

1 MARK BRNOVICH  
2 ARIZONA ATTORNEY GENERAL  
3 Firm State Bar No. 14000  
4 Patricia Cracchiolo LaMagna (Bar No. 021880)  
5 Aubrey Joy Corcoran (Bar No. 025423)  
6 Assistant Attorneys General  
7 Education and Health Section  
8 2005 N. Central Avenue  
9 Phoenix, Arizona 85004  
10 Telephone:(602) 542-8854  
11 Fax:(602) 542-8308  
12 EducationHealth@azag.gov

13 STRUCK LOVE BOJANOWSKI & ACEDO, PLC  
14 Daniel P. Struck (Bar No. 012377)  
15 Nicholas D. Acedo (Bar No. 021644)  
16 Dana M. Keene, (Bar No. 033619)  
17 3100 West Ray Road, Suite 300  
18 Chandler, Arizona 85226  
19 Telephone: (480) 420-1600  
20 dstruck@strucklove.com  
21 nacedo@strucklove.com  
22 dkeene@strucklove.com

23 *Attorneys for Defendant*

24 **IN THE UNITED STATES DISTRICT COURT**  
25 **FOR THE DISTRICT OF ARIZONA**

26 Helen Roe, a minor, by and through her  
27 parent and next friend Megan Roe; James  
28 Poe, a minor, by and through his parent and  
next friend Laura Poe; and Carl Voe, a  
minor, by and through his parent and next  
friend Rachel Voe,

Plaintiffs,

v.

Don Herrington, in his official capacity as  
Interim State Registrar of Vital Records and  
Interim Director of the Arizona Department  
of Health Services,

Defendant.

No. 4:20-cv-00484-JAS

**DEFENDANT'S AMENDED  
ANSWER TO AMENDED  
COMPLAINT**

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1 For his Answer to the Amended Complaint, Defendant Don Herrington, in his  
2 official capacity as Interim Director of the Arizona Department of Health Services  
3 (“ADHS”) and Interim State Registrar of Vital Records, hereby admits, denies, and  
4 avers as follows. Defendant denies every allegation in the Amended Complaint that is  
5 not specifically admitted below.

6 **INTRODUCTION**

7 1. Answering Paragraph 1, Defendant lacks sufficient information or  
8 knowledge to form a belief as to the truth of the allegations and therefore denies them.

9 2. Answering Paragraph 2, Defendant admits that former Plaintiff Jane  
10 Doe’s birth certificate was amended pursuant to terms agreed upon by the parties  
11 following Plaintiffs’ motion for preliminary injunction (Docs. 3, 41). Defendant lacks  
12 sufficient information or knowledge to form a belief as to the truth of the remaining  
13 allegations and therefore denies them.

14 3. Answering Paragraph 3, Defendant admits that birth certificates may be  
15 needed for obtaining certain documents or for other purposes. Defendant lacks sufficient  
16 information or knowledge to form a belief as to the truth of the remaining allegations  
17 and therefore denies them.

18 4. Answering Paragraph 4, Defendant lacks sufficient information or  
19 knowledge to form a belief as to the truth of the allegations and therefore denies them.

20 5. Answering Paragraph 5, Defendant affirmatively asserts that A.R.S. § 36-  
21 337(A)(3) requires the State Registrar to amend an Arizona birth certificate if it receives  
22 “[f]or a person who has undergone a sex change operation or has a chromosomal count  
23 that establishes the sex of the person as different than in the registered birth certificate,  
24 both ... [a] written request for an amended birth certificate from the person or, if the  
25 person is a child, from the child’s parent or legal guardian, and [a] written statement by  
26 a physician that verifies the sex change operation or chromosomal count.” Defendant  
27 further asserts that A.R.S. § 36-337(A)(3) is codified in administrative rule A.A.C. R9-  
28 19-208(O), which outlines steps to apply to amend the sex/gender field on an Arizona

1 birth certificate “when the individual has undergone a sex change operation or has had a  
2 chromosomal count that establishes the sex of the individual as different than in the  
3 individual’s registered birth record,” including submitting a written request/application  
4 to amend, an affidavit attesting to the validity of the submitted amendment, “a written  
5 statement on a physician’s letterhead paper, signed and dated by the physician, that the  
6 individual has undergone a sex change operation,” and the required fee. Defendant  
7 further asserts that the applicability of A.R.S. § 36-337(A)(3) is limited to persons who  
8 have undergone a “sex change operation” or who have a chromosomal count that  
9 establishes their sex as different than in the registered birth record, but any person who  
10 does not satisfy those criteria may pursue an amendment of their birth certificate under  
11 A.R.S. § 36-337(A)(4). Defendant denies that “Arizona prevents transgender minors  
12 from changing their sex marker through the A.R.S. § 36-337(A)(3) process.” As to the  
13 remaining allegations in Paragraph 5, Defendant disagrees with Plaintiffs’  
14 characterization of A.R.S. § 36-337(A)(3) and A.A.C. R9-19-208(O) and/or lacks  
15 sufficient information or knowledge to form a belief as to their truth and therefore  
16 denies them.

