q. Do you not publicly across all of
23 the internet floor that we have identified

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1 A. I do not.
2 Q. And your driver's license
3 identifies you as a female, does it not?
4 A. It does.
5 Q. So you are not disclosing any
6 transgender status by means of any driver's
7 license you currently possess, do you?
8 A. Not at this time.
9 Q. Don't you voluntarily accept any
10 risk created by disclosing your transgender
11 status when you disclose it through social
12 media?
13 A. Yes.
14 Q. Can you get an Alabama driver's
15 license without having to get medical
16 treatment you don't want?
17 A. Not at this time, no.
18 Q. Why not?
19 A. Because at this time I have not
20 made the determination that I want to have the
21 procedures the state requires of me.
22 Q. Will the State of Alabama
23 physically issue you an Alabama driver's

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1 license without you getting any medical
2 procedures done?
3 A. I don't see how they could.
4 Q. When you visited the Opelika
5 driver's license office in August of 2017, was
6 that clerk ready to issue you an Alabama
7 license with an M sex designation on it?
8 A. In order to issue it I would have
9 to verify that the information is accurate,
10 and I could not verify the information to be
11 accurate without misrepresenting who I was.
12 Q. You have a United States passport
13 that designates you as female, correct?
14 A. I have answered that, yes.
15 Q. And you have a student ID
16 substantially similar to the one we've put in
17 the record here?
18 A. Yes.
19 Q. If you were to purchase alcohol --
20 strike that. Suppose you had an Alabama
21 license that designated your sex as M, just
22 suppose hypothetically. If you had an Alabama
23 license that designated your sex as M, could

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1 you not use your passport to, for instance,
2 purchase alcohol?
3 A. To have to go to the bank and get
4 my passport out of my safe deposit box every
5 time I want a drink isn't convenient.
6 Q. Is there any requirement that you
7 keep your passport in a safe deposit box at a
8 bank?
9 A. I don't particularly want a very
10 expensive piece of paper that identifies me to
11 the world just sitting around where anybody
12 could take it.
13 Q. That is a precaution you undertake
14 voluntarily though, right?
15 A. I would say it's a smart precaution
16 that most people take.
17 Q. You have a passport that is
18 available that you can use to prove your age
19 in a variety of contexts, correct?
20 A. That is correct.
21 Q. You have a passport that is
22 available to prove your eligibility to work to
23 obtain employment; is that correct?

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1 A. That is correct.
2 Q. You have a passport that is
3 available to establish your residence, is that
4 correct, your street address?
5 A. The passport?
6 Q. Does it not have your address on
7 it?
8 A. They don't have addresses on it, so
9 no.
10 Q. Did you vote this Tuesday? I'm not
11 asking you who you voted for. I'm asking you
12 if you voted on Tuesday.
13 A. With pleasure.
14 Q. Did you show photo ID?
15 A. I did.
16 Q. What photo ID did you show?
17 A. I actually used my North Dakota
18 license.
19 Q. Are you aware that you could have
20 used your student ID to vote?
21 A. I am aware that I could have,
22 but --
23 Q. Are you aware that you could have

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1 used your passport as your ID to vote?
2 A. I typically use my passport, yes.
3 Q. If you were to have an Alabama
4 license that designated your sex as male, how
5 would you typically carry that license with
6 you?
7 A. Well, I wouldn't carry it because I
8 wouldn't accept it. But if I had to, if I was
9 compelled to, then I would carry it in my
10 wallet and use it with hesitation.
11 Q. Let's turn to your North Dakota
12 license. How do you carry your North Dakota
13 license?
14 A. With pride.
15 Q. Okay. Where physically do you
16 carry your North Dakota license?
17 A. In my wallet.
18 Q. And where do you keep your wallet?
19 A. In my bag or at my side. My wallet
20 is the kind that can be carried as a purse.
21 Q. So you typically carry your North
22 Dakota license concealed within your wallet?
23 A. As do pretty much everybody.

