

**SUPPLEMENTAL APPENDIX TO  
DEFENDANT-INTERVENOR'S MOTION FOR  
SUMMARY JUDGMENT**

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JUDGMENT**

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Supplemental Declaration of Lainey Armistead  
In Support of Summary Judgment

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

B.P.J, by her next friend and mother,  
HEATHER JACKSON

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF  
EDUCATION, HARRISON COUNTY BOARD  
OF EDUCATION, WEST VIRGINIA  
SECONDARY SCHOOL ACTIVITIES  
COMMISSION, W. CLAYTON BURCH in his  
official capacity as State Superintendent,  
DORA STUTLER in her official capacity as  
Harrison County Superintendent, and THE  
STATE OF WEST VIRGINIA

*Defendants*

and

LAINY ARMISTEAD

*Defendant-Intervenor.*

Case No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**SUPPLEMENTAL DECLARATION OF LAINY ARMISTEAD IN SUPPORT  
OF SUMMARY JUDGMENT**

I, Lainey I. Armistead, under penalty of perjury, declare as follows:

1. I am a twenty-two-year-old resident of Charleston, West Virginia, in Kanawha County, and have personal knowledge of the information below.
2. I am a junior and female athlete at West Virginia State University (WVSU) in Charleston, West Virginia.
3. Though I am currently completing my sixth semester at WVSU, I have accrued enough credits to fulfill the baccalaureate requirements of my degree.

Supplemental Declaration of Lainey Armistead  
In Support of Summary Judgment

4. I had originally planned to continue studying at WVSU this fall in order to compete on WVSU's women's soccer team and earn credits towards a master's degree in public policy.

5. But after carefully evaluating my options and plans for the future, I just recently decided to alter course and graduate from WVSU in May of 2022.

6. In August of 2022, I plan to move to Florida and begin law school.

7. Because of the academic rigor and time investment required in law school, I do not currently intend to play soccer on the university's women's soccer team. But I do intend to find a women's soccer club team on which to compete during law school.

8. Soccer continues to be a life passion of mine. I still have three years of NCAA eligibility left at this time and I am open to utilizing that eligibility after law school if the right opportunity presents itself.

9. My experience playing competitive soccer was formative for me. It made me the person I am today, and it was pivotal in helping me earn a college scholarship. Women's sports opened doors for me—including placing me in a position to pursue my dream of being a lawyer someday.

10. Women have worked so hard to be taken seriously on the field of play, and to enjoy the same quality of opportunities as their male counterparts. I want to protect those hard-earned gains for future little girls—including, perhaps, my own future daughters. And that's why I continue to care deeply about this case and will do what's necessary to remain a part of it.

Supplemental Declaration of Lainey Armistead  
In Support of Summary Judgment

Pursuant to 28 U.S.C. § 1746, I declare under penalty of perjury that the foregoing is true and correct.

A handwritten signature in cursive script that reads "Lainey Armistead".

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Lainey Armistead

Dated: May 11, 2022

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

B.P.J. by her next friend and mother,	)	
HEATHER JACKSON,	)	
	)	Civil Action No. 2:21-cv-00316
<i>Plaintiff,</i>	)	
v.	)	Hon. Joseph R. Goodwin
	)	
WEST VIRGINIA STATE BOARD OF	)	
EDUCATION, HARRISON COUNTY	)	
BOARD OF EDUCATION, WEST	)	
VIRGINIA SECONDARY SCHOOL	)	
ACTIVITIES COMMISSION, W.	)	
CLAYTON BURCH in his official capacity	)	
as State Superintendent, DORA STUTLER	)	
in her official capacity as Harrison County	)	
Superintendent, and THE STATE OF	)	
WEST VIRGINIA,	)	
	)	
<i>Defendants,</i>	)	
	)	
and	)	
	)	
LAINEY ARMISTEAD,	)	
	)	
<i>Defendant-</i>	)	
<i>Intervenor.</i>	)	
	)	
	)	

**DECLARATION AND EXPERT REPORT OF DEANNA ADKINS, MD**

1. I have been retained by counsel for Plaintiff as an expert in connection with the above-captioned litigation.
2. I intend to provide my expert opinion on: (1) the nature and impact of treatment protocols for transgender youth; and (2) the different biological characteristics of sex and the ways in which they may not align within a person.

3. I have knowledge of the matters stated in this declaration and expert report and have collected and cite to relevant literature concerning the issues that arise in this litigation in the body of this declaration.

4. In preparing this declaration and expert report, I reviewed the text of House Bill 3293 at issue in this matter. I also relied on my scientific education and training, my research experience, and my knowledge of the scientific literature in the pertinent fields. The materials I have relied upon in preparing this declaration and expert report are the same types of materials that experts in my field of study regularly rely upon when forming opinions on these subjects. I may wish to supplement these opinions or the bases for them as a result of new scientific research or publications or in response to statements and issues that may arise in my area of expertise.

#### **BACKGROUND AND QUALIFICATIONS**

5. I received my medical degree from the Medical College of Georgia in 1997. I served as the Fellowship Program Director of Pediatric Endocrinology at Duke University School of Medicine for fourteen years and am currently the Director of the Duke Center for Child and Adolescent Gender Care.

6. I have been licensed to practice medicine in the state of North Carolina since 2001.

7. I have extensive experience working with children with endocrine disorders and I am an expert in the treatment of children with differences or disorders of sex development and in the treatment of children with gender dysphoria.

8. I am a member of the American Academy of Pediatrics, the North Carolina Pediatric Society, the Pediatric Endocrine Society, and The Endocrine Society. I am also a



member of the World Professional Association for Transgender Health (“WPATH”), the leading association of medical and mental health professionals in the treatment of transgender people.

9. I am the founder of the Duke Center for Child and Adolescent Gender Care (“Gender Care Clinic”), which opened in 2015. I currently serve as the director of the clinic. The Gender Care Clinic treats children and adolescents aged 7 through 22 with gender dysphoria and/or differences or disorders of sex development. I had been caring for these patients in my routine practice for many years prior to opening the clinic.

10. I currently treat approximately 400 transgender and intersex young people from North Carolina and across the Southeast at the Gender Care Clinic. I have treated approximately 500 transgender and intersex young people in my career.

11. As part of my practice, I stay familiar with the latest medical science and treatment protocols related to differences or disorders of sex development and gender dysphoria.

12. I am regularly called upon by colleagues to assist with the sex assignment of infants who cannot be classified as male or female at birth due to a range of variables in which sex-related characteristics are not completely aligned as male or female.

13. I have testified twice as an expert at trial or deposition in the past four years.

#### **TREATMENT PROTOCOLS FOR TRANSGENDER PEOPLE**

14. A transgender person has a gender identity that differs from the person’s sex assigned at birth.

15. A person’s gender identity refers to a person’s inner sense of belonging to a particular gender, such as male or female. Everyone has a gender identity.

16. Children usually become aware of their gender identity early in life.

17. For some people, their gender identity does not align with the sex they are assigned at birth. This misalignment can create significant distress, known as gender dysphoria, for people with this experience and can be felt in children as young as 2 years old.

18. A person's gender identity (regardless of whether that identity matches other sex-related characteristics) cannot be voluntarily changed, and is not undermined or altered by the existence of other sex-related characteristics that do not align with it.

19. According to the American Psychiatric Association's Diagnostic & Statistical Manual of Mental Disorders ("DSM V"), "gender dysphoria" is the diagnostic term for the condition where clinically significant distress results from the lack of congruence between a person's gender identity and the sex they are designated at birth. In order to be diagnosed with gender dysphoria, the incongruence must have persisted for at least six months and be accompanied by clinically significant distress or impairment in social, occupational, or other important areas of functioning.

20. Gender dysphoria is a serious medical condition that, if left untreated, can result in severe anxiety and depression, self-harm, and suicidality.<sup>1</sup>

21. Before receiving treatment, many people with gender dysphoria have high rates of anxiety, depression, and suicidal ideation. I have seen in my patients that without appropriate treatment, this distress impacts every aspect of life.

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<sup>1</sup> Spack NP, Edwards-Leeper L, Feldmain HA, et al. Children and adolescents with gender identity disorder referred to a pediatric medical center. *Pediatrics*. 2012; 129(3):418-425. Olson KR, Durwood L, DeMeules M, McLaughlin KA. Mental health of transgender children who are supported in their identities. *Pediatrics*. 2016; 137:1-8.

22. Experiences of discrimination and gender-minority stress associated with rejection and non-affirmation are correlated with suicidal ideation and suicidality, respectively.<sup>2</sup> The only treatment to avoid this serious harm is to recognize the gender identity of patients with gender dysphoria and follow appropriate treatment protocols to affirm gender identity and alleviate distress.

23. When appropriately treated, gender dysphoria is easily managed. I currently treat hundreds of transgender patients. All of my patients have suffered from persistent gender dysphoria, which has been alleviated through clinically appropriate treatment.

24. The Endocrine Society and the World Professional Association for Transgender Health have published widely accepted standards of care for treating gender dysphoria,<sup>3</sup> including the forthcoming Standards of Care Version 8. The precise treatment for gender dysphoria depends on each person's individualized need, and the medical standards of care differ depending on whether the treatment is for a pre-pubertal child, an adolescent, or an adult.

25. The medical treatment for gender dysphoria is to eliminate the clinically significant distress by helping a transgender person live in alignment with their gender identity. This treatment is sometimes referred to as "gender transition," "transition related care," or

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<sup>2</sup> World Prof'l Ass'n for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Chapter Draft for Public Comment-Mental Health (8th Version, forthcoming 2022).

<https://www.wpath.org/media/cms/Documents/SOC%20v8/SOC8%20Chapters%20for%20Public%20Comment/SOC8%20Chapter%20Draft%20for%20Public%20Comment%20-%20Mental%20Health.pdf?t=1638409644>

<sup>3</sup> Hembree WC, et al. Endocrine treatment of gender-dysphoria/gender incongruent persons: An Endocrine Society clinical practice guideline. *J Clin Endocrinol Metab* 2017; 102: 3869–3903; World Prof'l Ass'n for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People (7th Version, 2011), [https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7\\_English2012.pdf?t=1613669341](https://www.wpath.org/media/cms/Documents/SOC%20v7/SOC%20V7_English2012.pdf?t=1613669341)

“gender affirming care.” The American Academy of Pediatrics agrees that this care is safe, effective, and medically necessary for the health and wellbeing of children and adolescents suffering from gender dysphoria.<sup>4</sup>

26. The Endocrine Society Guidelines were developed through rigorous scientific processes which “followed the approach recommended by the Grading of Recommendations, Assessment, Development, and Evaluation group, an international group with expertise in the development and implementation of evidence-based guidelines.” The guidelines affirm that patients with gender dysphoria often must be treated with “a safe and effective hormone regimen that will (1) suppress endogenous sex hormone secretion determined by the person’s genetic/gonadal sex and (2) maintain sex hormone levels within the typical range for the person’s affirmed gender.”

27. Before puberty, treatment does not include any drug or surgical intervention. For this group of patients, treatment is limited to “social transition,” which means allowing a transgender child to live and be socially recognized in accordance with their gender identity. This can include allowing children to wear clothing that aligns with their gender identity, to cut or grow their hair, to use new or different names and pronouns, and to access activities in line with their gender identity instead of the sex assigned to them at birth. Social transition is a critical part of treatment of patients with gender dysphoria of all ages and it is the only treatment for pre-pubertal children. There are no known risks to social transition or to affirming

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<sup>4</sup> Rafferty J, Committee on Psychosocial Aspects of Child and Family Health, Committee on Adolescence and Section on Lesbian, Gay, Bisexual, and Transgender Health and Wellness, *Pediatrics* October 2018; 142(4): 2018-2162.

transgender youth who have been properly diagnosed with gender dysphoria by competent medical providers.

28. It undermines social transition – a critical part of gender dysphoria treatment – to force a person with gender dysphoria to live in a manner that does not align with the person’s gender identity. For example, requiring a girl who is transgender to participate in single-sex activities for boys can be deeply harmful and disruptive to treatment. In the context of activities like athletics, which are typically separated by sex, I know from experience with my patients that it can be extremely harmful for transgender youth to be excluded from the team consistent with their gender identity.

29. For many transgender youth, going through endogenous puberty can cause extreme distress. Puberty blocking treatment allows transgender youth to avoid going through their endogenous puberty thereby avoiding the heightened gender dysphoria and permanent physical changes that puberty would cause.

30. Puberty blocking treatment works by pausing endogenous puberty at whatever stage it is at when the treatment begins. This has the impact of limiting the influence of a person’s endogenous hormones on the body. For example, after the initiation of puberty blocking treatment, a girl who is transgender will experience none of the impacts of testosterone that would be typical if she underwent her full endogenous puberty.

31. When treating a transgender young person, when medically indicated, I prescribe puberty blocking treatment at the Tanner 2 stage of puberty. For girls who are transgender, this means that puberty is put on pause usually around the time that the patient has circulating testosterone at a level of 50 ng/dL or 1.735 nMol/L. If managed appropriately, a patient that undergoes puberty blocking treatment at this stage and then proceeds to gender-affirming

hormone therapy will never have circulating testosterone above what is typical of girls who are not transgender.

32. Under the Endocrine Society Clinical Guidelines, once a transgender youth establishes further maturity and competence to make decisions about additional treatment along with their parent and/or guardian, it may then be medically necessary and appropriate to provide gender-affirming hormone therapy to initiate puberty consistent with gender identity. For girls who are transgender, this means administering both testosterone suppressing treatment as well as estrogen to initiate hormonal puberty consistent with the patient's female gender identity. For boys who are transgender, this means administering testosterone.

33. Hormone therapy and social transition can significantly change a transgender youth's physical appearance. For example, boys who are transgender and treated with puberty blockers and gender affirming hormones will receive the same amount of testosterone during puberty that non-transgender boys generate with their testes. They will grow darker and thicker facial and body hair, experience fat distribution away from the hips, have decreased breast growth, and develop lower vocal pitch. Likewise, girls who are transgender and treated with puberty blockers and gender affirming hormones will receive the same amount of estrogen during puberty that non-transgender girls generate endogenously. They will develop breast tissue, fat will be distributed to their hips, their skin will soften, and their vocal pitch will not deepen further.

34. Treatment for transgender youth is safe, effective, and essential for their well-being. My patients who receive medically appropriate hormone therapy and who are treated consistent with their gender identity in all aspects of life experience significant improvement in their health.

35. For many patients, social transition and hormone therapy are sufficient forms of treatment for gender dysphoria. Others also need one or more forms of surgical treatment to alleviate gender dysphoria. Boys who are transgender may receive chest reconstruction surgery no earlier than 16. Genital surgery for women and men who are transgender is not performed until the person has reached the age of at least 18. Genital surgery for women who are transgender can result in a vulva and vagina—external genitalia typical of women—as well as removal of the testes, which eliminates the need for medical testosterone suppression. Because surgery does not produce ovaries, women who are transgender who have had this form of surgery typically continue to need estrogen therapy.

36. Consistent with extensive research literature, my clinical experience with my patients has been that they suffer and experience worse health outcomes when they are ostracized from their peers through policies that exclude them from spaces and activities that other girls and boys are able to participate in consistent with gender identity.

#### **SEX ASSIGNMENT AND BIOLOGICAL SEX CHARACTERISTICS**

37. HB 3293 requires school athletics to be separated based on “biological sex” defined as “an individual’s physical form as a male or female based solely on the individual’s reproductive biology and genetics at birth.” W. Va. Code §18-2-25d(b)(1). In addition to being counter to medical science, the notion of a singular “biological sex,” is inherently flawed.

38. When a child is born, a sex assignment is usually made based on the infant’s externally visible genitals. This designation is then recorded and usually becomes the sex designation listed on the infant’s birth certificate.

39. Usually, though not always, a person’s gender identity aligns with the sex designation based on the person’s genitals at birth.

40. For people who are transgender and people with differences of sex development (DSDs), however, there is not complete alignment between gender identity and physical sex-related characteristics.

41. Sex-related characteristics include external genitalia, internal reproductive organs, gender identity, chromosomes, and secondary sex characteristics. These biological sex-related characteristics do not always align as completely male or completely female in a single individual. And none of these characteristics exists in a binary. As the Endocrine Society guidelines explain, the terms “[b]iological sex, biological male or female . . . are imprecise and should be avoided.” Generally speaking, “[t]hese terms refer to physical aspects of maleness and femaleness [but] these may not be in line with each other (e.g., a person with XY chromosomes may have female-appearing genitalia).”<sup>5</sup>

42. Although we generally label infants as “male” or “female” based on observing their external genitalia at birth, external genitalia are not always clearly identifiable as typically male or typically female. And external genitalia do not account for the full spectrum of sex-related characteristics nor are they alone a proxy for how we understand sex.

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<sup>5</sup> Hembree, Wiley C., et al., Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline, *J Clin Endocrinol Metab*, Vol. 102, Issue 11, 1 November 2017, 3869–3903.; Berenbaum S., et al., Effects on gender identity of prenatal androgens and genital appearance: Evidence from girls with congenital adrenal hyperplasia. *J Clin Endocrinol Metab* 2003; 88(3): 1102-6; Dittmann R, et al., Congenital adrenalhyperplasia. I: Gender-related behavior and attitudes in female patients and sisters. *Psychoneuroendocrinology* 1990; 15(5-6): 401-20; Cohen-Kettenis P. Gender change in 46,XY persons with 5alpha-reductase-2 deficiency and 17beta-hydroxysteroid dehydrogenase-3 deficiency. *Arch Sex Behav* 2005; 34(4): 399-410; Reiner W, Gearhart J. Discordant sexual identity in some genetic males with cloacal exstrophy assigned to female sex at birth. *N Engl J Med* 2004; 350(4): 333-41.



43. In one out of every 1,000 live births, the infant's genitals are not typically male or female.

44. For people with DSDs, sex assignment at birth can involve the evaluation of the chromosomes, the external genitalia, the internal genitalia, hormonal levels, and sometimes, specific genes. There are also cases in which the appearance of the external genitalia can change at puberty as well as variations in the appearance of secondary sex characteristics that may signal a difference in sex development in a person.

45. When assignment of sex of an infant with a DSD is made at birth, that assignment is temporary until the individual can express their gender identity. In cases where the initial designation was incorrect, appropriate medical protocols instruct that the sex should be updated to align with the individual's gender identity. Similarly, if the sex designation of an infant without a DSD turns out to be inconsistent with the individual's gender identity, as for transgender people, the sex should be updated to align with the individual's gender identity.

46. Where surgery has been done on children with DSDs before the child's understanding and expression of their gender identity, significant distress can result. Many of these children have had to endure further surgeries to reverse earlier surgical intervention because their gender identity did not match the initial sex designation.

47. At least one out of every 300 people in the world has an intersex variation, meaning that the person's sex characteristic do not all align as typically male or typically female.

48. Some examples of these variations include:

- a. People with Complete Androgen Insensitivity (CAIS) have 46-XY chromosomes, and internal testes that produce testosterone, but do not have the tissue receptors that respond to testosterone or other androgens. The body,

therefore, does not develop a penis, thicker facial hair, or other secondary sex characteristics more commonly associated with men. At birth, based on the appearance of the external genitalia, people with CAIS are generally assigned female. If their testes are left in place, the body will convert the hormones into estrogen. Many do not find out they have XY chromosomes or testes until they do not start menstruating at the expected age.

- b. Androgen Insensitivity can also be partial (known as PAIS). People with PAIS have XY chromosomes, testes, and some (but still lower than typical) response to testosterone. They may be born with genitals that appear like a typical penis, a typical vulva, or somewhere in between.
- c. People with Swyer Syndrome have XY chromosomes and “streak” gonads (gonadal tissue that did not develop into testes or ovaries). Externally, a child with Swyer Syndrome usually develops a vulva. Because their gonads do not produce hormones, they will not develop most secondary sex characteristics without hormone treatment.
- d. People with Klinefelter Syndrome have 47,XXY chromosomes and internal and external genitalia typically associated with males, however, their testicles may have reduced testosterone production. This may lead to breast development, low muscle mass and body hair, and infertility.
- e. People with Turner Syndrome have 45,XO chromosomes which means they have one fewer copy of the X chromosome than expected. In utero, they form sex characteristics typically associated with females, including internal structures like a uterus and fallopian tubes, but the ovaries may degenerate

before birth (or in some cases, not until young adulthood), leading to an inability to make estrogen. Many people with Turner Syndrome will not go through puberty without hormone therapy.

- f. People with Mosaicism have different sets of chromosomes in different cells. Mosaic karyotypes happen as a result of atypical cell division early in embryonic development and could involve various combinations among XX, XY, XO, XXY, and other chromosome patterns. Configuration of gonadal tissue, genitals, and hormone production and response can all vary.
- g. People with ovotestes (sometimes known as Ovotesticular DSD) have gonads that contain both ovarian and testicular tissue. Their chromosomes may be XX, XY, or Mosaic. Genital appearance at birth can be male-typical, female-typical, or something else.
- h. Congenital Adrenal Hyperplasia (CAH) can occur in people with XX or XY chromosomes. People with CAH and 46,XX chromosomes have ovaries, a uterus, and a higher-than-typical production of androgens in utero that can lead to the development of genital differences at birth – such as an enlarged clitoris that may look like a penis, or the lack of a vaginal opening. CAH can also cause the development of typically masculine features like increased muscle mass and body hair.
- i. People with 5-alpha reductase deficiency (5-ARD) have XY chromosomes, but they have an enzyme deficiency that inhibits conversion of testosterone to dihydrotestosterone (the active form of testosterone) to varying degrees. This can impact genital development, and at birth, people with 5-ARD may have

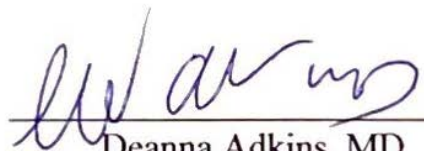
genitals that appear female-typical, neither male-typical nor female-typical, or mostly male-typical with differences like hypospadias (where the urethra is located somewhere other than the tip of the penis). During puberty, hormonal changes allow them to make more dihydrotestosterone, causing the development of some secondary sex characteristics typically associated with males, as well as genital masculinization.

49. As the examples above underscore, from a medical perspective, chromosomes, reproductive anatomy, and endogenous hormones alone do not determine a person's sex, nor does a single sex-related characteristic.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on

1/21/2022

  
\_\_\_\_\_  
Deanna Adkins, MD

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[https://www.wvlegislature.gov/Bill\\_Text\\_HTML/2021\\_SESSIONS/RS/signed\\_bills/house/HB3293%20SUB%20ENR\\_SIGNED.pdf](https://www.wvlegislature.gov/Bill_Text_HTML/2021_SESSIONS/RS/signed_bills/house/HB3293%20SUB%20ENR_SIGNED.pdf)
22. Wiepjes, C. M., et al. (2018). The Amsterdam cohort of gender dysphoria study (1972–2015): trends in prevalence, treatment, and regrets. *The Journal of Sexual Medicine*, 15(4), 582-590.
23. World Professional Association for Transgender Health, Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People, Chapter Draft for Public Comment-Mental Health (8th Version, forthcoming 2022).

[https://www.wpath.org/media/cms/Documents/SOC%20v8/SOC8%20Chapters%20for%20Public%20Comment/SOC8%20Chapter%20Draft%20for%20Public%20Comment%20-%20Mental%20Health.pdf?\\_t=1638409644](https://www.wpath.org/media/cms/Documents/SOC%20v8/SOC8%20Chapters%20for%20Public%20Comment/SOC8%20Chapter%20Draft%20for%20Public%20Comment%20-%20Mental%20Health.pdf?_t=1638409644)

24. Wylie et al. (2017); Euling SY, Herman-Giddens ME, Lee PA, et al. Examination of U.S. puberty-timing data from 1940 to 1994 for secular trends: panel Findings. *Pediatrics*. 2008;1221: S172–S191.
25. Wyshak, Grace, PhD and Frisch, Rose E., Evidence for a Secular Trend in Age of Menarche, April 29, 1982, *N Engl J Med* 1982; 306:1033-1035.

## DUKE UNIVERSITY MEDICAL CENTER

## CURRICULUM VITAE

Date Prepared: January 21, 2022

Name:	Deanna Adkins, BS, MD
Primary Academic Appointment:	Associate Professor of Pediatrics, Career Track
Primary Academic Department :	Pediatrics
Secondary Appointment :	n/a
Present Academic Rank and Title :	Associate Professor
Date and Rank of First Duke Faculty Appointment:	July 1, 2004 Clinical Associate
Medical Licensure:	Since March 15, 2001
License #:	200100207 NC
Date:	06/29/2022 expires
Specialty Certification(s) and Dates:	10/16/2001-2018 General Pediatrics 8/18/2003 and current-Pediatric Endocrinology
Date of Birth:	06/29/1970
Place:	Albany, GA USA
Citizen of:	USA
Visa Status:	n/a

Education	Institution	Date (Year)	Degree
High School	Tift County High School	1988	Graduated with High Honors
College	Georgia Institute of Technology	1993	BS Applied Biology/Genetics High Honors



<b>Education</b>	<b>Institution</b>	<b>Date (Year)</b>	<b>Degree</b>
Graduate or Professional School	Medical College of Georgia	1997	MD

### **Professional Training and Academic Career**

<b>Institution</b>	<b>Position/Title</b>	<b>Dates</b>
University of North Carolina Hospitals, Chapel Hill, North Carolina	Pediatrics Resident	1997-2000
University of North Carolina Hospitals, Chapel Hill, North Carolina	Pediatric Endocrine Fellow	2000-2004
Duke University Medical Center, Durham, North Carolina	Clinical Associate/Medical Instructor	2004-2008
Duke University Medical Center, Durham, North Carolina	Assistant Professor Track IV	2008-2020
Duke University Medical Center, Durham, North Carolina	Fellowship Program Director Pediatric Endocrinology- Associate PD-	2008-2010 & 2014-12/2019 2010-2014
Duke University Medical Center, Durham, North Carolina	Director Duke Child and Adolescent Gender Care Clinic	July 2015-present
Duke University Medical Center, Durham, North Carolina	Medical Director-Duke Children's Specialty of Raleigh	3/2017-1/2022
Duke University Medical Center, Durham, North Carolina	Associate Professor Pediatrics	1/2020-present
Duke University Medical Center, Durham, North Carolina	Co-Director Duke Sexual and Gender Health and Wellness Program	10/2021-present

## Publications

### Refereed Journals

### Original Manuscripts:

1. Zeger M, **Adkins D**, Fordham LA, White KE, Schoenau E, Rauch F, Loechner KJ. ” Hypophosphatemic rickets in opsismodysplasia,” J Pediatr Endocrinol Metab. 2007 Jan;20(1):79-86. PMID: 17315533
2. Worley G, Crissman BG, Cadogan E, Milleson C, **Adkins DW**, Kishnani PS “Down Syndrome Disintegrative Disorder: New-Onset Autistic Regression, Dementia, and Insomnia in Older Children and Adolescents With Down Syndrome”.. J Child Neurol. 2015 Aug;30(9):1147-52. doi: 10.1177/0883073814554654. Epub 2014 Nov 3.PMID:25367918
3. Tejwani R, Jiang R, Wolf S, **Adkins DW**, Young BJ, Alkazemi M, Wiener JS, Pomann GM, Purves JT, Routh JC,” Contemporary Demographic, Treatment, and Geographic Distribution Patterns for Disorders of Sex Development”.Clin Pediatr (Phila). 2017 Jul 1:9922817722013. doi: 10.1177/0009922817722013. PMID:28758411
4. Lapinski J1, Covas T2, Perkins JM3, Russell K4, **Adkins D** 5, Coffigny MC6, Hull S7. “Best Practices in Transgender Health: A Clinician's GuidePrim Care”. 2018 Dec;45(4):687-703. doi: 10.1016/j.pop.2018.07.007. Epub 2018 Oct 5. PMID: 30401350 DOI: 10.1016/j.pop.2018.07.007
5. Paula Trief, Nicole Foster, Naomi Chaytor, Marisa Hilliard, Julie Kittelsrud, Sarah Jaser, Shideh Majidi, Sarah Corathers, Suzan Bzdick, **Adkins DW**, Ruth Weinstock; “Longitudinal Changes in Depression Symptoms and Glycemia in Adults with Type 1 Diabetes”, Diabetes Care; 2019 Jul;42(7):1194-1201. doi: 10.2337/dc18-2441. Epub 2019 May; PMID: 31221694
6. Mann, Courtney M., Kristen Russell, Alexy Hernandez, Nicole Lucas, Erik Savereide, Dane R. Whicker, **Deanna W. Adkins**, Nancy L. Zucker, Raye Dooley, and Bryce B. Reeve. “Concept elicitation for the development of quality measures in transgender health.” In *Quality of Life Research*, 28:S104–S104. SPRINGER, 2019.

7. M. Hassan Alkazemi, MD, MS, Leigh Nicholl, MS, Ashley W. Johnston, MD, Steven Wolf, MS, Gina-Maria Pomann, PhD, Diane Meglin, MSW, **Deanna Adkins, MD**, Jonathan C. Routh, MD, MPH; Community Perspectives on Difference of Sex Development (DSD) Diagnoses: a Crowdsourced Survey, 2020 Jun;16(3):384.e1-384.e8. doi: 10.1016/j.jpuro.2020.03.023. Epub 2020 Apr 27. PMID: 32409277
8. McGuire H, Frey L, Woodcock LR, Dake E, Carl A, Matthews D, Russell K, **Adkins DA** "Differences in Patient and Parent Informant Reports of Depression and Anxiety Symptoms in a Clinical Sample of Transgender and Gender Diverse Youth" *LGBT Health* 2021-LGBT Health. Aug-Sep 2021;8(6):404-411. doi: 10.1089/lgbt.2020.0478. Epub 2021 Aug 12

### Non Author publications

1. Turner DA, Curran ML, Myers A, Hsu DC, Kesselheim JC, Carraccio CL and the Steering Committee of the Subspecialty Pediatrics Investigator Network (SPIN). Validity of Level of Supervision Scales for Assessing Pediatric Fellows on the Common Pediatric Subspecialty Entrustable Professional Activities. *Acad Med*. 2017 Jul 11. doi: 10.1097/ACM.0000000000001820. PMID:28700462
2. Mink R, Carraccio C, High P, Dammann C, McGann K, Kesselheim J, Herman B. Creating the Subspecialty Pediatrics Investigator Network (SPIN). *Creating the Subspecialty Pediatrics Investigator Network* Richard Mink, MD, MACM1, Alan Schwartz, PhD2, Carol Carraccio, MD, MA3, Pamela High, MD4, Christiane Dammann, MD5, Kathleen A. McGann, MD6, Jennifer Kesselheim, MD, EdM7, *J Peds* 2018 Jan;192:3-4.e2. PMID: 29246355 DOI: 10.1016/j.jpeds.2017.09.079
3. Erratum 2018. PMID: 29246355 DOI: [10.1016/j.jpeds.2017.09.079](https://doi.org/10.1016/j.jpeds.2017.09.079)
4. Mink RB<sup>1</sup>, Myers AL, Turner DA, Carraccio CL. Competencies, Milestones, and a Level of Supervision Scale for Entrustable Professional Activities for Scholarship. *Acad Med*. 2018 Jul 10. doi: 10.1097/ACM.0000000000002353. [Epub ahead of print] PMID: 29995669 DOI:[10.1097/ACM.0000000000002353](https://doi.org/10.1097/ACM.0000000000002353) Mink RB, Schwartz A, Herman BE,

### Editorials

- a. Editorial Charlotte News and Observer-“**NC pediatric specialists say HB2 ‘flawed’ and ‘harmful,’ call for repeal**”; April 18, 2016; authors: Deanna

Adkins, Ali Calikoglu, Nina Jain, Michael Freemark, Nancie MacIver, Robert Benjamin, Beth Sandberg, etc.

- b. Editorial Raleigh News and Observer-“**Beverly Gray: Repeal HB2**” May 2016: authors Beverly Gray, Deanna Adkins, Judy Sidenstein, Jonathan Routh, Haywood Brown, Clayton Afonso, William Meyer, Kristen Russell, Caroline Duke, Nancy Zucker, Kevin Weinfurt, Jennifer St. Claire, Angela Annas, Katherine Keitcher

### Chapters in Books

1. Endocrinology Chapter writer and editor in **Fetal and Neonatal Physiology for the Advanced Practice Nurse**; Editors: Amy Jnah DNP, NNP-BC, Andrea Nicole Trembath MD, MPH, FAAP. December 21, 2018 ISBN-10 0826157319
2. Chapter in **Dental Clinics of North America Adolescent Oral Health Edition** Understanding and Caring for LGBTQ+ Youth for the Oral Health Care Provider; Authors Joshua Raisin, DDS, Deanna Adkins MD, Scott B. Schwartz, DDS, MPH. 2021
3. Intersex Identity and Gender Assignment; **Encyclopedia of Adolescent Health**; Editor Brian Eichner, MD; Author Deanna Adkins MD 2021-pending

### Selected Abstracts:

1. Redding-Lallinger RC, **Adkins DW**, Gray N: The use of diaries in the study of priapism in sickle cell disease. Poster Abstract in Blood November 2003
2. **Adkins, D.W.** and Calikoglu, A.S.: Delayed puberty due to isolated FSH deficiency in a male. Pediatric Research Suppl. 51: Abstract #690. page 118A, 2004
3. Zeger, M.P.D., **Adkins, D.W.**, White, K., Loechner, K.L.: Opsismodysplasia and Hypophosphatemic Rickets. Pediatric Research Suppl.-from PAS 2005
4. Kellee M. Miller<sup>1</sup>, David M. Maahs<sup>2</sup>, **Deanna W. Adkins**<sup>3</sup>, Sureka Bollepalli<sup>4</sup>, Larry A. Fox<sup>5</sup>, Joanne M. Hathway<sup>6</sup>, Andrea K. Steck<sup>2</sup>, Roy W. Beck<sup>1</sup> and Maria J. Redondo<sup>7</sup> for the T1D Exchange Clinic Network; Twins Concordant for Type 1 Diabetes in the T1D Exchange -poster at ADA scientific sessions 6/2014
5. Laura Page, MD; Benjamin Mouser, MD; Kelly Mason, MD; Richard L. Auten, MD; **Deanna Adkins, MD** CHOLESTEROL SUPPLEMENTATION IN SMITH-LEMLI-OPITZ: A Case of Treatment During Neonatal Critical Illness; - poster 06/2014
6. Lydia Snyder, MD, **Deanna Adkins, MD**, Ali Calikoglu, MD; Celiac Disease and Type 1 Diabetes: Evening of Scholarship UNC Chapel Hill 3/2015 poster
7. **Deanna W. Adkins, MD**, Kristen Russell, LCSW, Dane Whicker, PhD, Nancy Zucker, Ph. D: Departments of Pediatrics and Psychiatry, Duke University Medical Center; Evaluation of Eating Disturbance and Body Image Disturbance in the Trans Youth Population; WPATH International Scientific Meeting June 2016; Amsterdam, The Netherlands
8. Rohit Tejwani, **Deanna Adkins**, Brian J. Young, Muhammad H. Alkazemi, Steven Wolf<sup>3</sup>, John S. Wiener, J. Todd Purves, and Jonathan C. Routh; Contemporary Demographic and

- Treatment Patterns for Newborns Diagnosed with Disorders of Sex Development; Poster presentation at AUA meeting 2016
9. S.A. Johnson, **D.W. Adkins**, Case Report: The Co-diagnosis of Hypopituitarism with Klinefelter in a patient with short stature; Pediatric Academic Society Meeting 2018
  10. Lapinski J, Dooley R, Russell K, Whicker D, Gray, B, **Adkins DW**; **Title:** Developing a Pediatric Gender Care Clinic at a Major Medical Setting in the South; Workshop Philadelphia Trans Wellness Conference 2018
  11. Jessica Lapinski, DO, Deanna Adkins, MD, Tiffany Covas, MD, MPH, Kristen Russell, MSW, LCSW; An Interdisciplinary Approach to Full Spectrum Transgender Care; WPATH Conference Buenos Aires, Argentina, November 3, 2018
  12. Leigh Spivey, MS, Nancy Zucker, PhD, Erik Severiede, B.S., Kristen Russell, LCSW, Deanna Adkins, MD; USPATH Washington, DC Sept. 2019. Platform presentation; “Psychological Distress Among Clinically Referred Transgender Adolescents: A latent Profile Analysis”

#### Non-Refereed Publications

- i. Print
  - i. Editorial Charlotte News and Observer-“**NC pediatric specialists say HB2 ‘flawed’ and ‘harmful,’ call for repeal**”; April 18, 2016
  - ii. Editorial News and Observer-HB2 May 2016 -“**Beverly Gray: Repeal HB2**” May 2016
- ii. Digital
  - i. Supporting and Caring for Transgender Children-HRC guide 2017
  - ii. Initial endocrine workup and referral guidelines for primary care Providers- Pediatric Endocrine Society Education Committee Website Publication
  - iii. Only Human Podcast August 2, 2016; <https://www.wnycstudios.org/podcasts/onlyhuman/episodes/id-rather-have-living-son-dead-daughter>
- iii. Media and Community Interviews
  - i. Greensboro News and Record Community Forum October 2017-*Transgender Panel Moderator*
  - ii. Playmakers Repertory Company-Chapel Hill: *Draw the Circle* Transgender Community Panel 2017
  - iii. Duke Alumni Magazine
  - iv. Duke Stories
  - v. DukeMed Alumni Magazine
  - vi. NPR Podcast Only Human piece on caring for transgender youth and follow up piece 1 year later
  - vii. ABC11, WRAL, WNCN News Coverage
  - viii. News and Observer: Charlotte and Raleigh
  - ix. Duke Chronicle and Daily Tarheel Article
  - x. Huffington Post Article
  - xi. <https://www.businessinsider.com/the-olympics-uses-testosterone-to-treat-trans-athletes-like-cheaters-2021-7>

- xii. <https://www.wral.com/top-transgender-doctor-warns-teen-treatment-ban-could-be-deadly/19618762/>
- xiii. <http://www.ncpolicywatch.com/2021/04/07/experts-bills-targeting-trans-people-get-the-science-wrong/>

#### Published Scientific Reviews for Mass Distribution

#### Position and Background Papers

#### Other Publications

#### **Editorial Experience**

Editorial Boards

Ad Hoc scientific review journals

Hormone Research, Lancet, NC Medical journal, Journal of Pediatrics, Pediatrics, Transgender Health, International Journal of Pediatric Endocrinology, Journal of Adolescent Health

#### **Consultant Appointments**

North Carolina Newborn Screening Committee

Human Rights Campaign Transgender Youth Advisory Board

#### **Scholarly Societies**

#### **Professional Awards and Special Recognitions**

ESPE Fellows Summer School, 2001

NIH Loan Repayment Program Recipient

Lawson Wilkins AstraZeneca Research Fellow,  
2003-2004

HEI 2017 Leaders in LGBTQ Healthcare  
Equality

Inside Out Durham Appreciation Award

Duke Health System Diversity and Inclusion  
Award January 2018

America's Top Doctor's 2020, 2021

Duke Health System Diversity and Inclusion  
Award January 2020- CDHD Course Team

Teaching for Equity Fellow 2021

**Organizations and Participation**

<b>Organization</b>	<b>Role</b>	<b>Dates</b>
American Academy of Pediatrics	Member Council on Information Technology Member Reviewer COCIT Member Section on Endocrinology	1998 to present    2004 to present
Pediatric Endocrine Society	Member Member Education Committee SIG member-Transgender, DSD, liaison to Advocacy SIG Writer Web Publication for Pediatricians	2000 to present
NC Pediatric Society	Member	1998 to present
Endocrine Society	Member	2000 to present
WPATH-International Transgender Society	Member	2014 to present

**External Support**

<u>Approximate Duration</u>	<u>PI</u>	<u>% Effort</u>	<u>Purpose</u>	<u>Amount Duration</u>
<u>Past</u>	<u>JAEB Center- Deanna Adkins</u>	0.5%	<u>Type 1 diabetes research</u>	<u>\$ 5yr</u>
<u>Past</u>	<u>Josiah Trent Foundation Grant-Deanna Adkins</u>	0.5%	<u>Transgender and eating disorder research</u>	<u>\$5000 3 yr</u>
<u>Pending: Submitted</u>	<u>NIH-Kate Whetten</u>	0.1%	<u>Analysis of TransgenderHealth in Adolescents in Rural Africa, India, and Thailand</u>	<u>Consultant</u>

<u>Approximate Duration</u>	<u>PI</u>	<u>% Effort</u>	<u>Purpose</u>	<u>Amount Duration</u>
<u>Re-Submitting June 2021</u>	<u>NIH R21 Deanna Adkins</u>	2%	Development of New Gender Dysphoria Measures in Youth	<u>Co PI</u>
<u>ReSubmitting June 2021</u>	<u>NIH R21 Sarah Legrand</u>	2%	Glow and Grow	<u>consultant</u>
<u>Submitted November 2020</u>	<u>CMS-Deanna Adkins and Rob Benjamin</u>	1%	<u>Innovations Grant</u>	<u>Co PI</u>
<u>Submitted Sept 2020</u>	<u>Kate Whetten</u>	2%	SAHMSA Grant for development of multidisciplinary LGBTQ education	<u>Co PI</u>
<u>Gifts</u>	<u>Private Family</u>			

### Mentoring Activities

Faculty	
Fellows, Doctoral, Post docs	<b>Nancie MacIver-fellow</b>
	<b>Dorothee Newbern-fellow</b>
	<b>Krystal Irizarry-fellow</b>
	<b>Kelly Mason-fellow</b>
	<b>Laura Page-fellow</b>
	<b>Elizabeth Sandberg fellow UNC</b>
	<b>Dane Whicker-psychology post doc</b>
	<b>Leigh Spivey-psychology post doc</b>
	<b>Joey Honeycutt, Chaplain Intern</b>
	<b>Kathryn Blew-research mentor</b>
Residents	<b>Yung-Ping Chin-mentor</b>
	<b>Kristen Moryan-mentor</b>
	<b>Jessica Lapinski-mentor</b>
	<b>Kathryn Blew-research mentor</b>
	<b>Matthew Pizzuto, Briana Scott-Coach, Laura Hampton Coach</b>



Medical students	<b>Tulsi Patel-continuity clinic mentor</b> <b>Sonali Biswas-research mentor 3<sup>rd</sup> year project</b> <b>Katha Desai-research mentor 3<sup>rd</sup> year project</b>
Undergraduates	<b>Erik Severeide-Duke University</b> <b>Lindsay Carey-Dickinson College</b> <b>Jeremy Gottlieb-Duke University</b> <b>Jay Zussman-Duke University</b> <b>Beles Abebe-Duke University</b>
High School Students	<b>Aeryn Colton-Intern Apex High School</b>
Graduate Student MBS program	<b>Nicholas Hastings</b>
UNC Gillings School of Public Health MPH students	<b>Lauren Frey, Emily Dake, Alexandra Carle, Lindsay Woodcock, Hunter McGuire</b>
Nurse Practitioners	<b>ECU, Duke-multiple</b>
DNP candidates	<b>Ethan Cicero-PhD committee member</b> <b>Amanda Lund-PhD committee member</b>
Pediatric Dental Fellow UNC	<b>Joshua Raisin-research associate</b>

## **Education / Teaching Activities**

### **Didactic classes**

#### High School

- c. Cary Academy: Work Experience Program 2021

#### Undergraduate

1. Creating Excellence and Ambulatory Nursing 2008
2. Profile in Sexuality Research Series at Duke CGSD 2016
3. Duke School of Nursing BSN Course on Sexual and Gender Health guest lecturer: fall 2017, spring 2018, fall 2018, spring 2019, fall 2019, spring 2020, fall 2020, spring 2021, fall 2021
4. Duke School of Nursing Lecture on Transgender Care-recorded for reuse
5. Duke Physician Assistant Program guest lecturer; fall 2017, spring 2018
6. Duke Global Health Course guest lecturer fall 2016
7. Duke Neuroscience course on Gender and Sex guest lecturer fall 2016
8. Duke Ethics Interest group guest lecturer fall 2018, 2020
9. Duke EMS group lecture fall 2018
10. Duke Physician Assistant Program LGBTQ+ Rotation Educator 2019 to present
11. Global Health Sexual and Gender Minority Seminar Lecturer 2020

**UME:**

1. Cultural Determinants of Health and Health Disparities Course: Facilitator and developed one class; 2017-18 and 2018-19, 2019-20, 2020-21, 2021-22; Steering Committee member for course development
2. UNC School of Medicine Lecturer for LGBTQ Health series 2016-recorded for reuse
3. Duke Pediatrics Interest Group lecture Nov 2020
4. Duke Med Pediatrics Interest Group lecture fall 2018, 2020
5. Lecturer Body and Disease Course MS1 2019, 2020, 2021 Clinical Correlation Differences of Sex Development
6. Lecturer Body and Disease Course MS1 2020, 2021 Transgender Medicine
7. Lecture on Cancer in Transgender and Intersex Individuals April 14, 2021 Mount Sinai School of Medicine
8. Lecture on Transgender Medicine Univ. of Tenn. Health Science Center School of Medicine May 7, 2021

**Graduate School Courses:**

1. Master of Biomedical Science Program-guest lecturer on Transgender Medicine fall 2016
2. School of Nursing Graduate Intensive Course Lecturer on Sexual and Gender Health; fall 2017, spring 2018, fall 2018, spring 2019, Fall 2019
3. Fuqua School of Business Med Pride Panel and presentation fall 2017
4. Master of Biomedical Science Program Mentor 2019-2020
5. Endocrinology for Nurse Practitioners Duke Neonatal Nurse Practitioner Program August 2021

**DUHS Employee Education**

1. Annual Duke Human Resources Lunch and Learn on Gender Diversity 2016, 2017, 2018
2. Over 100 lectures across the institution on gender including CHC front desk/nursing staff, hospital wide social work/case management, radiology, PDC clinic front desk/nursing staff
3. Steering Committee for Sexual and Gender Identity Epic Module development and Educational module development
4. DCRI Pride invited speaker
5. Duke Children's staff update 2021

**GME:**

1. Adult Endocrinology Fellows every year on growth and/or gender
2. Pediatric Residency Noon conferences on Growth and Gender-yearly
3. Reproductive Endocrinology Noon Conferences every 2 to 3 years
4. Psychiatry Noon Conferences periodically
5. Family Practice Noon Conference periodically
6. Pediatric Endocrine Fellow lectures twice a year or more
7. Pediatrics grand rounds: Vitamin D, Type 2 diabetes, Pubertal Development, Gender Diverse Youth

8. Duke Urology Grand Rounds 2016
9. Duke Ob/Gyn Grand Rounds 2017
10. Webinar for Arkansas Children's Hospital on transgender care 2018
11. Reproductive Challenges for Transgender people-Reproductive Endocrinology-2020
12. Metabolic Bone Disease in Neonates-NICU fellows 2019
13. Duke Psychiatry Grand Rounds 2017
14. Duke Pathology Grand Rounds fall 2020
15. Duke Family Medicine Community Rotation Educator 2019 to present
16. NC NAPNAP Symposium Keynote Speaker October 10, 2020
17. Duke Internal Medicine LEADS program speaker; Transgender Care 8/3/2021
18. Equity and Social Justice Webinar: Clinical Advocacy and Care of Transgender and Gender Diverse Youth October 27, 2021Harvard Equity and Social Justice Webinar

### **Development of Courses Educational programs**

1. Pituitary Day October 2019-full day multispecialty seminar for caregivers of patients with hypopituitarism-Organized and developed the curriculum
2. Development of Gender Diversity Education for Health System education
3. Steering Committee for Cultural Determinants and Health Disparities Course
4. Helping to Adapt Resident Coaching Program to Pediatric Fellowships
5. Developed half day course for Duke Student Health on Care of the Gender Diverse Student with multiple disciplines included
6. Course Director: American Diabetes Association Camp Carolina Trails rotation for fellows and residents: 2009, 2011 – 2019
7. Medical Education for Camp Morris 2019, 2021

### **Development of Assessment Tools and Methods**

1. Currently under development with Population Health Sciences-method to assess gender dysphoria; received Brief High Intensity Production (BHIP) grant for this collaboration; NIH grant Submitted March 2020; I am writing the portion of grant giving background on the population and the need for better measures.
2. Collaborating with the Duke Chaplain group to develop a spiritual assessment tool for gender diverse children and their families. Completed 2019

### **Educational leadership roles**

1. Fellowship Program Director Pediatric Endocrinology 2008-2019
2. Course Director: American Diabetes Association Camp Carolina Trails rotation for fellows and residents: 2009, 2011 to 2019

### **Educational Research**

1. Working with coaching program for residents modified and applied in pediatric fellows
2. Worked with the Council on Pediatric Subspecialties EPA study

### **Invited Lectures and Presentations**

1. NC Peds Conference: Pubertal Development 2016

2. Trent Center for Ethics Lecture May 2017: Transgender Medicine: a Wealth of Ethical Issues
3. Visiting Professorship: ECU Brody School of Medicine Invited Professor October 2017
4. College of Diplomates-pediatric dentistry society-Webinar on transgender care 4/1/2020
5. NAPNAP keynote speaker Annual Meeting October 2020
6. Wake County Duke CME program: Type 2 diabetes treatments in pediatrics 2019
7. Lecture on Cancer in Transgender and Intersex Individuals April 14, 2021 Mount Sinai School of Medicine
8. Lecture on Transgender Medicine Univ. of Tenn. Health Science Center School of Medicine May 7,2021
9. Equity and Social Justice Webinar: Clinical Advocacy and Care of Transgender and Gender Diverse Youth October 27, 2021Harvard Equity and Social Justice Webinar

#### **International Meetings**

1. WPATH Amsterdam 2016
2. WPATH Buenos Aires 2018

#### **National Scientific Meetings (invited)**

1. Transgender SIG Developing a Patient Registry
2. Patient Advocacy for Transgender Youth Philadelphia 2018

#### **Instructional Courses, Workshops, Symposiums (National)**

1. Time to Thrive Arkansas Children's Hospital April 2018
2. National Transgender Health Summit UCSF Jan 2018: Providers as Advocates Workshop
3. Magic Foundation-Chicago, IL Annual Speaker on Precocious Puberty, Adrenal Insufficiency, and Growth Hormone at National Conference 2016, 2017, 2019, 2020, 2021
4. The Seminar-Fort Lauderdale, FL Invited Speaker on Care of Transgender Youth 2017

#### **Regional Presentations and Posters**

- a. North Carolina Pediatric Society: Pubertal Development Presentation–Pinehurst, NC 2017
- b. North Carolina Psychiatric Association: Caring for Transgender Children Presentation and Workshop on key concepts in care of transgender child-Asheville, NC 2017
- c. ECU Campus Health Presentation Caring for Transgender Patients 2018
- d. Radiology Technology Symposium Presentation on Caring for Transgender Patients 2018
- e. Duke CME in Wake County-Update on Type 2 Diabetes Treatments Feb 2019
- f. Hilton Head Pediatric CME Course-Update on Type 2 Diabetes, Short Stature, and Caring for Transgender Patients June 2019
- g. Wake County Duke Pediatrics CME Type 2 diabetes treatments Feb 2019
- h. NAPNAP Annual Meeting Keynote Speaker 2020

- i. Sexual and Gender Minorities Research Symposium Duke Feb 2020; speaker and organizer

### **Local Presentations**

1. Grand Rounds: 2016 to present-Duke Pediatrics twice, Moses Cones Pediatrics, ECU Ob/Gyn, Duke Ob/Gyn, Duke Psychiatry, Duke Urology, Duke Adult Endocrinology, Duke Pathology
2. Prior to 2016-Rex Grand rounds: Salt and Water balance, New treatments in Pediatric Diabetes, Adrenal Insufficiency, Duke peds grand rounds Bone Health, Type 2 Diabetes Mellitus
3. Duke Women's Weekend 2018 hosted by Duke Alumni Association
4. NCCAN Social Work Training 2016
5. NAPNAP lecture 2016 and 2018 and 2020
6. Profiles in Sexuality Research Presentation at Duke Center for Sexual and Gender Diversity 2017
7. Duke LGBTQ Alumni Weekend Presentation 2017
8. UNC Chapel Hill Campus Health Presentation 2018
9. Duke Student Health Presentation 2017, 2018, 2019 (workshop)

### **Clinical Activity**

1. Duke Consultative Services of Raleigh-2.5 days per week in endocrinology and diabetes
2. Duke Child and Adolescent Gender Care Clinic 1.2 day per week at the CHC
3. Inpatient Consult Service Pediatric Endocrinology 1 week per month

### Administrative and Leadership Positions

1. Medical Director Duke Children's and WakeMed Consultative Services of Raleigh
2. Director Duke Child and Adolescent Gender Care Clinic
3. Pediatric Endocrinology Fellowship Program Director 2008-2019

### Committees

1. Graduate Medical Education Committee-2008-2019
2. School of Medicine Sexual and Gender Diversity Council 2015 to present
3. Pediatrics Clinical Practice Committee-2015? To present
4. Pediatric Diversity and Inclusion Committee

### Community

1. Test proctor local schools
2. Guest lecture GSA multiple years
3. Diabetes Camp over 10 years
4. 100 Women who give a hoot
5. Collaborated to bring "Becoming Johanna" to Duke along with multiple screenings with the director and the lead actor
6. Teddy Bear Hospital volunteer both years

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

B.P.J. by her next friend and mother,	)	
HEATHER JACKSON,	)	
<i>Plaintiff,</i>	)	Civil Action No. 2:21-cv-00316
v.	)	
	)	Hon. Joseph R. Goodwin
WEST VIRGINIA STATE BOARD OF	)	
EDUCATION, et al.,	)	
	)	
<i>Defendants,</i>	)	
	)	
and	)	
	)	
LAINY ARMISTEAD,	)	
	)	
<i>Defendant-</i>	)	
<i>Intervenor.</i>	)	
	)	
	)	

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**EXPERT REBUTTAL REPORT AND DECLARATION OF DEANNA ADKINS, M.D.**

I, Deanna Adkins, M.D., hereby declare as follows:

1. I have been retained by counsel for Plaintiff as an expert in connection with the above-captioned litigation.
2. I have actual knowledge of the matters stated in this rebuttal report and declaration (“Adkins Rebuttal”) and have collected and cite to relevant literature concerning the issues that arise in this litigation in the body of the report. I refer herein to my initial expert report in this matter as “Adkins Report.”
3. My credentials are set forth in my initial report executed on January 21, 2022.
4. I reviewed the reports of Dr. Stephen Levine and Dr. James M. Cantor (referred to herein as the “Levine Report” and “Cantor Report” respectively). I respond in this report to some of the central points in those disclosures. I do not specifically address each study or article cited

but instead explain the overall problems with some of the conclusions that Dr. Levine and Dr. Cantor draw and provide data showing why such conclusions are in error. I reserve the right to supplement my opinions if necessary as the case proceeds.

5. I have knowledge of the matters stated in this report and have collected and cite to relevant literature concerning the issues that arise in this litigation in the body of this declaration.

6. In preparing this report, I reviewed the text of House Bill 3293 (“H.B. 3293”) at issue in this matter. I also relied on my scientific education and training, my research experience, and my knowledge of the scientific literature in the pertinent fields. The materials I have relied upon in preparing this declaration and expert report are the same types of materials that experts in my field of study regularly rely upon when forming opinions on these subjects. I may wish to supplement these opinions or the bases for them as a result of new scientific research or publications or in response to statements and issues that may arise in my area of expertise.

### **SEX ASSIGNMENT AND BIOLOGICAL SEX CHARACTERISTICS**

7. Dr. Levine does not appear to have any experience with the process of assigning sex to newborns at birth. Despite that lack of experience, he disputes the scientific consensus described in my initial report that the term “biological sex” is imprecise and should be avoided, as the Endocrine Society has advised.<sup>1</sup> Adkins Report ¶ 41; Levine Report ¶¶ 19-20. Dr. Levine

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<sup>1</sup> Hembree, Wiley C., et al., Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline, *J Clin Endocrinol Metab*, Vol. 102, Issue 11, 1 November 2017, 3869–3903.; Berenbaum S., et al., Effects on gender identity of prenatal androgens and genital appearance: Evidence from girls with congenital adrenal hyperplasia. *J Clin Endocrinol Metab* 2003; 88(3): 1102-6; Dittmann R, et al., Congenital adrenal hyperplasia. I: Gender-related behavior and attitudes in female patients and sisters. *Psychoneuroendocrinology* 1990; 15(5-6): 401-20; Cohen-Kettenis P. Gender change in 46,XY persons with 5alpha-reductase-2 deficiency and 17beta-hydroxysteroid dehydrogenase-3 deficiency. *Arch Sex Behav* 2005; 34(4): 399-410; Reiner W, Gearhart J. Discordant sexual identity in some genetic males with cloacal exstrophy assigned to female sex at birth. *N Engl J Med* 2004; 350(4): 333-41.

instead asserts that sex is “determined at conception.” Levine Report ¶ 20. His only reference for that claim does not support it, but rather is a one-page, undated handout by the National Institutes of Health (“NIH”) Office of Research on Women’s Health on the topic of sex and gender influences on health. *Id.*<sup>2</sup> Dr. Levine’s repeated assertions that sex is “binary” (*e.g.*, Levine Report ¶ 24) ignore the extensive explanation in my initial report about the many differences of sex development that occur naturally in the population, affecting approximately one out of every 300 births. Adkins Report ¶¶ 47-49. The NIH recognizes “gender minorities” including transgender individuals. Indeed, the NIH has a whole section devoted to research to improve care for these populations as well as to ensure adequate inclusion of these populations in all research. (*See* NIH policy regarding Sexual and Gender Minorities, <https://dpcpsi.nih.gov/sgmro>.) A paper from Bhargava that Dr. Levine relies on in the Levine Report also goes into great detail about human reproductive development and how many other genes, hormones, and other processes that occur well after conception are necessary for typical male or female reproductive tracts to develop. The paper further supports the conclusion that there is wide variation in presentation of human reproductive organs depending on whether all of these steps occur appropriately. There are scientifically validated tools including the Prader Scale that are used to describe variability in external genitalia of humans at birth. These tools are widely used in endocrinology and urology.

8. In addition, Dr. Levine offers selective references to an NIH requirement to include “sex as a biological variable” in research, Levine Report ¶ 21, and an Endocrine Society statement authored by Bhargava, et al. with observations about applying that requirement. Levine Report ¶¶ 21-22. None of these sources contradict my opinions in this case.

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<sup>2</sup> *See id.* (citing National Institutes of Health, Office of Research on Women’s Health. *How Sex and Gender Influence Health and Disease*, [https://orwh.od.nih.gov/sites/orwh/files/docs/SexGenderInfographic\\_11x17\\_508.pdf](https://orwh.od.nih.gov/sites/orwh/files/docs/SexGenderInfographic_11x17_508.pdf)).



9. Dr. Levine also invokes human brain development and “differences between genders in function studies” to support his claim that sex is a binary concept established at birth, Levine Report ¶ 23, but ignores the literature showing that transgender women share some gender-differentiated brain structures with cisgender women, and that transgender men share some gender-differentiated brain structures with cisgender men. (*See* Bhargava et al. 2021.) Additionally, there are several studies that show an increase in the likelihood of being transgender with certain variations in the androgen receptor, as well as in utero exposure to certain hormones and hormone related medications.

10. Dr. Levine seeks to refute the biological underpinnings for transgender status by reference to supposed changes in incidence of gender dysphoria, changes in the ratio of transgender boys versus girls, alleged “clustering” among friend groups, claims of desistance, and nonscientific labels some individuals use such as gender fluidity. Levine Report ¶¶ 97-102. He also invokes these examples to contest the explanation in my initial report that gender identity is not subject to voluntary change. Adkins Report ¶ 18; *see also* Cantor Report ¶ 13. But the increase in the number of people known to be transgender in no way suggests that people’s gender identity can be changed. We are able to see and treat more transgender people now because of increased societal acceptance and improved medical treatments over the past decade. And that some people describe their gender as fluid does not mean that they can change their gender identity. Gender identity—whether cisgender, transgender, or something that does not fall into a binary male or female category—cannot be changed voluntarily or by external factors and is therefore fixed. That some people have changing understandings of their gender identity or express it differently at different times in no way changes that.

11. It is also not the case that there are high numbers of transgender people who “desist” in their transgender identity once they reach puberty. Adolescents with persistent gender dysphoria after reaching Tanner Stage 2 almost always persist in their gender identity in the long-term, whether or not they were provided gender-affirming care.<sup>3</sup> No medical treatment is provided to transgender youth until they have reached Tanner Stage 2. But for pre-pubertal children who may explore transgender identity and later realize that they are not transgender, that does not mean their gender identity is not “fixed” but rather that their understanding of it evolved.

12. Dr. Levine and Dr. Cantor misconstrue my statements in my opening report that differences of sex development help us understand the importance of one’s gender identity. Adkins Report ¶¶ 42-47. As I explained, surgical interventions undertaken on children with differences of sex development to supposedly normalize their genital structures, without adequate information about the child’s gender identity, have sometimes had disastrous results because gender identity cannot be involuntarily altered. Adkins Report ¶ 46. Dr. Levine asserts that it is “an error to conflate the two distinct concepts.” Levine Report ¶¶ 105-107; *see also* Cantor Report ¶¶ 25-26. But my testimony is not that having a difference of sex development and being transgender are the same, but that the similarities in these conditions help demonstrate that gender identity is deeply rooted for people who are transgender or intersex, just as for cisgender people. Dr. Levine suggests that if you identify with a gender other than those that are represented by your chromosomes that you are transgender. Levine Report ¶¶ 109-111. Under that inaccurate premise, all women with complete androgen insensitivity, who have XY chromosomes and cannot sense

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<sup>3</sup> Turban JL, DeVries ALC, Zucker K. Gender Incongruence & Gender Dysphoria. In Martin A, Bloch MH, Volkmar FR (Editors): *Lewis’s Child and Adolescent Psychiatry: A Comprehensive Textbook*, Fifth Edition. Philadelphia: Wolters Kluwer 2018.

testosterone at all, would also be categorized as transgender. Dr. Levine's theory is erroneous and does not represent my testimony, or the relevant science, on the matter.

13. Although in medicine we endeavor through research and scholarship to learn the causes of various conditions, illness, and diseases, we do not do so to the exclusion of providing decades-long documented safe and efficacious treatment to the patient immediately in front of us. Such is the case with gender-affirming care and patients with gender dysphoria. It is unnecessary for us to know the exact cause of a medical condition before we can provide treatment to alleviate distress and suffering. There are many other conditions in medicine that do not have a known genetic cause, and yet we still provide medical treatments that have been shown for decades to be helpful in treatment as we continue to study and learn more about their precise causes or etiologies. These conditions include autism as well as the multitude of different medical issues that affect people with Down syndrome. For example, I would not hesitate to treat someone with Down syndrome who has hyper- or hypo-thyroidism, which is common in this patient population, simply because I did not know the exact explanation or source for the hyper or hypo-thyroidism. In the medical profession, there are well-documented research and clear treatments for autism and Down syndrome, and I do not need to know the exact reason behind the condition before I would use those treatments to save the lives of my patients.

#### **TREATMENT PROTOCOLS FOR GENDER DYSPHORIA**

14. Dr. Levine offers a variety of opinions about treatment models for persons who are transgender, Levine Report ¶¶ 34-54, with an emphasis on treatment for prepubertal children. It is worth clarifying that opinions about this population are irrelevant to this case based on my understanding of H.B. 3293, which does not apply to elementary schools, and therefore generally does not affect prepubertal children. Additionally, while the vast majority of Dr. Levine's opinions

appear focused on the appropriate behavioral and medical care for minors with gender dysphoria, H.B. 3293 (which is about sports participation) does not have any effect on those decisions, which are reserved to parents, their children, and their team of medical and mental health care providers.

15. Dr. Levine and Dr. Cantor repeatedly express concerns about the purported lack of mental health evaluation before medical interventions are determined to be medically indicated for adolescents (*e.g.*, Levine Report ¶¶ 73, 83; Cantor Report ¶¶ 14, 19), but this misunderstands the standards of care and how practitioners administer this care. Both the Endocrine Society Clinical Practice Guideline (the “Endocrine Society Guideline”) and the World Professional Association of Transgender Health Standards of Care (the “WPATH SOC”) require mental health assessments and informed consent processes before any medical treatment is initiated. In my experience treating over 600 youth with gender dysphoria during my tenure at the Duke Center for Child and Adolescent Gender Care (commonly referred to as the Duke Gender Clinic), each patient undergoes a psychological assessment and, if medical interventions are deemed medically appropriate, an extensive informed consent process before such interventions are provided. Any and all decisions about medical care involve not just the adolescent, but also their legal guardians, ensuring that informed consent is provided both by the patient and adults responsible for their care. Additionally, Dr. Cantor’s suggestion that gender dysphoric children should be treated *exclusively* with counseling as opposed to any gender affirming medical care underscores his lack of clinical experience in providing any treatment whatsoever to this population. Cantor Report ¶ 17. Cantor’s assertion that my opinion about possible outcomes of untreated gender dysphoria misrepresents Spack et al.’s views or conclusions from the 2012 article are also unfounded. *Id.* Dr. Cantor cherry-picked various sentences from the Spack article and strung them together to fit his hypothesis, even going so far as to ignore the clear statement from the article that “Our

observations reflect the Dutch finding that psychological functioning improves with medical intervention and suggests that the patients' psychiatric symptoms might be secondary to a medical incongruence between mind and body, not primarily psychiatric." (Spack, *et al.*, 2012, at 422-23). Finally, Dr. Levine incorrectly and without evidence asserts that the role of psychotherapy in the treatment of gender dysphoria was "downgraded" in the WPATH SOC Version 7. Levine Report ¶¶ 70, 73. Dr. Levine's apparent concern is that if patients are not "required" to undergo psychotherapy for an arbitrary amount of time even when it is clear that medical treatment is indicated, advocates of conversion therapy like himself will be unable to "enable[e] a patient to return to or achieve comfort with the gender identity aligned with his or her biology"—in other words, to not be transgender. The medical community has learned a great deal from the harms inflicted on transgender patients by delaying medical intervention because of the faulty assumption that being transgender was an inherent pathology. Levine Report ¶ 5.

16. Contrary to Dr. Levine's suggestions, providers who treat patients do not encourage any patient to initiate gender-affirming care, nor do they rush patients into medical treatment. *See, e.g.*, Levine ¶¶ 123, 126. Nor does gender-affirming care consist of treatment "on-demand" as Dr. Cantor repeatedly suggests. *See, e.g.*, Cantor Report ¶ 45. Consistent with the WPATH SOC and the Endocrine Society Guideline, each patient in my clinic is met first by mental health providers who explore the patient's medical and mental health history and identity. When following the Standards of Care, no provider rushes any patient into any treatment, much less medical treatment, and no treatment is initiated without the mental health evaluations and a thorough informed consent process for patients and their guardians.

17. Dr. Levine and Dr. Cantor express a view that care should be withheld from adolescents so that they can be encouraged to identify with their birth-assigned sex. This view

contravenes the standard of care; encourages “conversion therapy,” which has been widely discredited as unethical and profoundly harmful; and is wholly unsupported by any scientific evidence, as both admit. Levine Report ¶ 49 (admitting that “there is no evidence beyond anecdotal reports that psychotherapy can enable a return” to identifying as one’s birth-assigned sex); Cantor Report ¶ 42 (admitting “there has not yet been any such study” that supports withholding care). Additionally, being deprived of access to medically necessary care for gender dysphoria can impose serious and potentially irreversible harms. Many physiological changes that happen during endogenous puberty cause severe distress for patients with gender dysphoria and can be difficult, if not impossible, to reverse with subsequent treatment. Based on my clinical experience, patients with severe dysphoria who are able to receive medically indicated treatment as adolescents experience substantial mental health improvements.

