

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
CENTRAL DIVISION**

DYLAN BRANDT, et al.,

PLAINTIFFS

v.

CASE NO. 4:21-CV-00450-JM

LESLIE RUTLEDGE, et al.,

DEFENDANTS

MOTION TO COMPEL PRODUCTION OF DOCUMENTS

Pursuant to Rule 37(a)(3)(B)(iv) of the Federal Rules of Civil Procedure, Plaintiffs hereby move to compel Defendants to produce responsive documents from the records of Defendant-Attorney General Leslie Rutledge.. This *Motion* should be granted for the reasons detailed below, as supported by Plaintiffs' *Brief in Support*:

1. Defendants were served on October 18, 2021, with Plaintiffs' First Set of Requests for Production, requesting that Defendants produce "all documents and communications concerning the Health Care Ban" and that they produce "all documents and communications concerning gender dysphoria, gender transition, gender transition procedures, transgender people, and medical policies and guidelines related to the treatment of gender dysphoria." *Exhibit 1* (Plaintiffs' First Requests for Production). Shortly after Defendants' responded and voiced objections to Plaintiffs' discovery requests, Plaintiffs began good faith negotiations to secure the production of relevant documents, including providing search terms to

Defendants to utilize in identifying relevant documents within Attorney General Rutledge's emails. *Exhibit 2* (Defendants' Responses to Plaintiffs' First Requests for Production); *Exhibit 3* (DEF0001-0008); *Exhibit 4* (December 6, 2021 letter from D. Simpson LaGoy to K. Guest). Despite three months of Plaintiffs' extensive efforts, Defendants have only produced 158 pages of documents, *Exhibit 3* (DEF0001-0008); *Exhibit 6* (DEF009-00157), and have informed Plaintiffs that they are withholding approximately 4,500 documents on the grounds that they are irrelevant in this case, *Exhibit 5* (January 10, 2022 email from K. Guest to D. Simpson LaGoy); *Exhibit 7* (January 21, 2022 Privilege Log); *Exhibit 8* (January 21, 2022 Letter from K. Guest to D. Simpson LaGoy); *Exhibit 9* (January 31, 2022 Letter from D. Simpson LaGoy to K. Guest); *Exhibit 10* (February 1, 2022 Letter from K. Guest to D. Simpson LaGoy).

3. The Court's intervention is required to compel the production of undoubtedly relevant documents to this case that are not subject to any valid objection. To date, Defendants have failed to produce relevant documents from the custodial files of the Attorney General's Office. Defendants have not revealed the full extent of the emails they are withholding, nor have they stated whether any of these documents are related to the Health Care Ban. Given that Attorney General Rutledge has made anti-trans efforts like the Health Care Ban a major part of her agenda, it is unlikely that only a handful of emails in the Office's possession are

related to those efforts. Furthermore, emails about any topics involving transgender individuals are undoubtedly relevant to Plaintiffs' claims.

WHEREFORE, Plaintiffs respectfully request the Court find good cause to grant the *Motion*, and issue an order to compel Defendants to produce relevant documents responsive to the Plaintiffs' First Requests for Production, along with attorneys' fees and costs as the Court sees appropriate under the circumstances.

Dated: March 7th, 2022

/s/ Leslie Cooper

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Exhibit 1

**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF ARKANSAS
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DYLAN BRANDT, et al.,

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CASE NO. 4:21-CV-00450-JM

LESLIE RUTLEDGE, et al.,

DEFENDANTS

PLAINTIFFS' FIRST SET OF REQUESTS FOR PRODUCTION

Pursuant to Rules 26 and 34 of the Federal Rules of Civil Procedure, Local Rule 33.1 and any other applicable rules or governing law (collectively, the “Applicable Rules”), Plaintiffs Dylan Brandt, Joanna Brandt, Sabrina Jennen, Lacey Jennen, Aaron Jennen, Brooke Dennis, Amanda Dennis, Shayne Dennis, Parker Saxton, Donnie Saxton, Michele Hutchison, and Kathryn Stambough (collectively, “Plaintiffs”) hereby demand, by and through their undersigned attorneys, that Defendants Leslie Rutledge, Amy E. Embry, Sylvia D. Simon, Robert Breving Jr., Veryl D. Hodges, John H. Scribner, Elizabeth Anderson, Rhys L. Branman, Edward “Ward” Gardner, Rodney Griffin, Betty Guhman, Brian T. Hyatt, Timothy C. Paden, Don R. Philips, William L. Rutledge, and David L. Staggs (collectively, “Defendants”) produce the documents described herein for inspection and copying at the offices of Gill Ragon Owen, P.A., 425 West Capitol Avenue, Suite 3800, Little Rock, Arkansas, 72201, within 30 days, or at such other time and place as may be

mutually agreed, in the manner prescribed by the Federal Rules and the Local Rules, and in accordance with the Definitions and Instructions set forth below.

DEFINITIONS

1. All terms used in these Document Requests (the “Requests”), including but not limited to the terms “document,” “communication,” “identify,” “person” and “concerning,” have the broadest meaning accorded to them under Fed. R. Civ. P. 34, and all documents and information should be produced in accordance with the Applicable Rules.

2. “Communication” means the transmittal of facts, ideas, thoughts, opinions, data, inquiries or otherwise and includes, but is not limited to, correspondence, memoranda, reports, presentations, face-to-face conversations, telephone conversations, text messages, instant messages, voice messages, negotiations, agreements, inquiries, understandings, meetings, letters, notes, telegrams, mail, email and postings of any type.

3. “Concern” or “concerning” means constituting, pertaining to, making reference to, comprising, evidencing, alluding to, responding to, connected with, commenting on, with respect to, about, regarding, resulting from, embodying, explaining, supporting, contradicting, discussing, showing, describing, reflecting, analyzing, setting forth, in respect of, having a relationship to, or in any way being

factually, legally or logically connected to, in whole or in part, the stated subject matter.

4. “Document” means the original (or, if the information requested cannot be provided as to the original, each and every copy, duplicate or reproduction) of any medium upon which information can be recorded or retrieved, and includes any written, recorded or graphic matter, in any language, whether produced or reproduced or stored on paper, cards, tape, film, computer, electronic storage devices or any other media and includes, but is not limited to, papers, trade letters, envelopes, telegrams, cables, messages, correspondence, memoranda, notes, email, text messages, instant messages, reports, studies, press releases, comparisons, books, accounts, checks, audio and video recordings, pleadings, testimony, articles, bulletins, pamphlets, brochures, magazines, questionnaires, surveys, charts, newspapers, calendars, lists, logs, publications, notices, diagrams, instructions, diaries, meeting minutes, orders, resolutions, agendas and memorials or notes of oral Communications, together with all notations on any of the foregoing, all originals, file copies or other unique copies of the foregoing and all versions of drafts thereof, whether used or not. A request for all Documents concerning a particular subject matter includes within its scope all Communications concerning that subject matter.

5. “Health Care Ban” means the Save Adolescents from Experimentation (SAFE) Act, 2021 Ark. Act 626 (bill filed Feb. 25, 2021) (codified at Ark. Code 20-9-1501 through -1504).

6. “You,” “your” or “Defendants” refer to Leslie Rutledge, the Arkansas State Medical Board, Amy E. Embry, Sylvia D. Simon, Robert Breving Jr., Veryl D. Hodges, John H. Scribner, Elizabeth Anderson, Rhys L. Branman, Edward “Ward” Gardner, Rodney Griffin, Betty Guhman, Brian T. Hyatt, Timothy C. Paden, Don R. Philips, William L. Rutledge, and David L. Staggs.

INSTRUCTIONS

1. In responding to these Requests, You are required to produce all documents described below that are in Your possession, custody or control.

2. For the purpose of reading, interpreting or construing the scope of these Requests, the terms used shall be given their most expansive and inclusive interpretation.

3. Unless instructed otherwise, each request shall be construed independently and not by reference to any other request for the purpose of limitation or exclusion, except that each request shall not be construed to call for documents that are called for by previous requests.

4. If You withhold any document, or any portion of any document, under a claim of privilege, immunity or protection, including the attorney-client privilege

or work product doctrine, You shall provide a written privilege log that sets forth the information required by Rule 26 of the Federal Rules of Civil Procedure.

5. If information is redacted or otherwise withheld from a document produced in response to a request, You shall identify the redaction or otherwise withheld information by stamping the word “Redacted” on the document at each place from which information has been redacted or otherwise withheld and separately log each such redaction on the privilege log.

6. The documents must be produced in the format agreed to by the parties for production of documents. If no such agreement on format exists at the time of production, the documents must be produced as they are kept in the usual course of business or organized and labeled to correspond with the Request number to which the documents are responsive.

7. In the event that a copy of a requested document is not identical to any other copy of the same document in Your possession, custody or control, all non-identical copies shall be produced.

8. Unless otherwise indicated, these Requests pertain to the period of October 1, 2020 to the present.

DOCUMENT REQUESTS

1. All documents and communications concerning the Health Care Ban, including, but not limited to video and audio recordings concerning any state

legislative hearings and committee meetings at which the Health Care Ban was discussed.

2. All documents and communications concerning gender dysphoria, gender transition, gender transition procedures, transgender people, and medical policies and guidelines related to the treatment of gender dysphoria by professional medical groups, including, but not limited to, the World Professional Association for Transgender Health and the Endocrine Society.

3. Documents sufficient to show all medical procedures or treatments that are or have been prohibited under Arkansas law or regulations since January 1, 2016.

4. All documents from January 1, 2016 to the present concerning any proposal to prohibit a medical procedure or treatment.

5. All documents concerning surgical interventions to treat infants, children, and/or adolescents with disorders of sexual development or intersex conditions.

6. All documents, including but not limited to, policies, practices and medical guidelines, concerning the treatment of gender dysphoria of individuals in the custody of the State of Arkansas, including, but not limited to, prisoners and youth in foster care.

7. All documents concerning the impact of the Health Care Ban on the well-being of minors.

8. All documents referenced in Defendants' Initial Disclosures.

Dated: October 18, 2021

/s/ Leslie Cooper

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Exhibit 2

IN THE UNITED STATES DISTRICT COURT
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DYLAN BRANDT, et al.,

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CASE NO. 4:21-CV-00450-JM

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DEFENDANTS

DEFENDANTS' RESPONSES TO PLAINTIFFS'
REQUESTS FOR PRODUCTION OF DOCUMENTS

COMES NOW, the Defendants, Leslie Rutledge, et al., by and through their attorneys, Leslie Rutledge, Attorney General of the State of Arkansas, and Senior Assistant Attorney General Kat Hodge, and for their Responses to Plaintiffs' Requests for Production of Documents, state:

REQUEST FOR PRODUCTION NO. 1: All documents and communications concerning the Health Care Ban, including, but not limited to video and audio recording concerning any state legislative hearings and committee meetings at which the Health Care Ban was discussed.

RESPONSE NO. 1: The Defendants object to these requests for production of documents to the extent they seek information which is in the possession, custody, or control of persons other than the State Defendants.

The Defendants object to these requests for production of documents to the extent that: (1) the discovery sought by any such request is unreasonably cumulative or duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (2) compliance with any such request would be unduly

burdensome, expensive, annoying, or oppressive; (3) any such request is intended solely to harass the Defendants; (4) any such request seeks information or documents that is not relevant to the claims or defenses in this action; and (5) any such request seeks information or documents that is not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties' relative access to relevant information, the parties' resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

Further objecting, this request seeks information that postdates the passage of the SAFE Act, which is not relevant to any claims or defenses in this case. Plaintiffs allege that the SAFE Act was not enacted for a "legitimate bas[i]s." Compl. ¶ 170. But information postdating the passage of the SAFE Act is not relevant to determining the basis for the Act.

Further objecting, the request is improper because it may include documents, materials, or tangible things that were prepared in anticipation of or preparation for litigation. It may also cover those mental impressions, conclusions, opinions, or legal theories of the party's attorney or other representative concerning litigation.

Subject to and without waiving these objections, and in a good-faith effort to participate in discovery, Defendants state that after reasonable inquiry, that the Defendants are unable to locate any documents responsive to this request at this time.

This response will be supplemented if and when responsive documents are located pursuant to Fed. R. Civ. P. 26(b)(1) and the Court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 2: All documents and communications concerning gender dysphoria, gender transition, gender transition procedures, transgender people, and medical policies and guidelines related to the treatment of gender dysphoria by professional medical groups, including, but not limited to, the World Professional Association for Transgender Health and the Endocrine Society.

RESPONSE NO. 2: The Defendants object to this request for production of documents to the extent that: (1) the discovery sought by any such request is unreasonably cumulative or duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (2) compliance with any such request would be unduly burdensome, expensive, annoying, or oppressive; (3) any such request is intended solely to harass the Defendants; and (4) any such request seeks information or documents that is not relevant to the claims or defenses in this action.

