

**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 FOR ORDER TO SHOW CAUSE
and
TO COMPEL PRODUCTION OF DOCUMENTS**

Pursuant to Federal Rule of Civil Procedure Rule 45(d)(2)(B)(i) and (g), Plaintiffs move for an order to show cause why Mary Bentley, Alan Clark, Robin Lundstrum, Marcus Richmond, and Jim Wooten (collectively, “Legislators”) should not be held in contempt for failing to obey a subpoena duces tecum commanding the production of documents, and compelling each Legislator to produce responsive documents. The *Motion* should be granted for the reasons detailed below, as supported by Plaintiffs’ *Brief in Support*:

1. The Legislators were served on November 8, 2021, with a subpoena duces tecum requesting that the recipient-legislator produce documents and communications, as identified in Appendix A, by 5:00 p.m. on November 22, 2021. *See Exhibit 1* (Bentley Subpoena), *Exhibit 2* (Clark Subpoena), *Exhibit 3* (Lundstrom Subpoena), *Exhibit 4* (Richmond Subpoena), *Exhibit 5* (Wooten Subpoena); *see also Exhibit 6* (proof of service).

2. The Legislators objected to complying with the subpoena on three grounds – relevancy, proportionality, and privilege. *Exhibit 7* (Bentley Objections); *Exhibit 8* (Clark Objections); *Exhibit 9* (Lundstrom Objections); *Exhibit 10* (Richmond Objections); *Exhibit 11* (Wooten Objections).

3. After two months of negotiations, the Legislators have refused to produce any documents and are instead standing on their boilerplate objections. *Exhibit 12* (Plaintiffs’ December 6, 2021 letter); *Exhibit 13* (Legislators’ December 23, 2021 letter); *Exhibit 14* (Plaintiffs’ December 27, 2021 letter). None of these objections is proper here, and the Legislators therefore lack an adequate excuse for refusing to comply with the subpoenas.

WHEREFORE, Plaintiffs respectfully request the Court find good cause exists to grant the *Motion*, and issue an order to show cause why the Legislators should not be held in contempt for failing to obey a subpoena duces tecum commanding the production of documents, and compelling each Legislator to produce responsive documents, along with attorneys’ fees and costs as the Court sees appropriate under the circumstances.

Dated: January 20, 2022

Respectfully submitted,

/s/ Leslie Cooper

Leslie Cooper
Chase Strangio*
American Civil Liberties Union
Foundation
125 Broad St.

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Attorneys for the Plaintiffs

**Admitted pro hac vice*

CERTIFICATE OF SERVICE

I, Breean Walas, affirm that on this January 20, 2022, I have filed the foregoing using the CM/ECF system, which will send notice of such filing to counsel of record for all parties, and I have served Mary Bentley, Alan Clark, Robin Lundstrum, Marcus Richmond, and Jim Wooten by emailing a copy of the same to their counsel, Dylan L. Jacobs, Assistant Solicitor General, Office of Arkansas Attorney General Leslie Rutledge, dylan.jacobs@arkansasag.gov.

/s/ Breean Walas
Breean Walas

Exhibit 1

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of Arkansas

DYLAN BRANDT, et al.)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 4:21-CV-00450-JM
LESLIE RUTLEDGE, et al.)	
<i>Defendant</i>)	

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Mary Bentley

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attached Schedule A

Place: Gill Ragon Owen, P.A. 425 W. Capitol Avenue, Suite 3800 Little Rock, AR 72201	Date and Time: 11/22/2021 5:00 pm
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Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/08/2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Dylan Brandt et al. _____, who issues or requests this subpoena, are:
Duncan Simpson LaGoy, 1870 Embarcadero Rd., Palo Alto, California 94303, simpsond@sullcrom.com, 650-461-5600

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:21-CV-00450-JM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

SCHEDULE A

DEFINITIONS

A. 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.

B. “Action” means the above-captioned action.

C. “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.

D. “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.

E. “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 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.

F. “SAFE Act” 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).

G. “You,” or “your” refer to Mary Bentley.

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 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.

DOCUMENTS REQUESTED

1. All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

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. All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

Exhibit 2

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of Arkansas

DYLAN BRANDT, et al.)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 4:21-CV-00450-JM
LESLIE RUTLEDGE, et al.)	
<i>Defendant</i>)	

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Alan Clark

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attached Schedule A

Place: Gill Ragon Owen, P.A. 425 W. Capitol Avenue, Suite 3800 Little Rock, AR 72201	Date and Time: 11/22/2021 5:00 pm
--	--

Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

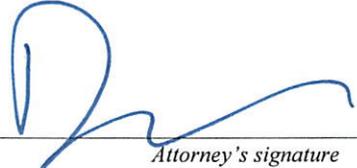
Place:	Date and Time:
--------	----------------

The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/08/2021

CLERK OF COURT

OR

_____ <i>Signature of Clerk or Deputy Clerk</i>	 <i>Attorney's signature</i>
--	---

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
 Dylan Brandt et al. _____, who issues or requests this subpoena, are:
 Duncan Simpson LaGoy, 1870 Embarcadero Rd., Palo Alto, California 94303, simpsond@sullcrom.com, 650-461-5600

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:21-CV-00450-JM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

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- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
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(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

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(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
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(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

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(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

SCHEDULE A

DEFINITIONS

A. 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.

B. “Action” means the above-captioned action.

C. “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.

D. “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.

E. “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 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.

F. “SAFE Act” 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).

G. “You,” or “your” refer to Alan Clark.

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 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.

DOCUMENTS REQUESTED

1. All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

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. All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

Exhibit 3

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of Arkansas

DYLAN BRANDT, et al.)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 4:21-CV-00450-JM
LESLIE RUTLEDGE, et al.)	
<i>Defendant</i>)	

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Robin Lundstrum

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attached Schedule A

Place: Gill Ragon Owen, P.A. 425 W. Capitol Avenue, Suite 3800 Little Rock, AR 72201	Date and Time: 11/22/2021 5:00 pm
--	--

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

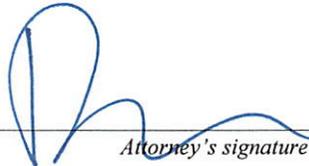
The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/08/2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Dylan Brandt et al. _____, who issues or requests this subpoena, are:
Duncan Simpson LaGoy, 1870 Embarcadero Rd., Palo Alto, California 94303, simpsond@sullcrom.com, 650-461-5600

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:21-CV-00450-JM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____ .

I declare under penalty of perjury that this information is true.