17         6. Answering Paragraph 6, Defendant affirmatively asserts that A.R.S. § 36-  
18 337(A)(4) authorizes Arizona superior courts to order Defendant to amend the  
19 sex/gender field on an Arizona birth certificate for a person born in Arizona. Defendant  
20 denies that Arizonans who move out of state are no longer under the jurisdiction of  
21 Arizona courts for the purpose of amending their Arizona birth certificates. As to the  
22 remaining allegations in Paragraph 6, Defendant lacks sufficient information or  
23 knowledge to form a belief as to their truth and therefore denies them.

24         7. Answering Paragraph 7, Defendant lacks sufficient information or  
25 knowledge to form a belief as to the truth of the allegation that “transgender young  
26 people must too often navigate the world with a birth certificate that does not match  
27 their sex” and therefore denies it. As to the remaining allegations in Paragraph 7,  
28 Defendant denies them.



1 2201 and 2202 authorize a district court to order declaratory and injunctive relief, but  
2 Defendant denies that this Court may grant the relief requested in this case.

3 13. Answering Paragraph 13, Defendant asserts that the allegations call for a  
4 legal conclusion such that no response is required. To the extent a response is required,  
5 Defendant admits that this Court has personal jurisdiction over Defendant in his official  
6 capacity as Interim Director of ADHS.

7 **PARTIES**

8 14. Answering Paragraph 14, Defendant asserts that Plaintiff D.T. has been  
9 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). Defendant admits  
10 that Lizette Trujillo brought D.T.'s claims on D.T.'s behalf. Defendant lacks sufficient  
11 information or knowledge to form a belief as to the truth of the remaining allegations  
12 and therefore denies them.

13 15. Answering Paragraph 15, Defendant asserts that Plaintiff Jane Doe has  
14 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). Defendant  
15 admits that Susan Doe brought Jane Doe's claims on Jane Doe's behalf. Defendant  
16 lacks sufficient information or knowledge to form a belief as to the truth of the  
17 remaining allegations and therefore denies them.

18 16. Answering Paragraph 16, Defendant admits that Megan Roe brings Helen  
19 Roe's claims on Helen Roe's behalf. Defendant lacks sufficient information or  
20 knowledge to form a belief as to the truth of the remaining allegations and therefore  
21 denies them.

22 17. Answering Paragraph 17, Defendant admits that Laura Poe brings James  
23 Poe's claims on James Poe's behalf. Defendant lacks sufficient information or  
24 knowledge to form a belief as to the truth of the remaining allegations and therefore  
25 denies them.

26 18. Answering Paragraph 18, Defendant admits that Rachel Voe brings Carl  
27 Voe's claims on Carl Voe's behalf. Defendant lacks sufficient information or  
28

1 knowledge to form a belief as to the truth of the remaining allegations and therefore  
2 denies them.

3 19. Answering Paragraph 19, Defendant asserts that Don Herrington, in his  
4 official capacity as the Interim Director of ADHS and Interim State Registrar of Vital  
5 Records, has been substituted in as a Defendant for Dr. Cara Christ. Defendant admits  
6 that in his capacity as the Interim State Registrar he has “general supervision of vital  
7 statistics in the state and is charged with the execution of the vital statistics laws of  
8 Arizona, including the provision of the necessary instructions and forms for obtaining  
9 and preserving records of births.” Defendant also admits that he “has supervisory  
10 authority over the assistant state registrars and deputy local registrars throughout  
11 Arizona” pursuant to Arizona statute. Defendant denies the remaining allegations in  
12 Paragraph 19.

13 20. Answering Paragraph 20, Defendant asserts that Thomas Salow has been  
14 dismissed as a Defendant in this matter (Docs. 56 and 78) and therefore no response is  
15 required.

16 21. Answering Paragraph 21, Defendant asserts that Krystal Colburn has been  
17 dismissed as a Defendant in this matter (Docs. 56 and 78) and therefore no response is  
18 required.

19 **STATEMENT OF FACTS**

20 22. Answering Paragraph 22, Defendant lacks sufficient information or  
21 knowledge to form a belief as to the truth of the allegations and therefore denies them.

22 23. Answering Paragraph 23, Defendant lacks sufficient information or  
23 knowledge to form a belief as to the truth of the allegations and therefore denies them.

24 24. Answering Paragraph 24, Defendant lacks sufficient information or  
25 knowledge to form a belief as to the truth of the allegations and therefore denies them.

26 25. Answering Paragraph 25, Defendant lacks sufficient information or  
27 knowledge to form a belief as to the truth of the allegations and therefore denies them.  
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1           26. Answering Paragraph 26, Defendant lacks sufficient information or  
2 knowledge to form a belief as to the truth of the allegations and therefore denies them.

3           27. Answering Paragraph 27, Defendant lacks sufficient information or  
4 knowledge to form a belief as to the truth of the allegations and therefore denies them.