Expressly objecting, this request is unduly burdensome and seeks documents in no way relevant to this case of action. The Office of the Attorney General serves as legal counsel for the State of Arkansas and its agencies, departments, officials, and employees. The office includes several departments, including Administrative Offices, Consumer/Public Protection, Civil Litigation, Criminal, Public Outreach, Opinions, and a Special Investigative Division. The request as written would require the OAG to potentially scour countless documents to determine whether or not such documents are

included in this request. For instance, a consumer protection complaint could mention the words “transgender people.” This complaint would be covered by the request, but be wholly irrelevant to the legal issues presented in this matter. The OAG is active in hundreds of cases, complaints, and legal matters office-wide. It is too burdensome to require the OAG to scour all files of all employees for any document concerning the terms identified above.

Furthermore, the Defendants object to this request because it could be construed as seeking documents protected by the attorney-client and attorney work product doctrines. For example, counsels’ work product and internal communications could be construed as documents and communications concerning gender dysphoria, gender transition, gender transition procedures, transgender people, and medical policies and guidelines related to the treatment of gender dysphoria by professional medical groups. Additionally, the request is improper because it may include documents, materials, or tangible things that were prepared in anticipation of or preparation for litigation. It may also cover those mental impressions, conclusions, opinions, or legal theories of the party’s attorney or other representative concerning litigation. Pursuant to Federal Rule of Civil Procedure 26(b)(3)(A)—(5), counsel for Defendant, Attorney General Leslie Rutledge, has protected, privileged information, including to name just a few exemplary items, draft briefs, scientific literature collected by counsel for use in litigation, and counsel’s notes on that literature. Because of its unreasonable scope, this request sweeps in, among other things, drafts of briefs

filed in this lawsuit and communications between counsel of record in this lawsuit about Defendants' legal strategy.

Without waiving any objections, please see responses numbered DEF0001-0008. This response will be supplemented if and when non-privileged, responsive documents are located pursuant to Fed. R. Civ. P. 26(b)(1) and the Court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 3: Documents sufficient to show all medical procedures or treatments that are or have been prohibited under Arkansas Law or regulations since January 1, 2016.

RESPONSE NO. 3: The Defendants object to these requests to the extent they seek production of documents already in Plaintiffs' possession, custody, or control. To the extent any such documents are responsive to these or future requests, the defendants refer Plaintiffs to those documents.

Furthermore, the Defendants object to this request as vague. It is unclear what the request means by asking for documents that are "sufficient to show" which procedures or treatments have been prohibited since 2016. Without waiving the objection, Plaintiffs may search relevant case law and regulatory laws for the State of Arkansas to determine whether any medical procedures or treatments have been prohibited since 2016.

Furthermore, the Defendants object to this request because it could be construed as seeking documents protected by the attorney-client and attorney work product

doctrines. For example, counsels' work product and internal communications could be construed as documents and communications concerning medical procedures or treatments that are or have been prohibited under Arkansas Law or regulations since January 1, 2016. Additionally, the request is improper because it may include documents, materials, or tangible things that were prepared in anticipation of or preparation for litigation. It may also cover those mental impressions, conclusions, opinions, or legal theories of the party's attorney or other representative concerning litigation. Pursuant to Federal Rule of Civil Procedure 26(b)(3)(A)—(5), counsel for Defendant, Attorney General Leslie Rutledge, has protected, privileged information including, to name just a few exemplary items, draft briefs, scientific literature collected by counsel for use in litigation, and counsel's notes on that literature. Because of its unreasonable scope, this request sweeps in, among other things, drafts of briefs filed in this lawsuit and communications between counsel of record in this lawsuit about Defendants' legal strategy.

This response will be supplemented if and when non-privileged, responsive documents are located pursuant to Fed. R. Civ. P. 26(b)(1) and the Court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 4: All documents from January 1, 2016 to the present concerning any proposal to prohibit a medical procedure or treatment.

RESPONSE NO. 4: The Defendants object to this to the extent it seeks private, confidential medical information for individuals who are not parties to this action and who have not consented to the release of their confidential medical records. As such, the request exceeds the scope of permissible discovery.

The Defendants further object to this request because it could be construed as seeking documents protected by the attorney-client and attorney work product doctrines. For example, counsels' work product and internal privileged communications concerning any proposal to prohibit a medical procedure or treatment would be covered. Additionally, the request is improper because it may include documents, materials, or tangible things that were prepared in anticipation of or preparation for litigation. It may also cover those mental impressions, conclusions, opinions, or legal theories of the party's attorney or other representative concerning litigation.

Subject to and without waiving those objections, after reasonable inquiry, Defendants are unable to locate any documents responsive to this request at this time. This response will be supplemented if and when responsive documents are located pursuant to Fed. R. Civ. P. 26(b)(1) and the Court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 5: All documents concerning surgical intervention to treat infants, children, and/or adolescents with disorders of sexual development or intersex conditions.

RESPONSE NO. 5: The Defendants object to this request to the extent it seeks private, confidential medical information for individuals who are not parties to this

action and who have not consented to the release of their confidential medical records. As such, the request exceeds the scope of permissible discovery.

Furthermore, the Defendants object to this request because it could be construed as seeking documents protected by the attorney-client and attorney work product doctrines. For example, counsels' work product and internal communications could be construed as documents and communications concerning surgical intervention to treat infants, children, and/or adolescents with disorders of sexual development or intersex conditions. Additionally, the request is improper because it may include documents, materials, or tangible things that were prepared in anticipation of or preparation for litigation. It may also cover those mental impressions, conclusions, opinions, or legal theories of the party's attorney or other representative concerning litigation. Pursuant to Federal Rule of Civil Procedure 26(b)(3)(A)—(5), counsel for Defendant, Attorney General Leslie Rutledge, has protected, privileged information including, to name just a few exemplary items, draft briefs, scientific literature collected by counsel for use in litigation, and counsel's notes on that literature. Because of its unreasonable scope, this request sweeps in, among other things, drafts of briefs filed in this lawsuit and communications between counsel of record in this lawsuit about Defendants' legal strategy.

Subject to and without waiving those objections, after reasonable inquiry, Defendants are unable to locate any documents responsive to this request at this time. This response will be supplemented if and when responsive documents are located pursuant to Fed. R. Civ. P. 26(b)(1) and the Court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 6: All documents, including but not limited to, policies, practices and medical guidelines, concerning the treatment of gender dysphoria or individuals in the custody of the State of Arkansas, including, but not limited to, prisoners and youth in foster care.

RESPONSE NO. 6: The Defendants object to this request because it seeks information that is not relevant to any party's claim or defense, is overly broad, unduly burdensome, and also because it is disproportionate to the needs of the case and is, therefore, outside the scope of permissible discovery under Fed. R. Civ. P. 26(b)(1). There are thousands of individuals, including prisoners, youth in foster care, and individuals confined to the State hospital. The request unreasonably requires Defendants to scour potentially thousands records to search for documents referencing or concerning gender dysphoria for a large population of individuals who are not in any way related to the pending litigation.

The Defendants object to this request to the extent it seeks private, confidential medical information for individuals who are not parties to this action and who have not consented to the release of their confidential medical records. As such, the request exceeds the scope of permissible discovery.

The Defendants further object to this request because it could be construed as seeking documents protected by the attorney-client and attorney work product doctrines. Furthermore, the Defendants object to this request because it could be construed as seeking documents protected by the attorney-client and attorney work

product doctrines. Additionally, the request is improper because it may include documents, materials, or tangible things that were prepared in anticipation of or preparation for litigation. It may also cover those mental impressions, conclusions, opinions, or legal theories of the party's attorney or other representative concerning litigation. Pursuant to Federal Rule of Civil Procedure 26(b)(3)(A)—(5), counsel for Defendant, Leslie Rutledge, has protected, privileged information including, to name just a few exemplary items, draft briefs, scientific literature collected by counsel for use in litigation, and counsel's notes on that literature. Because of its unreasonable scope, this request sweeps in, among other things, drafts of briefs filed in this lawsuit and communications between counsel of record in this lawsuit about Defendants' legal strategy. Counsel for Defendant, Attorney General Leslie Rutledge, has protected, privileged information including, to name just a few exemplary items, draft briefs, scientific literature collected by counsel for use in litigation, and counsel's notes on that literature. Because of its unreasonable scope, this request sweeps in, among other things, drafts of briefs filed in this lawsuit and communications between counsel of record in this lawsuit about Defendants' legal strategy.

This response will be supplemented if and when non-privileged, responsive documents are located pursuant to Fed. R. Civ. P. 26(b)(1) and the Court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 7: All documents concerning the impact of the Health Care Ban on the well-being of minors.

RESPONSE NO. 7:

Defendants object to producing any documents covered by Federal Rule of Civil Procedure 26(b)(4).

Defendants state that after reasonable inquiry, Defendants are unable to locate any documents responsive to this request at this time. This response will be supplemented if and when responsive documents are located pursuant to Ark. R. Civ. P. 26(b)(1) and the Court's Scheduling Order.

REQUEST FOR PRODUCTION NO. 8: All documents referenced in Defendants' Initial Disclosures.

RESPONSE NO. 8: At this time, all documents referenced in the Defendants initial disclosures are attached to pleadings that are filed of record in this case. This response will be supplemented if and when responsive documents are located pursuant to Ark. R. Civ. P. 26(b)(1) and the Court's Scheduling Order.

Respectfully submitted,

LESLIE RUTLEDGE
Attorney General

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Attorneys for Defendants

CERTIFICATE OF SERVICE

I, Kat Hodge, hereby certify that on November 17, 2021, I forwarded a true and accurate copy of the foregoing via electronic mail to the following counsel of record:

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Exhibit 3



(<https://arkansasag.gov>)

SEARCH



NEWS RELEASES

RUTLEDGE ISSUES STATEMENT ON EXPERIMENTAL PROCEDURES FOR TRANSGENDER CHILDREN

 JULY 21, 2021

Says, 'we cannot allow children as young as 9 years old to receive experimental procedures that have irreversible, physical consequences'

LITTLE ROCK – Arkansas Attorney General Leslie Rutledge issued a statement following the federal district court’s ruling preliminarily enjoining the Save Adolescents from Experimental (SAFE) Act.

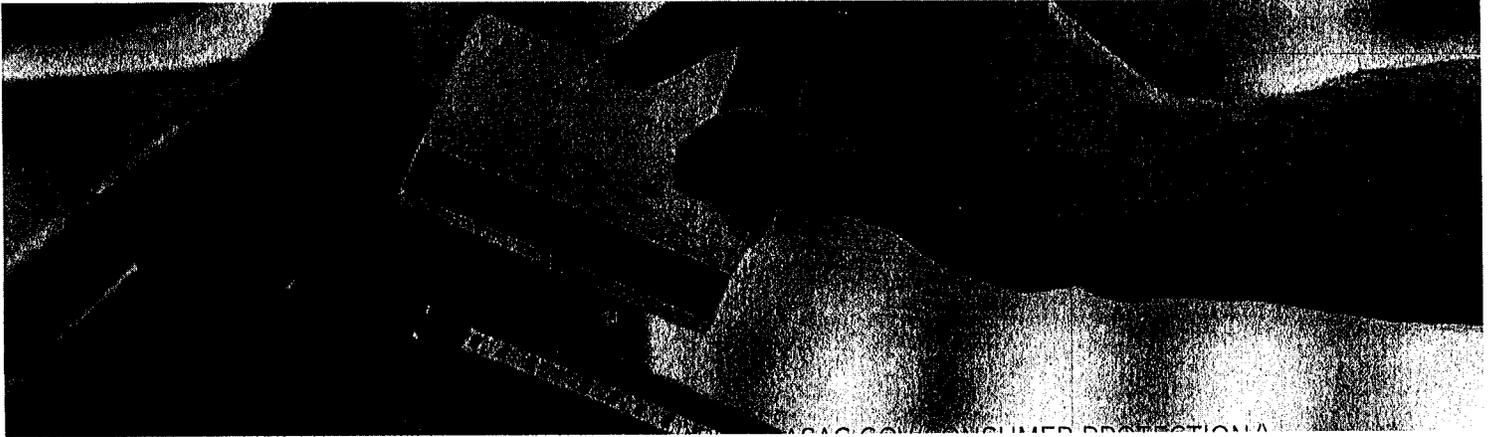
“This evidence based law was created because we cannot allow children as young as 9 years old to receive experimental procedures that have irreversible, physical consequences,” said Attorney General Rutledge. (<https://arkansasag.gov/resources/contact-us/>) “I will aggressively defend Arkansas’s law which strongly limits permanent, life-

SIGN UP FOR ATTORNEY GENERAL ALERTS
(<https://arkansasag.gov/news-events/sign-up-for-alerts/>)

(<https://arkas>)

DEF0001

altering sex changes to adolescents. I will not sit idly by while radical groups such as the ACLU use our children as pawns for their own social agenda. As the Attorney General of Arkansas, I will be appealing today's decision."



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DEF0003

RUTLEDGE ISSUES STATEMENT ON EXPERIMENTAL PROCEDURES FOR TRANSGENDER CHILDREN

JULY 21, 2021

Says, 'we cannot allow children as young as 9 years old to receive experimental procedures that have irreversible, physical consequences'

LITTLE ROCK – Arkansas Attorney General Leslie Rutledge issued a statement following the federal district court's ruling preliminarily enjoining the Save Adolescents from Experimental (SAFE) Act.