#### **WPATH IS A PROFESSIONAL MEDICAL ORGANIZATION**

18. Dr. Levine critiques WPATH because it is “a voluntary membership organization” and “attendance at its biennial meetings has been open to trans individuals who are not licensed professionals.” Levine Report ¶ 67. This critique is misplaced, as an organization can both advocate for patients and pursue rigorous scientific research, which WPATH and many other medical associations do. This is not an isolated or new phenomenon in medicine. The American Diabetes Association, for example, is a professional association that both advocates for patients with diabetes and is a scientific organization that conducts research, hosts meetings with open attendance, and reports on developments in the field. Similarly, rigorously researched papers are presented at the WPATH biennial meetings and well-funded scientific scholarship is reported on to other attendees. I have attended many of these meetings and have heard open, collegial and cordial debate. I have not had the experience suggested by Dr. Levine in the last decade, nor has

he, as he has admittedly not been a member of WPATH for more than two decades. Levine Report ¶ 66.

19. Dr. Levine additionally critiques WPATH and its members, claiming, “some current members of WPATH have little ongoing experience with the mentally ill” and recognizing and treating psychiatric comorbidities. Levine Report ¶ 73. In my clinic, as is recommended by the Endocrine Society Guideline, every patient is treated by a multidisciplinary team that includes a social worker, psychologist, psychiatrist, and endocrinologist. The mental health providers are all well-trained faculty and clinicians at Duke University Medical School with years of experience diagnosing and treating mental health conditions. For patients who have other mental health diagnoses, they are treated by a team of mental health providers before medical treatment for gender dysphoria is initiated. Clinic protocol requires written confirmation from the patient’s mental health team that any other underlying mental health conditions are well-managed, and the patient is able to begin treatment.

20. Similarly, Dr. Levine asserts that the 2017 Endocrine Society Guidelines are not “standards of care.” Levine Report ¶¶ 85-86. Dr. Levine misinterprets my testimony in that the titles of the clinical care recommendations based in the medical literature published by the Endocrine Society are all titled “clinical care guidelines.” These guidelines are meant to be useful to providers in this field, and are recommendations from the Endocrine Society to improve care for transgender individuals.

## **SAFETY AND EFFICACY OF TREATMENTS**

### ***Safety and Efficacy of Puberty-Delaying Treatment***

21. Puberty blockers have been used to treat patients with gender dysphoria since at least 2004 in the United States. We have almost 20 years of data showing the safety and efficacy

of this treatment for patients with gender dysphoria. We have over 30 years of data about the safety of this treatment based on data from treating children with precocious (i.e., early onset) puberty. Even with all of this supporting data, the Duke Gender Clinic still does not treat patients with a “one-size-fits-all approach” that Drs. Levine and Cantor proclaim exists. Not all patients who are experiencing their endogenous puberty when they present for care at our clinic are indicated for treatment with puberty blockers. This avenue of treatment is a case-by-case decision made with the expertise and thoughtful analysis of the entire multidisciplinary team, and with the patient and their family weighing the risks and benefits of each treatment path.

22. Though Dr. Levine warns throughout his report about delaying puberty, pubertal suppression in transgender youth does not delay puberty beyond the typical age range. Pubertal development has a very wide age variation among individuals. Puberty in individuals assigned male at birth typically begins anywhere from age nine to age 14, and sometimes does not complete until a person’s early twenties. For those individuals assigned female at birth, puberty typically occurs sometime within the ages of eight to 17, generally beginning between the ages of eight and 13. Protocols used to treat adolescents with gender dysphoria would tend to put them in the latter third of typical pubertal age ranges but nothing outside of the typical range.<sup>4</sup> Though some peers of a patient on pubertal suppression may undergo pubertal changes earlier than the gender dysphoric patient, many peers will have comparably timed or even later puberty. There is no data to support Dr. Levine’s assertion that delaying puberty within these normal age ranges will have negative social and developmental consequences, including Dr. Levine’s unsupported claim that

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<sup>4</sup> Hembree, W.C., Cohen-Kettenis, P.T., Gooren, L., et al. Endocrine Treatment of Gender-Dysphoric/Gender-Incongruent Persons: An Endocrine Society Clinical Practice Guideline. *The Journal of Clinical Endocrinology & Metabolism*. 2017; 102(11): 3869-903; Euling, S.Y., Herman-Giddens, M.E., Lee, P.A., et al. Examination of U.S. Puberty-Timing Data from 1940 to 1994 for Secular Trends: Panel Findings. *Pediatrics*. 2008; 121 (Supplemental 3): S172-S191.



transgender youth will experience psychosocial harms from their purportedly delayed puberty. Levine Report ¶ 192. Contrary to the suggestions by Dr. Cantor and Dr. Levine, my clinical experience has shown that adolescents who access needed gender-affirming medical treatment have improved social and romantic relationships and are able to develop positive peer relationships with cisgender and transgender people alike.

23. Dr. Levine claims that patients treated with puberty-delaying medication will experience a range of health consequences. Levine Report ¶¶ 185-94. For example, he says that patients treated with puberty suppressants will be at an elevated risk of lower bone density. Levine Report ¶ 186. During the course of treatment, patients may have reduced bone mineral density, but after two years on hormone therapy, their bone structure and strength generally matches that of cisgender people who went through the same puberty. This has been shown in research<sup>5</sup> and has also been my experience with patients. Additionally, studies have shown no changes in bone mineralization among patients with central precocious puberty treated with pubertal suppression for a period of four years.<sup>6</sup> As with all of the risks of puberty suppression, the risks related to bone mineralization and the state of the evidence are discussed extensively with patients and their parents during the informed consent process.

24. Dr. Levine's claim that brain development occurring during puberty is negatively affected by pubertal suppression is not accurate. Levine Report ¶ 187. Patients with gender dysphoria who are treated with puberty-delaying medication undergo hormonal puberty with all

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<sup>5</sup> van der Loos, M.A., Hellinga, I., Vlot, M.C., et al. Development of Hip Bone Geometry During Gender-Affirming Hormone Therapy in Transgender Adolescents Resembles That of the Experienced Gender When Pubertal Suspension Is Started in Early Puberty. *Journal of Bone and Mineral Research*. 2021; 36(5): 931-41. doi: <https://doi.org/10.1002/jbmr.4262>.

<sup>6</sup> Park, H.K., Lee, H.S., Ko, J.H., et al. The effect of gonadotrophin-releasing hormone agonist treatment over 3 years on bone mineral density and body composition in girls with central precocious puberty. *Clinical Endocrinology*. 2012; 77(5): 743-48.

the same brain and other bodily system development.<sup>7</sup> Dr. Levine's claim is inaccurate for the additional reason that some people never go through hormonal puberty, such as patients with Turner Syndrome, and still have normal brain development with respect to cognition and executive function. His claim also seems to imply that youth with gender dysphoria have their puberty delayed beyond the typical age range, but, as I discussed above, this is not accurate. He also implies that gender dysphoric youth treated with pubertal suppression remain on puberty blockers longer than those treated for precocious puberty. Levine Report ¶ 184. This is also not accurate. The longest period of time that my patients with gender dysphoria are treated with pubertal suppression before the introduction of pubertal hormones is approximately three years. By contrast, many patients with precocious puberty are treated with pubertal suppression for five to seven years.

25. As I explained in my initial report, Adkins Report ¶ 30, puberty-delaying medication simply pauses development at the stage it has reached at the time treatment is initiated. On its own, pubertal-delaying medication has no permanent effects on the maturation of sexual organs. For patients treated with puberty blockers who do not go on to gender-affirming hormones, once they stop taking blockers, puberty—including maturation of sexual organs—resumes. Dr. Levine's concerns about potentially diminished sexual response are also misplaced. Levine Report ¶ 199. For transgender women on estrogen who experience sexual side effects from the treatment, these are effectively managed through dosing as well. None of these side effects are inevitable, unmanageable, or unique to this treatment, and all potential side effects are discussed with patients

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<sup>7</sup> Staphorsius, A. S., Kreukels, B. P., Cohen-Kettenis, P. T., et al. Puberty suppression and executive functioning: An fMRI-study in adolescents with gender dysphoria. *Psychoneuroendocrinology*. 2015; 56: 190-99. doi: <https://doi.org/10.1016/j.psyneuen.2015.03.007>.

during the informed consent process required to initiate treatment. And, in my experience, many patients experience no side effects whatsoever from treatment, and instead experience exactly their intended effect: the diminishment of distress caused by untreated gender dysphoria. There is also data that shows that the majority of transgender individuals see an improvement in their sexual satisfaction after gender-affirming care.

26. Dr. Levine’s theories about the unknown impact of puberty blockers on fertility and the supposed “irreversibility” of this treatment are again uninformed. Levine Report ¶¶ 179, 180, 185. In addition to treating precocious puberty and gender dysphoria, puberty blockers are used to *preserve* gonadal function and ensure fertility when patients undergo gonadotoxic treatments. For example, puberty blockers have been shown to protect gonadal function and preserve fertility in patients undergoing cancer and rheumatologic treatment.<sup>8</sup> Puberty delaying medication is supported as the standard of care to preserve fertility in oncology patients who may undergo gonadal injuring treatments. When patients are no longer undergoing this treatment, their natal gonads resume their normal function and development. It is precisely for this reason, and for the decades of safe and efficient use of these treatments for children with precocious puberty that puberty blockers are relied upon as the least invasive intervention for medical treatment of gender dysphoria.

27. An additional claim by Dr. Levine that lacks evidentiary bases is that an “irreversible” and “inevitable” outcome of the administration of puberty blockers is the later use

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<sup>8</sup> Int J Rheum Dis. 2018 Jun ; 21(6):1287-1292. doi: 10.1111/1756-185X.13318.

Effect of a gonadotropin-releasing hormone analog for ovarian function preservation after intravenous cyclophosphamide therapy in systemic lupus erythematosus patients: a retrospective inception cohort study; nt J Mol Sci 2020 Oct 21;21(20):7792. doi: 10.3390/ijms21207792.

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Hyun-Woong Cho, et al.

of hormone therapy. In contrast to Dr Levine’s baselessly imagined world of unethical medical professionals, in actual medical practice in actual medical clinics like mine, no treatment is decided in advance for every single patient, and that is a foremost standard of care. While the majority of my patients who undergo puberty delaying treatment do go on to initiate hormone therapy, some do not. Dr. Levine’ imbedded premise is that puberty blockers work as a cause-and-effect mechanism for later use of hormone therapy, but that misses reality entirely, when the cause for any medical treatment is the appropriate management of gender dysphoria with the goal of finding the best treatment possible for each patient, without a predetermined idea of what that will be.

28. Finally, Dr. Levine makes it appear as if the Endocrine Society has significant reservations about puberty-delaying treatment by again misquoting and misrepresenting quoted portions of the 2017 Guidelines. Levine Report ¶¶ 87, 188. To begin with, Dr. Levine asserts that on page 3872, the Guidelines “go no further than ‘suggest[ing]’ use of puberty blockers.” *Id.* ¶ 87. This quote can be found nowhere on page 3872. Instead, in the abstract section labeled “Conclusion” beginning on the first page of the Guidelines (3869) and continuing onto page 3870 is the direct quote “We *recommend* treating gender-dysphoric/gender-incongruent adolescents who have entered puberty at Tanner Stage G2/B2 by suppression with gonadotropin-releasing hormone agonists.” (emphasis added). Levine then goes on to quote several disconnected sentences from the Guidelines out of context as support for his wholly unsupported hypothesis that there is a “negative impact” on brain development of adolescents treated with puberty delaying medication. Levine Report ¶¶ 187-88. Notably, while Dr. Levine offers no insight about the impact of the anxiety, depression, and overall distress caused by untreated gender dysphoria on adolescent brain development, he maintains that the Guidelines support his unsubstantiated hypothesis by “acknowledging as much.” Levine Report ¶ 188. The Guidelines do no such thing; instead they

merely acknowledge the data existing at the current moment, and like any field of medicine, the need for additional study and information. For example, Dr. Levine’s first out of context quote ignores the Guidelines’ following statements from the same page that “[i]nitial data in GD/gender-incongruent subjects demonstrated *no change* of absolute areal BMD [bone mineral density] during 2 years of GnRH analog therapy but a decrease in BMD z scores.” The Guidelines also note, and Levine omits, that “[r]esearchers reported normal BMD z scores at age 35 years in one individual who used GnRH analogs from age 13.7 until age 18.6 years before initiating sex hormone treatment.” Additionally, Dr. Levine leaves out the entire first half of the sentence before his reference to “animal data,” from page 3883, which in complete form states that “[a] single cross-sectional study demonstrated no compromise of executive function.” Regardless of Dr. Levine’s mischaracterizations of the purpose or words of the Endocrine Society Guidelines, in the five years since they were published, additional research has been completed by clinicians and researchers in the area, resulting in findings like those recently included in a study in the Best Practice & Research Clinical Endocrinology and Metabolism: “With more than 30 years of experience, we can affirm that GnRHa treatment is safe. The most frequently documented side effects are headaches and hot flashes.”<sup>9</sup>

### ***Safety and Efficacy of Hormone Therapy***

29. Dr. Levine expresses concern that the evidence supporting hormone therapy for treatment of gender dysphoria is graded as low quality. Levine Report ¶¶ 144-47. It is common that standard treatments in medicine generally, and endocrinology specifically, receive reviews that the quality of evidence is “low” or “very low” because of the evidence available at the moment

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<sup>9</sup> Leandro Soriano-Guillén, Jesús Argente, Central precocious puberty, functional and tumor-related, Best Practice & Research Clinical Endocrinology & Metabolism, Volume 33, Issue 3, 2019, 101262, ISSN 1521-690X, <https://doi.org/10.1016/j.beem.2019.01.003>.

a review is conducted and because of the limited and rigid definitions of “evidence” used by the reviewing organizations. For example, the Endocrine Society also has a Clinical Practice Guideline for the Treatment of Pediatric Obesity which was released the same year as the Endocrine Society Guideline for the Treatment of Gender Dysphoric Persons. In the Pediatric Obesity Guideline, the Guideline’s strong recommendation for the prevention of obesity is that clinicians prescribe “healthy eating habits”—an obviously time-tested and well-founded recommendation—but this recommendation has a “very low” quality rating of the evidence—just like puberty blockers. Similarly, the Cochrane Database of Systemic Reviews on which Dr. Levine relies has similar levels of evidence for treatments that are standard of care in medicine. For example, in 2021 the Cochrane Database provided a review of “early versus delayed appendectomy for abscess.” Despite appendectomies being one of the oldest and most common surgical procedures completed on children in the United States, the Cochrane Review looked at 66 years’ worth of study and research and found just two studies with 80 total patients that were acceptable for their review and from that data deemed that the evidence is “of very low quality.” (Cochrane Database 2017).

30. Finally, Dr. Levine’s assertion that random control trials are necessary in order to establish any worthwhile science on the safe and effective medical treatment for gender dysphoria is unethical. When withholding treatment is more dangerous (likely to result in death or injury) than providing that treatment, clinicians will, with informed consent and appropriate screening mechanisms, use that treatment even if the amount of evidence supporting the treatment is not vast. In the case of gender-affirming hormone therapy, available data supports that these treatments lower suicide attempts and suicidal ideation as much as four-fold. When combined with the fact that the second leading cause of death in all adolescents is suicide, there are ample

reasons to utilize this treatment pathway even if evidence does not meet the stringent levels of the Cochrane Review. Significantly, there are no reported deaths in youth from receiving puberty blockers or hormone therapy. Given that withholding this care increases the likelihood of death, it is unethical to do so in order to perform a randomized control trial (“RCT”). RCTs are only ethically performed between treatments that are at equal in treating a condition. Providing gender-affirming care to transgender young people and not providing it are not equal in treating the condition, as decades of evidence of the death of transgender individuals before gender-affirming hormone treatments were available demonstrate.

31. Dr. Levine warns of risks of infertility related to gender-affirming hormone therapy, Levine Report ¶ 197, but many transgender individuals conceive children both during and after undergoing hormone therapy.<sup>10</sup> Pregnancy among trans men after undergoing testosterone therapy is very common.<sup>11</sup> A recent eight-year study found that four months after stopping testosterone treatment, transgender men had comparable egg yields to non-transgender women.<sup>12</sup> Going directly from pubertal suppression to gender-affirming hormones does affect fertility. For these patients, and any patients treated with estrogen, who are concerned about the impact of estrogen

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<sup>10</sup> Light A.D., Obedin-Maliver J., Sevelius J.M., et al. Transgender men who experienced pregnancy after female-to-male gender transitioning. *Obstetrics Gynecology*. 2014; 124(6): 1120-27; Maxwell S., Noyes N., Keefe D., Berkeley A.S., et al. Pregnancy Outcomes After Fertility Preservation in Transgender Men. *Obstetrics Gynecology*. 2017; 129(6):1031-34; Neblett M.F. & Hipp H.S. Fertility Considerations in Transgender Persons. *Endocrinology and Metabolism Clinics*. 2019; 48(2): 391-402.

<sup>11</sup> See, e.g., Moseson, H., Fix, L., Hastings, J., et al. Pregnancy intentions and outcomes among transgender, nonbinary, and gender-expansive people assigned female or intersex at birth in the United States: Results from a national, quantitative survey. *International Journal of Transgender Health*. 2020; 22(1-2): 30-41. doi: .

<sup>12</sup> Leung, A., Sakkas, D., Pang, S., et al. Assisted reproductive technology outcomes in female-to-male transgender patients compared with cisgender patients: a new frontier in reproductive medicine. *Fertility and Sterility*. 2019; 112(5): 858-65.

on fertility, fertility preservation remains a viable option we communicate to patients. More generally, many medical interventions necessary to preserve a person's health and well-being can impact an individual's fertility, but as with virtually every decision in medicine, we carefully weigh the risks and the benefits of treatment and proceed with the treatment after informed consent.

32. Dr. Levine asserts that transgender people “most likely [] require regular administration of hormones for the rest of their lives.” Levine Report ¶ 129. Some patients may take hormones for some number of years and then decide to discontinue the treatment if dysphoria is well-managed. For those who do remain on maintenance doses of hormone therapy for their lifetime, the risks of ongoing hormone therapy can be well-managed and are not unlike risks associated with those present for other patients who undergo long-term hormone therapy for different conditions like hypothyroidism, Klinefelter's Syndrome, Turner Syndrome, or hypopituitarism. Generally, in endocrinology, our treatment goals for all patients are to maintain hormone levels at the range of normal human physiology, regardless of a person's chromosomes, reproductive anatomy, or gender identity. When this is done, the body knows no difference in the source of the hormones and functions in normal physiologic fashion, regardless of whether the patient is cisgender or transgender.

33. Ultimately, Dr. Levine's and Dr. Cantor's reports reveal a central opinion is that it is not healthy to be transgender and that government policies and medical practice should undertake efforts to make people not transgender (*i.e.*, use endless psychotherapy to encourage people to live in accordance with their assigned sex at birth rather than their gender identity, deny them medical treatment when it is indicated, ignore their distress unless science and medicine is 100 percent certain there is no possible risk to any intervention). This approach to the management of any condition is counter to medicine and science overall. And attempts to “treat” transgender



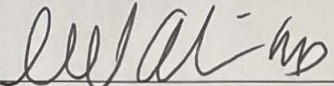
people in this manner is historically well-known to be not only entirely ineffective, but to be extremely harmful and is considered unethical by every major medical association.<sup>13</sup> My clinical experience and the peer-reviewed literature overwhelmingly demonstrate that gender-affirming medical care drastically improves the health and well-being of adolescents with gender dysphoria for whom the care is medically indicated.

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<sup>13</sup> American Academy of Child & Adolescent Psychiatry. Conversion Therapy. 2018. [https://www.aacap.org/AACAP/Policy\\_Statements/2018/Conversion\\_Therapy.aspx](https://www.aacap.org/AACAP/Policy_Statements/2018/Conversion_Therapy.aspx); American Medical Association. Health care needs of lesbian, gay, bisexual and transgender populations. H-160.991. 2017. <https://policysearch.ama-assn.org/policyfinder/detail/H-160.991%20?uri=%2FAMADoc%2FHOD.xml-0-805.xml/>

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on this 10<sup>th</sup> day of March 2022.

  
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Deanna Adkins, M.D.

## DUKE UNIVERSITY MEDICAL CENTER

## CURRICULUM VITAE

Date Prepared: January 21, 2022

Name:	Deanna Adkins, BS, MD
Primary Academic Appointment:	Associate Professor of Pediatrics, Career Track
Primary Academic Department :	Pediatrics
Secondary Appointment :	n/a
Present Academic Rank and Title :	Associate Professor
Date and Rank of First Duke Faculty Appointment:	July 1, 2004 Clinical Associate
Medical Licensure:	Since March 15, 2001
License #:	200100207 NC
Date:	06/29/2022 expires
Specialty Certification(s) and Dates:	10/16/2001-2018 General Pediatrics 8/18/2003 and current-Pediatric Endocrinology
Date of Birth:	06/29/1970
Place:	Albany, GA USA
Citizen of:	USA
Visa Status:	n/a

Education	Institution	Date (Year)	Degree
High School	Tift County High School	1988	Graduated with High Honors
College	Georgia Institute of Technology	1993	BS Applied Biology/Genetics High Honors

<b>Education</b>	<b>Institution</b>	<b>Date (Year)</b>	<b>Degree</b>
Graduate or Professional School	Medical College of Georgia	1997	MD

### **Professional Training and Academic Career**

<b>Institution</b>	<b>Position/Title</b>	<b>Dates</b>
University of North Carolina Hospitals, Chapel Hill, North Carolina	Pediatrics Resident	1997-2000
University of North Carolina Hospitals, Chapel Hill, North Carolina	Pediatric Endocrine Fellow	2000-2004
Duke University Medical Center, Durham, North Carolina	Clinical Associate/Medical Instructor	2004-2008
Duke University Medical Center, Durham, North Carolina	Assistant Professor Track IV	2008-2020
Duke University Medical Center, Durham, North Carolina	Fellowship Program Director Pediatric Endocrinology- Associate PD-	2008-2010 & 2014-12/2019 2010-2014
Duke University Medical Center, Durham, North Carolina	Director Duke Child and Adolescent Gender Care Clinic	July 2015-present
Duke University Medical Center, Durham, North Carolina	Medical Director-Duke Children's Specialty of Raleigh	3/2017-1/2022
Duke University Medical Center, Durham, North Carolina	Associate Professor Pediatrics	1/2020-present
Duke University Medical Center, Durham, North Carolina	Co-Clinical Lead Duke Sexual and Gender Wellness Program	10/2021-present

## Publications

### Refereed Journals

### Original Manuscripts:

1. Zeger M, **Adkins D**, Fordham LA, White KE, Schoenau E, Rauch F, Loechner KJ. ” Hypophosphatemic rickets in opsismodysplasia,” J Pediatr Endocrinol Metab. 2007 Jan;20(1):79-86. PMID: 17315533
2. Worley G, Crissman BG, Cadogan E, Milleson C, **Adkins DW**, Kishnani PS “Down Syndrome Disintegrative Disorder: New-Onset Autistic Regression, Dementia, and Insomnia in Older Children and Adolescents With Down Syndrome”.. J Child Neurol. 2015 Aug;30(9):1147-52. doi: 10.1177/0883073814554654. Epub 2014 Nov 3.PMID:25367918
3. Tejwani R, Jiang R, Wolf S, **Adkins DW**, Young BJ, Alkazemi M, Wiener JS, Pomann GM, Purves JT, Routh JC,” Contemporary Demographic, Treatment, and Geographic Distribution Patterns for Disorders of Sex Development”.Clin Pediatr (Phila). 2017 Jul 1:9922817722013. doi: 10.1177/0009922817722013. PMID:28758411
4. Lapinski J1, Covas T2, Perkins JM3, Russell K4, **Adkins D** 5, Coffigny MC6, Hull S7. “Best Practices in Transgender Health: A Clinician's Guide Prim Care”. 2018 Dec;45(4):687-703. doi: 10.1016/j.pop.2018.07.007. Epub 2018 Oct 5. PMID: 30401350 DOI: 10.1016/j.pop.2018.07.007
5. Paula Trief, Nicole Foster, Naomi Chaytor, Marisa Hilliard, Julie Kittelsrud, Sarah Jaser, Shideh Majidi, Sarah Corathers, Suzan Bzdick, **Adkins DW**, Ruth Weinstock; “Longitudinal Changes in Depression Symptoms and Glycemia in Adults with Type 1 Diabetes”, Diabetes Care; 2019 Jul;42(7):1194-1201. doi: 10.2337/dc18-2441. Epub 2019 May; PMID: 31221694
6. Mann, Courtney M., Kristen Russell, Alexy Hernandez, Nicole Lucas, Erik Savereide, Dane R. Whicker, **Deanna W. Adkins**, Nancy L. Zucker, Raye Dooley, and Bryce B. Reeve. “Concept elicitation for the development of quality measures in transgender health.” In *Quality of Life Research*, 28:S104–S104. SPRINGER, 2019.

7. M. Hassan Alkazemi, MD, MS, Leigh Nicholl, MS, Ashley W. Johnston, MD, Steven Wolf, MS, Gina-Maria Pomann, PhD, Diane Meglin, MSW, **Deanna Adkins, MD**, Jonathan C. Routh, MD, MPH; Community Perspectives on Difference of Sex Development (DSD) Diagnoses: a Crowdsourced Survey, 2020 Jun;16(3):384.e1-384.e8. doi: 10.1016/j.jpuro.2020.03.023. Epub 2020 Apr 27. PMID: 32409277
8. McGuire H, Frey L, Woodcock LR, Dake E, Carl A, Matthews D, Russell K, **Adkins DA** "Differences in Patient and Parent Informant Reports of Depression and Anxiety Symptoms in a Clinical Sample of Transgender and Gender Diverse Youth" *LGBT Health* 2021-LGBT Health. Aug-Sep 2021;8(6):404-411. doi: 10.1089/lgbt.2020.0478. Epub 2021 Aug 12
9. Lund A, **Adkins DA**, Simmons C, "Simulation-Based Teaching to Improve Perioperative Care of Transgender Patients". In press. *Clinical Simulation in Nursing*

#### Non Author publications

1. Turner DA, Curran ML, Myers A, Hsu DC, Kesselheim JC, Carraccio CL and the Steering Committee of the Subspecialty Pediatrics Investigator Network (SPIN). Validity of Level of Supervision Scales for Assessing Pediatric Fellows on the Common Pediatric Subspecialty Entrustable Professional Activities. *Acad Med*. 2017 Jul 11. doi: 10.1097/ACM.0000000000001820. PMID:28700462
2. Mink R, Carraccio C, High P, Dammann C, McGann K, Kesselheim J, Herman B. Creating the Subspecialty Pediatrics Investigator Network (SPIN). *Creating the Subspecialty Pediatrics Investigator Network* Richard Mink, MD, MACM1, Alan Schwartz, PhD2, Carol Carraccio, MD, MA3, Pamela High, MD4, Christiane Dammann, MD5, Kathleen A. McGann, MD6, Jennifer Kesselheim, MD, EdM7, *J Peds* 2018 Jan;192:3-4.e2. PMID: 29246355 DOI: 10.1016/j.jpeds.2017.09.079
3. Erratum 2018. PMID: 29246355 DOI: [10.1016/j.jpeds.2017.09.079](https://doi.org/10.1016/j.jpeds.2017.09.079)
4. [Mink RB<sup>1</sup>](#), [Myers AL](#), [Turner DA](#), [Carraccio CL](#). Competencies, Milestones, and a Level of Supervision Scale for Entrustable Professional Activities for Scholarship. *Acad Med*. 2018 Jul 10. doi: 10.1097/ACM.0000000000002353. [Epub ahead of print] PMID: 29995669 DOI:[10.1097/ACM.0000000000002353](https://doi.org/10.1097/ACM.0000000000002353) Mink RB, Schwartz A, Herman BE,

#### Editorials

- a. Editorial Charlotte News and Observer-“**NC pediatric specialists say HB2 ‘flawed’ and ‘harmful,’ call for repeal**”; April 18, 2016; authors: Deanna Adkins, Ali Calikoglu, Nina Jain, Michael Freemark, Nancie MacIver, Robert Benjamin, Beth Sandberg, etc.
- b. Editorial Raleigh News and Observer-“**Beverly Gray: Repeal HB2**” May 2016: authors Beverly Gray, Deanna Adkins, Judy Sidenstein, Jonathan Routh, Haywood Brown, Clayton Afonso, William Meyer, Kristen Russell, Caroline Duke, Nancy Zucker, Kevin Weinfurt, Jennifer St. Claire, Angela Annas, Katherine Keitcher

### Chapters in Books

1. Endocrinology Chapter writer and editor in **Fetal and Neonatal Physiology for the Advanced Practice Nurse**; Editors: Amy Jnah DNP, NNP-BC, Andrea Nicole Trembath MD, MPH, FAAP. December 21, 2018 ISBN-10 0826157319
2. Chapter in **Dental Clinics of North America Adolescent Oral Health Edition** Understanding and Caring for LGBTQ+ Youth for the Oral Health Care Provider; Authors Joshua Raisin, DDS, Deanna Adkins MD, Scott B. Schwartz, DDS, MPH. 2021
3. Intersex Identity and Gender Assignment; **Encyclopedia of Adolescent Health**; Editor Brian Eichner, MD; Author Deanna Adkins MD 2021-pending

### Selected Abstracts:

1. Redding-Lallinger RC, **Adkins DW**, Gray N: The use of diaries in the study of priapism in sickle cell disease. Poster Abstract in Blood November 2003
2. **Adkins, D.W.** and Calikoglu, A.S.: Delayed puberty due to isolated FSH deficiency in a male. Pediatric Research Suppl. 51: Abstract #690. page 118A, 2004
3. Zeger, M.P.D., **Adkins, D.W.**, White, K., Loechner, K.L.: Opsismodysplasia and Hypophosphatemic Rickets. Pediatric Research Suppl.-from PAS 2005
4. Kellee M. Miller<sup>1</sup>, David M. Maahs<sup>2</sup>, **Deanna W. Adkins**<sup>3</sup>, Sureka Bollepalli<sup>4</sup>, Larry A. Fox<sup>5</sup>, Joanne M. Hathway<sup>6</sup>, Andrea K. Steck<sup>2</sup>, Roy W. Beck<sup>1</sup> and Maria J. Redondo<sup>7</sup> for the T1D Exchange Clinic Network; Twins Concordant for Type 1 Diabetes in the T1D Exchange -poster at ADA scientific sessions 6/2014
5. Laura Page, MD; Benjamin Mouser, MD; Kelly Mason, MD; Richard L. Auten, MD; **Deanna Adkins, MD** CHOLESTEROL SUPPLEMENTATION IN SMITH-LEMLI-OPITZ: A Case of Treatment During Neonatal Critical Illness; - poster 06/2014
6. Lydia Snyder, **MD, Deanna Adkins, MD**, Ali Calikoglu, MD; Celiac Disease and Type 1 Diabetes: Evening of Scholarship UNC Chapel Hill 3/2015 poster
7. **Deanna W. Adkins, MD**, Kristen Russell, LCSW, Dane Whicker, PhD, Nancy Zucker, Ph. D: Departments of Pediatrics and Psychiatry, Duke University Medical Center; Evaluation of Eating Disturbance and Body Image Disturbance in the Trans Youth Population; WPATH International Scientific Meeting June 2016; Amsterdam, The Netherlands

8. Rohit Tejwani, **Deanna Adkins**, Brian J. Young, Muhammad H. Alkazemi, Steven Wolf<sup>3</sup>, John S. Wiener, J. Todd Purves, and Jonathan C. Routh; Contemporary Demographic and Treatment Patterns for Newborns Diagnosed with Disorders of Sex Development; Poster presentation at AUA meeting 2016
9. S.A. Johnson, **D.W. Adkins**, Case Report: The Co-diagnosis of Hypopituitarism with Klinefelter in a patient with short stature; Pediatric Academic Society Meeting 2018
10. Lapinski J, Dooley R, Russell K, Whicker D, Gray, B, **Adkins DW**; **Title:** Developing a Pediatric Gender Care Clinic at a Major Medical Setting in the South; Workshop Philadelphia Trans Wellness Conference 2018
11. Jessica Lapinski, DO, Deanna Adkins, MD, Tiffany Covas, MD, MPH, Kristen Russell, MSW, LCSW; An Interdisciplinary Approach to Full Spectrum Transgender Care; WPATH Conference Buenos Aires, Argentina, November 3, 2018
12. Leigh Spivey, MS, Nancy Zucker, PhD, Erik Severiede, B.S., Kristen Russell, LCSW, Deanna Adkins, MD; USPATH Washington, DC Sept. 2019. Platform presentation; “Psychological Distress Among Clinically Referred Transgender Adolescents: A latent Profile Analysis”

#### Non-Refereed Publications

- i. Print
  - i. Editorial Charlotte News and Observer-“**NC pediatric specialists say HB2 ‘flawed’ and ‘harmful,’ call for repeal**”; April 18, 2016
  - ii. Editorial News and Observer-HB2 May 2016 -“**Beverly Gray: Repeal HB2**” May 2016
- ii. Digital
  - i. Supporting and Caring for Transgender Children-HRC guide 2017
  - ii. Initial endocrine workup and referral guidelines for primary care Providers- Pediatric Endocrine Society Education Committee Website Publication
  - iii. Only Human Podcast August 2, 2016;  
<https://www.wnycstudios.org/podcasts/onlyhuman/episodes/id-rather-have-living-son-dead-daughter>
- iii. Media and Community Interviews
  - i. Greensboro News and Record Community Forum October 2017-*Transgender Panel Moderator*
  - ii. Playmakers Repertory Company-Chapel Hill: *Draw the Circle* Transgender Community Panel 2017
  - iii. Duke Alumni Magazine
  - iv. Duke Stories
  - v. DukeMed Alumni Magazine
  - vi. NPR Podcast Only Human piece on caring for transgender youth and follow up piece 1 year later
  - vii. ABC11, WRAL, WNCN News Coverage
  - viii. News and Observer: Charlotte and Raleigh
  - ix. Duke Chronicle and Daily Tarheel Article
  - x. Huffington Post Article



- xi. <https://www.businessinsider.com/the-olympics-uses-testosterone-to-treat-trans-athletes-like-cheaters-2021-7>
- xii. <https://www.wral.com/top-transgender-doctor-warns-teen-treatment-ban-could-be-deadly/19618762/>
- xiii. <http://www.ncpolicywatch.com/2021/04/07/experts-bills-targeting-trans-people-get-the-science-wrong/>

### Published Scientific Reviews for Mass Distribution

### Position and Background Papers

### Other Publications

### **Editorial Experience**

Editorial Boards

Ad Hoc scientific review journals

Hormone Research, Lancet, NC Medical journal, Journal of Pediatrics, Pediatrics, Transgender Health, International Journal of Pediatric Endocrinology, Journal of Adolescent Health

### **Consultant Appointments**

North Carolina Newborn Screening Committee

Human Rights Campaign Transgender Youth Advisory Board

### **Scholarly Societies**

### **Professional Awards and Special Recognitions**

ESPE Fellows Summer School, 2001

NIH Loan Repayment Program Recipient

Lawson Wilkins AstraZeneca Research Fellow,  
2003-2004

HEI 2017 Leaders in LGBTQ Healthcare  
Equality

Inside Out Durham Appreciation Award

Duke Health System Diversity and Inclusion  
Award January 2018

America's Top Doctor's 2020, 2021

Duke Health System Diversity and Inclusion  
Award January 2020- CDHD Course Team

Teaching for Equity Fellow 2021

**Organizations and Participation**

<b>Organization</b>	<b>Role</b>	<b>Dates</b>
American Academy of Pediatrics	Member Council on Information Technology Member Reviewer COCIT Member Section on Endocrinology	1998 to present    2004 to present
Pediatric Endocrine Society	Member Member Education Committee SIG member-Transgender, DSD, liaison to Advocacy SIG Writer Web Publication for Pediatricians	2000 to present
NC Pediatric Society	Member	1998 to present
Endocrine Society	Member	2000 to present
WPATH-International Transgender Society	Member	2014 to present

**External Support**

<u>Approximate Duration</u>	<u>PI</u>	<u>% Effort</u>	<u>Purpose</u>	<u>Amount Duration</u>
<u>Past</u>	<u>JAEB Center- Deanna Adkins</u>	0.5%	<u>Type 1 diabetes research</u>	<u>\$ 5yr</u>
<u>Past</u>	<u>Josiah Trent Foundation Grant-Deanna Adkins</u>	0.5%	<u>Transgender and eating disorder research</u>	<u>\$5000 3 yr</u>
<u>Pending: Submitted</u>	<u>NIH-Kate Whetten</u>	0.1%	<u>Analysis of TransgenderHealth in Adolescents in Rural Africa, India, and Thailand</u>	<u>Consultant</u>

<u>Approximate Duration</u>	<u>PI</u>	<u>% Effort</u>	<u>Purpose</u>	<u>Amount Duration</u>
<u>Re-Submitting June 2022</u>	<u>NIH R21 Deanna Adkins</u>	2%	Development of New Gender Dysphoria Measures in Youth	<u>Co PI</u>
<u>ReSubmitting February 2022</u>	<u>NIH R21 Sarah Legrand</u>	2%	Glow and Grow	<u>consultant</u>
<u>Submitted November 2020</u>	<u>CMS-Deanna Adkins and Rob Benjamin</u>	1%	<u>Innovations Grant</u>	<u>Co PI 3 yrs</u>
<u>Gifts</u>	<u>Private Family</u>		Multiple including leadership training initiatives as well as other LGBTQ work	<u>Approx. \$18,000 Unlimited duration</u>

### Mentoring Activities

Faculty	
Fellows, Doctoral, Post docs	<b>Nancie MacIver-fellow</b>
	<b>Dorothee Newbern-fellow</b>
	<b>Krystal Irizarry-fellow</b>
	<b>Kelly Mason-fellow</b>
	<b>Laura Page-fellow</b>
	<b>Elizabeth Sandberg fellow UNC</b>
	<b>Dane Whicker-psychology post doc</b>
	<b>Leigh Spivey-psychology post doc</b>
	<b>Joey Honeycutt, Chaplain Intern</b>
	<b>Kathryn Blew-research mentor</b>
Residents	<b>Yung-Ping Chin-mentor</b>
	<b>Kristen Moryan-mentor</b>
	<b>Jessica Lapinski-mentor</b>
	<b>Kathryn Blew-research mentor</b>
	<b>Matthew Pizzuto, Briana Scott-Coach, Laura Hampton Coach</b>

Medical students	<b>Tulsi Patel-continuity clinic mentor</b> <b>Ernest Barrel-continuity clinic mentor</b> <b>Sonali Biswas-research mentor 3<sup>rd</sup> year project</b> <b>Katha Desai-research mentor 3<sup>rd</sup> year project</b>
Undergraduates	<b>Erik Severeide-Duke University</b> <b>Lindsay Carey-Dickinson College</b> <b>Jeremy Gottlieb-Duke University</b> <b>Jay Zussman-Duke University</b>
High School Students	<b>Aeryn Colton-Intern Apex High School</b>
Graduate Student MBS program	<b>Nicholas Hastings</b>
UNC Gillings School of Public Health MPH students	<b>Lauren Frey, Emily Dake, Alexandra Carle, Lindsay Woodcock, Hunter McGuire</b>
Nurse Practitioners	<b>ECU, Duke-multiple</b>
DNP candidates	<b>Ethan Cicero-PhD committee member</b> <b>Amanda Lund-PhD committee member</b>
Pediatric Dental Fellow UNC	<b>Joshua Raisin-research associate</b>

## Education / Teaching Activities

### Didactic classes

#### High School

- c. Cary Academy: Work Experience Program 2021

#### Undergraduate

1. Creating Excellence and Ambulatory Nursing 2008
2. Profile in Sexuality Research Series at Duke CGSD 2016
3. Duke School of Nursing BSN Course on Sexual and Gender Health guest lecturer: fall 2017, spring 2018, fall 2018, spring 2019, fall 2019, spring 2020, fall 2020, spring 2021, fall 2021
4. Duke School of Nursing Lecture on Transgender Care-recorded for reuse
5. Duke Physician Assistant Program guest lecturer; fall 2017, spring 2018
6. Duke Global Health Course guest lecturer fall 2016
7. Duke Neuroscience course on Gender and Sex guest lecturer fall 2016
8. Duke Ethics Interest group guest lecturer fall 2018, 2020
9. Duke EMS group lecture fall 2018
10. Duke Physician Assistant Program LGBTQ+ Rotation Educator 2019 to present
11. Global Health Sexual and Gender Minority Seminar Lecturer 2020

**UME:**

1. Cultural Determinants of Health and Health Disparities Course: Facilitator and developed one class; 2017-18 and 2018-19, 2019-20, 2020-21, 2021-22; Steering Committee member for course development
2. UNC School of Medicine Lecturer for LGBTQ Health series 2016-recorded for reuse
3. Duke Pediatrics Interest Group lecture Nov 2020
4. Duke Med Pediatrics Interest Group lecture fall 2018, 2020
5. Lecturer Body and Disease Course MS1 2019, 2020, 2021 Clinical Correlation Differences of Sex Development
6. Lecturer Body and Disease Course MS1 2020, 2021 Transgender Medicine
7. Lecture on Cancer in Transgender and Intersex Individuals April 14, 2021 Mount Sinai School of Medicine
8. Lecture on Transgender Medicine Univ. of Tenn. Health Science Center School of Medicine May 7, 2021

**Graduate School Courses:**

1. Master of Biomedical Science Program-guest lecturer on Transgender Medicine fall 2016
2. School of Nursing Graduate Intensive Course Lecturer on Sexual and Gender Health; fall 2017, spring 2018, fall 2018, spring 2019, Fall 2019
3. Fuqua School of Business Med Pride Panel and presentation fall 2017
4. Master of Biomedical Science Program Mentor 2019-2020
5. Endocrinology for Nurse Practitioners Duke Neonatal Nurse Practitioner Program August 2021

**DUHS Employee Education**

1. Annual Duke Human Resources Lunch and Learn on Gender Diversity 2016, 2017, 2018
2. Over 100 lectures across the institution on gender including CHC front desk/nursing staff, hospital wide social work/case management, radiology, PDC clinic front desk/nursing staff
3. Steering Committee for Sexual and Gender Identity Epic Module development and Educational module development
4. DCRI Pride invited speaker
5. Duke Children's staff update 2021

**GME:**

1. Adult Endocrinology Fellows every year on growth and/or gender
2. Pediatric Residency Noon conferences on Growth and Gender-yearly
3. Reproductive Endocrinology Noon Conferences every 2 to 3 years
4. Psychiatry Noon Conferences periodically
5. Family Practice Noon Conference periodically
6. Pediatric Endocrine Fellow lectures twice a year or more

7. Pediatrics grand rounds: Vitamin D, Type 2 diabetes, Pubertal Development, Gender Diverse Youth
8. Duke Urology Grand Rounds 2016
9. Duke Ob/Gyn Grand Rounds 2017
10. Webinar for Arkansas Children's Hospital on transgender care 2018
11. Reproductive Challenges for Transgender people-Reproductive Endocrinology-2020
12. Metabolic Bone Disease in Neonates-NICU fellows 2019
13. Duke Psychiatry Grand Rounds 2017
14. Duke Pathology Grand Rounds fall 2020
15. Duke Family Medicine Community Rotation Educator 2019 to present
16. NC NAPNAP Symposium Keynote Speaker October 10, 2020
17. Duke Internal Medicine LEADS program speaker; Transgender Care 8/3/2021
18. Equity and Social Justice Webinar: Clinical Advocacy and Care of Transgender and Gender Diverse Youth October 27, 2021Harvard Equity and Social Justice Webinar

### **Development of Courses Educational programs**

1. Pituitary Day October 2019-full day multispecialty seminar for caregivers of patients with hypopituitarism-Organized and developed the curriculum
2. Development of Gender Diversity Education for Health System education
3. Steering Committee for Cultural Determinants and Health Disparities Course
4. Helping to Adapt Resident Coaching Program to Pediatric Fellowships
5. Developed half day course for Duke Student Health on Care of the Gender Diverse Student with multiple disciplines included
6. Course Director: American Diabetes Association Camp Carolina Trails rotation for fellows and residents: 2009, 2011 – 2019
7. Medical Education for Camp Morris 2019, 2021

### **Development of Assessment Tools and Methods**

1. Currently under development with Population Health Sciences-method to assess gender dysphoria; received Brief High Intensity Production (BHIP) grant for this collaboration; NIH grant Submitted March 2020; I am writing the portion of grant giving background on the population and the need for better measures.
2. Collaborating with the Duke Chaplain group to develop a spiritual assessment tool for gender diverse children and their families. Completed 2019

### **Educational leadership roles**

1. Fellowship Program Director Pediatric Endocrinology 2008-2019
2. Course Director: American Diabetes Association Camp Carolina Trails rotation for fellows and residents: 2009, 2011 to 2019

### **Educational Research**

1. Working with coaching program for residents modified and applied in pediatric fellows
2. Worked with the Council on Pediatric Subspecialties EPA study

### **Invited Lectures and Presentations**

1. NC Peds Conference: Pubertal Development 2016
2. Trent Center for Ethics Lecture May 2017: Transgender Medicine: a Wealth of Ethical Issues
3. Visiting Professorship: ECU Brody School of Medicine Invited Professor October 2017
4. College of Diplomates-pediatric dentistry society-Webinar on transgender care 4/1/2020
5. NAPNAP keynote speaker Annual Meeting October 2020
6. Wake County Duke CME program: Type 2 diabetes treatments in pediatrics 2019
7. Lecture on Cancer in Transgender and Intersex Individuals April 14, 2021 Mount Sinai School of Medicine
8. Lecture on Transgender Medicine Univ. of Tenn. Health Science Center School of Medicine May 7,2021
9. Equity and Social Justice Webinar: Clinical Advocacy and Care of Transgender and Gender Diverse Youth October 27, 2021Harvard Equity and Social Justice Webinar

### **International Meetings**

1. WPATH Amsterdam 2016
2. WPATH Buenos Aires 2018

### **National Scientific Meetings (invited)**

1. Transgender SIG Developing a Patient Registry
2. Patient Advocacy for Transgender Youth Philadelphia 2018

### **Instructional Courses, Workshops, Symposiums (National)**

1. Time to Thrive Arkansas Children's Hospital April 2018
2. National Transgender Health Summit UCSF Jan 2018: Providers as Advocates Workshop
3. Magic Foundation-Chicago, IL Annual Speaker on Precocious Puberty, Adrenal Insufficiency, and Growth Hormone at National Conference 2016, 2017, 2019, 2020, 2021
4. The Seminar-Fort Lauderdale, FL Invited Speaker on Care of Transgender Youth 2017

### **Regional Presentations and Posters**

- a. North Carolina Pediatric Society: Pubertal Development Presentation– Pinehurst, NC 2017
- b. North Carolina Psychiatric Association: Caring for Transgender Children Presentation and Workshop on key concepts in care of transgender child- Asheville, NC 2017
- c. ECU Campus Health Presentation Caring for Transgender Patients 2018
- d. Radiology Technology Symposium Presentation on Caring for Transgender Patients 2018
- e. Duke CME in Wake County-Update on Type 2 Diabetes Treatments Feb 2019
- f. Hilton Head Pediatric CME Course-Update on Type 2 Diabetes, Short Stature, and Caring for Transgender Patients June 2019

- g. Wake County Duke Pediatrics CME Type 2 diabetes treatments Feb 2019
- h. NAPNAP Annual Meeting Keynote Speaker 2020
- i. Sexual and Gender Minorities Research Symposium Duke Feb 2020; speaker and organizer

### **Local Presentations**

1. Grand Rounds: 2016 to present-Duke Pediatrics twice, Moses Cones Pediatrics, ECU Ob/Gyn, Duke Ob/Gyn, Duke Psychiatry, Duke Urology, Duke Adult Endocrinology, Duke Pathology
2. Prior to 2016-Rex Grand rounds: Salt and Water balance, New treatments in Pediatric Diabetes, Adrenal Insufficiency, Duke peds grand rounds Bone Health, Type 2 Diabetes Mellitus
3. Duke Women's Weekend 2018 hosted by Duke Alumni Association
4. NCCAN Social Work Training 2016
5. NAPNAP lecture 2016 and 2018 and 2020
6. Profiles in Sexuality Research Presentation at Duke Center for Sexual and Gender Diversity 2017
7. Duke LGBTQ Alumni Weekend Presentation 2017
8. UNC Chapel Hill Campus Health Presentation 2018
9. Duke Student Health Presentation 2017, 2018, 2019 (workshop)

### **Clinical Activity**

1. Duke Consultative Services of Raleigh-2.5 days per week in endocrinology and diabetes
2. Duke Child and Adolescent Gender Care Clinic 1.2 day per week at the CHC
3. Inpatient Consult Service Pediatric Endocrinology 1 week per month

### Administrative and Leadership Positions

1. Medical Director Duke Children's and WakeMed Consultative Services of Raleigh
2. Director Duke Child and Adolescent Gender Care Clinic
3. Pediatric Endocrinology Fellowship Program Director 2008-2019

### Committees

1. Graduate Medical Education Committee-2008-2019
2. School of Medicine Sexual and Gender Diversity Council 2015 to present
3. Pediatrics Clinical Practice Committee-2015? To present
4. Pediatric Diversity and Inclusion Committee

### Community

1. Test proctor local schools
2. Guest lecture GSA multiple years
3. Diabetes Camp over 10 years
4. 100 Women who give a hoot
5. Collaborated to bring "Becoming Johanna" to Duke along with multiple screenings with the director and the lead actor
6. Teddy Bear Hospital volunteer both years



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

B.P.J. by her next friend and mother, HEATHER JACKSON,

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**EXPERT REPORT AND DECLARATION OF  
JOSHUA D. SAFER, MD, FACP, FACE**

1. I have been retained by counsel for Plaintiffs as an expert in connection with the above-captioned litigation.

2. The purpose of this expert report and declaration is to offer my expert opinion on: (1) relevant medical and scientific background regarding gender identity and the attempted regulation of transgender women playing women’s sports, including the Endocrine Society’s Guidelines for providing gender-affirming care to transgender people; (2) the policies of athletic organizations regarding the participation of transgender women in women’s sports, the difficulties that have arisen when athletic associations have attempted to define a person’s sex,

and the relationship of these policies to the scholastic context; and (3) whether there is any medical justification for West Virginia's exclusion of transgender women and girls from school sports, including whether the available scientific evidence supports West Virginia's assertion that "classification of athletic teams according to" an "individual's reproductive biology and genetics at birth sex" "is necessary to promote equal athletic opportunities for the female sex."

3. I have knowledge of the matters stated in this expert report and declaration and have collected and cite to relevant literature concerning the issues that arise in this litigation in the body of this declaration and in the attached bibliography.

4. In preparing this expert report and declaration, I relied on my scientific education and training, my research experience, and my knowledge of the scientific literature in the pertinent fields. The materials I have relied upon in preparing this declaration are the same types of materials that experts in my field of study regularly rely upon when forming opinions on the subject. I may wish to supplement these opinions or the bases for them as a result of new scientific research or publications or in response to statements and issues that may arise in my area of expertise.

### **PROFESSIONAL BACKGROUND**

5. I am a Staff Physician in the Endocrinology Division of the Department of Medicine at the Mount Sinai Hospital and Mount Sinai Beth Israel Medical Center in New York, NY. I serve as Executive Director of the Center for Transgender Medicine and Surgery at Mount Sinai. I also hold an academic appointment as Professor of Medicine in Mount Sinai's Icahn School of Medicine. A true and correct copy of my CV is attached hereto as Exhibit A.

6. I have been Board Certified in Endocrinology, Diabetes and Metabolism by the American Board of Internal Medicine since 1997.

7. I graduated from the University of Wisconsin in Madison with a Bachelor of Science degree in 1986. I earned my Doctor of Medicine degree from the University of Wisconsin in 1990. I completed intern and resident training at Mount Sinai School of Medicine, Beth Israel Medical Center in New York, New York from 1990 to 1993. From 1993 to 1994, I was a Clinical Fellow in Endocrinology at Harvard Medical School and Beth Israel Deaconess Medical Center in Boston, Massachusetts. I stayed at the same institution, serving as a Clinical and Research Fellow in Endocrinology under Fredric Wondisford, from 1994 to 1996.

8. Since 1997, I have evaluated and treated patients along with conducting research in endocrinology. Since 2004, my patient care and research has been focused on the medicine/science specific to transgender people. I have led several other programs either in transgender medicine or in general endocrinology. In particular, I served as the Medical Director of the Center for Transgender Medicine and Surgery, Boston Medical Center, Boston, MA (2016-2018); as the Director of Medical Education, Endocrinology Section, Boston University School of Medicine, Boston, MA (2007-2018); as the Program Director for Endocrinology Fellowship Training, Boston University Medical Center, Boston, MA (2007-2018); and as Director of the Thyroid Clinic, Boston Medical Center, Boston, MA (1999-2003).

9. I have authored or coauthored over 100 peer-reviewed papers including many critical reviews; textbook chapters; and case reports in endocrinology and transgender medicine.

10. Among my publications are the latest review of transgender medicine in the *New England Journal of Medicine* and the latest review of transgender medicine in the *Annals of Internal Medicine*. See Safer JD, Tangpricha V. Care of transgender persons. *N Engl J Med* 2019; 381:2451-2460; Safer JD, Tangpricha V. Care of the transgender patient. *Ann Intern Med* 2019; 171:ITC1-ITC16. I am also a co-author of the sections of UpToDate that relate to gender-

affirming hormone treatment for transgender people. UpToDate is an evidence-based, physician authored, on-line medical guide and is currently the most widely used such guide among medical providers.

11. I was the inaugural President of the United States Professional Association for Transgender Health (“USPATH”). I have served in several other leadership roles in professional societies related to endocrinology and transgender health. These societies include the Alliance of Academic Internal Medicine, the American College of Physicians Council of Subspecialty Societies, the American Board of Internal Medicine, the Association of Program Directors in Endocrinology and Metabolism, and the American Thyroid Association.

12. Since 2014, I have held various roles as a member of the World Professional Association for Transgender Health (“WPATH”), the leading international organization focused on transgender health care. WPATH has approximately 2,000 members throughout the world and is comprised of physicians, psychiatrists, psychologists, social workers, surgeons, and other health professionals who specialize in health care for transgender people. From 2016 to the present, I have served on the Writing Committee for Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People.

13. I have served in various roles as a member of the Endocrine Society since 2014. I served on a nine-expert Task Force to develop the Endocrine Treatment of Transgender Persons Clinical Practice Guideline from 2014 to 2017. The experts on the Task Force which included me, a methodologist, and a medical writer co-authored the “Endocrine Treatment of Gender-Dysphoria/Gender Incongruent Persons: An Endocrine Society Clinical Practice Guideline,” (“Endocrine Society Guidelines”), available at <https://academic.oup.com/jcem/article/102/11/3869/4157558>.

14. I have served as a Transgender Medicine Guidelines Drafting Group Member for the International Olympic Committee (“IOC”) since 2017.

15. Since 2019, I have also served as a drafting group member of the transgender medical guidelines of World Athletics, formerly known as the International Amateur Athletic Federation (“IAAF”).

16. I have not previously testified as an expert witness in either deposition or at trial. I am being compensated at an hourly rate of \$250 per hour for preparation of expert declarations and reports, and \$400 per hour for time spent preparing for or giving deposition or trial testimony. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

#### **RELEVANT MEDICAL AND SCIENTIFIC BACKGROUND**

17. “Gender identity” is the medical term for a person’s internal, innate sense of belonging to a particular sex. *See* Endocrine Society Guidelines, Tbl.1 *and* Safer JD, Tangpricha V. Care of transgender persons. *N Engl J Med* 2019; 381:2451–2460, Tbl.1.

18. Although the detailed mechanisms are unknown, there is a medical consensus that there is a significant biologic component underlying gender identity. Safer JD, Tangpricha V. Care of transgender persons. *N Engl J Med* 2019; 381:2451-2460; Safer JD, Tangpricha V. Care of the transgender patient. *Ann Intern Med* 2019; 171:ITC1-ITC16. A person’s gender identity is durable and cannot be changed by medical intervention.

19. The terms “gender identity,” “gender roles,” and “gender expression” refer to different things.

20. Gender roles are behaviors, attitudes, and personality traits that a society (in a given culture and historical period) designates as masculine or feminine and/or that society

associates with or considers typical of the social role of men or women. *See* Endocrine Society Guidelines Tbl.1. The convention that girls wear pink and have longer hair, or that boys wear blue and have shorter hair, are examples of socially constructed gender roles from a particular culture and historical period.

21. By contrast, “gender identity” does not refer to a set of socially contingent behaviors, attitudes, or personality traits that a society designates as masculine or feminine. It is an internal and largely biological phenomenon.

22. Gender expression is how a person communicates gender identity both internally and to others. *See* Safer JD, Tangpricha V. Care of transgender persons. *N Engl J Med* 2019; 381:2451–2460, Tbl.1. For example, a person with a female gender identity might express her identity through typically feminine outward expressions of gender roles like wearing longer hair or more typically feminine clothing.

23. The phrase “biological sex” is an imprecise term that can cause confusion. A person’s sex encompasses the sum of several different biological attributes, including sex chromosomes, certain genes, gonads, sex hormone levels, internal and external genitalia, other secondary sex characteristics, and gender identity. Those attributes are not always aligned in the same direction. *See* Endocrine Society Guidelines; Safer JD, Tangpricha V. Care of transgender persons. *N Engl J Med* 2019; 381:2451–2460.

24. Before puberty, boys and girls typically have the same levels of circulating testosterone. After puberty, the typical range of circulating testosterone for non-transgender women is similar to before puberty (<1.7 nmol/L), and the typical range of circulating testosterone for non-transgender men is 9.4-35 nmol/L. *See* Endocrine Society Guidelines (p 3888) *and* Safer JD, Tangpricha V. Care of transgender persons. *N Engl J Med* 2019.

25. Before puberty, age-grade competitive sports records show minimal or no differences in athletic performance between non-transgender boys and non-transgender girls before puberty. But after puberty, non-transgender boys and men as a group have better average performance outcomes in most athletic competitions when compared to non-transgender girls and women as a group. Based on current research comparing non-transgender boys and men with non-transgender girls and women before, during, and after puberty, the primary known biological driver of these average group differences is testosterone starting at puberty, and not reproductive biology or genetics. *See Handelsman DJ, et al. Circulating testosterone as the hormonal basis of sex differences in athletic performance. Endocrine Reviews 2018; 39:803–829, (p 820) (summarizing evidence rejecting hypothesis that physiological characteristics are driven by Y chromosome).*

26. Although there are ranges of testosterone that are considered typical for non-transgender men and women, many non-transgender women have testosterone levels outside the typical range.

a. Approximately 6% to 10% of women have a condition called polycystic ovary syndrome (PCOS), which can raise women’s testosterone levels up to 4.8 nmol/L.

b. Some elite female athletes have “46,XY DSDs,” a group of conditions where individuals have XY chromosomes but are born with typically female external genitalia and assigned a female sex at birth. Among individuals with 46,XY DSD some may have inactive testosterone receptors (a syndrome called “complete androgen insensitivity syndrome, CAIS”) which means they don’t respond to testosterone despite very high levels. Usually, these individuals have female gender identity and have external genitalia

that are typically female. They do not develop the physical characteristics associated with typical male puberty.

c. Other individuals with 46,XY DSD may have responsive testosterone receptors. These individuals may have female gender identity but at puberty they may start to develop higher levels of testosterone along with secondary sex characteristics that are typically masculine.

### **WORLD ATHLETICS POLICIES FOR WOMEN WITH HYPERANDROGENISM AND WOMEN WHO ARE TRANSGENDER**

27. World Athletics is the international governing body for the sport of track-and-field athletics. Beginning in 2011, World Athletics (then known as IAAF) began requiring that women with elevated levels of circulating testosterone lower their levels of testosterone below a threshold amount in order to compete in elite international women's sports competitions. Under the 2011 regulations, women with hyperandrogenemia (defined as serum testosterone levels above the normal range) were allowed to compete only if they demonstrated that they had testosterone levels below 10 nmol/L or that they had CAIS, preventing their bodies from responding to testosterone.<sup>1</sup>

28. In 2018 the IAAF issued revised regulations lowering the maximum testosterone threshold to 5 nmol/L.<sup>2</sup> The revised regulations were upheld by the Court of Arbitration for Sport ("CAS") in 2019.

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<sup>1</sup> A copy of the 2011 regulation is available at [https://www.bmj.com/sites/default/files/response\\_attachments/2014/06/IAAF%20Regulations%20\(Final\)-AMG-30.04.2011.pdf](https://www.bmj.com/sites/default/files/response_attachments/2014/06/IAAF%20Regulations%20(Final)-AMG-30.04.2011.pdf)

<sup>2</sup> A copy of the 2018 regulations is available at <https://www.iaaf.org/download/download?filename=fd2923ad-992f-4e43-9a70-78789d390113.pdf&urlslug=IAAF%20Eligibility%20Regulations%20for%20the%20Female%20Classification%20%5BAthletes%20with%20Differences%20of%20Sex%20Development%5D%20in%20force%20as%20from%208%20May%202019>



29. In 2019, the IAAF adopted regulations allowing women who are transgender to participate in elite international women's sports competitions if their total testosterone level in serum is beneath a particular threshold for at least one year before competition. The IAAF set the threshold at 5 nmol/L, which was the same threshold set by the IAAF's 2018 regulations for non-transgender women with hyperandrogenism that had been upheld by the CAS when contested.<sup>3</sup>

30. The IAAF rules are consistent with the Endocrine Society Guidelines for the treatment of women who are transgender, which recommend that hormone therapy target circulating testosterone levels to a typical female range at or below 1.7 nmol/L (Endocrine Society Guidelines, p. 3887) and with the study of testosterone levels achieved in practice by medically treated women who are transgender (Liang JJ, et al. Testosterone levels achieved by medically treated transgender women in a United States endocrinology clinic cohort. *Endocrine Practice* 2018; 24:135-142).

#### **INTERNATIONAL OLYMPIC COMMITTEE POLICIES FOR WOMEN WHO ARE TRANSGENDER**

31. Formal eligibility rules for the participation of transgender women in the Olympics were published in 2003. The 2003 rules required that transgender women athletes could compete in women's events only if they had genital surgery, a gonadectomy (*i.e.*, removal of the testes), and legal documentation of female sex.<sup>4</sup>

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<sup>3</sup> A copy of the 2019 regulations is available at <https://www.google.com/url?sa=t&rct=j&q=&esrc=s&source=web&cd=&ved=2ahUKEwi8qbO nsNL0AhUBkIkEHWdpAiQQFnoECAUQAQ&url=https%3A%2F%2Fwww.worldathletics.org%2Fdownload%2Fdownload%3Ffilename%3Dace036ec-a21f-4a4a-9646-fb3c40fe80be.pdf%26urlslug%3DC3.5%2520-%2520Eligibility%2520Regulations%2520Transgender%2520Athletes&usg=AOvVaw1aPuD3gUoz5hcGKgmumVb5>

<sup>4</sup> A copy of the 2003 policy is available at <https://olympics.com/ioc/news/ioc-approves-consensus-with-regard-to-athletes-who-have-changed-sex-1>

32. However, many women who are transgender are treated with medicines alone and don't have gonadectomy. As well, many jurisdictions do not have systems to document the sex of transgender people. In some jurisdictions, being transgender is illegal, and disclosure that someone is transgender can be unsafe.

33. Therefore, in 2015, the IOC adopted new guidance modeled after the IAAF's 2011 regulations for non-transgender women with hyperandrogenism. Under the 2015 IOC guidance, women who are transgender were required to demonstrate that their total testosterone level in serum was below 10 nmol/L for at least one year prior to competition. The 10 nmol/L threshold was the same threshold set by the IAAF's 2011 regulations.<sup>5</sup>

34. In 2021, the IOC adopted a new "Framework on Fairness, Inclusion, and Non-Discrimination on the Basis of Gender Identity and Sex Variations" (the "2021 framework"), which replaces the 2015 guidance.<sup>6</sup>

35. Unlike the IOC's 2003 and 2015 policies, the IOC's 2021 framework does not attempt to adopt a single set of eligibility standards for the participation of transgender athletes that would apply universally to every IOC sport. Instead, the 2021 framework provides a set of governing principles for sporting bodies to follow when adopting eligibility rules for their particular sport.

36. Under the 2021 framework, "[n]o athlete should be precluded from competing or excluded from competition on the .exclusive ground of an unverified, alleged or perceived unfair

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<sup>5</sup> A copy of the 2015 policy is available at [https://stillmed.olympic.org/Documents/Commissions\\_PDFfiles/Medical\\_commission/2015-11\\_ioc\\_consensus\\_meeting\\_on\\_sex\\_reassignment\\_and\\_hyperandrogenism-en.pdf](https://stillmed.olympic.org/Documents/Commissions_PDFfiles/Medical_commission/2015-11_ioc_consensus_meeting_on_sex_reassignment_and_hyperandrogenism-en.pdf)

<sup>6</sup> A copy of the 2021 framework is available at [https://stillmed.olympics.com/media/Documents/News/2021/11/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf?\\_ga=2.207516307.1210589288.1636993769-1638189514.1636993769](https://stillmed.olympics.com/media/Documents/News/2021/11/IOC-Framework-Fairness-Inclusion-Non-discrimination-2021.pdf?_ga=2.207516307.1210589288.1636993769-1638189514.1636993769)

competitive advantage due to their sex variations, physical appearance and/or transgender status.” Principle 5.1. “Until evidence . . . determines otherwise, athletes should not be deemed to have an unfair or disproportionate competitive advantage due to their sex variations, physical appearance and/or transgender status.” Principles 5.2.

37. The 2021 framework further provides that “[a]ny restrictions arising from eligibility criteria should be based on robust and peer reviewed research that: (a) demonstrates a consistent, unfair, disproportionate competitive advantage in performance and/or an unpreventable risk to the physical safety of other athletes; (b) is largely based on data collected from a demographic group that is consistent in gender and athletic engagement with the group that the eligibility criteria aim to regulate; and (c) demonstrates that such disproportionate competitive advantage and/or unpreventable risk exists for the specific sport, discipline and event that the eligibility criteria aim to regulate.” Principle 6.1

#### **NCAA POLICIES FOR WOMEN WHO ARE TRANSGENDER**

38. Since 2011, the National College Athletics Association (“NCAA”) has allowed women who are transgender to participate on the same teams as other women after one year of testosterone suppression. Under the NCAA policy transgender student-athletes certified that they have been on hormone therapy for a period of one year. The NCAA policy did not require ongoing testosterone testing.

39. The NCAA recently announced that it has revised its policy to adopt a “sport-by-sport approach” that “aligns transgender student-athlete participation for college sports with recent policy changes.” *See* NCAA Media Center: Board of Governors updates transgender participation policy (Jan. 19, 2022), at <https://www.ncaa.org/news/2022/1/19/media-center-board-of-governors-updates-transgender-participation-policy.aspx>. “Like the Olympics, the

updated NCAA policy calls for transgender participation for each sport to be determined by the policy for the national governing body of that sport, subject to ongoing review and recommendation by the NCAA Committee on Competitive Safeguards and Medical Aspects of Sports to the Board of Governors.” *Id.* The new NCAA policy contemplates that for certain sports, the national governing body for the sport may require transgender athletes “to document sport-specific testosterone levels.” *Id.*

#### **PARTICIPATION OF GIRLS AND WOMEN WHO ARE TRANSGENDER IN THE SCHOLASTIC CONTEXT**

40. The policies developed by World Athletics and the IOC for transgender athletes were based on the particular context of elite international competition. Not all of the same considerations apply in scholastic contexts.