Date: _____
_____ *Server's signature*

_____ *Printed name and title*

_____ *Server's address*

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

SCHEDULE A

DEFINITIONS

A. 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.

B. “Action” means the above-captioned action.

C. “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.

D. “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.

E. “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 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.

F. “SAFE Act” 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).

G. “You,” or “your” refer to Robin Lundstrum.

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 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.

DOCUMENTS REQUESTED

1. All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

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. All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

Exhibit 4

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of Arkansas

DYLAN BRANDT, et al.)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 4:21-CV-00450-JM
LESLIE RUTLEDGE, et al.)	
<i>Defendant</i>)	

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Marcus Richmond

(Name of person to whom this subpoena is directed)

Production: YOU ARE COMMANDED to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attached Schedule A

Place: Gill Ragon Owen, P.A. 425 W. Capitol Avenue, Suite 3800 Little Rock, AR 72201	Date and Time: 11/22/2021 5:00 pm
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Inspection of Premises: YOU ARE COMMANDED to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
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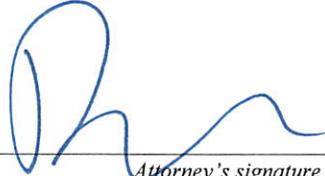
The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/08/2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Dylan Brandt et al. _____, who issues or requests this subpoena, are:
Duncan Simpson LaGoy, 1870 Embarcadero Rd., Palo Alto, California 94303, simpsond@sullcrom.com, 650-461-5600

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:21-CV-00450-JM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____

on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of \$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

- (ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

SCHEDULE A

DEFINITIONS

A. 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.

B. “Action” means the above-captioned action.

C. “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.

D. “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.

E. “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 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.

F. “SAFE Act” 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).

G. “You,” or “your” refer to Marcus Richmond.

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 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.

DOCUMENTS REQUESTED

1. All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

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. All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

Exhibit 5

AO 88B (Rev. 02/14) Subpoena to Produce Documents, Information, or Objects or to Permit Inspection of Premises in a Civil Action

UNITED STATES DISTRICT COURT
for the
Eastern District of Arkansas

DYLAN BRANDT, et al.)	
<i>Plaintiff</i>)	
v.)	Civil Action No. 4:21-CV-00450-JM
LESLIE RUTLEDGE, et al.)	
<i>Defendant</i>)	

**SUBPOENA TO PRODUCE DOCUMENTS, INFORMATION, OR OBJECTS
OR TO PERMIT INSPECTION OF PREMISES IN A CIVIL ACTION**

To: Jim Wooten

(Name of person to whom this subpoena is directed)

Production: **YOU ARE COMMANDED** to produce at the time, date, and place set forth below the following documents, electronically stored information, or objects, and to permit inspection, copying, testing, or sampling of the material: See Attached Schedule A

Place: Gill Ragon Owen, P.A. 425 W. Capitol Avenue, Suite 3800 Little Rock, AR 72201	Date and Time: 11/22/2021 5:00 pm
--	--

Inspection of Premises: **YOU ARE COMMANDED** to permit entry onto the designated premises, land, or other property possessed or controlled by you at the time, date, and location set forth below, so that the requesting party may inspect, measure, survey, photograph, test, or sample the property or any designated object or operation on it.

Place:	Date and Time:
--------	----------------

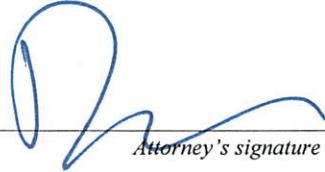
The following provisions of Fed. R. Civ. P. 45 are attached – Rule 45(c), relating to the place of compliance; Rule 45(d), relating to your protection as a person subject to a subpoena; and Rule 45(e) and (g), relating to your duty to respond to this subpoena and the potential consequences of not doing so.

Date: 11/08/2021

CLERK OF COURT

OR

Signature of Clerk or Deputy Clerk



Attorney's signature

The name, address, e-mail address, and telephone number of the attorney representing *(name of party)* _____
Dylan Brandt et al. _____, who issues or requests this subpoena, are:
Duncan Simpson LaGoy, 1870 Embarcadero Rd., Palo Alto, California 94303, simpsond@sullcrom.com, 650-461-5600

Notice to the person who issues or requests this subpoena

If this subpoena commands the production of documents, electronically stored information, or tangible things or the inspection of premises before trial, a notice and a copy of the subpoena must be served on each party in this case before it is served on the person to whom it is directed. Fed. R. Civ. P. 45(a)(4).

Civil Action No. 4:21-CV-00450-JM

PROOF OF SERVICE

(This section should not be filed with the court unless required by Fed. R. Civ. P. 45.)

I received this subpoena for *(name of individual and title, if any)* _____
on *(date)* _____ .

I served the subpoena by delivering a copy to the named person as follows: _____

_____ on *(date)* _____ ; or

I returned the subpoena unexecuted because: _____
_____ .

Unless the subpoena was issued on behalf of the United States, or one of its officers or agents, I have also
tendered to the witness the fees for one day's attendance, and the mileage allowed by law, in the amount of
\$ _____ .

My fees are \$ _____ for travel and \$ _____ for services, for a total of \$ _____ 0 _____ .

I declare under penalty of perjury that this information is true.

Date: _____

Server's signature

Printed name and title

Server's address

Additional information regarding attempted service, etc.:

Federal Rule of Civil Procedure 45 (c), (d), (e), and (g) (Effective 12/1/13)**(c) Place of Compliance.**

(1) For a Trial, Hearing, or Deposition. A subpoena may command a person to attend a trial, hearing, or deposition only as follows:

- (A) within 100 miles of where the person resides, is employed, or regularly transacts business in person; or
- (B) within the state where the person resides, is employed, or regularly transacts business in person, if the person
 - (i) is a party or a party's officer; or
 - (ii) is commanded to attend a trial and would not incur substantial expense.

(2) For Other Discovery. A subpoena may command:

- (A) production of documents, electronically stored information, or tangible things at a place within 100 miles of where the person resides, is employed, or regularly transacts business in person; and
- (B) inspection of premises at the premises to be inspected.

(d) Protecting a Person Subject to a Subpoena; Enforcement.

(1) Avoiding Undue Burden or Expense; Sanctions. A party or attorney responsible for issuing and serving a subpoena must take reasonable steps to avoid imposing undue burden or expense on a person subject to the subpoena. The court for the district where compliance is required must enforce this duty and impose an appropriate sanction—which may include lost earnings and reasonable attorney's fees—on a party or attorney who fails to comply.