5           28. Answering Paragraph 28, Defendant lacks sufficient information or  
6 knowledge to form a belief as to the truth of the allegations and therefore denies them.

7           29. Answering Paragraph 29, Defendant lacks sufficient information or  
8 knowledge to form a belief as to the truth of the allegations and therefore denies them.

9           30. Answering Paragraph 30, Defendant lacks sufficient information or  
10 knowledge to form a belief as to the truth of the allegations and therefore denies them.

11           31. Answering Paragraph 31, Defendant lacks sufficient information or  
12 knowledge to form a belief as to the truth of the allegations and therefore denies them.

13           32. Answering Paragraph 32, Defendant lacks sufficient information or  
14 knowledge to form a belief as to the truth of the allegations and therefore denies them.

15           33. Answering Paragraph 33, Defendant lacks sufficient information or  
16 knowledge to form a belief as to the truth of the allegations and therefore denies them.

17           34. Answering Paragraph 34, Defendant lacks sufficient information or  
18 knowledge to form a belief as to the truth of the allegations and therefore denies them.

19           35. Answering Paragraph 35, Defendant lacks sufficient information or  
20 knowledge to form a belief as to the truth of the allegations and therefore denies them.

21           36. Answering Paragraph 36, Defendant lacks sufficient information or  
22 knowledge to form a belief as to the truth of the allegations and therefore denies them.

23           37. Answering Paragraph 37, Defendant lacks sufficient information or  
24 knowledge to form a belief as to the truth of the allegations and therefore denies them.

25           38. Answering Paragraph 38, Defendant lacks sufficient information or  
26 knowledge to form a belief as to the truth of the allegations and therefore denies them.

27           39. Answering Paragraph 39, Defendant lacks sufficient information or  
28 knowledge to form a belief as to the truth of the allegations and therefore denies them.

1           40. Answering Paragraph 40, Defendant lacks sufficient information or  
2 knowledge to form a belief as to the truth of the allegations and therefore denies them.

3           41. Answering Paragraph 41, Defendant admits that a birth certificate is a  
4 trusted government-issued document that includes an individual's sex. Defendant lacks  
5 sufficient information or knowledge to form a belief as to the truth of the remaining  
6 allegations and therefore denies them.

7           42. Answering Paragraph 42, Defendant admits that birth certificates may be  
8 accepted as government-issued identification in some circumstances. Defendant lacks  
9 sufficient information or knowledge to form a belief as to the truth of the remaining  
10 allegations and therefore denies them.

11           43. Answering Paragraph 43, Defendant lacks sufficient information or  
12 knowledge to form a belief as to the truth of the allegations and therefore denies them.

13           44. Answering Paragraph 44, Defendant lacks sufficient information or  
14 knowledge to form a belief as to the truth of the allegations and therefore denies them.

15           45. Answering Paragraph 45, Defendant lacks sufficient information or  
16 knowledge to form a belief as to the truth of the allegations and therefore denies them.

17           46. Defendant affirmatively asserts that A.R.S. § 36-302(B) obligates ADHS,  
18 via the Bureau of Vital Records, to “[o]rganize, operate and maintain the only system of  
19 vital records in [Arizona]”; “[d]irect and supervise the creation and registration of vital  
20 records, electronically and physically, and be the custodian of vital records”; “[p]repare  
21 and issue copies of vital records”; and “[d]etermine acceptability and completeness of a  
22 certificate, evidentiary document or form submitted” to ADHS. Defendant further  
23 asserts that A.R.S. § 36-323(C) grants ADHS authority to make and adopt rules to make  
24 corrections to vital records, which are defined as any “change made to a registered  
25 certificate because of a typographical error, including misspelling and missing or  
26 transposed letters or numbers.” A.R.S. § 36-301(6). Plaintiffs’ characterization of  
27 A.R.S. § 36-302 is incomplete and therefore Defendant denies the allegation in  
28 Paragraph 46.

1           47. Answering Paragraph 47, Defendant affirmatively asserts that A.R.S. §  
2 36-337(A) provides ADHS the authority to amend a birth certificate when it receives an  
3 adoption certificate or court order for adoption; a voluntary acknowledgement of  
4 paternity; “[f]or a person who has undergone a sex change operation or has a  
5 chromosomal count that establishes the sex of the person as different than in the  
6 registered birth certificate, both ... [a] written request for an amended birth certificate  
7 from the person or, if the person is a child, from the child’s parent or legal guardian, and  
8 [a] written statement by a physician that verifies the sex change operation or  
9 chromosomal count;” or a court order. Plaintiffs’ characterization of A.R.S. § 36-  
10 337(A) is incomplete and/or inaccurate and therefore Defendant denies the allegation in  
11 Paragraph 47.