41. The World Athletics and prior IOC policies were more stringent than the prior NCAA policy because those organizations were concerned with creating policies that cannot be manipulated by governments that are not bound by the rule of law. For example, there have been many well-known examples of state-sponsored doping scandals. The Russian Olympic team is currently banned from international competition due to an organized doping effort. Also, there have been cases where governments have issued fraudulent birth certificates and identification documents. In 2000, Yang Yun was a medal winner in Gymnastics from the Chinese team. She later reported that she was 14-years-old at the time in violation of the rule that all athletes for her events had to be at least 16-years-old. In 2008, He Kexin was 14-years-old when participating in Gymnastics for the Chinese team in violation of the same rule that athletes be at least 16-years-old in those events. A new passport for Ms. He had hastily appeared 6 months prior to the Olympic Games that year with a new birth year so that Ms. He could qualify.

42. To confront the significant problem of state-sponsored cheating, World Athletics and the IOC have to develop eligibility criteria for transgender athletes that can be independently verified to prevent manipulation by non-transgender athletes, and that do not depend on the gender marker listed on identification documentation issued by an athlete's home country. Those concerns do not apply to scholastic athletic competitions in the United States. Scholastic athletic associations can rely on school records to show that an athlete is a girl who is transgender and has socially transitioned to live consistently with her gender identity as a girl.

43. The eligibility criteria for World Athletics and the IOC were also created as part of a system in which elite athletes in international competitions are already regulated and monitored in some circumstances like for doping. Within that context, testing female athletes' levels of testosterone is somewhat analogous to the types of restrictions and invasion of privacy that already exist. By contrast, in athletic competitions that are not as heavily regulated and monitored, it is hard to justify singling out girls who are transgender, girls with 46,XY DSDs, or girls who may just appear more typically masculine for special testosterone requirements that impose a significant additional burden.

44. The concerns that animated the World Athletics and prior IOC policies are even more attenuated for students in middle school and high school, where athletes' ages typically range from 11-18, with different athletes in different stages of pubertal development. Increased testosterone begins to affect athletic performance at the beginning of puberty, but those effects continue to increase each year of puberty until about age 18, with the full impact of puberty resulting from the cumulative effect of each year. As a result, a 14, 15, or 16-year old has experienced less cumulative impact from testosterone than a 17 or 18-year old.

45. Finally, unlike elite international competitions, schools and colleges often provide athletic competition as part of a broader educational mission. In that context, when scholastic athletics are a component of the educational process, institutions may adopt policies designed to emphasize inclusion and to provide the most athletic opportunities to the greatest number of people.

### **WEST VIRGINIA'S HB 3293**

46. There is no medical justification for West Virginia's categorical exclusion of girls who are transgender from participating in scholastic athletics on the same teams as other girls.

47. HB 3293 states that "[c]lassification of teams according to biological sex is necessary to promote equal athletic opportunities for the female sex." The law defines "biological sex" as "an individual's physical form as a male or female based solely on the individual's reproductive biology and genetics at birth."

48. West Virginia's definition of "biological sex" does not reflect any medical understanding of that ambiguous term. As noted above, a person's sex encompasses the sum of several different biological attributes, including sex chromosomes, certain genes, gonads, sex hormone levels, internal and external genitalia, other secondary sex characteristics, and gender identity. Those attributes are not always aligned in the same direction. *See* Endocrine Society Guidelines; Safer JD, Tangpricha V. Care of transgender persons. *N Engl J Med* 2019; 381:2451-2460. For example, if West Virginia defines "biological sex" solely based on "reproductive biology and genetics at birth" it is not clear how West Virginia would define the "biological sex" of children with "46,XY DSDs," who have XY chromosomes but typically female external reproductive anatomy.

49. Even as applied to people without intersex characteristics or 46,XY DSDs, the statutory definition of “biological sex” is inconsistent with West Virginia’s stated goal of “promot[ing] equal athletic opportunities for the female sex.” By excluding girls who are transgender based on “biological sex,” and defining that term to mean “reproductive biology and genetics at birth,” West Virginia categorically prevents girls who are transgender from participating on girls’ teams regardless of whether they are pre-pubertal, receiving puberty blockers, or receiving gender-affirming hormone therapy. But based on current research, the primary known biological cause of average differences in athletic performance between non-transgender men as a group and non-transgender women as a group is circulating testosterone—not “reproductive biology and genetics at birth.” A person’s genetic makeup and internal and external reproductive anatomy are not useful indicators of athletic performance and have not been used in elite competition for decades.

50. With respect to average athletic performance, girls and women who are transgender and who do not go through endogenous puberty are somewhat similarly situated to women with XY chromosomes who have complete androgen insensitivity syndrome. It has long been recognized that women with CAIS have no athletic advantage simply by virtue of having XY chromosomes. *See also* Handelsman DJ, *et al.* Circulating testosterone as the hormonal basis of sex differences in athletic performance. *Endocrine Reviews* 2018; 39:803–29, p .820 (summarizing evidence rejecting hypothesis that physiological characteristics are driven by Y chromosome).

51. HB 3293 is also dramatically out of step with even the most stringent policies of elite international athletic competitions for girls and women who are transgender and who have gone through endogenous puberty. Unlike the policies of the IOC, World Athletics, or the

NCAA, HB 3293 excludes girls and women who are transgender from participating on girls' and women's sports teams even if they have suppressed their circulating levels of testosterone through gender-affirming hormone therapy.

52. Some critics of the prior IOC guidelines and World Athletics and NCAA policies have speculated that lowering the level of circulating testosterone does not fully mitigate the athletic advantage derived from endogenous puberty. But there is no basis to assert with any degree of confidence that this hypothesis is true. Based on the limited data available, it is equally or more plausible to hypothesize that women who are transgender could be at a net *disadvantage* in particular sports after receiving gender affirming hormone therapy, as compared to non-transgender women.

53. For example, transgender women who go through typically male puberty will tend to have larger bones than non-transgender women, even after receiving gender-affirming hormone therapy. But larger bones may be a disadvantage for transgender women who have typically female levels of circulating testosterone. Muscle mass will be decreased with the shift to female levels of circulating testosterone. Having larger bones without corresponding levels of testosterone and muscle mass would mean that a runner has a bigger body to propel with less power to propel it.

54. Similarly, in a sport where athletes compete in different weight classes (*e.g.* weight lifting), the fact that a transgender woman has bigger bones may be a disadvantage because her ratio of muscle-to-bone will be much lower than the ratio for other women in her weight class who have smaller bones.

55. There are only two studies examining the effects of gender-affirming hormone therapy on the athletic performance of transgender female athletes. The first is a small study of



eight long-distance runners who are transgender women. The study showed that after undergoing gender-affirming medical intervention, which included lowering their testosterone levels, the athletes' performance was reduced so that their performance when compared to non-transgender women was proportionally the same as their performance had been before treatment relative to non-transgender men. *See Harper J. Race times for transgender athletes. Journal of Sporting Cultures and Identities* 2015; 6:1–9.

56. A more recent study retrospectively reviewed the military fitness test results of 46 transgender women in the U.S. Air Force before and after receiving gender-affirming hormone therapy. These authors found that any advantage transgender women had over non-transgender women in performing push-ups and sit-ups was negated after 2 years. The study also found that before beginning gender affirming hormone therapy, transgender women completed the 1.5 mile run 21% faster on average than non-transgender women; and after 2 years of gender-affirming hormone therapy, transgender women completed the 1.5 mile run 12% faster on average than non-transgender women. *See Roberts TA, Smalley J, Ahrendt D. Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organisations and legislators. Br J Sports Med.* 2020.

57. Neither of these limited studies proves there are meaningful athletic advantages for transgender women after receiving gender-affirming hormone therapy, which could only be shown by longitudinal transgender athlete case-comparison studies that control for variations in hormonal exposure and involve numerous indices of performance. Moreover, the ability to perform push-ups and sit-ups or to run 1.5 miles does not necessarily translate into an athletic advantage in any particular athletic event. Because different sports require different types of physical performance, the studies suggest that the existence and extent of a performance

advantage may vary from sport to sport and should not be subject to a categorical across-the-board rule.

58. Even if evidence were eventually to show that on average transgender women have some level of advantage compared to average non-transgender women, those findings would have to be placed in context of all the other intra-sex genetic variations among athletes that can enhance athletic performance among different women or different men.

59. For example, in the academic literature, there are gene sequence variations that can be associated with athleticism referred to as “performance enhancing polymorphisms” or “PEPs.” A PEP is a variation in the DNA sequence that is associated with improved athletic performance. For example, variations in mitochondrial DNA have been associated with greater endurance capacity and greater mitochondrial density in muscles. Other PEPs are associated with blood flow or muscle structure. *See Ostrander EA, et al. Genetics of athletic performance. Annu Rev Genomics Hum Genet 2009; 10:407–429.*

60. As the IOC’s 2021 framework recognizes, there is no inherent reason why transgender women’s physiological characteristics related to athletic performance should be treated as any more of an “unfair” advantage than the advantages that already exist among different women athletes. The 2021 framework instructs that, even at the most elite level of competition, sporting organizations should base eligibility restrictions on whether there exists “a consistent, unfair, and disproportionate competitive advantage” when viewed within the broader context of all the other intra-sex variations that may give a comparative athletic advantage to a particular athlete.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

A handwritten signature in blue ink, appearing to read "J. Safer", enclosed within a large, loopy oval shape.

Executed on January 21, 2022

Joshua D. Safer, MD, FACP, FACE

## **BIBLIOGRAPHY**

Handelsman DJ, et al. Circulating testosterone as the hormonal basis of sex differences in athletic performance. *Endocrine Reviews* 2018; 39:803–829.

Harper J. Race times for transgender athletes. *Journal of Sporting Cultures and Identities* 2015; 6:1–9.

Hembree WC, et al. Endocrine treatment of gender-dysphoria/gender incongruent persons: An Endocrine Society clinical practice guideline. *J Clin Endocrinol Metab* 2017; 102: 3869–3903.

Ostrander EA, et al. Genetics of athletic performance. *Annu Rev Genomics Hum Genet* 2009; 10:407–429.

Roberts TA, et al. Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organisations and legislators. *Br J Sports Med*. 2020; 0:1–7. doi:10.1136/bjsports-2020-102329

Rogol AD, Pieper LP. The interconnected histories of endocrinology and eligibility in women’s sports. *Horm Res Paediatr* 2018; 90:213–220.

Safer JD, Tangpricha V. Care of the transgender patient. *Ann Intern Med* 2019; 171:ITC1-ITC16.

Safer JD, Tangpricha V. Care of transgender persons. *N Engl J Med* 2019; 381:2451-2460.

# EXHIBIT A

## CURRICULUM VITAE

**Joshua D. Safer, MD, FACP, FACE**

**January 6, 2022**

Office Address: 275 7<sup>th</sup> Avenue, 15<sup>th</sup> Floor

New York, NY 10001

Tel: (212) 604-1790

E-mail: jsafer0115@gmail.com

### Academic Training

1990 MD University of Wisconsin School of Medicine, Madison, WI  
1986 BS University of Wisconsin, Madison, WI, Economics

### Postdoctoral Training

1994 - 1996 Clinical and Research Fellow, Endocrinology, under Fredric Wondisford, Harvard Medical School - Beth Israel Deaconess Medical Center, Boston, MA  
1993 - 1994 Clinical Fellow, Endocrinology, Harvard Medical School and Beth Israel Deaconess Medical Center, Boston, MA  
1990 - 1993 Intern and Resident, Department of Medicine, The Mount Sinai School of Medicine, Beth Israel Medical Center, New York City, NY

### Academic Appointments

2019 - present Professor of Medicine, Icahn School of Medicine at Mount Sinai, New York, NY  
2006 - 2018 Associate Professor of Medicine and Molecular Medicine, Boston University School of Medicine  
1999 - 2005 Assistant Professor of Medicine, Boston University School of Medicine  
1996 - 1999 Instructor in Medicine, Harvard Medical School  
1993 - 1996 Fellow in Medicine, Harvard Medical School

### Hospital Appointments

2018 - present Staff Physician, The Mount Sinai Hospital, New York City, NY  
2018 - present Staff Physician, Mount Sinai Beth Israel Medical Center, New York City, NY  
1999 - 2018 Staff Physician, Boston University Medical Center, Boston, MA  
2001 - 2006 Staff Physician, Veterans Administration Boston Health Care, Boston, MA  
1996 - 1999 Staff Physician, Beth Israel Deaconess Medical Center, Boston, MA  
1990 - 1993 House Staff, Beth Israel Medical Center, New York City, NY

### Other Medical Staff Appointments

2004 - 2013 Staff Physician, Massachusetts Institute of Technology Medical, Cambridge, MA  
1994 - 1999 Physician, Harvard Vanguard Medical Associates, Boston, MA  
1987 - 1996 Captain, United States Army Reserve, Medical Corps

**Joshua D. Safer, MD, FACP, FACE**

**Honors:**

2019	Fellow, American College of Endocrinology
2019	Preaw Hanseree Memorial Lecture, University of Wisconsin-Madison
2017	Lesbian, Gay, Bisexual and Transgender Health Award, Massachusetts Medical Society
2012	Outstanding Service Award, Association of Program Directors in Endocrinology and Metabolism
2007	Fellow, American College of Physicians
2004	Boston University School of Medicine Outstanding Student Mentor Award
2001	Abbott Thyroid Research Advisory Council Award
1996	Knoll Thyroid Research Clinical Fellowship Award, Endocrine Society
1995	Trainee Investigator Award for Excellence in Scientific Research, American Federation for Clinical Research (AFCR)
1994	Trainee Investigator Award for Excellence in Scientific Research, AFCR
1990	The University of Wisconsin Medical Alumni Association Award
1988-1990	Senior Class President, University of Wisconsin, School of Medicine

**Licensure and Certification**

1997	Board Certification in Endocrinology, Diabetes and Metabolism, American Board of Internal Medicine, recertified 2007, 2017
1994	Board Certification in Internal Medicine, American Board of Internal Medicine, recertified 2007
1993	Massachusetts License Registration #77459, inactive
1990	New York License Registration #187263-1

**Departmental and University Committees**

***Icahn School of Medicine at Mount Sinai***

2020-present	Mount Sinai Disparities and Equity Research Taskforce Steering Committee
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***Boston Medical Center***

2016-2018	Physician Satisfaction Task Force, Department of Medicine
2016-2018	Transgender Patient Task Force
2006-2017	Pharmacy and Therapeutics Committee, Health Net Plan

***Boston University School of Medicine***

2009-2018	Admissions Committee
2005	Review Committee, Department of Medicine Pilot Project Grants
2000	Residency and Fellowship Core Curriculum Committee,
2000-2018	Internship Selection Committee, Residency Program in Medicine

**Joshua D. Safer, MD, FACP, FACE**

***Boston University Goldman School of Dental Medicine***

2003-2018 Course Directors Committee, Goldman School of Dental Medicine

**Teaching Experience and Responsibilities**

***Icahn School of Medicine at Mount Sinai***

2019-present Lecturer in Endocrinology, Second-year Pathophysiology Course

***Tufts University School of Medicine***

2016-2018 Lecturer in Endocrinology, Second-year Pathophysiology Course

***Boston University School of Medicine***

2003-2018 Course Director, Disease and Therapy - Endocrinology Section

1999-2018 Regular lectures to medical students, residents, and fellows on thyroid disease, diabetes insipidus, and transgender medicine

***Boston University Goldman School of Dental Medicine***

2002-2018 Course Director, General Medicine and Dental Correlations

2002-2018 Course Director, Medical Concerns in the Dental Patient



**Joshua D. Safer, MD, FACP, FACE**

**Major Administrative Responsibilities**

2018-present	Executive Director, Center for Transgender Medicine and Surgery, Mount Sinai Health System, New York City, NY
2016-2018	Medical Director, Center for Transgender Medicine and Surgery, Boston Medical Center, Boston, MA
2007-2018	Director, Medical Education, Endocrinology Section, Boston University School of Medicine, Boston, MA
2007-2018	Program Director, Endocrinology Fellowship Training, Boston University Medical Center, Boston, MA
1999-2003	Director, Thyroid Clinic, Boston Medical Center, Boston, MA

**Other Professional Activities**

**Professional Societies: Memberships**

2016-present	United States Professional Association for Transgender Health (USPATH)
2014-present	World Professional Association for Transgender Health (WPATH)
2007-present	Association of Program Directors in Endocrinology and Metabolism (APDEM)
2007-present	Association of Specialty Professors (ASP), Alliance of Academic Internal Medicine (AAIM)
1999-present	American Association of Clinical Endocrinologists
1998-2018	American Thyroid Association
1995-present	Endocrine Society
1994-present	American College of Physicians
1994-1996	American Federation for Medical Research
1993-2018	Massachusetts Medical Society

**Professional Societies: Offices Held and Committee Assignments**

**International**

***World Athletics (formerly IAAF)***

2019-present	Drafting Group Member, Transgender Medical Guidelines
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***International Olympic Committee (IOC)***

2017-present	Drafting Group Member, Transgender Medical Guidelines
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***World Professional Association for Transgender Health (WPATH)***

2016-present	Writing Committee Member, Standards of Care for the Health of Transsexual, Transgender, and Gender Nonconforming People
2016-2018	Co-Chair, Scientific Committee, International Meeting, Buenos Aires - 2018
2015-2016	Chair, Scientific Committee, International Meeting, Amsterdam - 2016
2015-present	Task Force Member, Global Education Institute
2015-present	Media Liaison

**Joshua D. Safer, MD, FACP, FACE**

***TransNet – International Consortium for Transgender Medicine and Health Research***

2014-present Secretary and Co-Chair, Steering Committee

**National**

***United States Professional Association for Transgender Health (USPATH)***

2018-2019 President

***Alliance of Academic Internal Medicine***

2016-2019 Chair, Compliance Committee

2016-2017 Committee member, Compensation

2015-2016 President, Association of Specialty Professors (ASP)

2014-2017 Council member

2014-2019 Task Force member, Program Planning

2014-2019 Work Group member, Survey Center

2013-2015 Chair, Program Planning Committee, ASP

2012-2017 Council member, ASP

2012-2013 Chair, Membership Services Committee, ASP

2010-2015 Chair, Program Directors Site Visit Training Seminar, ASP

2007-2013 Committee member, Membership Services, ASP

***American College of Physicians***

2016-2018 Council of Subspecialty Societies member

***Endocrine Society***

2020-present Transgender Medicine, Special Interest Group member

2017-present Advisory Board member, Transgender/Disorders of Sex Development

2017-2020 Committee member, Clinical Endocrine Education

2014-present Media Liaison for Transgender Medicine

2014-2017 Task Force member, Endocrine Treatment of Transgender Persons Clinical Practice Guideline

***American Board of Internal Medicine***

2013-2018 Task Force member, Endocrinology Procedures

2013 Task Force member, ASP/AAIM/ACGME/ABIM Joint Next Accreditation System Internal Medicine Subspecialty Milestones

***Association of Program Directors in Endocrinology and Metabolism***

2017-2018 Secretary-Treasurer

2012-2018 Task Force member, Next Accreditation System Endocrinology Milestones

2011-2012 Task Force member, Procedures Accreditation

2010-2012 Council member

2009-2016 Chair, Site Visit/Curriculum Web-Toolbox Committee

***American Thyroid Association***

2006-2009 Publications Committee member

2004 Program Committee member

**Joshua D. Safer, MD, FACP, FACE**

**Editorships and Editorial Boards**

2018-present	Associate Editor, <i>Transgender Health</i>
2017-present	Editorial Advisory Board, <i>Endocrine News</i>
2016-present	Transgender Section Co-Editor, <i>UpToDate</i>
2015-present	Editorial Board, <i>Transgender Health</i>
2015-present	Editorial Board, <i>International Journal of Transgender Health</i>
2013-2018	Associate Editor, <i>Journal of Clinical &amp; Translational Endocrinology</i>
2007-present	Editorial Board, <i>Endocrine Practice</i>

**External Medical Advising and Consulting**

**International**

2016-present	International transgender athlete guidelines, Medical and Scientific Commission, International Olympic Committee
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**National**

2017	Transgender medical and surgical treatment, National Collegiate Athletic Association,
2017	Safety for transgender medical treatment, Food and Drug Administration, United States
2015-present	Transgender workforce and military readiness, Department of Defense, United States
2014	Transgender prison population health, Federal Bureau of Prisons, United States

**Regional**

2011-2018	Transgender prison population health, Massachusetts Department of Correction
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**Joshua D. Safer, MD, FACP, FACE**

**Past Other Support**

- 2018-2022 Keith Haring Foundation, **PI: Joshua D. Safer**, Pilot Program to Develop Clinical Program in Transgender Medicine for Children and Adolescents
- 2015-2016 R13 HD084267, **Multi-PI: Joshua D. Safer**, TransNet: Developing a Research Agenda in Transgender Health and Medicine
- 2014-2015 Boston Foundation, Equality Fund, **PI: Joshua D. Safer**, Pilot Program to Educate Physicians in Transgender Medicine
- 2013-2014 Evans Foundation, **PI: Joshua D. Safer**, A Pilot Curriculum in Transgender Medicine
- 2001-2003 Thyroid Research Advisory Council, **PI: Joshua D. Safer**, Thyroid Hormone Action on Skin
- 2001-2002 Evans Foundation, **PI: Joshua D. Safer**, Thyroid Hormone Action on Skin
- 1996-2001 K08 DK02423, **PI: Joshua D. Safer**, Characterization of Central Resistance to Thyroid Hormone

**Joshua D. Safer, MD, FACP, FACE**

**Conferences Organized**

**International Conferences**

***World Professional Association for Transgender Health***

November, 2020 Bi-annual meeting, Planning Committee (remote)

November, 2018 Bi-annual meeting, Scientific Co-Chair, Buenos Aires, Argentina

June, 2016 Bi-annual meeting, Scientific Co-Chair, Amsterdam, Netherlands

November, 2015 Global Education Initiative, inaugural conference, Chicago, IL

***TransNet – International Consortium for Transgender Health and Medicine Research***

May, 2016 International meeting to set transgender medicine research priorities, Amsterdam, Netherlands

May, 2015 NIH conference to set transgender medicine research priorities, Bethesda, MD

June, 2014 Inaugural meeting, Chicago, IL

**National Conferences**

February, 2019 Live Surgery Course for Gender Affirmation Procedures, Mount Sinai Hospital and WPATH, New York City, NY

April, 2018 Live Surgery Course for Gender Affirmation Procedures, Mount Sinai Hospital and WPATH, New York City, NY

January, 2017 United States Professional Association for Transgender Health (USPATH) bi-annual meeting, Los Angeles, CA

November, 2015 NIH/Alliance for Academic Internal Medicine - Physician Researcher Workforce Taskforce Meeting, Washington, DC

October, 2015 National Internal Medicine Subspecialty Summit, Atlanta, GA

June, 2013 Special Symposium: “Transgender Medicine – What Every Physician Should Know” Annual Meeting of the Endocrine Society, San Francisco, CA

April, 2011 2011 ASP Accreditation Seminar "Meeting the ACGME and RRC-IM Standards for Successful Fellowship Programs" Arlington, VA

***Alliance for Academic Internal Medicine***

April, 2015 2015 ASP Accreditation Seminar “Moving Your Fellowship Program Forward” Spring Meeting, Houston, TX

April, 2014 2014 ASP Accreditation Seminar “NAS for Medical Subspecialties Is Almost Here” Spring Meeting, Nashville, TN

January 6, 2022

**Joshua D. Safer, MD, FACP, FACE**

- May, 2013 2013 ASP Accreditation Seminar “A Changing Landscape in Subspecialty Fellowship Education” Spring Meeting, Lake Buena Vista, FL
- April, 2012 2012 ASP Accreditation Seminar “Meeting ACGME and RRC-IM Standards for Successful Fellowship Programs” Spring Meeting, Atlanta, GA

**Invited Lectures and Presentations**

**International**

- January, 2020 “Transgender Medicine”, World Professional Association for Transgender Health Global Education Initiative, Hanoi, Vietnam
- September, 2019 “Transgender Women” International Association of Athletics Federations (IAAF), Lausanne, Switzerland
- November, 2018 “Transgender Medicine”, World Professional Association for Transgender Health Annual Meeting, Buenos Aires, Argentina
- October, 2018 “Transgender Medicine”, Canadian Endocrine Diabetes Meeting, Halifax, NS, Canada
- June, 2018 “21<sup>s</sup>-Century Strategies: Transgender Hormone Care” CMIN Summit 2018, Porto, Portugal
- February, 2017 “A 21<sup>st</sup>-Century Framework to for Transgender Medical Care” Sheba Hospital, Tel Aviv, Israel
- October, 2016 “A 21<sup>st</sup>-Century Approach to Hormone Treatment of Transgender Individuals” EndoBridge, Antalya, Turkey
- May, 2016 “Transgender Women” International Olympic Committee Headquarters, Lausanne, Switzerland
- October, 2015 “Workshop on Guidelines for Transgender Health Care” Canadian Professional Association for Transgender Health, Halifax, NS
- March, 2015 “Endocrinology - Hormone Induced Changes” Transgender Health Care in Europe, European Professional Association for Transgender Health, Ghent, Belgium
- June, 2014 “What to Know to Feel Safe Providing Hormone Therapy for Transgender Patients” International Congress of Endocrinology, Chicago, IL
- September, 2011 “Transgender Therapy – The Endocrine Society Guidelines” World Professional Association for Transgender Health, Atlanta, GA
- February, 2007 “Treating skin disease by manipulating thyroid hormone action” Grand Rounds, Meier Hospital, Kfar Saba, Israel
- March, 2004 “New Directions in Thyroid Hormone Action: Skin and Hair” Grand Rounds, Meier Hospital, Kfar Saba, Israel
- January 6, 2022

**Joshua D. Safer, MD, FACP, FACE**

**National**

- May, 2021 “Transgender Medicine”, University of Cincinnati Medicine Grand Rounds, Cincinnati, OH (scheduled)
- September, 2020 “Transgender Medicine”, Peds Place Conference, University of Arkansas, AR (remote)
- September, 2020 “Transgender Medicine”, University of California-Irvine Medicine Grand Rounds, Irvine, CA (remote)
- June, 2020 “Transgender Medicine”, Inova Fairfax Medicine Grand Rounds, Fairfax, VA (remote)
- December, 2019 “Transgender Medicine”, Vanderbilt University Surgery Grand Rounds, Nashville, TN
- November, 2019 “Transgender Medicine”, Medical College of Wisconsin CME, Milwaukee, WI
- September, 2019 “Transgender Medicine”, Beth Israel Deaconess Medicine Grand Rounds, Boston, MA
- September, 2019 “Transgender Medicine”, United States Professional Association for Transgender Health Annual Meeting, Washington, DC
- June, 2019 “Transgender Medicine”, Mount Sinai Hospital Internal Medicine CME, New York, NY
- April, 2019 “A 21<sup>st</sup>-Century Strategy for Hormone Treatment of Transgender Individuals” National Transgender Health Summit, Oakland, CA
- March, 2019 “Transgender Medicine” National Eating Disorders Meeting, New York, NY
- January, 2019 “Transgender Medicine” Yale School of Medicine Obstetrics and Gynecology Grand Rounds, New Haven, CT
- January, 2019 “Transgender Medicine” Yale School of Medicine Endocrinology Grand Rounds, New Haven, CT
- January, 2019 “Transgender Medicine” Drexel School of Medicine Medicine Grand Rounds, Philadelphia, PA
- September, 2018 “Current Guidelines and Strategy for Hormone Treatment of Transgender Individuals” Minnesota-Midwest Chapter - American Association of Clinical Endocrinologists Annual Meeting, Minneapolis, MN
- July, 2018 “21<sup>st</sup>-Century Strategies for Transgender Hormone Care” Ohio River Valley Chapter - American Association of Clinical Endocrinologists Meeting, Indianapolis, IN
- June, 2018 “21<sup>s</sup>-Century Strategies: Transgender Hormone Care” University of Connecticut School of Medicine, Hartford, CT

**Joshua D. Safer, MD, FACP, FACE**

- May, 2018 “A 21<sup>st</sup>-Century Strategy for Hormone Treatment of Transgender Individuals” American Association of Clinical Endocrinologists Annual Meeting, Boston, MA
- March, 2018 “21<sup>st</sup>-Century Strategies for Transgender Hormone Care” New Jersey Chapter - American Association of Clinical Endocrinologists Meeting, Morristown, NJ
- February, 2018 “A Strategy for the Medical Care of Transgender Individuals” Keynote Address for the International Society for Clinical Densitometry Annual Meeting, Boston, MA
- November, 2017 “A 21<sup>st</sup>-Century Strategy for Hormone Treatment of Transgender Individuals” National Transgender Health Summit, Oakland, CA
- September, 2017 “Transgender Therapy – The Endocrine Society Guidelines” Endocrine Society: Clinical Endocrinology Update, Chicago, IL
- May, 2017 “Transgender Medicine – a 21<sup>st</sup> Century Strategy for Patient Care” University of Arizona College of Medicine, Tucson, AR
- April, 2017 “Transgender Care Across the Age Continuum” Annual Meeting of the Endocrine Society, Orlando, FL
- March, 2017 “A 21<sup>st</sup>-Century Approach to Hormone Treatment of Transgender Individuals” Brown University School of Medicine, Providence, RI
- March, 2017 “What to Know: A 21<sup>st</sup>-Century Approach to Transgender Medical Care” United States Food and Drug Administration (FDA), Washington, DC
- February, 2017 “A 21<sup>st</sup>-Century Approach to Transgender Medical Care” United States Professional Association for Transgender Health, Los Angeles, CA
- February, 2017 “A 21<sup>st</sup>-Century Approach to Hormone Treatment of Transgender Individuals” Southern States American Association of Clinical Endocrinologists Annual Meeting, Memphis, TN
- December, 2016 “Transgender Medical Care in the United States Armed Forces” Global Education Initiative, World Professional Association for Transgender Health, Arlington, VA
- December, 2016 “Foundations in Hormone Treatment” Global Education Initiative, World Professional Association for Transgender Health, Arlington, VA
- November, 2016 “Developing a Transgender/Gender-Identity Curriculum for Medical Students” Association of American Medical Colleges National Meeting, Seattle, WA
- September, 2016 “A 21<sup>st</sup>-Century Approach to Hormone Treatment of Transgender Individuals” Endocrine Society: Clinical Endocrinology Update, Seattle, WA
- August, 2016 “A 21<sup>st</sup>-Century Approach to Hormone Treatment of Transgender Individuals” Oregon Health and Science University Ashland Endocrine Conference, Ashland, OR
- March, 2016 “State-of-the-Art: Use of Hormones in Transgender Individuals” Annual Meeting of the Endocrine Society, Boston, MA



**Joshua D. Safer, MD, FACP, FACE**

- October, 2015 “What Every Endocrinologist Should Know to Feel Safe Providing Hormone Therapy for Transgender Patients” University of Utah School of Medicine, Salt Lake City, UT
- April, 2015 “What to Know –to Feel Safe Providing Hormone Therapy for Transgender Patients” Pritzker School of Medicine, University of Chicago, Chicago, IL
- March, 2015 “What to Know –to Feel Safe with Hormone Therapy for Transgender Patients” Annual Transgender Health Symposium, Medical College of Wisconsin, Milwaukee, WI
- May, 2014 “Transgynecrinology” Annual Meeting of the American Association of Clinical Endocrinologists, Las Vegas, NV
- May, 2013 “Transgender Therapy – Hormone Action and Nuance” National Transgender Health Summit, Oakland, CA
- April, 2013 “Transgender Therapy – What Every Provider Needs to Know” Empire Conference: Transgender Health and Wellness, Albany, NY
- April, 2013 “Transgender Therapy – What Every Endocrinologist Needs to Know” University of Maryland School of Medicine, Baltimore, MD
- November, 2012 “Transgender Therapy – What Every Endocrinologist Should Know” New York University School of Medicine, New York, NY
- May, 2010 “Transgender Treatment: What Every Endocrinologist Needs to Know” Brown University School of Medicine, Providence, RI
- November, 2009 “New Directions in Thyroid Hormone Action: Skin and Hair” Emory University School of Medicine, Atlanta, GA
- November, 2009 “Primary Care Update in the Treatment of Thyroid Disorders” Emory University School of Medicine, Atlanta, GA
- October, 2008 “Topical Iopanoic Acid Stimulates Epidermal Proliferation through Inhibition of the Type 3 Thyroid Hormone Deiodinase” Annual Meeting of the American Thyroid Association, Chicago, IL
- February, 2005 “New Directions in Thyroid Hormone Action: Skin and Hair” Endocrinology Grand Rounds, University of Minnesota, Minneapolis, MN
- February, 2005 “Thyroid Hormone Action on Skin and Hair: What We Thought We Knew” Dermatology Grand Rounds, University of Minnesota, Minneapolis, MN
- December, 2004 “Transgender Therapy: The Role of the Endocrinologist” Endocrinology Grand Rounds, Brown Medical Center, Providence, RI
- November, 2003 “New Directions in Thyroid Hormone Action: Skin and Hair” Endocrinology Grand Rounds, Dartmouth Medical Center, Hanover, NH

**Joshua D. Safer, MD, FACP, FACE****Regional**

- May, 2021 “Transgender Medicine”, New York GYN Society, New York, NY (scheduled)
- July, 2020 “Transgender Medicine”, LGBT Health Conference CME, New York, NY
- February, 2020 “Transgender Medicine”, Englewood Hospital Medicine Grand Rounds, Englewood, NJ
- February, 2020 “Transgender Medicine”, Endocrinology Grand Rounds, Columbia College of Physicians and Surgeons, New York, NY
- January, 2020 “Transgender Medicine”, CEI, Lake Placid, NY
- November, 2019 “Transgender Medicine”, Weill Cornell Reproductive Endocrine Grand Rounds, New York, NY
- November, 2019 “Transgender Medicine”, Acacia Network Grand Rounds, New York, NY
- October, 2019 “Transgender Medicine”, American Association of Clinical Endocrinologists - New Jersey, annual meeting, Morristown, NJ
- October, 2019 “Transgender Medicine”, Community Health Network annual conference, New York, NY
- October, 2019 “Transgender Medicine”, Westchester Medical Center Medicine Grand Rounds, Valhalla, NY
- September, 2019 “Transgender Medicine”, Weill Cornell Reproductive Endocrine CME, New York, NY
- September, 2019 “Transgender Competency for Medical Providers”, Working Group on Gender, Columbia College of Physicians and Surgeons, New York, NY
- April, 2019 “Transgender Medicine”, Weill Cornell Urology Grand Rounds, New York, NY
- June, 2018 “21<sup>st</sup>-Century Strategies: Transgender Hormone Care” Medicine Grand Rounds, Staten Island University Hospital, Staten Island, NY
- February, 2018 “Transgender Medicine – 21<sup>st</sup> Century Strategies for Patient Care” Medicine Rounds, Newton-Wellesley Hospital, Newton, MA
- October, 2017 “Transgender Medicine – 21<sup>st</sup> Century Strategies for Patient Care” Medicine Rounds, Beth Israel-Milton Hospital, Milton, MA
- September, 2017 “Transgender Medicine – 21<sup>st</sup> Century Strategies for Patient Care” Obstetrics-Gynecology Grand Rounds, Brigham and Women’s Hospital, Boston, MA
- June, 2017 “State-of-the-Art: Hormone Therapy for Transgender Patients” Reproductive Endocrinology Rounds, Massachusetts General Hospital, Boston, MA
- May, 2017 “A 21<sup>st</sup>-Century Strategy for Medical Treatment of Transgender Individuals” Boston Medical Center and Boston University School of Medicine, Boston, MA

**Joshua D. Safer, MD, FACP, FACE**

- March, 2017 “A 21<sup>st</sup>-Century Strategy for Medical Treatment of Transgender Individuals” Tufts Medicine Grand Rounds, Boston, MA
- January, 2017 “What to Know: A 21<sup>st</sup>-Century Approach to Transgender Medical Care” Internal Medicine Rounds, Brigham and Women’s Hospital, Boston, MA
- March, 2016 “State-of-the-Art: Hormone Therapy for Transgender Patients” Obstetrics-Gynecology Rounds, Brigham and Women’s Hospital, Boston, MA
- November, 2015 “What Every Endocrinologist Should Know to Feel Safe Providing Hormone Therapy for Transgender Patients” Endocrinology Rounds, Tufts Medical Center, Boston, MA
- May, 2015 “What Every Endocrinologist Should Know to Feel Safe Providing Hormone Therapy for Transgender Patients” Endocrinology Rounds, Massachusetts General Hospital, Boston, MA
- December, 2014 “What to Know to Feel Safe Providing Hormone Therapy for Transgender Patients” Endocrinology Rounds, Beth Israel Deaconess Medical Center, Boston, MA
- November, 2013 “Transgender Therapy – What Every Physician Should Know” Medicine Grand Rounds, Boston Veterans Administration Hospital, Boston, MA
- May, 2005 “Transgender Therapy: The Role of the Endocrinologist”, Endocrinology Rounds, Tufts-New England Medical Center, Boston, MA
- January, 2004 “New Directions in Thyroid Hormone Action: Skin and Hair”, Endocrinology Rounds, Brigham and Women’s Hospital, Boston, MA
- October, 1999 “The Many Faces of Hypothyroidism”, Medicine Grand Rounds, Bedford Veterans Administration Hospital, Bedford, MA

**Institutional, Icahn School of Medicine at Mount Sinai, New York, NY**

- October, 2019 “Transgender Medicine”, East Harlem HOP rounds, New York, NY
- October, 2019 “Transgender Medicine”, Mount Sinai HIV rounds, New York, NY
- August, 2019 “Transgender Medicine”, Mount Sinai Endocrinology Fellows Conference, New York, NY
- February, 2019 “Transgender Medicine”, Mount Sinai Endocrinology Grand Rounds, New York, NY
- February, 2019 “Transgender Medicine”, Mount Sinai Ob-Gyn Grand Rounds, New York, NY
- April, 2018 “21<sup>st</sup>-Century Strategies for Transgender Hormone Care”, HIV Grand Rounds

**Institutional, Boston University School of Medicine, Boston, MA**

- March, 2017 “State of the Art Hormone Therapy for Transgender Patients”, Section of Infectious Disease

**Joshua D. Safer, MD, FACP, FACE**

- January, 2017 “What you need to know – to supervise care for our transgender patients at BMC”,  
Section of Endocrinology
- February, 2016 “State of the Art Hormone Therapy for Transgender Patients”, Department of Medicine
- November, 2015 “What the Family Medicine Physician Should Know to Feel Safe Providing Hormone  
Therapy for Transgender Patients”, Department of Family Medicine
- November, 2014 “What the Anesthesiologist Should Know to Feel Safe Providing Hormone Therapy for  
Transgender Patients”, Department of Anesthesia
- January, 2014 “Update on the Current Guidelines for Transgender Hormone Therapy”, Section of  
Endocrinology
- October, 2011 “Transgender Therapy – What Every Physician Should Know”, Department of Medicine
- February, 2011 “Current Guidelines for Transgender Hormone Therapy: What Every Endocrinologist Should  
Know”, Section of Endocrinology
- November, 2005 “Thyroiditis and Other Insults to Thyroid Function” Core Curriculum in Adult Primary Care  
Medicine
- November, 2005 “Interpretation of Thyroid Function Tests Made Easy” Core Curriculum in Adult Primary  
Care Medicine
- January, 2005 “Transgender Therapy: The Role of the Endocrinologist” Endocrinology Grand Rounds
- December, 2004 "Update in Endocrinology: Thyroid" Medicine Grand Rounds
- January, 2004 “New Directions in Thyroid Hormone Action: Skin and Hair” Medicine Grand Rounds
- March, 2003 “Thyroid Hormone Action on Hair and Skin” Endocrinology Grand Rounds
- November, 1999 “Central Resistance to Thyroid Hormone – From Bedside to Bench” Endocrinology Grand  
Rounds

**Joshua D. Safer, MD, FACP, FACE**

**Curriculum development with external dissemination**

2014-present Web site for Association of Program Directors of Endocrinology and Metabolism (APDEM), which serves as *the primary resource for endocrinology fellowship program directors throughout the United States and Canada.*

- Sample curricula
- Streaming lectures to support specific curricular needs to fill programmatic gaps at certain programs
- New assessment forms that map skills to milestones that conform to Next Accreditation System (NAS) standards of the Accreditation Council for Graduate Medical Education (ACGME)

2013-present Dissemination of Transgender Medicine Curriculum with local modification to institutions in the United States and Canada

Curriculum adopted

**Johns Hopkins School of Nursing** (sample video:  
<http://vimeo.com/jhunursing/review/97477269/abbcf6d33a>)  
**Ohio State University College of Medicine**  
**University of British Columbia, Faculty of Medicine**  
**University of Central Florida College of Medicine**  
**Tufts University School of Medicine**

Curriculum in development

**Dartmouth School of Medicine**  
**University of Vermont College of Medicine**

Work in progress in preparation for sharing transgender curriculum

Albany Medical College  
Emory School of Medicine  
George Washington University Medical School  
Hofstra School of Medicine  
University of California – San Diego School of Medicine  
University of Kentucky College of Medicine  
University of Louisville School of Medicine  
University of Michigan Medical School  
University of Minnesota Medical School  
University of Nebraska School of Medicine  
University of Pennsylvania School of Medicine  
Washington University School of Medicine

**Joshua D. Safer, MD, FACP, FACE**

2013-2015 Co-author of the *Medical Subspecialty Reporting Milestones used for evaluation of Internal Medicine subspecialty medicine fellowship programs throughout the United States* by the Accreditation Council for Graduate Medical Education (ACGME).

<https://www.acgme.org/acgmeweb/Portals/0/PDFs/Milestones/InternalMedicineSubspecialtyMilestones.pdf>

2011-2014 Web site content expert for APDEM, which served as *the primary resource for endocrinology fellowship Program Directors throughout the United States and Canada*. Materials included sample curricula, streaming lectures to support specific curricular needs to fill programmatic gaps at certain programs, and guidance dealing with ACGME site-visits

**Other curriculum development**

2019-present Massive Open On-line Course (MOOC) curricular content. Transgender Medicine for General Medical Providers, Icahn School of Medicine at Mount Sinai  
(<https://www.coursera.org/courses?query=transgender%20medicine%20for%20general%20medical%20providers&>)

2016-2018 Curricular Content to teach transgender hormone therapy in the LGBT elective at Harvard Medical School

2016-2018 Curricular Content to teach transgender hormone therapy at Tufts University School of Medicine.

2011-2018 Fully revised curriculum for the Boston University Medical Center Fellowship Training Program in Endocrinology, Diabetes and Nutrition.

2010-2018 Curricula to teach transgender hormone therapy at Boston University School of Medicine.

2006-2014 Written examination in endocrinology to complement the multiple-choice examination for medical students — validation relative to success later in medical school is in progress.

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Names of mentees are underlined throughout the bibliography section

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**Joshua D. Safer, MD, FACP, FACE**

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**Joshua D. Safer, MD, FACP, FACE**

**Dissemination Through Lay Press and Social Media**

**Mass Audience Programming:**

“Transgender Health AMA” Reddit. July 24, 2017. Expert responses to questions about transgender medicine. [https://www.reddit.com/r/science/comments/6p7uhb/transgender\\_health\\_ama\\_series\\_im\\_joshua\\_safer/](https://www.reddit.com/r/science/comments/6p7uhb/transgender_health_ama_series_im_joshua_safer/) over 150,000 views, over 4200 comments

“Gender Revolution with Katie Couric” National Geographic Channel. Couric, Katie. February 6, 2017. Extended interview with Katie Couric threaded into a 2-hour television special. Trailer: <https://www.youtube.com/watch?v=y93MsRaC6Zw> broadcast in 143 countries

“Is gender identity biologically hard-wired?” Judd, Jackie. PBS NewsHour. May 13, 2015. Extended interview for Jackie Judd <http://www.pbs.org/newshour/bb/biology-gender-identity-children/> estimated just over 1,000,000 viewers per Nielsen

**Joshua D. Safer, MD, FACP, FACE**

<b>Innovation</b>	<b>Significance/impact</b>
<i>Development and leadership of the Transgender Medicine Clinical Center, Mount Sinai Health System and Icahn School of Medicine at Mount Sinai</i>	<ul style="list-style-type: none"> <li>• The Center for Transgender Medicine and Surgery at Mount Sinai is the first comprehensive center for transgender medical care in New York and the most comprehensive program in the United States</li> <li>• The Center is one of only several such centers in North America that are housed in academic teaching hospitals where care can be integrated</li> <li>• The Center is a model for such care delivery in North America.</li> </ul>
<i>Establishment, development, and leadership of the Transgender Medicine Clinical Center at Boston Medical Center</i>	<ul style="list-style-type: none"> <li>• The Center for Transgender Medicine and Surgery at BMC is the first comprehensive center for transgender medical care in New England</li> <li>• The Center is one of only several such centers in North America that are housed in academic teaching hospitals where care can be integrated</li> <li>• The Center is a model for such care delivery in North America.</li> </ul>
<i>Development and dissemination of the seminal reviews that are most widely cited in the lay press that explain the concept that gender identity is a biological phenomenon (see bibliography section above, e.g. PMID: 25667367).</i>	<ul style="list-style-type: none"> <li>• The concept that gender identity is a biological phenomenon has been a key component of the recent culture change in favor of mainstream medical care for transgender individuals (see media section above)</li> </ul>
<i>Development and dissemination of new and influential curricular content to teach the biology of gender identity in conventional medical education (see curriculum section above)</i>	<p>The teaching of evidence-based approaches to transgender medical care to:</p> <ul style="list-style-type: none"> <li>• Medical students (see bibliography section above, e.g. PMID 23425656 and PMID 27042742)</li> <li>• Physician trainees (see bibliography section above, e.g. PMID 26151424)</li> <li>• Practicing physicians (see invited lectures section above) serves as a crucial component to the gained credence given to care for transgender individuals in conventional medical settings.</li> </ul>
<i>Development and dissemination of seminal reviews supporting the safety of transgender hormone treatment regimens (see invited lectures section above)</i>	<ul style="list-style-type: none"> <li>• Once mainstream medical providers learn of the biology underlying gender identity, their biggest concern is the relative safety of the medical interventions relative to the benefit.</li> <li>• The development and dissemination of the seminal reviews and lectures supporting the safety of current treatment regimens serves as a further crucial component to the culture change among conventional medical providers in favor of routine medical care for transgender individuals</li> </ul>

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

B.P.J. by her next friend and mother, HEATHER JACKSON,

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**REBUTTAL EXPERT REPORT AND DECLARATION OF  
JOSHUA D. SAFER, MD, FACP, FACE**

1. I have been retained by counsel for Plaintiff as an expert in connection with the above-captioned litigation.

2. My background and credentials are set forth in my previous expert report and declaration dated January 21, 2022 (“Safer Rep.”). I incorporate all conclusions and facts set forth in my previously submitted report into this rebuttal report as if fully stated herein.

3. I reviewed the expert reports of Gregory A. Brown, Ph.D. and Chad. A. Carlson, M.D., submitted in this case on February 23, 2022 (“Brown Rep.” and “Carlson Rep.”). I provide

this rebuttal report to explain the overall problems with the conclusions they draw and provide data showing why such conclusions are in error. I reserve the right to supplement my opinions in response to new information if necessary as the case proceeds.

### SUMMARY OF OPINIONS

4. In this rebuttal report, I address four topics raised in the expert reports of Dr. Brown and Dr. Carlson that are related to this lawsuit.<sup>1</sup>

- a. H.B. 3293's definition of "biological sex" as "reproductive biology and genetics at birth" is inaccurate and misleading. Especially in the context of transgender people or people with intersex characteristics, "biological sex" includes all the biological components of sex, including hormones and the biological underpinnings of gender identity.
- b. Circulating testosterone is the primary known biological driver of average differences in athletic performance, not "reproductive biology and genetics at birth." Differences in athletic performance between cisgender boys and girls before puberty are minor and cannot reliably be attributed to biological factors instead of social ones.
- c. Concerns about athletic advantage do not provide a scientific basis for H.B. 3293's categorical ban of transgender girls and women from all girls' teams sponsored by

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<sup>1</sup> It is my understanding that H.B. 3293 seeks to exclude girls and women who are transgender if they are a student at a secondary school or institution of higher education in West Virginia. As a result, several of the studies discussed and conclusions reached by Dr. Brown and Dr. Carlson in their reports are unrelated to H.B. 3293 (e.g., discussions regarding elite athletes, such as Olympians). Although there are several issues with Dr. Carlson's and Dr. Brown's statements regarding these inapposite studies and the conclusions they reach are nothing more than conjecture, given that these studies are not related to H.B. 3293, I do not exhaustively respond to each inaccurate or misleading statement here.

a secondary school or institution of higher education in West Virginia. There is no basis to expect that transgender girls who receive puberty delaying medication followed by gender affirming hormones would have an athletic advantage, and Dr. Brown's sweeping arguments about an athletic advantage for transgender women who suppress testosterone after puberty are based on supposition and conjecture, not evidence.

- d. Concerns about safety also do not provide a scientific basis for H.B. 3293's categorical ban of transgender girls and women from all girls' teams sponsored by a secondary school or institution of higher education in West Virginia. Dr. Carlson's speculative arguments about safety risks apply only to contact and collision sports, and actual safety concerns can be addressed through even-handed rules instead of discriminating based on transgender status.

#### **H.B. 3293'S DEFINITION OF "BIOLOGICAL SEX" IS INACCURATE AND MISLEADING**

5. Ignoring all the other biological components of sex, H.B. 3293 defines "biological sex" exclusively as "an individual's physical form as a male or female based solely on the individual's reproductive biology and genetics at birth." As I explained in my initial report, however, the phrase "biological sex" is an imprecise term that can cause confusion, especially in the context of transgender people and people with intersex characteristics. A person's sex encompasses the sum of several different biological attributes, including sex chromosomes, certain genes, gonads, sex hormone levels, internal and external genitalia, other secondary sex characteristics, and the biological underpinnings of gender identity. Those attributes are not always aligned in the same direction. *See Hembree WC, et al. Endocrine Treatment of Gender-Dysphoria/Gender Incongruent Persons: An Endocrine Society Clinical Practice Guideline. J Clin*

Endocrinol Metab 2017; 102:3869–3903 (“Endocrine Society Guidelines 2017”) at 3875; Safer JD, Tangpricha V. *Care of Transgender Persons*. *N Engl J Med* 2019; 381:2451-2460 (“*N Engl J Med* 2019”).

6. In response to my initial report, Dr. Brown states that sex is rooted in biology. (Brown Rep. ¶¶ 1-3). I agree. But the fact that sex is rooted in biology does not mean that sex is defined exclusively by genetics or reproductive biology at birth. As reflected in the same sources cited by Dr. Brown, dimorphous sexual characteristics in men and women are produced by a combination of genes, prenatal androgen exposure to sex hormones, epigenetics and other environmental factors. Bhargava, A. et al. *Considering Sex as a Biological Variable in Basic and Clinical Studies: An Endocrine Society Scientific Statement*. *Endocr Rev.* 2021; 42:219-258 (“Bhargava 2021”) at 221-228; *N Engl J Med* 2019; Safer JD, Tangpricha V. *Care of the Transgender Patient*. *Ann Intern Med* 2019; 171: ITC1-ITC16 (“*Ann Intern Med* 2019”).

7. In addition, although the precise biological causes of gender identity are unknown, gender identity itself has biological underpinnings, possibly as a result of variations in prenatal exposure to sex hormones, gene sequences, epigenetics, or a combination of factors. And when transgender people receive puberty-delaying treatment and gender-affirming hormones, they develop other biological and physiological sex characteristics that align with their gender identity and not with their sex recorded at birth. Endocrine Society Guidelines 2017 at 3874-75, 3888-89; Bhargava 2021 at 227; *N Engl J Med* 2019; *Ann Intern Med* 2019.

**THE PRIMARY KNOWN BIOLOGICAL DRIVER OF AVERAGE DIFFERENCES IN ATHLETIC PERFORMANCE IS CIRCULATING TESTOSTERONE**

8. As explained in my previous report, the primary known biological cause of average differences in athletic performance between non-transgender men as a group and non-transgender women as a group is circulating testosterone—not “reproductive biology and genetics at birth.”

The existing “evidence makes it highly likely that the sex difference in circulating testosterone of adults explains most, if not all, of the sex differences in sporting performance.” *See* Handelsman DJ, et al. *Circulating Testosterone as the Hormonal Basis of Sex Differences in Athletic Performance*. *Endocrine Reviews* 2018; 39:803-829 (“Handelsman 2018”) at 823 (summarizing evidence rejecting hypothesis that physiological characteristics are driven by Y chromosome).<sup>2</sup>

9. Neither Dr. Brown nor Dr. Carlson disputes that circulating testosterone is the largest biological driver of average differences in athletic performance (Brown Rep. ¶ 114; Carlson Rep. ¶ 16), but Dr. Brown contends that cisgender boys and transgender girls have at least some biological advantages in athletic performance over cisgender girls even before puberty. In support, Dr. Brown relies primarily on demographic data from physical fitness tests or athletics in which prepubertal cisgender boys have outperformed prepubertal cisgender girls. But there is no reliable basis for Dr. Brown to attribute those differences to biology instead of social factors such as greater societal encouragement of athleticism in boys, greater opportunities for boys to play sports, or different preferences of the boys and girls surveyed. *See* Handelsman DJ. *Sex Differences in Athletic Performance Emerge Coinciding with the Onset of Male Puberty*. *Clin Endocrinol (Oxf)*. 2017;87(1):68–72 (“Handelsman 2017”).

10. Dr. Brown also points out that there are physiological differences between cisgender boys and cisgender girls before puberty, largely as a result of exposure to hormones in

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<sup>2</sup> Dr. Brown cites to Handelsman in his report but continually misrepresents Handelsman’s findings, notably omitting key portions of the reference. For example, Dr. Brown writes, “[t]here is convincing evidence that the sex differences in muscle mass and strength are sufficient to account for the increased strength and aerobic performance of men compared with women and is in keeping with the differences in world records between the sexes.” (Brown Rep. ¶ 55, citing Handelsman 2018). But Dr. Brown omits the following sentence which explains that “[t]he basis for the sex difference in muscle mass and strength is the sex difference in circulating testosterone.” (Handelsman 2018 at 816) (emphasis added).

utero or during infancy. (Brown Rep. ¶ 71 (citing McManus, A. and N. Armstrong, *Physiology of Elite Young Female Athletes*. J Med & Sport Sci 2011; 56:23-46)). But the article cited by Dr. Brown never draws a causal connection between those physiological differences and any differences in athletic performance between cisgender prepubertal boys and girls. Throughout the article, McManus and Armstrong acknowledge that differences between cisgender prepubertal boys and girls in various measurements are minimal or nonexistent. *See Id.* at 24 (“Prior to 11 years of age differences in average speed are minimal”); at 27 (“small sex difference in fat mass and percent body fat are evident from mid-childhood”); at 29 (“bone characteristics differ little between boys and girls prior to puberty”); at 32 (“There is little evidence that prior to puberty pulmonary structure or function limits oxygen uptake”); at 34 (“[N]o sex differences in arterial compliance have been noted in pre- and early- pubertal children”).

11. There is also no basis to confidently predict that patterns about the athletic performance of prepubertal cisgender boys will be the same for prepubertal transgender girls. To the extent that differences in performance are influenced by social influences, biases, or preferences, the experience of transgender girls might be more similar to the experience of cisgender girls than to cisgender boys. And to the extent that differences in performance are shown to have some connection to epigenetics or exposure to sex hormones in utero or infancy, we do not know whether those biological factors are always equally true for transgender girls in light of scientific studies documenting potential biological underpinnings of gender identity.

12. For example, studies have shown that even before initiating hormone therapy transgender women tend to have lower bone density than cisgender men. Van Caenegem E, Taes Y, Wierckx K, Vandewalle S, Toye K, Kaufman JM, et al. *Low Bone Mass is Prevalent in Male-to-Female Transsexual Persons Before the Start of Cross-Sex Hormonal Therapy and*



*Gonadectomy*. Bone 2013;54(1):92–7. We do not know whether those differences are explained by social factors or biological ones. But regardless of the cause, it cannot be assumed that the physiological characteristic of cisgender boys and men will automatically apply to transgender girls and women even in the absence of gender affirming hormones.

**CONCERNS ABOUT ATHLETIC ADVANTAGE  
DO NOT PROVIDE A SCIENTIFIC BASIS FOR H.B. 3293**

13. In my previous report, I explained why “[t]here is no medical justification for West Virginia’s categorical exclusion of girls who are transgender from participating in scholastic athletics on the same teams as other girls.” (Safer Rep. ¶ 46). By excluding girls who are transgender based on “biological sex,” and defining that term to mean “reproductive biology and genetics at birth,” West Virginia categorically prevents girls who are transgender from participating on all girls’ teams sponsored by a secondary school or institution of higher education in West Virginia regardless of the particular sport at issue and regardless of whether they are pre-pubertal, receiving puberty blockers, or receiving gender-affirming hormone therapy. That sweeping and categorical ban is dramatically out of step with even the most stringent policies of elite international athletic competitions for girls and women who are transgender.

14. To support this sweeping ban, Dr. Brown makes a variety of claims that are either irrelevant or are based on speculation and inferences that are not supported by the data that we currently have.

15. As an initial matter, Dr. Brown provides no scientific support for excluding girls and women who are transgender and who had puberty blockers before endogenous puberty. To the contrary, even some of the most exclusionary policies cited by Dr. Brown allow transgender girls and women to participate if they did not experience endogenous puberty. *See* World Rugby Transgender Women’s Guidelines 2020 (“Transgender women who transitioned pre-puberty and

have not experienced the biological effects of testosterone during puberty and adolescence can play women’s rugby”).<sup>3</sup>

16. Dr. Brown contends that “there is no published scientific evidence that the administration of puberty blockers to males before puberty eliminates the pre-existing athletic advantage that prepubertal [transgender girls] have over prepubertal [cisgender] females.” (Brown Rep. at 56). But as I explain above, there is no evidence that prepubertal transgender girls have any such pre-existing biological athletic advantages. *See supra* ¶¶ 9-12.

17. Dr. Brown’s assertions also rest on a misunderstanding of the treatment of gender dysphoria. Indeed, Dr. Brown admits that his speculation about puberty blockers is outside his area of expertise. (Brown Rep. ¶ 110). Under current standards of care, transgender adolescents are eligible to receive puberty blockers when they reach Tanner 2—not Tanner 3—which is early enough to prevent endogenous puberty from taking place. *See* Endocrine Society Guidelines 2017 at 3869-3903. Following administration of puberty blockers, transgender girls and women will have also received gender-affirming care to allow them to go through puberty consistent with their female gender identity. As a result of a typically female puberty, these transgender girls and women will develop many of the same physiological and anatomical characteristics of cisgender girls and women, including bone size (Brown Rep. ¶¶ 46-48), skeletal structure (*id.* at ¶ 49), and “distinctive aspects of the female pelvis geometry [that] cut against athletic performance” (*id.* at ¶ 50). Thus, a transgender girl or women who received puberty blockers followed by gender-affirming hormones does not have the same physiology as a prepubertal cisgender boy.<sup>4</sup>

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<sup>3</sup> *See* <https://www.world.rugby/thegame/player-welfare/guidelines/transgender/women>

<sup>4</sup> Dr. Brown cites to a study measuring body composition among transgender people who received puberty delaying medication followed by gender affirming hormones. (Brown Rep. ¶¶ 112-13 (citing Klaver M, et al. *Early Hormonal Treatment Affects Body Composition and Body Shape in*

18. Dr. Brown also cannot point to data justifying H.B. 3293's exclusion of transgender girls and women who experience endogenous puberty and then lower their levels of circulating testosterone. As I explained in my original report, concerns about athletic competition among college students and adults are more attenuated for students in middle school and high school, where athletes' ages typically range from 11-18, with different athletes in different stages of pubertal development. Increased testosterone begins to affect athletic performance at the beginning of puberty, but those effects continue to increase each year of puberty until about age 18, with the full impact of puberty resulting from the cumulative effect of each year. As a result, a 14, 15, or 16-year old has experienced less cumulative impact from testosterone than a 17 or 18-year old.

19. But even with respect to college students, Dr. Brown's sweeping arguments are not supported by his data. There have been only two studies that examined the effects of gender-affirming hormone therapy on the athletic performance of transgender female athletes. (Safer Rep. ¶¶ 55-57). The first is a small study of eight adult long-distance runners showing that when women who are transgender have lowered circulating testosterone, their performance when compared to non-transgender women was proportionally the same as their performance had been before treatment relative to non-transgender men. Harper J. *Race Times for Transgender Athletes*. *Journal of Sporting Cultures and Identities* 2015; 6:1-9. The second is a retrospective study that reviewed military fitness test results, showing that two years of gender-affirming hormone therapy negated any advantage transgender women had over non-transgender women in performing push-ups and

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*Young Transgender Adolescents*. *J Sex Med* 2018; 15: 251-260)). This study confirms that the transgender women after treatment had body composition patterns that more closely resembled cisgender women than cisgender men (or cisgender prepubertal boys). The minimal remaining differences reported in some measurements are not large enough to plausibly confer a material athletic advantage, and those differences are likely attributable to the fact that the subjects do not appear to have started receiving treatments until ages 12.8 to 13.5 at the earliest. By contrast, the start of Tanner 2 for transgender girls usually begins at about age 11.5.

sit-ups, but did not completely negate transgender women's faster times in racing 1.5 miles. Roberts TA, et al. *Effect of gender affirming hormones on athletic performance in transwomen and transmen: implications for sporting organizations and legislators*. Br J Sports Med. 2020; 0:1–7. doi:10.1136/bjsports-2020-102329.

20. Neither of these studies provides enough data to support Dr. Brown's sweeping claim that transgender women who have lowered circulating testosterone have an advantage over cisgender women in all athletic events. To support that inference, Dr. Brown cites to a variety of studies of transgender women measuring discrete physiological characteristics such as muscle size or grip strength. (Brown Rep. ¶¶ 153-56). Dr. Brown predicts that if puberty-influenced characteristics like bone and muscle size are not completely reversed by testosterone suppression, then those characteristics will continue to provide an advantage for transgender women. But because changes in testosterone affect different parts of the body in different ways, we do not have enough information to confidently predict whether the combined effect of the changes will be an advantage or a disadvantage.

21. The study about military fitness tests (Roberts 2020) illustrates the point. Roberts TA, et al. *Br J Sports Med*. 2020; 0:1–7. After two years of suppressing testosterone any advantage that the transgender women had in performing push-ups or sit-ups was eliminated. But because the transgender women in the study weighed more than the cisgender women even after suppressing testosterone, the transgender women had to use more muscle strength to perform the same number of push-ups. In other words, the transgender women may have had more muscle strength, but that greater strength did not translate into an athletic advantage in a push-up contest. Because different sports require different types of physical performance, the existence and extent

of any performance advantage based on grip strength or leg-muscle size may vary from sport to sport and cannot support a categorical across-the-board rule.

22. Dr. Brown also refers to widely publicized anecdotes about isolated cases of transgender girls and women winning state championships in high school sports or NCAA championships in college. But transgender athletes and women have been competing in NCAA and secondary school athletics for many years at this point, and they remain dramatically underrepresented amongst champions. The occasional championships that have been widely publicized do not come close to constituting the rates one would expect if they won at rates that are proportional to their overall percentage of the population (which is approximately 1%).

**CONCERNS ABOUT SAFETY DO NOT PROVIDE  
A SCIENTIFIC BASIS FOR H.B. 3293**

23. Dr. Carlson argues in his report that allowing transgender girls and women to participate on women's teams "creates significant additional risk of injury for the [cisgender] female participants competing alongside these transgender athletes." (Carlson Rep. at 2).

24. Even on their own terms, none of Dr. Carlson's arguments support H.B. 3293's categorical ban of all girls who are transgender from all girls' sports teams. Dr. Carlson's safety arguments relate solely to contact and collision sports and to physical characteristics developed during puberty. By contrast, H.B. 3293 applies even to non-contact sports like cross-country, and it applies even to transgender girls and women who have never experienced endogenous puberty as a result of hormone blocking medication and gender-affirming hormones.<sup>5</sup>

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<sup>5</sup> The declaration Dr. Carlson submitted earlier in this case dealt exclusively with physiological characteristics acquired during puberty. In his more recent report, Dr. Carlson vaguely asserts that "the conclusions of this paper can apply to a certain extent before . . . puberty" (Carlson Rep. at 56) but he does not attempt to argue that the relatively small differences in performance or physiology observed before puberty come anywhere close to creating an actual safety risk.

25. To the extent that Dr. Carlson's arguments related to some applications of H.B. 3293, those arguments are based on stereotypes and suppositions, not actual evidence that transgender girls and women pose a safety threat. Although transgender girls and women have been playing in NCAA and secondary school sports for at least the past 10 years, Dr. Carlson does not identify any instance in which a cisgender girl or woman has actually been injured as a result of competing against a girl or woman who is transgender. Rather, he theorizes that a greater number of people are identifying as transgender and that sporting organizations should adopt restrictions preemptively in response to what he characterizes as "this rapid social change." (Carlson Rep. at 59).

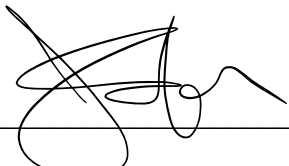
26. Dr. Carlson repeats the same mistakes as Dr. Brown by drawing unsubstantiated inferences about transgender women based on data from cisgender men and from measurements of discrete characteristics. As discussed above, we do not currently have sufficient information to predict how all the physiological effects of testosterone suppression will interact in combination each other or whether they will produce the same kinetic energy as typically produced by cisgender men. For instance, having larger bones without corresponding levels of testosterone and muscle mass would mean that a runner has a bigger body to propel with less power to propel it.

27. Dr. Carlson does not offer a cogent explanation for why alleged safety concerns based on average differences in size and strength should be addressed with an across-the-board exclusion of transgender women as opposed to tailored, non-discriminatory policies. Like Dr. Brown's arguments about athletic advantage, Dr. Carlson's arguments about safety must be considered in the context of all the intra-sex variations in height, weight, and muscle mass that pose comparable safety risks. Athletic organizations can protect athlete safety for women without drawing categorical lines based on transgender status.

**CONCLUSION**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 3/10/2022

  
\_\_\_\_\_  
Joshua D. Safer, MD, FACP, FACE

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

B.P.J. by her next friend and mother, HEATHER JACKSON,

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**REBUTTAL EXPERT REPORT AND DECLARATION OF  
ARON JANSSEN, M.D.**

I, Aron Janssen, M.D., hereby declare as follows:

1. I have been retained by counsel for Plaintiffs as an expert in connection with the above-captioned litigation. I submit this expert declaration based on my personal knowledge.

2. The purpose of this declaration is to respond to the expert reports of Dr. Stephen Levine, MD and Dr. Stephen Cantor, Ph.D., submitted by Defendants in this case, which misrepresent current standards of care for treating gender dysphoria in children and adolescents, the practices commonly known as gender-affirming care, and the scientific data supporting those practices.



3. I have knowledge of the matters stated in this declaration and have collected and cite to relevant literature concerning the issues that arise in this litigation in the body of this declaration.

4. In preparing this declaration, I reviewed: the Complaint in this action, the expert reports of Dr. Joshua D. Safer, M.D., and Dr. Deanna Adkins, M.D., submitted by Plaintiff, and the expert reports of Dr. Levine and Dr. Cantor submitted by Defendants. I also relied on my scientific education and training, my research experience, my knowledge of the scientific literature in the pertinent fields, and my clinical experience treating children, adolescents, and adults with gender dysphoria. A true and accurate copy of my curriculum vitae is attached hereto as Exhibit A. It documents my education, training, research, and years of experience in this field and includes a list of my publications from the last 10 years, which I also rely upon to support my opinions.