(2) Command to Produce Materials or Permit Inspection.

(A) *Appearance Not Required.* A person commanded to produce documents, electronically stored information, or tangible things, or to permit the inspection of premises, need not appear in person at the place of production or inspection unless also commanded to appear for a deposition, hearing, or trial.

(B) *Objections.* A person commanded to produce documents or tangible things or to permit inspection may serve on the party or attorney designated in the subpoena a written objection to inspecting, copying, testing, or sampling any or all of the materials or to inspecting the premises—or to producing electronically stored information in the form or forms requested. The objection must be served before the earlier of the time specified for compliance or 14 days after the subpoena is served. If an objection is made, the following rules apply:

- (i) At any time, on notice to the commanded person, the serving party may move the court for the district where compliance is required for an order compelling production or inspection.
- (ii) These acts may be required only as directed in the order, and the order must protect a person who is neither a party nor a party's officer from significant expense resulting from compliance.

(3) Quashing or Modifying a Subpoena.

(A) *When Required.* On timely motion, the court for the district where compliance is required must quash or modify a subpoena that:

- (i) fails to allow a reasonable time to comply;
- (ii) requires a person to comply beyond the geographical limits specified in Rule 45(c);
- (iii) requires disclosure of privileged or other protected matter, if no exception or waiver applies; or
- (iv) subjects a person to undue burden.

(B) *When Permitted.* To protect a person subject to or affected by a subpoena, the court for the district where compliance is required may, on motion, quash or modify the subpoena if it requires:

- (i) disclosing a trade secret or other confidential research, development, or commercial information; or

(ii) disclosing an unretained expert's opinion or information that does not describe specific occurrences in dispute and results from the expert's study that was not requested by a party.

(C) *Specifying Conditions as an Alternative.* In the circumstances described in Rule 45(d)(3)(B), the court may, instead of quashing or modifying a subpoena, order appearance or production under specified conditions if the serving party:

- (i) shows a substantial need for the testimony or material that cannot be otherwise met without undue hardship; and
- (ii) ensures that the subpoenaed person will be reasonably compensated.

(e) Duties in Responding to a Subpoena.

(1) Producing Documents or Electronically Stored Information. These procedures apply to producing documents or electronically stored information:

(A) *Documents.* A person responding to a subpoena to produce documents must produce them as they are kept in the ordinary course of business or must organize and label them to correspond to the categories in the demand.

(B) *Form for Producing Electronically Stored Information Not Specified.* If a subpoena does not specify a form for producing electronically stored information, the person responding must produce it in a form or forms in which it is ordinarily maintained or in a reasonably usable form or forms.

(C) *Electronically Stored Information Produced in Only One Form.* The person responding need not produce the same electronically stored information in more than one form.

(D) *Inaccessible Electronically Stored Information.* The person responding need not provide discovery of electronically stored information from sources that the person identifies as not reasonably accessible because of undue burden or cost. On motion to compel discovery or for a protective order, the person responding must show that the information is not reasonably accessible because of undue burden or cost. If that showing is made, the court may nonetheless order discovery from such sources if the requesting party shows good cause, considering the limitations of Rule 26(b)(2)(C). The court may specify conditions for the discovery.

(2) Claiming Privilege or Protection.

(A) *Information Withheld.* A person withholding subpoenaed information under a claim that it is privileged or subject to protection as trial-preparation material must:

- (i) expressly make the claim; and
- (ii) describe the nature of the withheld documents, communications, or tangible things in a manner that, without revealing information itself privileged or protected, will enable the parties to assess the claim.

(B) *Information Produced.* If information produced in response to a subpoena is subject to a claim of privilege or of protection as trial-preparation material, the person making the claim may notify any party that received the information of the claim and the basis for it. After being notified, a party must promptly return, sequester, or destroy the specified information and any copies it has; must not use or disclose the information until the claim is resolved; must take reasonable steps to retrieve the information if the party disclosed it before being notified; and may promptly present the information under seal to the court for the district where compliance is required for a determination of the claim. The person who produced the information must preserve the information until the claim is resolved.

(g) Contempt.

The court for the district where compliance is required—and also, after a motion is transferred, the issuing court—may hold in contempt a person who, having been served, fails without adequate excuse to obey the subpoena or an order related to it.

SCHEDULE A

DEFINITIONS

A. 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.

B. “Action” means the above-captioned action.

C. “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.

D. “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.

E. “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 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.

F. “SAFE Act” 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).

G. “You,” or “your” refer to Jim Wooten.

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 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.

DOCUMENTS REQUESTED

1. All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

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. All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

Exhibit 6

PROOF OF SERVICE

I am employed in the County of Santa Clara, State of California. I am over the age of 18 and not a party to the within action. My business address is Sullivan & Cromwell LLP, 1870 Embarcadero Road, Palo Alto, CA 94303.

On November 8, 2021, I served the following documents:

Subpoena to Mary Bentley

Subpoena to Alan Clark

Subpoena to Robin Lundstrum

Subpoena to Marcus Richmond

Subpoena to Jim Wooten

on Mary Bentley, Alan Clark, Robin Lundstrum, Marcus Richmond, and Jim Wooten by emailing a true copy thereof as indicated below:

Dylan L. Jacobs

Assistant Solicitor General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: 501.682.3661

Fax: 501.682.2591

dylan.jacobs@arkansasag.gov

and on Defendants in the subject action by emailing a true copy thereof as indicated below:

Nicholas J. Bronni

nicholas.bronni@arkansasag.gov

Vincent M. Wagner

vincent.wagner@arkansasag.gov

Michael A. Cantrell

michael.cantrell@arkansasag.gov

Ka Tina R. Guest

KaTina.Guest@arkansasag.gov

Office of the Arkansas Attorney General

323 Center Street, Suite 200

Little Rock, Arkansas 72201

(501) 682-2007

I declare under penalty of perjury under the laws of the State of California that the foregoing is true and correct.

Executed on November 8, 2021, at Palo Alto, California.

/s/ Duncan Simpson LaGoy
Duncan Simpson LaGoy

Exhibit 7

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

DYLAN BRANDT, *et al.*,

PLAINTIFFS,

v.

No. 4:21-CV-00450-JM

LESLIE RUTLEDGE, *et al.*,

DEFENDANTS.