12           48. Answering Paragraph 48, Defendant affirmatively asserts that a person  
13 who has undergone a sex change operation or has a chromosomal count that establishes  
14 the sex of the person as different than in the registered certificate may pursue an  
15 amendment of the sex listed on their Arizona birth certificate under A.R.S. § 36-  
16 337(A)(3). Defendant also asserts that A.A.C. R9-19-208(O) is the administrative rule  
17 that details the information necessary for a person who meets the requirements of  
18 A.R.S. § 36-337(A)(3) to apply to amend the sex on their Arizona birth certificate.  
19 Defendant disagrees with Plaintiffs’ characterization of the statute and regulation and  
20 therefore denies the allegations in Paragraph 48.

21           49. Defendant denies the allegations in Paragraph 49.

22           50. Answering Paragraph 50, Defendant asserts that A.R.S. § 36-337(A)(4)  
23 requires ADHS to amend an Arizona birth certificate when it receives “a court order  
24 ordering an amendment to a birth certificate.” Defendant disagrees with Plaintiffs’  
25 characterization of A.R.S. § 36-337(A)(4) and therefore denies all remaining  
26 allegations.

27           51. Answering Paragraph 51, Defendant lacks sufficient information or  
28 knowledge to form a belief as to the truth of the allegations and therefore denies them.

1           52. Answering Paragraph 52, Defendant denies that “Arizona courts are not  
2 available to transgender young people who were born in Arizona but have since moved  
3 to another state.” Defendant lacks sufficient information or knowledge to form a belief  
4 as to the truth of the remaining allegations and therefore denies them.

5           53. Answering Paragraph 53, Defendant denies the allegations.

6           54. Answering Paragraph 54, Defendant denies that any person faces a  
7 “significant hurdle” in seeking to amend their birth certificate.” Defendant disagrees  
8 with Plaintiffs’ characterization of the process to amend a birth certificate under A.R.S.  
9 § 36-337(A)(4) and/or lacks sufficient information or knowledge to form a belief as to  
10 the truth of the remaining allegations in Paragraph 54 and therefore denies them.

11           55. Answering Paragraph 55, Defendant affirmatively asserts that when a  
12 person meets the requirements in A.A.C. R9-19-208(O), their Arizona birth certificate  
13 (or that of their child) will be amended pursuant to A.R.S. § 36-337(A)(3). Defendant  
14 also asserts that, pursuant to A.R.S. § 36-322, ADHS is required to seal the original vital  
15 record before amendment(s) and the evidence provided to support the amendment(s),  
16 and ADHS “shall not issue a copy of a certificate or other record sealed” after  
17 amendment(s). Defendant denies the remaining allegations.

18           56. Defendant denies the allegations in Paragraph 56.

19           57. Defendant denies the allegations in Paragraph 57.

20           58. Answering Paragraph 58, Defendant asserts that Plaintiff D.T. has been  
21 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
22 response is required, Defendant lacks sufficient information or knowledge to form a  
23 belief as to the truth of the allegations and therefore denies them.

24           59. Answering Paragraph 59, Defendant asserts that Plaintiff D.T. has been  
25 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
26 response is required, Defendant lacks sufficient information or knowledge to form a  
27 belief as to the truth of the allegations and therefore denies them.

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1           60. Answering Paragraph 60, Defendant asserts that Plaintiff D.T. has been  
2 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
3 response is required, Defendant lacks sufficient information or knowledge to form a  
4 belief as to the truth of the allegations and therefore denies them.

5           61. Answering Paragraph 61, Defendant asserts that Plaintiff D.T. has been  
6 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
7 response is required, Defendant lacks sufficient information or knowledge to form a  
8 belief as to the truth of the allegations and therefore denies them.

9           62. Answering Paragraph 62, Defendant asserts that Plaintiff D.T. has been  
10 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
11 response is required, Defendant lacks sufficient information or knowledge to form a  
12 belief as to the truth of the allegations and therefore denies them.

13           63. Answering Paragraph 63, Defendant asserts that Plaintiff D.T. has been  
14 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
15 response is required, Defendant lacks sufficient information or knowledge to form a  
16 belief as to the truth of the allegations and therefore denies them.

17           64. Answering Paragraph 64, Defendant asserts that Plaintiff D.T. has been  
18 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
19 response is required, Defendant lacks sufficient information or knowledge to form a  
20 belief as to the truth of the allegations and therefore denies them.

21           65. Answering Paragraph 65, Defendant asserts that Plaintiff D.T. has been  
22 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
23 response is required, Defendant lacks sufficient information or knowledge to form a  
24 belief as to the truth of the allegations and therefore denies them.

25           66. Answering Paragraph 66, Defendant asserts that Plaintiff D.T. has been  
26 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
27 response is required, Defendant lacks sufficient information or knowledge to form a  
28 belief as to the truth of the allegations and therefore denies them.

1           67. Answering Paragraph 67, Defendant asserts that Plaintiff D.T. has been  
2 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
3 response is required, Defendant lacks sufficient information or knowledge to form a  
4 belief as to the truth of the allegations and therefore denies them.

5           68. Answering Paragraph 68, Defendant asserts that Plaintiff D.T. has been  
6 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
7 response is required, Defendant lacks sufficient information or knowledge to form a  
8 belief as to the truth of the allegations and therefore denies them.