5. The materials I have relied upon in preparing this declaration are the same types of materials that experts in my field regularly rely upon when forming opinions on these subjects. I may wish to supplement these opinions or the bases for them as a result of new scientific research or publications or in response to statements and issues that may arise in my area of expertise.

### **BACKGROUND QUALIFICATIONS**

6. I am the Vice Chair of the Pritzker Department of Psychiatry and Behavioral Health at the Ann and Robert H. Lurie Children's Hospital of Chicago ("Children's Hospital"), where I also serve as Clinical Associate Professor of Child and Adolescent Psychiatry and Medical Director for Outpatient Psychiatric Services.

7. I previously served as Co-Director of the New York University Pediatric Consultation Liaison Service for the New York University Department of Child and Adolescent Psychiatry. I also was the Founder and Clinical Director of the New York University Gender and Sexuality Service, which I founded in 2011.

8. I am Board Certified in Child, Adolescent, and Adult Psychiatry. In my clinical practice, I have seen approximately 500 transgender patients.

9. I am an Associate Editor of the peer-reviewed publication *Transgender Health*. I am also a reviewer for *LGBT Health* and *Journal of the American Academy of Child and Adolescent Psychiatry*, both of which are peer-reviewed journals.

10. I am the author or co-author of 16 articles on care for transgender patients and am the co-author of *Affirmative Mental Health Care for Transgender and Gender Diverse Youth: A Clinical Casebook*, Springer Publishing, 2018. I have also authored or co-authored numerous book chapters on treatment for transgender adults and youth.

11. I have been a member of the World Professional Association for Transgender Health (“WPATH”) since 2011. I have been actively involved in WPATH’s revision of its Standards of Care for the Health of Transsexual, Transgender, and Gender-Nonconforming People (“Standards of Care”), serving as a member of revision committees for both the child and adult mental health chapters of the forthcoming eighth edition of WPATH’s Standards of Care.

12. I am involved in a number of international, national, and regional committees that contribute to the scholarship and provision of care to transgender people. I am the Chair of the American Academy of Child and Adolescent Psychiatry’s Sexual Orientation and Gender Identity Committee. I serve as a member of the Transgender Health Committee for the Association of Gay and Lesbian Psychiatrists. I also am the Founder and Director of the Gender Variant Youth and Family Network.

13. I have not testified as an expert at trial or by deposition in the last four years.

14. I am being compensated for my work on this matter at a rate of \$400 per hour for preparation of this report and for time spent preparing for and giving local deposition or trial testimony. In addition, I would be compensated \$2,500 per day for deposition or trial testimony

requiring travel and \$300 per hour for time spent travelling, plus reasonable expenses. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I may provide.

### **SUMMARY OF OPINIONS**

15. My understanding is that this case is a legal challenge to a West Virginia law (“H.B. 3293”) that prohibits girls and women who are transgender from participating on girls’ and women’s sports teams in “[i]nterscholastic, intercollegiate, intramural, or club athletic teams or sports that are sponsored by any public secondary school or a state institution of higher education.” W. Va. Code § 18-2-25d(c)(1). In their expert reports, Dr. Levine and Dr. Cantor do not offer any expert opinions directly relating to H.B. 3293 or the participation of transgender athletes. Instead, Dr. Levine and Dr. Cantor launch a broadside attack against the prevailing model of gender-affirming care for transgender youth that has been endorsed by the American Academy of Child and Adolescent Psychiatry, the American Academy of Pediatrics, the American Psychological Association, the American Psychiatric Association, and the American Medical Association, among many other mainstream medical organizations.

16. As an initial matter, it is important to note that Dr. Levine and Dr. Cantor’s litany of criticisms are largely irrelevant to the population of people affected by H.B. 3293. Most of Dr. Levine and Dr. Cantor’s arguments relate to (a) prepubertal children who “desist” from expressing a transgender identity once they reach puberty and (b) transgender boys who first seek treatment for gender dysphoria during adolescence. But H.B. 3293 does not affect elementary school students or transgender boys. It affects transgender girls and women in middle school, high school, and college.

17. As I explain in this report, Dr. Levine and Dr. Cantor’s criticisms are also utterly unfounded. First, Dr. Levine and Dr. Cantor lack experience with gender dysphoria in children and adolescents—the groups whom their reports discuss.

18. Second, with respect to prepubertal children, Dr. Levine and Dr. Cantor present a caricatured description of prevailing standards of care that reflects a profound misunderstanding of the subject. Gender-affirming care for prepubertal children is not synonymous with “transition on demand” (Cantor Rep. ¶ 45) or a rubber-stamp recommendation that every prepubertal child expressing feelings of gender dysphoria be encouraged to socially transition. Treatment is individualized based on the needs of the child and the family and other psychosocial considerations and is decided upon only after a discussion of possible benefits and risks. For prepubertal transgender children with intense, persistent gender dysphoria, there is substantial evidence that, in appropriate cases, socially transitioning can have significant mental health benefits.

19. Third, Dr. Levine and Dr. Cantor’s criticisms of gender-affirming care for adolescents—like their criticisms of gender-affirming care for prepubertal children—also reflect a distorted interpretation of the relevant scientific literature and a caricatured understanding of what gender-affirming care is. Studies have repeatedly documented that puberty-blocking medication and gender-affirming hormone therapy are associated with mental health benefits in both the short and long term. Contrary to the portrayal in Dr. Levine and Dr. Cantor’s reports, gender-affirming treatment also requires a careful and thorough assessment of a patient’s mental health, including co-occurring conditions, history of trauma, and substance use, among many other factors.

20. Finally, while purporting to offer expert opinions on mental health care for transgender youth, Dr. Levine and Dr. Cantor do not appear to offer any expert opinions on the mental health impact of H.B. 3293 itself. Excluding transgender adolescent girls and women from

female sports teams will not cure their gender dysphoria or improve their mental health. To the contrary, stigma and discrimination have been shown to have a profoundly harmful impact on the mental health of transgender people and other minority groups.

## **DISCUSSION**

### Dr. Levine and Dr. Cantor Lack Experience with Gender Dysphoria in Children and Adolescents

21. According to his CV, Dr. Levine is not board certified in child and adolescent psychiatry, which requires specialized training in child development that is essential for working with transgender young people and their families. His declaration and CV also indicate that he does not have significant clinical experience working with adolescents experiencing gender dysphoria, the patient population at the heart of this case.

22. Moreover, Dr. Levine repeatedly acknowledges in his report that he has no first-hand knowledge of how gender-affirming mental health care is actually provided to children and adolescents. His descriptions are based on second-hand conversations and often sensationalized media reports. (*See, e.g.*, Levine Rep. ¶¶ 49, 118 (offering opinions based on anecdotal reports from the internet).)

23. Dr. Cantor appears to have no experience in child or adolescent psychology and no relevant experience with respect to gender dysphoria in childhood and adolescence. His academic career has focused on pedophilia and sexual paraphilias in adults.

### Gender-Affirming Care for Prepubertal Children

24. Dr. Levine and Dr. Cantor devote substantial portions of their expert reports to criticizing the positions of mainstream medical organizations with respect to gender-affirming care for prepubertal transgender children. (*See, e.g.*, Levine Rep. ¶¶ 42-43, 114-17, 130-34; Cantor Rep. ¶¶ 36-45, 82-87.) According to Dr. Levine and Dr. Cantor, studies have indicated that gender dysphoria in prepubertal children may desist by the time the children reach puberty, and thus

medical professionals should adopt a “watchful waiting” approach and avoid affirming a prepubertal child’s gender identity.

25. Before addressing Dr. Levine and Dr. Cantor’s arguments about prepubertal children, it is important to emphasize that those arguments are irrelevant to what I understand to be the issues in this case. H.B. 3293 does not apply to elementary schools, and the plaintiff in this case is an 11-year-old middle school student. The relevant population affected by H.B. 3293 is composed of transgender adolescents and young adults, not prepubertal children.

26. With respect to prepubertal children, Dr. Levine and Dr. Cantor present a caricatured description of prevailing standards of care that reflects a profound misunderstanding of the subject. Mental health providers cannot change a prepubertal child’s gender identity or prevent them from being transgender, just as mental health providers cannot change a cisgender child’s gender identity. Prepubertal children who “desist” are children with non-conforming gender expression who realize with the onset of puberty that their gender identity is consistent with their sex assigned at birth. Their understanding of their gender identity changes with the onset of puberty, but their gender identity does not. We cannot definitively determine which prepubertal children will go on to identify as transgender when they reach adolescence, but we know that children with gender dysphoria who persist into puberty are more likely to have expressed a consistent, persistent, and insistent understanding of their gender identity from a young age.<sup>1</sup>

27. Gender-affirming care for prepubertal children is not synonymous with “transition on demand” (Cantor Rep. ¶ 45) or a rubber-stamp recommendation that every prepubertal child expressing feelings of gender dysphoria be encouraged to socially transition. Treatment is

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<sup>1</sup> Steensma, T.D., et al. (2013). *Factors Associated with Desistence and Persistence of Childhood Gender Dysphoria: A Quantitative Follow-Up Study*. J. AM. ACAD. CHILD ADOLESC. PSYCHIATRY. 52(6):582-90 (“Steensma 2013”).

individualized based on the needs of the child and the family and other psychosocial considerations, and is decided upon only after a discussion of possible benefits and risks.<sup>2</sup> As part of those discussions, the child and their family are advised that prepubertal children do not always go on to identify as transgender when they reach adolescence, and that children are encouraged to continue developing an understanding of their gender identity without expectation of a specific outcome even after social transition takes place.<sup>3</sup>

28. The focus of gender-affirming care is supporting overall health and wellbeing, regardless of whether the young person continues to identify as transgender. In this manner, the primary goal of gender-affirming care is to help a child understand their own gender identity and build resilience and mental wellness in a child and family, without privileging any one outcome over another.

29. Important considerations in deciding whether social transition is in a child's best interest include: whether there is a consistent, stable articulation of a gender different from the child's sex assigned at birth, which should be distinguished from merely dressing or acting in a gender non-conforming manner; whether the child is expressing a strong desire or need to transition; the degree of distress the child is experiencing as a result of the gender dysphoria; and whether the child will be emotionally and physically safe during and following transition.<sup>4</sup>

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<sup>2</sup> See Hidalgo, M.A., et al. (2013). *The Gender Affirmative Model: What We Know and What We Aim to Learn*. HUMAN DEV. 56(5):285-90.

<sup>3</sup> See American Psychological Association. (2015). *Guidelines for Psychological Practice with Transgender and Gender Nonconforming People*. AM. PSYCHOLOGIST. 70(9):832-64 ("APA 2015"); Edwards-Leeper, L., & Spack, N.P. (2012). *Psychological evaluation and medical treatment of transgender youth in an interdisciplinary "Gender Management Service" (GeMS) in a major pediatric center*. J. HOMOSEXUALITY. 59(3):321-36 ("Edwards-Leeper 2012").

<sup>4</sup> APA 2015.

30. A treatment plan is informed by a psychosocial assessment, which may vary greatly depending on the patient’s presentation and the complexity of the issues the patient is navigating. Further, in conducting that assessment, the mental health provider is drawing from their professional training and experience in working with transgender young people, exercising professional judgment, and tailoring the assessment to each individual patient.

31. There is also no requirement that prepubertal children who socially transition receive mental health therapy. Many prepubertal children who express a gender identity different from their sex assigned at birth do not experience any co-occurring conditions or other psychological distress requiring treatment.<sup>5</sup> Mental health therapy may be useful for some prepubertal children but is not necessary or appropriate for everyone. Forcing children to undergo therapy when it is not medically indicated is both harmful and unethical.

32. What makes gender-affirming care “gender affirming” is that it does not presume that being transgender is incompatible with a young person’s short- and long-term health and wellbeing. Simply being transgender or gender nonconforming is not a medical condition or pathology to be treated. As the DSM-5 recognizes, diagnosis and treatment are “focus[ed] on dysphoria as the clinical problem, not identity per se.” American Psychiatric Association, *Diagnostic and Statistical Manual of Mental Disorders (DSM-5)*, 451 (2013). The DSM-5 unequivocally repudiated the outdated view that being transgender is a pathology by revising the diagnostic criteria (and name) of gender dysphoria to recognize the clinical distress as the focus of the treatment, not the patient’s transgender status.

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<sup>5</sup> See Levine Rep. ¶ 30 (acknowledging that “[y]oung children who are living a transgender identity commonly suffer materially fewer symptoms of concurrent mental distress than do older patients.”); de Vries, A.L.C, *et al.* (2011). *Psychiatric comorbidity in gender dysphoric adolescents*. *J. CHILD PSYCHOLOGY & PSYCHIATRY*. 52(11):1195-202 (noting that 67.6% had no concurrent psychiatric disorder).



33. In criticizing what they imagine to be gender-affirming care, Dr. Levine and Dr. Cantor do not merely advocate for “watchful waiting” to see whether dysphoria persists into adolescence before any treatment is provided. Instead, they offer wild speculation that mental health professionals can and should intervene and provide therapy to encourage the patient to identify with their sex assigned at birth, which they believe will reduce the likelihood that gender dysphoria will persist. Both Dr. Levine and Dr. Cantor candidly admit that there is no credible scientific research indicating that such practices are either possible or ethical. (See Levine Rep. ¶ 49 (“To my knowledge, there is no evidence beyond anecdotal reports that psychotherapy can enable a return to male identification for genetically male boys, adolescents, and men, or return to female identification for genetically female girls, adolescents, and women.”); Cantor Rep. ¶ 42 (speculating that “therapeutic intervention [could] facilitate or speed desistance” while admitting “there has not yet been any such study”).)

34. Although Dr. Levine refers to his preferred modality as the “psychotherapy model” (Levine Rep. ¶¶ 46-48), this approach is more appropriately characterized as the “gender identity conversion model” because its goal is to bring the patient’s gender identity into alignment with their assigned sex and foreclose gender transition as a treatment for gender dysphoria. A recent study found that people who reported experiencing those conversion efforts were more likely to have reported attempting suicide, especially those who reported receiving such therapy in childhood.<sup>6</sup> That conclusion is further supported by the extensive evidence that rejection of a young person’s gender identity by family and peers is the strongest predictor for adverse mental

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<sup>6</sup> Turban, J.L., *et al.* (2020). *Association Between Recalled Exposure to Gender Identity Conversion Efforts and Psychological Distress and Suicide Attempts Among Transgender Adults.* JAMA PSYCHIATRY. 77(1):68-76.

health outcomes.<sup>7</sup> Attempting to change a person’s gender identity is not an appropriate therapeutic modality, and such practices have been widely recognized as discredited, harmful, and ineffective.<sup>8</sup>

35. In contrast, for prepubertal transgender children with intense, persistent gender dysphoria, there is substantial evidence that, in appropriate cases, socially transitioning can have significant mental health benefits. While not true for every transgender child, transgender children as a group have higher rates of depression, anxiety, and suicidal thoughts and behaviors. Research indicates that social transition significantly improves the mental health of transgender young people, bringing their mental health profiles into close alignment with their non-transgender peers, finding only slightly higher levels of anxiety and no elevated levels of depression.<sup>9</sup>

36. Dr. Levine and Dr. Cantor criticize research demonstrating the benefits of social transition and argue that even after socially transitioning, transgender youth as a group can

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<sup>7</sup> Ryan, C., *et al.* (2010). *Family Acceptance in Adolescence and the Health of LGBT Young Adults*. J. CHILD ADOLESC. PSYCHIATRIC NURSING. 23(4):205-13; Klein, A., & Golub, S.A. (2016). *Family Rejection as a Predictor of Suicide Attempts and Substance Misuse Among Transgender and Gender Nonconforming Adults*. LGBT HEALTH. 3(3):193-99.

<sup>8</sup> See American Academy of Child & Adolescent Psychiatry Policy Statement: Conversion Therapy (2018); American Psychiatric Association Position Statement on Conversion Therapy and LGBTQ Patients (2018); American Psychological Association Resolution on Gender Identity Change Efforts (2021).

<sup>9</sup> See Gibson, D.J., *et al.* (2021). *Evaluation of Anxiety and Depression in a Community Sample of Transgender Youth*. JAMA NETWORK OPEN. 4(4):e214739; Durwood, L., *et al.* (2017). *Mental Health and Self-Worth in Socially Transitioned Transgender Youth*. J. AM. ACAD. CHILD ADOLESC. PSYCHIATRY. 56(2):116-23; Olson, K.R., *et al.* (2016). *Mental Health of Transgender Children Who Are Supported in Their Identities*. PEDIATRICS. 137(3):e20153223 (“Olson 2016”).

Dr. Cantor points to a critique of Olson 2016 which attempted—unsuccessfully—to show statistical errors in the paper. (Cantor Rep. ¶¶ 15-16, 100 (citing Schumm, W. R., & Crawford, D.W. (2020). *Is Research on Transgender Children What It Seems? Comments on Recent Research on Transgender Children with High Levels of Parental Support*. THE LINACRE QUARTERLY. 87(1):9–24.) The small statistical errors in Olson 2016 had already been corrected in 2018 and did not alter any of the study’s findings. See Olson, K.R., *et al.* (2018). *Mental Health of Transgender Children Who Are Supported in Their Identities* (Errata). PEDIATRICS. 142(2):e20181436.

experience higher rates of anxiety and depression than cisgender children of the same age. To be sure, stigma and discrimination have been shown to have a profoundly harmful impact on mental health of transgender people and other minority groups.<sup>10</sup> But preventing a child from socially transitioning does not prevent the child from being transgender, and social transition is a treatment for gender dysphoria, not a panacea for all co-occurring mental health concerns. Dr. Levine and Dr. Cantor offer no support whatsoever for their apparent assumption that mental health outcomes would be improved by preventing social transition from occurring.

37. There is also no evidence supporting Dr. Levine's speculation that allowing prepubertal children to socially transition puts children on a "conveyor belt" path to becoming transgender adolescents and adults. (See Levine Rep. ¶¶ 131-34.) Rather, the evidence shows that the same prepubertal children who are likely to have a stable transgender identity into adolescence are the children who are most likely to articulate a strong and consistent need to socially transition.<sup>11</sup> For example, a recent study found that a group of transgender children who transitioned before puberty and a group of transgender children who waited to transition until after puberty both showed the same intensity of cross-gender identification. In other words, socially transitioning before puberty did not increase children's cross-gender identification, and deferring transition did not decrease cross-gender identification.<sup>12</sup> Intense cross-gender identification and a strong, persistent desire to transition is simply an indicator that a child is more likely to be transgender and not merely gender nonconforming.

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<sup>10</sup> White Hughto, J.M., et al. (2015). *Transgender stigma and health: A critical review of stigma determinants, mechanisms, and interventions*. SOC. SCI. MED. 147:222-31 ("White Hughto 2015").

<sup>11</sup> Steensma 2013.

<sup>12</sup> Rae, J.R., et al. (2019). *Predicting Early-Childhood Gender Transitions*. PSYCHOLOGICAL SCI. 30(5):669-81.

Gender-Affirming Care for Adolescents

38. Dr. Levine and Dr. Cantor also devote much of their reports to criticizing the provision of gender-affirming care for adolescents, arguing that the benefits of puberty-blocking medication are overstated and that adolescents should have more rigorous mental health screening. As with their criticisms of gender-affirming care for prepubertal children, Dr. Levine and Dr. Cantor do not explain how any of their criticisms are relevant to the issue of whether girls and women who are transgender should be able to participate on female sports teams in secondary school and college.

39. Dr. Levine and Dr. Cantor’s criticisms of gender-affirming care for adolescents—like their criticisms of gender-affirming care for prepubertal children—also reflect a distorted interpretation of the relevant scientific literature and a caricatured understanding of what gender-affirming care is. Despite Dr. Levine’s suggestion to the contrary, there is no “watchful waiting” approach for transgender adolescents. Even practitioners who oppose social transition in childhood provide gender-affirming care for transgender adolescents, including puberty-blocking medication and gender-affirming hormone treatments for gender dysphoria.<sup>13</sup> As with their criticism of care for prepubertal children, Dr. Levine and Dr. Cantor criticize the methodology of studies supporting gender-affirming care while proposing a “therapy only” treatment without any empirical or scientific support whatsoever.

40. Studies have repeatedly documented that puberty blocking medication and gender-affirming hormone therapy are associated with mental health benefits in both the short and long

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<sup>13</sup> Jack Turban, Annelou DeVries & Kenneth Zucker, “Gender Incongruence & Gender Dysphoria,” in *Lewis’s Child and Adolescent Psychiatry: A Comprehensive Textbook* (A Martin, et al., eds., 5th ed., 2018).

term.<sup>14</sup> In addition to forestalling increased distress and dysphoria resulting from the physical changes accompanying puberty, puberty-delaying medication followed by gender-affirming hormones brings a transgender person's body into greater alignment with their identity over the long term and reduces the number of surgeries a transgender person may need as an adult. The benefits of puberty-blocking medication thus increase over the long term as the person progresses into adulthood.<sup>15</sup>

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<sup>14</sup> See Tordoff, D.M., *et al.* (2022). *Mental Health Outcomes in Transgender and Nonbinary Youths Receiving Gender-Affirming Care*. JAMA NETWORK OPEN. 5(2):e220978 at 1 (finding that receipt of gender-affirming care, including puberty blockers and gender-affirming hormones, was associated with 60% lower odds of moderate or severe depression and 73% lower odds of suicidality over a 12-month follow-up); Green, A.E., *et al.* (2021). *Association of Gender-Affirming Hormone Therapy with Depression, Thoughts of Suicide, and Attempted Suicide Among Transgender and Nonbinary Youth*. J. ADOLESC. HEALTH [ePublication ahead of print] at 1 (finding that access to gender-affirming hormones during adolescence was associated with lower odds of recent depression and having attempted suicide in the past year); Turban, J.L., *et al.* (2020) *Pubertal Suppression for Transgender Youth and Risk of Suicidal Ideation*. PEDIATRICS. 145(2):e20191725 at 1 (finding that access to puberty blockers during adolescence is associated with a decreased lifetime incidence of suicidal ideation among adults); Achille, C., *et al.* (2020). *Longitudinal impact of gender-affirming endocrine intervention on the mental health and well-being of transgender youths: Preliminary results*. INT'L J. PEDIATRIC ENDOCRINOLOGY. 2020:8 at 1 (finding that endocrine intervention was associated with decreased depression and suicidal ideation and improved quality of life for transgender youth); Kuper, L.E., *et al.* (2020). *Body Dissatisfaction and Mental Health Outcomes of Youth on Gender-Affirming Hormone Therapy*. PEDIATRICS. 145(4):e20193006 at 1 (showing hormone therapy in youth is associated with reducing body dissatisfaction and modest improvements in mental health); van der Miesen, A.I.R., *et al.* (2020). *Psychological Functioning in Transgender Adolescents Before and After Gender-Affirmative Care Compared with Cisgender General Population Peers*. J. ADOLESC. HEALTH. 66(6):699-704 at 699 (showing fewer emotional and behavioral problems after puberty suppression, and similar or fewer problems compared to same-age cisgender peers) (“van der Miesen 2020”); Costa, R., *et al.* (2015). *Psychological Support, Puberty Suppression, and Psychosocial Functioning in Adolescents with Gender Dysphoria*. J. SEXUAL MEDICINE. 12(11):2206-14 at 2206 (finding increased psychological function after six months of puberty suppression); de Vries, A.L.C., *et al.* (2014). *Young Adult Psychological Outcome After Puberty Suppression and Gender Reassignment*. PEDIATRICS. 134(4):696-704 (following a cohort of transgender young people in the Netherlands from puberty suppression through surgical treatment and finding that the cohort had global functioning that was equivalent to the Dutch population) (“de Vries 2014”).

<sup>15</sup> de Vries 2014.

41. Dr. Cantor fails to discuss many of the studies documenting the benefits of puberty-blocking medication. For the studies he does discuss, Dr. Cantor’s primary criticism is that many of the prospective cohort studies offered psychosocial support in addition to puberty blockers and hormones, which prevented the study from isolating whether the benefit is associated with the puberty blocker, the gender-affirming hormones, or some combination. (Cantor Rep. ¶¶ 64, 66.) But, as Dr. Cantor himself notes, elsewhere “in medical research, where we cannot manipulate people in ways that would clear up difficult questions, all studies will have a fault. In science, we do not, however, reject every study with any identifiable short-coming—rather, we gather a diversity of observations, made with their diversity of compromises to safety and ethics (and time and cost, etc.)” (Cantor Rep. ¶ 87.) When viewed as a comprehensive body of research, the weight of the evidence and the experience of clinicians has demonstrated that puberty-blocking medication and hormones have been associated with a variety of mental health benefits across different contexts.

42. There is also no credible basis for Dr. Levine’s assertion that an adolescent’s decision to begin puberty-blocking medication “act[s] as a psychosocial ‘switch,’ decisively shifting many children to a persistent transgender identity.” (Levine Rep. ¶ 137.) Studies showing that a high percentage of transgender adolescents who receive puberty blockers ultimately decide to move forward with gender-affirming hormone therapy more likely reflect the fact that participants were rigorously screened and had demonstrated sustained, persistent gender dysphoria before receiving medical treatment.

43. Instead of addressing the proper treatment for transgender adolescents in need of care, Dr. Levine and Dr. Cantor devote most of their attention to the possibility that a person could be misdiagnosed with gender dysphoria and then later regret their medical transition. For example, Dr. Levine and Dr. Cantor devote a great deal of space to discussing a theory that an increasing

number of people who are assigned female at birth are suddenly identifying as males in mid-to-late adolescence as a result of peer pressure and social contagion. (Levine Rep. ¶¶ 38, 118-20; Cantor Rep. ¶¶ 73-74.) The theory that some adolescents experience “rapid-onset gender dysphoria” (Levine Rep. ¶ 118; Cantor Rep. ¶¶ 73-74) as a result of social influences is based almost exclusively on one highly controversial study.<sup>16</sup> Although purporting to provide a basis for Dr. Levine’s speculations, the study was based on an anonymous survey, allegedly of parents, about the etiology of their child’s gender dysphoria. Participants were recruited from websites promoting this social contagion theory, and the children were not surveyed or assessed by a clinician. Those serious methodological flaws render the study meaningless. The only conclusion that can be drawn from that study is that a self-selected sample of anonymous people recruited through websites that predisposed participants to believe transgender identity can be influenced by social factors do, in fact, believe those social factors influence children to identify as transgender.<sup>17</sup>

44. Some transgender people who do not come forward until adolescence may have experienced symptoms of gender dysphoria for long periods of time but been uncomfortable disclosing those feelings to parents. Other transgender people do not experience distress until they experience the physical changes accompanying puberty. In either case, gender-affirming care requires a comprehensive assessment and persistent, sustained gender dysphoria before medical treatment is prescribed.

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<sup>16</sup> See Littman, L. (2018). *Parent reports of adolescents and young adults perceived to show signs of a rapid onset of gender dysphoria*. PLOS ONE. 13(8):e0202330.

<sup>17</sup> Aside from these serious methodological flaws, Littman’s hypothesis of “rapid onset gender dysphoria” focuses specifically on gender dysphoria in boys who are transgender and were assigned a female sex at birth. By contrast, the restrictions in H.B. 3293 are limited to girls and women who are transgender and were assigned a male sex at birth. As with their arguments about prepubertal children, Dr. Levine and Dr. Cantor’s arguments about boys who are transgender are not relevant to the population actually affected by H.B. 3293.

45. Contrary to the portrayal in Dr. Levine and Dr. Cantor's reports, gender-affirming treatment also requires a careful and thorough assessment of a patient's mental health, including co-occurring conditions, history of trauma, and substance use, among many other factors.<sup>18</sup> As a result, I have had patients who presented with some symptoms of gender dysphoria, but who ultimately did not meet the diagnostic criteria for a variety of reasons, and therefore I recommended treatments other than transition to alleviate their psychological distress.

46. Dr. Levine and Dr. Cantor also devote substantial space to discussing the possibility that a person could be misdiagnosed with gender dysphoria instead of another mental health condition. (See, e.g. Levine Rep. ¶¶ 118-26; Cantor Rep. ¶¶ 73-74, 76-80.) Studies on transgender young people have long reported data on co-occurring conditions. Indeed, Dr. Cantor specifically cites to one of my own articles on the topic. (Cantor Rep. ¶ 76 (citing Janssen, A., *et al.* (2019). *The Complexities of Treatment Planning for Transgender Youth with Co-Occurring Severe Mental Illness: A Literature Review and Case Study*. ARCHIVES OF SEXUAL BEHAVIOR. 48(7):2003-09).)

47. The existence—and prevalence—of co-occurring conditions among transgender young people is unsurprising. Transgender young people must cope with many stressors, from the fear of rejection by family and peers to pervasive societal discrimination. Not to mention, their underlying gender dysphoria can cause significant psychological distress which, if left untreated, can result in or exacerbate the co-occurring conditions identified in studies on transgender young people.<sup>19</sup> And, given that transgender young people typically delay disclosing their transgender status or initially experience family rejection following disclosure, it is not uncommon for

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<sup>18</sup> Olson-Kennedy, J., *et al.* (2019). *Creating the Trans Youth Research Network: A Collaborative Research Endeavor*. TRANSGENDER HEALTH. 4(1):304-12; Edwards-Leeper 2012.

<sup>19</sup> van der Miesen 2020; Turban, J.L., *et al.* (2021). *Timing of Social Transition for Transgender and Gender Diverse Youth, K-12 Harassment, and Adult Mental Health Outcomes*. J. ADOLESC. HEALTH. 69(6):991-98.



transgender young people to engage with psychological or psychiatric care for other reasons prior to being diagnosed with gender dysphoria.

48. Requiring that a transgender patient resolve all co-occurring conditions, many of which are chronic with no reasonable expectation that they be “resolved,” prior to receiving gender-affirming care—as suggested by Dr. Cantor—is not possible, nor is it ethical. (Cantor Rep. ¶¶ 14, 35, 69, 92, 110.) No relevant organizations cite the need for co-occurring mental health conditions to be resolved before a patient may receive gender-affirming care. Rather, such conditions should be reasonably well-controlled and not impair the ability of the patient to make an informed decision or interfere with the accuracy of the diagnosis of gender dysphoria. Indeed, some co-occurring conditions (for example, Attention Deficit Hyperactivity Disorder and Autism Spectrum Disorder, to name a few) could be chronic disorders where complete resolution is impossible and the goal of treatment is mitigating harm and improving functioning,

49. It is important to note that distress associated with untreated gender dysphoria can also amplify co-occurring conditions that developed independently of the gender dysphoria. Thus, treating the underlying gender dysphoria is essential to alleviating the psychological distress associated with co-occurring conditions.

#### Discriminating Against Transgender Students Does Not Improve Their Mental Health

50. The overarching theme of Dr. Levine and Dr. Cantor’s reports is that transgender people as a group have greater rates of a variety of negative social outcomes and co-occurring conditions over the course of their lives and that, to avoid those negative outcomes and conditions, mental health providers should withhold gender-affirming care to discourage transgender youth from growing into transgender adults.<sup>20</sup>

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<sup>20</sup> Dr. Levine bizarrely speculates that once a transgender person’s siblings “marry and have children,” they will not “wish the transgender individual to be in contact with those children,” and

51. Discriminating against transgender people, or withholding gender-affirming care, will not prevent those people from being transgender. And excluding transgender adolescent girls and women from female sports teams will not cure their gender dysphoria or improve their mental health. To the contrary, as noted previously, stigma and discrimination have been shown to have a profoundly harmful impact on the mental health of transgender people and other minority groups.<sup>21</sup>

52. No reasonable mental health professional with relevant experience treating children and adolescents could conclude that H.B. 3293 is anything but harmful to the mental health of transgender youth. Exclusion and isolation are harmful for all adolescents, but particularly so for transgender youth who face the additional burden of societal stigma. Preventing transgender youth from participating in the same activities as their peers—or forcing transgender youth to be treated inconsistent with their gender identity—undermines their ability to socially transition and prevents transgender youth from accessing important educational and social benefits of the school environment.<sup>22</sup>

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that transgender people will be less likely to find “individuals willing to develop a romantic and intimate relationship with them.” (Levine Rep. ¶¶ 202-03.) Dr. Levine offers no statistical support for these assertions and, in my experience, clinical practice has shown the opposite to be true.


<sup>21</sup> White Hughto 2015.

<sup>22</sup> American Psychological Association Resolution on Supporting Sexual/Gender Diverse Children and Adolescents in Schools (2020) at 5 (supporting inclusion of transgender youth in school activities and sports consistent with their gender identity); Clark, C.M., & Kosciw, J.G. (2022). *Engaged or excluded: LGBTQ youth’s participation in school sports and their relationship to psychological well-being*. PSYCHOLOGY IN THE SCHOOLS. 59:95-114 (finding transgender youth who participated in sports had increased well-being and greater school belonging).

**CONCLUSION**

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Executed on 3/10/2022



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Aron Janssen, MD

## Curriculum Vitae

Aron Janssen, M.D.  
312-227-7783  
aronjans@gmail.com

### Personal Data

Born Papillion, Nebraska  
Citizenship USA

### Academic Appointments

2011-2017 Clinical Assistant Professor of Child and Adolescent Psychiatry  
2011-2019 Founder & Clinical Director, NYU Gender and Sexuality Service  
Director, LGBT Mental Health Elective, NYULMC  
2015-2019 Co-Director, NYU Pediatric Consultation Liaison Service  
New York University Department of Child and Adolescent Psychiatry  
2017-present Clinical Associate Professor of Child and Adolescent Psychiatry  
2019-present Vice Chair, Pritzker Department of Psychiatry and Behavioral Health  
Ann and Robert H. Lurie Children's Hospital of Chicago  
2020-present Medical Director, Outpatient Psychiatric Services  
Ann and Robert H. Lurie Children's Hospital of Chicago

### Education

Year	Degree	Field	Institution
6/97	Diploma		Liberty High School
5/01	B.A.	Biochemistry	University of Colorado
5/06	M.D.	Medicine	University of Colorado

### Postdoctoral Training

2006-2009 Psychiatry Residency Ze'ev Levin, M.D. NYU Department of Psychiatry  
2009-2011 Child and Adolescent Psychiatry Fellowship – Fellow and Clinical Instructor  
Jess Shatkin, M.D. NYU Dept of Child/Adolescent Psychiatry

### Licensure and Certification

2007-present New York State Medical License  
2011-present Certification in Adult Psychiatry, American Board of Psychiatry and Neurology  
2013-present Certification in Child and Adolescent Psychiatry, ABPN

### Academic Appointments

2009-2011 Clinical Instructor, NYU Department of Child and Adolescent Psychiatry  
2011-2017 Clinical Asst Professor, NYU Dept of Child and Adolescent Psychiatry  
2017-2019 Clinical Assoc Professor, NYU Dept of Child and Adolescent Psychiatry  
2011-present Clinical Director, NYU Gender and Sexuality Service  
2015-2019 Co-Director, NYU Pediatric Consultation-Liaison Service  
2019-present Associate Professor of Child and Adolescent Psychiatry, Northwestern University  
2019-present Vice Chair of Clinical Affairs, Pritzker Department of Psychiatry and Behavioral Health, Lurie Children's Hospital of Chicago

**Major Committee Assignments**

International, National and Regional

- 2021-present Sexual Orientation and Gender Identity Committee, Chair, AACAP
- 2019-present WPATH Standards of Care Revision Committee, Children
- 2019-present WPATH Standards of Care Revision Committee, Adult Mental Health
- 2015-2019 Department of Child Psychiatry Diversity Ambassador
- 2013-2021 Sexual Orientation and Gender Identity Committee Member, AACAP
- 2012-present Founder and Director, Gender Variant Youth and Family Network
- 2012-present Association of Gay and Lesbian Psychiatrists, Transgender Health Committee
- 2012-2019 NYULMC, Chair LGBTQ Advisory Council
- 2012-2019 NYULMC, Child Abuse and Protection Committee
- 2013-2015 NYULMC, Pediatric Palliative Care Team
- 2003-2004 American Association of Medical Colleges (AAMC), Medical Education Delegate
- 2004-2006 AAMC, Western Regional Chair

Psychiatry Residency

- 2006-2009 Resident Member, Education Committee
- 2007-2008 Resident Member, Veterans Affairs (VA) Committee

Medical School

- 2002-2006 Chair, Diversity Curriculum Development Committee
- 2002-2006 AAMC, Student Representative
- 2003-2004 American Medical Student Assoc. (AMSA) World AIDS Day Coordinator
- 2003-2004 AMSA, Primary Care Week Coordinator
- 2004-2006 Chair, Humanism in Medicine Committee

**Memberships, Offices, and Committee Assignments in Professional Societies**

- 2006-present American Psychiatric Association (APA)
- 2009-present American Academy of Child and Adolescent Psychiatry (AACAP)
- 2011-present World Professional Association for Transgender Health (WPATH)
- 2011-present Director, Gender Variant Youth and Family Network, NYC
- 2013-2019 Chair, NYU Langone Medical Center LGBTQ Council
- 2015-present Clinical Associate Editor, *Transgender Health*

**Editorial Positions**

- 2016-present Clinical Assistant Editor, *Transgender Health*
- 2014-present Ad Hoc Reviewer, *LGBT Health*.
- 2016-present Ad Hoc Reviewer, *JAACAP*
- 2018-present Associate Editor, *Transgender Health*

**Principal Clinical and Hospital Service Responsibilities**

- 2011-2019 Staff Psychiatrist, Pediatric Consultation Liaison Service
- 2011-2019 Faculty Physician, NYU Child Study Center
- 2011-2019 Founder and Clinical Director, NYU Gender & Sexuality Service
- 2015-2019 Co-Director, Pediatric Consultation Liaison Service
- 2019-present Vice Chair, Pritzker Dept of Psychiatry and Behavioral Health
- 2019-present Chief Psychiatrist, Gender Development Program

2020-present Medical Director, Outpatient Psychiatry Services

### **Relevant Program Development**

#### Gender and Sexuality Service

- founded by Aron Janssen in 2011, who continues to direct the service
- first mental health service dedicated to transgender youth in NYC
- served over 200 families in consultation, with 2-3 referrals to the gender clinic per week
- trained over 500 mental health practitioners in transgender mental health – 1 or 2 full day trainings in partnership with the Ackerman Institute’s Gender and Family Project (GFP) and with WPATH Global Educational Initiative (GEI)
- New hires in Adolescent Medicine, Psychology, Plastic Surgery, Urology, Gynecology, Endocrinology, Social Work, Department of Population Health with focus on transgender care has led to expansion of available services for transgender youth at NYULMC in partnership with the Gender and Sexuality Service
- development of partnerships with Ackerman Institute, Callen-Lorde Health Center – both institutions have been granted access to our IRB and have agreed to develop shared research and clinical priorities with the Gender and Sexuality Service. Two active projects are already underway
- multiple IRB research projects underway, including in partnership with national and international clinics
- model has been internationally recognized

### **Clinical Specialties/Interests**

Gender and Sexual Identity Development

Co-Occurring Mental Health Disorders in Transgender children, adolescents and adults

Pediatric Consultation/Liaison Psychiatry

Psychotherapy

- Gender Affirmative Therapy, Supportive Psychotherapy, CBT, MI

### **Teaching Experience**

- 2002-2006 Course Developer and Instructor, LGBT Health (University of Colorado School of Medicine)
- 2011-2019 Instructor, Cultural Competency in Child Psychiatry (NYU Department of Child and Adolescent Psychiatry) – 4 hours per year
- 2011-2019 Course Director, Instructor “Sex Matters: Identity, Behavior and Development” – 100 hours per year
- 2011-2019 Course Director, LGBT Mental Health Elective (NYU Department of Psychiatry) - 50 hours of direct supervision/instruction per year
- 2011-2019 Course Director, Transgender Mental Health (NYU Department of Child and Adolescent Psychiatry – course to begin in Spring 2018.
- 2015-2019 Instructor, Gender & Health Selective (NYU School of Medicine) – 4 hours per year.

### **Academic Assignments/Course Development**

New York University Department of Child and Adolescent Mental Health Studies

- Teacher and Course Director: “Sex Matters: Identity, Behavior and Development.”  
A full semester 4 credit course, taught to approximately 50 student per year since

2011, with several students now in graduate school studying sexual and gender identity development as a result of my mentorship.

NYU Department of Child and Adolescent Psychiatry

-Instructor: Cultural Competency in Child and Adolescent Psychiatry

-Director: LGBTQ Mental Health Elective

World Professional Association of Transgender Health

-Official Trainer: Global Education Initiative – one of two child psychiatrists charged with training providers in care of transgender youth and adults.

### Peer Reviewed Publications

1. Janssen, A., Erickson-Schroth, L., “A New Generation of Gender: Learning Patience from our Gender Non-Conforming Patients,” *Journal of the American Academy of Child and Adolescent Psychiatry*, Volume 52, Issue 10, pp. 995-997, October, 2013.
2. Janssen, A., et. al. “Theory of Mind and the Intolerance of Ambiguity: Two Case Studies of Transgender Individuals with High-Functioning Autism Spectrum
3. Janssen A, Huang H, and Duncan C., *Transgender Health*. February 2016, “Gender Variance Among Youth with Autism: A Retrospective Chart Review.” 1(1): 63-68. doi:10.1089/trgh.2015.0007.
4. Goedel WC, Reisner SL, Janssen AC, Poteat TC, Regan SD, Kreski NT, Confident G, Duncan DT. (2017). Acceptability and Feasibility of Using a Novel Geospatial Method to Measure Neighborhood Contexts and Mobility Among Transgender Women in New York City. *Transgender Health*. July 2017, 2(1): 96-106.
5. Janssen A., et. al., “Gender Variance Among Youth with ADHD: A Retrospective Chart Review,” in review
6. Janssen A., et. al., “Initial Clinical Guidelines for Co-Occurring Autism Spectrum Disorder and Gender Dysphoria or Incongruence in Adolescents,” *Journal of Child & Adolescent Psychology*, 105-115, January 2018.
7. Janssen A., et. al., “A Review of Evidence Based Treatments for Transgender Youth Diagnosed with Social Anxiety Disorder,” *Transgender Health*, 3:1, 27–33, DOI: 10.1089/ trgh.2017.0037.
8. Janssen A., et. al., “The Complexities of Treatment Planning for Transgender Youth with Co-Occurring Severe Mental Illness: A Literature Review and Case Study,” *Archives of Sexual Behavior*, 2019. # 3563492
9. Kimberly LL, Folkers KM, Friesen P, Sultan D, Quinn GP, Bateman-House A, Parent B, Konnoth C, Janssen A, Shah LD, Bluebond-Langner R, Salas-Humara C., “Ethical Issues in Gender-Affirming Care for Youth,” *Pediatrics*, 2018 Dec;142(6).
10. Strang JF, Janssen A, Tishelman A, Leibowitz SF, Kenworthy L, McGuire JK, Edwards-Leeper L, Mazefsky CA, Rofey D, Bascom J, Caplan R, Gomez-Lobo V, Berg D, Zaks Z, Wallace GL, Wimms H, Pine-Twaddell E, Shumer D, Register-Brown K, Sadikova E, Anthony LG., “Revisiting the Link: Evidence of the Rates of Autism in Studies of Gender Diverse Individuals,” *Journal of the American Academy of Child and Adolescent Psychiatry*, 2018 Nov;57(11):885-887.
11. Goedel William C, Regan Seann D, Chaix Basile, Radix Asa, Reisner Sari L, Janssen Aron C, Duncan Dustin T, “Using global positioning system methods to explore mobility patterns and exposure to high HIV prevalence neighbourhoods among transgender women in New York City,” *Geospatial Health*, 2019 Jan; 14(2): 351-356.
12. Madora, M., Janssen, A., Junewicz, A., “Seizure-like episodes, but is it really epileps?” *Current Psychiatry*. 2019 Aug; 18(8): 42-47.

13. Janssen, A., Busa, S., Wernick, J., “The Complexities of Treatment Planning for Transgender Youth with Co-Occurring Severe Mental Illness: A Literature Review and Case Study,” *Archives of Sexual Behavior*. 2019 Oct; 48(7): 2003-2009.
14. Wernick Jeremy A, Busa Samantha, Matouk Kareen, Nicholson Joey, Janssen Aron, “A Systematic Review of the Psychological Benefits of Gender-Affirming Surgery,” *Urol Clin North Am*. 2019 Nov; 46(4): 475-486.
15. Strang, J.F., Knauss, M., van der Miesen, A.I.R., McGuire, J., Kenworthy, L., Caplan, R., Freeman, A.J., Sadikova, E., Zacks, Z., Pervez, N., Balleur, A., Rowlands, D.W., Sibarium, E., McCool, M.A., Ehrbar, R.D., Wyss, S.E., Wimms, H., Tobing, J., Thomas, J., Austen, J., Pine, E., Willing, L., Griffin, A.D., Janssen, A., Gomez-Lobo, A., Brandt, A., Morgan, C., Meagher, H., Gohari, D., Kirby, L., Russell, L., Powers, M., & Anthony, L.G., (in press 2020). A clinical program for transgender and gender-diverse autistic/neurodiverse adolescents developed through community-based participatory design. *Journal of Clinical Child and Adolescent Psychology*. DOI 10.1080/15374416.2020.1731817
16. Coyne, C. A., Poquiz, J. L., Janssen, A., & Chen, D. Evidence-based psychological practice for transgender and non-binary youth: Defining the need, framework for treatment adaptation, and future directions. *Evidence-based Practice in Child and Adolescent Mental Health*.
17. Janssen, A., Voss, R.. Policies sanctioning discrimination against transgender patients flout scientific evidence and threaten health and safety. *Transgender Health*.
18. Dubin, S., Cook, T., Liss, A., Doty, G., Moore, K., Janssen, A. (In press 2020). Comparing Electronic Health Records Domains’ Utility to Identify Transgender Patients. *Transgender Health*, DOI 10.1089/trgh.2020.0069

### Published Abstracts

1. Thrun, M., Janssen A., et. al. “Frequency of Patronage and Choice of Sexual Partners may Impact Likelihood of HIV Transmission in Bathhouses,” original research poster presented at the 2007 Conference on Retroviruses and Opportunistic Infections, February, 2007.
2. Janssen, A., “Advocating for the mental health of Lesbian, Gay, Bisexual and Transgender (LGBT) population: The Role of Psychiatric Organizations.” Workshop for the American Psychiatric Association Institute of Psychiatric Services Annual Meeting, October 2012.
3. Janssen, A., “Gender Variance in Childhood and Adolescents: Training the Next Generation of Psychiatrists,” 23rd Symposium of the World Professional Association for Transgender Health, Amsterdam, The Netherlands, February 2014.
4. Janssen, A., “When Gender and Psychiatric Acuity/Comorbidities Overlap: Addressing Complex Issues for Gender Dysphoric and Non-Conforming Youth,” AACAP Annual Meeting, October 2014.
5. Janssen, A., “Patient Experiences as Drivers of Change: A unique model for reducing transgender health disparities as an academic medical center,” Philadelphia Transgender Health Conference, June 2016.
6. Janssen, A., “How much is too much? Assessments & the Affirmative Approach to TGNC Youth,” 24th Symposium of the World Professional Association for Transgender Health, Amsterdam, The Netherlands, June 2016.



7. Janssen, A., "Trauma, Complex Cases and the Role of Psychotherapy," 24th Symposium of the World Professional Association for Transgender Health, Amsterdam, The Netherlands, June 2016.
8. Janssen, A., "Gender Variance Among Youth with Autism: A Retrospective Chart Review," Research Poster, 24th Symposium of the World Professional Association for Transgender Health, Amsterdam, The Netherlands, June 2016.
9. Janssen, A., "Gender Fluidity and Gender Identity Development," Center for Disease Control – STD Prevention Conference, September 2016.
10. Janssen, A., "Transgender Identities Emerging During Adolescents' Struggles With Mental Health Problems," AACAP Annual Conference, October 2016.
11. Janssen, A., "How Much is Too Much? Assessments and the Affirmative Approach to Transgender and Gender Diverse Youth," US Professional Association for Transgender Health Inaugural Conference, Los Angeles, February 2017.
12. Janssen, A., "Trauma, Complex Cases and the Role of Psychotherapy," US Professional Association for Transgender Health Inaugural Conference, Los Angeles, February 2017.
13. Sutter ME, Bowman-Curci M, Nahata L, Tishelman AC, Janssen AC, Salas-Humara C, Quinn GP. Sexual and reproductive health among transgender and gender-expansive AYA: Implications for quality of life and cancer prevention. Oral presentation at the Oncofertility Consortium Conference, Chicago, IL. November 14, 2017.
14. Janssen, A., Sidhu, S., Gwynette, M., Turban, J., Myint, M., Petersen, D., "It's Complicated: Tackling Gender Dysphoria in Youth with Autism Spectrum Disorders from the Bible Belt to New York City," AACAP Annual Conference, October 2017.
15. May 2018: "A Primer in Working with Parents of Transgender Youth," APA Annual Meeting.
16. October 2018: "Gender Dysphoria Across Development" – Institute for AACAP Annual Conference.
17. November 2018: "Gender Variance Among Youth with Autism," World Professional Association for Transgender Health Biannual Conference.
18. March 2019: "Gender Trajectories in Child and Adolescent Development and Identity," Austin Riggs Grand Rounds.
19. Janssen, A., et. al., "Ethical Principles in Gender Affirming Care," AACAP Annual Conference, October 2019.
20. Janssen, A., "Gender Diversity and Gender Dysphoria in Youth," EPATH Conference, April 2019
21. Englander, E., Janssen A., et. al., "The Good, The Bad, and The Risky: Sexual Behaviors Online," AACAP Annual Conference, October 2020
22. Englander, E., Janssen, A., et. al., "Love in Quarantine," AACAP Annual Conference, October 2021
23. Janssen, A., Leibowitz, S., et. al., "The Evidence and Ethics for Transgender Youth Care: Updates on the International Standards of Care, 8th Edition," AACAP Annual Conference, October 2021
24. Turban, J., Janssen, A., et. al., "Transgender Youth: Understanding "Detransition," Nonlinear Gender Trajectories, and Dynamic Gender Identities," AACAP Annual Conference, October 2021

## Books

1. Janssen, A., Leibowitz, S (editors), *Affirmative Mental Health Care for Transgender and Gender Diverse Youth: A Clinical Casebook*, Springer Publishing, 2018.

## Book Chapters

1. Janssen, A., Shatkin, J., “Atypical and Adjunctive Agents,” *Pharmacotherapy for Child and Adolescent Psychiatric Disorders*, 3rd Edition, Marcel Dekker, Inc, New York, 2012.
2. Janssen, A; Liaw, K: “Not by Convention: Working with People on the Sexual & Gender Continuum,” book chapter in *The Massachusetts General Hospital Textbook on Cultural Sensitivity and Diversity in Mental Health*. Humana Press, New York, Editor R. Parekh, January 2014.
3. Janssen, A; Glaeser, E., Liaw, K: “Paving their own paths: What kids & teens can teach us about sexual and gender identity,” book chapter in *Cultural Sensitivity in Child and Adolescent Mental Health*, MGH Psychiatry Academy Press, Editor R. Parekh, 2016
4. Janssen A., “Gender Identity,” *Textbook of Mental and Behavioral Disorders in Adolescence*, February 2018.
5. Busa S., Wernick, J., & Janssen, A. (In Review) *Gender Dysphoria in Childhood*. *Encyclopedia of Child and Adolescent Development*. Wiley, 2018.
6. Janssen A., Busa S., “Gender Dysphoria in Childhood and Adolescence,” *Complex Disorders in Pediatric Psychiatry: A Clinician’s Guide*, Elsevier, Editors Driver D., Thomas, S., 2018.
7. Wernick J.A., Busa S.M., Janssen A., Liaw K.R.L. “Not by Convention: Working with People on the Sexual and Gender Continuum.” Book chapter in *The Massachusetts General Hospital Textbook on Diversity and Cultural Sensitivity in Mental Health*, editors Parekh R., Trinh NH. August, 2019.
8. Weis, R., Janssen, A., & Wernick, J. The implications of trauma for sexual and reproductive health in adolescence. In *Not Just a nightmare: Thinking beyond PTSD to help teens exposed to trauma*. 2019
9. Connors J., Irastorza, I., Janssen A., Kelly, B., “Child and Adolescent Medicine,” *The Equal Curriculum: The Student and Educator Guide to LGBTQ Health*, editors Lehman J., et al. November 2019.
10. Janssen, A., et. al., “Gender and Sexual Diversity in Childhood and Adolescence,” *Dulcan’s Textbook of Child and Adolescent Psychiatry*, 3<sup>rd</sup> edition, editor Dulcan, M., (in press)
11. Busa S., Wernick J, Janssen, A., “Gender Dysphoria,” *The Encyclopedia of Child and Adolescent Development*, DOI: 10.1002/9781119171492. Wiley, December 2020.

## Invited Academic Seminars/Lectures

1. April 2006: “How to Talk to a Gay Medical Student” – presented at the National AAMC Meeting.
2. March 2011: “Kindling Inspiration: Two Model Curricula for Expanding the Role of Residents as Educators” – workshop presented at National AADPRT Meeting.
3. May 2011: Janssen, A., Shuster, A., “Sex Matters: Identity, Behavior and Development,” Grand Rounds Presentation, NYU Department of Child and Adolescent Psychiatry.

4. March 2012: Janssen, A., Lothringer, L., “Gender Variance in Children and Adolescents,” Grand Rounds Presentation, NYU Department of Child and Adolescent Psychiatry.
5. June 2012: Janssen, A., “Gender Variance in Childhood and Adolescence,” Grand Rounds Presentation, Woodhull Department of Psychiatry
6. October 2012: “Advocating for the mental health of Lesbian, Gay, Bisexual and Transgender (LGBT) population: The Role of Psychiatric Organizations.” Workshop for the American Psychiatric Association Institute of Psychiatric Services Annual Meeting.
7. March 2013: “Gender Variance in Childhood and Adolescence,” Sexual Health Across the Lifespan: Practical Applications, Denver, CO.
8. October 18<sup>th</sup>, 2013: “Gender Variance in Childhood and Adolescence,” Grand Rounds Presentation, NYU Department of Endocrinology.
9. October, 2014: GLMA Annual Conference: “Theory of Mind and Intolerance of Ambiguity: Two Case Studies of Transgender Individuals with High-Functioning ASD,” Invited Presentation
10. October 2014: New York Transgender Health Conference: “Mental Health Assessment in Gender Variant Children,” Invited Presentation.
11. November, 2014: Gender Spectrum East: “Affirmative Clinical Work with Gender-Expansive Children and Youth: Complex Situations.”
12. October 2015: “Gender Dysphoria and Complex Psychiatric Co-Morbidity,” LGBT Health Conference, Invited Speaker
13. October 2015: “Transgender Health Disparities: Challenges and Opportunities,” Grand Rounds, Illinois Masonic Department of Medicine
14. November 2015: “Autism and Gender Variance,” Gender Conference East, Invited Speaker
15. February 2016: “Working with Gender Variant Youth,” New York State Office of Mental Health State Wide Grand Rounds, Invited Speaker
16. March, 2016: “Working with Gender Variant Youth,” National Council for Behavioral Health Annual Meeting, Invited Speaker
17. March 2016: “Gender Variance Among Youth with Autism: A Retrospective Chart Review and Case Presentation,” Working Group on Gender, Columbia University, Invited Speaker.
18. September, 2016: “Best Practices in Transgender Mental Health: Addressing Complex Issues for Gender Dysphoric and Non-Conforming Youth,” DeWitt Wallace Institute for the History of Psychiatry, Weill Cornell.
19. October, 2016: “LGBTQ Youth Psychiatric Care,” Midwest LGBTQ Health Symposim
20. October, 2016: “Gender Fluidity and Gender Identity Development,” NYU Health Disparities Conference.
21. February, 2017: “Best Practices in Transgender Mental Health,” Maimonides Grand Rounds
22. March, 2017: “Transgender Health: Challenges and Opportunities,” Invited speaker, Center for Disease Control STD Prevention Science Series.
23. September 2017: “Autism and Gender Dysphoria,” Grand Rounds, NYU Department of Neurology.
24. November 2017: “Consent and Assent in Transgender Adolescents,” Gender Conference East.

25. November 2017: “Transgender Mental Health: Challenges and Opportunities,” Grand Rounds, Lenox Hill Hospital.
26. April 2018: “Gender Trajectories in Childhood and Adolescent Development and Identity,” Sex, Sexuality and Gender Conference, Harvard Medical School.
27. September 2019: “Social and Psychological Challenges of Gender Diverse Youth,” Affirmative Mental Health Care for Gender Diverse Youth, University of Haifa.
28. October 2019: “Best Practices in Transgender Mental Health,” Grand Rounds, Rush Department of Psychiatry.
29. February 2020: “The Overlap of Autism and Gender Dysphoria,” Grand Rounds, Northwestern University Feinberg School of Medicine Department of Psychiatry
30. February 2020: “Gender Dysphoria and Autism,” Grand Rounds, University of Illinois at Chicago Department of Psychiatry
31. September 2021: “Gender Diversity and Autism,” Grand Rounds, Kaiser Permanente Department of Pediatrics
32. October 2021: Gender Dysphoria and Autism,” Grand Rounds, Case Western Reserve University Department of Psychiatry.

### **Selected Invited Community Seminars/Lectures**

1. April 2012: “Gender and Sexuality in Childhood and Adolescence,” Commission on Race, Gender and Ethnicity, NYU Steinhardt Speakers Series.
2. February 2013: “Supporting Transgender Students in School,” NYC Independent School LGBT Educators Panel, New York, NY.
3. June 2013: “LGBT Health,” Presentation for Neuropsychology Department
4. August 2013: “Chronic Fatigue Syndrome: Etiology, Diagnosis and Management,” invited presentation.
5. September 2013: Panelist, “LGBTQ Inclusive Sex Education.”
6. April 2015: Transgender Children, BBC News, BBCTwo, invited expert
7. January 2016: Gender Dysphoria and Autism – Ackerman Podcast - <http://ackerman.podbean.com/e/the-ackerman-podcast-22-gender-dysphoria-autism-with-aron-janssen-md/>
8. February 2016: “Best Practices in Transgender Mental Health,” APA District Branch Meeting, Invited Speaker.
9. May 2016: “Best Practices in Transgender Mental Health,” Washington D.C., District Branch, APA, Invited Speaker
10. July 2016: “Transgender Youth,” Union Square West
11. November 2017: “Understanding Gender: Raising Open, Accepting and Diverse Children,” Heard in Rye, Conversations in Parenting.
12. January 2018: “The Emotional Life of Boys,” Saint David’s School Panel, Invited Speaker
13. June 2018: “Supporting Youth Engaged in Gender Affirming Care,” NYU Child Study Center Workshop.
14. October 2018: “Medicine in Transition: Advances in Transgender Mental Health,” NYCPS HIV Psychiatry and LGBT Committee Meeting.
15. October 2018: “Understanding Gender Fluidity in Kids,” NYU Slope Pediatrics.
16. October, 2021: Issues of Ethical Importance: Health Care for Pediatric LGBTQ+ Patients, American Medical Association, Invited Talk

### **Selected Mentoring of Graduate Students, Residents, Post-Doctoral Fellows**

- 2013-2014 Rebecca Hopkinson, Adult Psychiatry Resident, Provided clinical supervision for one year and training in transgender mental health. Dr. Hopkinson works as at Attending Child Psychiatrist at Seattle Children’s and works with transgender youth
- 2013-2014 Sara Weekly, Chief Child and Adolescent Psychiatry Resident. Provided clinical supervision. Dr. Weekly is now an attending physician at Bay Area Children’s Association in Oakland, California.
- 2013-present Elizabeth Glaeser, Undergraduate Student. Provided research and administrative supervision. Elizabeth is now a PhD candidate in Psychology at Columbia and the director of research at the Gender and Family Project
- 2014-2015 Laura Erickson Schroth, Adult Psychiatry Resident. Provided clinical supervision for one year and training in transgender mental health. Dr. Erickson Schroth is the editor of Trans Bodies, Trans Selves, and Attending Psychiatrist at the Hetrick Martin Institute
- 2015-2016 Brandon Ito, Child Psychiatry Fellow, Provided Clinical Supervision. Dr. Ito is now an Attending Child and Adolescent Psychiatrist at UCLA.
- 2015-2017 Howard Huang, Undergraduate Student. Provided research supervision. Howard is now a PhD candidate in psychology at Boston College, pursuing work in gender and sexuality with published peer-reviewed literature.
- 2016-2019 Samantha Busa, PsyD, Post-Doctoral Fellow. Provide clinical supervision in transgender health. Dr. Busa joined the NYU Gender and Sexuality Service as faculty in 2017.
- 2016-2019 Lara Brodsinzky, PhD, Attending Psychologist. Provide clinical supervision in transgender health. Dr. Brodsinzky is an Attending Psychologist on the NYU Pediatric Consultation Liaison Service.
- 2016-2019 Jeremy Wernick, MSW. Provide clinical and administrative supervision.
- 2017-2019 Serena Chang, Child Psychiatry Fellow; provide clinical and research supervision.

**Major Research Interests**

Gender and Sexual Identity Development  
 Member, Research Consortium for Gender Identity Development  
 Delirium: Assessment, Treatment and Management  
 Suicide Prevention

**Research Studies**

<u>Study Title</u>	<u>IRB Study#</u>	<u>Dates</u>
Suicide Attempts Identified in a Children’s Hospital Before and During COVID-19	2021-4428	2/26/21-present
Lurie Children’s Sex & Gender Development Program Clinical Measure Collection	2019-2898	2019-present
Adolescent Gender Identity Research Study (principal investigator) - unfunded	s15-00431	4/15-5/19
Co-Occurrence of Autism Spectrum Disorders and Gender Variance: Retrospective Chart Review (principal investigator) - unfunded	s14-01930	10/14-5/19

Expert Consensus on Social Transitioning Among Prepubertal Children Presenting with Transgender Identity and/or Gender Variance: A Delphi Procedure Study (principal investigator) - unfunded	s13-00576	3/16-5/19
Co-Occurrence of ADHD/Gender Dysphoria (principal investigator) - unfunded	s16-00001	1/16-5/19
PICU Early Mobility- unfunded	s16-02261	12/16-5/19
Metformin for Overweight and Obese Children and Adolescents with Bipolar Spectrum Disorders Treated with Second-Generation Antipsychotics – Funded by PCORI	s16-01571	8/16-5/19

**Other**

Grant Funding:  
 Zero Suicide Initiative, PI Aron Janssen, M.D.  
 Awarded by Cardinal Health Foundation, 9/2020  
 Total amount: \$100,000

Direct income for the department generated by teaching Sex Matters: Identity, Behavior and Development for the Child and Adolescent Mental Health Studies (CAMS) undergraduate program at NYU:

<u>Time Frame</u>	<u>Income</u>
2011 - 2016	\$1,968,950

**Selected Media Appearances:**

- Guest Expert on Gender Identity on Anderson, “When Your Husband Becomes Your Wife,” Air Date February 8<sup>th</sup>, 2012
- Guest Host, NYU About Our Kids on Sirius XM, 2011
- NYU Doctor Radio: LGBT Health, September 2013
- NYU Doctor Radio: LGBT Kids, November 2013
- NYU Doctor Radio: LGBT Health, July 2014
- NYU Doctor Radio: Gender Variance in Childhood, December 2014
- BBC Two: Transgender Youth, April 2015
- NYU Doctor Radio: Transgender Youth, June 2015
- Fox-5 News: Trump’s proposed military ban and Transgender Youth, July, 2017
- Healthline.com: Mental Health Experts Call President’s Tweets ‘Devastating’ for Trans Teens, July, 2017
- Huffington Post: What the Military Ban Says to Our Transgender Youth: August, 2017
- Metro: How to talk to your transgender kid about Trump, August 2017
- NYU Doctor Radio: Transgender Youth, August 2017

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

B.P.J. by her next friend and mother, HEATHER JACKSON,

*Plaintiff,*

v.

WEST VIRGINIA STATE BOARD OF EDUCATION, HARRISON COUNTY BOARD OF EDUCATION, WEST VIRGINIA SECONDARY SCHOOL ACTIVITIES COMMISSION, W. CLAYTON BURCH in his official capacity as State Superintendent, DORA STUTLER in her official capacity as Harrison County Superintendent, and THE STATE OF WEST VIRGINIA,

*Defendants,*

and

LAINY ARMISTEAD,

*Defendant-Intervenor.*

Civil Action No. 2:21-cv-00316

Hon. Joseph R. Goodwin

**EXPERT REPORT AND DECLARATION OF PROFESSOR MARY D. FRY, PHD**

1. I have been retained by counsel for Plaintiff as an expert in connection with the above-captioned litigation.

2. The purpose of this expert report and declaration is to offer my expert opinion on: (1) the psychological and behavioral benefits of sports for youth and young adults (including collegiate athletes); and (2) the conditions that lend themselves to youth and young adults participating in athletics and accessing those benefits when they do participate.

3. I have knowledge of the matters stated in this expert report and declaration. I have collected and cite to relevant literature concerning the issues that arise in this litigation in the body of this expert report and declaration and in the attached bibliography.

4. In preparing this expert report and declaration, I reviewed West Virginia H.B. 3293, the bill at issue in this litigation.

5. In preparing this expert report and declaration, I relied on my education and training, my professional and research experience, and my knowledge of the literature in the pertinent fields. The materials I have relied upon in preparing this expert report and declaration are the same types of materials that experts in my field of study regularly rely upon when forming opinions on the subject. I may wish to supplement these opinions or the bases for them as a result of new research or publications or in response to statements and issues that may arise in my area of expertise.

### **PROFESSIONAL BACKGROUND**

6. I am a Professor in the Department of Health, Sport & Exercise Sciences at the University of Kansas in Lawrence, Kansas. A true and correct copy of my Curriculum Vitae is attached hereto as Exhibit A.

7. In 1984, I graduated from Texas Wesleyan University in Fort Worth, Texas with a Bachelor of Science in Physical Education. After graduating, I spent about five years teaching physical education and coaching tennis at schools and summer camps in Texas and North Carolina.

8. I graduated with a Master of Science in Sport Psychology/Pedagogy from the University of North Carolina in Greensboro, North Carolina in 1990. Then, in 1994, I graduated with a doctorate in Sport & Exercise Psychology from Purdue University in West Lafayette, Indiana. From 1994 to 1999, I served as an Assistant Professor in the University of Memphis's



Department of Human Movement Sciences and Education. I continued at the same institution from 1999 to 2007 as an Associate Professor in the Department of Human & Sport Sciences. I joined the faculty of the University of Kansas in 2007, where I continue to teach and research as a Professor today.

9. I have authored or coauthored 69 papers in peer-reviewed journals, including many studies in sport psychology and youth athlete motivation. I have coauthored seven book chapters and one book, titled *A Coach's Guide to Maximizing the Youth Sport Experience: Work Hard and Be Kind*. I have also given 118 presentations on my research at both international and national conferences, as well as dozens of local and regional presentations.

10. I have taught and/or developed six undergraduate level courses and 12 graduate level courses in sport and exercise psychology. The courses I developed include Psychosocial Aspects of Sport, Applied Sport Psychology, Developmental Perspectives in Youth Sport, and Special Course: Sport Psychology Within Youth Sport.

11. On a national level, I have served with the Association of Applied Sport Psychology ("AASP") as a member of the Program Review Committee (2008-present), a Subject Matter Expert for the Certification Exam Committee (2018), and a member of the Ad-Hoc Future of AASP Committee (2012-2015). For the AASP, I have served as an Executive Board Member (2004-2006), two three-year terms as a member of the Social Psychology Section Committee (1996-99; 2001-2003), and as a member of the Dissertation Award Committee (1998; 2002). I have also served on the Editorial Board for *Physical Activity Today* (1997-2001) and on the Program Review Committee for the American Alliance of Health, Physical Education, Recreation & Dance (2009-2017), in addition to chairing the Committee in 2010. I also serve on the National Advisory Board for the Positive Coaching Alliance.