**ARKANSAS STATE REPRESENTATIVE MARY BENTLEY'S
RESPONSE TO SUBPOENA *DUCES TECUM***

Respondent Arkansas State Representative Mary Bentley, through counsel, states for her Response to Plaintiffs' Subpoena as follows:

GENERAL OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

Respondent objects to the Instructions and Definitions contained in the Plaintiffs' Requests for Production of Documents to the extent such Instructions and Definitions place upon Respondent demands and obligations that would exceed the scope of Respondent's responsibility to respond to the requests under applicable Federal Rules of Civil Procedure.

REQUEST NO. 1: All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

RESPONSE NO. 1: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document,"

and “Concerning,” this Request could conceivably be read to encompass every legislative material in Respondent’s possession since October 1, 2020. For instance, a vote in favor or against any particular bill might “concern” a vote on another bill, given Plaintiffs’ incredibly broad definition of such term. Respondent’s vote concerning the SAFE Act might be “legally or logically” connected to votes on other bills, or proposed legislation, or any number of legislative actions that have no bearing on this case. Responding to this request could require respondent to search every “Document”—under Plaintiffs’ incredibly broad definition—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of “concern” would make it impossible to discern which documents were truly relevant to this Request.

Moreover, none of the information requested is relevant to any party’s claim or defense. Whether the SAFE Act is constitutional is properly analyzed under rational-basis review, and the thoughts or intent of the legislators who voted for the Act are irrelevant. Given the incredibly broad nature of the request, it is therefore disproportionate to the needs of the case.

Respondent also objects to the request to the extent it seeks documents that are subject to attorney-client privilege or are attorney work product. Respondent also asserts that common law legislative privilege (referred to in some cases as a “deliberative-process privilege”) protects from disclosure all legislative communications between members of the General Assembly. Should production of documents responsive to this request be compelled, Respondent will provide a privilege log pursuant to Rule 26 and supplement her responses accordingly to identify any documents withheld on the basis of any privilege.

REQUEST 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: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document," and "Concerning," this Request could conceivably be read to encompass every legislative or other material in Respondent's possession since October 1, 2020. For instance, any document using the terms "male" or "female" might conceivably "concern" gender dysphoria or transgender people, given Plaintiffs' incredibly broad definition of such term. Responding to this request could require respondent to search every "Document"—under Plaintiffs' incredibly broad definition—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of "concern" would make it impossible to discern which documents were truly relevant to this Request.

Moreover, none of the information requested is relevant to any party's claim or defense. Whether the SAFE Act is constitutional is properly analyzed under rational-basis review, and the thoughts or intent of the legislators who voted for the Act are irrelevant. Given the incredibly broad nature of the request, it is therefore disproportionate to the needs of the case.

Respondent also objects to the request to the extent it seeks documents that are subject to attorney-client privilege or are attorney work product. Respondent also asserts that common law legislative privilege (referred to in some cases as a "deliberative-process privilege") protects from disclosure all legislative communications between members of the General Assembly.

Should production of documents responsive to this request be compelled, Respondent will provide a privilege log pursuant to Rule 26 and supplement her responses accordingly to identify any documents withheld on the basis of any privilege.

REQUEST NO. 3: All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

RESPONSE NO. 3: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document," and "Concerning," this Request could conceivably be read to encompass every legislative or other material in Respondent's possession since October 1, 2020. For instance, any document concerning or referencing minors or their well-being conceivably "concern the effects of the SAFE Act, given Plaintiffs' incredibly broad definition of such term. Responding to this request could require respondent to search every "Document"—under Plaintiffs' incredibly broad definition"—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of "concern" would make it impossible to discern which documents were truly relevant to this Request.

Moreover, none of the information requested is relevant to any party's claim or defense. Whether the SAFE Act is constitutional is properly analyzed under rational-basis review, and the thoughts or intent of the legislators who voted for the Act are irrelevant. Given the incredibly broad nature of the request, it is therefore disproportionate to the needs of the case.

Respondent also objects to the request to the extent it seeks documents that are subject to attorney-client privilege or are attorney work product. Respondent also asserts that common law

legislative privilege (referred to in some cases as a “deliberative-process privilege”) protects from disclosure all legislative communications between members of the General Assembly.

Dated: November 22, 2021

Respectfully submitted,

LESLIE RUTLEDGE
Arkansas Attorney General

DYLAN L. JACOBS (2016167)
Assistant Solicitor General

OFFICE OF THE ARKANSAS
ATTORNEY GENERAL
323 Center Street, Suite 200
Little Rock, Arkansas 72201
(501) 682-8090
Dylan.Jacobs@arkansasag.gov

Counsel for Respondent Mary Bentley

CERTIFICATE OF SERVICE

I certify that on November 22, 2021, the foregoing was served on Plaintiffs' counsel by email at the following addresses:

lcooper@aclu.org
cstrangio@aclu.org
echols@gill-law.com
travis@gill-law.com
mann@gill-law.com
breean@walaslawfirm.com
sarah@acluarkansas.org
beeneyg@sullcrom.com
ossipj@sullcrom.com
hollanda@sullcrom.com
oswell@sullcrom.com
simpsond@sullcrom.com

/s/ Dylan L. Jacobs

Dylan L. Jacobs

Exhibit 8

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

DYLAN BRANDT, *et al.*,

PLAINTIFFS,

v.

No. 4:21-CV-00450-JM

LESLIE RUTLEDGE, *et al.*,

DEFENDANTS.

ARKANSAS STATE SENATOR ALAN CLARK'S RESPONSE TO SUBPOENA *DUCES TECUM*

Respondent Arkansas State Senator Alan Clark, through counsel, states for his Response to Plaintiffs' Subpoena as follows:

GENERAL OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

Respondent objects to the Instructions and Definitions contained in the Plaintiffs' Requests for Production of Documents to the extent such Instructions and Definitions place upon Respondent demands and obligations that would exceed the scope of Respondent's responsibility to respond to the requests under applicable Federal Rules of Civil Procedure.

REQUEST NO. 1: All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

RESPONSE NO. 1: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document,"

and “Concerning,” this Request could conceivably be read to encompass every legislative material in Respondent’s possession since October 1, 2020. For instance, a vote in favor or against any particular bill might “concern” a vote on another bill, given Plaintiffs’ incredibly broad definition of such term. Respondent’s vote concerning the SAFE Act might be “legally or logically” connected to votes on other bills, or proposed legislation, or any number of legislative actions that have no bearing on this case. Responding to this request could require respondent to search every “Document”—under Plaintiffs’ incredibly broad definition—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of “concern” would make it impossible to discern which documents were truly relevant to this Request.

Moreover, none of the information requested is relevant to any party’s claim or defense. Whether the SAFE Act is constitutional is properly analyzed under rational-basis review, and the thoughts or intent of the legislators who voted for the Act are irrelevant. Given the incredibly broad nature of the request, it is therefore disproportionate to the needs of the case.

