

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA
HUNTINGTON DIVISION

CHRISTOPHER FAIN, *et al.*, individually and
on behalf of all others similarly situated,

Plaintiffs,

v.

WILLIAM CROUCH, *et al.*,

Defendants.

CIVIL ACTION NO. 3:20-cv-00740

HON. ROBERT C. CHAMBERS, JUDGE

DECLARATION OF CHRISTOPHER FAIN

Pursuant to 28 U.S.C. § 1746, I hereby declare as follows:

1. My name is Christopher Fain. I am a plaintiff in the above-captioned action. I have actual knowledge of the matters stated in this declaration.

2. I have agreed to be a class representative in this case because I want to see my state provide coverage for gender-confirming care to transgender people, regardless of our sex and transgender status. We all deserve equal treatment within West Virginia's Medicaid program. I have kept in close contact with my counsel throughout my involvement in this case. In joining this case, continuing to participate in the case, and communicating with my counsel, I have had the proposed class's best interests in mind.

3. I am 46 years old. I was born in West Virginia and have lived in West Virginia for the majority of my life. I currently live in Huntington, West Virginia.

4. I have been enrolled as a Medicaid participant for most of my adult life.

5. I am a transgender man. I was incorrectly designated female at birth; my gender identity is male.

6. I experience gender dysphoria related to the disconnect between my primary and secondary sex characteristics and my gender identity.

7. I have been aware of my gender identity since a young age. During the early years of my life, I remember several instances during which I tried to communicate my understanding of my gender identity to my parents, family, and friends. These attempts to share my gender identity with my father, however, were not well received.

8. At age three, my brother was born. The birth of my brother helped me understand that I would never develop the physical characteristics that aligned with my gender identity on my own.

9. At or around age nine, when I was provided with information about puberty and sex because I was in the early stages of puberty, I demanded to know why my body would go through these changes. I was angry about growing breasts and bewildered by my period. By age twelve, I confronted my mother, yet again, with the fact that I felt like a boy.

10. As I got older, I behaved like a boy and wore male clothing. Unfortunately, these attempts to live in a manner that was aligned with my gender identity led to ongoing physical and verbal abuse from my father. In response to these actions, I was instructed to wear make-up and jewelry, women's clothing, and women's shoes.

11. For many years, I delayed my transition out of fear that discrimination and stigma against transgender people would prevent me from being able to support my own family. After separating from my husband, I was a single parent and the primary caregiver for my children, and I could not risk losing employment due to discrimination. Delaying access to gender-confirming care, however, took an enormous toll on me and became unsustainable so eventually I came out to my family.

12. My children are incredibly supportive of me. Although my mother passed away only a few months into my medical transition, she was very reassuring and understood that I needed to live my life as the man I know myself to be.

13. On April 6, 2018, I obtained a legal name change to reflect my gender identity through a West Virginia court order. Shortly thereafter, I updated my name to reflect my male gender identity on my Social Security account. In August 2021, I updated my name on my West Virginia driver's license.

14. In or around June 2018, I began counseling at Marshall University to help address the distress I was feeling. It was around this time that I was diagnosed with gender dysphoria.

15. In or around February 2019, my health care provider recommended that I begin hormone replacement therapy to alleviate my gender dysphoria by aligning my physical characteristics with my gender identity.

16. I began hormone replacement therapy on or around March 2019.

17. Since development during puberty, I have been uncomfortable with the size of my chest. To avoid being incorrectly identified as female and to reduce the severe distress and embarrassment I feel over the presence of my large and typically-female appearing breasts I often wear a binder, and slouch and hunch my shoulders and back.

18. Wearing a binder for prolonged periods of time, however, often chafes my skin, sometimes creates deep sores, and leads to difficulty breathing. But to help manage my gender dysphoria, I sometimes wear a binder five to six days a week for up to 16 hours at a time. There are days when wearing a binder is so painful that I cannot wear it at all. On those days, I bundle myself up in multiple layers of clothes to hide the fact that I'm not wearing a binder and attempt to ease my own distress. When I am physically unable to wear a binder, my dysphoria is intense

and I often feel confused and anxious because of how much I am aware of my breasts while trying to focus on other things, such as my work-related tasks.

19. I require a bilateral mastectomy as medically necessary care to treat my gender dysphoria. Having access to this vital and medically necessary care would alleviate the overwhelming distress I feel, eliminate the need for my ongoing use of a binder, and ease the physical discomfort I am in due to years of slouching and hunching to conceal my large chest.

20. As a Medicaid participant, I receive coverage through the Managed Care Organization Unicare. I am aware that there is an exclusion in the state Medicaid Plan that bans the gender-confirming surgical care I need. As a result, I am forced to delay this urgently-needed care to treat my gender dysphoria. Medicaid's refusal to cover this medically necessary care, increases my symptoms of gender dysphoria and causes me emotional hardship and deeply impacts my self-esteem. I am incapable of forming close emotional and physical connections because of the presence of my breasts. I feel physically sick when I hug my family and friends because I become aware of my breast tissue.

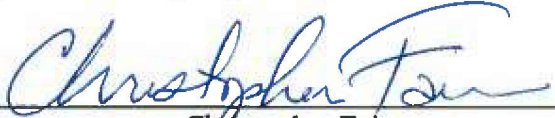
21. The idea of dying with breasts is horrifying to me. It is incredibly uncomfortable and unbearable living in this world with breasts because it means I am forced to exist in a body that is not aligned with my gender identity. I have to force myself to get up and function every day even though the surgical care that I need, care that is medically necessary, is inaccessible to me. It is exhausting, and at times overwhelming.

22. Having access to gender-confirming surgical care means that I will finally be able to walk with my shoulders straight, head held high, and not have to live with the fear and distress that my chest gives away my birth-assigned sex.

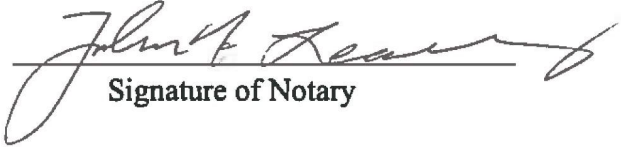
23. I am only in the middle years of my life; however, it is important to me that I be able to live a happy, healthy, and complete life for my family. I want to be able to see my grandchildren graduate from high school and feel confident when I put on that tie for their ceremonies.

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

Dated: April 27, 2022


Christopher Fain

Subscribed and sworn before me, a Notary Public in and for the County of Cabell, State of West Virginia, this 27th day of April, 2022.


Signature of Notary

