

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MAXWELL KADEL, *et al.*,

Plaintiffs,

v.

DALE FOLWELL, in his official capacity as
State Treasurer of North Carolina, *et al.*,

Defendants.

Case No. 1:19-cv-00272-LCB-LPA

**PLAINTIFFS' MOTION TO EXCLUDE
EXPERT TESTIMONY OF DR. PAUL R. McHUGH**

Now come, Plaintiffs, by and through their counsel, and respectfully move this Court to exclude the expert report, opinions, and testimony of State Health Plan Defendants¹ proposed expert, Dr. Paul R. McHugh, pursuant to Federal Rules of Civil Procedure 26 and 37, and Federal Rules of Evidence 104, 403, and 702. Dr. McHugh is not a qualified expert on gender dysphoria or its treatment, and his opinions and testimony are neither relevant nor reliable, under Federal Rule of Evidence 702 and the standards set forth in *Daubert v. Merrell Dow Pharm., Inc.*, 509 U.S. 579 (1993), and its progeny. His opinions and testimony are likewise inadmissible because any probative value they may have (and they have none) is substantially outweighed by the danger of unfair prejudice,

¹ The State Health Plan Defendants are the North Carolina State Health Plan for Teachers and State Employees (“NCSHP”); Dale Folwell, in his official capacity as State Treasurer; and Dee Jones, in her official capacity as Executive Administrator of the NCSHP.

confusion of the issues, waste of time, undue delay, and needless presentation of cumulative evidence. *See* Fed. R. Evid. 403.

A memorandum of law is filed contemporaneously herewith.

Dated this 2nd of February, 2022.

Respectfully submitted,

/s/ Amy E. Richardson

Amy E. Richardson
(N.C. Bar No. 28768)
Lauren E. Snyder
(N.C. Bar No. 54150)
HARRIS, WILTSHIRE & GRANNIS LLP
1033 Wade Avenue, Suite 100
Raleigh, NC 27605-1155
Phone: 919-429-7386 | Fax: 202-730-1301
arichardson@hwglaw.com

Deepika H. Ravi*
Grace H. Wynn*
HARRIS, WILTSHIRE & GRANNIS LLP
1919 M Street N.W., 8th Floor,
Washington, D.C. 20036
Phone: 202-730-1300 | Fax: 202-730-1301
dravi@hwglaw.com

Michael W. Weaver*
Adam M. Safer*
McDERMOTT WILL & EMERY
444 W. Lake St., Suite 4000
Chicago, IL 60606
Phone: 312-984-5820 | Fax: 312-984-7700
mweaver@mwe.com

Dmitriy G. Tishyevich*
Warren Haskel*
McDERMOTT WILL & EMERY
One Vanderbilt Avenue
New York, NY 10017-3852

/s/ Omar Gonzalez-Pagan

Omar Gonzalez-Pagan*
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
120 Wall Street, 19th Floor
New York, NY 10005
Telephone: 212-809-8585
Facsimile: 212-809-0055
ogonzalez-pagan@lambdalegal.org

Tara Borelli*
Carl S. Charles*
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
1 West Court Square, Ste. 105
Decatur, GA 30030
Telephone: 404-897-1880
Facsimile: 404-506-9320
tborelli@lambdalegal.org

David Brown*
Ezra Cukor*
TRANSGENDER LEGAL DEFENSE AND
EDUCATION FUND, INC.
520 8th Ave, Ste. 2204
New York, NY 10018
Telephone: 646-993-1680
Facsimile: 646-993-1686
dbrown@transgenderlegal.org

Phone: 212-547-5534 | Fax: 646-417-7668
dtishyevich@mwe.com

Lauren H. Evans*
MCDERMOTT WILL & EMERY
One Vanderbilt Avenue
New York, NY 10017-3852
Phone: 202-756-8864 | Fax: 202-591-2900
levans@mwe.com

Counsel for Plaintiffs

* Appearing by special appearance pursuant to L.R. 83.1(d).

CERTIFICATE OF SERVICE

I certify that the foregoing document was filed electronically with the Clerk of Court using the CM/ECF system which will send notification of such filing to all registered users.

Dated: February 2, 2022

/s/ Omar Gonzalez-Pagan
Omar Gonzalez-Pagan*
LAMBDA LEGAL DEFENSE AND
EDUCATION FUND, INC.
120 Wall Street, 19th Floor
New York, NY 10005
Telephone: 212-809-8585
Facsimile: 212-809-0055
ogonzalez-pagan@lambdalegal.org

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF NORTH CAROLINA**

MAXWELL KADEL, *et al.*,

Plaintiffs,

v.

DALE FOLWELL, in his official capacity as
State Treasurer of North Carolina, *et al.*,

Defendants.

Case No. 1:19-cv-00272-LCB-LPA

**[PROPOSED] ORDER GRANTING PLAINTIFFS' MOTION TO EXCLUDE
EXPERT TESTIMONY OF DR. PAUL R. McHUGH**

This matter comes before the Court on the motion of Plaintiffs Maxwell Kadel; Jason Fleck; Connor Thonen-Fleck; Julia McKeown; Michael D. Bunting, Jr.; C.B., by his next friends and parents, Michael D. Bunting, Jr. and Shelley K. Bunting; Sam Silvaine; and Dana Caraway ("Plaintiffs") to exclude the testimony of Dr. Paul R. McHugh, a disclosed expert of Defendants Dale Folwell, Dee Jones, and the North Carolina State Health Plan for Teachers and State Employees.

Having considered Plaintiffs' Motion and Memorandum in Support, and for good cause shown, IT IS HEREBY ORDERED that Plaintiffs' Motion to Exclude Expert Testimony of Dr. Paul R. McHugh is GRANTED.

This ____ day of _____, 2022.

The Honorable Loretta C. Biggs
United States District Judge