Respondent also objects to the request to the extent it seeks documents that are subject to attorney-client privilege or are attorney work product. Respondent also asserts that common law legislative privilege (referred to in some cases as a “deliberative-process privilege”) protects from disclosure all legislative communications between members of the General Assembly. Should production of documents responsive to this request be compelled, Respondent will provide a privilege log pursuant to Rule 26 and supplement his responses accordingly to identify any documents withheld on the basis of any privilege.

REQUEST 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: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document," and "Concerning," this Request could conceivably be read to encompass every legislative or other material in Respondent's possession since October 1, 2020. For instance, any document using the terms "male" or "female" might conceivably "concern" gender dysphoria or transgender people, given Plaintiffs' incredibly broad definition of such term. Responding to this request could require respondent to search every "Document"—under Plaintiffs' incredibly broad definition—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of "concern" would make it impossible to discern which documents were truly relevant to this Request.

Moreover, none of the information requested is relevant to any party's claim or defense. Whether the SAFE Act is constitutional is properly analyzed under rational-basis review, and the thoughts or intent of the legislators who voted for the Act are irrelevant. Given the incredibly broad nature of the request, it is therefore disproportionate to the needs of the case.

Respondent also objects to the request to the extent it seeks documents that are subject to attorney-client privilege or are attorney work product. Respondent also asserts that common law legislative privilege (referred to in some cases as a "deliberative-process privilege") protects from disclosure all legislative communications between members of the General Assembly.

Should production of documents responsive to this request be compelled, Respondent will provide a privilege log pursuant to Rule 26 and supplement his responses accordingly to identify any documents withheld on the basis of any privilege.

REQUEST NO. 3: All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

RESPONSE NO. 3: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document," and "Concerning," this Request could conceivably be read to encompass every legislative or other material in Respondent's possession since October 1, 2020. For instance, any document concerning or referencing minors or their well-being conceivably "concern the effects of the SAFE Act, given Plaintiffs' incredibly broad definition of such term. Responding to this request could require respondent to search every "Document"—under Plaintiffs' incredibly broad definition"—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of "concern" would make it impossible to discern which documents were truly relevant to this Request.

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Respondent also objects to the request to the extent it seeks documents that are subject to attorney-client privilege or are attorney work product. Respondent also asserts that common law

legislative privilege (referred to in some cases as a “deliberative-process privilege”) protects from disclosure all legislative communications between members of the General Assembly.

Dated: November 22, 2021

Respectfully submitted,

LESLIE RUTLEDGE
Arkansas Attorney General

DYLAN L. JACOBS (2016167)
Assistant Solicitor General

OFFICE OF THE ARKANSAS
ATTORNEY GENERAL
323 Center Street, Suite 200
Little Rock, Arkansas 72201
(501) 682-8090
Dylan.Jacobs@arkansasag.gov

Counsel for Respondent Alan Clark

CERTIFICATE OF SERVICE

I certify that on November 22, 2021, the foregoing was served on Plaintiffs' counsel by email at the following addresses:

lcooper@aclu.org
cstrangio@aclu.org
echols@gill-law.com
travis@gill-law.com
mann@gill-law.com
breean@walaslawfirm.com
sarah@acluarkansas.org
beeneyg@sullcrom.com
ossipj@sullcrom.com
hollanda@sullcrom.com
oswell@sullcrom.com
simpsond@sullcrom.com

/s/ Dylan L. Jacobs

Dylan L. Jacobs

Exhibit 9

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

DYLAN BRANDT, *et al.*,

PLAINTIFFS,

v.

No. 4:21-CV-00450-JM

LESLIE RUTLEDGE, *et al.*,

DEFENDANTS.

**ARKANSAS STATE REPRESENTATIVE ROBIN LUNDSTRUM'S
RESPONSE TO SUBPOENA *DUCES TECUM***

Respondent Arkansas State Representative Robin Lundstrum, through counsel, states for her Response to Plaintiffs' Subpoena as follows:

GENERAL OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

Respondent objects to the Instructions and Definitions contained in the Plaintiffs' Requests for Production of Documents to the extent such Instructions and Definitions place upon Respondent demands and obligations that would exceed the scope of Respondent's responsibility to respond to the requests under applicable Federal Rules of Civil Procedure.

REQUEST NO. 1: All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

RESPONSE NO. 1: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document,"

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Moreover, none of the information requested is relevant to any party’s claim or defense. Whether the SAFE Act is constitutional is properly analyzed under rational-basis review, and the thoughts or intent of the legislators who voted for the Act are irrelevant. Given the incredibly broad nature of the request, it is therefore disproportionate to the needs of the case.

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REQUEST 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: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document," and "Concerning," this Request could conceivably be read to encompass every legislative or other material in Respondent's possession since October 1, 2020. For instance, any document using the terms "male" or "female" might conceivably "concern" gender dysphoria or transgender people, given Plaintiffs' incredibly broad definition of such term. Responding to this request could require respondent to search every "Document"—under Plaintiffs' incredibly broad definition—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of "concern" would make it impossible to discern which documents were truly relevant to this Request.

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REQUEST NO. 3: All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

RESPONSE NO. 3: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document," and "Concerning," this Request could conceivably be read to encompass every legislative or other material in Respondent's possession since October 1, 2020. For instance, any document concerning or referencing minors or their well-being conceivably "concern the effects of the SAFE Act, given Plaintiffs' incredibly broad definition of such term. Responding to this request could require respondent to search every "Document"—under Plaintiffs' incredibly broad definition"—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of "concern" would make it impossible to discern which documents were truly relevant to this Request.

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legislative privilege (referred to in some cases as a “deliberative-process privilege”) protects from disclosure all legislative communications between members of the General Assembly.

Dated: November 22, 2021

Respectfully submitted,

LESLIE RUTLEDGE
Arkansas Attorney General

DYLAN L. JACOBS (2016167)
Assistant Solicitor General

OFFICE OF THE ARKANSAS
ATTORNEY GENERAL
323 Center Street, Suite 200
Little Rock, Arkansas 72201
(501) 682-8090
Dylan.Jacobs@arkansasag.gov

Counsel for Respondent Robin Lundstrum

CERTIFICATE OF SERVICE

I certify that on November 22, 2021, the foregoing was served on Plaintiffs' counsel by email at the following addresses:

lcooper@aclu.org
cstrangio@aclu.org
echols@gill-law.com
travis@gill-law.com
mann@gill-law.com
breean@walaslawfirm.com
sarah@acluarkansas.org
beeneyg@sullcrom.com
ossipj@sullcrom.com
hollanda@sullcrom.com
oswell@sullcrom.com
simpsond@sullcrom.com

/s/ Dylan L. Jacobs

Dylan L. Jacobs

Exhibit 10

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

DYLAN BRANDT, *et al.*,

PLAINTIFFS,

v.