"This evidence based law was created because we cannot allow children as young as 9 years old to receive experimental procedures that have irreversible, physical consequences," said Attorney General Rutledge. "I will aggressively defend Arkansas's law which strongly limits permanent, life-altering sex changes to adolescents. I will not sit idly by while radical groups such as the ACLU use our children as pawns for their own social agenda. As the Attorney General of Arkansas, I will be appealing today's decision."

ATTORNEY GENERAL RUTLEDGE LEADS MULTISTATE BRIEF SUPPORTING MISS UNITED STATES OF AMERICA

NOVEMBER 1, 2021

Says, 'Simply not right that women have fought for decades to have equal opportunities and now women are being forced to compete against biological men in exclusively female activities'

LITTLE ROCK – Arkansas Attorney General Rutledge leads a 12-multistate amicus brief defending Miss United States of America's right to produce a pageant that expresses its view of women's empowerment. The brief seeks to uphold the pageant's First Amendment right to require that contestants be biological females against a claim brought by an "openly transgender" individual.

"It's simply not right that women have fought for decades to have equal opportunities and now women are being forced to compete against biological men in exclusively female activities," said Arkansas Attorney General Rutledge. "Pageants that promote female empowerment are a constitutional right and should be exclusively for women."

Attorney General Rutledge has been a fierce advocate for women's rights in Arkansas by ensuring that female athletes in Arkansas have equal opportunity to compete in exclusively female sports. Her leadership in the crafting and passage of the Gender Integrity Reinforcement Legislation for Sports (GIRLS) Act is just the most recent example of her protecting Arkansas's young women.

In addition to Rutledge's leadership on the brief it was signed on to by attorneys general from Alabama, Arizona, Idaho,

ICYMI: WHY ARKANSAS' GIRLS ACT LEVELS THE PLAYING FIELD

MARCH 23, 2021

REAL CLEAR POLITICS

Why Arkansas' GIRLS Act Levels the Playing Field

Real Clear Politics

By: Arkansas Attorney General Leslie Rutledge

March 20, 2021

LITTLE ROCK – This weekend, an op-ed written by Arkansas Attorney General Leslie Rutledge appeared in *Real Clear Politics*. The piece detailed Rutledge's leadership protecting young Arkansans by proposing the GIRLS Act and challenging President Biden's effort to dismantle equity for females in girls' sports.

"I was robbed," cries out your daughter as she sits silently and watches her classmate take her position on the starting line. You agree. But, unfortunately, you have no words to comfort your daughter in her time of need. As parents, we tell our children if you work hard, you can achieve whatever you set your mind to; however, you never prepared your daughter for a situation of this caliber.

Unfortunately, this is a stark reality for some parents across the nation where, in states such as Connecticut, transgender boys are allowed to compete against biological girls in sporting events.

How do you explain to a 15-year-old that all of the late nights and early mornings training and perfecting technique were for nothing? Because the truth of the matter is, it isn't your daughter's lack of ability holding her back but rather a physiological difference that makes it nearly impossible for her to be able to compete against someone who was a biological male at birth.

As a mother of a precious 2-and-a-half-year old girl, I want my daughter to not only have the opportunity to compete in sports, but also to succeed. As attorney general, and on behalf of my daughter and all of our young female athletes in the great state of Arkansas, I hereby challenge President Biden's Executive Order 13988 in the state of Arkansas with The GIRLS Act: Gender Integrity Reinforcement Legislation for Sports.

The GIRLS Act will provide equity for females in girls' sports. Under this legislation, all schools will be required to monitor and enforce its athletes competing in the proper athletic event based on the sex assignment found on their birth certificate. The proposed bill allows anyone who is deprived of athletic opportunities to seek a court order stopping the violation along with damages and attorney's fees in a lawsuit against any Arkansas school that violates the legislation.

We in the state of Arkansas are simply asking that biological boys compete against one another in physical competitions. This ensures equity for all — boys, girls, and individuals who identify as transgender.

President Biden's executive order "Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation" stipulates that "all persons should receive equal treatment under the law, no matter their gender identity or sexual orientation." But shouldn't that same standard apply to biological females?

Title IX was established to protect against sex-based discrimination, yet President Biden's executive order blatantly affects biological females and their ability to succeed. There are enough societal barriers for girls to overcome without the federal government unjustly implementing more to their detriment.

For 49 years, Title IX has worked to level the playing field for young girls looking to participate in athletics. One of President Biden's first moves was an executive order setting these rights back potentially decades.

Sports in particular have been proven to improve self-esteem in girls during adolescence, decrease their chance of developing depression, as well as provide opportunities for them to succeed later in life through scholarships and academic achievement in college. Values like teamwork, leadership, and perseverance are instilled at a young age, and continue on with our female athletes well into the rest of their lives.

In a world where females are already at a societal disadvantage, we should be championing their rights as young athletes. The GIRLS Act not only challenges President Biden's executive order, it ensures that our female athletes and their right to compete in sports in a non-biased manner is enforced. My little girl, and yours, deserve to be represented and they deserve equal opportunities to succeed in all areas of life, including athletics.

ATTORNEY GENERAL RUTLEDGE PROPOSES THE GIRLS ACT

FEBRUARY 22, 2021

Rutledge introduces 'Gender Integrity Reinforcement Legislation for Sports Act'

LITTLE ROCK – Arkansas Attorney General Leslie Rutledge today proposed legislation to ensure equity in women's sports in the State. The draft legislation is titled "The GIRLS Act" (Gender Integrity Reinforcement Legislation for Sports Act) and seeks to protect access to athletic opportunities for girls and women in K-12 and post-secondary institutions. If passed, it would ensure fair competition by limiting girls' sports to girls and women's sports to women in as evidenced by an original birth certificate.

"As a mom of a two-and-a-half year old girl, and having grown up playing a number of sports, I know first-hand the benefit that sports has on developing self-discipline, confidence, teamwork and leadership," said Attorney General Rutledge. "This proposed legislation would make sure that young women in Arkansas can compete on a level playing field—no matter what sport they choose."

During his first days in office, President Biden signed Executive Order 13988, entitled Preventing and Combating Discrimination on the Basis of Gender Identity or Sexual Orientation. By signing this executive action, the Biden Administration signaled that it intends to require schools to allow biological boys who self-identify as girls onto girls' sports teams.

By creating protected space for girls and women's sports, the legislation proposed by Rutledge's office provides opportunities for girls and women to demonstrate their skill, strength and athletic abilities while also providing them with opportunities to obtain recognition, accolades, college scholarships and the many other long-term benefits that flow from athletic achievement.

The proposed bill allows anyone who, as a result of a violation of the legislation, is deprived of athletic opportunities or suffers any other harm to seek a court order stopping the violation along with damages and attorney's fees in a lawsuit against any Arkansas school that violates the legislation.

The lead sponsors of the bill are Senator Missy Irvin of Mountain View and Representative DeAnn Vaught of Horatio.

Exhibit 4

SULLIVAN & CROMWELL LLP

TELEPHONE: 1-650-461-5600
FACSIMILE: 1-650-461-5700
WWW.SULLCROM.COM

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December 6, 2021

Via E-mail

Kat Guest,
Assistant Attorney General,
323 Center Street, Suite 200,
Little Rock, AR 72201.

Re: *Brandt v. Rutledge*, Case No. 4:21-cv-450 JM

Dear Kat:

I write on behalf of Plaintiffs to discuss the issues raised during the parties' November 23, 2021 meet and confer regarding Plaintiffs' First Set of Requests for the Production of Documents, dated October 18, 2021 (the "Requests").

Defendants' Inadequate Search for Documents

Defendant Rutledge produced only four publically available press releases in response to the Requests and the Medical Board Defendants did not produce any documents. Defendants' Responses and Objections assert that Defendants made a "reasonable inquiry" but were "unable to locate any documents responsive to" most of the Requests. During our meet and confer, you were unable to provide any meaningful detail about the "reasonable inquiry" that Defendants conducted to search for responsive documents. In relation to Defendant Rutledge, you only stated that a custodian from the Office of the Attorney General, Julie Benefield, conducted a search for emails and that certain department heads were asked to conduct a search of their documents. But you were unable to provide the parameters of any of the searches Ms. Benefield conducted for documents, and were unable to state whether Defendant Rutledge's emails were searched at all. In relation to the Medical Board Defendants, you were unable to provide any information about the search that was conducted.

During our meet and confer, you argued that if Plaintiffs wanted additional information about the searches Defendants ran, Plaintiffs would need to serve an interrogatory asking for that information. But Plaintiffs have requested information concerning the searches Defendants ran in order to make a good faith effort to cooperate in discovery, and "parties are entitled 'to know what search criteria was used in retrieving

Kat Guest

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relevant ESI.” *Beef Prod., Inc. v. Hesse*, 2019 WL 6841362, at *8 (D.S.D. Dec. 16, 2019) (quoting *Nissan N. Am., Inc. v. Johnson Elec. N. Am., Inc.*, 2011 WL 1002835, at *4 (E.D. Mich. Feb. 17, 2011); see also *William A. Gross Constr. Assoc., Inc. v. Am. Mfrs. Mut. Ins. Co.*, 256 F.R.D. 134, 136 (S.D.N.Y.2009) (“Electronic discovery requires cooperation between opposing counsel and transparency in all aspects of preservation and production of ESI.”) Indeed, the fact that Defendants’ “reasonable inquiry” returned only four public documents demonstrates that Defendants’ searches were inadequate. For example, while Defendants have produced four press releases issued on behalf of Defendant Rutledge, they have produced no drafts of those press releases or emails or other communications concerning those press releases. Moreover, the assertion that Defendant Rutledge, who has made multiple public statements concerning the Health Care Ban and transgender people, and that the Medical Board Members, who are charged with enforcing the Health Care Ban, have no documents relating to these issues is highly dubious.

Plaintiffs reiterate their request for a detailed description of the parameters used to search for documents responsive to their requests including: (1) a list of all document custodians; (2) a list of all search terms; (3) the date range applied to the searches and (4) a description of any hard copy files that were searched. Plaintiffs request this information no later than December 20, 2021.

Privilege Log for All Withheld Documents

Defendants objected to each of the Requests on the grounds of attorney-client privilege, attorney work product doctrine, or both. During our meet and confer on November 23, Defendants agreed to provide a privilege log for all documents withheld on the basis of privilege. Please produce your privilege log no later than December 20, 2021.

Response to Request No. 1

Defendants objected to Request No. 1 on the grounds that “these requests for production . . . seek information which is in the possession, custody, or control of persons other than the State Defendants.” During our meet and confer, you clarified that this objection applied to the request for certain legislative materials related to the Health Care Ban, and I asked whether Defendant Rutledge is able to request these materials from the state entity that maintains them. You did not know whether these materials could be requested, but asserted that, even if Defendant Rutledge could request these materials, you would not be obligated to produce them because they are not kept in the normal course of your business. Your argument is incorrect, because “[d]ocuments are deemed to be within the possession, custody, or control if the party has actual possession, custody or control, or has the legal right to obtain the documents on demand.” *Cave v. Thurston*, 2021 WL 4936185, at *3 (E.D. Ark. Oct. 22, 2021) (quoting *Prokosch v. Catalina*

Kat Guest

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Lighting, Inc., 193 F.R.D. 633, 636 (D. Minn. 2000) (internal quotation marks omitted); *see also id.* (“[C]ontrol does not require that the party have legal ownership or actual physical possession of the documents at issue; rather documents are considered to be under a party’s control when that party has the right, authority, or practical ability to obtain the documents from a non-party to the action.”) If Defendant Rutledge has the ability to request the legislative materials responsive to Request 1, she has control of those documents and is obligated to produce them.

Defendants also objected to Request No. 1 on the grounds that

(1) the discovery sought by any such request is unreasonably cumulative or duplicative or is obtainable from some other source that is more convenient, less burdensome, or less expensive; (2) compliance with any such request would be unduly burdensome, expensive, annoying, or oppressive; (3) any such request is intended solely to harass the Defendants; (4) any such request seeks information or documents that is not relevant to the claims or defenses in this action; and (5) any such request seeks information or documents that is not proportional to the needs of the case, considering the importance of the issues at stake in the action, the amount in controversy, the parties’ relative access to relevant information, the parties’ resources, the importance of the discovery in resolving the issues, and whether the burden or expense of the proposed discovery outweighs its likely benefit.

During the meet and confer, you confirmed that you were not standing on these objections and were not withholding any documents based on these objections, which are improper blanket objections. *See* Local Rule 33.1(b) (“A blanket objection to a set of . . . requests for production will not be recognized. Objections must be made to the specific interrogatory or request, or to a part thereof if it is compound. It is not sufficient to state that the interrogatory or request is burdensome, improper, or not relevant. The ground or grounds for the objection must be stated with particularity.”). Similarly, while Defendants objected to the timeframe of Request No. 1 — October 1, 2020 through October 18, 2021 — you confirmed that you had searched for responsive document through this entire timeframe, and that you were not withholding documents based on this objection. In any event, this objection is unfounded because information about the motivations for the enactment of the SAFE Act may be present in documents postdating its passage.