12. I have undertaken editorial roles on professional journals within my field, including as Associate Editor (2009-2012) and Editorial Board Member (2000-2009; 2013-present) for the *Journal of Applied Sport Psychology*; Associate Editor (2008-present) for the *Journal of Sport Psychology in Action*; Section Editor (2003-2006) and Reviewer (1994-present) for the *Research Quarterly for Exercise and Sport*; and Editorial Board Member (2011-present) for *Sport, Exercise, and Performance Psychology*.

13. I have served on the Kansas University Certificate in Sport Committee (2017-2018), and the Kansas University Center for Undergraduate Research, Advisory Board (2016-2018), among other roles at the University.

14. I am, or have been, a member of several professional organizations, including the American Psychological Association (2017-present), the Kansas Alliance for Health, Physical Education, Recreation, & Dance (2008-present), the American Alliance for Health, Physical Education, Recreation, and Dance (1988-2017), and the North American Society for the Psychology of Sport and Physical Activity (1988-2000).

15. I also have experience applying sport psychology in the field, which include mental skills interventions for various athletes and teams, including with high school and university athletes (2000-present), a high school baseball team (2013-2018), a youth baseball team (2009-2011), a Division I collegiate volleyball team (2008-2010), a high school basketball team (2006-2007), and a Division I cross-country team (2006).

16. I have not previously testified as an expert witness in either deposition or at trial.

17. I am being compensated at an hourly rate of \$250 per hour. My compensation does not depend on the outcome of this litigation, the opinions I express, or the testimony I provide.

**FOCUSING SOLELY ON PERFORMANCE OUTCOMES UNDERMINES THE  
BENEFITS OF SPORT FOR YOUTH AND YOUNG ADULT ATHLETES**

18. For youth and young adult student-athletes, athletics serve a different purpose than for athletes who participate in professional athletics or world elite competition. A myopic focus on winning in youth and young adult athletics ignores the other important benefits that school athletics offer young athletes, such as teamwork and camaraderie, which are advanced when all athletes have the opportunity to play the sport they love and reap the benefits of such participation.

19. The National Collegiate Athletic Association (NCAA) estimates that there are eight million high school student-athletes in the United States.<sup>1</sup> Of those millions of athletes, only about 6% go on to compete at the college level in any division (with only about 2% earning an athletic scholarship).<sup>2</sup> By the numbers alone, the primary purpose of high school sports is not about preparing youth for college sports. For the 93% of high school athletes who do not compete in college as well as for those who do, youth sport creates a myriad of benefits unrelated to preparing athletes to compete in college.

20. Then for collegiate athletics, most athletes do not go on to have athletic careers beyond college in an elite sports context. According to the NCAA: “Fewer than two percent of NCAA student-athletes go on to be professional athletes.”<sup>3</sup> That percentage does not include National Association of Intercollegiate Athletics (for small college sports) and junior college student-athletes, who are less likely to have professional sports careers. Accordingly, among total numbers of collegiate athletes in the United States, the total percentage of athletes who go on to participate in elite, professional athletics after college is even lower than two percent.

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<sup>1</sup> <https://www.ncaa.org/about/resources/research/estimated-probability-competing-college-athletics>

<sup>2</sup> *Id.*; <https://www.ncaa.org/student-athletes/future/scholarships>

<sup>3</sup> <https://www.nfhs.org/media/886012/recruiting-fact-sheet-web.pdf>

21. There are many benefits to young people from participating in athletic activities, discussed further herein. But understanding what motivates youth and young adults to participate in athletics in the first place is essential for understanding how they can access these benefits. One critical way to increase participation in athletics is to understand the factors that motivate individuals to stay engaged at different ages and in different contexts. Understanding motivation also helps to explain how the benefits youth and young adults derive from participating in sport translate to other aspects of their lives.

22. In simple terms, motivation is the desire to do activities. More formally, it is defined as “the process that influences initiation, direction, magnitude, perseverance, continuation, and quality of goal-directed behavior” (Maehr & Zusho, 2009). Motivation is about why, how, when, and in what circumstances people employ their resources.

23. One of the most-researched motivational theories in the field of sport psychology is achievement goal perspective theory, which was developed to address how motivation could be heightened and sustained over time (Nicholls 1984, 1989). Achievement goal perspective theory includes three components that together can work to optimize motivation among all individuals, including youth and young adults participating in sports.

24. First is the developmental component of achievement goal perspective theory. Young children are incapable of accurately comparing their ability to others, overestimate their ability, and are naturally focused on their effort as a marker of success. By the time they enter adolescence, however, they are able to distinguish the concepts of effort, luck, and ability.

25. Second, around 12 years of age, children achieve a mature understanding of the concept of ability and at that time adopt their own personal definitions of success, or “goal orientations.” The primary goal orientations are task and ego. Individuals with a “high task

orientation” define success based on their effort, improvement, and mastery of tasks over time. In contrast, a high ego orientation occurs when individuals define success in normative terms, only feeling successful when they outperform others. Individuals are to some degree both task- and ego-oriented; in fact, they can be high and/or low in both orientations.

26. Third, motivations are shaped by outside factors, which can reinforce a task orientation as opposed to an ego orientation. Specifically, athletes can perceive the environment that is created by coaches (but can also be influenced by parents and teammates) (Ames, 1992a, 1992b; Nicholls, 1984, 1989) as a task-involving or ego-involving climate. When the environment created by coaches and others is a caring environment, athletes are more likely to perceive the overall climate as task-involving. A caring environment is one where athletes feel safe, welcome, comfortable, and valued, and are treated with kindness and respect by all in the sport setting (Newton et al., 2007). A climate that is both task-involving and caring is one in which coaches do the following: recognize and reward effort and improvement; foster cooperation among teammates; make everyone feel they play an important role on the team; treat mistakes as part of the learning process; and encourage an atmosphere where everyone is treated with mutual kindness and respect.

27. A high task orientation, described above in Paragraph 25 is the key to optimizing motivation over time because effort and improvement – the keys to task orientation – are variables that individuals can more easily control. High task orientation results in athletes being more likely to seek challenge, exert high effort, and persist over time (Maehr & Zusho, 2009).

28. Perhaps the strongest finding within the goal orientation research links task orientation with high enjoyment. Throughout childhood and adolescence, and across a range of sports, athletes who define success based on their personal effort and improvement have more fun

playing their sport than those high in ego orientation (Schneider, Harrington, & Tobar, 2017; Seifriz, Duda, & Chi, 1992; Stephens, 1998; Stuntz & Weiss, 2009; van de Pol & Kavussanu, 2011). Importantly, goal orientations are also associated with the sources of enjoyment athletes identify. For example, youth athletes with a high task orientation more often report experiencing enjoyment from learning and having positive team interactions. In contrast, athletes high in ego orientation more often report experiencing enjoyment as a result of winning and having high perceived competence (Lochbaum & Roberts, 1993).

29. Another benefit of high task orientation in youth athletes is the strong and positive association with interpersonal and team dynamics (Balaguer, Duda, & Crespo, 1999; Ommundsen, Roberts, Lemyre, & Miller, 2005). Task orientation is positively correlated with peer acceptance, less conflict with peers, and greater satisfaction with the coach.

30. Athletes high in task orientation also report greater confidence and perceived ability, and task orientation has been correlated with both self and team efficacy and greater perceived competence (Magyar & Feltz, 2003; Seifriz et al., 1992; Stuntz & Weiss, 2009). Further, athletes high in task orientation report utilizing more adaptive coping strategies (Kim, Duda, & Gano-Overway, 2011; McCarthy, 2011). These adaptive outcomes have been found for middle school, high school, and collegiate athletes.

31. By contrast, ego orientation (i.e., the non-pejorative, descriptive term for defining success based on ability and performance outcomes), is not correlated with perceived ability in general. Confidence of athletes high in ego orientation was more often based on their perceptions of ability and having a strong physical presence, whereas athletes high in task orientation based their perceptions of confidence on their sense of feeling well prepared and mentally strong (Magyar and Feltz, 2003).

32. Athletes high in ego orientation report lower companionship and greater conflict with teammates (Balaguer et al., 1999), and there is no evidence to suggest they reap the benefits of enhanced social relationships that athletes with high task orientation do (Ommundsen et al., 2005). Despite the ego-involving climate's emphasis on performance outcomes, results across studies suggest that the benefits of a task-involving climate may have a direct impact on athletic performance and ultimately improve performance outcomes (Jackson & Roberts, 1992; McDonald, Cote, & Deakin, 2011). By contrast, no evidence currently points to an ego-involving climate leading to greater performance outcomes with young athletes.

33. There is also a consistently significant relationship between ego orientation and anxiety (Lochbaum et al., 2016). Young athletes with high ego orientation participating in a variety of sports have reported higher trait and state cognitive and somatic anxiety, as well as greater concentration disruption, maladaptive perfectionism, and concern over making mistakes (Grossbard, Cumming, Standage, Smith, & Smoll, 2007; Hall, Kerr, & Matthews, 1998; Ommundsen & Pedersen, 1999; Ommundsen et al., 2005; White & Zellner, 1996).

34. Even for athletes who are themselves highly ego-oriented, and who prioritize winning and external rewards, a task-involving and caring climate is preferable. Such a climate encourages young athletes to orient themselves toward a task-involved model for motivation and away from the stress-inducing ego-orientation, which will in turn garner the young person the benefits associated with a task-orientation. For example, Division I college athletes who perceived a task-involving climate on their teams reported having stronger mental skills including their use of goal setting, ability to concentrate, remain worry free, cope with adversity and peak under pressure, act with confidence, and be open to receiving feedback from coaches (Fry, Iwasaki, & Hogue, 2021). These findings would suggest that athletes with strong mental skills might also

perform better. Further, perceptions of an ego-involving climate have been linked to higher salivary cortisol responses (Hogue, Fry, & Fry, 2017). Cortisol is an important and necessary hormone, but in excess it can break down muscle tissue and interfere with the immune system.

35. Thus, the benefits associated with youth and young adult sport are not limited to whether athletes are winning competitions, where they are ranked in their sport, or what level of publicity they are getting. In fact, a focus exclusively on those things not only undermines an athlete's success in those areas but can compromise the holistic range of benefits derived from youth and young adult sport. Ultimately, athletes are more likely to reap the positive benefits associated with youth and young adult sports if they are task-involved, which places greater emphasis on effort, than if they are ego-involved, which would put greater emphasis on trappings of individual success.

36. It should be noted that the research findings described above, which highlight the relationships between goal orientations and numerous outcome variables, have been consistent for both boys and girls. In other words, within the body of research on athletes' goal orientations, results across studies reveal that task orientation is more often positively correlated with adaptive outcomes (e.g., intrinsic motivation), and ego orientation is more often negatively associated with maladaptive outcomes (e.g., worry) for both boys and girls (Fry & Moore, 2019; Roberts, 2012; Roberts, Nerstad, & Lemyre, 2018).

**EXCLUDING TRANSGENDER STUDENTS FROM PARTICIPATING IN  
YOUTH AND YOUNG ADULT ATHLETICS WOULD DEPRIVE THEM AND THEIR  
TEAMMATES OF A WIDE RANGE OF BENEFITS**

37. A goal of youth sport is to help young athletes have positive experiences across sport. This includes creating space for athletes to have fun, develop skills, make friends, increase their levels of physical activity, continue their participation over time, and learn valuable life



lessons (Thompson, 2010). If transgender students are arbitrarily excluded from youth sports, they are, in turn, deprived of those positive experiences and outcomes and their teammates are deprived of a genuinely optimal sport experience.

38. Athletes who participate in high school sport are more likely to finish college, and more likely to be actively engaged in planning for their future after their sport career ends (Chamberlin & Fry, 2020; Troutman & Defur, 2007). Many of the benefits to youth who participate in athletics are documented throughout life. For example, women who participated in high school sport see greater success in the business world (ESPNW & EY, 2017; Sasaki, 2020). When athletes are excluded from participating in sport, or are in a climate where they do not feel accepted or respected, they do not have the opportunity to reap these benefits.

39. In addition, arbitrarily excluding transgender students from teams undermines a task-involving climate, which, in turn, diminishes the positive outcomes for all youth and collegiate athletes. (Balaguer, Duda, & Crespo, 1999; Ommundsen, Roberts, Lemyre, & Miller, 2005). Fostering task orientation positively correlates with peer acceptance, less conflict with peers, and greater satisfaction with the coach. These outcomes help athletes have a sport experience that make them want to keep playing sport. Because these positive benefits are fostered in a task-involving environment, arbitrary exclusions can cause harm not only to the athletes who are excluded, but also to the other athletes on the team.

40. When a team, league, or organization adopts an ego-promoting philosophy, and cares only about performance outcomes, the broader benefits of sport are diminished for all involved (both with regard to their future athletic careers and lives outside of sport). As noted above, the overwhelming majority of high school athletes will never go on to compete in college, and the overwhelming majority of college athletes will never go on to compete on professional

teams. Focusing only on the highest-performing athletes or post-graduate elite athletics compromises the other critical benefits of sports for youth and young adults.

41. The climate of youth sport must be geared to include all participants, so that teams are more likely to help every athlete maximize their potential. From an educational perspective, it is optimal to encourage all athletes to do the best that they can, and to help all athletes enjoy the sport that they love.

42. For coaches of youth and young adult athletes, one important message is that, for the overwhelming majority of people, the period of time that a person participates in organized athletics is short and maximizing the benefits of that participation is essential. As Jim Thompson, Founder and former-CEO of the Positive Coaching Alliance notes: “Here’s the bottom line for parents. Your child’s experience with youth sports will come to an end, and it may happen suddenly. If you are like me, you will look back and think, ‘I wish I had enjoyed it more. I wish I hadn’t obsessed so much about how well my child was performing, or the team’s record, or whether he or she was playing as much as I wanted, or why the coach didn’t play him or her in the right position. I wish I had just enjoyed the experience more.’ Because the youth sports experience is so intense, we tend to forget how short it is and what a small amount of time parents and children get to spend together over the course of life.”

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: January 24, 2022

  
Professor Mary D. Fry, PhD

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- Schneider, R. A. Y., Harrington, M., & Tobar, D. (2017). Goal orientation and how a task or ego mentality can affect the enjoyment for college hockey players. *College Student Journal*, 51(1), 57–62.
- Seifriz, J. J., Duda, J. L., & Chi, L. (1992). The relationship of perceived motivational climate to intrinsic motivation and beliefs about success in basketball. *Journal of Sport & Exercise Psychology*, 14, 375–391.
- Stephens, D. E., & Kavanagh, B. (2003). Aggression in Canadian youth ice hockey: The role of moral atmosphere. *International Sports Journal*, 7, 109–119.
- Stuntz & Weiss (2009). Achievement goal orientations and motivational outcomes in youth

sport: The role of social orientations. *Psychology of Sport and Exercise*, 10, 255–262.

Theeboom, M., Knop, P. De, & Weiss, M. R. (1995). Motivational climate, psychological responses, and motor skill development in children's sport: A field-based intervention study. *Journal of Sport & Exercise*, 17, 294–311.

Thompson, J. (2010). *Positive coaching: Building character and self-esteem through sports*. New York: Brown & Benchmark.

Troutman, K., & Dufur, M. (2007). From high school jocks to college grads: Assessing the long-term effects of high school sport participation on females' educational attainment. *Youth & Society*, 38(4), 443-462. doi:10.1177/0044118X06290651

Tudor, M. L., & Ridpath, B. D. (2018). Does the perceived motivational climate significantly predict academic and/or athletic motivation among NCAA Division I college athletes. *Journal of Contemporary Athletics*, 12(4), 291–307.

van De Pol, P. K. C., Kavussanu, M., (2011). Achievement goals and motivational responses in tennis: Does the context matter? *Psychology of Sport & Exercise*, 12, 176–183.

White, S., & Zellner (1996). The relationship between goal orientation, beliefs about the causes of sport success, and trait anxiety among high school, intercollegiate, and recreational sport participants. *Sport Psychologist*, 10, 58–72.

Xiang, P., Bruene, A., & McBride, R. E. (2004). Using achievement goal theory to assess an elementary physical education running program. *Journal of School Health*, 74, 220–225.

# EXHIBIT A



**CURRICULUM VITAE**

**NAME:** Mary D. Fry (Previously Mary D. Walling before 8/95)  
**DEPARTMENT:** Health, Sport & Exercise Sciences  
**RANK:** Professor

**DEPARTMENT ADDRESS:**

Department, of Health, Sport & Exercise Sciences  
 Robinson Center, Room 161F  
 1301 Sunnyside Ave.  
 University of Kansas  
 Lawrence, KS 66045  
 (785) 864-1862(O); mfry@ku.edu (email)

**EDUCATION**

DEGREE	DISCIPLINE	INSTITUTION	YEAR
BS	Physical Education	Texas Wesleyan University	1984
MS	Sport Psychology/Pedagogy	University of North Carolina- Greensboro	1990
PhD	Sport & Exercise Psychology	Purdue University	1994

**EXPERIENCE**

RANK/POSITION	DEPARTMENT/DIVISION	INSTITUTION/ORG.	PERIOD
Professor	Health, Sport & Exercise Sci	University of Kansas	2019
Associate Professor	Health, Sport & Exercise Sci	University of Kansas	2007-2019
Associate Professor	Human & Sport Sciences	University of Memphis	1999-2007
Assistant Professor	Human Movement Sciences & Education	University of Memphis	1994-1999
Editorial Assistant	Journal of Applied Sport Psychology		1992-1994
Associate Investigator	Indiana Youth Risk Behavior Study for Disease Control	Indiana Dept. of Education/Centers	1992
Research Consultant	Grant to Study Youth Sports	National Institute for Fitness & Sport Indianapolis, IN	1991
Teaching Assistant	Health, Kinesiology & Leisure Studies	Purdue University	1990-1992
Teaching Assistant	Sport & Exercise Science	U. North Carolina-Greensboro	1989-1990

RANK/POSITION	DEPARTMENT/DIVISION.	INSTITUTION/ORG.	PERIOD
Middle School Teacher	Physical Education	Allen Middle School Greensboro, NC	1988-89
High School Teacher	Physical Education/English & Head Tennis Coach	Martin High School Arlington, TX	1987- 88
High School Teacher	Physical Education/English & Head Tennis Coach	Richland High School Fort Worth, TX	1984-87
Instructor	University of Texas-Austin	Summer Tennis Camps	1988 & 1989

**Certification.** Secondary Teacher Certification in English and Physical Education in the State of Texas, 1984.

### **HONORS/AWARDS:**

Coleman Griffith Lecture, Association of Applied Sport Psychology (2021)  
 Del Shankel Teaching Excellence Award (Recipient 2021; Finalist 2018, 2019)  
 Budig Teaching Professorship, University of Kansas (2018)  
 Outstanding Mentor, McNair Scholars Program (2017)  
 KU Woman of Distinction, (2014-2015)  
 Joyce Elaine Pauls Morgan HSES Teaching Award (2013)  
 Budig Teaching Professorship, Nominee (2012)  
 Bird Outstanding Mentor Award, Nominee (2011)  
 Service Award, School of Education, University of Kansas, Nominee (2011)  
 KU Keeler Professorship, University of Kansas (2010).  
 Fellow, Association of Applied Sport Psychology (2009).  
 Outstanding Research Article published in *Research Quarterly for Exercise & Sport* (1997).  
     Presented by the Research Consortium of the American Alliance of Health, Physical  
     Education, Recreation, & Dance.  
 Outstanding Doctoral Dissertation, North American Society for the Psychology of Physical  
     Activity (1994).  
 Student Representative, CIC Big Ten Conference "Capstone of Knowledge" hosted by  
     Michigan University, December, 1992.

### **RESEARCH PUBLICATIONS**

#### **Refereed Journal Publications**

Easton, L., **Fry, M. D.**, Hogue, C. M., & Iwasaki, S. (in press). Goal orientations predict exercisers' effort and enjoyment while engaged in exercise and reasons for using a fitness tracker. *Acta Facultatis Educationis Physicae Universitatis Comenianae*.

**Fry, M. D.**, Iwasaki, S., & Hogue, C. M. (in press). The relationship between the perceived motivational climate in elite collegiate sport and athlete psychological coping skills. *Journal of Clinical Sport Psychology*.

Hogue, C. M., **Fry, M. D.**, & Fry, A. C. (in press). The protective impact of learning to juggle in a caring, task-involving climate versus and ego-involving climate on participants' inflammation, cortisol, and psychological responses. *International Journal of Sport and Exercise Psychology*.

Iwasaki, S., **Fry, M. D.**, & Hogue, C.M. (in press). The relationship among male high school athletes' perceptions of the motivational climate, mindful engagement, and coachability. *Journal of Clinical Sport Psychology*.

Scott, C., **Fry, M.D.**, Wineinger, T., & Iwasaki, S., & Fry, M. D. (in press). Creating an optimal motivational team climate to help collegiate athletes thrive during the COVID-19 pandemic. *Journal of Sport Psychology in Action*.

Scott, C., **Fry, M. D.**, Weingartner, H., & Wineinger, T. (in press). Collegiate sport club athletes' psychological well-being and perceptions of their team climate. *Recreational Sports Journal*.

- Wineinger, T., **Fry, M. D.**, & Moore, E. W. (2021). Validation of climate and motivational measures for use in the biology laboratory setting. *Journal of Biological Education*.
- Brown, T. C., **Fry, M. D.**, Breske, M., Iwasaki, S., & Wilkinson, T. (2019). Motivational climate and athletes' likelihood of reporting concussions in a youth competitive soccer league. *Journal of Sport Behavior*, 42(1), 29-47.
- Fry, M. D.**, Reid, C., Iwasaki, S., & Thompson, J. (2019). Bridging theory, research, and practice in youth sports: Sport Psychology's Partnership with Positive Coaching Alliance to enhance youth sport. *Journal of Sport Psychology in Action*, 10, 1-10.
- Hogue, C. M. **Fry, M. D.**, & Iwasaki, S. (2019). The impact of the perceived motivational climate in physical education on adolescent greater life stress, coping appraisals, and experience of shame. *Sport, Exercise, & Performance Psychology*, 8, 273-289.
- Glover, K., & **Fry, M. D.** (2018). Helping WIN provide a winning environment for girls in their summer camps. *Journal of Sport Psychology in Action*, 9, 1-12.
- Miller, S., & **Fry, M. D.** (2018). Relationship between climate to body esteem and social physique anxiety within college physical activity classes. *Journal of Clinical Sport Psychology*, 12, 525-543.
- Wineinger, T. O. & **Fry, M. D.** (2018). The power of a caring/task-involving climate to help students find their life's passion. *Kansas Association for Health, Physical Education, Recreation, & Dance Journal*, 90 (1), 49-56.
- Breske, M. P., **Fry, M. D.**, Fry, A. C., & Hogue, C. M. (2017). The effects of goal priming on cortisol responses in an ego-involving climate. *Psychology of Sport and Exercise*, 32, 74-82.
- Brown, T. C., **Fry, M. D.**, & Moore, E. W. G. (2017). A motivational climate intervention and exercise-related outcomes: A longitudinal perspective. *Motivation Science*, 3, 337-353
- Chamberlin, J. & **Fry, M. D.** (2017). High school athletes' perceptions of the motivational climate in their off-season training programs. *Journal of Strength and Conditioning Research*, 31, 736-742.
- Fontana, M. S., & **Fry, M. D.** (2017). Creating and validating the shame in sport questionnaire. *Journal of Sport Behavior*, 40, 278-296.
- Hogue, C. M., **Fry, M. D.**, & Fry, A. C. (2017). The differential impact of motivational climates on adolescents' psychological and physiological stress responses. *Psychology of Sport and Exercise*, 30, 118-127. <http://dx.doi.org/10.1016/j.psychsport.2017.02.004>
- Fontana, M. S., **Fry, M. D.**, & Cramer, E. (2017). Exploring the relationship between athletes' perceptions of the motivational climate to their compassion, self-compassion, shame, and pride in adult recreational sport. *Measurement in Physical Education and Exercise Science*, 21, 101-111.
- Moore, E. W., G., & **Fry, M. D.** (2017). National franchise members' perceptions of the exercise psychosocial environment, ownership, and satisfaction. *Sport, Exercise, & Performance Psychology*, 6, 188-198.
- Moore, E. G. W., & **Fry, M. D.** (2017). Physical education students' ownership, empowerment, and satisfaction with PE and physical activity. *Research Quarterly for Exercise and Sport*, 88, 468-478. <https://doi.org/10.1080/02701367.2017.1372557>
- Iwasaki, S., & **Fry, M. D.** (2016). Female adolescent soccer players' perceived motivational climate, goal orientations, and mindful engagement. *Psychology of Sport & Exercise*, 27, 222-231. <http://dx.doi.org/10.1016/j.psychsport.2016.09.002>

- Claunch, J., & **Fry, M. D.** (2016). Native American football coaches' experience of a motivational climate collaboration with sport psychology researchers. *International Journal of Sport Science & Coaching*, *11*, 482-495. DOI: 10.1177/1747954116655047
- Brown, T. C., & **Fry, M. D.** (2015). Effects of an intervention with recreation center staff to foster a caring, task-involving climate. *Journal of Clinical Sport Psychology*, *9*, 41-58.
- Fontana, M., Bass, J., & **Fry, M. D.** (2015). From Smith Center to Coney Island: Examining the coaching climate in the United States sporting culture. *Journal of Contemporary Athletics*, *9*, 211-226.
- Fry, M. D.**, & Brown, T. C. (2015). A caring/task-involving climate intervention for youth sport camp leaders. *Kansas Association for Health, Physical Education, and Recreation Journal*.
- Moore, E. W. G., Brown, T. C., & **Fry, M. D.** (2015). Psychometric Properties of the Abbreviated Perceived Motivational Climate in Exercise Questionnaire. *Measurement in Physical Education and Exercise Science*, *19*(4), 186-199.
- Poux, K., & **Fry, M. D.** (2015). Athletes' perceptions of their team motivational climate, career exploration and engagement, and athletic identity. *Journal of Clinical Sport Psychology*, *9*, 360-372. <http://dx.doi.org/10.1123/jcsp.2014-0050>
- Brown, T. C. & **Fry, M. D.** (2014). College exercise class climates, physical self concept, and psychological well-being. *Journal of Clinical Sport Psychology*, *8*, 299-313.
- Brown, T. C. & **Fry, M. D.** (2014). Motivational climate, staff and members' behaviors, and members' psychological well-being at a large national fitness franchise. *Research Quarterly for Exercise and Sport*, *85*, 208-217.
- Moore, W. E. G, & **Fry, M. D.** (2014). Psychometric support for the Ownership in Exercise and Empowerment in Exercise Scales. *Measurement in Physical Education and exercise Science*, *18*, 1-17.
- Brown, T. C., & **Fry, M. D.** (2014). Evaluating the pilot of Strong Girls: A life skills/physical activity program for third and fourth grade girls. *Journal of Applied Sport Psychology*. *26*, 52-65.
- Brown, T. C. & **Fry, M. D.** (2013). Association between females' perceptions of college aerobic class motivational climates and their responses. *Women & Health*, *58*, 843-857.
- Brown, T. C., **Fry, M. D.**, & Little, T. (2013). The psychometric properties of the Perceived Motivational Climate in Exercise Questionnaire. *Measurement in Physical Education and Exercise Science* *17*(1), 17-39.
- Hogue, C. M., Pornprasertmanit, S., **Fry, M. D.**, Rhemtulla, M., & Little, T. (2013). Planned missing data designs for spline growth models in salivary cortisol research. *Measurement in Physical Education and Exercise Science*, *17*, 310-325.
- Iwasaki, S., & **Fry, M. D.** (2013). Evaluations of youth sport programs requested by sport administrators. *The Sport Psychologist*, *27*, 360-371.
- Hogue, C.M., **Fry, M. D.**, Fry, A.C., Pressman, S. D. (2013). The influence of a motivational climate intervention on participants' salivary cortisol and psychological responses. *Journal of Sport and Exercise Psychology*, *35*, 85-97.
- Fry, M. D.**, Guivernau, M., Kim, M., Newton, M., Gano-Overway, L, & Magyar, M. (2012). Youth perceptions of a caring climate, emotional regulation, and psychological well-being. *Sport, Exercise, & Performance Psychology*, *1*(1), 44-57.
- Huddleston, H., **Fry, M. D.**, & Brown, T. C. (2012). Corporate fitness members' perceptions of the environment and their intrinsic motivation. *Ravista de Psicologia del Deporte*.

- 21(1),15-23.
- Brown, T.C., & Fry, M. D. (2011). Helping members commit to exercise: Specific strategies to impact the climate at fitness centers. *Journal of Sport Psychology in Action*, 2, 70-80.
- Brown, T. C., & Fry, M. D. (2011). Strong Girls: A physical activity/life skills intervention for girls transitioning to junior high. *Journal of Sport Psychology in Action*, 2, 57-69.
- Fry, M. D. (2010). Creating a positive climate for young athletes from day 1. *Journal of Sport Psychology in Action*, 1(1), 33-41.
- Fry, M. D., & Gano-Overway, L. (2010). Exploring the contribution of the caring climate to the youth sport experience. *Journal of Applied Sport Psychology*, 22(3), 294-304.
- Dodd, R., Brown, T., & Fry, M. D. (2010). Young athlete's perceptions of their coaches' and teammates' caring and uncaring behaviors. *Kansas Association of Health Physical Education Recreation and Dance Journal*, 83(1), 38-45.
- Binkley, S. E., Fry, M. D., & Brown, T.C. (2009). The relationship of college students' perceptions of their BMI and weight status to their physical self-concept. *American Journal of Health Education*, 40, 139-145.
- Gano-Overway, L. A., Magyar, T. M., Kim, M., Newton, M., Fry, M. D., & Guivernau, M. R. (2009). Influence of caring youth sport contexts on efficacy-related beliefs and social behaviors. *Developmental Psychology*, 45, 329-340.
- Newton, M., Fry, M.D., Gano-Overway, L., Kim, M., Watson, D., & Givernau, M. (2007). Psychometric properties of the Contextual Caring Scale in a physical activity setting. *Revista de Psicología del Deporte*, 16, 67-84.
- Newton, M., Watson, D., Fry, M., Gano-Overway, L, Kim, M., & Givernau, M. (2007). The impact of caring in physical activity. *Urban Review*, 39, 281-299.
- Haneishi, K., Fry A.C., Moore C.A., Schilling B.K., Li Y., and Fry M.D. (2007). Cortisol and stress responses during a game and practice in female collegiate soccer players". *Journal of Strength and Conditioning Research*, 21, 583-588.
- Magyar, M., Kim, M., Givernau, M., Gano-Overway, L., Newton, M., & Fry, M. (2007). The influence of leader efficacy and emotional intelligence on personal caring. *Journal of Teaching in Physical Education*, 26, 310-319.
- Bone, J., & Fry, M.D. (2006). The influence of injured athletes' perceptions of social support from ATCs on athletes' beliefs about rehabilitation. *Journal of Sport Rehabilitation*, 15, 156-167.
- Fry, A.C., Ciroslan D., Fry M.D., LeRoux C.D., Schilling B.K., and Chiu L.Z.F. (2006), Anthropometric and performance variables discriminating elite junior weightlifters. *Journal of Strength and Conditioning Research*, 20, 861-866.
- Smith, S., Fry, M. D., Ethington, C., & Li, Y. (2005). The effects of athletes' perceptions of their coaching behaviors on their perceptions of the motivational climate. *Journal of Applied Sport Psychology*, 17, 1-8.
- Fry, M. D., & Newton, M. (2003). Application of achievement goal theory in an urban youth tennis setting. *Journal of Applied Sport Psychology* 15, 50-66.
- Abma, C. L., Fry, M. D., Li, Y., & Relyea, G. (2002). Differences in imagery content and imagery ability between high and low confident track and field athletes. *Journal of Applied Sport Psychology*, 13, 341-349.
- Walling, M. D., Duda, J. L., & Crawford, T. (2002). Goal orientations, outcome, and responses to youth sport competition among high/low perceived ability athletes. *International Journal of Sport Psychology*, 14, 140-156.

- Fry, M. D.** [2000]. A developmental examination of children's understanding of task difficulty in the physical domain. *Journal of Applied Sport Psychology*, 12, 180-202.
- Fry, M. D.** (2000). A developmental analysis of children's and adolescents' understanding of luck and ability in the physical domain. *Journal of Sport and Exercise Psychology*, 22, 145-166.
- Fry, A.C., Webber, J. M., Weiss, L.W., **Fry, M. D.**, & Li, Y. (2000). Impaired performances with excessive high-intensity free-weight training. *Journal of Strength and Conditioning Research*, 14, 54-61.
- Fry, M. D.**, & Lattimore, D. (2000). Fostering a positive motivational climate in physical education. *Tennessee Educational Leadership Journal*, 27, 39-43.
- Fry, M. D.**, & Fry, A. C. (1999). Goal perspectives and motivational responses of elite junior weightlifters. *Journal of Strength and Conditioning Research*, 13, 311-317.
- Newton, M., & **Fry, M. D.** (1998). Senior Olympians achievement goals and beliefs concerning success. *Journal of Aging and Physical Activity*, 6, 256-270.
- Fry, M. D.** (1998). Al Oerter: An Olympian's views as seen from a sport psychology perspective. *Strength and Conditioning*, 20, 7-14.
- Fry, M. D.** & Duda, J. L. (1997). A developmental examination of children's understanding of effort and ability in the physical and academic domains. *Research Quarterly for Exercise and Sport*, 66, 331-344.
- Walling, M. D.**, & Duda, J. L. (1995). Goals and their associations with beliefs about success in and perceptions of the purpose of physical education. *Journal of Teaching in Physical Education*, 14, 140-156.
- Walling, M. D.**, & Duda, J. L. (1995). Motivating kids: Balance learning and fun. *Sport Psychology Training Bulletin*, 4, 1-8.
- Duda, J. L., Chi, L., Newton, M. L., **Walling, M. D.**, & Catley, D. (1995). Task and ego orientation and intrinsic motivation in sport. *International Journal of Sport Psychology*, 26, 40-63.
- Walling, M. D.**, & Martinek, T. (1995). Learned helplessness in a sixth-grade physical education student: A case study. *Journal of Teaching in Physical Education*, 14, 454-466.
- Walling, M. D.**, Duda, J. L., & Chi, L. (1993). The perceived motivational climate in sport questionnaire: Construct and predictive validity. *Journal of Sport and Exercise Psychology*, 15, 172-183.

### Invited Book Chapters

- Gano-Overway, L., & **Fry, M. D.** (in press). Caring climates. In L. Davis, R. Keegan, & S. Jowett (Eds.), *Social Psychology of Sport* (Second Edition). Champaign, IL: Human Kinetics.
- Fry, M. D.**, & Fontana, M. (in press). Did you hear the one about the hilarious professor? Yeah, me neither: Incorporating humor in sport psychology to enhance motivation and relieve stress. In K. Vaidya (Ed.), *Teach Exercise & Sport With a Sense of Humor: Why and How to Be a Funnier and More Effective Exercise & Sport Teacher and Laugh All the Way to Your Classroom?* Curious Academic Publishing.

- Fry, M. D., & Hogue, C. M.** (2021). Foundational psychological theories, models, and constructs. *Certified Mental Performance Consultant Essentials Resource Guide*. Association for Applied Sport Psychology.
- Fry, M. D., & Moore, E. W. G.** (2019). *Motivation in sport: Theory to application*. In M. H. Anshel (Ed.), T. Petrie, E. Labbe, S. Petruzello, & J. Steinfeldt (Assoc. Eds.), *APA handbook of sport and exercise psychology: Vol. 1. Sport psychology*. Washington DC: American Psychological Association.
- Fry, M. D., & Hogue, C. M.** (2018). Psychological considerations for children in sport and performance. In Oliver Braddick (Ed.), *Oxford Research Encyclopedia of Psychology*. New York: Oxford University Press.
- Fry, M. D.** (2014). Sport and Exercise Psychology as a Venue to Develop “Difference Makers”. In K. Vaidya (Ed.), *Exercise and Sports for the Curious: Why Study Exercise and Sports*. Curious Academic Publishing.
- Fry, M. D.** (2001). The development of motivation in children. In G. Roberts (Ed.), *Motivation in sport and exercise (2<sup>nd</sup> Ed.)*, pp. 51-78, Champaign, IL: Human Kinetics.

### Book

- Fry, M. D., Gano-Overway, L., Guivernau, M., Kim, M., & Newton, M.** (2020). *A Coach’s Guide to Maximizing the Youth Sport Experience: Work Hard and Be Kind*. NY: Routledge.

## PRESENTATIONS

### Invited International Presentations

- Fry, M. D.** (2019). *Achievement goal perspective theory as a framework for interventions in sport and physical activity*. Autonomous University of Baja California; Ensenada, Mexico.
- Fry, M. D.** (2019). *Utilizing goal orientations as a lens to optimize athletes’ motivation*. Autonomous University of Baja California; Ensenada, Mexico.
- Fry, M. D.** (2019). *Building a caring and task-involving climate in sport through words, activities, and core values*. Autonomous University of Baja California; Ensenada, Mexico.
- Fry, M. D.** (2019). *Team building to foster positive relationships on sport teams*. Autonomous University of Baja California; Ensenada, Mexico.
- Fry, M. D.** (2016). *The power of a caring and task-involving climate in sport*. Children International; Guatemala City, Guatemala/.
- Fry, M. D.** (2005, March). *Creating a positive motivational climate in physical activity settings*. Sao Paulo, Brazil.
- Duda, J. L., & **Walling, M. D.** (1993, November). *Toward a developmental theory of motivation in sport*. University of Barcelona, Barcelona, Spain.
- Walling, M. D.** (1993, November). *The examination of Nicholls’ developmental theory of motivation in the physical domain*. University of Valencia, Valencia, Spain.
- Walling, M. D.** (1993, November). *Motivational aspects in physical education for school-age Children*. National Physical Education Institute, Lleida, Spain.
- Duda, J. L., & **Walling, M. D.** (1993, November). *A conceptual and empirical examination of the motivational climate created by coaches*. University of Barcelona, Barcelona, Spain.

**Refereed Presentations at National Conferences**

- Scott, C., **Fry, M. D.**, Wineinger, T. O., & Iwasaki, S. (2021). *Staying positive during the COVID-19 Pandemic: The impact of collegiate team climate*. Association for Applied Sport Psychology, Virtual.
- Wineinger, T. O., Rosen, D., & **Fry, M. D.** (2021). *The influence of a motivational intervention on participants' physiological measures of effort and muscle performance*. Association for Applied Sport Psychology, Virtual.
- Scott, C., **Fry, M. D.**, Wineinger, T., & Weingartner, H. (2020). *Collegiate sport club athletes' perceptions of the climate on their teams and indices of their psychological well-being*. Association for Applied Sport Psychology, Virtual.
- Wineinger, T. O., & **Fry, M. D.** (2020). *A sport psychology lab partners with the Women's Intersport Network (WIN) to optimize young girls' sport camp experiences*. Association for Applied Sport Psychology, Virtual.
- Fry, M. D.**, Claunch, J., Hogue, C. M., Iwasaki, S., & Peynetsa, I. (2019). *A coaching education collaboration for American Indian Youth Sport Coaches on the Zuni Reservation*. Association for Applied Sport Psychology. Portland, OR.
- Moore, E. W. G., & **Fry, M. D.** (2018). *Elementary physical education students' motivational climate perceptions predict goal orientations and physical education satisfaction*. International Society of Behavioral Nutrition and Physical Activity. Hong Kong.
- Pan, T. Y., Davis, A. M., Atchley, R. A., Forbush, K. T., Wallace, D. P., Savage, C. R., & **Fry, M.D.** (2018). *The longitudinal relationship between obesity and depression in children*. American Psychological Association, San Francisco, CA.
- Warlick, C., Krieshok, T., Frey, B., Kerr, B., . . . & **Fry, M. D.** (2018). *Does hope matter? Examining a popular positive psychology construct in a DBT intensive-outpatient community health population*. Association for Behavioral and Cognitive Therapies.
- Breske, M., **Fry, M. D.**, A., & Hogue, C. M. (2017). *The effects of goal priming on cortisol responses in an ego-involving climate*. Association for Applied Sport Psychology, Orlando, FL.
- Chamberlin, J., **Fry, M. D.**, & Iwasaki, S. (2017). *The influence of high school athletes' perceptions of the motivational climate on athletic identity and academic endeavors*. Association for Applied Sport Psychology, Orlando, FL.
- Easton, L., **Fry, M. D.**, & Iwasaki, S. (2017). *The relationship of fitness center members' goal orientations and perceptions of the motivational climate to variables related to well-being and motivational responses*. Association for Applied Sport Psychology, Orlando, FL.
- Fontana, M. & **Fry, M. D.** (2017). *Exploring the relationship between motivational climate and shame*. Association for Applied Sport Psychology, Orlando, FL.
- Fry, M. D.**, Thompson, J., Iwasaki, S., & Reid, C. (2017). *Bridging theory, research, and practice in youth sports: sport psychology's partnership with positive coaching alliance to enhance youth sport*. Association for Applied Sport Psychology, Orlando, FL.
- Glover, K., **Fry, M. D.**, & Weingartner, H. (2017). *Helping a women's intersport network provide a winning experience for girls in their summer sport camps*, Association for Applied Sport Psychology, Orlando, FL.



- Iwasaki, S., & **Fry, M. D.** (2017). *An exploration of the relationship among female adolescent athletes' perceptions of the motivational climate, goal orientation, refocusing, and peak ability*. International Society of Sport Psychology 14<sup>th</sup> World Congress, Sevilla, Spain.
- Tyler, E., Warlick, C., Cole, B., & **Fry, M. D.** (2017). *Collegiate student-athletes' perceptions of their sport team climate and level of hope*. Association for Applied Sport Psychology, Orlando, FL.
- Tyler, E., Warlick, C., Cole, B., & **Fry, M. D.** (2017). *Relationship among student-athletes' perceptions of the climate, locker room talk, and sexual behaviors*. Association for Applied Sport Psychology, Orlando, FL.
- Hogue, C. M., **Fry, M. D.**, & Fry, A. C. (2017). *Adolescents' Physiological Stress Responses to Motivational Climate in a Physical Education Setting*. Society for Physical Education and Health, Boston, MA.
- Claunch, J. & **Fry, M. D.** (2016). *Setting the stage for a motivational climate collaboration*. Association for Applied Sport Psychology, Phoenix, AZ.
- Chamberlin, J., **Fry, M. D.**, & Iwasaki, S. (2016). *High school athletes' perceptions of the motivational climate in their off-season Training Programs*. Association for Applied Sport Psychology, Phoenix, AZ.
- Easton, L., Iwasaki, S., & **Fry, M. D.** (2016). *The relationship of members' perceptions of the motivational climate to their Psychological well-being at a university medical center fitness facility*. Association for Applied Sport Psychology, Phoenix, AZ.
- Fry, M. D.**, Iwasaki, S., Vanorsby, H., & Breske, M. (2016). *Masters' swimmers' perceptions of the climate in their training facilities and their motivational responses*. Association for Applied Sport Psychology, Phoenix, AZ.
- Fry, M. D.**, Solomon, G., Iwasaki, S., Madeson, M., Vanorsby, H., Meisinger, R., & Haberer, J. (2016). *Division I athletes' perceptions of their team climate, mental skills, and mindfulness*. Association for Applied Sport Psychology, Phoenix, AZ.
- Hogue, C. M., **Fry, M. D.**, & Fry, A. C. (2016). *Physiological and psychological stress responses to a motivational climate intervention*. Association for Applied Sport Psychology, Phoenix, AZ.
- Fontana, M., & **Fry, M. D.** (2016). *Creating and validating the Shame in Sport Questionnaire*. Association for Applied Sport Psychology, Phoenix, AZ.
- Hogue, C. M., & **Fry, M. D.** (2016). *Leader observations of participant behaviors during a motivational climate intervention: A qualitative investigation*. Association for Applied Sport Psychology, Phoenix, AZ.
- Iwasaki, S., & **Fry, M. D.** (2016). *Male High School Athletes' Perceptions of Their Team Climate and Mindful Engagement*. Association for Applied Sport Psychology, Phoenix, AZ.
- Iwasaki, S., **Fry, M. D.**, Vanorsby, H., Breske, M. (2016). *Master swimmers' perceptions of the climate in their training facilities and their motivational responses*. Association for Applied Sport Psychology, Phoenix, AZ.
- Brown, T. C., M. S., **Fry, M. D.**, Breske, M., Iwasaki, S., & Wilkinson, T. (2015). *High school athletes' perceptions of their sport team climate and their willingness to report concussion symptoms*. Association for Applied Sport Psychology, Indianapolis, IN.
- Fry, M. D.**, Brown, T. C., Iwasaki, S., Breske, M., & Wilkinson, T. (2015). *Middle school athletes' perceptions of their sport team climate and their willingness to report concussion symptoms*. Association for Applied Sport Psychology, Indianapolis, IN.

- Fry, M. D., & Easton, L.** (2015). *Health in Action: Helping students design creative interventions onsite*. Kansas Alliance for Physical Education, Health, Recreation, & Dance, Wichita, KS.
- Fontana, M. S., Iwasaki, S., Hogue, C., Claunch, J., Poux, K., & **Fry, M. D.** (2014). *Initiating mental skills training with a high school freshman baseball*. Association for Applied Sport Psychology, Las Vegas, NE.
- Fry, A.C., **Fry, M. D.**, Sterczala, A. J., Chiu, L. Z. F., Schilling, B., & Weiss, L. W. (2014). *High power resistance exercise overreaching can be monitored with a training questionnaire*. National Strength and Conditioning Association, Las Vegas, NE.
- Medina, R, **Fry, M. D.**, & Iwasaki, S. (2014). *Youngsters' perceptions of the climate and their experiences in recreational exercise classes*. Association for Applied Sport Psychology, Las Vegas, NE.
- Rosen, D., & **Fry, M. D.** (2014). *Motivational climate and seniors' experiences in group exercise classes*. Association for Applied Sport Psychology, Las Vegas, NE.
- Hogue, C. M., & **Fry, M. D.** (2013). *A qualitative examination of participant reactions to a motivational climate intervention*. Association for Applied Sport Psychology, New Orleans, LA.
- Kwon, S., & **Fry, M. D.** (2013). *Mediational role of interest and intrinsic motivation between perceived caring climate and satisfaction and attitudes among physical education students*. Association for Applied Sport Psychology, New Orleans, LA.
- Moore, E. W. G., & **Fry, M. D.** (2013). *PE teachers' perspective on a motivational climate professional development session*. Association for Applied Sport Psychology, New Orleans, LA.
- Claunch, J. & **Fry, M. D.** (2013). *Transformative learning experience: Collegiate football coaches' perceptions of participating in a motivational climate intervention*. Association for Applied Sport Psychology, New Orleans, LA.
- Moore, E. W. G., & **Fry, M. D.** (2012). *Goal orientations, motivational climate, and outcomes in physical education across one semester*. Association for Applied Sport Psychology to held in Atlanta, GA.
- Kwon, S., & **Fry, M. D.** (2012). *The change of physical educators' enjoyment and intrinsic motivation of track and field through PST*. Association for Applied Sport Psychology, Atlanta, GA.
- Iwasaki, S., & **Fry, M. D.** (2012). *Physical education students' perceptions of the climate and their psychological well-being*. Association for Applied Sport Psychology, Atlanta, GA.
- Hogue, CM., **Fry, M.D.**, Fry, A.C., & Pressman, S. D. (2012). *Participant salivary cortisol and psychological responses to a motivational climate intervention*. Association for Applied Sport Psychology, Atlanta, GA.
- Fry, M. D.**, Brown, T. C., & Iwasaki, S. (2012). *Girls' self perceptions after participating in a positive life skills/physical activity program*. Association for Applied Sport Psychology, Atlanta, GA.
- Brown, T. C., & **Fry, M. D.** (2012). *Results of a caring, task-involving climate intervention at a recreation center*. Association for Applied Sport Psychology, Atlanta, GA.
- Kwon, S., & **Fry, M. D.** (2011). *The effects of athletes' self-management on their self-confidence*. Association for Applied Sport Psychology, Honolulu, HI.
- Andre, M. J., Fry, A.C., Gallagher, P. M., Vardiman, P., **Fry, M. D.** Kudrna, B., Gandy-Moody,

- N., & McCartney, M. (2011). *The effects of a pre-workout caffeine supplement on endogenous growth hormone levels*. A presentation made at the meeting of the National Strength and Conditioning Association, Las Vegas, NE.
- Hogue, C. M., Iwasaki, S., & Fry, M. D. (2011). *A case study of a physical activity/mental skills training intervention with a young athlete*. Association for Applied Sport Psychology, Honolulu, HI.
- Iwasaki, S., & Fry, M. D. (2011). *The exploration of motivational climate in a youth sport basketball camp*. Association for Applied Sport Psychology, Honolulu, HI.
- Fry, M. D. (2011). *From the Strong Girls' viewpoints: Research results from semester 1*. Association for Applied Sport Psychology, Honolulu, HI.
- Fry, M. D. (2011). *The exercise climate: An introduction to the research on examining task-involving and caring climates in the exercise domain*. Association for Applied Sport Psychology, Honolulu, HI.
- Fry, M. D., Hogue, C. M., Sauer, S. (2011). *Using digital storytelling as a creative tool in health*. American Alliance of Health, Physical Education, Recreation, & Dance, San Diego, CA.
- Kwon, S., & Fry, M. D. (2010). *Relationship of exercisers' perceptions of the motivational climate to their flow experience*. Association of Applied Sport Psychology, Providence, RI.
- Iwasaki, S., Merczek, K., & Fry, M. D. (2010). *Young athletes' experiences in a volleyball camp*. Association of Applied Sport Psychology, Providence, RI.
- Iwasaki, S., Sogabe, A., Fry, M. D., & Christensen, E. (2010, June). *Differences in aggression and social skills among judo and non-judo practitioners*. American College of Sports Medicine, Baltimore, MD.
- Hogue, C. M., Fry, M. D., & Brown, T. C. (2010). *Incorporating team building activities in a summer day camp for children: Lessons learned*. Association of Applied Sport Psychology, Providence, RI.
- Brown, T. C., & Fry, M. D. (2010). *Caring climate intervention for sport skills and fitness camp leaders*. Association of Applied Sport Psychology, Providence, RI.
- Brown, T. C., & Fry, M. D. (2010). *Teaching life skills in a physical activity after-school program*. American School Health Association, Kansas City, MO.
- Moore, E. W., & Fry, M. D. (2009). *The effect of a caring and task-involving climate on student empowerment and ownership in physical activity classes*. Association for Applied Sport Psychology, Salt Lake City, UT.
- Kwon, S., & Fry, M. D. (2009). *Members' perceptions of their fitness club climate and their exercise flow*. Association for Applied Sport Psychology, Salt Lake City, UT.
- Hogue, C. M., Fry, M. D., & Dodd, R. (2009). *Athletes' perceptions of the climate at their training centers and their motivational responses*. Association for Applied Sport Psychology, Salt Lake City, UT.
- Fry, M. D. (2009). *From theory to practice: Creating positive and caring environments in the real world*. Association for Applied Sport Psychology, Salt Lake City, UT.
- Brown, T. C., & Fry, M. D. (2009). *Students' perceptions of their exercise class environment and their psychological well-being*. Association for Applied Sport Psychology, Salt Lake City, UT.
- Marshall, K., Stephens, L., Grindle, V., Fry, M. D., & Li, Y. (2009). *Mental imagery and EEG*

- activity in elite and novice collegiate soccer players.* Association for Applied Sport Psychology to be, Tampa, FL.
- Brown, T. C., & Fry, M. D. (2009). *Participants' perceptions of a caring and positive climate in their exercise classes.* American Alliance of Health, Physical Education, Recreation, & Dance, Tampa, FL.
- Fry, M. D., Dodd, R. K., & Brown, T. C. (2008). *Young athletes' perceptions of their coaches' and teammates' caring and uncaring behaviors.* Association for Applied Sport Psychology, St. Louis, MO.
- Binkley, S.E., & Fry, M. D. (2007). *The relationship of college students' perceptions of their BMI and weight status to their physical self-concept.* Association for Applied Sport Psychology, Louisville, KY.
- Smith, H., Fry, M.D., Li, Y., & Weiss, L. (2006). *The relationship of anxiety and self-confidence to treadmill exercise tolerance tests performance by sedentary obese women.* Association for the Advancement of Applied Sport Psychology, Miami, FL.
- McCarty, L., Fry, M.D., & Curly, C. (2006). *The relationship of a caring climate to motivational responses and psychological well-being in youth baseball.* Association for the Advancement of Applied Sport Psychology, Miami, FL.
- Gano-Overway, L. A., Newton, M., Magyar, AM., Fry, M. D., Kim, M., & Guivernau, M. (2006). *Caring, self-regulatory efficacy, empathic efficacy, and prosocial/antisocial behaviors in a physical activity setting.* Association for the Advancement of Applied Sport Psychology, Miami, FL.
- Fry, A.C., Haneishi, K., Moore, C.A., Schilling, B.K., Li, Y., & Fry, M.D. (2006). *Cortisol and stress responses during a game and practice in female collegiate soccer players.* National Conference on Student Assessment, Washington, D.C.
- Bricker, J. B., & Fry, M. D. (2005). *The influence of injured athletes' perceptions of social support from their certified athletic trainers on athletes' beliefs about rehabilitation.* Association for the Advancement of Applied Sport Psychology, Vancouver, British Columbia, Canada.
- Magyar, M., Guivernau, M., Gano-Overway, L., Newton, M., Fry, M.D., Kim, M., & Watson, D. (2005). *Exploring the relationship between the caring climate and achievement goal theory among underserved youth in physical activity.* American Alliance of Health, Physical Education, Recreation & Dance, Chicago, IL.
- Fry, M.D., & Newton, M. (2004, September). *The development of the Caring Climate Questionnaire.* Association for the Advancement of Applied Sport Psychology, Minneapolis, MN.
- Smith, S., Fry, M.D., & Ethington, C. (2004, September). *The effect of female athletes' perceptions of their coaches' behaviors on their perceptions of the motivational climate.* Association for the Advancement of Applied Sport Psychology, Minneapolis, MN.
- McCay, K., & Fry, MD. (2004, September). *The examination of goal perspective theory in relationship to measures of psychological well-being.* Association for the Advancement of Applied Sport Psychology, Minneapolis, MN.
- McCay, K., & Fry, M.D. (2004, March). *Predictors of adolescent depression: The role of physical activity and body image.* Society of Behavioral Medicine, Baltimore, MD.
- Henry, H., & Fry, M.D. (2003, October). *Corporate fitness members' perceptions of the*

- motivational climate, their intrinsic motivation, and perceptions of being valued by their employer.* Association for the Advancement of Applied Sport Psychology, Philadelphia, PA.
- Fry, M.D.,** Pittman, L., McCay, K., & Wendell, M. (2003, October). *A qualitative examination of underserved 4th grade girls' views about physical education.* Association for the Advancement of Applied Sport Psychology, Philadelphia, PA.
- Fry, M. D.,** Abma, C., Wood, J., & Melland, B. (2002, October). *The effects of an after-school physical activity and life skills program on 4th graders' self concept, motivational perspectives, and fitness levels.* Association for the Advancement of Applied Sport Psychology, Tucson, AZ.
- Abma, C., & **Fry, M. D.** (2002, October). *The effects of an imagery intervention on the trait confidence levels of female college volleyball players.* Association for the Advancement of Applied Sport Psychology, Tucson, AZ.
- Duda, J.L., Smith, M., & **Fry, M. D.** (2002, June). *An examination of learned helpless responses among young children engaged in physical tasks.* North American Society for the Psychology of Sport and Physical Activity, Baltimore, MD.
- Newton, M., **Fry, M.D.,** & Bernhardt, P. (2001, October). *Examination of the interactive relationship of goal orientations, perceptions of the motivational climate, and perceived ability in youth tennis players.* Association for the Advancement of Applied Sport Psychology, Orlando, FL.
- Abma, C. & **Fry, M. D.** (2001, May). *A qualitative examination of underserved 8th grade female students' attitudes about physical education.* 10th World Congress of Sport Psychology held in Skiathos, Greece.
- Lattimore, D., **Fry, M. D.,** & Balas, C. (2000, October). *Students' perceptions of the motivational climate and their motivational responses in physical education.* Association for the Advancement of Applied Sport Psychology, Nashville, TN.
- Fry, M. D.,** Lattimore, D., & Balas, C. (2000, October). *A developmental examination of children's accuracy in judging their physical ability in physical education.* Association for the Advancement of Applied Sport Psychology, Nashville, TN.
- Fry, M.D.,** & Newton, M. (1999, September). *Goal orientations, perceptions of the motivational climate, and motivational responses of urban youth tennis players.* Association for the Advancement of Applied Sport Psychology, Banff, Canada.
- Fry, M. D.,** Lattimore, D., & Balas, C. (1999, September). *A developmental analysis of conceptions of effort and physical ability among underserved youth.* Association for the Advancement of Applied Sport Psychology, Banff, Canada.
- Harber, M. P., **Fry, M. D.,** & Fry, A. C. (1998). *Sources of stress identified by elite collegiate weightlifters.* A paper presented at the annual meeting of the National Strength and Conditioning Association, Nashville, TN.
- Fry, M. D.,** Fry, A. C., & Newton, M. (1997, September). *Sources of stress identified by elite junior weightlifters.* Association for the Advancement of Applied Sport Psychology, San Diego, CA.
- Newton, M., **Fry, M. D.,** & Sandberg, J. (1997). *Goal orientations and purposes of sport and beliefs concerning success among senior Olympians.* North American Society for the Psychology of Sport and Physical Activity, Denver, CO.
- Fry, M. D.** (1997, March). *Symposium: Goal perspectives in physical education and sport:*

- Theory into practice*. American Alliance for Health, Physical Education, Recreation, and Dance, St. Louis, MO.
- Fry, M. D.** (1996, October). *Children's understanding of luck and ability: A developmental analysis*. Association for the Advancement of Applied Sport Psychology, Williamsburg, VA.
- Fry, M. D.** (1996, October). *The motivational climate in sport and physical education: An introduction to theory and research*. Association for the Advancement of Applied Sport Psychology, Williamsburg, VA.
- Fry, M. D., & Fry, A. C.** (1996, June). *Goal perspectives and motivational responses of elite junior weightlifters*. National Strength and Conditioning Association, Atlanta, GA.
- Fry, M. D., & Alexander, C.** (1996, June). *Children's understanding of task difficulty: A developmental analysis*. North American Society for the Psychology of Sport and Physical Activity, Cleveland's House, Canada.
- Duda, J. L., & Walling, M. D.** (1995, October). *Views about the Motivational climate and their self perceptions/affective correlates: The case for young elite female gymnasts*. Association for the Advancement of Applied Sport Psychology, New Orleans, LA.
- Newton, M. L., & Walling, M. D.** (1995, October). Goal orientations and beliefs about the causes of success among senior Olympic games participants. North American Society for the Psychology of Sport and Physical Activity, Asilomar, CA.
- Walling, M. D.** (1994, October). *Developmental differences in children's views regarding physical competence*. Association for the Advancement of Applied Sport Psychology, Lake Tahoe, NV.
- Walling, M. D., & Duda, J. L.** (1994, June). *Children's understanding of effort and ability in the physical domain*. North American Society for the Psychology of Sport and Physical Activity, Clearwater Beach, FL.
- Walling, M. D., Duda, J. L., Newton, M., & White, S.** (1993, October). *The Task and Ego Orientation in Sport Questionnaire: Further analysis with youth sport participants*. Association for the Advancement of Applied Sport Psychology, Montreal, CANADA.
- Walling, M. D., & Duda, J. L.** (1993, March). *Goals and their associations with beliefs about success in and perceptions of the purpose of physical education*. American Alliance for Health, Physical Education, Recreation, and Dance, Washington, DC.
- Walling, M. D.** (1993, February). *Children's conceptions of effort and ability in the physical domain: A dissertation in progress*. Midwest Sport Psychology Symposium, Miami University, Oxford, OH.
- Walling, M. D., Duda, J. L., & Crawford, T.** (1992, October). *The relationship between goal orientations and positive attitudes toward sport and exercise among young athletes*. Association for the Advancement of Applied Sport Psychology, Colorado Springs, CO.
- Walling, M. D., Duda, J. L., & Crawford, T.** (1992, June). *The psychometric properties of the perceived motivational climate in sport questionnaire: Further investigation*. North American Society for the Psychology of Sport and Physical Activity, Pittsburgh, PA.
- Walling, M. D., Crawford, T., Duda, J. L., & Wigglesworth, J.** (1992, April). *Are we having fun yet and will we want to play again?: The interrelationships between goal perspectives and other motivational variables in youth sport athletes*. American Alliance for Health, Physical Education, Recreation, and Dance, Indianapolis, IN.
- Walling, M. D., & Catley, D.** (1992, April). *Jack and Jill in physical education class: Do they*

*think their instructor treats them differently?* American Alliance for Health, Physical Education, Recreation, and Dance, Indianapolis, IN.

**Walling, M. D., & Catley, D.** (1992, February). *Sex role stereotyping among college instructors and students' perceptions of instructor gender bias.* Midwest Sport Psychology Symposium, Purdue University, West Lafayette, IN.

**Walling, M. D., Catley, D., & Taylor, A.** (1991, June). *The interrelationships between goal perspectives, perceived competence, and indices of intrinsic motivation.* North American Society for the Psychology of Sport and Physical Activity, Asilomar, CA.

**Walling, M. D.** (1991, April). *Learned helplessness: A case study of a sixth-grade physical education student.* American Alliance for Health, Physical Education, Recreation and Dance, San Francisco, CA.

### **Webinar**

Fry, M. D., & Hogue, C. M. (2019). *Theories and Models in Sport Psychology: A Review.* Association for the Advancement of Applied Sport Psychology.

### **State/Regional Presentations**

Gray, R., & Fry, M. D. (2020). *Employing a buddy system to foster physical activity among college students with a physical disability.* Midwest Sport Psychology Symposium, Illinois State University.

Wineinger, T., & Fry, M. D. (2020). A collaboration between a sport psychology lab with a youth sport organization: Helping WIN create an optimal sport experience. Midwest Sport Psychology Symposium, Illinois State University.

**Fry, M. D.** (2018). *Three ideas for incorporating sport psychology into practice and competition.* Greenbush Coaches' Workshop.

**Fry, M. D.** (2018). *Three more ideas for incorporating sport psychology into practice and competition.* Greenbush Coaches' Workshop.

**Fry, M. D.** (2017). *Sport Psychology: Setting a Positive Tone for the Team* (Sessions A & B, repeated). Greenbush Fall Coaches' Workshop.

**Fry, M. D.** (2016). *KU Graduate Programs in Health, Sport & Exercise Science.* Morehouse College Graduate Program Fair (February, 2016).

**Fry, M. D.** (2016, Fall). *Keys to Helping Athletes Develop Strong Mental Skills: The Role of Sport Psychology.* Keynote for Greenbush Coaching Conference, Eudora, KS.

**Fry, M. D.** (2016, Spring). *Working with and bringing out the best in difficult athletes.* Greenbush Coaching Conference, Eudora, KS.

**Fry, M. D.** (2015). *Bringing out the Best in Every Swimmer: The Contribution of Sport Psychology.* Keynote delivered to US Master Swim at their National Conference; Kansas City, KS.

**Fry, M. D.** (2015). *Caring Climates for Physical Activity Settings.* University of Milwaukee, Wisconsin.

**Fry, M. D.** (2015). *Creating a Caring Climate to Maximize Athletes' Potential On and Off the Field.* Keynote presented at the Positive Coaching Alliance Trainers' Institute.

**Fry, M. D.** (2015). *Maximizing Athletes' Potential On and Off the Field.* Keynote delivered to X's and O's Coaching Education Workshop, Emporia State University, Emporia, KS.

**Fry, M. D.** (2015). *Setting the Stage for Coaches to Optimize Athletes' Motivation.* Big XII invited lecture at Texas Christian University; Fort Worth, TX.

**Fry, M. D.,** Moore, E., W., G., Iwasaki, S., Fontana, M., Hogue, C., Claunch, J., & McGhee, R. (2012). *Building Mentally Strong Athletes: Ideas for Incorporating Mental Skills Training with Sport Teams*. Kansas Alliance for Health, Physical Education, Recreation, & Dance in Lawrence, KS.

**Fry, M. D.** (2012). *Strong Girls: Hearing About the Benefits of a Physical Activity/Positive Life Skills Program from the Leaders and Kids*. Kansas Alliance for Health, Physical Education, Recreation, & Dance in Lawrence, KS.

Moore, E. W., & **Fry, M. D.** (2010). *Kids don't care what you know until they know that you care: Tips for building caring environments*. Kansas Alliance for Health, Physical Education, Recreation & Dance, Wichita, KS.

Brown, T., **Fry, M. D.,** & Hogue, C. (2010). *Positive life skills for every walk of life*. Kansas Alliance for Health, Physical Education, Recreation & Dance, Wichita, KS.

**Fry, M. D.,** Brown, T., Moore, E. W., Hogue, C., Sauer, S., & Beyer, J. (2010). *Team time: Team building activities for any group to use and process*. Kansas Alliance for Health, Physical Education, Recreation & Dance, Wichita, KS.

Williamson, K., & **Fry, M. D.** (2009). *Bringing out the best in your athletes: Making sport fun again while enhancing your team's competitive edge*. Kansas Alliance for Health, Physical Education, Recreation & Dance, Pittsburg, KS.

Moore, W. E., & **Fry, M. D.** (2009). *Are we building character or characters?: Strategies for promoting integrity among young athletes*. Kansas Alliance for Health, Physical Education, Recreation & Dance held in Pittsburg, KS.

Brown, T. C., & **Fry, M. D.** (2009). *Ideas to implement in a youth physical activity life skills program*. Kansas Alliance for Health, Physical Education, Recreation and Dance held in Pittsburg, KS.

**Fry, M. D.,** Dodd, R., Brown, T. C. (2008). *Getting them interested and coming back: Creating a positive and caring environment in exercise settings*. Kansas Association of Health, Physical Education, Recreation and Dance, Emporia, KS.

**Fry, M. D.** (2005). *Creating a Positive Climate and Optimizing Motivation in Physical Education & on Sport Teams*. An invited presentation for the Lutheran Schools Midsouthern Regional Conference held in Memphis, TN.