9           69. Answering Paragraph 69, Defendant asserts that Plaintiff D.T. has been  
10 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
11 response is required, Defendant lacks sufficient information or knowledge to form a  
12 belief as to the truth of the allegations and therefore denies them.

13           70. Answering Paragraph 70, Defendant asserts that Plaintiff D.T. has been  
14 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
15 response is required, Defendant lacks sufficient information or knowledge to form a  
16 belief as to the truth of the allegations and therefore denies them.

17           71. Answering Paragraph 71, Defendant asserts that Plaintiff D.T. has been  
18 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
19 response is required, Defendant denies the allegations in paragraph 71.

20           72. Answering Paragraph 72, Defendant asserts that Plaintiff D.T. has been  
21 voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
22 response is required, Defendant admits that the court order that D.T. obtained was  
23 sufficient to amend D.T.'s birth certificate. Defendant also admits that Lizette Trujillo  
24 submitted an application to ADHS to change the sex listed on D.T.'s birth certificate.  
25 Defendant lacks sufficient information or knowledge to form a belief as to the truth of  
26 the remaining allegations and therefore denies them.

27           73. Answering Paragraph 73, Defendant asserts that Plaintiff Jane Doe has  
28 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a

1 response is required, Defendant lacks sufficient information or knowledge to form a  
2 belief as to the truth of the allegations and therefore denies them.

3 74. Answering Paragraph 74, Defendant asserts that Plaintiff Jane Doe has  
4 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
5 response is required, Defendant lacks sufficient information or knowledge to form a  
6 belief as to the truth of the allegations and therefore denies them.

7 75. Answering Paragraph 75, Defendant asserts that Plaintiff Jane Doe has  
8 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
9 response is required, Defendant lacks sufficient information or knowledge to form a  
10 belief as to the truth of the allegations and therefore denies them.

11 76. Answering Paragraph 76, Defendant asserts that Plaintiff Jane Doe has  
12 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
13 response is required, Defendant lacks sufficient information or knowledge to form a  
14 belief as to the truth of the allegations and therefore denies them.

15 77. Answering Paragraph 77, Defendant asserts that Plaintiff Jane Doe has  
16 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
17 response is required, Defendant lacks sufficient information or knowledge to form a  
18 belief as to the truth of the allegations and therefore denies them.

19 78. Answering Paragraph 78, Defendant asserts that Plaintiff Jane Doe has  
20 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
21 response is required, Defendant lacks sufficient information or knowledge to form a  
22 belief as to the truth of the allegations and therefore denies them.

23 79. Answering Paragraph 79, Defendant asserts that Plaintiff Jane Doe has  
24 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
25 response is required, Defendant lacks sufficient information or knowledge to form a  
26 belief as to the truth of the allegations and therefore denies them.

27 80. Answering Paragraph 80, Defendant asserts that Plaintiff Jane Doe has  
28 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a

1 response is required, Defendant lacks sufficient information or knowledge to form a  
2 belief as to the truth of the allegations and therefore denies them.

3 81. Answering Paragraph 81, Defendant asserts that Plaintiff Jane Doe has  
4 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
5 response is required, Defendant lacks sufficient information or knowledge to form a  
6 belief as to the truth of the allegations and therefore denies them.

7 82. Answering Paragraph 82, Defendant asserts that Plaintiff Jane Doe has  
8 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
9 response is required, Defendant denies that “proof of surgery” is required to amend the  
10 sex on a transgender person’s birth certificate. As to the remaining allegations in  
11 Paragraph 82, Defendant lacks sufficient information or knowledge to form a belief as  
12 to their truth and therefore denies them.

13 83. Answering Paragraph 83, Defendant asserts that Plaintiff Jane Doe has  
14 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
15 response is required, Defendant lacks sufficient information or knowledge to form a  
16 belief as to the truth of the allegations and therefore denies them.

17 84. Answering Paragraph 84, Defendant asserts that Plaintiff Jane Doe has  
18 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
19 response is required, Defendant admits that Defendant and Plaintiff Jane Doe entered a  
20 joint stipulation resulting in an order from this Court instructing ADHS to amend the  
21 sex listed on her birth certificate to female (Doc. 39, 40) which ADHS processed under  
22 Subsection (A)(4) in accordance with the parties’ agreement. Defendant denies the  
23 remaining allegations.

24 85. Answering Paragraph 85, Defendant asserts that Plaintiff Jane Doe has  
25 been voluntarily dismissed as a Plaintiff in this matter (Docs. 56 and 78). To the extent a  
26 response is required, Defendant lacks sufficient information or knowledge to form a  
27 belief as to the truth of the allegations and therefore denies them.

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1           86. Answering Paragraph 86, Defendant lacks sufficient information or  
2 knowledge to form a belief as to the truth of the allegations and therefore denies them.

3           87. Answering Paragraph 87, Defendant lacks sufficient information or  
4 knowledge to form a belief as to the truth of the allegations and therefore denies them.