As discussed above, Defendants were unable to explain the parameters of the search they ran to find documents responsive to Request No. 1, and the fact that

Kat Guest

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Defendants only produced two documents concerning the Health Care Ban indicates that Defendants' search was inadequate. Plaintiffs request that Defendants conduct an adequate search for electronically stored information and hard copy documents responsive to Request No. 1. Defendants should search the custodial files of Defendant Rutledge as well as each of the Medical Board Members during the period from October 1, 2020 through October 18, 2021. Because Defendants were unable to explain the parameters of the search they ran, Plaintiffs have compiled a list of search terms that are likely to return responsive documents, attached as Appendix A. Defendants should run these terms and review any resulting documents for responsiveness to Request No. 1. To the extent Defendants believe any terms are returning an unreasonably high number of non-responsive documents, Defendants should provide a report that lists the number of hits for each search term. Plaintiffs request that Defendants run these search terms and confirm they will review the results for documents responsive to Request No. 1, or provide hit counts, no later than December 20, 2021.

Response to Request No. 2

Defendants object to Request No. 2 on the grounds that "this request is unduly burdensome" because it would require Defendants to "potentially scour countless documents to determine whether or not such documents are included in the request." During the meet and confer, I clarified that Plaintiffs were not seeking documents responsive to this request from every employee of the Office of the Attorney General, but that Plaintiffs only sought documents from Defendant Rutledge and the Medical Board Members.

As with the Request No. 1, Defendants' search for documents in response to Request No. 2 clearly was inadequate because Defendants produced only four documents for Defendant Rutledge and zero documents for the Medical Board Members. Plaintiffs request that Defendants run the same search terms contained in Appendix A and confirm they will review the results for documents responsive to Request No. 2, or provide hit counts, no later than December 20, 2021.

Response to Request No. 3

Defendants object to Request No. 3 on the grounds that documents responsive to this request are "already in the Plaintiff's possession, custody, or control." During our meet and confer, you clarified that you believed that documents responsive to this request are publically available, and that Plaintiffs therefore are not permitted to request these documents from Defendants. But "[d]istrict courts in the Eighth Circuit have explicitly rejected the position that the production of publicly available documents cannot or should not be compelled through discovery." *Cave*, 2021 WL 4936185, at *13 (citing cases). Defendants have no valid objection to producing documents responsive to

Kat Guest

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Request No. 3, and Plaintiffs request that Defendants conduct an adequate search for documents and produce any responsive documents no later than December 20, 2021.

Response to Request No. 4

Defendants object to Request No. 4 “to the extent it seeks private, confidential medical information for individuals who are not parties to this action.” As discussed in during our meet and confer, Plaintiffs are not seeking any private medical information. Plaintiffs request that Defendants conduct an adequate search for documents responsive to this Request and produce any responsive documents no later than December 20, 2021.

Response to Request No. 5

Defendants object to Request No. 5 “to the extent it seeks private, confidential medical information for individuals who are not parties to this action.” As discussed in during our meet and confer, Plaintiffs are not seeking private medical information. Plaintiffs seek documents discussing or mentioning surgical intervention to treat children and/or adolescents with disorders of sexual development or intersex conditions in possession of Defendants that are not privileged. Plaintiffs request that Defendants conduct an adequate search for documents responsive to this Request and produce any responsive documents no later than December 20, 2021.

Response to Request No. 6

Defendants object to Request No. 6 on the grounds that “it seeks information that is not relevant to any party’s claims or defense.” As discussed during our meet and confer on November 23, this objection is unfounded because Defendants attached documents from the Bureau of Prisons in their filings and identified the Bureau of Prisons as a witness in Defendants’ disclosures.

Defendants also object to Request No. 6 on the grounds that it is “overly broad, unduly burdensome, and also because it is disproportionate to the needs of the case.” As discussed during our meet and confer, we seek policies, practices, and guidelines concerning the treatment of gender dysphoria or individuals in the custody of the State of Arkansas, including the Bureau of Prisons and Division of Children and Family Services. Plaintiffs do not seek the specific case file or medical records of any individuals in the custody of the State of Arkansas. Plaintiffs request that Defendants conduct an adequate search for documents responsive to this Request and produce any responsive documents no later than December 20, 2021.

Kat Guest

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Response to Request No. 7

Defendants object Request No. 7 on the grounds that it would require them to “produc[e] documents covered by Federal Rule of Civil Procedure 26(b)(4).” As discussed during our meet and confer on November 23, Plaintiffs are not seeking any documents covered by Rule 26(b)(4), and instead seek documents from the custodial files of Defendant Rutledge and the Medical Board Members. Plaintiffs request that Defendants conduct an adequate search for documents responsive to this Request and produce any responsive documents no later than December 20, 2021.

Response to Request No. 8

Regarding Response to Request No. 8, Plaintiffs understand Defendants’ response.

We look forward to your prompt response.

Sincerely,

/s/ Duncan Simpson LaGoy

Duncan Simpson LaGoy

Appendix A

626	experimental
1570	facial w/10 feminization
2196	gallstones
“American Psychiatric Association”	gender
“Coronary artery”	gender /s affirm!
“Family Council”	genital!
“liver dysfunction”	gluteal w/10 augmentation
“transgender laws”	gonadotropin
20-9-1501	hair w/10 reconstruction
20-9-1502	heritage
20-9-1503	hiatt
20-9-1504	hormone!
23-79-164	hypertension
adf	hypertriglyceridemia
adolescen!	hysterectomy
affirm!	infertil!
alliance w/10 freedom	intersex
androgens	lgbt
biological w/10 (sex OR female! OR male!)	LGBT /s agenda
burleigh	lipofilling
cancer w/10 (breast OR uterine)	liposuction
cerebrovascular	undstrum
cholelithiasis	macroprolactinoma
chromosome!	mammoplasty
clark	mastectomy
clitoroplasty	metoidioplasty
cross w/10 sex	minor!
desist!	nonconforming
endocrin!	nongenital
erythrocytosis	oophorectomy
estrogen	orchiectomy

pectoral w/10 implants

penectomy

Perry

persistence

phalloplasty

pronoun

prostheses w/10 (erection OR testicular)

puberty

queer /s agenda

reassign!

referral w/10 (unprofessional OR discipline
OR enforce!)

reproduc!

safe w/10 Act

save w/10 adolesc!

scrotoplasty

sex

steril!

suicid!

testosterone

thromboembolic

thyroid w/10 cartilage

trans!

urethra

vaginectomy

vaginoplasty

voice w/10 surgery

vulvoplasty

watchful w/10 wait!

world w/10 prof!

wpath

Exhibit 5

Garcia, Ericka B.

From: Ka Tina Guest <KaTina.Guest@arkansasag.gov>
Sent: Monday, January 10, 2022 3:52 PM
To: Simpson LaGoy, Duncan C.
Cc: zzExt-LCOOPER; zzExt-cstrangio; zzExt-echols; zzExt-travis; zzExt-mann; zzExt-breean; Beeney, Garrard R.; Ossip, Jonathan J.; Holland, Alexander S.; Oswell, Laura Kabler; Michael Cantrell; Vincent Wagner; Nicholas Bronni; Lisa Wiedower; zzExt-Sarah
Subject: [EXTERNAL] Brandt v. Attorney General Leslie Rutledge, in her official capacity, Case No. 4:21cv450
Attachments: DOC011022.pdf

Duncan:

I hope you had a pleasant holiday and that your new year is off to a great start.

I have received your December 6, 2021 correspondence concerning the Defendants' responses to Plaintiffs' First Set of Request for Production of Documents. At the outset, I disagree with several statements made in the correspondence. Nevertheless, below please find additional information concerning Defendants' inquiry for records in this matter.

As a preliminary matter, Plaintiffs originally propounded eight Requests for Production of Documents, extremely broad in scope. In response, Defendants provided objections, including, for example, challenges to relevancy, breadth and also asserted privilege, pursuant to FRCP 26.

On December 6, 2021, Plaintiffs provided, for the first time, search terms and requested a search of the Defendants' emails using the requested search terms. Defendants have run a query for the search terms provided in Plaintiffs' December 6, 2021 correspondence for Attorney General Rutledge and the Medical Board Defendants' email addresses. Like Plaintiffs' initial Request for Production of Documents, the search terms are extremely overbroad. For example, the search term "trans*" generated wholly irrelevant documents, including for example emails related to the "transfer" of employees, and would encompass terms, such as "transfer", "transportation", and "translate."

Indeed, the initial query of the Medical Board Defendants' emails generated approximately 33 GB of data. The estimated number of results is 317,822. In response to your request for the "hit list," enclosed is the list for the Medical Board Defendants query. As you can see, the query for "trans*" resulted in 293,452 items. The query for "minor*" resulted in 12,102 items.

Unfortunately, the Attorney General's technology department is unable to provide a similar "hit list" for all search terms. I understand that the "trans*" query accounts for approximately 75% of the results for Attorney General Rutledge's emails. Further, the initial query returned approximately 4,500 emails. Of those, 3,388 are related to the "trans*" query. In a good faith effort to comply with the discovery, staff have begun reviewing several thousand emails over the holiday break. Many of those emails are simply irrelevant to this cause of action.

I suggest modifying the search terms to a more manageable inquiry, particularly the wildcard terms.

As you know, I did not return to the office until January 5, 2022. I am presently preparing for an 8th Circuit oral argument, which is scheduled for January 13, 2022, much of the day tomorrow. Our office is experience some staffing shortages, due to the Covid surge. But, I am happy to visit with you further on late Wednesday afternoon

or late Thursday afternoon, following my argument, to develop a workable plan for discovery in this matter. If those dates do not work, I can be available next week for a follow up conference concerning discovery.

Many thanks in advance,

kat

Ka Tina R. Hodge

Senior Assistant Attorney General
Office of Arkansas Attorney General Leslie Rutledge

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Little Rock, Arkansas 72201
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Katina.Guest@arkansasag.gov | ArkansasAG.gov [\[arkansasag.gov\]](http://arkansasag.gov)



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[\[pinterest.com\]](https://www.pinterest.com)



[\[snapchat.com\]](https://www.snapchat.com)

****This is an external message from: KaTina.Guest@arkansasag.gov ****

501-603-3559

Sent: Friday, December 17, 2021 10:29 AM
 Subject: Brandt v Rutledge Full Final 2-12/17/2021 10:25:46 AM

The search 'Brandt v Rutledge Full Final 2' has 'Search partially succeeded'.

Percent Complete: 100%
 Started by: Chance Pagan
 Stopped by: N/A
 Start Time: 12/17/2021 10:25:46 AM
 End Time: 12/17/2021 2:40:00 PM
 Size: 33.44 GB (35,902,032,072 bytes), Estimated size was: 51.85 GB (55,668,570,443 bytes)
 Items: 242763, Estimated number of items was: 317822 (Estimates don't exclude duplicates)
 Results: asmb\DiscoverySearchMailbox {D919BA05-46A6-415f-80AD-7E09334BB852}
 Errors: An error occurred when searching Script Reporting. The message is 'Cannot open mailbox /o=Arkansas State Medical Board/ou=Exchange Administrative Group (FYDIBOHF23SPDLT)/cn=Configuration/cn=Servers/cn=ASMB2475/cn=Microsoft System Attendant.'

Keyword Hits:

Keyword	Hits	Mailboxes
trans*	293452	51
minor*	12102	39
clark	7143	40
1570	4283	30
(626)	3821	36
Perry	3317	40
reproduc*	3048	39
affirm*	1960	33
sex	1412	33
endocrin*	1007	35
gender	863	32
adf	752	22
adolescen*	720	34
2196	676	31
heritage	613	36
reassign*	522	31
'Family Council'	507	33
suicid*	415	31
hiatt	391	26
hypertension	389	33
'American Psychiatric Association'	159	25
steril*	146	18
experimental	122	25
hormone*	109	22
testosterone	84	16
'liver dysfunction'	70	15
mastectomy	57	21
'Coronary artery'	51	21
cerebrovascular	51	19
persistence	46	14
infertil*	46	10
hysterectomy	42	12

desist*	41	12	
biological NEAR(n=10) (sex OR female* OR male*)	32	11	
gallstones	32	6	
safe NEAR(n=10) Act	29	8	
estrogen	25	10	
genital*	24	9	
gender NEAR(n=25) affirm*	22	4	
referral NEAR(n=10) (unprofessional OR discipline OR enforce*)	22	4	
thromboembolic	19	12	
lgbt	19	11	
world NEAR(n=10) prof*	16	10	
chromosome*	16	9	
cancer NEAR(n=10) (breast OR uterine)	16	5	
cross NEAR(n=10) sex	12	8	
liposuction	11	6	
burleigh	9	5	
androgens	8	3	
urethra	7	7	
gonadotropin	6	4	
nonconforming	5	5	
oophorectomy	4	3	
alliance NEAR(n=10) freedom	4	2	
thyroid NEAR(n=10) cartilage	4	2	
pronoun	3	3	
save NEAR(n=10) adolesc*	3	1	
(wpath)	2	2	
20-9-1501	2	2	
20-9-1502	2	2	
20-9-1503	2	2	
20-9-1504	2	2	
23-79-164	2	2	
cholelithiasis	2	2	
clitoroplasty	2	2	
erythrocytosis	2	2	
hypertriglyceridemia	2	2	
intersex	2	2	
lipofilling	2	2	
macroprolactinoma	2	2	
mammoplasty	2	2	
metoidioplasty	2	2	
nongenital	2	2	
orchiectomy	2	2	
penectomy	2	2	
phalloplasty	2	2	
puberty	2	2	
scrotoplasty	2	2	
'transgender laws'	2	2	
undstrum	2	2	
vaginectomy	2	2	
vaginoplasty	2	2	
vulvoplasty	2	2	
hair NEAR(n=10) reconstruction	1	1	

facial NEAR(n=10) feminization 0 0
gluteal NEAR(n=10) augmentation 0 0
LGBT NEAR(n=25) agenda 0 0
pectoral NEAR(n=10) implants 0 0
protheses NEAR(n=10) (erection OR testicular) 0 0
queer NEAR(n=25) agenda 0 0
voice NEAR(n=10) surgery 0 0
watchful NEAR(n=10) wait* 0 0