**SUPPORT**

<b>EXTERNAL FUNDING</b>	<b>AGENCY/SOURCE</b>	<b>AMOUNT</b>	<b>PERIOD</b>
Creating Optimal Climate for Youth With Congenital Heart Disease	American Council on Exercise	\$2400	2021-2022
Climate Free Throw Intervention	Association for Applied Sport Psychology	\$4980	2021-2022
Strong Girls	Association for Applied Sport Psychology	\$4625	2019-2020
Rock Chalk, Zuni	Running Strong for American Indian Youth	\$5000	2017-2018
KU PCA Initiative	Positive Coaching Alliance/	\$75,000	2017-2020



David and Margaret Shirk Physical Education Programs Fund			
Strong Girls: A positive life skills intervention for 3 <sup>rd</sup> -5 <sup>th</sup> girls	Kohl's Cares for Kids	\$4000	2011
Students' salivary stress responses when juggling in two distinct motivational climates	Association of Applied Sport Psychology	\$2800	2010-11
Effects of resistance exercise and a Pre-workout dietary supplement on Physiological adaptations	Labrada	\$5000	2010
Strong Girls: A positive life skills physical activity intervention for elementary school girls	Association of Applied Sport Psychology	\$3220	2009-10
Fostering & maintaining motivation among urban youth tennis players	United States Tennis Association	\$10,000	1997-98
<b>EXTERNAL PROPOSALS NOT FUNDED</b>	<b>AGENCY/SOURCE</b>	<b>AMOUNT</b>	<b>PERIOD</b>
Children's International Guatemala & US Collaboration	ASportsUnited: International Sports Programming Initiative	\$224,953	2012
Dare to Care: Tackling Childhood Obesity	Albert Foundation	\$46,000	2013
Strong Girls: A positive life skills/physical activity program	Live-Well Lawrence-Kansas Health Foundation	\$5000	2011
Strong Girls: A positive life skills/physical activity program for girls	Payless Foundation	\$15,000	2011
Strong Girls: A positive life skills/Physical activity program for children	Sprint Foundation	\$168,000	2011
<b>SUPPORT INTERNAL FUNDING</b>	<b>AGENCY/SOURCE</b>	<b>AMOUNT</b>	<b>PERIOD</b>
Research Excellence Initiative" A Collaboration to Train Biology Lab Instructors to Create a Caring & Task Involving Climate	University of Kansas; College of Liberal Arts & Sciences	\$30,000	2019-2020 (under review)

Strong Girls: A community life skills/physical activity research and service project for elementary girls in Lawrence.	University of Kansas KU SOE Academic Year Research Support	\$8000	2011
Examining the motivational climate in a national fitness company.	University of Kansas Faculty Research Grant	\$5000	2010
Strong Girls: A physical activity and life skills intervention for faculty adolescent girls.	University of Kansas Research Grant	\$6000	2009
A team building/mental skills intervention for children enrolled in a summer camp.	University of Kansas New Faculty Research Grant	\$8000	2008
The relationship between young athletes' perceptions of a caring climate on their sport teams to their motivational responses	University of Memphis Faculty Research Grant	\$6000	2005
Effect of a strength training intervention for underserved elementary students	University of Memphis Faculty Research Grant	\$4000	2000-02
An examination of black females' perceptions of physical activity	Center for Research on Educational Policy, University of Memphis	\$5000	2000
Children's perceptions of ability and their motivational responses in physical education class.	Center for Research on Educational Policy, University of Memphis	\$3800	1999
The motivational implications of students' understanding of effort and ability in the physical domain.	University of Memphis Faculty Research Grant	\$4000	1995
Children's understanding of luck and ability, and task difficulty.	University of Memphis Faculty Research Grant	\$3000	1994
Developmental differences in children's conceptions of ability, effort, and task difficulty in the physical domain.	Purdue Foundation Grant	\$9,900 (per year for 2 years)	1992-94

**Memberships in Professional Organizations**

American Psychological Association (2017-present)  
 American Alliance for Health, Physical Education, Recreation, and Dance (1988-2017).  
 Association for Applied Sport Psychology, Member (1991-present).  
 Kansas Alliance for Health, Physical Education, Recreation, & Dance (2008-present).  
 North American Society for the Psychology of Sport and Physical Activity, Member (1988-2000).  
 Indiana Association for Health, Physical Education, Recreation, and Dance, Member (1993-1994).  
 Tennessee Association for Health, Physical Education, Recreation, and Dance, Member (1994-2000).

**Teaching Responsibilities:****Undergraduate**

EXSS 3307 Psychosocial Aspects of Sport [UMemphis]  
 EXSS 3450 Psychological Aspects of Exercise [UMemphis]\*  
 EXSS 4605 Internship in Exercise & Sport Science [UMemphis]  
 EXSS 4999 Senior Project in Health, Physical Education, & Recreation [UMemphis]\*  
 HSES 385 Psychological Aspects of Exercise [KansasU]\*  
 HSES 440 Applied Sport Psychology [KansasU]\*

**Graduate**

EXSS 7173 Sport and Exercise Psychology [UMemphis]\*  
 EXSS 6903 Developmental Perspectives in Youth Sport [UMemphis]\*  
 EXSS 7133 Current Readings: Motivation in Physical Activity Settings [UMemphis]\*  
 EXSS 7907 Special Topics: Applied Sport Psychology [UMemphis]\*  
 HSES 798 Special Course: Creating a Positive Environment in Physical Activity Settings [KansasU]\*  
 HSES 798 Special Course: Sport Psychology Within Youth Sport [KansasU]\*  
 HSES 798 Special Course: Advanced Sport Psychology [KansasU]\*\*  
 HSES 804 Sport Psychology [KansasU]\*\*  
 HSES 806 Stress Management [KansasU]\*  
 HSES 823 Behavior Modification [KansasU]  
 HSES 892 Psychological Foundations of Sport and Physical Activity [KansasU] \*  
 HSES 982 Research Ethics [KansasU]

\*Courses I developed.

**Community Presentations**

**Fry, M. D.** (November, 2017). *Lead campus participation in celebration of World Kindness Day.*

**Fry, M. D.** (June, 2016). *Mental Skills: A Key Ingredient for Excellence in Cross Country.* Workshop for Eudora High School Cross Country Team; Eudora, KS.

**Fry, M. D.** (2016). *Creating a Caring and Task-Involving Climate in CI's Game On Program.* A presentation for CI Employees at the International Headquarters Office in Kansas City, KS.

**Fry, M. D.** (2016). *Team Building: The Potential for Children International.* Workshop for Children International Employees at the National Headquarters office in

- Kansas City, KS.
- Fry, M. D.** (2015). *Activities and Strategies to Help Children and Adolescents Thrive in Physical Activity Settings*. Topeka Parks and Recreation Conference; Topeka, KS.
- Fry, M. D.** (2015). *Fostering Wellness at the Worksite*. Live Well Lawrence; Lawrence, KS.
- Fry, M. D.** (2011, Nov.). Guest panelist for KU Alternative Breaks, University of KS
- Fry, M. D.** (2011, Nov.). Guest speaker for Multicultural Education, University of KS.
- Fry, M. D.** (2011, Nov.). Guest speaker for Coaching Football Class, University of KS.
- Fry, M. D.** (2011, Oct.). Guest speaker for KU Bowling Team, University of KS.
- Fry, M. D.** (2011, April). Guest speaker for Positive Psychology Class, University of KS.
- Fry, M. D.** (2011, March). Guest speaker for Coaching Softball Class, University of KS.
- Fry, M.D.** (2011, Feb.). Guest speaker for Coaches Meeting for Sunflower Soccer Association, Topeka, KS.
- Fry, M. D.** (2010). Guest speaker for Healthy Musicians Class (2-hour workshop), University of KS.
- Fry, M. D.** (2009). Guest speaker for Life Skills Class at Atchison Community High School, KS.
- Fry, M. D.** (2005, Feb.). Caring communities within physical activity settings. An invited presentation to a Memphis Chapter of the Philanthropic Educational Organization.
- Fry, M. D.** (2001-present). Coordinate mental skills and physical activities for youngsters (i.e., cancer patients & their siblings) at Target House in Memphis, TN. Have conducted approximately 12 1.5-2 hour sessions.
- Fry, M. D.** (2002, July 17th). The role of sport psychology in the prevention of and rehabilitation after injury. A presentation for coaches attending the Memphis Interscholastic Athletic Association Conference.
- Fry, M. D.** (May, 2002). Presented stress management session for Cancer Support Group at Pentecostal Church in Memphis, TN.
- Fry, M. D.** (2001-present). Coordinate mental skills and physical activities for youngsters (i.e., cancer patients & their siblings).
- Fry, M. D.** (2000 & 2001, March-April). Coordinator for Short Putts to Spring Workshops for the MidSouth Junior Golf Association. Presenter for 2 of the 5 workshops on team building skills.
- Fry, M. D.** (1996). Optimizing arousal levels in tennis. A presentation to the Women's tennis team at The University of Memphis.
- Fry, M. D.** (1995, October). *Mental skills training in track and field*. A presentation to the Women's track and cross country teams at The University of Memphis.
- Walling, M. D.** (1995, February). *Maximizing your children's motivation in swimming: An educational sport psychology perspective*. A presentation to the Booster Club parents of the University of Memphis Swim Club.
- Walling, M. D.** (1995, February). *Fostering effort and enjoyment with your tennis players: A sport psychology perspective*. An invited talk which was part of a workshop sponsored by the USTA, the National Umpires Association and the Memphis City Schools for high school tennis coaches.
- Walling, M. D.** (1994). *Sport psychology with a developmental twist*. An invited presentation to the Sport Psychology Colloquium, Department of Psychology, University of Memphis.
- Walling, M. D.** (1993, October). *The influence of parents on young gymnasts' levels of stress and motivation*. An invited presentation sponsored by the United States Gymnastics Federation, Indianapolis, IN.

**Walling, M. D.**(1992, October). *The mechanics of sport psychology: What we do and how it impacts you and your family.* Presentation to the Purdue Mechanical Engineering Advisory Board Spouses.

**Walling, M. D.** (1991, July). *Stress Management.* Invited presentation sponsored by the National Institute for Fitness and Sport.

**Walling, M. D., & Newton, M.** (1991, October). *Sport Psychology for the Weekend Athlete.* Invited presentation sponsored by the Eli Lilly Corporation, Indianapolis, IN.

### **Departmental/University Service**

KU Faculty Research Grant Review Committee (2021-2023)

Wolfe Teaching Award, School of Education (2021)

KU Title IX Committee (2020)

Kansas Women's Leadership Institute, Net-Walk Mentor Participant (2016-2017).

KU Certificate in Sport Committee (2017-2018).

KU Center for Undergraduate Research, Advisory Board (2016-2018).

KU Calendar Committee (2016-2018; Chair, 2017-2019).

SOE Scholarship & Awards Committee (2013-2019).

SOE Convocation Volunteer (2009-present).

HSES Faculty Search Committees (2009, 2010, 2012, 2013, 2014, 2015).

HSES Scholarship & Awards Committee (2010-2013), University of Kansas.

HSES Personnel Committee (2011-present), University of Kansas.

HSES Graduate Curriculum Committee (2008-2014), University of Kansas.

SOE Diversity Committee (2013-2016), University of Kansas.

SOE Technology Committee (2011-2013), University of Kansas.

SOE Governance Committee (2011-2013), University of Kansas.

SOE Personnel Committee (2007-2010), University of Kansas.

University of Kansas, Dean of the School of Education 5-year Review Committee (2014).

President's Tenure & Promotions Appeal Committee. (2007-2009). The University of Memphis.

HSS Community Affairs Committee (2004-2006). The University of Memphis.

Coordinator of Achievement Motivation Seminar (2003). The University of Memphis, Dept. HMSE.

PETE Unit Head, Dept. of HMSE, University of Memphis (2001-2003).

HMSE Tenure and Promotion Committee (1999-2000; Chair 2000-2001), The University of Memphis.

HMSE Coordinator for the Science Olympiad sponsored by The University of Memphis for high school honor science students in the Western portion of TN (1995-1999).

Dean's Council for Teacher Education (1994-1995), University of Memphis.

HMSE Material Resources Committee (1994-1995; 1998-2000, 2002; 2000-2001, Chair), University of Memphis.

HMSE Ad Hoc Committee on Internships (1994-1995), University of Memphis.

HMSE Recruitment Committee (1995-1996).

HMSE Physical Education Teacher Education Unit (1994-present; Unit Head-2001-2002), University of Memphis.

HMSE Ad Hoc Committee on Proposing a PhD Program (1995-1997).

HMSE Undergraduate Council (1994-95 & 1997-1998)

HMSE Academic Council (1996-1998).

HMSE Graduate Studies and Research Council (1995-2001; chair from 1996-1998)

College of Education Graduate Council (1996-1998).

Graduate Coordinator for the Department of Human Movement Sciences and Education, (1996-1998).

### **Service to National Organizations**

Creating a Caring Climate Within and Across an Athletic Program, Positive Coaching Alliance Workshop (2020).

Subject Matter Expert for the Certification Exam Committee, Association of Applied Sport Psychology (2018).

Member of Ad-Hoc Committee to Study Future of AASP, Association of Applied Sport Psychology (2012-2015).

Member of the Social Psychology Section Committee, Association for the Advancement of Applied Sport Psychology (AAASP). Appointed for a 3-year-term, 1996-99; 2001-2003.

Member of AAASP Dissertation Award Committee (1998 & 2002).

Member of Editorial Board for *Physical Activity Today* (American Alliance for Health, Physical Education, Recreation and Dance publication), 1997-2001.

Member of Sport Psychology Program Area Review Committee for the 1996 Annual Meeting of the North American Society for the Psychology of Sport and Physical Activity (NASPSPA).

Executive Board Member, Association for the Advancement of Applied Sport Psychology, (2004-2006).

Member of Program Review Committee, American Alliance of Health, Physical Education, Recreation & Dance (2009- 2017); Chaired committee in 2010.

Member of Program Review Committee, Association for Applied Sport Psychology (2008-present).

### **Reviewing/Editing Responsibilities**

Associate Editor (2009-2012); Editorial Board Member (2000-2009; 2013-present) and Reviewer (1992-1999). *Journal of Applied Sport Psychology*.

Associate Editor. *Sport Psychology in Action* (2008-present).

Editorial Board Member. *Sport, Exercise, and Performance Psychology* (2011-present; American Psychological Association Journal).

Sport & Exercise Psychology Section Editor (2003-2006) and Reviewer (1994-present). *Research Quarterly for Exercise and Sport*.

Co-editor with David R. Black of Abstracts Column. *Peer Facilitator Quarterly* (1993-1994).

Reviewer. *Education and Treatment of Children* (1993-1995).

Reviewer. *Journal of Health Education* (1993-1995).

Reviewer. *The Sports Psychologist* (1997-present).

Reviewer. *International Journal of Sport Psychology*. (1997-present).

Reviewer. *Journal of Sport and Exercise Psychology* (1993-present).

Reviewer. *Journal of Strength and Conditioning* (1998-present).

Reviewer & Editorial Board Member. *Journal of Strength and Conditioning Research* (Reviewer, 1996-present; Editorial Board Member, 1996-1998).

### Contributor to Community/National Forum

- Fry, M. D., & Brown, T. C.** (2021-present). Co-Directors of Strong Girls, an after-school physical activity and lifeskill program for adolescent girls. University of Kansas.
- Fry, M. D.** (Fall, 2017). *Participating in a Positive Sport Climate Reaps Many Benefits for Young People*. Column written for the National Dropout Prevention Coalition-Newsletter.
- Fry, M. D.** (2017). *The Power of the Positive*. Contributor to the Positive Coaching Alliance Video.
- DeAngelis, T. (2016) *Psychologists' research points ways to keep youth athletes in sports*. American Psychological Association Monitor Newsletter [KU Sport & Exercise Psychology Lab featured]
- Fry, M.D.** (2003). *Coaches' rant can bench kids for life*. Invited guest column in the Viewpoint Section of the Commercial Appeal, April 7, 2003.
- Fry, M.D.** (2003, March). *Strategies for creating a task-involving climate with underserved youth*. An invited presentation to the Dept. of EXSS at the University of Mississippi.
- Fry, M.D.** (2002). Presenter of workshop entitled: *The Climate Counts: Techniques and Strategies for Fostering a Task-Involving Motivational Climate*.
- Fry, M. D., & Newton, M. L.** (1997, December). *TARGETing success in volleyball: Creating a positive motivational climate*. Invited speaker at the American Volleyball Coaches Association (AVCA) National Convention preceding the NCAA Final Four Tournament in Spokane, WA.
- Fry, M. D.** (1996, April). Invited speaker at Colonial Junior High's Career Day.
- Fry, M. D.** (February, 1995 & October, 1996). Invited guest on Eddie Cantler's talk-show, "The Trainer's Corner" seen on the Library Channel, Memphis, TN.
- Walling, M. D.** (1995). Choosing quality youth sport programs for children: The critical role of parents. *Journal of Kinetic Arts*, 1 (5).

### Applied Sport Psychology Experiences

- Fry, M. D. (2008-present). Mental Skills Interventions with high school & university athletes.
- Fry, M. D. (2013-2018). Mental Skills Intervention with a high school baseball team.
- Fry, M. D. (2009-2011). Mental Skills Intervention with a youth baseball team.
- Fry, M. D. (2008-2010). Mental Skills Intervention with a Division 1 collegiate volleyball team.
- Fry, M.D. (2006-2007). Mental Skills Intervention with a high school basketball team.
- Fry, M. D. (2006). Mental Skills Intervention with a Division 1 cross country team.
- Fry, M.D. (2005-2006). Mental Skills activities with a high school golfer.
- Fry, M.D. (2003). Mental Skills Activities provided to the Dolphins, a youth synchronized swim program in Memphis.
- Fry, M.D. (2001-2007). Mental Skills Games and Activities Sessions provided to residents of Target House (i.e., long-term treatment patients at St. Jude Hospital).
- Fry, M. D. (2001, Spring). The Strength Club. An after-school mental skills training program for elementary-aged children.
- Fry, M. D. (1996, Spring). Consultation with members of a Division 1 collegiate Track and Field Team.

- Walling, M. D. (1994, December). Member of Sport Psychology Coaching Staff for the Talent Opportunity Program (TOP) Camp sponsored by the United States Gymnastics Federation (USGF). Tulsa, OK
- Walling, M. D. (1992, October). *Effective Goal Setting in Volleyball*. Presentation to the West Lafayette High School Volleyball Team.
- Walling, M. D. (1992, April). *Stress Management in Sport*. Presentation to the Women's Crew Team, Purdue University.
- Walling, M. D. (1992). Consultation with High School Tennis Player Over a Season.
- Chair**, Graduate Student Advisory Council, Department of Health, Kinesiology, and Leisure Studies at Purdue University, 1991-1992.



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IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF WEST VIRGINIA  
CHARLESTON DIVISION

\_\_\_\_\_)  
 )  
 B.P.J. by her next friend and) mother, HEATHER JACKSON, )  
 )  
 Plaintiff, )  
 ) No. 2:21-cv-00316  
 vs. )  
 )  
 WEST VIRGINIA STATE BOARD OF )  
 EDUCATION, HARRISON COUNTY )  
 BOARD OF EDUCATION, WEST )  
 VIRGINIA SECONDARY SCHOOL )  
 ACTIVITIES COMMISSION, W. )  
 CLAYTON BURCH in his official) capacity as State )  
 Superintendent, DORA STUTLER,) in her official capacity as )  
 Harrison County )  
 Superintendent, and THE STATE) OF WEST VIRGINIA, )  
 )  
 Defendants, )  
 )  
 LAINEY ARMISTEAD, )  
 )  
 Defendant-Intervenor.)  
 \_\_\_\_\_)

VIDEOTAPED DEPOSITION OF  
JAMES M. CANTOR, PhD  
Monday, March 21, 2022  
Volume I

Reported by:  
ALEXIS KAGAY  
CSR No. 13795  
Job No. 5122845  
PAGES 1 - 316

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE WESTERN DISTRICT OF WEST VIRGINIA  
 3 CHARLESTON DIVISION  
 4  
 5 \_\_\_\_\_  
 6 B.P.J. by her next friend and )  
 mother, HEATHER JACKSON, )  
 7 )  
 Plaintiff, )  
 8 ) No. 2:21-cv-00316  
 vs. )  
 9 )  
 WEST VIRGINIA STATE BOARD OF )  
 10 EDUCATION, HARRISON COUNTY )  
 BOARD OF EDUCATION, WEST )  
 11 VIRGINIA SECONDARY SCHOOL )  
 ACTIVITIES COMMISSION, W. )  
 12 CLAYTON BURCH in his official )  
 capacity as State )  
 13 Superintendent, DORA STUTLER, )  
 in her official capacity as )  
 14 Harrison County )  
 Superintendent, and THE STATE )  
 15 OF WEST VIRGINIA, )  
 )  
 16 Defendants, )  
 )  
 17 LAINEY ARMISTEAD, )  
 )  
 18 Defendant-Intervenor.)  
 \_\_\_\_\_ )  
 19 )  
 20 Videotaped deposition of JAMES M. CANTOR,  
 21 Volume I, taken on behalf of Plaintiff, with all  
 22 participants appearing remotely, beginning at 9:03 a.m.  
 23 and ending at 5:33 p.m. on Monday, March 21, 2022,  
 24 before ALEXIS KAGAY, Certified Shorthand Reporter  
 25 No. 13795.

1 APPEARANCES (Via Zoom Videoconference):  
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 3 For West Virginia Secondary School Activities  
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 6 BY: ROBERTA GREEN  
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 9 Suite 200  
 10 Charleston, West Virginia 25301-3088  
 11 RGreen@Shumanlaw.com  
 12  
 13 For the State of West Virginia:  
 14 WEST VIRGINIA ATTORNEY GENERAL  
 15 BY: DAVID TRYON  
 16 Attorney at Law  
 17 112 California Avenue  
 18 Charleston West Virginia 25305-0220  
 19 681.313.4570  
 20 David.C.Tryon@wvago.gov  
 21  
 22  
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 24  
 25

1 APPEARANCES (Continued):  
 2  
 3 For West Virginia Board of Education and Superintendent  
 4 Burch, Heather Hutchens as general counsel for the  
 5 State Department of Education:  
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 7 BY: KELLY MORGAN  
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 14 For Plaintiff:  
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 25 MZelkind@lambdalegal.org

1 APPEARANCES (Continued):  
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 4 COOLEY  
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 7 BY: KATELYN KANG  
 8 BY: ANDREW BARR  
 9 BY: ELIZABETH REINHARDT  
 10 BY: JULIE VEROFF  
 11 BY: ZOE HOLSTEROM  
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 13 500 Boylston Street  
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 20 ABarr@cooley.com  
 21 EReinhardt@cooley.com  
 22 JVeroff@cooley.com  
 23 ZHolstrom@cooley.com  
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 25

<p>1 APPEARANCES (Continued):                  2                  3 For the Intervenor:                  4 ALLIANCE DEFENDING FREEDOM                  5 BY: TRAVIS C. BARHAM                  6 BY: CATIE KELLEY                  7 BY: HAL FRAMPTON                  8 BY: TYSON LANGHOFER                  9 Attorneys at Law                  10 1000 Hurricane Shoals Road, NE 30043                  11 Tbarham@adflegal.org                  12 CKelley@adflegal.org                  13 HFrampton@adflegal.org                  14 TLanghofer@adflegal.org                  15                  16 For defendants Harrison County Board of Education and                  17 Superintendent Dora Stutler:                  18 STEPTOE &amp; JOHNSON PLLC                  19 BY: JEFFREY M. CROPP                  20 Attorney at Law                  21 400 White Oaks Boulevard                  22 Bridgeport, West Virginia 26330                  23 304.933.8154                  24 Jeffrey.cropp@steptoe-Johnson.com                  25</p>	<p>1 APPEARANCES (Continued):                  2                  3 Also Present:                  4 LINDSAY DUPHILY - VERITEXT CONCIERGE                  5                  6 Videographer:                  7 DAVE HALVORSON                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p>
Page 6	Page 8
<p>1 APPEARANCES (Continued):                  2                  3 For West Virginia Board of Education and Superintendent                  4 Burch, Heather Hutchens as general counsel for the                  5 State Department of Education:                  6 BAILEY &amp; WYANT, PLLC                  7 BY: KELLY MORGAN                  8 Attorney at Law                  9 500 Virginia Street                  10 Suite 600                  11 Charleston, West Virginia 25301                  12 KMorgan@Baileywyant.com                  13                  14                  15 For the Plaintiff:                  16 AMERICAN CIVIL LIBERTIES UNION                  17 BY: JOSHUA A. BLOCK                  18 125 Broad Street                  19 18th Floor                  20 New York, New York 10004                  21 JBlock@aclu.org                  22 212.549.2500                  23                  24                  25</p>	<p>1 INDEX                  2 WITNESS EXAMINATION                  3 JAMES M. CANTOR, PhD                  4 Volume I                  5                  6 BY COUNSEL SWAMINATHAN 15                  7 BY MR. BARHAM 306                  8                  9                  10 EXHIBITS                  11 NUMBER DESCRIPTION PAGE                  12 Exhibit 44 Declaration of James M. Cantor, 32                  13 PhD                  14                  15 Exhibit 45 Declaration of James M. Cantor, 34                  16 PhD                  17                  18 Exhibit 46 "The Kinsey Institute Interview 145                  19 Series: A Conversation with                  20 doctor James Cantor"                  21                  22 Exhibit 47 Responses to Plaintiff's First et 176                  23 of Interrogatories to Defendant                  24 State of West Virginia                  25</p>
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1 Exhibit 48 Sexology Today! Article 186	1 Exhibit 60 Olson 2016, Errata Issued 265
2	2
3 Exhibit 49 Sexology Today! Article 190	3 Exhibit 61 "Evaluation of anxiety and 268
4	4 depression in a community sample
5 Exhibit 50 "Mental Health Outcomes in 227	5 of transgender youth"
6 Transgender and Nonbinary Youths	6
7 Receiving Gender-Affirming Care"	7 Exhibit 62 "A Bill of Transsexual Rights" - 274
8	8 JamesCantor.org
9 Exhibit 51 "Association of Gender-Affirming 230	9
10 Hormone Therapy with Depression,	10 Exhibit 63 Sexology Today! Article 286
11 Thoughts of Suicide and Attempted	11
12 Suicide among Transgender and	12
13 Nonbinary Youth"	13
14	14
15 Exhibit 52 "Longitudinal impact of 235	15
16 gender-affirming endocrine	16
17 intervention on the mental health	17
18 and well-being of transgender	18
19 youths: Preliminary results"	19
20	20
21 Exhibit 53 "Body Dissatisfaction and mental 239	21
22 health outcomes of youth on	22
23 gender-affirming hormone therapy"	23
24	24
25 Exhibit 54 "Psychological Functioning in 243	25
Page 10	Page 12
1 transgender adolescents before	1 Monday, March 21, 2022
2 and after gender-affirmative care	2 9:03 a.m.
3 compared with cisgender general	3
4 population peers"	4 THE VIDEOGRAPHER: Okay. Good morning. We
5	5 are on the record at 9:03 a.m. on March 21st, 2022. 06:03:33
6 Exhibit 55 "Psychological support, puberty 247	6 This is media unit 1 in the video-recorded
7 suppression and psychosocial	7 deposition of Dr. James Cantor, in the matter of
8 functioning in adolescents with	8 B.P.J. by Heather Jackson versus West Virginia State
9 gender dysphoria"	9 Board of Education, et al., filed in the U.S.
10	10 District Court for the Southern District of West 06:03:55
11 Exhibit 56 "Young Adult Psychological 250	11 Virginia, in the Charleston Division. The case
12 Outcome After Puberty Suppression	12 number is 2:21-cv-00316.
13 and Gender Reassignment"	13 This deposition is being held virtually.
14	14 My name is Dave Halvorson. I'm the
15 Exhibit 57 "Long-term Follow-up of 254	15 videographer here from Veritext. And I'm here with 09:03:59
16 Transsexual persons undergoing	16 the court reporter, Alexis Kagay, also from
17 sex reassignment surgery: Cohort	17 Veritext.
18 study in Sweden"	18 Counsel, can you please all identify
19	19 yourselves so the witness can be sworn in.
20 Exhibit 58 "Mental health of transgender 259	20 COUNSEL SWAMINATHAN: Sure thing. 09:04:11
21 children who are supported in	21 So this is Sruti Swaminathan with
22 their identities"	22 Lambda Legal, and I am counsel for Plaintiff. And
23	23 I'll allow my co-counsel from Lambda Legal to start
24 Exhibit 59 Florida Department of Children 261	24 the introductions.
25 and Families v Adoption of XXG	25 MS. BORELLI: This is Tara Borelli from 09:04:24
Page 11	Page 13

<p>1 Lambda Legal, for Plaintiff.                  2 MS. HARTNETT: Hi. This is Kathleen Hartnett                  3 from Cooley, LLP, for Plaintiff.                  4 MR. BARR: Good morning. This is Andrew Barr                  5 from Cooley, for Plaintiff. 09:04:41                  6 MS. REINHARDT: This is Elizabeth Reinhardt                  7 with Cooley, LLP, for Plaintiff.                  8 MS. KANG: This is Katelyn Kang from Cooley,                  9 LLP, for Plaintiff.                  10 MS. PELET DEL TORO: This is Valeria Pelet 09:04:50                  11 del Toro from Cooley, for Plaintiff.                  12 MR. BLOCK: This is Josh Block from the ACLU,                  13 for Plaintiff.                  14 THE VIDEOGRAPHER: Is that --                  15 COUNSEL SWAMINATHAN: I believe that's 09:05:15                  16 everyone on our end.                  17 THE VIDEOGRAPHER: Okay.                  18 MR. TRYON: This is David Tryon. I'm with                  19 the West Virginia Attorney General's Office,                  20 representing the State of West Virginia. 09:05:24                  21 MR. BARHAM: This is Travis Barham with                  22 Alliance Defending Freedom, Counsel for Intervenors,                  23 defending the deposition.                  24 MR. CROPP: This is Jeffrey Cropp on behalf                  25 of defendants Harrison County Board of Education and 09:05:37                  Page 14</p>	<p>1 for your time today. As I said, my name is                  2 Sruti Swaminathan, and I'm an attorney with                  3 Lambda Legal.                  4 I use they/them pronouns, so if you have any                  5 need to refer to me specifically, feel free to call 09:06:43                  6 me Counsel Swaminathan or Attorney Swaminathan.                  7 I represent B.P.J., the plaintiff in this                  8 matter. And, yeah, again, thank you for -- for                  9 bearing with me today.                  10 So how are you? 09:06:59                  11 A I'm fine. Thank you.                  12 Q And would you please state and spell your                  13 name for the record.                  14 A Dr. James Michael Cantor, J-a-m-e-s                  15 M-i-c-h-a-e-l C-a-n-t-o-r. 09:07:12                  16 Q Thank you.                  17 And, Dr. Cantor, what pronouns do you use?                  18 A He/him.                  19 Q Great. So let me explain some ground rules                  20 so that the court reporter can establish a clean 09:07:23                  21 transcript today.                  22 I'll ask you questions, and you must answer                  23 unless your counsel instructs you otherwise.                  24 Do you understand?                  25 A Yes, I do. 09:07:33</p>
<p>1 Superintendent Dora Stutler.                  2 MS. MORGAN: This is Kelly Morgan on behalf                  3 of the West Virginia Board of Education and                  4 Superintendent Burch.                  5 MS. GREEN: This is Roberta Green on behalf 09:05:52                  6 of West Virginia Secondary School Activity (sic)                  7 Commission.                  8 THE VIDEOGRAPHER: Okay. If that's every- --                  9 maybe Mr. Frampton? Is that --                  10 MR. FRAMPTON: Sure, I'll identify myself, 09:06:10                  11 although I'm not really participating.                  12 Hal Frampton from Alliance Defending Freedom,                  13 for the Intervenor.                  14 THE VIDEOGRAPHER: Okay.                  15 Okay. Can we please swear in the witness. 09:06:31                  16 (Witness sworn.)                  17 THE VIDEOGRAPHER: Okay. Please proceed.                  18                  19 JAMES M. CANTOR, PhD,                  20 having been administered an oath, was examined and                  21 testified as follows:                  22                  23 EXAMINATION                  24 BY COUNSEL SWAMINATHAN:                  25 Q Good morning, Dr. Cantor. Thank you again 09:06:33                  Page 15</p>	<p>1 Q And I will note, I might be looking above                  2 you, as you can see me, the camera is just a little                  3 bit below me, so apologies for that.                  4 Okay. And so, again, if your counsel objects                  5 to my questions, you still need to answer my 09:07:47                  6 questions unless they specifically instruct you not                  7 to answer.                  8 Do you understand that?                  9 A I do.                  10 Q Great. If you don't understand my question, 09:07:53                  11 please let me know. I'm happy to try to rephrase it                  12 or make it clear for you.                  13 If you do answer my question, I will assume                  14 that you understood. Is that fair?                  15 A Yes. 09:08:06                  16 Q We can take a break whenever you need. I                  17 will try to naturally break every hour or so.                  18 However, if I've asked a question or if I'm in the                  19 middle of a line of questions, I'd appreciate if you                  20 can provide me with an answer before we take a 09:08:17                  21 break.                  22 Do you understand that?                  23 A Yes.                  24 Q Great. Let's do our best not to speak over                  25 each other today. And as you are doing right now, 09:08:26                  Page 17</p>

<p>1 please use verbal answers so that the court reporter                  2 can transcribe your answers accurately.                  3 Unfortunately, nodding your head or shaking your                  4 head cannot be captured by the court reporter.                  5 Do you understand that? 09:08:42                  6 A Yes, I do.                  7 Q Great. And so before we too -- get too far                  8 along today in the -- the substantive portion, I                  9 want to note for you that we're going to be talking                  10 quite a bit about healthcare that's commonly used to 09:08:52                  11 treat gender dysphoria for transgender people.                  12 For the purposes of this deposition, when I                  13 say "cisgender," I mean someone whose gender                  14 identity matches the sex they were assigned at                  15 birth. 09:09:07                  16 Do you understand?                  17 A Yes, I do.                  18 Q For the purposes of this deposition, when I                  19 say "transgender," I mean someone whose gender                  20 identity does not match the sex they were assigned 09:09:14                  21 at birth.                  22 Do you understand?                  23 MR. TRYON: Objection; terminology.                  24 BY COUNSEL SWAMINATHAN:                  25 Q You can answer. 09:09:23</p> <p style="text-align: right;">Page 18</p>	<p>1 answering my questions?                  2 A No.                  3 Q Are you taking notes during this deposition?                  4 A I wrote down one note to remind myself that                  5 when you use the word "care," you're referring 09:10:30                  6 specifically to medical care.                  7 Q Okay. Have you been deposed before,                  8 Dr. Cantor?                  9 A Yes.                  10 Q How many times? 09:10:42                  11 A About a dozen.                  12 Q About a dozen.                  13 Let's go each -- through each occurrence                  14 individually, starting with the first time you were                  15 deposed. 09:10:49                  16 When was that, to your recollection?                  17 A It would have been about eight to ten years                  18 ago.                  19 Q And what was the nature of the case?                  20 A What the diagnostic cutoffs are for -- for a 09:11:01                  21 formal diagnosis of pedophilia or related                  22 conditions.                  23 Q And what was your role in the case?                  24 A I was summarizing the science indicating that                  25 sexual interest in a particular age range, 11 to 09:11:16</p> <p style="text-align: right;">Page 20</p>
<p>1 A I understand what you mean, yes.                  2 Q Great. So if I refer to "care" as                  3 gender-affirming care or gender-confirming care, I                  4 am referring to medical care provided to transgender                  5 people to treat gender dysphoria. 09:09:34                  6 Do you understand?                  7 MR. TRYON: Objection; terminology.                  8 THE WITNESS: To clarify, so when you say                  9 "care," you mean specifically medical care?                  10 BY COUNSEL SWAMINATHAN: 09:09:46                  11 Q I mean medical care.                  12 A I understand.                  13 Q Great. And, again, when I say "B.P.J.," I am                  14 referring to the plaintiff in the case.                  15 Do you understand? 09:09:56                  16 A Yes, I do.                  17 Q Great. So you understand that you are                  18 testifying under oath today, just as if you were                  19 testifying in court; correct?                  20 A Yes, I do. 09:10:07                  21 Q Is there anything that would prevent you from                  22 testifying truthfully today?                  23 A No.                  24 Q Is there any reason you're aware of that                  25 would prevent you from completely and accurately 09:10:17</p> <p style="text-align: right;">Page 19</p>	<p>1 14 years old, is diagnosable as a mental illness.                  2 Q And what course -- court was this in?                  3 A Oh, I don't remember the city. It was in the                  4 state of Illinois.                  5 Q Do you, by chance, happen to remember the 09:11:36                  6 name of the case, either the plaintiff or the                  7 defendant?                  8 A No, not offhand.                  9 Q Okay. How about the second time you were                  10 deposed? 09:11:45                  11 A The same situation. There were about six                  12 such cases in Illinois.                  13 Q And so six out of the 12 or a dozen or so                  14 cases that you mentioned deal with the same subject?                  15 A Roughly, yes. 09:12:02                  16 Q What about the other six?                  17 A Of those, roughly three more were a similar                  18 kind of question, but in New York State. Another                  19 one, also in New York, was pertaining to whether                  20 BDSM would count as a mental illness, but that case 09:12:23                  21 did not go through to completion. And then the                  22 remaining cases were about trans issues.                  23 Q So about how many cases were about                  24 transgender issues?                  25 A I think it's two others. 09:12:42</p> <p style="text-align: right;">Page 21</p>

1 Q Could you tell me more about those two  
2 specific instances of your testimony?  
3 A One was a -- the Josephson case, and one is  
4 the Cross case.  
5 Q And tell me about the Josephson case. 09:13:06  
6 When -- when did you provide -- or when were you  
7 deposed in that case?  
8 A Roughly a year ago.  
9 Q Roughly a year ago.  
10 And what was your role in connection with 09:13:14  
11 that deposition?  
12 A To summarize the science on gender identity  
13 issues.  
14 Q Okay. And what court was that case in?  
15 A It was in -- I -- I believe that one was 09:13:29  
16 Loudoun County.  
17 Q And then the second case you mentioned was  
18 the Cross case.  
19 A Correct.  
20 Q And what was the nature of that case? 09:13:39  
21 A Similar, to summarize the science on gender  
22 identity issues.  
23 Q Was that also within the past year that you  
24 provided --  
25 A Yes. 09:13:49

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1 Q -- that testimony?  
2 A Yes.  
3 Q And was that in the same court as the  
4 Josephson case or a different court?  
5 A A different court. 09:13:56  
6 Q Do you remember which court that was?  
7 A No, I don't.  
8 Q And so we just spoke about times that you've  
9 been deposed. In any of these cases, did it require  
10 you to testify in court as well? 09:14:07  
11 A Yes.  
12 Q In which cases were you required to testify  
13 in court?  
14 A Hold on. I take that back. It was one of  
15 the two New York cases that required me to testify 09:14:26  
16 in court.  
17 Q So not either of the cases related to  
18 transgender individuals?  
19 A Correct.  
20 Q Okay. And so we just spoke about testimony 09:14:40  
21 that you've given. Have you provided expert  
22 testimony in any other litigation?  
23 A No.  
24 Q This is the first case in which you've  
25 provided expert testimony? 09:14:55

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1 A I think I might have misunderstood your  
2 question. In each of these cases, I was serving as  
3 an expert witness.  
4 Q Oh, in each of these cases, you were an  
5 expert witness, not a fact witness -- 09:15:07  
6 A Correct.  
7 Q -- correct? Okay.  
8 But other than these cases, there are no  
9 other cases in which you've provided expert  
10 testimony; right? 09:15:14  
11 A Correct.  
12 Q Okay. Has anyone ever tried to exclude the  
13 testimony that you've provided in a case?  
14 A The opposing counsel, but that's -- only the  
15 opposing counsel. 09:15:33  
16 Q In how many of the 12 cases that you just  
17 mentioned to me has opposing counsel tried to  
18 exclude your testimony?  
19 A All of them.  
20 Q All of them? So let's go through them. 09:15:42  
21 Sorry, apologies. I think I cut you off  
22 there.  
23 A I guess I'm wondering about how you're using  
24 the word "tried" to exclude. When you say that, I  
25 mean, you know, try to verify my credentials and 09:15:59

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1 determine whether I'm qualified to comment at all,  
2 but not any extraordinary, in other words, outside  
3 of routine, ensuring that I qualify as an expert.  
4 Q So in your mind, what -- what would you  
5 categorize as extraordinary in your verse? 09:16:22  
6 A Anything other than the questioning that  
7 we're going through right now.  
8 Q Okay. And, to your knowledge, on what  
9 grounds did opposing counsel in these cases try to  
10 exclude your testimony? 09:16:31  
11 A I don't --  
12 MR. BARHAM: Objection as to form.  
13 THE WITNESS: I don't recall the details.  
14 BY COUNSEL SWAMINATHAN:  
15 Q Okay. But it is your understanding that some 09:16:41  
16 form of this effort has happened in all 12 of the  
17 cases that you've provided expert testimony?  
18 A Some form, yes.  
19 Q Has any testimony you provided been  
20 successfully excluded in any of these 12 cases? 09:16:54  
21 A No.  
22 Q Okay. Did any of these cases involve  
23 prepubertal or adolescent transgender children?  
24 A Not specific -- children, no.  
25 Q Who did they involve in terms of transgender 09:17:13

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1 individuals?  
2 You spoke of two cases, correct, that focused  
3 on transgender people?  
4 A Correct. My role was to summarize the  
5 science of those issues, not anything about a 09:17:27  
6 specific person.  
7 Q Okay. In terms of summarizing the science,  
8 did the science that you provided testimony on focus  
9 on prepubertal or adolescent transgender children?  
10 A It included that, but wasn't limited to 09:17:41  
11 prepubertal children.  
12 Q Would you say that it was the focus of your  
13 testimony?  
14 MR. BARHAM: Objection; form.  
15 THE WITNESS: I wouldn't say focus, no. 09:17:51  
16 BY COUNSEL SWAMINATHAN:  
17 Q Have you ever testified regarding athletics?  
18 A No.  
19 Q Have you ever testified regarding transgender  
20 or gender-dysphoric athletes? 09:18:04  
21 A No.  
22 Q Have you ever testified regarding transgender  
23 adolescents who are participating in athletics?  
24 MR. BARHAM: Objection; terminology.  
25 THE WITNESS: Not as -- not specifically, but 09:18:20  
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1 they would be included as part of my summarizing the  
2 science overall.  
3 BY COUNSEL SWAMINATHAN:  
4 Q And how would -- or how has your summary of  
5 the science focused on transgender -- transgender 09:18:29  
6 adolescents in athletics?  
7 A I don't think I understand the question.  
8 Q You said that your testimony or, you know,  
9 the -- the research that you have produced in  
10 connection with your testimony on the science may 09:18:45  
11 encompass transgender adolescents participating in  
12 athletics; is that correct?  
13 A I--  
14 MR. BARHAM: Objection; terminology.  
15 THE WITNESS: I don't recall the subject of 09:18:58  
16 athletics being relevant to any of the prior cases,  
17 no.  
18 BY COUNSEL SWAMINATHAN:  
19 Q Okay. So my apologies, I must have  
20 misunderstood. 09:19:07  
21 So you're saying that the science that you've  
22 provided testimony on may encompass matters related  
23 to transgender adolescents; is that right?  
24 A The topic was broadly the science of  
25 transsexuality and everything within it. So it 09:19:18  
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1 could include that, but it wasn't the topic relevant  
2 to any of those cases.  
3 Q To your understanding, did it include that?  
4 Did your testimony focus on anything specific to  
5 transgender adolescents? 09:19:33  
6 A No, it didn't.  
7 Q Okay. And just to be sure --  
8 MR. BARHAM: I'm sorry, I -- I think there  
9 may have been -- I -- I didn't catch the last word  
10 of your question, so could you kindly repeat that. 09:19:45  
11 COUNSEL SWAMINATHAN: I apologize.  
12 Court reporter, can you please repeat the  
13 question that I just posed to Dr. Cantor?  
14 (Record read.)  
15 COUNSEL SWAMINATHAN: Are you okay with that, 09:20:09  
16 Counsel?  
17 THE WITNESS: It -- it included transgender  
18 adolescents, but not specifically athletes.  
19 BY COUNSEL SWAMINATHAN:  
20 Q Right. I understand. I -- I just want to 09:20:17  
21 make sure your counsel is okay, has understood the  
22 question.  
23 MR. BARHAM: Thank you.  
24 COUNSEL SWAMINATHAN: Great.  
25 ///

1 BY COUNSEL SWAMINATHAN:  
2 Q And, again, Dr. Cantor, you've not been  
3 retained as an expert witness in any other case that  
4 we haven't already talked about; right?  
5 A Correct. 09:20:35  
6 Q Great. Did you prepare for this deposition  
7 today?  
8 A Yes, I did.  
9 Q Without disclosing any communications you may  
10 have had with counsel, what did you do to prepare 09:20:47  
11 for today's deposition?  
12 A Reread my notes, which I've been accumulating  
13 for many years, reread individual papers that were  
14 relevant and ensured that I was including anything  
15 new that came out since the last time I went through 09:21:05  
16 the literature.  
17 Q So who provided you with the documents that  
18 you just mentioned?  
19 I heard your own notes and then new articles  
20 that may have come out in the -- in the past few 09:21:18  
21 years on this literature.  
22 And apologies, could you remind me what else  
23 you said you reviewed?  
24 A It was my -- oh, and a scan of the literature  
25 to see if there was anything new. 09:21:31  
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<p>1 Q And so was this all research that you  2 independently conducted, or did anyone provide you  3 with any of the materials that you reviewed?  4 A All me.  5 Q Did you meet with your defense counsel? 09:21:43  6 A We met in rehearsal for today, but not over  7 the material -- of my research of the material.  8 Q Who are your attorneys, by the way?  9 A Who are my attorneys?  10 Q Who is your attorney today? Who is 09:22:07  11 representing you in connection with this deposition?  12 A Just Travis.  13 Q Just Travis.  14 And so you said you've met with Travis once  15 in preparation for this deposition; right? 09:22:18  16 A We met briefly yesterday, and then there was  17 a meeting on Friday to rehearse today.  18 MR. TRYON: Counsel, I would also -- this is  19 David Tryon. I will also note that I also represent  20 Dr. Cantor in this deposition. 09:22:34  21 COUNSEL SWAMINATHAN: Great. Thank you,  22 Mr. Tryon.  23 And did you meet with Dr. Cantor at all in  24 preparation for this deposition?  25 MR. TRYON: I'm sorry, are you asking me that 09:22:48  Page 30</p>	<p>1 A No.  2 Q Did you discuss this case with anyone other  3 than your attorneys?  4 A No.  5 Q Did you bring anything with you today? 09:24:05  6 A A blank notepad, the aforementioned documents  7 so I could refer to them on the way, and the details  8 of the address to how to get here.  9 Q Did anyone get you a water bottle?  10 A And a water bottle. 09:24:23  11 Q Great. I'm glad you have that.  12 Okay. So if you could please go into the  13 "Marked Exhibits" folder, I'm going to introduce  14 tab 2, which is a document that has been marked as  15 Exhibit 45 -- 44, apologies. 09:24:37  16 (Exhibit 44 was marked for identification  17 by the court reporter and is attached hereto.)  18 MR. BARHAM: Counsel, I'm in the "Marked  19 Exhibits" folder, and I'm not seeing this document.  20 COUNSEL SWAMINATHAN: Apologies, my -- 09:24:52  21 I'll -- I'll let you know when -- when it's in  22 there, and then you might need to give the -- the  23 page a little bit of a refresh. It's -- it takes a  24 moment to load.  25 Counsel, are you able to see the document and 09:25:35  Page 32</p>
<p>1 question?  2 COUNSEL SWAMINATHAN: Yes.  3 MR. TRYON: I think you should direct your  4 questions to Dr. Cantor.  5 BY COUNSEL SWAMINATHAN: 09:22:55  6 Q Dr. Cantor, did you meet with Mr. Tryon in  7 preparation for this deposition?  8 A Yes. He was present, virtually, on Friday.  9 Q On Friday, but not yesterday?  10 A Correct. 09:23:02  11 Q So beyond the scan of research that you've  12 done in preparation for this deposition, did you  13 review any specific documents?  14 A Yes. The documents are noted in my report.  15 Q What were those documents? 09:23:17  16 A As best as I can recall, they were the  17 declarations of Dr. Adkins, Jensen, Safer and the  18 related rebuttals.  19 Q Did you review any documents beyond those  20 that you just listed that are not cited in your 09:23:38  21 expert report?  22 A No.  23 Q Did you conduct any additional research to  24 prepare for this deposition beyond what you did for  25 your expert report? 09:23:52  Page 31</p>	<p>1 is the witness able to see the document now?  2 MR. BARHAM: Yes.  3 COUNSEL SWAMINATHAN: Great.  4 BY COUNSEL SWAMINATHAN:  5 Q Dr. Cantor, why don't you take a moment to 09:25:46  6 review what the document is.  7 A I'm sorry, this is a 100-page document?  8 Q Take a look at the first few pages to get  9 your understanding of what it is.  10 So have you seen this document before? 09:26:15  11 A Yes. This is my -- the report I prepared for  12 today.  13 Q Did you author this document?  14 A Yes, I did.  15 Q Did anyone else help you draft this document? 09:26:27  16 A No.  17 Q When was this document created?  18 A Both -- primarily, over the course of the  19 last two years or so.  20 Q Is there an execution date on the document? 09:26:48  21 I believe it might be on page 2.  22 A I see a date on page 46, 31 March 2021.  23 Q On page 6, you said?  24 A 36 (sic), I think that was.  25 And the date of execution is 22 June 2021. 09:27:14  Page 33</p>

<p>1 Q Great. Thank you so much.                  2 And, Dr. Cantor, why was this document                  3 created?                  4 A In preparation for today, that was the                  5 request put to me from the attorneys of West 09:27:26                  6 Virginia.                  7 Q Thank you.                  8 And if you could please go into the "Marked                  9 Exhibits" folder, I'd like you -- I'd like to                  10 introduce tab 1, which has been marked as 09:27:38                  11 Exhibit 45.                  12 (Exhibit 45 was marked for identification                  13 by the court reporter and is attached hereto.)                  14 COUNSEL SWAMINATHAN: Counsel and Dr. Cantor,                  15 let me know when you're able to -- to see that 09:28:06                  16 document.                  17 BY COUNSEL SWAMINATHAN:                  18 Q Do you have it up in front of you?                  19 A Yes, I do.                  20 Q Great. Have you seen this document before? 09:28:31                  21 A Yes, I have.                  22 Q What is it?                  23 A This is the report I prepared for today.                  24 Q Did you author this document?                  25 A Yes, I did. 09:28:44</p> <p style="text-align: right;">Page 34</p>	<p>1 Q Are you there?                  2 Have you seen --                  3 A Yes.                  4 Q -- this document before?                  5 A Yes, I have. 09:30:50                  6 Q What is it?                  7 A That's my CV.                  8 Q And did you author this document?                  9 A Yes, I did.                  10 Q Did anyone assist you in authoring this 09:30:56                  11 document?                  12 A No.                  13 Q When was it created?                  14 A It's been accumulating over the course of my                  15 career. 09:31:07                  16 Q And is there anything in this copy of your CV                  17 that needs to be updated or corrected?                  18 A One second.                  19 Q Yeah, please take a moment to review. I                  20 believe there are 32 pages. You've done a lot over 09:31:21                  21 the course of your career.                  22 A Nothing to add. It's current.                  23 Q Great. So I want to talk to you a bit about                  24 your education history.                  25 So, Dr. Cantor, where did you complete your 09:31:52</p> <p style="text-align: right;">Page 36</p>
<p>1 Q Did anyone else help you draft this document?                  2 MR. BARHAM: Counsel, I'm going to                  3 interrupt -- interrupt you because I'm confused                  4 why -- how this document differs from the prior one                  5 that we just reviewed. 09:29:01                  6 COUNSEL SWAMINATHAN: So my understanding is                  7 that this is Dr. Cantor's report executed on                  8 February 23rd, 2022, and the prior document was                  9 Dr. Cantor's expert report submitted in                  10 conjunction -- in connection with the preliminary 09:29:20                  11 injunction motion, dated June 22nd, 2021.                  12 MR. BARHAM: Thank you.                  13 BY COUNSEL SWAMINATHAN:                  14 Q So, Dr. Cantor, when was this document                  15 created? 09:29:34                  16 A This was executed on February 23, 2022.                  17 Q And why was this document created?                  18 A In preparation for today, at the request of                  19 the attorneys.                  20 Q Great. And if you can, can you please turn 09:29:51                  21 to page 69 of this PDF. Apologies for the long                  22 scroll.                  23 So what you should see on page 69 is the                  24 start of Appendix 1 to your expert report.                  25 A Yes. 09:30:46</p> <p style="text-align: right;">Page 35</p>	<p>1 undergraduate education?                  2 A Rensselaer Polytechnic Institute.                  3 Q It's commonly known as RPI; right?                  4 A Yes, it is.                  5 Q Did you enjoy your time at RPI? 09:32:07                  6 A Yes.                  7 Q What did you study?                  8 A Interdisciplinary science, with                  9 concentrations in computer science, mathematics and                  10 physics. 09:32:18                  11 Q And so my next set of questions pertain just                  12 to your undergraduate education at RPI.                  13 As a part of your formal education for your                  14 undergraduate degree, did you ever take any courses                  15 focused on child psychology? 09:32:33                  16 A As an undergraduate, no.                  17 Q As an undergraduate.                  18 A No.                  19 Q How about adolescent psychology?                  20 A No. 09:32:42                  21 Q Did you conduct any research on those                  22 subjects?                  23 A No.                  24 Q As a part of your formal education for your                  25 undergraduate degree, did you ever take any courses 09:32:56</p> <p style="text-align: right;">Page 37</p>

<p>1 regarding transgender or gender-dysphoric people?                  2 A No.                  3 Q Did you ever conduct any research concerning                  4 transgender or gender-dysphoric people?                  5 A No. 09:33:09                  6 Q Did you have any other educational training                  7 related to transgender or gender-dysphoric people at                  8 RPI?                  9 A No.                  10 Q Okay. What did you study next? 09:33:18                  11 A After that, I did start studying psychology                  12 at the graduate level.                  13 Q And where did you complete -- I see here a                  14 Master's of Arts; correct?                  15 A Correct. 09:33:33                  16 Q Where did you complete your Master's of Arts?                  17 A Boston University.                  18 Q And so I believe you said you studied                  19 psychology; is that correct?                  20 A Correct. 09:33:47                  21 Q So apologies for my naivety here, but as you                  22 were getting your Master's of Arts, would that be a                  23 major in psychology or a psychology focus?                  24 A At the graduate level, there are no majors.                  25 The degree is in that subject matter specifically. 09:33:59                  Page 38</p>	<p>1 regarding transgender or gender-dysphoric people?                  2 A No.                  3 Q Did you ever conduct any research concerning                  4 transgender or gender-dysphoric people?                  5 A No. 09:35:30                  6 Q And so what did you study next after your                  7 time at Boston University?                  8 A I worked for several years as a research                  9 assistant in neuropsychology and then began my                  10 doctoral studies in psychology. 09:35:50                  11 Q So how long were you a research assistant in                  12 neuropsychology?                  13 A About three years.                  14 Q So you took a three-year gap between pursuing                  15 your doctorate degree, after completing your 09:36:02                  16 Master's of Arts?                  17 A Roughly, yes.                  18 Q And where did you spend those three years as                  19 a research assistant?                  20 A I remained in Boston -- remained in Boston -- 09:36:12                  21 remained in Boston.                  22 COUNSEL SWAMINATHAN: I apologize. Did                  23 anyone else hear that a few times or --                  24 BY COUNSEL SWAMINATHAN:                  25 Q Are you able to hear me clearly, Dr. Cantor? 09:36:25                  Page 40</p>
<p>1 So it would be a Master of Arts in psychology.                  2 Q I appreciate that clarification. Thank you.                  3 When did you graduate?                  4 A 1992.                  5 Q And so my next set of questions are going to 09:34:18                  6 pertain solely to your Master's education.                  7 So as part of your formal education for your                  8 Master's of Arts, did you ever take any courses                  9 focused on child psychology?                  10 A Yes. 09:34:31                  11 Q Can you describe those courses to me?                  12 A The course specifically was in cognitive                  13 development and testing.                  14 Q And how about adolescent psychology?                  15 A It was blended in. 09:34:45                  16 Q Okay. And so beyond this one course in                  17 cognitive development, were there any other courses                  18 focused on child or adolescent psychology?                  19 A Not focused on them, no.                  20 Q Okay. Did you conduct any research on those 09:34:58                  21 subjects, specifically speaking about child and                  22 adolescent psychology?                  23 A No.                  24 Q As a part of your formal education for your                  25 Master's of Arts, did you ever take any courses 09:35:15                  Page 39</p>	<p>1 A I think so.                  2 Q Okay. Cool. Great. Thank you.                  3 And so where -- where in Boston did you                  4 complete that research assistant three-year                  5 position? 09:36:36                  6 A It was the -- it's listed on my CV. I don't                  7 immediately recall the formal name of the hospital.                  8 Q Okay. Would it be the Queen Elizabeth                  9 Hospital?                  10 A No. 09:36:52                  11 Q No?                  12 A It was the Boston VA, part of their                  13 Memory Disorders Research Center, which predates                  14 when I began recording my jobs on my CV.                  15 Q Okay. So that -- that job is -- 09:37:19                  16 (Simultaneous speaking.)                  17 A Correct. It was -- it was at the Boston VA,                  18 which has a formal name that I don't recall, and I                  19 was in the Memory Disorders Research Center.                  20 Q Great. And just for -- for my clarity, it is 09:37:32                  21 not listed on your CV; correct?                  22 A Correct.                  23 Q Okay. And so you said you -- after you                  24 finished your research assistant in neuropsychology,                  25 three-year experience, you went on to get your 09:37:47                  Page 41</p>

<p>1 doctorate degree; is that right?                  2 A Yes.                  3 Q Again, apologies if I botch the -- the                  4 language here, but what did you focus on as a part                  5 of your doctorate degree? 09:38:03                  6 A Clinical psychology.                  7 Q Clinical psychology.                  8 And where did you complete your doctorate                  9 degree?                  10 A McGill University. 09:38:12                  11 Q So, again, my next set of questions pertain                  12 solely to your time at McGill.                  13 So as part of your formal education for your                  14 doctorate degree in clinical psychology, did you                  15 ever take any courses focused on child psychology? 09:38:28                  16 A Not courses focused on it, no. The design of                  17 the program at McGill often blended child,                  18 adolescent and adult psychology together.                  19 Q I see. Can you describe that a bit more?                  20 A For example, in learning to do testing, one 09:38:50                  21 would be trained both in the standard intelligence                  22 test for adults as well as the standard intelligence                  23 test for children.                  24 Q Thank you. I appreciate that.                  25 And so, you know, my question pertaining to 09:39:06                  Page 42</p>	<p>1 MR. TRYON: Objection. Dave Tryon speaking.                  2 THE WITNESS: The organization -- the                  3 organization of a doctoral program wasn't around                  4 courses at all. The primary focus of -- at the                  5 doctoral level is on performing research, learning 09:40:38                  6 how to perform research and proper research                  7 methodology in whatever field the student is                  8 pursuing.                  9 In my case, that was sexuality. So                  10 everything I did at the doctoral level was one way 09:40:49                  11 or another targeted towards sexuality, even though                  12 there were -- even if not as part of the formal                  13 course.                  14 BY COUNSEL SWAMINATHAN:                  15 Q That is very helpful. I obviously do not 09:41:01                  16 have a doctorate degree, so that's a helpful                  17 explanation for me to understand how the program is                  18 structured.                  19 So let me ask another question.                  20 How much of your research, in your study of 09:41:13                  21 sexuality, concerned transgender and                  22 gender-dysphoric people in particular?                  23 MR. BARHAM: Objection; terminology.                  24 You can answer, if you can.                  25 THE WITNESS: It's a little hard to estimate. 09:41:34                  Page 44</p>
<p>1 adolescent psychology, it's your understanding that                  2 the courses were a blend of child, adolescent and                  3 adult psychology; correct?                  4 A Many of them, yes.                  5 Q Many of them. 09:39:17                  6 And you have never specifically taken a                  7 course that focused solely on adolescent psychology                  8 at McGill; right?                  9 A Correct.                  10 Q Okay. Did you, as a part of your normal 09:39:28                  11 education, ever take any courses regarding                  12 transgender or gender-dysphoric people at McGill?                  13 A Not any courses focused on it, but there were                  14 courses focused on human sexuality, which, of                  15 course, included transsexuality. 09:39:50                  16 Q Can you describe that a bit more? Why would                  17 your course on human sexuality include                  18 transsexuality?                  19 A Why would it include?                  20 Q Let me rephrase it. How did it include? 09:40:00                  21 A By summarizing the existing research at the                  22 time and what was thought in the field at the time.                  23 Q And how many courses would you say you took                  24 that focused on human sexuality?                  25 MR. BARHAM: Objection; terminology. 09:40:18                  Page 43</p>	<p>1 Roughly 10 to 20 percent was specifically on                  2 trans-related issues, and in others, because trans                  3 populations were -- were included one way or                  4 another, there was a little bit of all of them. 09:41:52                  5 BY COUNSEL SWAMINATHAN:                  6 Q And what was the nature of that research,                  7 typically, in the 10 to 20 percent that you had just                  8 mentioned?                  9 A Primarily brain development, cognitive                  10 development, and I'm also called upon, very 09:42:04                  11 frequently, to consult in the statistics and how to                  12 analyze existing data.                  13 Q Okay. Did you have any other educational                  14 training at the doctorate level related to                  15 transgender people? 09:42:21                  16 A What do you mean, educational training?                  17 Q Beyond the independent research that you                  18 conducted or the research that you conducted with                  19 supervision at McGill, did you have any other                  20 educational training, such as a practicum, related 09:42:34                  21 to transgender people?                  22 MR. TRYON: Objection; form of the -- form of                  23 the question.                  24 THE WITNESS: Not practicum related                  25 specifically to transgender people, but I did 09:42:50                  Page 45</p>

<p>1 practicum related to human sexuality, which                  2 necessarily included transgender people.                  3 BY COUNSEL SWAMINATHAN:                  4 Q Can you describe that practicum?                  5 A I was seeing patients for -- mostly for 09:43:05                  6 one-on-one therapy, regardless of the issue that                  7 they came in with. That can be anything from sexual                  8 dysfunctions, curiosities about their own sexual                  9 interests, and dysphoric transgender issues.                  10 Q Got it. And you said you were seeing 09:43:20                  11 patients. How old were these patients, typically?                  12 A Young adults and up.                  13 Q And what do you understand "young adults" to                  14 mean, in terms of an age?                  15 A Late teens. 09:43:34                  16 Q So late teens and onward you would --                  17 A Yes.                  18 Q Okay. About how many patients do you think                  19 you've seen during your time at McGill in -- in                  20 these practica that you just spoke about? 09:43:52                  21 A Roughly 30.                  22 Q Okay. Thank you.                  23 And so what did you do after obtaining your                  24 doctorate degree?                  25 A I continued as a postdoctoral researcher at 09:44:07                  Page 46</p>	<p>1 institution.                  2 The -- the projects themselves were primarily                  3 focussed on brain function and development of each                  4 of the sexual issues.                  5 Q Got it. And so you said during your 09:45:34                  6 internship period you had a position with the                  7 Gender Identity Clinic and then separately the                  8 Sexual Behaviours Clinic; is that correct?                  9 A Yes.                  10 Q What responsibilities did you have during 09:45:46                  11 your time in those clinics?                  12 A I was conducting one-on-one therapy with                  13 individual people, pursuing or wondering if they                  14 should pursue medical transition, group therapy of                  15 people just living their lives as trans people and 09:46:06                  16 requiring support, and among the sexual -- in the                  17 SBC, in the Sexual Behaviours Clinic, with the sex                  18 offenders, it was rehabilitation.                  19 Q And what qualified you to provide the                  20 one-on-one therapy that you just spoke about for 09:46:25                  21 individuals pursuing medical transition and group                  22 therapy? Was there any additional certificate or                  23 training that you needed in order to provide this                  24 therapy?                  25 A The training of those issues was -- for those 09:46:39                  Page 48</p>
<p>1 the University of Toronto and at the Centre for                  2 Addiction and Mental Health.                  3 Q Is it okay with you if I refer to the                  4 Centre for Addiction and Mental Health, as CAMH?                  5 A Yes. 09:44:26                  6 Q Is it commonly known as CAMH, or am I --                  7 A Usually they pronounce it CAMH.                  8 Q CAMH. I will do the same.                  9 COUNSEL SWAMINATHAN: And, Court Reporter,                  10 that is C-A-M-H when I refer to "CAMH." 09:44:38                  11 BY COUNSEL SWAMINATHAN:                  12 Q Okay. Can you describe your fellowship                  13 experience at CAMH?                  14 A I started at -- there was an overlap year                  15 between the doctoral studies and my postdoctoral 09:44:50                  16 studies. The final year of a Ph.D. is an internship                  17 program, which is very much like an advanced                  18 practicum program.                  19 Within the internship, I was half-time of the                  20 entire year in their Gender Identity Clinic and 09:45:05                  21 half-time for a full year in their Sexual Behaviours                  22 Clinic, which worked primarily with sexual                  23 offenders. I continued that work and continued the                  24 related research then for the seven years after                  25 receiving my doctorate, staying at the same 09:45:24                  Page 47</p>	<p>1 issues is -- it's a lot of reading and then                  2 one-on-one study with other experts who are                  3 extremely experienced with -- with trans issues. I                  4 studied under Ray Blanchard at CAMH.                  5 Q Did you study under anyone else besides 09:47:03                  6 Ray Blanchard?                  7 A There were other instructors. He ran the                  8 lab. The other primary input to my education was a                  9 trans clin- -- she herself was a trans clinician,                  10 Maxine Petersen. 09:47:24                  11 Q And so did either Ray Blanchard or                  12 Maxine Petersen serve as a supervisor to you in each                  13 of those positions?                  14 A Yes. Both of them.                  15 Q Okay. Did you have anyone to supervise under 09:47:35                  16 you in those positions at the Gender Identity Clinic                  17 and the Sexual Behaviours Clinic?                  18 A Not while I was an intern or -- not while I                  19 was an intern and not while I was a postdoc.                  20 Q What did you do next, after interning at 09:47:58                  21 those clinics?                  22 A After the internship and I received my                  23 doctorate, then I was appointed as a postdoctoral                  24 fellow at CAMH.                  25 Q So my next set of questions pertain to your 09:48:08                  Page 49</p>

<p>1 fellowship.                  2 So as a part of your fellowship, did your                  3 work focus on child psychology?                  4 A Did my focus -- it didn't focus on child                  5 psychology, no. 09:48:25                  6 Q And apologies, can we go back one minute                  7 to -- you -- you had stated that you provided                  8 one-on-one therapy to individuals pursuing medical                  9 transition/group therapy.                  10 What was the average age of those patients 09:48:37                  11 that you provided the one-on-one therapy to?                  12 A Average age?                  13 Q Yeah.                  14 A Early 40s.                  15 Q What do you think was the youngest age of the 09:48:51                  16 patient, to your recollection? I understand it was                  17 a bit of time ago.                  18 A Youngest would have been late teens, early                  19 20s.                  20 Q Okay. Great. And, sorry, back to your 09:49:03                  21 fellowship. We just spoke about child psychology,                  22 and you mentioned that it did not focus on child                  23 psychology; correct?                  24 A Correct.                  25 Q How about adolescent psychology? 09:49:15                  Page 50</p>	<p>1 through the University of Toronto. CAMH is a                  2 teaching hospital of the University of Toronto.                  3 Q Great. And so, as part of your fellowship,                  4 did any of your work focus on transgender or                  5 gender-dysphoric adults? 09:50:38                  6 A Not at that time, no.                  7 Q What about transgender or gender-dysphoric                  8 adolescents?                  9 A Not at that time, no.                  10 Q Okay. Have you completed any other studies? 09:50:57                  11 A Altogether, I -- oh, when you say "studies,"                  12 you don't mean published studies; you mean --                  13 Q Right. Educational pursuits of degrees and                  14 things like that.                  15 A No. That's my full formal education. 09:51:14                  16 Q And I don't mean to say that you haven't done                  17 so much already. I just wanted to make sure that                  18 we've covered all of the bases.                  19 And what is your current occupation right                  20 now? 09:51:26                  21 A I'm in private practice as a clinical                  22 psychologist.                  23 Q And where do you conduct your private                  24 practice?                  25 A In Toronto. 09:51:35                  Page 52</p>
<p>1 A Again, it didn't focus on adolescent                  2 psychology, but most of the assessments that we were                  3 doing and the research we were doing was entire                  4 lifespan. So, of course, childhood and adolescence                  5 is a predominant part of that, but not the focus of 09:49:34                  6 it.                  7 Q I see. And so, again, you'll have to educate                  8 me a bit, but as a part of your postdoctoral                  9 fellowship, do you take any courses?                  10 A No. 09:49:48                  11 Q No? It's --                  12 A Oh, I should take that back. There are no                  13 courses built into the program itself, but I often                  14 opted to take extra courses just to fill in extra                  15 material that I needed, such as in neuroscience or 09:49:59                  16 similar advanced statistics.                  17 Q So beyond neuroscience, what other courses                  18 did you elect to take during your postdoctoral                  19 fellowship?                  20 A Just those two deals, neuroscience and 09:50:12                  21 statistics.                  22 Q And statistics. Okay.                  23 And were those, like, online courses, or were                  24 they courses offered through CAMH?                  25 A They were courses through the Univer- -- 09:50:22                  Page 51</p>	<p>1 Q In Toronto. Okay.                  2 So I see on page 1 and 2 of your CV, which                  3 hopefully you still have in front of you, you list                  4 your employment history. I would love to walk                  5 through your employment history, but if it's okay 09:51:54                  6 with you, in chronological order. So if we can turn                  7 to page 2.                  8 A Yes.                  9 Q I see that you completed predoctoral                  10 practicum at the Queen Elizabeth Hospital in 09:52:07                  11 Montreal, Canada; is that correct?                  12 A Yes.                  13 Q And that was in the department of psychiatry?                  14 A Yes.                  15 Q And you were there from May 1994 to 09:52:16                  16 December 1994; is that correct?                  17 A Yes.                  18 Q What was your title in this position?                  19 A They used a French word that I don't                  20 remember. A "stagiaire." A -- a local Montreal, 09:52:37                  21 Quebec, term. The best English translation would be                  22 trainee in psychology.                  23 Q Do you speak French?                  24 A No, I don't.                  25 Q Trainee. Okay. Great. 09:52:51                  Page 53</p>