No. 4:21-CV-00450-JM

LESLIE RUTLEDGE, *et al.*,

DEFENDANTS.

ARKANSAS STATE REPRESENTATIVE MARCUS RICHMOND’S

RESPONSE TO SUBPOENA *DUCES TECUM*

Respondent Arkansas State Representative Marcus Richmond, through counsel, states for his Response to Plaintiffs’ Subpoena as follows:

GENERAL OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

Respondent objects to the Instructions and Definitions contained in the Plaintiffs’ Requests for Production of Documents to the extent such Instructions and Definitions place upon Respondent demands and obligations that would exceed the scope of Respondent’s responsibility to respond to the requests under applicable Federal Rules of Civil Procedure.

REQUEST NO. 1: All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

RESPONSE NO. 1: Respondent objects that the request is overbroad, seeks information not relevant to any party’s claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of “Communication,” “Document,”

and “Concerning,” this Request could conceivably be read to encompass every legislative material in Respondent’s possession since October 1, 2020. For instance, a vote in favor or against any particular bill might “concern” a vote on another bill, given Plaintiffs’ incredibly broad definition of such term. Respondent’s vote concerning the SAFE Act might be “legally or logically” connected to votes on other bills, or proposed legislation, or any number of legislative actions that have no bearing on this case. Responding to this request could require respondent to search every “Document”—under Plaintiffs’ incredibly broad definition—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of “concern” would make it impossible to discern which documents were truly relevant to this Request.

Moreover, none of the information requested is relevant to any party’s claim or defense. Whether the SAFE Act is constitutional is properly analyzed under rational-basis review, and the thoughts or intent of the legislators who voted for the Act are irrelevant. Given the incredibly broad nature of the request, it is therefore disproportionate to the needs of the case.

Respondent also objects to the request to the extent it seeks documents that are subject to attorney-client privilege or are attorney work product. Respondent also asserts that common law legislative privilege (referred to in some cases as a “deliberative-process privilege”) protects from disclosure all legislative communications between members of the General Assembly. Should production of documents responsive to this request be compelled, Respondent will provide a privilege log pursuant to Rule 26 and supplement his responses accordingly to identify any documents withheld on the basis of any privilege.

REQUEST 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.

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Should production of documents responsive to this request be compelled, Respondent will provide a privilege log pursuant to Rule 26 and supplement his responses accordingly to identify any documents withheld on the basis of any privilege.

REQUEST NO. 3: All documents and communications concerning the impact of the SAFE Act on the well-being of minors.

RESPONSE NO. 3: Respondent objects that the request is overbroad, seeks information not relevant to any party's claim or defense, and is unduly burdensome and disproportionate to the needs of the case. Given the incredibly broad definitions of "Communication," "Document," and "Concerning," this Request could conceivably be read to encompass every legislative or other material in Respondent's possession since October 1, 2020. For instance, any document concerning or referencing minors or their well-being conceivably "concern the effects of the SAFE Act, given Plaintiffs' incredibly broad definition of such term. Responding to this request could require respondent to search every "Document"—under Plaintiffs' incredibly broad definition"—that he has possessed since October 1, 2021 across every physical and digital medium. Even if Respondent were able to accomplish that herculean feat, the broad and vague definition of "concern" would make it impossible to discern which documents were truly relevant to this Request.

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Dated: November 22, 2021

Respectfully submitted,

LESLIE RUTLEDGE
Arkansas Attorney General

DYLAN L. JACOBS (2016167)
Assistant Solicitor General

OFFICE OF THE ARKANSAS
ATTORNEY GENERAL
323 Center Street, Suite 200
Little Rock, Arkansas 72201
(501) 682-8090
Dylan.Jacobs@arkansasag.gov

Counsel for Respondent Marcus Richmond

CERTIFICATE OF SERVICE

I certify that on November 22, 2021, the foregoing was served on Plaintiffs' counsel by email at the following addresses:

lcooper@aclu.org
cstrangio@aclu.org
echols@gill-law.com
travis@gill-law.com
mann@gill-law.com
breean@walaslawfirm.com
sarah@acluarkansas.org
beeneyg@sullcrom.com
ossipj@sullcrom.com
hollanda@sullcrom.com
oswell@sullcrom.com
simpsond@sullcrom.com

/s/ Dylan L. Jacobs

Dylan L. Jacobs

Exhibit 11

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

DYLAN BRANDT, *et al.*,

PLAINTIFFS,

v.

No. 4:21-CV-00450-JM

LESLIE RUTLEDGE, *et al.*,

DEFENDANTS.

ARKANSAS STATE REPRESENTATIVE JIM WOOTEN'S RESPONSE TO SUBPOENA *DUCES TECUM*

Respondent Arkansas State Representative Jim Wooten, through counsel, states for his Response to Plaintiffs' Subpoena as follows:

GENERAL OBJECTIONS TO INSTRUCTIONS AND DEFINITIONS

Respondent objects to the Instructions and Definitions contained in the Plaintiffs' Requests for Production of Documents to the extent such Instructions and Definitions place upon Respondent demands and obligations that would exceed the scope of Respondent's responsibility to respond to the requests under applicable Federal Rules of Civil Procedure.

REQUEST NO. 1: All documents and communications concerning the SAFE Act, including, but not limited to: video and audio recordings concerning any state legislative hearings and committee meetings at which the SAFE Act was discussed; documents concerning the proposal, enactment and ratification of the SAFE Act; and documents concerning meetings and correspondence with any individual or organization regarding the SAFE Act, including, but not limited to, the Heritage Foundation and the Alliance Defending Freedom.