Identity: 48b709a5-51b2-45f6-bd07-41ac242eb33a

Created by: ASMB\chanceap

Query: (626 OR 1570 OR 2196 OR 'American Psychiatric Association' OR 'Coronary artery' OR 'Family Council' OR 'liver dysfunction' OR 'transgender laws' OR 20-9-1501 OR 20-9-1502 OR 20-9-1503 OR 20-9-1504 OR 23-79-164 OR adf OR adolescen* OR affirm* OR alliance NEAR(n=10) freedom OR androgens OR biological NEAR(n=10) (sex OR female* OR male*) OR burleigh OR cancer NEAR(n=10) (breast OR uterine) OR cerebrovascular OR cholelithiasis OR chromosome* OR clark OR clitoroplasty OR cross NEAR(n=10) sex OR desist* OR endocrin* OR erythrocytosis OR estrogen OR experimental OR facial NEAR(n=10) feminization OR gallstones OR gender OR gender NEAR(n=25) affirm* OR genital* OR gluteal NEAR(n=10) augmentation OR gonadotropin OR hair NEAR(n=10) reconstruction OR heritage OR hiatt OR hormone* OR hypertension OR hypertriglyceridemia OR hysterectomy OR infertil* OR intersex OR lgbt OR LGBT NEAR(n=25) agenda OR lipofilling OR liposuction OR undstrum OR macroprolactinoma OR mammoplasty OR mastectomy OR metoidioplasty OR minor* OR nonconforming OR nongenital OR oophorectomy OR orchiectomy OR pectoral NEAR(n=10) implants OR penectomy OR Perry OR persistence OR phalloplasty OR pronoun OR protheses NEAR(n=10) (erection OR testicular) OR puberty OR queer NEAR(n=25) agenda OR reassign* OR referral NEAR(n=10) (unprofessional OR discipline OR enforce*) OR reproduc* OR safe NEAR(n=10) Act OR save NEAR(n=10) adolesc* OR scrotoplasty OR sex OR steril* OR suicid* OR testosterone OR thromboembolic OR thyroid NEAR(n=10) cartilage OR trans* OR urethra OR vaginectomy OR vaginoplasty OR voice NEAR(n=10) surgery OR vulvoplasty OR watchful NEAR(n=10) wait* OR world NEAR(n=10) prof* OR wpath)

Senders: All

Recipients: All

Start Date: Blank

End Date: Blank

Message Types: All

Search Dumpster: True

Logging: Full

Exclude Duplicate Messages: True

Email Notification: None

Mailboxes to search: (73) asmb\Administrator, asmb\ASMB Support Department, asmb\ExchangeAdmin, asmb\Maxwell Smart, asmb\D 1. Mark, asmb\setupadmin, asmb\Laurel Mills, asmb\Angela M. Felton, asmb\Jason Hogue, asmb\System Monitor, asmb\NDR, asmb\Postini Support, asmb\Phoenix Help, asmb\Angie Meehleder, asmb\facilitymon, asmb\supportmon, asmb\helpmon, asmb\webform, asmb\Jenny Bailey, asmb\MedSuiteHelp, asmb\sqltestsupport, asmb\SRP TEST, asmb\Testing Guy, asmb\Testing Guy12, asmb\Testing Guy2, asmb\DeLoise McDonough, asmb\Shandy Cochran, asmb\Tangie Hill, asmb\CCVSMON, asmb\hpsim, asmb\Juli Carlson, asmb\MedSuiteManagerHelp, asmb\Susan Wyles, asmb\Linda Carson, asmb\Robert E. Bullock, asmb\Heather C. Owen, asmb\Lindsey Presley, asmb\Holly Garlington, asmb\noreply, asmb\POP3 Mail, asmb\Canon Copier, asmb\Elayna Starks, asmb\Pop3 Mail2, asmb>Email Monitor, asmb\Amy Embry, asmb\Pop CCVS, asmb\Pop Qi, asmb\Pop Test, asmb\WatchGuard Firebox, asmb\Pop CME, asmb\Pop Licensee, asmb\Cobian Backup, asmb\Jackee Allen, asmb\Marian McCammon, asmb\Amanda Boyd, asmb\Krystal McCoy, asmb\LaKeitha Walker, asmb\PJ Begley, asmb\Admin Mark Phillips, asmb\Admin Jason Hogue, asmb\ASMB Test User, asmb\extest_9043ca76ac554, asmb\admin, asmb\Chance Pagan, asmb\Mary M Sanders, asmb\Kathy Haralson, asmb\Morgan Calloway, asmb\Candice Schnebelen, asmb\Wanda Hutchens, asmb\Joshua Hickey, asmb\Alica Peters-Bradford, asmb\Mark R. Phillips, asmb\Script Reporting

Mailboxes searched successfully: (72) asmb\Wanda Hutchens, asmb\Kathy Haralson, asmb\Joshua Hickey, asmb\Mary M Sanders, asmb\admin, asmb\extest_9043ca76ac554, asmb\ASMB Test User, asmb\Admin Jason Hogue, asmb\Admin Mark Phillips, asmb\Morgan Calloway, asmb\Candice Schnebelen, asmb\Alica Peters-Bradford, asmb\LaKeitha Walker, asmb\PJ Begley, asmb\Chance Pagan, asmb\Cobian Backup, asmb\Pop Licensee, asmb\Pop CME, asmb\Krystal McCoy, asmb\WatchGuard Firebox, asmb\Pop Test, asmb\Pop Qi, asmb\Pop CCVS, asmb\Jackee Allen, asmb\Pop3 Mail2, asmb>Email Monitor, asmb\Canon Copier, asmb\Mark R. Phillips, asmb\noreply, asmb\Amanda Boyd, asmb\POP3 Mail, asmb\Elayna Starks, asmb\Holly Garlington, asmb\Lindsey Presley, asmb\Linda Carson, asmb\MedSuiteManagerHelp, asmb\Robert E. Bullock, asmb\hpsim, asmb\CCVSMON, asmb\Marian McCammon, asmb\Juli Carlson, asmb\Amy Embry, asmb\Testing Guy2, asmb\Testing Guy12, asmb\Susan Wyles, asmb\SRP TEST, asmb\Heather C. Owen, asmb\sqltestsupport, asmb\MedSuiteHelp, asmb\webform, asmb\helpmon, asmb\supportmon, asmb\facilitymon, asmb\Testing Guy, asmb\Phoenix Help, asmb\Postini Support, asmb\NDR, asmb\System Monitor, asmb\Shandy Cochran, asmb\Jenny Bailey, asmb\DeLoise McDonough, asmb\setupadmin, asmb\Laurel Mills, asmb\D 1. Mark, asmb\Maxwell Smart, asmb\ExchangeAdmin, asmb\Tangie Hill, asmb\Administrator, asmb\ASMB Support Department, asmb\Angela M. Felton, asmb\Angie Meehleder, asmb\Jason Hogue

Mailboxes not searched successfully: (1) asmb\Script Reporting
Resume: False

See attachments for additional logging information when full logging is enabled.

Sent by Microsoft Exchange Server 2010.

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Exhibit 6

Julie Benafield

From: Stephanie Sharp
Sent: Thursday, March 18, 2021 5:54 PM
To: Julie Benafield
Cc: Leslie Rutledge;Cory Cox;Brian Bowen;Amanda Priest;Brad Nye;Trent Minner;Drew Evans;Samantha Montgomery
Subject: Re: Media inquiry; THV, Re: Transgender rights rally

Thank you! It's been edited.

On Mar 18, 2021, at 5:50 PM, Julie Benafield <Julie.benafield@arkansasag.gov> wrote:

Introduced

Sent via the Samsung Galaxy Note10+ 5G, an AT&T 5G smartphone

----- Original message -----

From: Leslie Rutledge <leslie@arkansasag.gov>
Date: 3/18/21 5:33 PM (GMT-06:00)
To: Stephanie Sharp <stephanie.sharp@arkansasag.gov>
Cc: Julie Benafield <Julie.benafield@arkansasag.gov>, Cory Cox <cory.cox@arkansasag.gov>, Brian Bowen <brian.bowen@arkansasag.gov>, Amanda Priest <amanda.priest@arkansasag.gov>, Brad Nye <brad.nye@arkansasag.gov>, Trent Minner <trent.minner@arkansasag.gov>, Drew Evans <drew.evans@arkansasag.gov>, Samantha Montgomery <samantha.montgomery@arkansasag.gov>
Subject: Re: Media inquiry; THV, Re: Transgender rights rally



Leslie

Leslie Rutledge
Attorney General

On Mar 18, 2021, at 4:45 PM, Stephanie Sharp <stephanie.sharp@arkansasag.gov> wrote:

Hi General,

THV is covering a transgender rights rally tonight and asked for a comment on the "transgender bills going through the legislature right now." I reminded her we are only involved with the GIRLS Act. Do you approve of this statement?

Draft |

I know first-hand the benefit that sports has on developing self-discipline, confidence, teamwork and leadership and my wish is that every girl, including my two-and-a-half year old girl, has a fair opportunity for success in sports. I introduced the GIRLS Act as a way to protect athletic opportunities for girls and women in Arkansas and keep a level playing field in sports and sports scholarships.

From: Julie Benafield <Julie.benafield@arkansasag.gov>
Sent: Thursday, March 18, 2021 4:42 PM
To: Stephanie Sharp <stephanie.sharp@arkansasag.gov>; Cory Cox <cory.cox@arkansasag.gov>
Cc: Brian Bowen <brian.bowen@arkansasag.gov>; Amanda Priest <amanda.priest@arkansasag.gov>; Brad Nye <brad.nye@arkansasag.gov>; Trent Minner <trent.minner@arkansasag.gov>; Cory Cox <cory.cox@arkansasag.gov>; Drew Evans <drew.evans@arkansasag.gov>; Samantha Montgomery <samantha.montgomery@arkansasag.gov>
Subject: RE: Media inquiry; THV, Re: Transgender rights rally

[REDACTED]

From: Stephanie Sharp <stephanie.sharp@arkansasag.gov>
Sent: Thursday, March 18, 2021 4:39 PM
To: Cory Cox <cory.cox@arkansasag.gov>; Julie Benafield <Julie.benafield@arkansasag.gov>
Cc: Brian Bowen <brian.bowen@arkansasag.gov>; Amanda Priest <amanda.priest@arkansasag.gov>; Brad Nye <brad.nye@arkansasag.gov>; Trent Minner <trent.minner@arkansasag.gov>; Cory Cox <cory.cox@arkansasag.gov>; Drew Evans <drew.evans@arkansasag.gov>; Samantha Montgomery <samantha.montgomery@arkansasag.gov>
Subject: RE: Media inquiry; THV, Re: Transgender rights rally

Edits from JB!

From: Stephanie Sharp
Sent: Thursday, March 18, 2021 4:28 PM
To: Cory Cox <cory.cox@arkansasag.gov>; Julie Benafield <Julie.benafield@arkansasag.gov>
Cc: Brian Bowen <brian.bowen@arkansasag.gov>; Amanda Priest <amanda.priest@arkansasag.gov>; Brad Nye <brad.nye@arkansasag.gov>; Trent Minner <trent.minner@arkansasag.gov>; Cory Cox <cory.cox@arkansasag.gov>; Drew Evans <drew.evans@arkansasag.gov>; Samantha Montgomery <samantha.montgomery@arkansasag.gov>
Subject: RE: Media inquiry; THV, Re: Transgender rights rally

Julie & Cory --

THV has asked for a comment on the transgender bills going through the legislature right now. We are only going to focus on the GIRLS Act (I reminded the reporter that is the only bill we are involved in.) Do you approve of this statement?

Draft |

I know first-hand the benefit that sports has on developing self-discipline, confidence, teamwork and leadership and my wish is my two-and-a-half year old girl learns those same lessons through participation sports. My office drafted the GIRLS Act as a way to protect athletic opportunities for girls and women in Arkansas and keep a level playing field in sports and sports scholarships.

From: Brian Bowen <brian.bowen@arkansasag.gov>
Sent: Thursday, March 18, 2021 4:13 PM
To: Amanda Priest <amanda.priest@arkansasag.gov>
Cc: Stephanie Sharp <stephanie.sharp@arkansasag.gov>; Brad Nye <brad.nye@arkansasag.gov>; Trent Minner <trent.minner@arkansasag.gov>; Cory Cox <cory.cox@arkansasag.gov>; Drew Evans <drew.evans@arkansasag.gov>; Samantha Montgomery <samantha.montgomery@arkansasag.gov>
Subject: Re: Media inquiry; THV, Re: Transgender rights rally



Sent from my iPhone

On Mar 18, 2021, at 4:09 PM, Amanda Priest <amanda.priest@arkansasag.gov> wrote:

What about?