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1 Q. Do you typically waive your North
2 Dakota license around publicly?
3 A. I don't know of any context where
4 anyone would do that, so --
5 Q. I'm asking if you do that.
6 A. Well, I'm not that different from
7 the average person, so no, I don't.
8 Q. Would it be fair to say that you
9 show your driver's license when you have to?
10 A. Definitely.
11 Q. And in any circumstances there are
12 alternative government identification
13 documents that you can use, is that correct,
14 such as your passport?
15 A. Unless I wasn't trying to identify
16 that I could drive I could use any of my other
17 identifying documents.
18 Q. Have you ever at any point had
19 contact with an Alabama law enforcement
20 officer?
21 A. I have had that misfortune, yes.
22 Q. On how many occasions would you say
23 that occurred?

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1 A. Most recently was at my house on
2 the 17th of October. Previous to that --
3 Q. Of this year?
4 A. Of this year, yes. Previous to
5 that I would say I interacted with someone in
6 June at Pride. Just like a hello.
7 Q. June of this year?
8 A. Yes. I thanked them for coming to
9 Pride. Previous to that would have been, to
10 my knowledge -- I don't make a note -- would
11 have been when I got pulled over for allegedly
12 running a stop sign in Auburn.
13 Q. And rough idea of when that
14 occurred, year?
15 A. It was right before a snow, so that
16 should narrow it down.
17 Q. Of last year then?
18 A. No, no. This was a long time ago,
19 like 2014 maybe. It would have been -- it
20 would have been February or March of 2014
21 because it was right before I got into a
22 relationship.
23 Q. Do you recall any other encounters

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1 with Alabama law enforcement officers aside
2 from those three?
3 A. No.
4 Q. And at the time of your traffic
5 stop in 2014 what kind of license did you
6 have? What state license did you have?
7 A. Alabama.
8 Q. So you had an Alabama license that
9 designated your sex as male?
10 A. That is correct.
11 Q. Did the officer ask you to present
12 that license in the course of that traffic
13 stop?
14 A. He did.
15 Q. What was the result of that?
16 A. I got a ticket.
17 Q. Did anything occur during the
18 course of that traffic stop involving your
19 transgender status?
20 A. We didn't discuss it, no.
21 Q. And I believe you said the next one
22 was in June of 2018?
23 A. Yes.

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1 Q. You said you interacted with an
2 officer at what kind of event?
3 A. LGBT Pride.
4 Q. And you said that this was just a
5 conversation you had?
6 A. Yeah.
7 Q. So this was not a traffic stop or
8 an investigation?
9 A. I wasn't in trouble. I sought him
10 out.
11 Q. So you -- this was an Opelika
12 Police Department officer?
13 A. Auburn.
14 Q. Auburn Police Department officer?
15 A. I may have done it in Opelika as
16 well. I can't remember. There were two
17 events, one in Opelika and one in Auburn
18 Opelika. I believe I thanked the officers at
19 both.
20 Q. Just briefly what was the nature of
21 your conversation in June of 2018 with the
22 Auburn Police Department officer?
23 A. They were both awkward, both

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1 experiences, mostly because they didn't
 2 understand why some LGBT person was talking to
 3 them I'm assuming. They definitely didn't act
 4 weird around other people, so I just said
 5 thank you for coming today, we really
 6 appreciate your show of support and for
 7 keeping us safe.
 8 Q. So they were there to provide
 9 security?
 10 A. That is correct.
 11 Q. So you thanked them for allowing
 12 you to --
 13 A. Be safe.
 14 Q. And you said on October 17th of
 15 2018 you had an officer come to your
 16 residence?
 17 A. Yes.
 18 Q. And why was that?
 19 A. Because someone has been stalking
 20 me.
 21 Q. Did you call 911 in connection with
 22 that incident?
 23 A. I called dispatch directly and had

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1 them send an officer to file a report.
 2 Q. You weren't being investigated or
 3 pulled over for any crime intentionally?
 4 A. I was not.
 5 Q. Were you required to show your
 6 identification in the course of that
 7 investigation?
 8 A. I was.
 9 Q. Do you think it was important for
 10 the officer to verify your identification to
 11 be able to investigate that complaint?
 12 A. Definitely.
 13 Q. Do you think it would be important
 14 for the officer to have accurate information
 15 about you to investigate that complaint?
 16 A. Definitely.
 17 Q. Have you ever gone to court
 18 proceedings in Alabama?
 19 A. To my knowledge, no.
 20 Q. You've never presented your Alabama
 21 license in connection with any court
 22 proceeding in Alabama?
 23 A. Define a court proceeding.