<p>1 Can you tell me a bit about your work in this 2 position? 3 A My focus then was general psychotherapy with 4 outpatients who would typically come in to that 5 clinic with a series of disorders, mainly 09:53:08 6 depressions and anxieties. 7 Q And did you work in this position focus on 8 children? 9 A No. 10 Q What about adolescents? 09:53:17 11 A Didn't focus on them, no. 12 Q No. So you predominantly worked with adults 13 who came in with depression and anxiety disorders? 14 A Correct. 15 Q Okay. And then I see that you completed a 09:53:31 16 predoctoral practicum at the Royal Victoria Hospital 17 in Montreal; is that right? 18 A Yes. 19 Q And this was in the sex and couples therapy 20 unit? 09:53:45 21 A That's correct. 22 Q And you were there for a little under four 23 years. It says September 1993 to June 1997; is that 24 right? 25 A Correct. I continued seeing clients there 09:53:55 Page 54</p>	<p>1 A Yes. 2 Q And was this during your doctorate degree as 3 well? 4 A Yes. 5 Q Okay. And so that was from September 1993 to 09:55:13 6 May 1998 -- 7 A Yes. 8 Q -- is that right? 9 Okay. Who were you a teaching assistant for? 10 Was it for a professor, or were you a general 09:55:25 11 teaching assistant for the program? 12 A Two different professors. One was 13 Rhonda Amsel for statistics courses, and the other 14 was Irv Binik for sexuality courses. 15 Q Can you repeat the name of the professor who 09:55:41 16 focused on sexuality courses? 17 A Irv, I-r-v, Binik, B-i-n-i-k. 18 Q And so what courses within sexuality did 19 Irv Binik teach? 20 A The name of the course itself was 09:55:58 21 Human Sexuality. 22 Q It was called Human Sexuality. Okay. 23 And has he taught any other courses at 24 McGill, to your knowledge, or during the time that 25 you were there? 09:56:07 Page 56</p>
<p>1 over the course of my doctoral studies. 2 Q Got it. Okay. 3 So can you tell me about your work in this 4 position and whether you had a similar French title 5 there? 09:54:07 6 What -- what was your title? 7 A My -- I don't remember -- I don't remember my 8 title. 9 Q Okay. No problem. 10 A It was in English. It's an English-speaking 09:54:19 11 hospital. My functions there were sex therapy and 12 couples therapy, the full range of sexual disorders 13 and the range of issues that -- that interfere with 14 romantic relationships. 15 Q Got it. So did the majority of your work in 09:54:34 16 this position focus on adults? 17 A Yes. 18 Q Okay. And in this position, did you conduct 19 any research or, you know, have any, like, work 20 experience in the field of transgender or 09:54:49 21 gender-dysphoric people? 22 A Not specific to them, no. 23 Q Okay. And then I see that you were a 24 teaching assistant at McGill in the Department of 25 Psychology; is that right? 09:55:05 Page 55</p>	<p>1 A I think that's the only course he taught 2 while I was there, yes. 3 Q So in your role as a teaching assistant, were 4 you required to conduct any research on transgender 5 or gender-dysphoric people? 09:56:28 6 A As a part of that course, no. 7 Q As a part of that course. No? 8 A Correct. Not as part of that course. 9 Q Okay. And then you went on to work as a 10 clinical psychology intern, as we spoke about, at 09:56:45 11 CAMH; right? 12 A Correct. 13 MR. BARHAM: Counsel, we've been going about 14 an hour. Would this be a natural time for a 15 five-minute break? 09:56:55 16 COUNSEL SWAMINATHAN: Absolutely. Let's take 17 a break, and we can come back at 10:05, if that 18 works. 19 Do you want to take a seven-minute break? 20 MR. BARHAM: Sure. That sounds good. 09:57:05 21 COUNSEL SWAMINATHAN: Okay. We can go off 22 the record. 23 THE VIDEOGRAPHER: Yes, we are going off the 24 record at 9:57 a.m., and this is the end of Media 25 Unit No. 1. 09:57:12 Page 57</p>

<p>1 (Recess.)</p> <p>2 THE VIDEOGRAPHER: All right. We are back on</p> <p>3 the record at 10:08 a.m., and this is the beginning</p> <p>4 of Media Unit No. 2.</p> <p>5 Go ahead, please. 10:08:34</p> <p>6 BY COUNSEL SWAMINATHAN:</p> <p>7 Q Okay. Dr. Cantor, before the break, you</p> <p>8 testified that you had studied under two</p> <p>9 individuals, Blanchard and Petersen; is that</p> <p>10 correct? 10:08:46</p> <p>11 A Yes.</p> <p>12 Q And that's Ray Blanchard and Maxine Petersen;</p> <p>13 right?</p> <p>14 A Yes.</p> <p>15 Q And you mentioned that they are extremely 10:08:56</p> <p>16 knowledgeable on issues of transgender identities</p> <p>17 and gender-dysphoric people; right?</p> <p>18 A Yes.</p> <p>19 Q And their focus is -- they -- they focus on</p> <p>20 adults who identify as transgender or who suffer 10:09:14</p> <p>21 from gender dysphoria; right?</p> <p>22 A Their writings and their careers have spanned</p> <p>23 the entire lifespan, but most of their work was with</p> <p>24 adults.</p> <p>25 Q Adults. Okay. 10:09:31</p> <p style="text-align: right;">Page 58</p>	<p>1 adolescence and ends in adulthood.</p> <p>2 Q Got it. So this brain development research</p> <p>3 that you did, did you focus only on brain</p> <p>4 development as it relates to atypical sexualities?</p> <p>5 A Although the questions I was asking were 10:11:12</p> <p>6 about human sexuality, I simultaneously needed to</p> <p>7 account for all of the other possible things that</p> <p>8 were going on in the brain; and so, therefore, they</p> <p>9 became related, even though those weren't the topics</p> <p>10 of my specific efforts. 10:11:35</p> <p>11 Q Your work in this position didn't focus on</p> <p>12 children and adolescents with gender dysphoria;</p> <p>13 right?</p> <p>14 A It's a little tough to say. It's tough to</p> <p>15 say. Everything I look at in a brain scan is an 10:11:54</p> <p>16 accumulation of everything that happens over life,</p> <p>17 very much of which happens in childhood and before</p> <p>18 childhood. So I was looking at the effects in the</p> <p>19 brain of everything that happened over childhood</p> <p>20 accumulated -- accumulating, but I wasn't looking 10:12:10</p> <p>21 during childhood.</p> <p>22 Q It's fair to say that it didn't focus on</p> <p>23 child (sic) and adolescents with gender dysphoria;</p> <p>24 right?</p> <p>25 MR. BARHAM: Objection; terminology. 10:12:25</p> <p style="text-align: right;">Page 60</p>
<p>1 And so we spoke about your time at the -- at</p> <p>2 CAMH as a clinical psychology intern, but then you</p> <p>3 moved to the law and mental health program, is that</p> <p>4 correct, at CAMH?</p> <p>5 A The Sexual Behaviours Clinic is part of the 10:09:49</p> <p>6 law and mental health program.</p> <p>7 Q Oh, okay. So let me ask it a different way.</p> <p>8 What did you do after you were a clinical</p> <p>9 psychology intern at CAMH?</p> <p>10 A After I was an intern was when I started my 10:10:02</p> <p>11 postdoctoral -- postdoctoral studies.</p> <p>12 Q And so this is when you were a psychologist</p> <p>13 within the law and mental health program?</p> <p>14 A Yes.</p> <p>15 Q Okay. Can you tell me about your work in 10:10:16</p> <p>16 that position?</p> <p>17 A That's when I began my brain-based research</p> <p>18 on the development of atypical human sexualities.</p> <p>19 Q And did your work in this position focus on</p> <p>20 child psychology? 10:10:37</p> <p>21 A It's a little hard to say. What I was</p> <p>22 researching on was brain development, which begins</p> <p>23 at conception, continues, of course, quite</p> <p>24 dramatically over the course of gestation, continues</p> <p>25 to develop over the course of childhood and 10:10:56</p> <p style="text-align: right;">Page 59</p>	<p>1 THE WITNESS: It depends on what one means by</p> <p>2 "focus."</p> <p>3 BY COUNSEL SWAMINATHAN:</p> <p>4 Q You didn't work with children and adolescents</p> <p>5 with gender dysphoria in this position directly, did 10:12:33</p> <p>6 you?</p> <p>7 A Not while they were children and adolescents,</p> <p>8 no.</p> <p>9 Q Okay. Did you conduct research specifically</p> <p>10 related to children and adolescents with gender 10:12:46</p> <p>11 dysphoria, or did you focus more holistically on</p> <p>12 brain development from birth to adulthood?</p> <p>13 MR. TRYON: Objection; form.</p> <p>14 THE WITNESS: I didn't -- my research</p> <p>15 subjects, while they were research subjects, were no 10:13:06</p> <p>16 longer children, but we would often focus on events</p> <p>17 that happened during childhood and adolescence.</p> <p>18 BY COUNSEL SWAMINATHAN</p> <p>19 Q I see. So what approximate -- or age -- or</p> <p>20 what was the average age of the research subjects 10:13:19</p> <p>21 that you worked with?</p> <p>22 A The research subjects then ran the -- the</p> <p>23 gamut from 18 to simulating.</p> <p>24 Q Okay. And, again, this research was related</p> <p>25 to brain development as connected to atypical 10:13:40</p> <p style="text-align: right;">Page 61</p>



<p>1 sexualities, right, the research you --                  2 A Yes.                  3 Q -- you just mentioned?                  4 Okay. Thank you.                  5 And then you went on to be the research 10:13:49                  6 section head at CAMH; right?                  7 A Correct.                  8 Q And you were the section head from                  9 December 2009 to September 2012; right?                  10 A Correct. 10:14:03                  11 Q Great. What was your title beyond research                  12 section head in this position? Did you hold any                  13 other titles?                  14 A Psychologist.                  15 Q Psychologist. Okay. 10:14:15                  16 Can you tell me about your work in this                  17 position?                  18 Mainly what I'm trying to understand is how                  19 much of your practice was research versus clinical                  20 psychology. 10:14:30                  21 A It's -- it's tough to pull them apart at that                  22 level. I was simultaneously doing frontline                  23 clinical work but also systematically recording the                  24 results of that work, those of my colleagues, those                  25 of my then-students in order to analyze patterns in 10:14:47                  Page 62</p>	<p>1 hypersexual.                  2 I also participated in research and the                  3 development of what I'll call ordinary -- the                  4 development of sexual orientation.                  5 Q So would you say that your work was primarily 10:16:19                  6 focused on pedophilia and hypersexuality?                  7 MR. TRYON: Objection; form.                  8 THE WITNESS: Primarily, sure.                  9 BY COUNSEL SWAMINATHAN:                  10 Q And then you went on to become the head of 10:16:35                  11 research at the Sexual Behaviours Clinic; right?                  12 A Yes.                  13 Q And that was from November 2010 to                  14 April 2014; correct?                  15 A Yes. 10:16:49                  16 Q And you were still at CAMH?                  17 A Yes.                  18 Q Great. So can you tell me about your work in                  19 this position?                  20 A Only my position title changed. 10:17:03                  21 Q So your work remained the same, but you were                  22 promoted to head of research?                  23 A Correct.                  24 Q What is the difference between research                  25 section head and head of research? 10:17:16                  Page 64</p>
<p>1 the data of what everybody was seeing.                  2 So what was done for research purposes was                  3 also done for clinical purposes and vice versa.                  4 Q I see. And so during your time as research                  5 section head, did any of your research involve, 10:15:04                  6 specifically, gender dysphoria or transgender                  7 medicine?                  8 MR. BARHAM: Objection; form.                  9 THE WITNESS: I would hesitate -- it didn't                  10 focus, but was repeatedly included. In order to do 10:15:25                  11 any of the -- or in order to do research on any of                  12 these topics, because they interrelate, we also --                  13 at least indirectly, also include the other atypical                  14 sexualities.                  15 BY COUNSEL SWAMINATHAN: 10:15:39                  16 Q I see. So what was your work primarily                  17 focused on, though, during your time as research                  18 section head?                  19 A My work, as I said, was primarily focused on                  20 how atypical sexualities develop. 10:15:52                  21 Q And in your understanding, how do they                  22 develop?                  23 A Well, that could be any atypical sexuality.                  24 Some -- those include pedophilia, other paraphilias,                  25 transsexuality, people who call themselves 10:16:08                  Page 63</p>	<p>1 A There isn't one. There was a reorganization                  2 of the departments. The titles in the department                  3 were realigned to match those in other departments.                  4 Q I see. Thank you.                  5 And so in this position, as you continued on, 10:17:33                  6 am I correct to say that your work still focused                  7 primarily on pedophilia, hypersexuality and your                  8 work with sex offenders? Is that correct?                  9 A Yes.                  10 Q Okay. And did your work, in terms of the 10:17:49                  11 patients you saw, at all focus on children and                  12 adolescents?                  13 MR. BARHAM: Objection; form.                  14 THE WITNESS: Not --                  15 MR. TRYON: Objection. 10:18:06                  16 THE WITNESS: Not while they were children                  17 and adolescents, but very many of the issues that we                  18 were dealing with were issues that occurred during                  19 childhood and adolescence.                  20 BY COUNSEL SWAMINATHAN: 10:18:11                  21 Q I see. But the patients themselves, at the                  22 time you saw them, were not children or adolescents;                  23 right?                  24 A Correct.                  25 Q Got it. And then you were a senior scientist 10:18:20                  Page 65</p>

<p>1 as a part of the complex mental illness program;                  2 right?                  3 A Correct.                  4 Q And that was from January 2012 to May 2018?                  5 A Correct. 10:18:42                  6 Q What was your responsibility or, you know,                  7 what were you duties under the title of senior                  8 scientist?                  9 A The duties were the same as before, but,                  10 again, in the administrative structure of the 10:18:53                  11 hospital, one often had dual titles.                  12 Q I see. So when you adopted the title of                  13 senior scientist, you were still the head of                  14 research; is that correct?                  15 A Yes. 10:19:09                  16 Q So why did they give you this additional                  17 title?                  18 A That was a higher rank than psychologist.                  19 Q I see. And did your roles change at all from                  20 head of research to then adopting this dual role as 10:19:23                  21 senior scientist and head of research?                  22 A No. My functions were the same.                  23 Q Did you have a change in supervision at all?                  24 A I'm not sure what you mean.                  25 Whom I was supervising or whom I was 10:19:41                  Page 66</p>	<p>1 Q I see. Okay.                  2 And so at any given time, how many students                  3 would you say, on average, you supervise?                  4 A Three to five.                  5 Q Okay. And what kind of work were those 10:21:13                  6 students typically engaging in when they were under                  7 your supervision?                  8 A A lot of the cognitive testing and treatment                  9 with people with atypical sexualities.                  10 Q And what did -- what did their assignments 10:21:27                  11 look like? What -- what did they work on, when you                  12 say that they focused on cognitive treatment and                  13 atypical sexualities?                  14 A There was a great deal of -- of testing. Our                  15 object was to try to record, objectively, what other 10:21:45                  16 clinicians were perceiving subjectively.                  17 Q And how did you do that? How did you -- how                  18 did your clinic test objectively?                  19 A Sometimes through document checks. Sometimes                  20 through formal testing, using standardized 10:22:03                  21 instruments.                  22 Q Okay. And so in your position as senior                  23 scientist and, you know, under -- while you were                  24 supervising these CAMH interns, did you ever work                  25 directly with children or adolescents with gender 10:22:21                  Page 68</p>
<p>1 supervised by?                  2 Q Apologies. Was who you reported to in your                  3 prior role as head of research still the same person                  4 or group of people you reported to as senior                  5 scientist? 10:19:54                  6 A Yes.                  7 Q Who were those individuals?                  8 A Oh, I don't recall his name. He was the head                  9 of the law and mental health program.                  10 Q So the head of the law and mental health 10:20:12                  11 program in the 2012 to 2018 timeframe. Is that fair                  12 to say?                  13 A Yes.                  14 Q And I take it from your slight                  15 misunderstanding of my prior question that you have 10:20:29                  16 supervised people in those positions as well; right?                  17 A Yes.                  18 Q And so when you were a senior scientist, who                  19 did you supervise in that position?                  20 A Students whom I was training at the time. 10:20:41                  21 Q And so these are students of the University                  22 of Toronto?                  23 A No. They were usually students really coming                  24 to CAMH from all over the world for their                  25 internships and their training. 10:21:02                  Page 67</p>	<p>1 dysphoria?                  2 A Directly, no.                  3 Q Did your testing ever involve issues                  4 pertaining to child or adolescent psychology?                  5 A Issues pertaining to, yes. 10:22:39                  6 Q What would you describe those issues as?                  7 A Events occurring during those periods of                  8 life.                  9 Q And how would you obtain data on those                  10 events? 10:22:52                  11 A Sometimes through interview with the patient.                  12 Sometimes through review of documents.                  13 Q Got it. And so when you say you've                  14 interviewed the patients, you're interviewing them                  15 as adults, and they're recounting their childhood 10:23:05                  16 experiences; correct?                  17 A Yes.                  18 Q And when you say "records," who provides you                  19 with the medical records of these patients?                  20 A Typically, they were provided by a court, 10:23:18                  21 parole or probation officers or the patients'                  22 lawyers.                  23 Q I see. Okay. So how -- how do these                  24 patients come to you? How do you -- or a better                  25 question is, how do you find these patients that you 10:23:34                  Page 69</p>

<p>1 work with?                  2 A Well, I didn't really find them at all.                  3 Typically, these would be assigned to the hospital,                  4 and then the hospital would get them to the                  5 appropriate clinic, and then I saw everybody who 10:23:48                  6 came to that clinic, or I was ultimately responsible                  7 for the research going on with everybody in that                  8 clinic.                  9 Q I see. So how -- or why would these patients                  10 be referred to your hospital? 10:24:00                  11 MR. TRYON: Objection.                  12 THE WITNESS: Either through --                  13 MR. BARHAM: Objection as to form.                  14 THE WITNESS: Typically, they were -- they                  15 had committed a sexual offense and served their 10:24:11                  16 sentence and were being released to parole and                  17 probation, and so the parole and probation system                  18 wanted as much information as possible in order to                  19 put the person -- to help maximize the person's                  20 benefit from their -- from their rehabilitation time 10:24:27                  21 and from their parole and probation time.                  22 Other people self-referred because they had a                  23 question or concern with some issue and there was                  24 nobody else with the expertise to be able to answer                  25 it -- to be able to address it. 10:24:42</p> <p style="text-align: right;">Page 70</p>	<p>1 BY COUNSEL SWAMINATHAN:                  2 Q You can answer, Dr. Cantor.                  3 A I understand.                  4 Typically, these were touching of a child or                  5 child pornog- -- or child pornography possession. 10:25:42                  6 Q Thank you. I appreciate that.                  7 So you also said that some of these patients                  8 were self-referred; right?                  9 A Yes.                  10 Q Approximately what percentage of your 10:25:55                  11 patients were self-referred as opposed to coming to                  12 you from a different -- coming to the hospital from                  13 a different method?                  14 A Roughly a quarter to a third.                  15 Q I appreciate it. 10:26:13                  16 And then your position has changed again, but                  17 maybe you can let me know if -- was there any                  18 difference between your role as a senior scientist                  19 and a senior scientist, inaugural member, as noted                  20 on your resumé? 10:26:29                  21 A No, there was no difference.                  22 Q What -- what does it mean to be an inaugural                  23 member?                  24 A It was -- it was an inaugural -- an inaugural                  25 member of that now newly formed institution. It was 10:26:45</p> <p style="text-align: right;">Page 72</p>
<p>1 BY COUNSEL SWAMINATHAN:                  2 Q Two quick follow-up questions.                  3 So what was most typically the offense that                  4 these patients had committed when they came to your                  5 hospital? 10:24:51                  6 MR. TRYON: Objection.                  7 THE WITNESS: I would hesitate to say to the                  8 hospital. But the ones who ended up in my clinic                  9 were there specifically for a sex-related --                  10 sex-related reason. Roughly two-thirds of those 10:25:03                  11 would be related to or potentially related to a                  12 sexual offense.                  13 BY COUNSEL SWAMINATHAN:                  14 Q Can you describe for me what you mean by                  15 "sexual offense"? What does sexual offense 10:25:18                  16 encompass?                  17 MR. TRYON: Objection.                  18 And before you answer, I just -- I don't know                  19 what HIPAA laws are in Canada, but I just want to                  20 caution the witness to make sure that you're not 10:25:28                  21 violating any confidentiality requirements of -- of                  22 Canadian law.                  23 COUNSEL SWAMINATHAN: Thank you, Counsel.                  24 Your objection is noted.                  25 ///</p> <p style="text-align: right;">Page 71</p>	<p>1 a large donation to the hospital, which, again,                  2 triggered a another reorganization.                  3 Q Oh, okay. So what was the Campbell Family                  4 Mental Health Research Institute previously known an                  5 as? 10:27:01                  6 A It wasn't previously known. The Campbell                  7 family was the source of the large donation which                  8 triggered the renaming and the reorganization.                  9 Q I see. So it was -- it's completely separate                  10 from the complex mental illness program or the 10:27:10                  11 Sexual Behaviours Clinic?                  12 A I don't recall the administrative details,                  13 but as I say, it was a shuffling rather than a -- it                  14 was more a shuffling than anything else.                  15 Q So were the people that you worked with in 10:27:24                  16 that position largely the same as previous                  17 positions, in terms of your coworkers?                  18 A Yes. Nothing from my day-to-day work                  19 changed.                  20 Q Got it. And the -- the work that you had 10:27:36                  21 just described to me, that you had done in your role                  22 as senior scientist, that work was the same as                  23 senior scientist, inaugural member?                  24 A Correct.                  25 Q Okay. And you were there until May 2018; 10:27:48</p> <p style="text-align: right;">Page 73</p>

<p>1 right?                  2 A Yes.                  3 Q And then finally, I think we're getting to                  4 where you are presently, which is the director of                  5 the Toronto Sexuality Centre; correct? 10:28:01                  6 A Yes.                  7 Q And so you are currently the director of the                  8 Toronto Sexuality Centre, but you're also conducting                  9 your own private practice; is that right?                  10 A That is my private practice. 10:28:14                  11 Q Oh, that is your private practice. Okay.                  12 And so can you tell me about your private                  13 practice? Approximately how many patients do you                  14 have as a part of your private practice?                  15 A Roughly 50, currently. 10:28:28                  16 Q So you have about 50 patients. Does this                  17 fluctuate a lot, or is it typically around 50?                  18 A I do my best to keep the number pretty                  19 constant.                  20 Q Okay. And why is that? 10:28:47                  21 A Oh, for the -- for the workload.                  22 Q Got it. And so you've been in your private                  23 practice for about five years now; is that right?                  24 A Yes.                  25 Q When you first started your private practice, 10:29:01                  Page 74</p>	<p>1 human sexuality again?                  2 A Sexual functioning, sexual attraction --                  3 sexual functioning and sexual attraction patterns.                  4 Q And so of your 50 patients, approximately --                  5 you know, what's the average age of your 50 10:30:40                  6 patients?                  7 A Average? 30 to 35.                  8 Q How old is your youngest patient, without                  9 disclosing any HIPAA violative information?                  10 A Youngest would be, I think, early 20s. 10:30:57                  11 Q Early 20s. And how about the oldest?                  12 A Oldest would be late 60s.                  13 Q So as your role as director, is it -- am I                  14 correct that it's solely just your private practice,                  15 not your research? There's no -- no more research 10:31:18                  16 component of this position?                  17 A Not paid.                  18 Q So at the Toronto Sexuality Centre, you're                  19 paid -- you're paid for the work that you do in                  20 conjunction with your private practice; right? 10:31:36                  21 A Correct.                  22 Q And any other research you do, there's no                  23 payment from this entity for that research; right?                  24 A Correct.                  25 Q Okay. So in any of these positions that 10:31:47                  Page 76</p>
<p>1 approximately how many patients did you have?                  2 A I want to say zero, and then I worked it up                  3 from there.                  4 Q And how are patients typically finding you or                  5 coming to you for -- for your treatment? 10:29:20                  6 A Generally from routine advertising. Perhaps                  7 a quarter of them are referred specifically from                  8 other clinicians who feel that they're not qualified                  9 to deal with, whatever sexual issues, will send                  10 their client to me. 10:29:38                  11 Q You said "routine advertising." What does                  12 routine advertising for your practice look like?                  13 A An ad in Psychology Today and websites.                  14 Q Any social media?                  15 A No. 10:29:53                  16 Q And you said sometimes other clinicians refer                  17 patients to you because they are unable to meet the                  18 needs of what the patient is looking for; right?                  19 A Correct.                  20 Q And so what would you describe your specialty 10:30:05                  21 to be that these other clinicians don't possess?                  22 A Human sexuality, which is left out of most                  23 mental health training programs altogether.                  24 Q And I know we've spoken about this briefly                  25 before, but what all do you understand to fall under 10:30:24                  Page 75</p>	<p>1 we've spoken about, have you provided care directly                  2 to transgender people?                  3 A I'm sorry, would you ask that again?                  4 Q Sure. So in any of these positions, have you                  5 provided care to transgender people? 10:32:03                  6 MR. BARHAM: Objection; form.                  7 THE WITNESS: Yes.                  8 BY COUNSEL SWAMINATHAN:                  9 Q Which positions have you provided care to                  10 transgender people? 10:32:15                  11 A Right now, asking as to the Toronto Sexuality                  12 Centre?                  13 Q Any others?                  14 A I -- I don't have any other clinical                  15 positions. I'm -- again, I'm checking your 10:32:28                  16 question.                  17 When you asked me about my experiences with                  18 trans people, you mean the -- my clinical                  19 experiences within the Toronto Sexuality Centre?                  20 Q Exactly. And I'm just trying to ensure that 10:32:43                  21 I haven't missed any other practices that, you know,                  22 you may have had with respect to, you know,                  23 providing direct care to -- to transgender people.                  24 So I understand your answer to be the Toronto                  25 Sexuality Centre; is that correct? 10:32:57                  Page 77</p>

<p>1 A Yes, I -- I -- that includes trans people and                  2 people with transitions.                  3 Q Okay. And, again, none of this care was                  4 provided to transgender prepubertal kids; right?                  5 A Correct. 10:33:15                  6 Q And none of this care was provided to                  7 transgender adolescents; right?                  8 A Some would be adolescents. I -- I see                  9 clients at ages 16 and up.                  10 Q 16 and up. 10:33:32                  11 And you said your youngest client at the                  12 moment is in their early 20s, but you have seen                  13 clients who have been under the age of 18; is that                  14 right?                  15 A Yes. 10:33:45                  16 Q How many transgender people under the age of                  17 18 have you provided care to?                  18 A Six to eight.                  19 Q Okay.                  20 A While they were in that age. 10:33:58                  21 Q Got it. And what about under the age 16,                  22 have you ever provided care to any transgender                  23 adolescent or prepubertal kid under the age of 16?                  24 A No.                  25 Q Okay. Did any of the care that you provided 10:34:11                  Page 78</p>	<p>1 hormones; right?                  2 A Correct.                  3 Q Are you qualified to refer patients to                  4 providers who are licensed to provide that care?                  5 A I'm not -- the question doesn't quite make 10:35:49                  6 sense to me.                  7 Q Great. I'm -- I'm happy to rephrase.                  8 Have you ever provided a referral for one of                  9 your patients to obtain puberty-delaying treatment                  10 or cross-sex hormones from, let's say, an 10:36:03                  11 endocrinologist?                  12 A It's tough to say. Again, the Canadian                  13 medical system doesn't work quite the same way as                  14 the American way does. A letter from me would                  15 generally be sufficient for a medical provider who 10:36:27                  16 is looking for a licensed mental healthcare provider                  17 to say that a person is mentally healthy and ready                  18 to engage in a medical treatment, but we don't send                  19 the referral -- but -- but in the U.S., I understand                  20 there are certain legal ramifications how that 10:36:53                  21 referral happens, which isn't necessarily relevant                  22 to where I am.                  23 Q I see. So you would provide a letter to                  24 another mental health provider who works with a                  25 patient, who would then be able to provide a 10:37:05                  Page 80</p>
<p>1 to transgender and gender-dysphoric people involve                  2 prescribing puberty-delaying treatment?                  3 A No. I'm not licensed for providing medical                  4 care.                  5 Q And so you're not licensed to provide -- or, 10:34:31                  6 sorry, prescribe hormone therapy; right?                  7 A That is correct.                  8 Q Okay. So your care primarily involved                  9 counseling; right?                  10 A Yes. 10:34:44                  11 Q So with respect to any employment that you've                  12 held, have you ever been subject to discipline by                  13 your employer?                  14 A No.                  15 Q No? And you've spent a significant portion 10:34:55                  16 of your career at CAMH; right?                  17 A Yes.                  18 Q Okay. How have you gotten along with your                  19 colleagues over the span of -- it looks like over                  20 20 -- 20 years? 22 years? How have you gotten 10:35:15                  21 along with your colleagues there?                  22 A In general, very well.                  23 Q And apologies, just one -- one clarification.                  24 So you said that you're not licensed to                  25 prescribe puberty-delaying treatment or cross-sex 10:35:29                  Page 79</p>	<p>1 referral to the medical doctor to prescribe these                  2 treatments; right?                  3 A No. I would be that other mental health                  4 provider.                  5 Q So you would receive a letter from another 10:37:18                  6 practitioner and then that -- you would be the                  7 decision-maker as to whether the person is ready for                  8 a referral to a medical doctor to receive these                  9 treatments; is that correct?                  10 A No. Usually, I would be the initiator. I 10:37:35                  11 mean, a -- a -- any given patient might come to me                  12 through another provider, but that doesn't require                  13 anything -- anything formal or anything in writing.                  14 If the request or the -- if what is                  15 appropriate to the case is that the person does go 10:37:52                  16 on for medical treatment, then I would write a                  17 letter indicating that patient's preparedness for                  18 that medical treatment.                  19 Q I see. And so how often have you written                  20 such a letter? How -- how many times, to your 10:38:03                  21 approximate recollection?                  22 A Two, three dozen.                  23 Q Two, three dozen.                  24 And do you typically write these letters for                  25 those who are above the age of 16? 10:38:17                  Page 81</p>

<p>1 A Yes.</p> <p>2 Q Have you ever written a letter for a patient</p> <p>3 of yours who was under the age of 16 to receive</p> <p>4 puberty-delaying treatment or hormone therapy?</p> <p>5 A No. 10:38:33</p> <p>6 Q Has any patient under the age of 16 come to</p> <p>7 you with that request?</p> <p>8 A I don't see patients under 16.</p> <p>9 Q How about under 18? Has any patient between</p> <p>10 the ages of 16 and 18 come to you with a request 10:38:46</p> <p>11 seeking puberty-delaying treatment or, sorry, at</p> <p>12 that point cross-sex hormones?</p> <p>13 A I haven't had such a request, no.</p> <p>14 Q Okay. Sorry, we were just speaking about</p> <p>15 your colleagues at CAMH, and I was asking you, you 10:39:00</p> <p>16 know, how have you gotten along with your colleagues</p> <p>17 there, and you said fine; is that correct?</p> <p>18 A Generally, quite well, yes.</p> <p>19 Q Generally, quite well.</p> <p>20 Did you ever have any disagreements with 10:39:11</p> <p>21 other employees of CAMH?</p> <p>22 A Yes.</p> <p>23 Q What kinds of disagreements have you had?</p> <p>24 MR. BARHAM: I'm going to object and advise</p> <p>25 not to disclose any confidential information. 10:39:31</p> <p style="text-align: right;">Page 82</p>	<p>1 but that was the formal date of when -- when I left</p> <p>2 CAMH.</p> <p>3 Q I understand.</p> <p>4 What was that disagreement?</p> <p>5 A It had become very apparent to me that the 10:41:05</p> <p>6 psychiatric staff was misusing hospital time for</p> <p>7 their own private practices, and I was ultimately</p> <p>8 unable to change that from happening in a</p> <p>9 substantial way. I thought it was grossly unethical</p> <p>10 and no longer wanted any part of a clinic that would 10:41:24</p> <p>11 -- that would allow that.</p> <p>12 Q And were these psychiatric staff individuals</p> <p>13 that you supervised?</p> <p>14 A No.</p> <p>15 Q No? And to your knowledge, if -- if you 10:41:34</p> <p>16 know, how were they misusing hospital time?</p> <p>17 A They were seeing private patients and using</p> <p>18 hospital resources for those private patients.</p> <p>19 Q And would those patients be coming to the</p> <p>20 hospital, or would these be virtual sessions? 10:41:51</p> <p>21 A Coming to the hospital.</p> <p>22 Q Yeah, I'm just trying to get a better</p> <p>23 understanding of whether, you know, these</p> <p>24 psychiatric staff were seeing these patients and the</p> <p>25 patients were not registered in the hospital 10:42:06</p> <p style="text-align: right;">Page 84</p>
<p>1 THE WITNESS: Generally, these were, you</p> <p>2 know, minor administrative disagreements about how</p> <p>3 something should be done or -- or efficiency.</p> <p>4 The largest disagreement I had was not</p> <p>5 related to gender -- to gender issues at all, but it 10:39:51</p> <p>6 ultimately was what motivated my leaving the</p> <p>7 hospital.</p> <p>8 BY COUNSEL SWAMINATHAN:</p> <p>9 Q It was not related to issues of gender</p> <p>10 dysphoria or related to transgender people? 10:40:04</p> <p>11 A Correct.</p> <p>12 Q And it caused you to leave the hospital.</p> <p>13 And was that in 2018?</p> <p>14 A Yes.</p> <p>15 Q Okay. So you've never had any issue come up 10:40:18</p> <p>16 relating to the topic of transgender people; right?</p> <p>17 A When you now say "never had any issue come</p> <p>18 up," we're -- we're still talking in which -- in</p> <p>19 which context?</p> <p>20 Q Apologies. Let me -- let me clarify. 10:40:38</p> <p>21 So you said that there was a disagreement in</p> <p>22 2018 that caused you to leave CAMH; right?</p> <p>23 A I wouldn't say that there was a disagreement</p> <p>24 in 2018. It took me several years to -- to get</p> <p>25 to -- to get to that point, but that certainly -- 10:40:54</p> <p style="text-align: right;">Page 83</p>	<p>1 records.</p> <p>2 Is -- is that what happened?</p> <p>3 A The --</p> <p>4 MR. BARHAM: I'm going to object and caution</p> <p>5 you about resealing confidential information. 10:42:16</p> <p>6 COUNSEL SWAMINATHAN: Objection noted. Thank</p> <p>7 you.</p> <p>8 THE WITNESS: That's not how the system</p> <p>9 exactly was set up. Because of the nature of the</p> <p>10 laboratory, it was permitted to see nonhospital 10:42:35</p> <p>11 patients, but hour by hour and patient by patient,</p> <p>12 they were encroaching on hours that should have been</p> <p>13 reserved for hospital patients, but hospital</p> <p>14 patients were getting displaced for the private</p> <p>15 patients. 10:42:49</p> <p>16 Q And how, exactly, did this -- this misuse of</p> <p>17 time lead you to your decision to leave the hospital</p> <p>18 entirely?</p> <p>19 A It became apparent -- it became apparent that</p> <p>20 some money resources had been bled away from the 10:43:12</p> <p>21 clinic that there were no -- at one time, the -- the</p> <p>22 regular patients who were regularly getting referred</p> <p>23 ceased being referred. The referral sources</p> <p>24 realized that the delays got so long, they didn't</p> <p>25 bother referring anybody anymore, and if there are 10:43:27</p> <p style="text-align: right;">Page 85</p>

1 no people, then -- if there are no referrals,  
2 there's no clinic. If there's no clinic, there's no  
3 research.  
4 I was able to correct it for a time, but I  
5 was unable to get the hospital to change its policy 10:43:40  
6 to make it permanent.  
7 Q I see. And so your disagreement with how the  
8 hospital handled that situation is what caused you  
9 to leave; right?  
10 A Yes. 10:43:53  
11 Q And prior to that, I think you testified that  
12 you've had no other disagreements during your time  
13 at CAMH with respect to topics concerning  
14 transgender people; right?  
15 MR. TRYON: Objection; form. 10:44:12  
16 THE WITNESS: Correct.  
17 BY COUNSEL SWAMINATHAN:  
18 Q You've never disagreed with any employee as  
19 to what proper care for transgender individuals  
20 should be? 10:44:19  
21 MR. TRYON: Objection.  
22 THE WITNESS: Not that I recall, no.  
23 BY COUNSEL SWAMINATHAN:  
24 Q Okay. So let's move to page 3 of your CV, if  
25 you still have that up in front of you. 10:44:33  
Page 86

1 A Yes.  
2 Q Great. Can you take a moment to review?  
3 I -- I believe pages 3 through 7 list  
4 publications that you have authored and coauthored;  
5 right? 10:44:57  
6 A Yes.  
7 Q Okay. Approximately how long have you been  
8 authoring publications?  
9 A You said three pages? I'm counting five.  
10 Q 3 through 7, sorry. 3, 4, 5, 6 -- 10:45:11  
11 A Oh, pages 3 through 7?  
12 Q Yes, yes.  
13 A I understand.  
14 Yes, I'm sorry, what was your question again?  
15 Q Approximately how long have you been 10:45:23  
16 authoring publications?  
17 A Oh, almost 30 years.  
18 Q Almost 30 years.  
19 And what topics do you predominantly write  
20 about? 10:45:33  
21 A Human sexuality and atypical sexualities.  
22 Q And within human sexuality and atypical  
23 sexuality, what subjects do you primarily focus on?  
24 A Sexual orientation, paraphilias and gender  
25 identity. 10:45:51  
Page 87

1 Q And you have 64 articles listed here under  
2 "Publications"; right?  
3 A That's -- yes.  
4 Q When did you start writing and researching  
5 about paraphilias? 10:46:06  
6 A Specifically about the paraphilias, soon  
7 after I arrived at CAMH.  
8 Q Okay. So that would be around 1998, '99  
9 timeframe?  
10 A Roughly, yes. 10:46:21  
11 Q Okay. And how many of these publications  
12 focus on transgender and gender-dysphoric people?  
13 A I have listed them on my CV. I'd have to  
14 count. It's roughly a half dozen.  
15 Q Why don't we go through these pages together. 10:46:39  
16 So your first publication titled "Transgender  
17 and gender diverse children and adolescents:  
18 Fact-checking of AAP policy," authored by J. Cantor  
19 in 2020; is that correct?  
20 A Yes. 10:46:58  
21 Q And you would say that publication pertains  
22 to issues of transgender and gender dysphoria in  
23 people; right?  
24 A Yes.  
25 Q Great. I'm looking down the list now. 10:47:08  
Page 88

1 Is there anything else on page 3, any other  
2 publication listed on page 3 that deals specifically  
3 with transgender individuals or individuals  
4 diagnosed with gender dysphoria?  
5 A No. 10:47:29  
6 Q Okay. Let's go to page 4. Can we go through  
7 this same exercise?  
8 Is this there any publication on this page  
9 that relates specifically to transgender individuals  
10 or individuals with gender dysphoria? 10:47:52  
11 A Only indirectly, number 26, Fazio and Cantor.  
12 Q What do you mean by "indirectly"?  
13 A One of the ways -- left-handedness is more  
14 common among people who are trans or gay, for that  
15 matter, than -- than not. 10:48:18  
16 Q And that's the only -- that's the only way  
17 that this article is connected to issues concerning  
18 people who are transgender and gender dysphoric;  
19 right?  
20 A Yes. 10:48:33  
21 Q Okay. Great. Let's go to page 5 of your  
22 list of publications.  
23 A Yes.  
24 Q Can we go through that same exercise?  
25 I can see that number 30 concerns paraphilia, 10:48:43  
Page 89

<p>1 gender dysphoria and hypersexuality, so I assume                  2 that article relates to transgender or                  3 gender-dysphoric people in some regard; right?                  4 A Yes.                  5 Q Is there any other article on that page that 10:48:57                  6 relates to what we're speaking about?                  7 A That particular one, that's a -- the relevant                  8 chapter in the Oxford Textbook of Psychopathology.                  9 I just finished writing the new version of that, but                  10 it's not yet in my CV. The book hasn't come out 10:49:17                  11 yet.                  12 Q Okay. Great. So just number 30; right?                  13 And then can we --                  14 A Hang on. I'm going through the rest of the                  15 list. 10:49:32                  16 Q Oh, apologies.                  17 A Again, indirectly, number 37, Cantor, 2012,                  18 "Is homosexuality a paraphilia?" Again, gender                  19 identity factors indirectly, in answering that                  20 question. 10:49:48                  21 Q So, again, your testimony is that 37                  22 indirectly focuses on transgender people and gender                  23 identity disorders as related to homosexuality as a                  24 paraphilia; is that right?                  25 A The evidence -- exactly as the -- the title 10:50:03                  Page 90</p>	<p>1 Q Got it. Are there any other articles on this                  2 page that relate to transgender --                  3 A Yes.                  4 Q -- or gender dysphoria?                  5 A Yes. Number 40, which is the then prior 10:51:33                  6 version of that chapter for the Oxford Textbook of                  7 Psychopathology, but the chapter was retitled, so                  8 the phrase "gender identity" doesn't appear in the                  9 title in that -- in that title. Or it doesn't                  10 appear in the title in that version. 10:51:50                  11 Q So this chapter titled "Sexual disorders"                  12 encompasses information about transgender identities                  13 and gender dysphoria; is that right?                  14 A Yes.                  15 Q Okay. Anything else on this page? 10:51:59                  16 A No.                  17 Q Okay. We're almost done with this exercise.                  18 Page 6. Are there any articles on page 6 of                  19 your CV that focus --                  20 A Yes. Number 53, Zucker, et al. 10:52:26                  21 Q Okay. "The Recalled Childhood Gender                  22 Identity/Gender Role Questionnaire: Psychometric                  23 properties."                  24 So this publication focuses on issues                  25 pertaining to transgender and gender-dysphoric 10:52:42                  Page 92</p>
<p>1 states, reviewing the evidence and the arguments                  2 that have been posed for each side.                  3 Q So how does this article specifically address                  4 issues of transgender people and gender dysphoria                  5 individuals? 10:50:21                  6 A There is a specific paraphilia called                  7 "autogynephilia" which is strongly related to the                  8 motivator -- which is strongly -- which is one of                  9 the strongest motivatives for adults who want to                  10 transition, specifically from male to female. 10:50:36                  11 Q So --                  12 A Whether they --                  13 Q Apologies. Continue.                  14 A Whether they consider themselves heterosexual                  15 or homosexual is often rooted at what their stage of 10:50:45                  16 transition is. So it makes the question of                  17 whether -- sexual orientations of paraphilia a                  18 little more complicated.                  19 Q Got it. And as you just testified,                  20 autogynephilia applies to adults; right? 10:51:00                  21 A That's not exactly it, no. Usually in a                  22 clinic, autogynephilia is the primary motivator                  23 behind most -- most people who start becoming gender                  24 dysphoric in adulthood, but that doesn't mean it's                  25 limited to adulthood. 10:51:21                  Page 91</p>	<p>1 individuals; right?                  2 A Children specifically, yes.                  3 Q Children specifically. Okay.                  4 Anything else on this page?                  5 A No. 10:52:51                  6 Q And the last page, page 7, are there any                  7 articles on this page that pertain to transgender                  8 individuals or gender-dysphoric individuals?                  9 A No.                  10 Q Great. So you've identified six articles for 10:53:15                  11 me, and, if you don't mind, I'd like to go through                  12 those six articles in a little bit more depth. So                  13 if you could turn back to page 3.                  14 Would it be fair to describe your work that                  15 you've done in connection with these articles as 10:53:40                  16 research?                  17 A Broadly speaking, in different contexts,                  18 people use the word "research" different ways.                  19 Q I don't want to misrepresent your work, so                  20 how -- how would you describe what goes into the 10:53:52                  21 publication of these articles? Would you call it                  22 research or study?                  23 Is "study" a more appropriate word?                  24 A Again, these mean different things in                  25 science, and we would use different words in 10:54:11                  Page 93</p>



<p>1 different contexts.                  2 Usually when I use the word "research," we're                  3 talking about actually collecting original data,                  4 analyzing patterns and then reporting the results of                  5 those analyses. 10:54:24                  6 Q Okay.                  7 A In science, of course, when there are many                  8 such -- many such observations reported, we then go                  9 through and read -- read those, accumulate those and                  10 find patterns in those sets of observations. 10:54:34                  11 So some people would call that research;                  12 others, not. There also exists people who just                  13 refer -- review all of the research and summarize it                  14 all into one. That also would legitimately be                  15 called research. 10:54:51                  16 Q Okay. So why don't we go through these and                  17 you can correct me if I'm mischaracterizing                  18 anything.                  19 But article 1, to me, seems like a review; is                  20 that correct? 10:55:02                  21 A That would be fair to say. In -- as I say,                  22 some people would call that research.                  23 Q Okay. So why did you author this article?                  24 A When the AAP first published its paper, it                  25 very obviously, to me, contained glaring error after 10:55:24                  Page 94</p>	<p>1 A Yes.                  2 Q Who is Fazio?                  3 A She was a graduate student who was studying                  4 under me for her internship and then --                  5 Q Got it. 10:56:47                  6 A -- and then post-doc.                  7 MR. TRYON: Pardon me, Counsel, which number                  8 are we on?                  9 COUNSEL SWAMINATHAN: Apologies. We are on                  10 page 4 of Dr. Cantor's CV and Article No. 26. 10:56:54                  11 MR. TRYON: Thank you.                  12 COUNSEL SWAMINATHAN: No worries.                  13 BY COUNSEL SWAMINATHAN:                  14 Q Okay. And so this is the article that you                  15 mentioned tangentially related to transgender people 10:57:05                  16 and gender identity disorders because of the                  17 left-handed association; is that correct?                  18 A Yes.                  19 Q Okay. And did you author this article out of                  20 your own volition, or were you requested by a 10:57:26                  21 certain entity to -- to research this issue?                  22 A Neither. It was Fazio's initially.                  23 Q Okay. And so you were supervising Fazio's                  24 research; is that correct?                  25 A This portion of it, yes. 10:57:41                  Page 96</p>
<p>1 glaring error. It repeatedly said whatever original                  2 studies made such a claim. I was well aware of that                  3 original study and knew that it made no such claim.                  4 At that time, especially, there were                  5 relatively few people who knew any of the research 10:55:43                  6 on gender identity, so I simply conducted a                  7 fact-check of all the claims that were made by the                  8 AAP.                  9 Q So this article doesn't include any original                  10 research of yours; right? 10:55:54                  11 A I did not collect data for it.                  12 Q Okay. Who requested that you write this                  13 article?                  14 A No one.                  15 Q No one? 10:56:06                  16 So it was your decision to fact-check the AAP                  17 policy; right?                  18 A Yes.                  19 Q It wasn't at the request of any other entity?                  20 A Correct. 10:56:16                  21 Q Okay. And let's go on to number 26, which I                  22 believe is the next publication, on page 4.                  23 A Yes.                  24 Q So this is an article that you authored along                  25 with Fazio; is that correct? 10:56:38                  Page 95</p>	<p>1 Q Okay. Great.                  2 And can we go to number 30 now, which is at                  3 the top of page 5 of your CV?                  4 A Yes.                  5 Q You mention that there is a new version of 10:57:58                  6 this Oxford textbook that is in the works right now;                  7 right?                  8 A Yes.                  9 Q And in this current version, you wrote this                  10 chapter with Sutton, K. S.; is that right? 10:58:14                  11 A Yes.                  12 Q Who is Sutton?                  13 A He was a postdoctoral fellow of mine at the                  14 time.                  15 Q I see. And you coauthored this article in 10:58:27                  16 2014; is that right?                  17 A That's the year it came out. I don't                  18 remember the date when we submitted the manuscript.                  19 Q Okay. A quick clarifying question.                  20 Is there a reason that your name is first in 10:58:42                  21 this article and Sutton's is second, but in the                  22 prior article we were looking at, Fazio's name was                  23 first and your name was second?                  24 A Just reflecting proportion of -- of effort                  25 into it. As I say, I -- with Fazio, I was 10:59:00                  Page 97</p>

<p>1 participating only in a particular portion. And                  2 with Sutton, I was the primary author and Sutton                  3 added in other details.                  4 Q Got it. Okay.                  5 And so, can you remind me again, how exactly 10:59:12                  6 does this article relate to transgender people or                  7 people with gender dysphoria?                  8 A A section of that chapter is specifically                  9 about transgenderism.                  10 Q What is that chapter focused on? 10:59:24                  11 A I'm sorry, I'm no longer sure that we're                  12 talking about the same chapter. I'm talking about                  13 the chapter with Sutton.                  14 Q What -- what -- you mentioned that a portion                  15 of the chapter focuses on transgender identities; 10:59:41                  16 right?                  17 A Yes.                  18 Q I'm asking you to describe that portion a                  19 little bit more for me.                  20 A Oh. In that portion, we reviewed what, until 10:59:52                  21 then, was known about gender -- gender identity,                  22 gender dysphoria and transsexualism in children and                  23 adults.                  24 Q And this was independent research that you                  25 and Sutton conducted? 11:00:04</p> <p style="text-align: right;">Page 98</p>	<p>1 it.                  2 Q Uh-huh.                  3 A Book chapters are by invitation. The book                  4 editors then select topic experts and -- and invite                  5 them to submit a chapter for the book. 11:01:38                  6 Q Got it.                  7 A That chapter gets peer reviewed in the way                  8 that it's sent to other topic experts for -- for                  9 feedback, but it's not reviewed in the same should                  10 we consider this at all, I don't know anything about 11:01:49                  11 this topic and then need an expert to tell me, which                  12 would happen in the journal peer review system.                  13 Q Understood. So you were invited to author                  14 this chapter by Blaney and Millon; is that correct?                  15 A Correct. 11:02:02                  16 Q Okay. And when did they extend this                  17 invitation to you? Because previously when I said                  18 that, you know, it was published in 2014, you                  19 mentioned that the work that has been put into it                  20 was ongoing prior to 2014. 11:02:17                  21 So when -- when did they approach you about                  22 authoring this chapter?                  23 A I don't recall exactly. It would have been                  24 about a year and a half to two years ahead of time.                  25 Q Okay. Great. 11:02:29</p> <p style="text-align: right;">Page 100</p>
<p>1 A It was a review, as I said, of what was                  2 already known about those topics at that time.                  3 Q Got it. And were there any findings that you                  4 presented that were separate from what data was                  5 already existing in this review that you mentioned? 11:00:22                  6 Was there any new finding that came out of this                  7 article?                  8 A Not an empirical finding. When we saw                  9 patterns in the research or comparisons between                  10 different kinds of atypical sexualities and so on, 11:00:39                  11 we would -- we would add those, but the focus of the                  12 chapter and the purpose of the textbook was to                  13 convey to readers what was already established in                  14 the science.                  15 Q And -- and I assume this chapter was reviewed 11:00:51                  16 by others; right?                  17 A Yes. That particular book, the Oxford                  18 Textbook of Psychopathology, is one of the best                  19 known such texts in the world.                  20 Q Assume that it's a peer-reviewed text; right? 11:01:06                  21 A I would hesitate to call it peer reviewed.                  22 It's not peer reviewed in the way that journal                  23 articles are peer reviewed. In journal articles,                  24 it's initiated by the author, sent into the journal                  25 and the journal can either publish or not publish 11:01:25</p> <p style="text-align: right;">Page 99</p>	<p>1 And then you mentioned number 37, article 37,                  2 is related to transgender identities and gender                  3 dysphoria as related to autogynephilia; is that                  4 correct?                  5 A The -- yes, the nexus between the topics is 11:02:42                  6 autogynephilia. In order to answer the questions                  7 that I had set for myself requires that people know                  8 each chunks of that literature.                  9 Q Got it. Okay.                  10 And article 40, you also mention that the 11:03:03                  11 title is "Sexual disorders," but that's only because                  12 it's a previous version of the title that did not                  13 include issues of gender identity; is that correct?                  14 A Yes.                  15 Q And the textbook actually includes 11:03:17                  16 information pertinent to transgender individuals and                  17 gender identity disorders; is that right?                  18 A Correct. In the years after that, it                  19 became -- it became more and more uncontested                  20 whether gender identity should automatically be 11:03:36                  21 called a -- a disorder at all. So by parsing out                  22 the title, we removed the word "disorder"                  23 altogether.                  24 Q I see. And this -- this came out in 2009; is                  25 that right? 11:03:52</p> <p style="text-align: right;">Page 101</p>

<p>1 A Correct.</p> <p>2 Q And then the last one you mentioned was on</p> <p>3 page 6 of 32 of your CV, and it's Article No. 53,</p> <p>4 the Zucker article. And you mentioned that this</p> <p>5 article focuses on children with gender identity 11:04:05</p> <p>6 disorders; is that right?</p> <p>7 A Yes.</p> <p>8 Q Can you tell me more about this -- and</p> <p>9 however you call it, a study or research that went</p> <p>10 into this article? 11:04:29</p> <p>11 A I provided primarily statistical input into</p> <p>12 the article. The topic on it was how to find the</p> <p>13 most objective and reliable way to ask about events</p> <p>14 in childhood and how cross-gender they were.</p> <p>15 Q So what do you mean by "statistical input"? 11:04:49</p> <p>16 A Because I have a substantial background in</p> <p>17 statistics, I'm often asked to -- to add to the</p> <p>18 statistical analyses that -- or to double-check the</p> <p>19 statistical analyses that any researcher is doing.</p> <p>20 Q So is this Zucker article a compilation of 11:05:06</p> <p>21 original research?</p> <p>22 A It is an original piece of research, yes.</p> <p>23 Q It is an original piece of research.</p> <p>24 And your contribution to the article was to</p> <p>25 ensure that the statistical analysis was sound; is 11:05:19</p> <p style="text-align: right;">Page 102</p>	<p>1 not -- I'm not sure I know how to answer that</p> <p>2 question.</p> <p>3 BY COUNSEL SWAMINATHAN:</p> <p>4 Q Sure. Let me ask a better question.</p> <p>5 What is your understanding of what this case 11:06:33</p> <p>6 is about?</p> <p>7 A Well, there's what the case is about and</p> <p>8 there's what I've been asked to contribute --</p> <p>9 Q Sure. My question is, what is your</p> <p>10 understanding of what this case is about? 11:06:43</p> <p>11 A Is whether it's fair and appropriate for</p> <p>12 biological males to participate in -- on biological</p> <p>13 female teams.</p> <p>14 Q And do any of these publications inform your</p> <p>15 opinion on the issues that you just identified? 11:07:03</p> <p>16 A I --</p> <p>17 MR. BARHAM: Objection; form.</p> <p>18 THE WITNESS: I would hesitate to say</p> <p>19 "inform" because several of my publications in turn</p> <p>20 reflect what's in the rest of the empirical 11:07:21</p> <p>21 literature, and it's the entire empirical literature</p> <p>22 that informs my opinion. It can't really be</p> <p>23 separated. But none -- none of my opinion about</p> <p>24 this case developed from my publications. Rather,</p> <p>25 my publications and my opinion both come from the 11:07:40</p> <p style="text-align: right;">Page 104</p>
<p>1 that correct?</p> <p>2 A I don't think it's fair to limit my</p> <p>3 contribution to that, but that was my predominant</p> <p>4 role.</p> <p>5 Q Fair to say it was your predominant 11:05:31</p> <p>6 contribution; right?</p> <p>7 A Yes.</p> <p>8 COUNSEL SWAMINATHAN: I just want to check in</p> <p>9 because I think it's been about an hour. So I was</p> <p>10 wondering if you need a break. Or, Counsel Travis, 11:05:40</p> <p>11 if -- if you want to take another short five-minute</p> <p>12 break.</p> <p>13 THE WITNESS: I'm okay.</p> <p>14 COUNSEL SWAMINATHAN: You're okay --</p> <p>15 MR. BARHAM: I'm fine with continuing. 11:05:47</p> <p>16 COUNSEL SWAMINATHAN: Okay. Sounds good.</p> <p>17 BY COUNSEL SWAMINATHAN:</p> <p>18 Q So of these six publications that we just</p> <p>19 talked about, none of these publications focus on</p> <p>20 transgender people in athletics; right? 11:06:02</p> <p>21 A Correct.</p> <p>22 Q Do any of these publications relate to the</p> <p>23 issues in this case?</p> <p>24 MR. TRYON: Objection.</p> <p>25 THE WITNESS: Do they relate? I -- I'm 11:06:22</p> <p style="text-align: right;">Page 103</p>	<p>1 sum of the scientific literature.</p> <p>2 BY COUNSEL SWAMINATHAN:</p> <p>3 Q I appreciate that explanation. Thank you.</p> <p>4 Let's go on to the next section of your CV.</p> <p>5 So on, let's see, page 8, you have a list of 11:07:55</p> <p>6 letters and commentaries that you have authored and</p> <p>7 coauthored; right?</p> <p>8 A Yes.</p> <p>9 Q Approximately how long have you been offering</p> <p>10 letters and commentaries? 11:08:18</p> <p>11 A Roughly 20 years.</p> <p>12 Q And what topics do you predominantly comment</p> <p>13 on?</p> <p>14 A Atypical sexuality in humans.</p> <p>15 Q When did you start commenting on atypical 11:08:32</p> <p>16 sexualities?</p> <p>17 A The first publication on it was in 2000.</p> <p>18 Q And is that the -- Publication No. 14 that</p> <p>19 was listed -- that's listed here on page 8?</p> <p>20 A Yes, it is. 11:08:56</p> <p>21 Q And do any of these publications focus on</p> <p>22 transgender people or people with gender dysphoria?</p> <p>23 A Yes.</p> <p>24 Q Which ones?</p> <p>25 A Numbers 6, 9, 10, 11. And I don't recall if 11:09:11</p> <p style="text-align: right;">Page 105</p>

<p>1 number 12 did, but I think not.                  2 Q Okay. So we're working with number 6, 9, 10                  3 and 11, right, under "Letters and Commentaries"?                  4 A Yes.                  5 Q And Letter No. -- or Letter or Commentary 11:09:59                  6 No. 6, this is a comment that you wrote in response                  7 to Italiano's 2012 comment on an article that you                  8 had written in 2011; is that right?                  9 A Yes.                  10 Q Does this comment have anything to do with 11:10:20                  11 transgender children and adolescents playing sports?                  12 A No.                  13 Q Let's turn to number 9, which is -- is this a                  14 letter, or is this commentary?                  15 A A letter. 11:10:44                  16 Q A letter.                  17 A The difference -- there really -- it's a                  18 general standard whether they say "commentary" or                  19 "letter." There's no rigorous or systematic                  20 difference between the terms. 11:10:54                  21 Q Got it. Thank you.                  22 And so this was in 2011, entitled "New MRI                  23 studies support the Blanchard typology of                  24 male-to-female transsexualism."                  25 Did I read that accurately? 11:11:03</p> <p style="text-align: right;">Page 106</p>	<p>1 research, or is this a review of existing research?                  2 A Original research.                  3 Q Who funded this research?                  4 A It wasn't funded in a direct way. It                  5 required no -- it required no funding. It wasn't 11:12:54                  6 the kind of a study that required hiring new people                  7 or equipment.                  8 Q I see. So there was no grant application                  9 process or something similar associated with this                  10 publication; right? 11:13:07                  11 A Correct.                  12 Q How did the authors of this study, including                  13 yourself, come together to conduct this research?                  14 A They were already colleagues at CAMH.                  15 Q Got it. So these are all employees of CAMH? 11:13:25                  16 A At that time, yes.                  17 Q Were any of these authors students or --                  18 sorry, fellows?                  19 A I don't recall if Kibblewhite was. They may                  20 have been. 11:13:47                  21 Q Okay. And you said that this study was not                  22 directly funded. Was it indirectly funded in any                  23 way?                  24 A It would be reasonable to say that the                  25 hospital's salary support of the staff was an 11:14:00</p> <p style="text-align: right;">Page 108</p>
<p>1 A I'm sorry, say that again.                  2 Q The -- it's titled "New MRI studies support                  3 the Blanchard typology of male-to-female                  4 transsexualism."                  5 Did I read that accurately? 11:11:16                  6 A Yes.                  7 Q Okay. And did this letter have anything to                  8 do with transgender children or adolescents playing                  9 sports?                  10 A No. 11:11:34                  11 Q No? Let's look at number 10. This is --                  12 this is authored by Zucker, Bradley, Own-Anderson,                  13 Kibblewhite and yourself; is that correct?                  14 A Yes.                  15 Q And it's titled "Is gender identity disorder 11:11:51                  16 in adolescents coming out of the closet?"; correct?                  17 A Yes.                  18 Q Can you tell me a bit about this letter or                  19 commentary? Why was it written?                  20 A So we were observing, in those days -- we're 11:12:14                  21 now going back almost 15 years -- seeing the                  22 beginnings of the great increase in the number of                  23 adolescents presenting to clinics expressing gender                  24 dysphoria.                  25 Q Okay. And is this a piece of original 11:12:30</p> <p style="text-align: right;">Page 107</p>	<p>1 indirect funding, but it wasn't related to any --                  2 any one particular study at all.                  3 Q Got it. And just to clarify, this is a study                  4 that you-all came together to carry out on -- on                  5 your own, not at the request of anyone? 11:14:17                  6 A Correct.                  7 Q Okay. And is this study related to                  8 transgender children or adolescents participating in                  9 athletics specifically?                  10 A No. 11:14:30                  11 Q Okay. And then you said, finally, number 11                  12 under "Letters and Commentaries." It's a review, in                  13 2003, of the book The Man Who Would Be Queen by                  14 J. Michael Bailey. Did I read that accurate?                  15 A Yes. 11:14:52                  16 Q What is The Man Who Would Be Queen?                  17 A It was a book by J. Michael Bailey, published                  18 at the time, describing for the lay public gender                  19 identity and transsexualism in children -- well, in                  20 children and adults. 11:15:10                  21 Q Did the book focus on children or adults?                  22 A I don't think it's fair to say it focused on                  23 either. It spanned a lifetime.                  24 Q Understood. I'm just trying to understand                  25 because it says "The Man Who Would Be Queen," 11:15:26</p> <p style="text-align: right;">Page 109</p>

<p>1 instead of "The Boy." So I was just wondering how                  2 old the protagonist of this book is, to your                  3 recollection.                  4 A There wasn't a single protagonist. There                  5 were multiple protagonists. 11:15:38                  6 Q What was the average age of the multiple                  7 protagonists in this book?                  8 A Oh, I don't recall, and I'm not sure that                  9 that's meaningful. That is, in the book, Bailey was                  10 describing the phenomena of transsexuality and 11:16:00                  11 gender dysphoria and then used individual cases and                  12 describes people in order to -- in order to help,                  13 you know, color the -- the issue for -- for the                  14 audience, but it wasn't -- it wasn't of a number of                  15 people by which one could calculate an average. He 11:16:20                  16 described a couple of children, and he described a                  17 couple of adults, and he tried to -- did his best to                  18 describe people who were transitioning in each                  19 direction.                  20 Q I understand. I'm -- sorry. I was just 11:16:30                  21 trying to clarify whether this was book was similar                  22 to, you know, the clinical work that you do, where                  23 you speak to adults or people over the age of 16                  24 and, you know, retroactively gain their childhood --                  25 gain knowledge of their childhood experiences or if 11:16:47                  Page 110</p>	<p>1 in your testimony, it does not focus solely on adult                  2 transitioners; right?                  3 A It's not limited -- it's not at all limited                  4 to adults.                  5 Q It's not at all limited to adults, but more 11:18:33                  6 generally, it speaks to adults as opposed to                  7 children?                  8 MR. TRYON: Objection; form.                  9 THE WITNESS: I hesitate to say that it                  10 speaks to either one any more than the other. 11:18:45                  11 BY COUNSEL SWAMINATHAN:                  12 Q Okay. That's fair.                  13 And then at the bottom of the page and then                  14 the next page, you have a list of your publications,                  15 specifically your editorials, and that is your CV 11:18:59                  16 page 8 and 9.                  17 A Yes.                  18 Q Okay. And so approximately how long have you                  19 been authoring editorials?                  20 A About 20 years. 11:19:18                  21 Q 20 years. And what topics do you                  22 predominantly write on in terms of your editorial                  23 publications?                  24 A Primarily on the editorial process itself.                  25 I'm on the editorial board for the Archives of 11:19:32                  Page 112</p>
<p>1 this book, the individual cases that you mentioned,                  2 were actually children versus adults.                  3 And you say it's a mix of both; right?                  4 A It includes cases of both.                  5 Q Yeah. Okay. That -- that's all I was 11:17:01                  6 wondering. Thank -- thank you.                  7 And so why did you review this book?                  8 A For the same reason I -- I -- for the same                  9 reason that I wrote the AAP study. The book was                  10 fascinating, well written, very informative, 11:17:19                  11 useful -- and useful to society, but also very                  12 controversial. So I thought it would be useful, as                  13 one of the few people qualified to -- to do so, to                  14 compare the book with -- with the actual research at                  15 the time. 11:17:37                  16 Q Did anyone request you to write this review?                  17 A No.                  18 Q Did you speak to Michael Bailey while writing                  19 this review?                  20 A I don't recall. I had already met him before 11:17:47                  21 I wrote the review. I don't recall contacting him                  22 at all while I was writing.                  23 Q And so to your recollection and speaking                  24 about it more generally, this book has to do with                  25 the full age range of transgender identities, and, 11:18:20                  Page 111</p>	<p>1 Sexual Behavior, and I serve as editor in chief for                  2 the journal Sexual Abuse.                  3 So it's routine for editors and editorial                  4 board members to comment on the structure and                  5 recurrences within the journal itself. 11:19:47                  6 Q When did you start sitting on the board, the                  7 editor -- as -- as the editor in chief of the                  8 journal Sexual Abuse?                  9 A It's on my CV. I don't recall the year.                  10 Q Approximately how long do you remember 11:20:03                  11 sitting on the board for or sitting in that                  12 position?                  13 A Roughly 15 to 20 years.                  14 Q Okay. And so you have ten publications                  15 listed here under "Editorials"; is that right? 11:20:18                  16 A Yes.                  17 Q And from my view of the ten editorials, is it                  18 fair to say that you predominantly comment on sexual                  19 abuse?                  20 A I wasn't -- no, I wasn't commenting on sexual 11:20:35                  21 abuse itself. I was commenting on the journal                  22 entitled Sexual Abuse.                  23 Q Okay. So when you're commenting on the                  24 journal entitled Sexual Abuse, what is the nature of                  25 this commentary? 11:20:52                  Page 113</p>