Draft |

As a mom of a two-and-a-half year old girl I know first-hand the benefit that sports has on developing self-discipline, confidence, teamwork and leadership. My office drafted the GIRLS Act as a way to protect athletic opportunities for girls and women in Arkansas and keep a level playing field in sports and sports scholarships.

From: Brad Nye <brad.nye@arkansasag.gov>
Sent: Thursday, March 18, 2021 2:38 PM
To: Stephanie Sharp <stephanie.sharp@arkansasag.gov>
Cc: Brian Bowen <brian.bowen@arkansasag.gov>; Trent Minner <trent.minner@arkansasag.gov>; Cory Cox <cory.cox@arkansasag.gov>; Drew Evans <drew.evans@arkansasag.gov>; Amanda Priest <amanda.priest@arkansasag.gov>; Samantha Montgomery <samantha.montgomery@arkansasag.gov>
Subject: Re: Media inquiry; THV, Re: Transgender rights rally





Sent from my iPhone

On Mar 18, 2021, at 2:25 PM, Stephanie Sharp
<stephanie.sharp@arkansasag.gov> wrote:

Hello,

THV has asked for a comment on the transgender bills going through the legislature right now. I know there are a few, but I don't know much details about it. The reporter is covering a transgender rights rally tonight and wanted a statement from us. Any idea where to start?

Thanks,
Steph

Julie Benafield

From: Amanda Priest
Sent: Friday, April 2, 2021 12:57 PM
To: Leslie Rutledge
Cc: Cory Cox;Julie Benafield;Brian Bowen;Stephanie Sharp;Samantha Montgomery;Jaime Land;Drew Evans
Subject: FW: Speakers Request for AG Rutledge

General,

Yesterday a reporter/editor from CNN called, but not in his official capacity, but as a member of PRISM (LGBTQ+ organization). He proposed to Warner Media a panel discussion in front of ALL CNN employees with preapproved questions that will relate to the transgender issue and how state's like Arkansas are handling the topic. He said it would not stream, but how a media organization could not report on such a out-front discussion was glossed over.

At this point, I am recommending NOT joining the panel, but wanted to know your thoughts or if you had any interest in the matter. Joe's email is below. Thanks!

Amanda

From: Sutton, Joe <joe.sutton@warnermedia.com>
Sent: Thursday, April 1, 2021 5:05 PM
To: Amanda Priest <amanda.priest@arkansasag.gov>
Subject: Speakers Request for AG Rutledge

Hey Amanda!

Thanks so much for speaking with me.

Again, I'm Joe Sutton and work for CNN and I'm also the chair of the LGBTQ+ Business Resource Group here at WarnerMedia in Atlanta.

I am working to organize a panel discussion on the recent legislation that passed in your state. I thought it would be a good opportunity to have the AG speak to provide insights, etc.

This would be a moderated discussion (virtually) and would be for employees to tune into.

This is not a televised event.

I am in the very early phase of structuring the event, but want to put the request in early, that way it will help me get confirmed panelist as I move forward.

Of course, more information will be provided as we move forward in planning.

Right now the timing is fluid – I am thinking perhaps May or June.

I look forward to hearing from you. Thanks

Joe Sutton

CNN Overnight News Editor
National Newsgathering
Joe.Sutton@warnermedia.com
404.827.1511 – Office
404.693.1796 – Mobile
@itsjoesutton – Twitter

Julie Benafield

From: Amanda Priest
Sent: Tuesday, July 20, 2021 10:38 AM
To: Leslie Rutledge; Cory Cox; Julie Benafield; Brian Bowen
Cc: Nicholas Bronni; Vincent Wagner; Michael Cantrell; Stephanie Sharp; Samantha Montgomery
Subject: FW: FOR APPROVAL | One Pager for Transgender Hearing
Attachments: Transgender 1 Pager.pdf

General - Following up on this one-pager. Do you approve?

From: Samantha Montgomery <samantha.montgomery@arkansasag.gov>
Sent: Monday, July 19, 2021 3:57 PM
To: Leslie Rutledge <leslie@arkansasag.gov>
Cc: Amanda Priest <amanda.priest@arkansasag.gov>; Stephanie Sharp <stephanie.sharp@arkansasag.gov>; Cory Cox <cory.cox@arkansasag.gov>; Julie Benafield <julie.benafield@arkansasag.gov>; Brian Bowen <brian.bowen@arkansasag.gov>; Nicholas Bronni <nicholas.bronni@arkansasag.gov>; Vincent Wagner <vincent.wagner@arkansasag.gov>; Michael Cantrell <michael.cantrell@arkansasag.gov>
Subject: FOR APPROVAL | One Pager for Transgender Hearing



Samantha Montgomery
Digital Coordinator
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200
Little Rock, Arkansas 72201
Cell: 870-540-7402 Office: 501-683-1532
samantha.montgomery@arkansasag.gov | ArkansasAG.gov



BRANDT V. RUTLEDGE

DATE: July 21, 2021

COURT: U.S. District Court
Eastern District of Arkansas

JUDGE: U.S. District Judge
James M. Moody Jr.

KEY POINTS

Puberty blockers and cross-sex hormones are experimental.

The FDA has never approved the use of puberty blockers and cross-sex hormones to halt a child's normal, biological development.

Experimental gender transition procedures are permanent and irreversible.

A child subjected to these procedures will never undergo normal puberty and will face a lifetime of permanent physical consequences.

People who undergo gender reassignment surgeries are 2.4 times more likely to be hospitalized for attempting suicide.

The overwhelming majority (up to 98%) of children who experience gender dysphoria will desist or stop.

Adults remain free to undergo transition procedures.

Arkansas law only prohibits performing experimental procedures on children who cannot possibly understand their life long consequences.



SAFE ACT QUESTIONS

- **Can Arkansas protect children from experimental procedures?**

Yes. States play an important role in protecting children from untested, non-FDA approved medical procedures, even if their parents approve.

- **Can Arkansas stop doctors from performing experimental procedures on children?**

Yes. States have the responsibility to ensure medical procedures for children are safe. That includes a responsibility for ensuring that drugs are used to treat the conditions they were designed to treat.

- **Can Arkansas treat adults and children differently?**

Yes. The Supreme Court has long recognized that States have a unique responsibility to protect children.

CONTACT:

Amanda Priest

Communications Director

Amanda.Priest@ArkansasAG.gov

Julie Benafield

From: Arkansas Attorney General <ArkansasAG@public.govdelivery.com>
Sent: Wednesday, July 21, 2021 1:41 PM
To: Leslie Rutledge
Subject: Rutledge Issues Statement on Experimental Procedures for Transgender Children

Having trouble viewing this email? [View it as a Web page](#)



FOR IMMEDIATE RELEASE
July 21, 2021

Contact: Amanda Priest
(501) 414-2223
Amanda.Priest@ArkansasAG.gov

Rutledge Issues Statement on Experimental Procedures for Transgender Children

Says, 'we cannot allow children as young as 9 years old to receive experimental procedures that have irreversible, physical consequences'

LITTLE ROCK – Arkansas Attorney General Leslie Rutledge issued a statement following the federal district court's ruling preliminarily enjoining the Save Adolescents from Experimental (SAFE) Act.

"This evidence based law was created because we cannot allow children as young as 9 years old to receive experimental procedures that have irreversible, physical consequences," said Attorney General Rutledge. "I will aggressively defend Arkansas's law which strongly limits permanent, life-altering sex changes to adolescents. I will not sit idly by while radical groups such as the ACLU use our children as pawns for their own social agenda. As the Attorney General of Arkansas, I will be appealing today's decision."

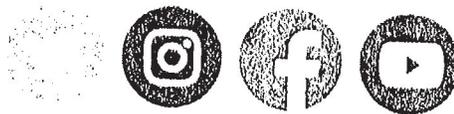
About Attorney General Leslie Rutledge

Leslie Carol Rutledge is the 56th Attorney General of Arkansas. Elected on November 4, 2014, and sworn in on January 13, 2015, she is the first woman and first Republican in Arkansas history to be elected as Attorney General. She was resoundingly re-elected on November 6, 2018. Since taking office, she has significantly increased the number of arrests and convictions against online predators who exploit children and con artists who steal taxpayer money through Social Security Disability and Medicaid fraud. Further, she has held Rutledge Roundtable meetings and Mobile Office hours in every county of the State each year, and launched a Military and Veterans Initiative. She has led efforts to roll back government regulations that hurt job creators, fight the opioid epidemic, teach internet safety, combat domestic violence and make the office the top law firm for Arkansans. Rutledge serves as co-chairs of the National Association of Attorneys General Veterans Affairs Committee, re-established and co-chairs the National Association of Attorneys General Committee on Agriculture and was the former Chairwoman of the National Association of Attorneys General Southern Region. As the former Chairwoman of the Republican Attorneys General Association, she remains active on the Executive Board.

A native of Batesville, she is a graduate of the University of Arkansas at Fayetteville and the University of Arkansas at Little Rock William H. Bowen School of Law. Rutledge clerked for the Arkansas Court of Appeals, was Deputy Counsel for former Governor Mike Huckabee, served as a Deputy Prosecuting Attorney in Lonoke County and was an Attorney at the Department of Human Services before serving as Counsel at the Republican National Committee. Rutledge and her husband, Boyce, have one daughter. The family has a home in Pulaski County and a farm in Crittenden County.

###

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GOVDELIVERY 

Julie Benafield

From: Tracy Eddy
Sent: Thursday, October 14, 2021 10:29 AM
To: Leslie Rutledge
Subject: FW: Follow Up from PVSS

Would you like to do this FRC State Legislator call re: SAFE ACT Zoom call? It works in your schedule.

From: Drake Moudy <drake.moudy@arkansasag.gov>
Sent: Thursday, October 14, 2021 10:23 AM
To: Tracy Eddy <Tracy.Eddy@arkansasag.gov>
Subject: Fwd: Follow Up from PVSS

Would AG be available for this?

If so, I can let Travis know.

Drake Moudy
Special Assistant to the Attorney General
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200
Little Rock, AR 72201
Cell: 501-539-0971
drake.moudy@arkansasag.gov | ArkansasAG.gov

Begin forwarded message:

From: Travis Weber <tsw@frc.org>
Date: October 14, 2021 at 10:11:18 AM CDT
To: Drake Moudy <drake.moudy@arkansasag.gov>
Subject: RE: Follow Up from PVSS



Drake – glad to hear from you, and thanks to you and the AG for joining us last week!

I do have one quick request: would AG Rutledge be able to join us for a few minutes on an upcoming Zoom call with state legislators to share on the importance of defending the SAFE Act? The call would be on Oct 28, in the 11 am – 1 pm EST window. If she could share, even for just a few minutes, on the importance of the issue (along the lines of what she shared at the PVS Summit), that would be fantastic. This will be a private call with key state legislators from around the country who are interested in this issue.

I'm happy to elaborate a little more but wanted to check from a scheduling perspective first if this would work.

If you need to connect me to someone handling her schedule, I can confer with them as well.

Appreciate it!

Best,

Travis

From: Drake Moudy <drake.moudy@arkansasag.gov>
Sent: Thursday, October 14, 2021 10:01 AM
To: Travis Weber <tsw@frc.org>
Subject: Follow Up from PVSS

Travis,

I wanted to follow up and say it was great to meet you this past Friday at PVSS.

If there is ever anything you need here in Arkansas or from Attorney General Leslie Rutledge, please do not hesitate to reach out.