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1 Q. Have you ever been into a
 2 courthouse in Alabama and had to show your
 3 driver's license?
 4 A. To who?
 5 Q. Any state employee in the
 6 courthouse.
 7 A. I'm not trying to be difficult.
 8 I'm trying to understand what you mean by a
 9 court proceeding. Is that like with a judge
 10 or --
 11 Q. Yes.
 12 A. -- any kind of interaction with a
 13 government official?
 14 Q. I mean, you got a ticket, right?
 15 A. I just paid it with the clerk.
 16 Q. You paid your ticket online?
 17 A. Yeah.
 18 Q. Have you ever gone to court to see
 19 a judge in Alabama?
 20 A. No.
 21 Q. Obviously you went in to probate to
 22 change your name?
 23 A. Well, yeah, that, but I didn't

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1 interact with the judge. I interacted with
 2 the clerk.
 3 (Defendant's Exhibit Number 15 was
 4 marked for identification. A copy
 5 is attached.)
 6 Q. I'm going to place into the record
 7 Defendant's Exhibit 15. Can you tell me what
 8 this is?
 9 A. This is an article written about me
 10 in 2014.
 11 Q. And can you read the headline of
 12 this article?
 13 A. Of course. I have always been
 14 Darcy. Transgender Auburn University student
 15 to be honored at Montgomery LGBT vigil.
 16 Q. And what's the date of the article?
 17 A. February 7, 2014.
 18 Q. And what's the name of the reporter
 19 who wrote the article?
 20 A. Jeremy Gray.
 21 Q. And is there a photograph
 22 underneath the headline of the article?
 23 A. There is.

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1 Q. It looks like four photographs more
2 accurately?
3 A. More like a single image, yes.
4 Q. Are those photographs of you?
5 A. They are.
6 Q. Do you recall talking to Mr. Gray
7 in connection with this article?
8 A. I do, and I can tell you where I
9 talked to him.
10 Q. Where?
11 A. Auburn University Student Center
12 right outside Room 2222.
13 Q. You have a good memory.
14 A. Thanks.
15 Q. In the second paragraph does it say
16 "born biologically male, Corbitt on her 21st
17 birthday in May stopped using the boy's name
18 her parents gave her and asked that others do
19 the same"?
20 A. It does.
21 Q. That seems to be consistent with
22 your testimony today, does it not?
23 A. It does.

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1 Q. Can you turn to page two of this
2 article?
3 A. (Witness complies.)
4 Q. Do you see four sentences up from
5 the bottom where it says "she," referring to
6 you, "was treated with kindness she said when
7 she went to the Lee County Courthouse to
8 change her name"?
9 A. Yes.
10 Q. Is that consistent with your memory
11 of that experience?
12 A. In the driver's license office,
13 yes.
14 Q. Do you see in the next sentence
15 where it says "the clerk in the driver's
16 license office said to me it's hard to be
17 yourself but you sure look happy"?
18 A. Yes.
19 Q. Do you recall -- with this a male
20 employee?
21 A. It was. And I have previously
22 testified to this today.
23 Q. So you've had two experiences in

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1 Alabama driver's licenses involving your
2 transgender status, correct?
3 A. I don't know. I don't know if he
4 perceived me to be a trans or not. I don't --
5 I was just changing my name. I don't know
6 what he meant by what he said.
7 Q. You were changing your name from a
8 male name to a female name, were you not?
9 A. Well, Darcy is gender neutral and
10 Jeda is made up, so I don't know that you
11 could infer that I was a woman from my name.
12 Q. Would you say that that first
13 experience was a good experience?
14 A. It was.
15 Q. And it was in contrast to the
16 experience you had in August of 2017?
17 A. Stark.
18 MR. CHYNOWETH: I don't have any
19 further questions.
20 MR. BOONE: We're going to want to
21 clarify something.
22
23 EXAMINATION