5           88. Answering Paragraph 88, Defendant lacks sufficient information or  
6 knowledge to form a belief as to the truth of the allegations and therefore denies them.

7           89. Answering Paragraph 89, Defendant lacks sufficient information or  
8 knowledge to form a belief as to the truth of the allegations and therefore denies them.

9           90. Answering Paragraph 90, Defendant lacks sufficient information or  
10 knowledge to form a belief as to the truth of the allegations and therefore denies them.

11           91. Answering Paragraph 91, Defendant lacks sufficient information or  
12 knowledge to form a belief as to the truth of the allegations and therefore denies them.

13           92. Answering Paragraph 92, Defendant lacks sufficient information or  
14 knowledge to form a belief as to the truth of the allegations and therefore denies them.

15           93. Answering Paragraph 93, Defendant lacks sufficient information or  
16 knowledge to form a belief as to the truth of the allegations and therefore denies them.

17           94. Answering Paragraph 94, Defendant lacks sufficient information or  
18 knowledge to form a belief as to the truth of the allegations and therefore denies them.

19           95. Answering Paragraph 95, Defendant lacks sufficient information or  
20 knowledge to form a belief as to the truth of the allegations and therefore denies them.

21           96. Answering Paragraph 96, Defendant lacks sufficient information or  
22 knowledge to form a belief as to the truth of the allegations and therefore denies them.

23           97. Answering Paragraph 97, Defendant lacks sufficient information or  
24 knowledge to form a belief as to the truth of the allegations and therefore denies them.

25           98. Answering Paragraph 98, Defendant lacks sufficient information or  
26 knowledge to form a belief as to the truth of the allegations and therefore denies them.

27           99. Answering Paragraph 99, Defendant lacks sufficient information or  
28 knowledge to form a belief as to the truth of the allegations and therefore denies them.



1 meet the requirements for class certification or that they (or the putative class) are  
2 entitled to the relief they request.

3 113. Answering Paragraph 113, Defendant admits that Plaintiffs are requesting  
4 certification of the proposed class definition in Paragraph 113, but denies that Plaintiffs'  
5 claims meet the requirements for class certification or that they (or the putative class)  
6 are entitled to the relief they request.

7 114. Answering Paragraph 114, Defendant asserts that the allegations call for a  
8 legal conclusion such that no response is required. To the extent a response is required,  
9 Defendant denies that Plaintiffs are adequate class representatives. Defendant lacks  
10 sufficient information or knowledge to form a belief as to the truth of the remaining  
11 allegations and therefore denies them.

12 115. Answering Paragraph 115, Defendant asserts that the allegations call for a  
13 legal conclusion such that no response is required. To the extent a response is required,  
14 Defendant denies that Plaintiffs' claims meet the numerosity requirements of Rule  
15 23(a)(1). Defendant lacks sufficient information or knowledge to form a belief as to the  
16 truth of the remaining allegations and therefore denies them.

17 116. Answering Paragraph 116, Defendant asserts that the allegations call for a  
18 legal conclusion such that no response is required. To the extent a response is required,  
19 Defendant denies that Plaintiffs' claims meet the commonality requirements of Rule  
20 23(a)(2).

21 117. Answering Paragraph 117, Defendant asserts that the allegations call for a  
22 legal conclusion such that no response is required. To the extent a response is required,  
23 Defendant denies that Plaintiffs' claims meet the typicality requirements of Rule  
24 23(a)(3). Defendant lacks sufficient information or knowledge to form a belief as to the  
25 truth of the remaining allegations and therefore denies them.

26 118. Answering Paragraph 118, Defendant asserts that the allegations call for a  
27 legal conclusion such that no response is required. To the extent a response is required,  
28 Defendant denies that Plaintiffs meet the adequacy requirements of Rule 23(a)(4).

1 Defendant lacks sufficient information or knowledge to form a belief as to the truth of  
2 the remaining allegations and therefore denies them.

3 119. Answering Paragraph 119, Defendant asserts that the allegations call for a  
4 legal conclusion such that no response is required. To the extent a response is required,  
5 Defendant denies that Plaintiffs' counsel meet the adequacy requirements of Rule  
6 23(a)(4). Defendant lacks sufficient information or knowledge to form a belief as to the  
7 truth of the remaining allegations and therefore denies them.

8 120. Answering Paragraph 120, Defendant asserts that the allegations call for a  
9 legal conclusion such that no response is required. To the extent a response is required,  
10 Defendant denies that Plaintiffs meet the requirements of Rule 23(b)(2) or that  
11 "Defendants have acted or refused to act on grounds that apply generally to the Class."  
12 Defendant lacks sufficient information or knowledge to form a belief as to the truth of  
13 the remaining allegations and therefore denies them.

14 **COUNT I**

15 **(Alleged Violation of the Equal Protection Clause**  
16 **of the Fourteenth Amendment of the United States Constitution)**

17 121. Answering Paragraph 121, Defendant restates and incorporates by  
18 reference the responses set forth in the above paragraphs.