Sincerely,

Drake Moudy

Special Assistant to the Attorney General
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200
Little Rock, AR 72201
Personal Cell: 870-918-2630
Office Cell: 501-539-0971
drake.moudy@arkansasag.gov | ArkansasAG.gov



Exhibit 7

Dylan Brandt v. Attorney General Leslie Rutledge, Case No. 4:21cv00450

Privilege Log

Document number	Title of Document	Date Created	Author	Brief Description	Privilege
	Email	10-1-2020	Vincent Wagner	Legal advice Re: joining a brief - 3pgs	Attorney Client
	Email	10-1-2020	Julie Benafield	Legal advice Re: joining a brief - 3pgs	Attorney Client
	Email	3-18-2021	Julie Benafield	Draft Comment on transgender bills in legislature	Attorney Client/Work product
	Email	3-18-2021	Brian Bowen	Draft Comment on transgender bills in legislature	Work product
	Email	3-18-2021	Brad Nye	Draft Comment on transgender bills in legislature	Attorney Client
	Email	3-18-2021	Leslie Rutledge	Draft Comment on transgender legislation	Attorney Client
	Email	7-9-2021	Vincent Wagner	Discussion re Brandt PI motion	Attorney Client Privilege
	Email	7-13-2021	Amanda Priest	Talking points re Safe Act	Work Product
	Email	7-15-2021	Jaime Land	Legal research	Work Product
	Email	7-16-2021	Trent Minner	Legal research – 10 pages	Work Product
	Email	7-16-2021	Brian Bowen	Legal research – 10 pages	Work Product/Attorney Client
	Email	7-19-2021	Samantha Montgomery	Discussion re Brandt hearing 1 page	Work product/Attorney Client Privilege
	Email	7-20-2021	Samantha Montgomery	Draft of One Pager for Transgender Hearing following up – 3 pgs	Work product
	Email	7-21-2021	Nicholas Bronni	Discussion of legal decisions regarding the SAFE Act – 2 pgs	Attorney-Client Privilege
	Email	7-21-2021	Julie Benafield	Discussion re Brandt hearing decision.	Attorney Client Privilege
	Email	7-22-2021	Stephanie Sharp	Fox & Friends First Live Interview talking points – ACLU Transgender Law- 6pgs	Work product

Dylan Brandt v. Attorney General Leslie Rutledge, Case No. 4:21cv00450

	Email	7-23-2021	Amanda Priest Stephanie Sharp	Discussion in response to media inquiry Re enactment date of various acts – 2 pgs	Work product
	Email	7-23-2021	Brian Bowen	Advising media inquiry response – 3pgs	Attorney client privilege
	Email	7-23-2021	Leslie Rutledge	Discussion of media inquiry – 3 pgs	Attorney Client
	Email	7-25-2021	Stephanie Sharp	Live Radio interview Dave Elswick Show – 6 pgs – Talking points	Work Product
	Email	7-26-2021	Jaime Land	Communications re: Live Radio interview Dave Elswick Show – 6pgs	Work Product
	Email	7-26-2021	Stephanie Sharp	Added to AG’s calendar: Live Radio interview Dave Elswick Show – 7pgs – Talking Points	Work Product

Exhibit 8



ATTORNEY GENERAL
LESLIE RUTLEDGE
ARKANSASAG.GOV

Kat R. Hodge
Senior Assistant Attorney General

Direct Dial: (501) 682-1307
Email: KaTina.Guest@ArkansasAG.gov

January 21, 2022

Duncan C. Simpson LaGoy Esq.,
Sullivan & Cromwell, LLP
1870 Embarcadero Road
Palo Alto, CA 94303

Re: *Brandt, et al. v. Rutledge, et al.*
Case No.: 4:21-cv-00450-JM

Duncan:

I hope you had a pleasant holiday and that your new year is off to a great start.

I have received your December 6, 2021 correspondence concerning the Defendants' responses to Plaintiffs' First Set of Request for Production of Documents. At the outset, I disagree with several statements made in the correspondence. Nevertheless, below please find objections and supplemental responses to Plaintiffs' discovery request.

As a preliminary matter, it is important to note that Plaintiffs originally propounded eight Requests for Production of Documents, extremely broad in scope. In response, Defendants provided objections, including for example, challenges to relevancy, breadth and asserted privilege, pursuant to FRCP 26.

On December 6, 2021, Plaintiffs provided, for the first time, search terms and requested a search of the Defendants' emails using the requested search terms. Defendants have run a query for the search terms provided in Plaintiffs' December 6, 2021 correspondence for Attorney General Rutledge and the Medical Board Defendants' email addresses. Like Plaintiffs' initial Request for Production of Documents, the search terms are extremely overbroad. For example, the search term "trans*" generated wholly irrelevant documents, including for example emails related to the "transfer" of employees, and would encompass terms, such as "transfer", "transportation", and "translate."

Indeed, the initial query of the Medical Board Defendants' emails generated approximately 33 GB of data. The estimated number of results is 317,822. As you

323 Center Street, Suite 200, Little Rock, AR 72201
(501) 682-2007 | oag@ArkansasAG.gov

can imagine, reviewing more than 300,000 emails is a daunting task and the likelihood that many of those will be irrelevant to this litigation makes the burden that much greater. In response to your request for the “hit list,” I previously provided the list for the Medical Board Defendants’ query. Notably, the query for “trans*” resulted in 293,452 items. The query for “minor*” resulted in 12,102 items. On January 14, 2021, Plaintiffs submitted a revised search list. I have forwarded the revised search terms to the Medical Board’s agency counsel, who will work with their IT team on the revised query.

Unfortunately, the Attorney General’s technology department was unable to provide the requested “hit list” for all search terms. However, IT reported that the “trans*” query accounts for approximately 75% of the results for Attorney General Rutledge’s emails. Further, the initial query returned approximately 4,500 emails. Of those, 3,388 are related to the “trans*” query. In a good faith effort to comply with the discovery rules, staff began reviewing several thousand emails over the holiday break. As I previously communicated, many of those emails are simply irrelevant to this cause of action.

Regarding Defendants’ custodial files, the Medical Board’s files are limited to documents related to licensing, regulation, and discipline, pursuant to the Medical Practices Act. As I mentioned during our good faith conferral, the Medical Board operates on a complaint basis. Because there have been no complaints or any attempt to enforce the SAFE Act, the Medical Board Defendants simply do not have any hard copy documents relevant to the enforcement of the SAFE Act or its promulgation. The Medical Board Defendants do not maintain, separately, any hard copy documents. Rather documents related to the complaint process are maintained electronically using the content management software—*Laserfiche*. However, because there has been no licensing or disciplinary issues related to the SAFE Act, none of the documents maintained by the Medical Board using *Laserfiche* are relevant to this cause of action. As you know, the threshold requirement of discoverability is whether the information sought is “relevant to the subject matter involved in the pending litigation.” *Shelton v. American Motors*, 805 F.2d 1323, 1326 (8th Cir. 1986). Our discovery rules simply do not permit fishing expeditions, and the documents maintained in *Laserfiche* do not reasonably bear upon the issues presented in this case. *Hofer v. Mack Trucks, Inc.* 981 F.2d 377 (8th Cir. 1992).

Similarly, Attorney General Rutledge, in her official capacity, does not maintain separate hard copy custodial files. Her office’s custodial files are maintained by the more than 167 staff members employed at the Office of the Attorney General. In response to Plaintiffs’ First Set of Request for Production of Documents, General Rutledge maintained that the Request for Production of documents was unduly burdensome because they sought documents in no way relevant to this cause of action—noting that the OAG serves as legal counsel for the State of Arkansas and its agencies, departments, officials, and employees; that her

office includes several departments, including Administrative Offices, Consumer/Public Protection, Civil Litigation, Criminal, Public Outreach, Opinions, and a Special Investigative Division; and that the request as written would require the OAG to potentially scour countless documents to determine whether or not such documents are included in this request. It is too burdensome to require the OAG to scour all files of all employees for any document meeting the overbroad search terms or categorically overbroad document request.

During our good faith conferral, you clarified that Plaintiffs' request sought production of only General Rutledge's hard copy files and emails. General Rutledge does not separately maintain hard files and attached to this correspondence are emails responsive to Plaintiffs' revised Request for Production of Documents. (DEF00 – DEF020)

Turning now to Plaintiffs' responses to the Defendants objections to the original eight Request for Production of Documents.

Request No. 1: Plaintiffs rely on *Cave v. Thurston*, 2021 WL 4936185, at *3 (E.D. Ark. Oct. 22, 2021) for the proposition that Attorney General Rutledge is obligated to produce documents that she does not have possession of. First, the *Cave* decision is not mandatory authority. Second, the *Cave* decision does not hold that General Rutledge is *required* to obtain documents from other state agencies or officials, including the Arkansas General Assembly. The opinion simply holds that an official capacity Defendant must affirmatively state whether she is in possession, custody, or control of documents requested in discovery. General Rutledge is not in possession, custody, or control of documents request in RFP No. 1. Plainly, the documents sought in RFP No. 1 are in the custody, possession, or control of the General Assembly. It appears that Plaintiffs are aware that these documents are in possession, custody, or control of the General Assembly and have issued subpoenas to obtain these documents. Consistent with the *Cave* court's decision, though not binding her, Attorney General Rutledge affirmatively states that she does not have custody, possession, or control of the documents requested in RFP 1.

Furthermore, I have not discovered and Plaintiffs have not cited mandatory, controlling authority from the Eighth Circuit Court of Appeals or United States Supreme Court for the proposition that one official capacity state actor has the right, authority, or practical ability to demand documents from another state actor, agency, or official. *Prokosch v. Catalina Lighting, Inc.*, 193 F.R.D. 633 does not support this conclusion, and Plaintiffs' suggestion that it does goes too far. There is no body of law authorizing General Rutledge to demand documents from non-party members of separate branches of government. Even the *Prokosch* case recognized that documents from a third party are not attributable to a party to litigation absent a showing that the third party's relationship was more than merely a consultant.

Next, Defendants' objections to RFP 1 are not inappropriate blanket objections. Plaintiffs' request for documents that are obtainable from some other source that is more convenient, less burdensome, or less expensive is a valid objection. Telling, Plaintiffs have sought the documents requested in RFP 1 from the members of the General Assembly pursuant to Rule 45 and are aware that some of the materials are public record.

Additionally, the law requires Plaintiffs [and the Court] to accept at face value a party's representation that is fully produced all materials that are discoverable. Nothing in the Federal Rules of Civil Procedure or the cases discussing ESI allows Plaintiffs, through their counsel, to depose Defendants through informal interrogatories in the guise of a "good faith conferral." If after reviewing Defendants' supplemental responses Plaintiffs find that they require additional information relevant to the subject-matter presented in the case, then they should seek that information within the parameters set forth in the applicable Federal Rules of Civil Procedure. Importantly, Defendants have continued to cooperate with Plaintiffs' request for ESI as noted in this correspondence and previous emails. There should be no confusion about the parameters of the search given the Medical Board's submission of their "hit list" and the information provided by the OAG's IT professionals.

Request No. 2: RFP 2 was clearly overbroad and unduly burdensome. The initial search was not inadequate; rather the initial request was objectionable. In light of Plaintiffs' revised request, namely the use of search terms and the limitations to hard copy custodial files and emails for the official capacity parties only, Defendants provide this supplemental response.

Attorney General Rutledge has no hard copy custodial files responsive to this request.

The Medical Board Defendants object to producing hard copy custodial files from *Laserfiche* based upon lack of relevancy to this cause of action, and otherwise has no hard copy custodial files responsive to this request.

Attorney General Rutledge supplements her previous response with the attached electronic emails. (DEF00 – DEF020) Electronic records withheld for privilege appear on the attached Privilege Log.

Request No. 3: Defendants reassert their original objections. Plaintiffs' conferral only addresses the "public availability" argument and ignore the remaining valid objections, including vagueness. *Cave, supra*, is not binding precedent in this case. And again, Plaintiffs' assertion that the *Cave* decision requires Defendants to seek out and produce publically available records is overstated. The request must first be appropriate, and Defendants are in no better position than Plaintiffs to identify the requested information.

Further and without waiving any objections, Attorney General Rutledge has no hard copy custodial files responsive to this request.

The Medical Board Defendants object to producing hard copy custodial files from *Laserfiche* based upon lack of relevancy to this cause of action.

Attorney General Rutledge supplements her previous response with the attached electronic emails. (DEF009 – DEF020) Electronic records withheld for privilege appear on the attached Privilege Log.

Medical Board Defendants supplement their previous response with the attached documents, (DEF0021-DEF0157) Arkansas' Medical Practices Act.

Request No. 4: Defendants reassert their original objections. Plaintiffs' conferral only address the "confidentiality" objection and clarify that they do not seek private medical information. Notwithstanding Plaintiffs' clarification, Defendants are not in possession of any documents responsive to RFP 4.

Request No. 5: Defendants reassert their original objections. Plaintiff's conferral only address the "confidentiality" objection and clarify that they do not seek private medical information. Notwithstanding Plaintiffs' clarification, Defendants are not in possession of any documents responsive to RFP 5.

Request No. 6: Defendants reassert their original objections with the following supplementations. Defendants are not in possession, custody, or control of the documents requested, and reassert their objections as stated in this correspondence. There is a single exception. Defendants provided a Declaration of Christine Cryer, the Arkansas Department of Corrections' Chief Legal Officer and a copy of Administrative Directive 14-19, which establishes the ADC's responsibilities, policies, and procedures to ensure a standard of care for the treatment of Gender Dysphoria.

Request No. 7: Defendants reassert their original objection and state that, at this time, they are unable to locate any documents responsive to this request.

Thank you for your conferral letter, and I look forward to continuing to work with you.

Sincerely,



Kat Hodge
Senior Assistant Attorney General

KH
Enclosures

Exhibit 9

SULLIVAN & CROMWELL LLP

TELEPHONE: 1-650-461-5600
FACSIMILE: 1-650-461-5700
WWW.SULLCROM.COM

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January 31, 2022

Via E-mail

Kat Guest,
Assistant Attorney General,
323 Center Street, Suite 200,
Little Rock, AR 72201.

Re: *Brandt v. Rutledge*, Case No. 4:21-cv-450 JM

Dear Kat:

Plaintiffs served their document requests more than three months ago on October 18, 2021. To date, Defendants have provided 20 pages of documents from the Attorney General's Office and one document for the Medical Board Member Defendants. Your letter rehashes a number of objections that we had resolved during our meet and confer in November and subsequent letters, but I also understand Defendants are not standing on these objections and intend to produce responsive documents for the Medical Board Member Defendants using the revised search terms I sent two weeks ago on January 12. Please confirm immediately if Defendants intend to rely on any of your objections to limit your production of materials to Plaintiffs.