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1 BY MR. BOONE:
2 Q. I can just ask you. This goes back
3 to at the driver's license office in August of
4 2017.
5 A. Yes.
6 Q. At that encounter, how sure were
7 you that the driver's license examiner
8 misgendered you?
9 A. Completely sure.
10 Q. Did anyone else standing by
11 misgender you?
12 A. Not that I am aware.
13 Q. So no one to your -- you said there
14 was a -- I'm trying to remember now. There
15 was a woman to your right?
16 A. Uh-huh.
17 Q. You don't -- as far as you know she
18 didn't misgender you?
19 A. No. She was having her own
20 problems that day.
21 Q. And as far as you know, the men to
22 your left, you didn't hear them misgender you?
23 A. No. I was focused on what the

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1 woman in front of me was saying.
 2 Q. But you were sure that she
 3 misgendered you, the examiner?
 4 A. I am absolutely positive.
 5 MR. BOONE: Nothing further.
 6 MR. CHYNOWETH: No further
 7 questions for me.
 8 MR. MARSHALL: Just one second.
 9 (Break taken.)
 10
 11 BY MR. BOONE:
 12 Q. Okay. I'm just going to further
 13 clarify that incident in August 2017.
 14 A. Okay.
 15 Q. Earlier you testified to
 16 defendant's counsel that -- you stated you
 17 were pretty sure it was the driver's license
 18 examiner. Can you explain what you meant when
 19 you said pretty sure?
 20 A. I thought it was a stupid question,
 21 and I was being a smart ass.
 22 Q. Would you say that you were being
 23 sarcastic when you said I'm pretty sure as

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1 in --
 2 A. I was being sarcastic.
 3 Q. In other words, it was so obvious
 4 that, of course, it was her?
 5 A. Yes. I was being sarcastic, and I
 6 apologize to the court reporter for that.
 7
 8 EXAMINATION
 9 BY MR. CHYNOWETH:
 10 Q. Your attorney has just asked you
 11 some questions about your interaction in the
 12 Opelika driver's license office in August
 13 2017. Did you make an audio or video that you
 14 posted to your Facebook account after that
 15 interaction?
 16 A. I did.
 17 Q. Can I -- I'm going to play for you
 18 a recording of this. Can you verify that this
 19 is the video that you put on your Facebook?
 20 And I would like the court reporter to take
 21 down the statements in the video.
 22 (Beginning of video recording.)
 23 MS. CORBITT: So I just tried to

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1 get a driver's license in Alabama and because
 2 I've lived here before and had a license I
 3 already had a number and I was already in the
 4 system. And my old license had M on it
 5 obviously and they said that because of that
 6 they couldn't update it, even though my
 7 passport has an F on it, even though with the
 8 Social Security Administration I have an F on
 9 their records, even though my North Dakota
 10 license has an F on it. I can't -- according
 11 to the State of Alabama, I'm a man.
 12 And let me just tell you how this
 13 went down. I went in. She was using the
 14 right pronouns of me, and then she saw it and
 15 then she started using the wrong ones. And
 16 then she corrected herself and then proceeded
 17 to keep using the wrong ones. And it was just
 18 totally offensive.
 19 They called Montgomery and they
 20 tried to like figure out what to do.
 21 Basically I have to have surgery. Well, I
 22 can't afford that. In fact, I told them if I
 23 had sixty thousand dollars I would go get it

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1 done tomorrow, so if you want to give me sixty
 2 thousand dollars I can be in compliance with
 3 this fucking law.
 4 So now I am stuck without a
 5 driver's license in this state which
 6 basically -- I mean, we're one of those ID
 7 states where you have to have an ID to vote.
 8 So guess what? I may not be able to vote
 9 now. I may not be able to do anything. I
 10 know I can renew my car -- or get a new car
 11 tag for this year, but next year I have to
 12 have an Alabama driver's license. So I'm kind
 13 of screwed.
 14 So this is what it looks like to
 15 be transgender in America. And when you --
 16 like when people ask me like why do you do the
 17 work that you do or why should I donate to
 18 you, this is why because this is what it's
 19 like every fucking day where you can't have
 20 the basic dignities afforded other people. I
 21 can't have a stupid little piece of paper with
 22 my picture and name on it and accurately
 23 describe who I am.