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Dated: November 22, 2021

Respectfully submitted,

LESLIE RUTLEDGE
Arkansas Attorney General

DYLAN L. JACOBS (2016167)
Assistant Solicitor General

OFFICE OF THE ARKANSAS
ATTORNEY GENERAL
323 Center Street, Suite 200
Little Rock, Arkansas 72201
(501) 682-8090
Dylan.Jacobs@arkansasag.gov

Counsel for Respondent Jim Wooten

CERTIFICATE OF SERVICE

I certify that on November 22, 2021, the foregoing was served on Plaintiffs' counsel by email at the following addresses:

lcooper@aclu.org
cstrangio@aclu.org
echols@gill-law.com
travis@gill-law.com
mann@gill-law.com
breean@walaslawfirm.com
sarah@acluarkansas.org
beeneyg@sullcrom.com
ossipj@sullcrom.com
hollanda@sullcrom.com
oswell@sullcrom.com
simpsond@sullcrom.com

/s/ Dylan L. Jacobs

Dylan L. Jacobs

Exhibit 12

SULLIVAN & CROMWELL LLP

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

*1870 Embarcadero Road
Palo Alto, California 94303-3308*

LOS ANGELES • NEW YORK • WASHINGTON, D.C.

BRUSSELS • FRANKFURT • LONDON • PARIS

BEIJING • HONG KONG • TOKYO

MELBOURNE • SYDNEY

December 6, 2021

Via E-mail

Dylan L. Jacobs,
Assistant Solicitor General
323 Center Street, Suite 200,
Little Rock, AR 72201.

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

Dear Dylan:

I write on behalf of Plaintiffs to discuss the issues raised during the November 30, 2021 meet and confer regarding the subpoenas, dated November 8, 2021 (the “Subpoenas”), served on Representative Mary Bentley, Senator Alan Clark, Representative Robin Lundstrump, Representative Marcus Richmond and Representative Jim Wooten (the “Legislators”).

During our meet and confer, we agreed that, subject to agreement on search terms, the Legislators would search for and produce documents responsive to the document requests contained in the Subpoenas (the “Requests”). Attached as Appendix A is a list of search terms. Plaintiffs request that the Legislators run these terms and review any resulting documents for responsiveness to the Requests. To the extent the Legislators believe any terms are returning an unreasonably high number of non-responsive documents, please provide a report that lists the number of hits for each search term. Plaintiffs request that the Legislators run these search terms and confirm they will review the results for documents responsive to the requests in the Subpoenas, or provide hit counts, no later than December 20, 2021.

We further agreed that you would provide a log listing each document withheld on the basis of attorney-client privilege, attorney work product protection, or legislative privilege. Lastly, during the call you indicated that you expected to withdraw the Legislators’ objection that the Requests sought irrelevant documents, but that you were unable to confirm this on the call. We request that you confirm that the Legislators will not withhold production of any documents responsive to the Requests based on the incorrect objection that the Requests seek documents that are not relevant to any party’s claim or defense.

Dylan L. Jacobs

-2-

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 13



ATTORNEY GENERAL
LESLIE RUTLEDGE
—
ARKANSASAG.GOV

Dylan L. Jacobs
Assistant Solicitor General

Direct Dial: (501) 682-3661
dylan.jacobs@arkansasag.gov

December 22, 2021

via email

Duncan C. Simpson LaGoy
Sullivan & Cromwell LLP
1870 Embarcadero Road
Palo Alto, California 94303-3308

Re: *Brandt v. Rutledge*

Dear Duncan:

I write in response to your letter dated December 6, 2021. The letter mentions several issues discussed during our met and confer on November 30 relating to the Legislators' objections to Plaintiffs' Subpoenas. We conferred regarding the Legislators' objections as to the lack of relevance of the documents sought by the Subpoenas, the disproportionate scope of the document requests, and the Legislators' claim of common-law privilege as to certain categories of documents that could potentially be responsive to Plaintiffs' requests.

I must reiterate that, as I mentioned during our call, the Legislators have not agreed to withdraw their relevance objection at this time. Any discussions regarding the scope of production are preliminary in the sense that they will come to fruition only in the event that the Legislators withdraw their relevance objection or the court orders compliance with the Subpoenas.

Nor have the Legislators withdrawn their proportionality objection. As we discussed on the call, limiting the incredibly broad nature of the document requests with initial search terms would be required, at a minimum, for that objection to be withdrawn. However, the extremely lengthy list of search terms provided in Appendix A to your letter do not lessen the disproportionality of Plaintiffs' requests. This is especially true where many of the sources covered by Plaintiffs' requests (including, e.g., social media platforms and text messages) are not necessarily

searchable using search operators and wildcards as laid out in the Appendix. Finally, many of the search terms do not appear to be calculated to return results relevant to this lawsuit. For example, two of the Legislators surnames (“clark” and “undstrom” [sic]) appear listed. Running searches for such general terms, particularly for emails, would not serve to limit the universe of searchable documents so as to reduce the disproportionality of Plaintiffs’ requests.

Additionally, a list of search terms in itself is not useful without an agreed-upon list of search locations. Please provide a proposed list of search locations and mediums (e.g., text messages, email, social media, etc.) that would be included. This will be helpful in determining which sources are searchable via operators and which are limited to whole keywords. Until the universe of agreed-upon search locations and mediums is established, the Legislators have no way of determining whether the requests have been properly narrowed so as to warrant withdrawing their proportionality objection.

Finally, as indicated on our call, the Legislators will comply with Federal Rule of Civil Procedure 26 and provide a privilege log of all responsive documents withheld on the basis of privilege, at such time that documents are withheld from production.

Sincerely,

/s/ Dylan L. Jacobs

Dylan L. Jacobs
Assistant Solicitor General

Exhibit 14

From: Simpson LaGoy, Duncan C.
Sent: Monday, December 27, 2021 10:31 PM
To: Dylan Jacobs
Cc: zzExt-LCOOPER; zzExt-cstrangio; zzExt-echols; zzExt-travis; zzExt-mann; zzExt-breean; zzExt-Sarah; Beeney, Garrard R.; Ossip, Jonathan J.; Holland, Alexander S.; Oswell, Laura Kabler
Subject: RE: Brandt v. Rutledge - Legislator Subpoena Responses

Dylan,

When we spoke nearly a month ago, you agreed to run search terms to find documents responsive to the requests in the subpoenas. We provided a list of search terms and asked you to tell us how many documents those terms returned so we could narrow them, if necessary. Your assertion that you do not know where to use these search terms appears to be made solely for the purpose of delay, since there is no reason it would take two and a half weeks for you to determine that you were confused about how to run search terms. Moreover, your purported confusion is not credible — as you know, you are required to search the locations in the possession, custody or control of your clients where responsive material is likely to be located. Accordingly, if your clients have responsive text messages, emails, or social media data, those all should be searched. Please provide detailed hit reports showing the number of hits for each search term, run over any ESI location with responsive documents, by Monday, January 3.