19 122. Answering Paragraph 122, Defendant admits that the Fourteenth  
20 Amendment to the United States Constitutes states, in relevant part, that no state shall  
21 "deny to any person within its jurisdiction the equal protection of the laws," and that 42  
22 U.S.C. § 1983 is the statutory vehicle by which a plaintiff may assert a civil rights  
23 lawsuit against a state actor for an alleged constitutional violation. Defendant denies  
24 that Plaintiffs' Fourteenth Amendment rights were violated or that Defendant caused  
25 these alleged violations.

26 123. Answering Paragraph 123, Defendant asserts that the allegation calls for a  
27 legal conclusion such that no response is required. To the extent a response is required,  
28 Defendant denies the allegations.



1 Defendant denies that involuntary disclosure of a person’s transgender status violates  
2 that person’s fundamental right to privacy. Defendant lacks sufficient information or  
3 knowledge to form a belief as to the truth of the remaining allegations and therefore  
4 denies them.

5 131. Answering Paragraph 131, Defendant lacks sufficient information or  
6 knowledge to form a belief as to the truth of the allegations and therefore denies them.

7 132. Defendant denies the allegations in Paragraph 132.

8 133. Defendant denies the allegations in Paragraph 133.

9 134. Defendant denies the allegations in Paragraph 134.

10 **COUNT III**

11 **(Alleged Violation of the Substantive Due Process Right to Individual Liberty and  
12 Autonomy under the United States Constitution)**

13 135. Answering Paragraph 135, Defendant restates and incorporates by  
14 reference the responses set forth in the above paragraphs.

15 136. Answering Paragraph 136, Defendant admits that the Fourteenth  
16 Amendment to the United States Constitution states, in relevant part, that no state shall  
17 “deprive any person of life, liberty, or property, without due process of law.” Defendant  
18 also admits that *Obergefell v. Hodges*, 135 S. Ct. 2584, 2593 (2015), states: “The  
19 Constitution promises liberty to all within its reach, a liberty that includes certain  
20 specific rights that allow persons, within a lawful realm, to define and express their  
21 identity.” Defendant denies all other allegations within this paragraph, particularly to  
22 the extent that they allude and/or infer that Plaintiffs’ constitutional rights have been  
23 violated. Defendant denies that Plaintiffs’ substantive due process rights were violated  
24 or that Defendant caused these alleged violations.

25 137. Answering Paragraph 137, Defendant asserts that the allegations call for  
26 legal conclusions such that no response is required. To the extent a response is required,  
27 Defendant admits that a birth certificate is sometimes required in certain circumstances.  
28 Defendant denies the remaining allegations.

1 138. Defendant denies the allegations in Paragraph 138.

2 139. Defendant denies the allegations in Paragraph 139.

3 **COUNT IV**

4 **(Alleged Violation of the Substantive Due Process Right to choose whether to**  
5 **undergo a particular medical treatment under the United States Constitution)**

6 140. Answering Paragraph 140, Defendant restates and incorporates by  
7 reference the responses set forth in the above paragraphs.

8 141. Answering Paragraph 141, Defendant admits that some courts have  
9 recognized a right to bodily integrity that is grounded in the Due Process Clause. *See,*  
10 *e.g., P.B. v. Koch*, 96 F.3d 1298 (9th Cir. 1996). Defendant denies that the cases cited in  
11 Paragraph 141 have any application to this case and further denies that Plaintiffs'  
12 substantive due process rights were violated or that Defendant caused these alleged  
13 violations. Defendant denies the remaining allegations.

14 142. Defendant denies the allegations in Paragraph 142.

15 143. Defendant denies the allegations in Paragraph 143.

16 144. Defendant denies the allegations in Paragraph 144.

17 **Plaintiffs' Prayer for Relief**

18 The remainder of the Amended Complaint consists of Plaintiffs' prayer for relief  
19 to which no response is required. To the extent a response is required, Defendant denies  
20 all allegations that Plaintiff is entitled to any requested relief.

21 **Affirmative Defenses**

22 1. As a separate defense and in the alternative, this Court lacks subject  
23 matter jurisdiction over Plaintiffs' claims under 28 U.S.C. § 1331.

24 2. As a separate defense and in the alternative, Plaintiffs lack Article III and  
25 prudential standing.

26 3. As a separate defense and in the alternative, Plaintiffs lack standing to  
27 seek declaratory judgment and/or injunctive relief on behalf of themselves or the  
28 putative class where they have not suffered actual injury.

1           4.       As a separate defense and in the alternative, neither Plaintiffs' claims nor  
2 the putative class's claims can be redressed by the Court where it lacks the authority to  
3 rewrite or amend the challenged statute and regulation in order to grant declaratory  
4 and/or injunctive relief.

5           5.       As a separate defense and in the alternative, Defendant lacks authority to  
6 promulgate a process for amending birth certificates that exceeds the authority already  
7 granted by A.R.S. § 36-337, or to allow Plaintiffs to participate in the administrative  
8 process afforded to individuals who have already undergone a sex-change operation or  
9 who have a chromosomal count that establishes the sex of the person as different than in  
10 the registered birth certificate.