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1 And so now I'm probably going to
 2 have to put my life on hold because I'm not
 3 taking this sitting down. I've already
 4 contacted different organizations. I'm going
 5 to try to sue the State of Alabama to get my
 6 driver's license. It's ridiculous. Like I
 7 shouldn't have to put up with this. I
 8 shouldn't have to pay for this. I shouldn't
 9 have to deal with this, but I'm going to have
 10 to. I'm going to have to -- I don't know what
 11 I'm going to have to do. I'm going to pay for
 12 it, but it's going to happen because I'm not
 13 going to go back. I'm not going to be told by
 14 some stupid person who can barely -- who can
 15 barely like do their job that I can't -- that
 16 I can't be the person that I am and I can't be
 17 treated with respect.
 18 I mean, the fact that she said,
 19 oh, I'm sorry, it should be she but then
 20 continued to misgender me, I'm like what the
 21 fuck. Like the whole -- and then she said I
 22 would never have known if I hadn't seen your
 23 driver's license. That's not a compliment by

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1 the way.
 2 So anyway, I'm just really -- I'm
 3 just very upset. I'm sitting in Opelika,
 4 fucking, Alabama, like the worse place on
 5 earth and I'm just like reeling from this. It
 6 just -- I can't. I just can't.
 7 So anyway that's where I am. I'm
 8 really pissed off. If anyone knows any civil
 9 rights attorneys in the State of Alabama and
 10 you can recommend them, let me know because I
 11 am going to do something about this. I'm not
 12 going to just take it sitting down because
 13 this is stupid. I shouldn't have to show a
 14 doctor my genitalia to prove who I am. That's
 15 ridiculous.
 16 So anyway that's where I am today
 17 and I'm really upset and it's not -- it's not
 18 okay, and I'm just going to have to deal with
 19 this like I deal with it every day. But this
 20 is what it's like to be transgendered, so if
 21 you wondered, this is it. Okay? Like I
 22 have -- I don't get embarrassed.
 23 That's the other thing. I don't

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1 get embarrassed very easily. I was
 2 humiliated. Like -- and I was blindsided. I
 3 mean, you know I'm not really shocked by
 4 anything. I was shocked like I was -- I felt
 5 like -- I felt like there was nothing -- I
 6 mean, in reality there isn't anything I can do
 7 for now, but -- I don't know, it's just
 8 really -- it's just really awful.
 9 Well, I wanted you to know where I
 10 am on this. I just wanted to come and get a
 11 Ph.D. and now I'm going to have to deal with
 12 this bullshit too not because it's some like
 13 pipe dream because this is my fucking life.
 14 North Dakota had a lot of really
 15 terrible things, but one of the things that
 16 North Dakota had was a way for me to be me
 17 without having to go through surgery that I
 18 don't necessary want, that I can't afford in
 19 order to be treated with respect. And I can't
 20 even come home and be treated with respect, so
 21 I wonder if this was a mistake.
 22 Anyway I've got to go so I can deal
 23 with the things that I have to do because I'm

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1 an adult and I have a job. So anyway I'll
 2 talk to you later.
 3 (End of video recording.)
 4 Q. Was that a video that you made and
 5 uploaded to your Facebook page shortly after
 6 the incident in Opelika in August 2017?
 7 A. Yes.
 8 MR. CHYNOWETH: No further
 9 questions.
 10 MR. BOONE: I don't think we have
 11 anything else.
 12 (The deposition of DARCY CORBITT,
 13 concluded on November 9, 2018, at
 14 10:33 a.m.)
 15
 16 FURTHER DEPONENT SAITH NOT
 17
 18
 19
 20
 21
 22
 23

1 REPORTER'S CERTIFICATE
2 STATE OF ALABAMA)
3 JEFFERSON COUNTY)
4 I, Elaine Scott, Licensed Court
5 Reporter and Commissioner for the State of
6 Alabama at Large, hereby certify that on
7 November 9, 2018, I reported the deposition of
8 DARCY CORBITT, who was first duly sworn or
9 affirmed to speak the truth in the matter of
10 the foregoing cause, and that pages 1 through
11 85 contain a true and accurate transcription
12 of the examination of said witness by counsel
13 for the parties set out herein.
14 I further certify that I am neither
15 of kin nor of counsel to any of the parties to
16 said cause nor in any manner interested in the
17 results thereof.
18 _____
19 ELAINE SCOTT, Court Reporter
20 and Commissioner for the State
21 of Alabama at Large,
22 CCR License No. 354, Expires 9/30/19
23 MY COMMISSION EXPIRES NOVEMBER 16, 2019

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