Similarly, your refusal to withdraw your relevance objection is not well taken, and we have already provided authority demonstrating that your objection is inappropriate. If you do not agree to withdraw this objection by Monday, January 3, we will be forced to file a motion.

Best,

Duncan

-----Original Message-----

From: Dylan Jacobs <dylan.jacobs@arkansasag.gov>
Sent: Thursday, December 23, 2021 6:25 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>; zzExt-Sarah <Sarah@acluarkansas.org>; Beeney, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J. <ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler <oswelll@sullcrom.com>
Subject: [EXTERNAL] RE: Brandt v. Rutledge - Legislator Subpoena Responses

Duncan - please see the attached letter.

Best,

Dylan L. Jacobs
Assistant Solicitor General
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200

Little Rock, Arkansas 72201

Office: 501.682.3661 | Fax: 501.682.2591 | dylan.jacobs@arkansasag.gov | ArkansasAG.gov

-----Original Message-----

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

Sent: Monday, December 6, 2021 6:25 PM

To: Dylan Jacobs <dylan.jacobs@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-breean <breean@walaslawfirm.com>;
zzExt-Sarah <Sarah@acluarkansas.org>; Beeney, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J.
<ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler
<oswelll@sullcrom.com>

Subject: RE: Brandt v. Rutledge - Legislator Subpoena Responses

EXTERNAL EMAIL

Dylan,

Please see the attached letter.

Best,

Duncan

-----Original Message-----

From: Dylan Jacobs <dylan.jacobs@arkansasag.gov>

Sent: Friday, November 26, 2021 11:39 AM

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>;
zzExt-Sarah <Sarah@acluarkansas.org>; Beeney, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J.
<ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler
<oswelll@sullcrom.com>

Subject: [EXTERNAL] Re: Brandt v. Rutledge - Legislator Subpoena Responses

Duncan - 2:30 on Tuesday works for me. Thanks.

Dylan L. Jacobs

Assistant Solicitor General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200<x-apple-data-detectors://1/0> Little Rock, Arkansas 72201<x-apple-data-detectors://1/0>

Office: 501.682.3661<tel:501.682.3661> | Fax: 501.682.2591<tel:501.682.2591>

| dylan.jacobs@arkansasag.gov<<mailto:dylan.jacobs@arkansasag.gov>> |

ArkansasAG.gov<[https://urldefense.com/v3/__http://arkansasag.gov/__;!!ARePqKBowW4!iYrw6kw5fKXyu5sfQ12Z4U6555W-4_Bil8MrXDCG8jVZwq57GPC0sIDm_4ykTkY_\\$](https://urldefense.com/v3/__http://arkansasag.gov/__;!!ARePqKBowW4!iYrw6kw5fKXyu5sfQ12Z4U6555W-4_Bil8MrXDCG8jVZwq57GPC0sIDm_4ykTkY_$)>

On Nov 24, 2021, at 2:19 PM, Simpson LaGoy, Duncan C. <SimpsonD@sullcrom.com> wrote:

EXTERNAL EMAIL

Dylan,

We're available from 2:30-5 CST. Please let me know which time works for you and I can send Zoom invitation. Thanks,

Duncan

-----Original Message-----

From: Dylan Jacobs <dylan.jacobs@arkansasag.gov>

Sent: Tuesday, November 23, 2021 5:18 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>;

zzExt-Sarah <Sarah@acluarkansas.org>; Beeney, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J.

<ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; Oswell, Laura Kabler

<oswelll@sullcrom.com>

Subject: [EXTERNAL] Re: Brandt v. Rutledge - Legislator Subpoena Responses

Duncan - our office will be closing the rest of this week, and I will be unavailable.

My schedule is fairly flexible starting next Tuesday. Please let me know some dates/times that work on your end.

Best,

Dylan L. Jacobs

Assistant Solicitor General

Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200<x-apple-data-detectors://1/0> Little Rock, Arkansas 72201<x-apple-data-detectors://1/0>

Office: 501.682.3661<tel:501.682.3661> | Fax: 501.682.2591<tel:501.682.2591>

| dylan.jacobs@arkansasag.gov<mailto:dylan.jacobs@arkansasag.gov> |

ArkansasAG.gov<https://urldefense.com/v3/__http://arkansasag.gov/__;!!ARePqKBowW4!hYmjJ78B9nD7fL_crecMuRYnq00LZ-qcTxYDKUr7WyftnTFeC2CBwmEwVOPWox2g\$ >

On Nov 22, 2021, at 5:53 PM, Simpson LaGoy, Duncan C. <SimpsonD@sullcrom.com> wrote:

EXTERNAL EMAIL

Dylan,

We'd like to set up a meet and confer to discuss these objections. Please let me know when you have some time this week or early next week.

Thanks,

Duncan

From: Dylan Jacobs <dylan.jacobs@arkansasag.gov>

Sent: Monday, November 22, 2021 2:51 PM

To: 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>;
zzExt-Sarah <Sarah@acluarkansas.org>; Beeney, Garrard R. <Beeneyg@sullcrom.com>; Ossip, Jonathan J.
<ossipj@sullcrom.com>; Holland, Alexander S. <hollanda@sullcrom.com>; 'oswell@sullcrom.com'
<oswell@sullcrom.com>; Simpson LaGoy, Duncan C. <SimpsonD@sullcrom.com>
Subject: [EXTERNAL] Brandt v. Rutledge - Legislator Subpoena Responses

Counsel,

Please see attached the responses to the subpoenas issued to the five Arkansas legislators on November 8, 2021 in the above-captioned matter.

Best,

Dylan L. Jacobs
Assistant Solicitor General
Office of Arkansas Attorney General Leslie Rutledge

323 Center Street, Suite 200<x-apple-data-detectors://1/0> Little Rock, Arkansas 72201<x-apple-data-detectors://1/0>
Office: 501.682.3661<tel:501.682.3661> | Fax: 501.682.2591<tel:501.682.2591>
| dylan.jacobs@arkansasag.gov<mailto:dylan.jacobs@arkansasag.gov> | ArkansasAG.gov
[arkansasag.gov]<https://urldefense.com/v3/__http://arkansasag.gov/__;!!ARePqKBowW4!!imf-
DEg8N0ZAqqNiNdkFTjxrmbZWiw4bXHldnswjpt1UCFTuW4jv7WjAnsU_SXX\$>

**This is an external message from: dylan.jacobs@arkansasag.gov<mailto:dylan.jacobs@arkansasag.gov> **

This e-mail is sent by a law firm and contains information that may be privileged and confidential. If you are not the intended recipient, please delete the e-mail and notify us immediately.