Although I understand that you intend to produce responsive documents identified through a review of the documents that hit on the search terms, you have not yet provided hit counts for the revised search terms I provided, nor have you indicated when you anticipate completing your production of documents. Please provide the hit counts for these searches and provide an updated date of completion tomorrow.

In addition, we continue to have concerns about the completeness of Defendants production of documents from the Attorney General's Office. For example, Defendants' recent document production contains emails stating that the Attorney General's Office drafted the GIRLS Act, which prohibits transgender girls from playing girls' sports. Any documents related to the GIRLS Act are clearly responsive to Request No. 2, yet Defendants have not produced any emails or other documents related to the GIRLS Act.

Kat Guest

-2-

We would like to avoid bothering the Court with discovery disputes, but we are quickly coming up on the close of fact discovery on February 25, 2022. As you are aware, Defendants' continued delays in complying with their discovery obligations make it impossible for Plaintiffs to prepare to take the depositions of the Medical Board Members and other witnesses. We request a meet and confer to discuss Defendants' plan and detailed timeline to complete their document production and determine which disputes will require the Court's assistance

Please let me know when you are available Tuesday or Wednesday to discuss these issues.

Sincerely,

/s/ Duncan Simpson LaGoy

Duncan Simpson LaGoy

Exhibit 10

Garcia, Ericka B.

From: Ka Tina Guest <KaTina.Guest@arkansasag.gov>
Sent: Tuesday, February 01, 2022 7:18 PM
To: Simpson LaGoy, Duncan C.
Cc: zzExt-LCOOPER; zzExt-cstrangio; zzExt-echols; zzExt-travis; zzExt-mann; zzExt-breean; Beeney, Garrard R.; Ossip, Jonathan J.; Holland, Alexander S.; Oswell, Laura Kabler; Michael Cantrell; Vincent Wagner; Nicholas Bronni; Lisa Wiedower; zzExt-Sarah
Subject: [EXTERNAL] RE: Brandt v. Attorney General Leslie Rutledge, in her official capacity, Case No. 4:21cv450

Duncan:

Vincent Wagner, Deputy Solicitor General and Lead Counsel in this case, is transitioning from the Attorney General's Office on Friday. The newly assigned Lead Counsel will need to attend the good faith conference. The other members of the SG's office are currently involved in a hearing in federal court this week and are unavailable to attend a good faith conference until sometime next week at the earliest. Our office will circle back about scheduling a good faith conference on discovery matters pertaining to both the Defendants' and Plaintiffs' responses. I note that our office has yet to receive any documents responsive to the outstanding discovery request propounded to Plaintiffs last year.

The Medical Board experienced issues with their server. So, my office did not receive the emails responsive to Plaintiffs' modified search list until late Thursday afternoon. I understand that the request generated approximately 7,000+ emails. A member of our staff has started reviewing the emails.

In light of the unresolved discovery issues, I suggest we agree to an extension of the discovery deadline. As early as October of last year, Defendants have maintained that an abbreviated discovery deadline is unworkable.

Thank you.

Kat

Ka Tina R. Hodge

Senior Assistant Attorney General
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200
Little Rock, Arkansas 72201

Office: 501.682.1307 | Fax: 501.682.2591

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[\[pinterest.com\]](https://www.pinterest.com)



[\[snapchat.com\]](https://www.snapchat.com)

From: Simpson LaGoy, Duncan C. <SimpsonD@sullcrom.com>
Sent: Monday, January 31, 2022 1:59 PM
To: Ka Tina Guest <KaTina.Guest@arkansasag.gov>
Cc: zzExt-LCOOPER <LCOOPER@aclu.org>; zzExt-cstrangio <cstrangio@aclu.org>; zzExt-echols <echols@gill-law.com>; zzExt-travis <travis@gill-law.com>; zzExt-mann <mann@gill-law.com>; zzExt-brean <brean@walaslawfirm.com>; Beene, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J. <ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler <oswell@sullcrom.com>; Michael Cantrell <michael.cantrell@arkansasag.gov>; Vincent Wagner <vincent.wagner@arkansasag.gov>; Nicholas Bronni <nicholas.bronni@arkansasag.gov>; Lisa Wiedower <lisa.wilkins@arkansasag.gov>; zzExt-Sarah <Sarah@acluarkansas.org>
Subject: RE: Brandt v. Attorney General Leslie Rutledge, in her official capacity, Case No. 4:21cv450

EXTERNAL EMAIL

Kat, please see the attached letter, and please let us know when you are available for a meet and confer tomorrow or Wednesday.

Best,

Duncan

From: Ka Tina Guest <KaTina.Guest@arkansasag.gov>
Sent: Friday, January 21, 2022 5:21 PM
To: Simpson LaGoy, Duncan C. <SimpsonD@sullcrom.com>
Cc: zzExt-LCOOPER <LCOOPER@aclu.org>; zzExt-cstrangio <cstrangio@aclu.org>; zzExt-echols <echols@gill-law.com>; zzExt-travis <travis@gill-law.com>; zzExt-mann <mann@gill-law.com>; zzExt-brean <brean@walaslawfirm.com>; Beene, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J. <ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler <oswell@sullcrom.com>; Michael Cantrell <michael.cantrell@arkansasag.gov>; Vincent Wagner <vincent.wagner@arkansasag.gov>; Nicholas Bronni <nicholas.bronni@arkansasag.gov>; Lisa Wiedower <lisa.wilkins@arkansasag.gov>; zzExt-Sarah <Sarah@acluarkansas.org>
Subject: [EXTERNAL] RE: Brandt v. Attorney General Leslie Rutledge, in her official capacity, Case No. 4:21cv450

Duncan: Please see the attached correspondence and supplement discovery responses.

Have a great weekend,

Kat

From: Ka Tina Guest
Sent: Thursday, January 13, 2022 1:04 PM
To: 'Simpson LaGoy, Duncan C.' <SimpsonD@sullcrom.com>
Cc: zzExt-LCOOPER <LCOOPER@aclu.org>; zzExt-cstrangio <cstrangio@aclu.org>; zzExt-echols <echols@gill-law.com>; zzExt-travis <travis@gill-law.com>; zzExt-mann <mann@gill-law.com>; zzExt-brean <brean@walaslawfirm.com>; Beene, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J. <ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler <oswell@sullcrom.com>; Michael Cantrell <michael.cantrell@arkansasag.gov>; Vincent Wagner <vincent.wagner@arkansasag.gov>; Nicholas Bronni <nicholas.bronni@arkansasag.gov>; Lisa Wiedower <lisa.wilkins@arkansasag.gov>; zzExt-Sarah <Sarah@acluarkansas.org>
Subject: RE: Brandt v. Attorney General Leslie Rutledge, in her official capacity, Case No. 4:21cv450

Duncan:

We will provide supplemental responses for Defendant Rutledge on Friday, January 21, 2022. I will forward the search terms as modified to the IT professionals at the Medical Board. I will circle back once I have a clear view of the results for this updated query.

Thanks!

kat

From: Simpson LaGoy, Duncan C. <SimpsonD@sullcrom.com>
Sent: Wednesday, January 12, 2022 11:08 PM
To: Ka Tina Guest <KaTina.Guest@arkansasag.gov>
Cc: zzExt-LCOOPER <LCOOPER@aclu.org>; zzExt-cstrangio <cstrangio@aclu.org>; zzExt-echols <echols@gill-law.com>; zzExt-travis <travis@gill-law.com>; zzExt-mann <mann@gill-law.com>; zzExt-brean <brean@walaslawfirm.com>; Beeney, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J. <ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler <oswell@sullcrom.com>; Michael Cantrell <michael.cantrell@arkansasag.gov>; Vincent Wagner <vincent.wagner@arkansasag.gov>; Nicholas Bronni <nicholas.bronni@arkansasag.gov>; Lisa Wiedower <lisa.wilkins@arkansasag.gov>; zzExt-Sarah <Sarah@acluarkansas.org>
Subject: RE: Brandt v. Attorney General Leslie Rutledge, in her official capacity, Case No. 4:21cv450

EXTERNAL EMAIL

Kat,

We provided proposed search terms on December 6 and asked for the results of those search terms within two weeks so we could modify them, if necessary. On December 20, you responded that your staff was still working on the searches. But the report you sent January 10 is dated December 17, 2021. There is no reason why it should have taken over three weeks to provide that report, and any further efforts to delay Defendants' document production will not be well-taken especially given the need to complete document production and depositions before the fact discovery cutoff.

Given that Plaintiffs' proposed search terms only returned 4,500 emails from Attorney General Rutledge's inbox, there is no reason to modify the terms for her emails. Please confirm by this Friday, January 14, when you will produce responsive emails for Attorney General Rutledge from those identified in the search your office ran December 17.

Regarding the Medical Board Defendants, we are willing to make the following revisions to our proposed search terms to avoid burdening the court with a discovery dispute. The other search terms return a low number of documents and those documents should be reviewed.

Current	Replacement
trans*	trans OR transgender* OR transsexual*
minor*	(minor OR kid OR child*) w/10 (risk OR benefit OR 1570 OR 626)
clark	Clark w/10 alan
1570	1570 w/10 (HB OR bill)
626	626 w/10 act
perry	perry w/10 laura

Reproduc*	reproductive w/10 (capacity OR potential)
Affirm*	affirm OR affirmation OR affirming
sex	sex w/10 (biological OR cross OR normal)

Please confirm by this Friday, January 14 that you will review the Medical Board Defendants' documents returned by these modified search terms (as well as the other unmodified terms).

Best,

Duncan

From: Ka Tina Guest <KaTina.Guest@arkansasag.gov>

Sent: Monday, January 10, 2022 3:52 PM

To: Simpson LaGoy, Duncan C. <SimpsonD@sullcrom.com>

Cc: zzExt-LCOOPER <LCOOPER@aclu.org>; zzExt-cstrangio <cstrangio@aclu.org>; zzExt-echols <echols@gill-law.com>; zzExt-travis <travis@gill-law.com>; zzExt-mann <mann@gill-law.com>; zzExt-breean <breean@walaslawfirm.com>; Beene, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J. <ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler <oswell@sullcrom.com>; Michael Cantrell <michael.cantrell@arkansasag.gov>; Vincent Wagner <vincent.wagner@arkansasag.gov>; Nicholas Bronni <nicholas.bronni@arkansasag.gov>; Lisa Wiedower <lisa.wilkins@arkansasag.gov>; zzExt-Sarah <Sarah@acluarkansas.org>

Subject: [EXTERNAL] Brandt v. Attorney General Leslie Rutledge, in her official capacity, Case No. 4:21cv450

Duncan:

I hope you had a pleasant holiday and that your new year is off to a great start.

I have received your December 6, 2021 correspondence concerning the Defendants' responses to Plaintiffs' First Set of Request for Production of Documents. At the outset, I disagree with several statements made in the correspondence. Nevertheless, below please find additional information concerning Defendants' inquiry for records in this matter.

As a preliminary matter, Plaintiffs originally propounded eight Requests for Production of Documents, extremely broad in scope. In response, Defendants provided objections, including, for example, challenges to relevancy, breadth and also asserted privilege, pursuant to FRCP 26.

On December 6, 2021, Plaintiffs provided, for the first time, search terms and requested a search of the Defendants' emails using the requested search terms. Defendants have run a query for the search terms provided in Plaintiffs' December 6, 2021 correspondence for Attorney General Rutledge and the Medical Board Defendants' email addresses. Like Plaintiffs' initial Request for Production of Documents, the search terms are extremely overbroad. For example, the search term "trans*" generated wholly irrelevant documents, including for example emails related to the "transfer" of employees, and would encompass terms, such as "transfer", "transportation", and "translate."

Indeed, the initial query of the Medical Board Defendants' emails generated approximately 33 GB of data. The estimated number of results is 317,822. In response to your request for the "hit list," enclosed is the list for the Medical Board Defendants query. As you can see, the query for "trans*" resulted in 293,452 items. The query for "minor*" resulted in 12,102 items.

Unfortunately, the Attorney General's technology department is unable to provide a similar "hit list" for all search terms. I understand that the "trans*" query accounts for approximately 75% of the results for Attorney General Rutledge's emails. Further, the initial query returned approximately 4,500 emails. Of those, 3,388 are related to the "trans*" query. In a good faith effort to comply with the discovery, staff have begun

reviewing several thousand emails over the holiday break. Many of those emails are simply irrelevant to this cause of action.

I suggest modifying the search terms to a more manageable inquiry, particularly the wildcard terms.

As you know, I did not return to the office until January 5, 2022. I am presently preparing for an 8th Circuit oral argument, which is scheduled for January 13, 2022, much of the day tomorrow. Our office is experience some staffing shortages, due to the Covid surge. But, I am happy to visit with you further on late Wednesday afternoon or late Thursday afternoon, following my argument, to develop a workable plan for discovery in this matter. If those dates do not work, I can be available next week for a follow up conference concerning discovery.

Many thanks in advance,

kat

Ka Tina R. Hodge

Senior Assistant Attorney General
Office of Arkansas Attorney General Leslie Rutledge

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