11           6.       As a separate defense and in the alternative, this Court lacks jurisdiction  
12 under the *Rooker-Feldman* Doctrine factors, including but not limited to, the fact that  
13 Plaintiffs' claims are inextricably intertwined with the petitions Plaintiffs filed in state  
14 court to amend their birth certificates such that adjudication of their claims would  
15 undercut the state ruling and/or require this Court to interpret the application of state  
16 laws or procedural rules. *Rooker v. Fidelity Trust Co.*, 263 U.S. 413 (1923); *District of*  
17 *Columbia Court of Appeals v. Feldman*, 460 U.S. 462 (1983).

18           7.       As a separate defense and in the alternative, this Court should abstain  
19 from exercising jurisdiction under the *Younger* Doctrine factors, including but not  
20 limited to, the fact Plaintiffs have filed state-court petitions to amend their birth  
21 certificates, Arizona has an important interest in processing and maintaining adequate  
22 birth certificates, Plaintiffs' claims implicate the enforceability of Arizona statutes and  
23 regulations, Plaintiffs had an adequate opportunity to raise their claims in their state  
24 proceedings, and Plaintiffs seek declaratory and injunctive relief that interferes with the  
25 state-court proceedings. *Younger v. Harris*, 401 U.S. 37 (1971).

26           8.       As a separate defense and in the alternative, this Court should abstain  
27 from exercising jurisdiction under the *Brillhart* Doctrine and/or the *Colorado River*  
28 Doctrine factors, including but not limited to, the fact that Plaintiffs filed a state-court

1 petition to amend their birth certificates before filing their claims in this Court,  
2 proceeding with their claims will likely result in piecemeal litigation, the state-court  
3 proceedings could moot Plaintiffs' claims and render this Court's intervention  
4 unnecessary, state law provides the rule of decision, the state-court proceedings raise the  
5 same or substantially similar issues and are adequate to protect Plaintiffs' federal rights,  
6 Plaintiffs filed this lawsuit after experiencing a setback in state court, and resolution of  
7 the state-court petitions will fully resolve Plaintiffs claims. *Brillhart v. Excess Ins. Co.*  
8 *of Am.*, 316 U.S. 491 (1942); *Colorado River Water Conservation Dist. v. United States*,  
9 424 U.S. 800 (1976).

10 9. As a separate defense and in the alternative, this Court should abstain  
11 from exercising jurisdiction until Plaintiffs' state court petitions have concluded under  
12 the *Pullman* Doctrine factors, including but not limited to, the fact that Plaintiffs' claims  
13 touch upon a sensitive area of social policy exclusively reserved to Arizona, the claims  
14 can be mooted by a state-court order on Plaintiffs' petitions to amend their birth  
15 certificates, and Plaintiffs' claims turn on the interpretation of Arizona statutes and  
16 regulations. *R.R. Comm'n of Texas v. Pullman Co.*, 312 U.S. 496 (1941).

17 10. As a separate defense, and in the alternative, Defendant alleges that  
18 Plaintiffs' and the putative class members' own conduct caused or contributed to the  
19 alleged harm, thus diminishing or eliminating their right to relief.

20 11. As a separate defense, and in the alternative, Defendant alleges that he has  
21 acted reasonably, lawfully, and in good faith under the circumstances.

22 12. As a separate defense, and in the alternative, Defendant alleges that his  
23 actions and inactions have been made pursuant to a legitimate government purpose.

24 13. As a separate defense, and in the alternative, Defendant alleges that he has  
25 no authority over the Arizona Superior Court and its actions, which are the bases for  
26 Plaintiffs' claims.

27 14. As a separate defense, and in the alternative, Plaintiffs have failed to  
28 comply with Federal Rule of Civil Procedure 5.1 and A.R.S. § 12-1841.





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**CERTIFICATE OF SERVICE**

I hereby certify that on October 13, 2021, I electronically transmitted the attached document to the Clerk’s Office using the CM/ECF System for filing and transmittal of a Notice of Electronic Filing to the following CM/ECF registrants:

- Asaf Orr [aorr@nclrights.org](mailto:aorr@nclrights.org)
- Barrett J. Anderson [banderson@cooley.com](mailto:banderson@cooley.com)
- Colin M. Proksel [cproksel@omlaw.com](mailto:cproksel@omlaw.com)
- Mary R. O’Grady [mogrady@omlaw.com](mailto:mogrady@omlaw.com)
- Patrick P. Gunn [pgunn@cooley.com](mailto:pgunn@cooley.com)
- Payslie M. Bowman [pbowman@omlaw.com](mailto:pbowman@omlaw.com)

I hereby certify that on this same date, I served the attached document by U.S. Mail, postage prepaid, on the following, who is not a registered participant of the CM/ECF System:

N/A

/s/ Daniel P. Struck