<p>1 A Number of publications, people coming and                  2 leaving the editorial board, my plans for the                  3 journal for the future. We weren't talking about                  4 the topic within the journal. We were talking about                  5 the journal as the topic. 11:21:05                  6 Q I see. Okay. So these are -- these are                  7 comments on kind of the -- the structure or the                  8 future of the journal itself, not specific                  9 substantive reviews of the articles contained within                  10 these journals; is that right? 11:21:21                  11 A Yes.                  12 Q Okay. And then on page 10 of your CV, you've                  13 listed your funding history; is that right?                  14 A Yes.                  15 Q And so these two pages list the funding that 11:21:38                  16 you've been the recipient of over the course of your                  17 career; right?                  18 A Yes.                  19 Q Is this a comprehensive list of the grants                  20 you've received? 11:21:54                  21 A Yes.                  22 Q And you were a co-investigator for four out                  23 of the seven times that you received funding for a                  24 study; right?                  25 A Just checking. 11:22:08                  Page 114</p>	<p>1 So is that the amount of funds that were                  2 awarded over a period of five years?                  3 A Yes, that's correct.                  4 Q Not each year; right? It's a totality of the                  5 funds received over five years? 11:23:51                  6 A Correct.                  7 Q Okay. And when it says "July, 2018," does it                  8 mean that you -- like, the funds started coming in                  9 in July 2018 and continue on to, presumably,                  10 July 2023; is that correct? 11:24:07                  11 A June 2023, but yes.                  12 Q Okay. June 2023.                  13 And so can you describe the study to me?                  14 A The study itself is to take brain scans of                  15 kids throughout the process of -- throughout their 11:24:28                  16 process of transitions.                  17 Q Okay. And how did you discover this                  18 opportunity?                  19 A I had worked, at least indirectly, with some                  20 of these authors before. It's -- they're -- they -- 11:24:41                  21 they're running the study, but, of course, they                  22 needed somebody with a background in brain imaging,                  23 in statistics and in human sexuality, including                  24 gender identity.                  25 Q So who are Doug VanderLaan and 11:24:58                  Page 116</p>
<p>1 Q No problem.                  2 A Yes, that's correct.                  3 Q And you were a principal investigator, then,                  4 for three out of the seven times you received                  5 funding for a study; correct? 11:22:26                  6 A Yes.                  7 Q Were any of these seven awards of funds                  8 related to the study or treatment of gender                  9 dysphoria for transgender people?                  10 A Yes. 11:22:40                  11 Q Can you point me to which ones, please?                  12 A The first one, "Brain function and                  13 connectomics following sex hormone treatment in                  14 adolescents experience gender dysphoria."                  15 Q Uh-huh. 11:22:54                  16 A And Effects of hormone treatment on brain                  17 development: A magnetic resonance imaging of --                  18 study of adolescents with gender dysphoria.                  19 Q Great. Thank you.                  20 I would love to talk about those two studies 11:23:19                  21 a bit further. So if we could start with the first                  22 one, which I understand to believe was granted in                  23 July of 2018.                  24 So I see that it says \$650,000 and -- sorry,                  25 \$650,250, and then it has a forward slash, 5 years. 11:23:36                  Page 115</p>	<p>1 Meng-Chuan Lai?                  2 A They now are two sex researcher                  3 neuroscientists specializing in child gender                  4 identity.                  5 Q They specialize in child gender identity 11:25:12                  6 disorders; is that right?                  7 A Yes.                  8 Q What about Megha Mallar Chakravarty, Nancy                  9 Lobaugh, M. Palmert and Skorska?                  10 Apologies if I mispronounced any of those. 11:25:25                  11 A No problem.                  12 They're other statisticians and                  13 neuroscientists involved in the data collection for                  14 MRI research.                  15 Q Are those folks also focused on child gender 11:25:38                  16 dysphoria identities?                  17 A No.                  18 Q No? Okay.                  19 And who applied for the funding for this                  20 study? 11:25:56                  21 A Dr. VanderLaan.                  22 Q VanderLaan.                  23 And are you aware of what papers were                  24 submitted in connection with that application?                  25 A I don't understand the question. Papers 11:26:07                  Page 117</p>

<p>1 submitted for an application?                  2 Q I assume that to apply for a grant, there's                  3 some sort of application process; is that correct?                  4 A Yes.                  5 Q Were you involved in that application 11:26:19                  6 process, or was that solely done by Doug VanderLaan?                  7 A I was involved in relevant parts of it.                  8 Q What was your involvement?                  9 A To review, check and add to the sections on                  10 statistics, neuro- -- and neuroimaging research 11:26:38                  11 methods.                  12 Q Got it. Okay.                  13 And I assume the study is still ongoing;                  14 right?                  15 A Yes, it is. 11:26:48                  16 Q It is.                  17 And you don't have any findings to report                  18 right now; right?                  19 A No, not yet.                  20 Q Okay. And just to check in -- or is this 11:26:59                  21 study at all related to the participation of                  22 transgender children and adolescents in athletics                  23 specifically?                  24 A It's not a topic of the study.                  25 Q Okay. And it looks like you said there was 11:27:17                  Page 118</p>	<p>1 again, over the course of five years, starting from                  2 September 2015; is that right?                  3 MR. TRYON: Objection; form of the question.                  4 THE WITNESS: Yes.                  5 BY COUNSEL SWAMINATHAN: 11:29:01                  6 Q So am I correct that your team of                  7 investigators applied for a second grant to continue                  8 the research that they were doing as a part of this                  9 initial awarding?                  10 A Correct. 11:29:12                  11 Q Is there a reason that they gave you less                  12 money the second time?                  13 A Less was needed.                  14 Q Less was needed?                  15 A Yes. 11:29:20                  16 Q Why was less needed the second time around?                  17 A Changes in staff and then -- and student                  18 needs, just the size of the lab that needed to be --                  19 needed to be supported.                  20 Also, in the second stage of the study, there 11:29:35                  21 are now ongoing participants who require brain                  22 scanning at regular intervals, which is unlike the                  23 earlier part of the study where it was a much wider                  24 range of people getting scanned.                  25 Q I see. And, again, did this first stage of 11:29:49                  Page 120</p>
<p>1 another study where the principal investigator,                  2 Doug VanderLaan, and co-investigators, Bain, Cantor                  3 Chakravarty, Chavez, Lobaugh and Zucker, bas- -- or                  4 the date is September 2015. That's the other study                  5 that you mentioned is relevant to transgender and 11:27:39                  6 gender-dysphoric individuals; right?                  7 A It's a grant, not a study.                  8 Q Sorry, grant. Apologies.                  9 Can you tell me about that grant?                  10 A It was very similar to the first one. In 11:27:51                  11 fact -- well, the one we first discussed, even                  12 though it, chronologically, is first. The                  13 chronologically first one bled into or ran into or                  14 became the second one, which is continuing the                  15 first. 11:28:08                  16 Q I see. So were there independent results                  17 that were obtained from -- from this research, or                  18 did that research continue on into the grant that we                  19 just spoke about?                  20 A That research is continuing on into the 11:28:24                  21 current one.                  22 Q Great. And so it looks like it's the same                  23 agency that awarded both grants; right?                  24 A Correct.                  25 Q And this time, they provided you \$952,955, 11:28:37                  Page 119</p>	<p>1 the study involve the participation of transgender                  2 children or adolescents in athletics?                  3 A The -- the way you phrased your question is a                  4 little funny. The -- the topic of the study wasn't                  5 focused on it, but I would not be at all surprised 11:30:08                  6 if some of the participants in the study were in                  7 turn involved in athletics.                  8 Q Do you anticipate reporting specifically on                  9 athletic performance of transgender athletes in                  10 these studies? 11:30:27                  11 A I don't anticipate reporting on that, no.                  12 Q No? And you don't know for sure that these                  13 study participants may or may not be athletes as                  14 well; right?                  15 A Correct. 11:30:39                  16 Q Okay.                  17 COUNSEL SWAMINATHAN: Okay. How about we                  18 take a five-minute break.                  19 MR. BARHAM: Sounds good.                  20 COUNSEL SWAMINATHAN: Can we go off the 11:30:51                  21 record?                  22 THE VIDEOGRAPHER: Yes. We are going off the                  23 record at 11:31 a.m., and this is the end of Media                  24 Unit No. 2.                  25 (Recess.) 11:47:06                  Page 121</p>

<p>1 THE VIDEOGRAPHER: All right. We are back on                  2 the record at 11:47 a.m., and this is the beginning                  3 of Media Unit No. 3.                  4 Go ahead, please.                  5 BY COUNSEL SWAMINATHAN: 11:47:15                  6 Q Okay. So, Dr. Cantor, can you please turn to                  7 page 16 of your CV.                  8 A I'm there.                  9 Q Awesome. So page 16 through 18, I                  10 understand, lists your paper presentations and 11:47:39                  11 symposia; is that correct?                  12 A Yes.                  13 Q What topics do you predominantly present on?                  14 A The same topics that -- that I research on,                  15 atypical human sexuality. 11:47:56                  16 Q And when did you start presenting on atypical                  17 human sexuality?                  18 A In the 1990s, I believe it was. Roughly                  19 30 years.                  20 Q And it looks like you have 38 presentations 11:48:09                  21 listed here; right?                  22 A Yes.                  23 Q We're going to go through a similar exercise.                  24 Would you please look at page 16 and tell me                  25 whether any of these paper presentations and 11:48:28                  Page 122</p>	<p>1 Q Okay. Who were you asked to present at this                  2 annual meeting by?                  3 MR. BARHAM: Objection; form.                  4 MR. TRYON: Objection; vague.                  5 THE WITNESS: I wasn't -- I wasn't asked. 11:51:28                  6 BY COUNSEL SWAMINATHAN:                  7 Q You weren't asked?                  8 A Correct. I submitted a proposal to -- to                  9 present, and it was accepted.                  10 Q When was it accepted? 11:51:33                  11 A Oh, I don't remember the date. In general,                  12 they were four to six months ahead of the date of                  13 the conference itself.                  14 Q Got it. And what did you have to submit in                  15 order to vie for a spot to present at this annual 11:51:47                  16 meeting?                  17 A A form and a, roughly, one-paragraph summary.                  18 Q And to the best of your recollection, what                  19 did you say in that one-paragraph summary?                  20 A Roughly the same material that's contained in 11:52:03                  21 my report.                  22 Q Can you give me a brief summary of what you                  23 mean by that?                  24 A That very many people exaggerate the amount                  25 of suicide and suicidality that occur-- -- that's 11:52:14                  Page 124</p>
<p>1 symposia focus on transgendered people or                  2 gender-dysphoric people.                  3 A Yes. Number 1. And that's the only one on                  4 this page.                  5 Q Great. And then can we do that same exercise 11:48:59                  6 for page 17 of 32, please, which are 14 through 25.                  7 A Number 23 and number 25.                  8 Q Great. And then the last page, on page 18,                  9 please.                  10 A None on that page. 11:50:33                  11 Q Great. So if we can turn back to page 16 and                  12 look at the first presentation that you have listed.                  13 So I understand it's a presentation given by                  14 yourself in April 2020, and it's titled "I'd rather                  15 have a trans kid than a dead kid: Critical 11:50:51                  16 assessment of reported rates of suicidality in trans                  17 kids."                  18 Did I read that correctly?                  19 A Yes.                  20 Q And this was presented at the annual meeting 11:51:01                  21 of the Society for the Sex Therapy and Research;                  22 right?                  23 A Yes.                  24 Q And I assume it was online due to COVID?                  25 A That's correct. 11:51:12                  Page 123</p>	<p>1 reported amongst trans populations.                  2 Q Got it. And were you paid to give that                  3 presentation?                  4 A No.                  5 Q No? And you said this presentation focuses 11:52:30                  6 on transgender children and adolescents or some                  7 other population?                  8 A Transgender children and adolescents.                  9 Q Does this -- did the presentation you give at                  10 all focus on transgender children and adolescents 11:52:45                  11 participating in athletics?                  12 A No.                  13 Q No? Okay.                  14 Then you told me that number 23 also focuses                  15 on transgender people and gender-dysphoric people; 11:52:58                  16 right?                  17 It's a presentation from August 2003. And I                  18 take it where you're the only person listed in the                  19 front, you are the only presenter; is that right?                  20 A Yes. 11:53:16                  21 Q Okay. And so this presentation was titled                  22 "Sex reassignment on demand: The clinician's                  23 dilemma." And this paper was presented at the 111th                  24 annual meeting of the American Psychological                  25 Association in Toronto, Canada; is that correct? 11:53:34                  Page 125</p>



<p>1 A Yes.</p> <p>2 Q So was this an American Psychological</p> <p>3 Association annual meeting in Canada?</p> <p>4 A Yes.</p> <p>5 Q Do they typically have their annual meetings 11:53:49</p> <p>6 in Canada?</p> <p>7 A Oddly, more -- more frequently than you would</p> <p>8 think. A -- Toronto is a very popular city for --</p> <p>9 for the APA.</p> <p>10 Q Interesting. Okay. 11:54:00</p> <p>11 And so you testified that in the previous</p> <p>12 presentation that we spoke about, you submitted a</p> <p>13 form requesting to present at that meeting.</p> <p>14 Did you do the same for this annual meeting?</p> <p>15 A I don't remember the exact process anymore, 11:54:15</p> <p>16 but it was roughly the same.</p> <p>17 Q So you requested your -- your participation</p> <p>18 in this meeting as opposed to someone reaching out</p> <p>19 to you, asking you to present at this meeting;</p> <p>20 right? 11:54:29</p> <p>21 A Correct.</p> <p>22 Q Okay. And what were you presenting on?</p> <p>23 A I was presenting on my experiences, now</p> <p>24 having had the first several years of my experience</p> <p>25 working with people, in turn working with their 11:54:45</p> <p style="text-align: right;">Page 126</p>	<p>1 Association, this time in Chicago, was titled</p> <p>2 "Gender role in autogynephilic transsexuals: The</p> <p>3 more things change..."; is that correct? Did I read</p> <p>4 that correctly?</p> <p>5 A Yes. 11:56:38</p> <p>6 Q Is there anything after that ellipses that</p> <p>7 was just left out because of lack of space, or is</p> <p>8 that --</p> <p>9 A No. The ellipses were part of the title.</p> <p>10 Q Part of the tile. Okay. 11:56:46</p> <p>11 And did you submit a similar form to present</p> <p>12 at the 110th annual meeting of the -- are you okay</p> <p>13 if I call it the APA? Is that an acronym you're</p> <p>14 familiar with?</p> <p>15 A I'm familiar with it. I'm fine in this 11:56:59</p> <p>16 context. My single hesitation is that it's easy to</p> <p>17 confuse the American Psychological Association with</p> <p>18 the American Psychiatric Association since both get</p> <p>19 abbreviated APA.</p> <p>20 Q I will go through the process of saying the 11:57:15</p> <p>21 whole term.</p> <p>22 So for the 110th annual meeting of the</p> <p>23 American Psychological Association, were you asked</p> <p>24 to present at this meeting, or did you submit a</p> <p>25 form, similar to the 111th? 11:57:30</p> <p style="text-align: right;">Page 128</p>
<p>1 gender identities.</p> <p>2 Q So you were presenting on your own</p> <p>3 experience; right?</p> <p>4 A I was couching everything in my experience,</p> <p>5 but it was meant to be a tutorial to help other 11:55:03</p> <p>6 clinicians who were preparing to do the same thing.</p> <p>7 Q Did you present any data at this annual</p> <p>8 meeting?</p> <p>9 A No, I did not.</p> <p>10 Q No? Did you present any original research of 11:55:15</p> <p>11 yours at this annual meeting?</p> <p>12 A No, I did not.</p> <p>13 Q Okay. And at this meeting, did any portion</p> <p>14 of your presentation focus on transgender children</p> <p>15 or adolescents? 11:55:32</p> <p>16 A No.</p> <p>17 Q Okay. 25, I believe you said, was the -- the</p> <p>18 last one that focuses on transgender identities and</p> <p>19 people with gender dysphoria; right?</p> <p>20 A That sounds right, yes. 11:55:55</p> <p>21 Q Okay. And so this was a presentation given</p> <p>22 in 2002, August 2002. And, again, you were a sole</p> <p>23 presenter here. And your presentation -- or your --</p> <p>24 title of your paper that was presented at the 110th</p> <p>25 annual meeting of the American Psychological 11:56:18</p> <p style="text-align: right;">Page 127</p>	<p>1 A I submitted an application to present.</p> <p>2 Q Okay. And I assume that application was</p> <p>3 accepted?</p> <p>4 A Yes.</p> <p>5 Q Were you paid to give that presentation? 11:57:43</p> <p>6 A No.</p> <p>7 Q No? And can you tell me a bit about the</p> <p>8 substance of that presentation?</p> <p>9 A Yes. I was presenting to the audience the</p> <p>10 existence of autogynephilia, which most people, 11:58:04</p> <p>11 especially then, were very unfamiliar with.</p> <p>12 Q So you said most people were unfamiliar with</p> <p>13 it then.</p> <p>14 Do you know of anyone else who was as</p> <p>15 familiar or similarly familiar with autogynephilia, 11:58:21</p> <p>16 at the time, as you were?</p> <p>17 A Yes.</p> <p>18 Q Any prominent researches come to mind? Would</p> <p>19 you be able to -- to name a few?</p> <p>20 A Certainly. Even the names that have been 11:58:37</p> <p>21 mentioned already, J. Michael Bailey, Ray Blanchard</p> <p>22 and Maxine Petersen.</p> <p>23 Q Any others come to mind?</p> <p>24 A Again, it's a large literature. Many people</p> <p>25 have published on it. The largest other name that 11:58:51</p> <p style="text-align: right;">Page 129</p>

1 quickly comes to mind is Anne Lawrence. Again,  
 2 herself an openly trans woman.  
 3 Q And, again, you said that at the time,  
 4 though, it wasn't a very well-known subject for most  
 5 people at this conference? 11:59:09  
 6 A Correct.  
 7 Q And, again, this presentation did not focus  
 8 on transgender children and adolescents with gender  
 9 dysphoria; right?  
 10 A Correct. 11:59:26  
 11 Q And it didn't focus on transgender children  
 12 and adolescents participating in athletics, did it?  
 13 A Correct, it did not.  
 14 Q Okay. And then if you could turn to page 25  
 15 of your CV. I think it's PDF page 93. 11:59:48  
 16 A Yes.  
 17 Q I understand that this is a list of teaching  
 18 and training, and so I assume that to mean that you  
 19 were the supervisor of these students or fellows  
 20 listed on this page; right? 12:00:14  
 21 A Correct.  
 22 Q Is this a comprehensive list, in addition to  
 23 the back, which says -- on page 26, which continues  
 24 the list at CAMH clinical supervision, doctoral- and  
 25 masters-level practice, do these two pages cover 12:00:29  
 Page 130

1 your teaching and training experience?  
 2 A Yes.  
 3 Q Okay. So did you ever provide educational  
 4 training to the individuals that you supervised  
 5 related to transgender people? 12:00:43  
 6 A One second. I'm just running through them in  
 7 my head.  
 8 Q No problem.  
 9 A Some of the students had some trans clients  
 10 or a gender dysphoria-related question over the 12:01:21  
 11 course of a specific case, but none -- and some of  
 12 my students were co-supervised by other supervisors  
 13 who took the lead role, specifically in their  
 14 gender -- in cases that they did have with gender  
 15 dysphoria, but I myself didn't do the primary 12:01:41  
 16 supervision of a case specifically about gender  
 17 dysphoria.  
 18 Q Got it. So you did not specifically take the  
 19 lead role in supervising them on issues of gender  
 20 dysphoria; right? 12:01:56  
 21 A Correct.  
 22 Q Okay. Did your supervision of these students  
 23 ever involve providing care to transgender adults?  
 24 A Yes.  
 25 Q Can you tell me about that? 12:02:17  
 Page 131

1 A Again, some of the -- although some of the  
 2 clients weren't in to talk about trans issues  
 3 themselves, some of them happened to have been  
 4 trans. So it was related, but not a primary focus of  
 5 the treatment. 12:02:33  
 6 Q Got it. So it was not a primary focus of the  
 7 treatment, but their identities might have been  
 8 relevant to transgender issues and gender dysphoria;  
 9 is that correct?  
 10 A Yes, that's correct. 12:02:44  
 11 Q Okay. Did your supervision ever involve  
 12 research around puberty-delaying treatment  
 13 prescribed to transgender children?  
 14 A No.  
 15 Q What about transgender adolescents? 12:02:59  
 16 A No.  
 17 Q Did your supervision ever involve research  
 18 around prescribing hormones to transgender adults?  
 19 A No.  
 20 Q Did your supervision ever involve research 12:03:14  
 21 and -- sorry, strike that.  
 22 Did your supervision ever involve prescribing  
 23 hormones to transgender adults?  
 24 A No.  
 25 Q Okay. We're finally through your resumé, 12:03:33  
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1 which may provide some sense of relief, and I want  
 2 to talk more about your involvement in this case.  
 3 So how did you first learn about this case?  
 4 A I was contacted by the lawyers, who informed  
 5 me. 12:03:58  
 6 Q Who were those lawyers?  
 7 A The ADF team. I don't -- oh, no, no, no.  
 8 I'm sorry. No, I was contacted by the attorney  
 9 general's office in West Virginia, who -- who told  
 10 me about the case and asked if I would be willing to 12:04:19  
 11 participate.  
 12 Q And when did that contact occur?  
 13 A I don't recall exactly. Roughly six months  
 14 ago.  
 15 Q Okay. And had you worked with anyone from 12:04:31  
 16 the AG office of West Virginia before?  
 17 A Before this --  
 18 MR. BARHAM: Objection; form.  
 19 BY COUNSEL SWAMINATHAN:  
 20 Q I'm sorry, before -- 12:04:47  
 21 A No, I hadn't.  
 22 Q Had you spoken to anyone at the AG's office  
 23 of West Virginia before this case?  
 24 A No.  
 25 Q Okay. And why did you agree to serve as an 12:04:55  
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1 expert in this case?  
 2 MR. TRYON: Objection to the extent that it  
 3 calls for any attorney-client information.  
 4 You can answer to the extent you do not  
 5 reveal any communications with your attorneys. 12:05:11  
 6 COUNSEL SWAMINATHAN: Objection noted.  
 7 Thank you, Counsel.  
 8 THE WITNESS: I felt interested and  
 9 qualified.  
 10 BY COUNSEL SWAMINATHAN: 12:05:21  
 11 Q Okay. And, again, you said that you were  
 12 first reached out to by the AG's office of  
 13 West Virginia.  
 14 When did you hear from ADF, again?  
 15 MR. BARHAM: Objection. To the extent that 12:05:32  
 16 it calls for any communication between the witness  
 17 and legal staff, I'm going to instruct him not to  
 18 answer so as to preserve the attorney-client  
 19 privilege.  
 20 COUNSEL SWAMINATHAN: Sure. I'm -- I'm not 12:05:50  
 21 asking the witness to disclose any attorney-client  
 22 communications. I'm simply asking him when he was  
 23 first contacted by any member of the Alliance  
 24 Defending Freedom team.  
 25 MR. BARHAM: You can answer. 12:06:07  
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1 THE WITNESS: A few months after I was  
 2 contacted by the West Virginia AG's office.  
 3 BY COUNSEL SWAMINATHAN:  
 4 Q So that would put you at about three months  
 5 ago, right, since you said it was about six months 12:06:14  
 6 ago that you were contacted by the West Virginia  
 7 AG's office?  
 8 A That's roughly correct.  
 9 Q Roughly correct. Okay.  
 10 And who reached out to you? 12:06:31  
 11 A Oh, I don't remember who from the team. I  
 12 believe it was Roger Brooks.  
 13 Q Okay. And, again, I am not seeking any  
 14 communications you had with counsel, but I just  
 15 wanted to know the timing of that. 12:06:43  
 16 And so you said you agreed to serve as an  
 17 expert in the case, as you were interested and  
 18 qualified; correct?  
 19 A Yes.  
 20 Q What is your understanding of why you were 12:06:56  
 21 qualified to serve as an expert in this case?  
 22 A Because I have a very substantial background  
 23 in the relevant subject matter and science.  
 24 Q And can you describe your interest more, in  
 25 this case? 12:07:15  
 Page 135

1 A My interest is indeed in the science and in  
 2 any opportunity that I have to provide that science  
 3 so it can be used for public policy.  
 4 Q Got it. Okay.  
 5 And so you said the AG's office reached out 12:07:31  
 6 to you about six months ago, but if you remember,  
 7 the document that we reviewed, which is marked  
 8 Exhibit 44, which is the declaration that you  
 9 submitted in conjunction with the preliminary  
 10 injunction motion, that motion was dated -- or 12:07:49  
 11 sorry, that declaration was dated June 22nd, 2021;  
 12 right?  
 13 A Yes, that's the date.  
 14 Q So if the AG's office of West Virginia  
 15 contacted you about six months ago, which is about 12:08:08  
 16 October, who contacted you in connection with  
 17 drafting this declaration in June of 2021?  
 18 A Again, I believe the person I was contacted  
 19 by was Roger Brooks.  
 20 Q So during the period of June 2021, you had 12:08:46  
 21 only spoken to Roger Brooks, not anyone at the AG's  
 22 office of West Virginia; right?  
 23 MR. TRYON: Objection.  
 24 THE WITNESS: I think --  
 25 MR. BARHAM: Object -- objection as to form. 12:09:08  
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1 THE WITNESS: Unless I misunderstood your  
 2 question, the original question was contacted for  
 3 this case. I had received contact from the ADF team  
 4 regarding prior cases. And the other exhibit is  
 5 from a deposition I gave in a prior case that was 12:09:25  
 6 then reused for this case.  
 7 So the date of the prior document I prepared  
 8 is dated for -- from the prior case rather than when  
 9 I was contacted for this case.  
 10 COUNSEL SWAMINATHAN: Court reporter, can you 12:09:46  
 11 please read back my original question?  
 12 THE REPORTER: Yes. So the last one was  
 13 "Q So during the period of June 2021..."  
 14 Is that the question you want read back?  
 15 COUNSEL SWAMINATHAN: Actually, I think it's 12:08:48  
 16 either the question before that -- it's the one  
 17 pertaining to when he was first contacted about this  
 18 case.  
 19 (Record read.)  
 20 BY COUNSEL SWAMINATHAN: 12:10:28  
 21 Q And, Dr. Cantor, you testified that, you  
 22 know, this was an expert report in connection with  
 23 another case, but I presume someone contacted you  
 24 about the declaration that you submitted on  
 25 June 22nd, 2021, in this case, which has your 12:10:36  
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<p>1 signature on the second page of the PDF; right?                  2 A It has my signature, yes.                  3 The AG in West Virginia already had a copy of                  4 my prior report and asked me if it would be okay for                  5 them to use that, to which I agreed. 12:10:55                  6 Q Yeah. So who contacted you and asked you                  7 whether it was agreeable for them to use this prior                  8 expert report?                  9 A The AG's office.                  10 Q And when did that contact happen? 12:11:09                  11 A That's what was about six months ago.                  12 Q How could that possibly be about six months                  13 ago if it was executed with your signature on                  14 June 22nd, 2021?                  15 A Oh, now I'm seeing it -- okay. Now I got it. 12:11:21                  16 So it would have been older than six months                  17 ago. As I said, it was really only -- only rough,                  18 my estimation of the time.                  19 Q Got it. And so -- I appreciate that.                  20 And so this report was not tailored to this 12:11:42                  21 case at all?                  22 A The prior case? The --                  23 Q I apologize. I can be more clear.                  24 So this report that was attached to the                  25 declaration of the June 22nd, 2021, executed 12:11:59                  Page 138</p>	<p>1 Q So do you view being transgender as a                  2 paraphilia?                  3 A No.                  4 Q No. Okay.                  5 And how much time do you spend researching 12:13:53                  6 paraphilias?                  7 A Oh, currently?                  8 Q Currently, yes.                  9 A About half my time.                  10 Q Okay. And you said that you also focus on 12:14:15                  11 atypical sexualities. And would that include                  12 hypersexuality? Is that an atypical sexuality?                  13 A Yes.                  14 Q What is hypersexuality?                  15 A Generally, these are people who are trying to 12:14:31                  16 reduce their sexual behaviors in one way or another.                  17 There is no formal definition.                  18 Q And how much time do you spend researching                  19 hypersexuality?                  20 A These days, roughly 10 percent. 12:14:47                  21 Q Okay. And I think you mentioned that you                  22 also spend time researching sex addiction; is that                  23 correct?                  24 A Yes.                  25 Q What is sex addiction? 12:15:03                  Page 140</p>
<p>1 document was not changed at all when used in this                  2 case; am I right?                  3 A The submission to -- to the prior case wasn't                  4 changed at all when it was submitted for use in this                  5 case, and then I updated it for -- to submit a 12:12:21                  6 report specific to this case.                  7 Q Right. I'm just trying to understand that                  8 this expert report that was attached to the                  9 declaration on June 22nd, 2021, was not changed at                  10 all from its prior use in the Allan Josephson case; 12:12:38                  11 is that right?                  12 A Correct.                  13 Q Okay. Thank you.                  14 And so you testified earlier that your main                  15 area of expertise is studying atypical sexual 12:12:53                  16 patterns -- or atypical sexualities and paraphilias;                  17 right?                  18 A Yes.                  19 Q What is your understanding of a paraphilia?                  20 A Oh, goodness. The term "paraphilia" is used 12:13:10                  21 different ways by different people in different                  22 contexts. Most broadly it refers to the highly                  23 atypical sexual interest that dominate a person's                  24 life and interact with or prevent them from having                  25 a -- an otherwise typical sexual life. 12:13:34                  Page 139</p>	<p>1 A "Sex addiction" is a popular term. It's                  2 essentially a synonym for hypersexuality.                  3 Q Oh, okay. So would you say that you spend                  4 about 10 percent of your time, in that same 10                  5 percent that we spoke about for hypersexuality, 12:15:21                  6 researching sex addiction?                  7 A Yes.                  8 Q Okay. And I understand that you also                  9 research pedophilia; correct?                  10 A Yes. 12:15:31                  11 Q What do you understand pedophilia to be?                  12 A The sexual attraction to children. The                  13 formal diagnosis is more rigid.                  14 Q Apologies, I -- the formal diagnosis is what?                  15 A More rigid. 12:15:50                  16 Q More rigid.                  17 What -- what is the formal diagnosis?                  18 A The formal diagnosis of pedophilic disorder                  19 is somebody who's sexually attracted to prepubescent                  20 children more than they are attracted to adults. 12:16:02                  21 Q Thank you.                  22 And so how much time do you spend researching                  23 pedophilic disorders?                  24 A Currently, roughly 10 to 20 percent.                  25 Q Okay. And so we were speaking earlier about 12:16:21                  Page 141</p>

<p>1 autogynephilia, and I just want to get a clear                  2 understanding.                  3 So is autogynephilia a paraphilia?                  4 A Yes, it is.                  5 Q Why is it a paraphilia? 12:16:33                  6 A It's a highly atypical sexual interest                  7 pattern that can interfere or interact with a                  8 person's usual sexual life.                  9 Q Okay. But being transgender is not a                  10 paraphilia; right? 12:16:51                  11 MR. BARHAM: Objection.                  12 THE WITNESS: Correct.                  13 BY COUNSEL SWAMINATHAN:                  14 Q Okay. So we've got about, I think, 80                  15 percent of your time covered now with -- with what 12:17:02                  16 we've spoken about, about what your research focuses                  17 on.                  18 What does the other 20 percent focus on?                  19 A I wouldn't add the percentages quite so                  20 easily because these topics overlap so much. For 12:17:18                  21 example, a person with -- with autogynephilia, but                  22 doesn't want to be autogynephilic, might refer to                  23 themselves as a sexual addict because they feel like                  24 that they're addicted to the related pornography.                  25 So which way it gets classified depends on 12:17:39                  Page 142</p>	<p>1 A Be the source of the desire to change.                  2 Q Is there anything else that comes to mind                  3 when you said that there are multiple contributing                  4 factors that prevent -- or that in your mind do not                  5 categorize transgender -- diagnoses of gender 12:19:23                  6 dysphoria as paraphilias?                  7 We mentioned autogynephilia, and we mentioned                  8 homosexuality. Are there any others?                  9 A The remaining predominant one I would                  10 describe, as I described them in my report, 12:19:39                  11 individuals, typically young, who mistake the                  12 emotions that they're having to be gender dysphoria                  13 when they're actually motivated by something else,                  14 for example, a desire not to be associated with the                  15 sex that they would be biologically associated with. 12:19:58                  16 Q And so beyond what you just described, what                  17 other emotions are these young individuals feeling                  18 that would make them want to be the other sex?                  19 A That's a subject of ongoing -- ongoing                  20 investigation. We have some educated guesses, but I 12:20:18                  21 can't say that the question has been entirely --                  22 entirely answered.                  23 Q And so similar to autogynephilia or                  24 homosexuality, is there a term to describe these --                  25 the experiences of these young individuals who 12:20:35                  Page 144</p>
<p>1 what classification system a person -- a person is                  2 using.                  3 Q And so you testified earlier that                  4 autogynephilia is a paraphilia, but being                  5 transgender is not a paraphilia. 12:17:56                  6 Why is a transgender identity not a                  7 paraphilia?                  8 A More than one thing can motivate a person to                  9 want to live as the other sex. Autogynephilia is                  10 only one of them. 12:18:14                  11 Q So being transgender is not a paraphilia                  12 because there are multiple -- multiple reasons for                  13 why an individual can identify as transgender; is                  14 that right?                  15 A Yes, that's correct. 12:18:30                  16 Q Okay. And what are the other reasons behind                  17 autogynephilia that go into that?                  18 A The other primary one that's been identified                  19 is sexual orientation, homosexuality.                  20 Q So homosexuality is, in your mind, a 12:18:47                  21 contributing factor to someone identifying as                  22 transgender?                  23 A It can motivate a person to feel gender                  24 dysphoric, yes.                  25 Q What do you mean by "motivate"? 12:19:01                  Page 143</p>	<p>1 mistake emotions that they are having for gender                  2 dysphoria?                  3 A I can't think of a widespread term, no.                  4 Q Is there any term that you use for it, to                  5 describe that phenomenon? 12:20:52                  6 A No, I don't think so.                  7 Q Okay. So is it your testimony that anyone                  8 who is transgender is transgender either due to                  9 autogynephilia, homosexuality or a mistake they've                  10 made as a -- as a younger individual and the 12:21:13                  11 emotions that they are misconstruing as                  12 gender-dysphoric feelings? Is that your                  13 understanding?                  14 A That's the best summary we have of the -- of                  15 the existing research, yes. 12:21:27                  16 Q Okay. When did you become interested in sex                  17 research?                  18 A Oh, I think I was probably always interested                  19 in sex research, and then I just found a way to make                  20 a living at it. 12:21:45                  21 Q Okay. So I'm going to introduce tab 4, which                  22 will be marked as Exhibit 46. And it will take one                  23 minute to show up, so please give the system a                  24 second.                  25 (Exhibit 46 was marked for identification 12:21:59                  Page 145</p>

<p>1 by the court reporter and is attached hereto.)                  2 COUNSEL SWAMINATHAN: And, Travis, we can                  3 break after this -- after this exhibit.                  4 BY COUNSEL SWAMINATHAN:                  5 Q Can you see it there, Dr. Cantor? 12:22:16                  6 A Not yet. Ooh. Oh, yeah.                  7 Q Great. Okay.                  8 And so this is an -- my -- my understanding                  9 of this document is that the Kinsey Institute, which                  10 is associated with Indiana University, has an 12:22:35                  11 interview series, and they had a conversation with                  12 Dr. James Cantor, which I presume is you, in this                  13 context; is that true?                  14 A Yes, it is.                  15 Q Do you remember this interview? 12:22:49                  16 A I can't say that I remember it specifically.                  17 I give a lot of interviews. But I remember its                  18 author, Justin Lehmilller, and I remember, roughly,                  19 the -- the kind of interview. But as I say, I can't                  20 take this specific interview out of the many that I 12:23:08                  21 do.                  22 Q That's fair.                  23 I would love to give you just a -- a moment                  24 to review, if you want to reflesh -- refresh your                  25 recollection. 12:23:20                  Page 146</p>	<p>1 with the depth that I did, with, you know -- with                  2 experts as well known as -- as they were.                  3 I didn't pick that internship site because of                  4 the research that was going on there. I went for a                  5 relatively usual clinical experience where I thought 12:25:00                  6 my clinical experience with the trans patients would                  7 be the most relevant to my career.                  8 And it's just because the other half of my                  9 exposure was with sex offenders and sex offender                  10 research that I realized that there was an 12:25:17                  11 opportunity there for me to think and research more                  12 broadly than I was -- than I had planned.                  13 Q And you said you have done a number of these                  14 interviews, correct, over the course of your career?                  15 A Yes. 12:25:32                  16 Q And, you know, you strive to give accurate                  17 information in these interviews to the questions                  18 you're asked; right?                  19 A Yes.                  20 Q Yes. Okay. 12:25:42                  21 Can you turn to the next page, please? I                  22 think it's page 2 of the document.                  23 And Lehmilller asks you what your primary area                  24 of research and what methods do you typically use to                  25 answer your research questions. 12:25:59                  Page 148</p>
<p>1 And I believe the question on the first page,                  2 by Lehmilller, is (as read):                  3 "As a sex researcher, one of the                  4 most common questions you get asked                  5 is how you got into this line of 12:23:48                  6 work in the first place. So let's                  7 start there—what is it that drew you                  8 to this field of study? What's the                  9 story behind how you became a sex                  10 researcher?" 12:24:01                  11 Did I read that correctly?                  12 A Yes.                  13 Q And when you answered, it says (as read):                  14 "Cantor: I think it was mostly dumb                  15 luck." 12:24:12                  16 Did I read that correctly?                  17 A Yes.                  18 Q What do you mean when you say that it was                  19 mostly dumb luck that you got into the sex                  20 researcher line of work? 12:24:24                  21 A I was referring, at that point, specifically                  22 to the people who were my supervisors when I started                  23 my clinical internship. It's because they had a --                  24 it's because they were doing active sex research and                  25 the atypical sexualities that I got exposed to 12:24:43                  Page 147</p>	<p>1 Lehmilller asks you this question right after                  2 the first paragraph at the top.                  3 And your response is, quote, (as read):                  4 "My primary research opportunities                  5 have involved studying sex 12:26:11                  6 offenders, mostly pedophiles and                  7 persons with other atypical                  8 sexualities whose behaviours led                  9 them into the legal system."                  10 Did I read that correctly? 12:26:23                  11 A Yes.                  12 Q And would it be fair for me to say that most                  13 of the patients that you work with are those who                  14 have had contact with the legal system?                  15 A Depending on how you count them. 12:26:32                  16 Q Can you tell me a bit more about that? I                  17 think I'm -- I'm trying to understand. Because you                  18 mentioned you have about 50 patients in your private                  19 practice at any given point in time. Of those --                  20 A Right. 12:26:51                  21 Q -- patients, are -- are they mostly folks who                  22 have had some contact with the legal system?                  23 A No, they are not. And that's why, as I say,                  24 it's difficult to be able to count this way.                  25 When I was doing research on sex offenders at 12:27:04                  Page 149</p>

<p>1 CAMH, my clinical contact was largely limited to                  2 roughly an hour or two per person, focused very                  3 specifically on history-taking and very specifically                  4 on the elements that would be useful in getting that                  5 person into the right kind of a treatment program. 12:27:24                  6 So those people count in very many thousands                  7 because it's an hour or two per person.                  8 Q Got it.                  9 A Actual ongoing treatment with a psychotherapy                  10 patient is an hour with that person per week, going 12:27:36                  11 on for many months.                  12 Q So --                  13 A So just counting number of people is                  14 incomparable unless you're counting the number of                  15 people in a comparable situation. 12:27:48                  16 Q Totally understood.                  17 So the distinction there is that the                  18 population that you worked with at CAMH is different                  19 than the population that you're currently working                  20 with in your private practice; is that right? 12:27:56                  21 A Correct.                  22 Q Okay. And is it accurate to say that your                  23 primary research opportunities have involved                  24 studying sex offenders?                  25 A That would be fair, yes. 12:28:06</p> <p style="text-align: right;">Page 150</p>	<p>1 BY COUNSEL SWAMINATHAN:                  2 Q So, Dr. Cantor, I understand you just had                  3 your lunch break. Did you have any conversations                  4 with your counsel during the lunch break?                  5 A Not about the case, no. 01:20:19                  6 Q They -- to clarify, they weren't about the                  7 substance of the deposition; right?                  8 A Correct.                  9 Q Great. So earlier this morning, you                  10 testified that in preparing for this deposition, you 01:20:30                  11 did a review to find updates in the literature; is                  12 that correct?                  13 A Yes.                  14 Q When did you complete this review?                  15 A Oh, I would hesitate to say that I ever 01:20:41                  16 completed it or ever would complete it. I'm, you                  17 know, often scouring the literature, and I'm often                  18 made aware of new papers as they come out, and I                  19 keep a list to go -- to go back through them.                  20 Q Understood. I -- I think -- 01:20:58                  21 A So --                  22 Q -- a better question then is, when did you                  23 conduct your review in preparation for this                  24 deposition?                  25 A Right up through, let's say, a few weeks 01:21:03</p> <p style="text-align: right;">Page 152</p>
<p>1 Q So how many of your current patients, without                  2 violating any HIPAA laws, have been adjudicated as                  3 sex offenders?                  4 A Current patients?                  5 Q Yes. 12:28:25                  6 A None.                  7 Q None? And how many, approximately, if you                  8 can give me a percentage, of the patients that you                  9 saw at CAMH have been adjudicated as sex offenders?                  10 A 80 percent -- 12:28:38                  11 Q 80 --                  12 A -- ish.                  13 Q Okay.                  14 COUNSEL SWAMINATHAN: So this might be a good                  15 place for us to break, for you to get lunch. 12:28:45                  16 If we can go off the record.                  17 THE VIDEOGRAPHER: Yep. We are going off the                  18 record at 12:28 p.m., and this is the end of Media                  19 Unit No. 3.                  20 (Recess.) 01:20:01                  21 THE VIDEOGRAPHER: All right. We are back on                  22 the record at 1:20 p.m., and this is the beginning                  23 of Media Unit No. 4.                  24 Go ahead, please.                  25 ///</p> <p style="text-align: right;">Page 151</p>	<p>1 before I submitted the final version. I don't                  2 remember the exact date.                  3 Q Got it. And did you indeed find any updates                  4 in the literature that you thought to include in                  5 your updated report? 01:21:23                  6 A I don't recall specifically. As I say, I                  7 keep a reading pile and a reading list, and every                  8 time I need to produce a document, I go through it                  9 and -- and update it. I can't say that I have a                  10 specific recollection of the size of that pile 01:21:38                  11 before this specific report.                  12 Q Got it. So would you be able to give me a                  13 more general understanding of whether there was new                  14 literature that you reviewed in connection with                  15 drafting your second report? 01:21:50                  16 A Yes, there -- there was a -- it had -- yes,                  17 there's been a pretty substantial increase relative                  18 to the very slow rate at which this literature                  19 was -- was growing. So there was a substantial                  20 amount published in 2020 and 2021 that -- that I 01:22:11                  21 needed to -- to include and -- that I needed to                  22 include.                  23 Q And sitting here right now, you just can't                  24 remember the names of the specific articles or                  25 literature ; right? 01:22:25</p> <p style="text-align: right;">Page 153</p>

<p>1 A No, I can't. Generally, I do it 2 chronologically. 3 Q Okay. I'm going to ask you a bit about the 4 individual plaintiff in this case. 5 So do you know who B.P.J. is? 01:22:33 6 A Only in theory. I've never met the person. 7 I couldn't -- and, of course, I have no direct 8 contact with the -- with the client himself. 9 Q And you've never spoken to anyone in her 10 family either; right? 01:22:51 11 A Correct. 12 Q You've personally not spoken to anyone at her 13 school; right? 14 A Correct. 15 Q Have you reviewed any of B.P.J.'s medical 01:22:59 16 records? 17 A If I have, I'm not recalling. In general, I 18 go through a medical record to take note of 19 anything, you know, specific of relevance. If I did 20 in this, I would have made such a note, and I don't 01:23:19 21 recall doing so. 22 Q So it's your testimony today that you -- you 23 have not reviewed any of B.P.J.'s medical records; 24 right? 25 A Yes. 01:23:30</p> <p style="text-align: right;">Page 154</p>	<p>1 B, the amended complaint in this litigation. 2 C, Ms. Armistead's declaration. 3 Do you see that? 4 A Yes, I do. 5 Q Why did you read the intervenor's 01:25:00 6 declaration? 7 A I was provided each of those documents in the 8 beginning. I reviewed the documents to see if 9 there's anything -- if there's anything relevant. 10 There wasn't anything relevant that I could -- that 01:25:09 11 I anticipated being in the report, so, of course, I 12 concentrated on the materials that were relevant. 13 Q Got it. And is there any reason that you 14 were not provided the plaintiff's declaration in 15 this case, to your knowledge? 01:25:24 16 A I -- I couldn't say why I -- I have no idea 17 why I wouldn't have been given something. I -- no, 18 I have no idea why I wouldn't have been supplied 19 with a -- with a copy. 20 Q That's fair. Okay. 01:25:38 21 So we're going to continue with Exhibit 45, 22 which is your report, and can you please turn to 23 page 3, which is just the page before the one you 24 were on. 25 Can you please take a moment to review this 01:25:51</p> <p style="text-align: right;">Page 156</p>
<p>1 Q Okay. Did you read B.P.J.'s declaration in 2 this case? 3 A Not that I recall, no. 4 Q You read the intervenor's declaration in this 5 case; right? 01:23:46 6 A The interview? 7 Q The intervenor. My apologies. 8 A I'm sorry, who is this? 9 Q Lainey Armistead, the intervenor in this 10 case. 01:23:57 11 A I'm -- did I see a copy of that? 12 Q I'm just trying to get an understanding of 13 whether you read her declaration or not. 14 If you -- what might be helpful is if you 15 turn to Exhibit 45, which is your expert report that 01:24:10 16 you prepared in 2022, and on page 4 of that expert 17 report -- I'll -- I'll wait for you to -- to get 18 there so we can review. 19 A Oh, yes. 20 Q So fair to say number 9 on page 4 of your 01:24:40 21 expert report says (as read): 22 "To prepare the expert report, I 23 reviewed the following resources 24 related to this litigation." 25 And A is H.B. 3293. 01:24:48</p> <p style="text-align: right;">Page 155</p>	<p>1 page and let me know when you're ready. 2 A Okay. 3 Q So the last paragraph on the page reads, 4 quote, (as read): 5 "In addition, I have been asked to 01:26:28 6 provide an expert opinion on how 7 relevant professional organizations 8 have addressed these questions and 9 whether any of them have taken any 10 meritorious position that would 01:26:37 11 undermine West Virginia's Protect 12 Women's Sport Act (H.B. 3293) 13 ('Act'). As I explain in detail in 14 this report, it is my opinion that 15 Plaintiffs' expert reports display a 01:26:49 16 wide variety of flaws that call 17 their conclusions into question and 18 that no professional organization 19 has articulated a meritorious 20 position that calls into question 01:26:59 21 the basis for the Act." 22 Did I read that correctly? 23 A Yes. 24 Q So with respect to the Act, your role in this 25 case is to review the opinions of various 01:27:09</p> <p style="text-align: right;">Page 157</p>



<p>1 professional organizations and determine if they                  2 have taken any meritorious positions that would                  3 undermine the Act; right?                  4 A That included that, yes.                  5 Q Are you offering any positions in support of 01:27:21                  6 the Act?                  7 A I don't think I can be said to be offering                  8 any opinions in support or against the Act so much                  9 as providing the information that's in the science,                  10 and then the political and legal process need to 01:27:43                  11 integrate it into policy in the way that they do,                  12 but I'm not making any specific recommendation about                  13 any specific act.                  14 Q So it's fair to say that you're not offering                  15 any positions in support of H.B. 3293; right? 01:27:57                  16 MR. TRYON: Objection to form.                  17 A Not in support of it. I can only say what                  18 elements of it are consistent or inconsistent with                  19 the existing science.                  20 BY COUNSEL SWAMINATHAN: 01:28:13                  21 Q And are those opinions of whether they are                  22 consistent or inconsistent included in your report?                  23 A Yes.                  24 Q So is your main role here today to show that                  25 the organizations have not, in your view, undermined 01:28:26                  Page 158</p>	<p>1 others.                  2 BY COUNSEL SWAMINATHAN:                  3 Q Understood. So rather than your purpose,                  4 just one, you know, objective that you achieved via                  5 drafting this report is to opine on whether any 01:29:44                  6 professional organization has articulated a                  7 meritorious position that calls into question the                  8 basis for the Act; right?                  9 MR. TRYON: Objection.                  10 THE WITNESS: If I'm understanding properly 01:29:57                  11 the way you're asking the question, it's am I only                  12 going to give opinions one side versus the other,                  13 which is not correct. My role has been to assess                  14 altogether the role of the science regardless of                  15 which way those facts fall, not to cite the facts 01:30:16                  16 merely on one side of the argument.                  17 BY COUNSEL SWAMINATHAN:                  18 Q Right. And so you spoke about the science.                  19 So how do you believe that the Act is                  20 supported by the science that you're referring to? 01:30:27                  21 MR. BARHAM: Objection as to form.                  22 THE WITNESS: That question -- that question                  23 goes outside what I was -- what I've been asked to                  24 do. I was -- I'm not and did not include in my                  25 report the science specific to athletic performance. 01:30:56                  Page 160</p>
<p>1 the Act?                  2 A I'm sorry, say that again.                  3 Q Is your role in providing your expert                  4 testimony to show that the professional                  5 organizations have not, in your view, undermined the 01:28:38                  6 Act?                  7 MR. BARHAM: Objection to form.                  8 THE WITNESS: Is my position -- I'm sorry,                  9 one more time.                  10 BY COUNSEL SWAMINATHAN: 01:28:52                  11 Q No problem. I want to make this as clear as                  12 possible for you.                  13 I'm just trying to understand that your role                  14 is to show that no professional organization has                  15 articulated a meritorious position that calls into 01:29:02                  16 question the basis for the Act; right?                  17 MR. TRYON: Objection.                  18 MR. BARHAM: Objection to form.                  19 THE WITNESS: I -- I don't think I can say                  20 that that is my purpose, although I'm aware of the 01:29:13                  21 legal context in which the questions are being asked                  22 of me. But I'm not -- being asked of me. But --                  23 but my only opinions are -- can be about -- can only                  24 be about what is or is not supported by the science.                  25 Where it goes from there is up to the -- it's up to 01:29:31                  Page 159</p>	<p>1 As my report contains, it is an overview and --                  2 describing the science of gender identity in                  3 general, which, of course, will get adopted into the                  4 question, but I am not offering an opinion on the                  5 amount, for example, by which being born male might 01:31:19                  6 serve as an athletic advantage relative to other                  7 females. I was not asked that question, and that                  8 question is not in my report, but that's the part                  9 that's most pertinent to the -- to the long                  10 question. 01:31:32                  11 BY COUNSEL SWAMINATHAN:                  12 Q So how is the science that you discuss in the                  13 report relevant to the Act?                  14 MR. BARHAM: Objection to the scope and form.                  15 THE WITNESS: In order for any government to 01:31:54                  16 institute policies that best integrate the science                  17 into whatever they do, they need to know that                  18 science. The same for Courts. So in order to                  19 balance whatever a Court perceives as the relevant                  20 issues, they need that information before them to 01:32:10                  21 make the -- to make any decision.                  22 BY COUNSEL SWAMINATHAN:                  23 Q But you're not a lawmaker; correct?                  24 A Correct.                  25 Q And you're not offering an expert opinion 01:32:23                  Page 161</p>

<p>1 regarding whether science supports the Act; right?                  2 A I wasn't asked to review the part of the                  3 science that is most directly involved in the Act,                  4 that is to say, specifically differences in athletic                  5 performance between the genders -- sexes, I should 01:32:45                  6 say.                  7 Q But it's fire say that you're not offering an                  8 expert opinion regarding whether science supports                  9 the Act; right?                  10 MR. TRYON: Objection. 01:32:54                  11 THE WITNESS: I -- the questions, as posed to                  12 me and as phrased in my report, are neither to                  13 support nor to detract from the law but merely                  14 summarize the science and indicate parts of overlap                  15 and parts of contradiction. None of it is in -- is 01:33:21                  16 in -- is a means to accomplish any specific end.                  17 BY COUNSEL SWAMINATHAN:                  18 Q Dr. Cantor, I think my question might be a                  19 yes-or-no question. I am just asking, you know,                  20 whether you believe that you're offering testimony 01:33:36                  21 today and in connection with your report as to                  22 whether science supports this act.                  23 I understand that earlier you said you were                  24 not offering an opinion on whether -- on -- on                  25 either side, whether to support or not support 01:33:53                  Page 162</p>	<p>1 A I'm not a lawyer, but --                  2 MR. TRYON: Objection.                  3 THE WITNESS: I'm not a lawyer myself, but I                  4 think that's fair for me to say, yes.                  5 BY COUNSEL SWAMINATHAN: 01:35:25                  6 Q Okay. And what is your understanding of                  7 H.B. 3293?                  8 A That it requires people who were born male to                  9 play -- it forbids people who were born male from                  10 playing on female teams. 01:35:36                  11 Q And have you read the text of the Act?                  12 A Yes, I have.                  13 Q You've read it from top to bottom?                  14 A From what I believe to be the top and what I                  15 believe to be the bottom, yes. 01:35:49                  16 Q Okay. So what is your understanding of what                  17 the, quote, basis for the Act is?                  18 MR. BARHAM: Objection as to form and the                  19 scope.                  20 THE WITNESS: To ask for the basis of the Act 01:36:14                  21 I think is to ask what is on the minds of the                  22 political system and the politicians who created it,                  23 which, of course, I can't know.                  24 BY COUNSEL SWAMINATHAN:                  25 Q I'm -- I'm definitely not asking you to read 01:36:27                  Page 164</p>
<p>1 the Act.                  2 So I think my question might be a yes-or-no                  3 question.                  4 A I don't think it is a yes-or-no question.                  5 Science is, you know, complicated. There are -- 01:34:03                  6 this issue is complicated. And it's quite feasible                  7 that, you know, pieces of science will support some                  8 aspects and not others.                  9 Q Okay. So, again, if you can clarify, what in                  10 your report is relevant to the Act? What testimony 01:34:19                  11 that you've offered in your report is relevant to                  12 the Act?                  13 A All of it.                  14 Q How is all of what you offer relevant to                  15 the Act? 01:34:32                  16 A In a decision made to affect trans people,                  17 one needs to be, as much as possible, aware of the                  18 science of trans people.                  19 Q Okay. And so it's your testimony that all of                  20 the opinions that you offer in your report are 01:34:54                  21 opinions related to H.B. 3293; is that correct?                  22 A Yes.                  23 Q Okay. And you agree that the Act is a                  24 decision that's made to affect trans people;                  25 correct? 01:35:17                  Page 163</p>	<p>1 into the minds of the politicians.                  2 I'm -- I'm going to read again the last                  3 sentence on page 3 of your expert report that says                  4 (as read):                  5 "As I explain in detail in this 01:36:36                  6 report, it is my opinion that                  7 Plaintiffs' expert reports display a                  8 wide variety of flaws that call                  9 their conclusions into question and                  10 that no professional organization 01:36:46                  11 has articulated a meritorious                  12 position that calls into question                  13 the basis for the Act."                  14 So I am simply asking you what your                  15 understanding of the basis for the Act is. 01:37:01                  16 A That the Act was necessary to improve the                  17 lives of the students on these teams.                  18 Q Can you be more specific about "the students                  19 on these teams"? What do you mean by that?                  20 A To balance the rights, needs and privileges 01:38:00                  21 of each of the groups.                  22 Q Who are the groups that we're speaking about?                  23 A The people on the teams, the -- the                  24 competitors, the trans students and then their,                  25 typically, non-trans teammates. 01:38:13                  Page 165</p>

<p>1 Q And which teams are we specifically talking 2 about? 3 A I wasn't -- I wasn't talking about any 4 particular sport, but this -- this would be any 5 sex-segregated teams. 01:38:28 6 Q Okay. And how did you develop the 7 understanding that you just shared with me? 8 A I take it on general principles as the 9 purpose behind any law is to improve the situation 10 for the citizens relevant to it. 01:38:48 11 Q And how does this act impact the live -- 12 lives of trans students? 13 A I have no direct knowledge of that kind of 14 impact outside of what's reported in the science, 15 and I'm not aware of there being any objective signs 01:39:05 16 measuring such an outcome. 17 COUNSEL SWAMINATHAN: Court Reporter, can you 18 please read back Dr. Cantor's answer before this 19 one? 20 (Recess.) 01:39:16 21 BY COUNSEL SWAMINATHAN: 22 Q So, Dr. Cantor, do you think that the Act 23 improves the lives of trans students? 24 A There's no way for me to know that without 25 data, and we don't have any. 01:39:43 Page 166</p>	<p>1 child-onset gender dysphoria even after they cease 2 to be a child. 3 Q What is your understanding of who is impacted 4 by H.B. 3293? 5 A Participant-- everyone who participates and 01:41:11 6 follows in the -- the relevant sports. 7 Q And you said that prepubertal kids -- your -- 8 your discussion on prepubertal kids pertains to the 9 population affected by H.B. 3293 because prepubertal 10 kids become pubertal kids who become adolescents; 01:41:28 11 right? 12 A Correct. The classifications are according 13 to when the -- the dysphoria starts, not where it 14 currently is. 15 Q So is it your opinion that adolescents are 01:41:40 16 still prepubertal kids? 17 A No, they are not. 18 Q Your report discusses adult-onset gender 19 dysphoria; right? 20 A Yes, it does. 01:41:58 21 Q That discussion also does not pertain to the 22 population affected by H.B. 3293; right? 23 A That is not correct. 24 Q Can you explain to me how adult-onset gender 25 dysphoria pertains to the population affected by 01:42:15 Page 168</p>
<p>1 Q Do you have data on how it improves the lives 2 of non-transgender students? 3 A No. The topic hasn't been studied. 4 Q So your report discusses prepubertal kids; 5 right? 01:40:05 6 A In part, yes. 7 Q A portion of your report discusses 8 prepubertal kids; right? 9 A Yes. 10 Q That discussion does not pertain to the 01:40:13 11 population affected by H.B. 3293; correct? 12 MR. BARHAM: Objection; form, scope and 13 terminology. 14 MR. TRYON: Objection. 15 THE WITNESS: No, that's not correct. 01:40:27 16 BY COUNSEL SWAMINATHAN: 17 Q How does your discussion about prepubertal 18 kids pertain to the population affected by H.B. 19 3293? 20 A The prepubertal kids become pubertal kids, 01:40:37 21 then become adolescents, even though they are 22 participating in these teams. For example, in 23 teenagehood, they still are members of -- they are 24 still a member of the demographic group where they 25 were. So they would still represent a phenomenon of 01:40:52 Page 167</p>	<p>1 H.B. 3293? 2 A That's now a different question. You're now 3 asking me about adult onset rather than adult trans 4 people who may or may not have been dysphoric 5 earlier. 01:42:29 6 Q Can you explain that difference to me? 7 A The -- the science demonstrates over and over 8 again that the age -- the age of development at 9 which one starts to feel highly dysphoric allows us 10 to predict the -- predict many other phenomena and 01:42:46 11 the life trajectory that the person is on. 12 If a person is adult onset, which not always, 13 but in most of the literature is midlife, 30s and 14 40s, this would be past the student athletics age, 15 but if the person has -- but that's different from 01:43:06 16 people who had childhood-onset dysphoria, continue 17 to have that dysphoria and then eventually become 18 adults. 19 Q What studies are you talking about when you 20 just mentioned that there are studies with data that 01:43:23 21 show over and over? 22 A The -- the -- the studies that show over and 23 over -- which specific point? 24 Q Well, you just -- you tell me. You -- you 25 were just talking about studies that show that 01:43:42 Page 169</p>

1 adult-onset gender -- the differences between  
 2 adult-onset gender dysphoria and gender dysphoria in  
 3 adults; right?  
 4 A Right.  
 5 Q I'm -- I'm just trying to understand what 01:43:54  
 6 studies you were relying on when you just gave me  
 7 that explanation of the differences.  
 8 A Oh. There are many dozen such studies,  
 9 including those cited in my report. These are the  
 10 studies that demonstrate that it's the adult onset, 01:44:08  
 11 not the childhood onset which experience, for  
 12 example, autogynephilia.  
 13 Q So you say there are dozens, and I absolutely  
 14 do not expect you to recant every study cited in  
 15 your report, but can you name a few studies that 01:44:23  
 16 you're referring to?  
 17 A I can't recite their titles. The original  
 18 author who started most of those were Ray Blanchard,  
 19 and then many others have continued, such as  
 20 Anne Lawrence, who I mentioned earlier. 01:44:40  
 21 Q And you've cited -- cited these studies in  
 22 your report; is that correct?  
 23 A I don't recall exactly which of those studies  
 24 that I mentioned, but in the section on adult-onset  
 25 gender dysphoria, I provide the appropriate topic -- 01:44:54  
 Page 170

1 provide the appropriate summary, with references.  
 2 Q Okay. And the discussion of adult-onset  
 3 gender dysphoria is not relevant to the Act;  
 4 correct?  
 5 MR. BARHAM: Objection; asked and answered. 01:45:11  
 6 MR. TRYON: Objection.  
 7 THE WITNESS: It -- no, it -- it is  
 8 relevant -- no, it is relevant.  
 9 BY COUNSEL SWAMINATHAN:  
 10 Q I'm sorry, I don't think I heard an answer as 01:45:25  
 11 to why it is relevant.  
 12 A Oh, I'm sorry. It's relevant in order to  
 13 help understand, especially with so much  
 14 misinformation being circulated today, which facts  
 15 apply to which group. 01:45:42  
 16 Q Which groups are you speaking about?  
 17 A Which onset -- which age -- which type of  
 18 onset of gender dysphoria we're talking about.  
 19 Q And --  
 20 A But -- 01:45:56  
 21 Q I'm sorry, go -- I apologize for cutting you  
 22 off.  
 23 A Adult-onset gender-dysphoric individuals who  
 24 come in and are otherwise mentally healthy are shown  
 25 to do very, very well after transition. But one 01:46:10  
 Page 171

1 needs to know that phenomenon is limited to the  
 2 adult onset type so as to not misapply it to the  
 3 childhood onset types.  
 4 So even though the law would not directly  
 5 pertain to the behaviors of the adult onset type, 01:46:22  
 6 one needs to understand the functioning of the adult  
 7 onset type so as not to confuse the information  
 8 about it with information about the childhood onset  
 9 type.  
 10 Q But we agree that the Act does not apply to 01:46:35  
 11 the adults that we're speaking about; right?  
 12 MR. TRYON: Objection.  
 13 THE WITNESS: As I -- as I've just -- as I  
 14 just explained, it's not relevant in a direct way,  
 15 but in order to understand the information about 01:46:49  
 16 childhood onset, one requires information about  
 17 adult onset with which to contrast it.  
 18 BY COUNSEL SWAMINATHAN:  
 19 Q Okay. And your report also discusses people  
 20 with the female sex assigned at birth? 01:47:02  
 21 A Yes.  
 22 MR. TRYON: Objection; terminology.  
 23 BY COUNSEL SWAMINATHAN:  
 24 Q That discussion also does not pertain to the  
 25 population affected by H.B. 3293; right? 01:47:17  
 Page 172

1 MR. TRYON: Objection.  
 2 MR. BARHAM: Objection; form, scope,  
 3 terminology.  
 4 THE WITNESS: No, that is not correct either.  
 5 BY COUNSEL SWAMINATHAN: 01:47:25  
 6 Q So how does -- how does your report's  
 7 discussion about people with a female sex assigned  
 8 at birth pertain to the population effected by H.B.  
 9 3293?  
 10 MR. BARHAM: Objection; terminology. 01:47:36  
 11 THE WITNESS: For the same reason. There's a  
 12 great deal of information being offered -- being  
 13 offered which pertains only to a certain subtype of  
 14 gender dysphoria, and in order to make sure that  
 15 like goes with like, one needs to understand all of 01:47:51  
 16 them so information about one kind of transition  
 17 doesn't get confused with other kinds of transition.  
 18 BY COUNSEL SWAMINATHAN:  
 19 Q Is it fair for me to say that H.B. 3293 does  
 20 not determine whether a person with the female sex 01:48:07  
 21 assigned at birth can play on any specific sports  
 22 team; correct?  
 23 MR. BARHAM: Objection --  
 24 MR. TRYON: Objection.  
 25 MR. BARHAM: -- form, scope and terminology. 01:48:20  
 Page 173

<p>1 THE WITNESS: As I read the law, it doesn't                  2 alter directly or doesn't affect the -- the                  3 behaviors available for -- it is a one-way ban,                  4 not -- it bans people born as male to play on female                  5 teams, but not people born female to play on male 01:48:40                  6 teams, is my understanding of the law.                  7 BY COUNSEL SWAMINATHAN:                  8 Q Got it. And are you offering an expert                  9 opinion on whether transgender girls and women                  10 should be allowed to play on sports teams consistent 01:48:52                  11 with their gender identity?                  12 A I'm not -- not offering such an opinion of my                  13 own. I'm just evaluating what's been circulating                  14 relative to the existing science.                  15 Q So would you agree that H.B. 3293 is a 01:49:03                  16 one-way ban?                  17 MR. TRYON: Objection.                  18 MR. BARHAM: Objection; form and scope.                  19 THE WITNESS: Again, I'm not a lawyer. I'm                  20 not aware of a technical definition for one way, but 01:49:19                  21 it certainly seems to fit that.                  22 BY COUNSEL SWAMINATHAN:                  23 Q So the population of people affected are not                  24 people with adult-onset gender dysphoria; right? We                  25 agree -- we discussed that; right? 01:49:33</p> <p style="text-align: right;">Page 174</p>	<p>1 BY COUNSEL SWAMINATHAN:                  2 Q What is your understanding of the impact                  3 on -- of H.B. 3293 on the decision to transition for                  4 children and adolescents suffering from gender                  5 dysphoria? 01:50:46                  6 A I'm not aware of that ever having been                  7 studied.                  8 COUNSEL SWAMINATHAN: Okay. I'm going to                  9 introduce tab 5, which has been marked as                  10 Exhibit 47. 01:51:00                  11 (Exhibit 47 was marked for identification                  12 by the court reporter and is attached hereto.)                  13 BY COUNSEL SWAMINATHAN:                  14 Q Again, it takes a moment to refresh and load,                  15 so please let me know when you have it. 01:51:32                  16 A I have it.                  17 Q Great. And have you seen this document                  18 before, Dr. Cantor?                  19 A It's not looking familiar to me, no.                  20 Q It's not looking familiar to you. 01:52:03                  21 You did not help author this document, then,                  22 I understand; right?                  23 A No.                  24 Q Okay. I will represent to you that these are                  25 the State of West Virginia's responses to plaintiff 01:52:19</p> <p style="text-align: right;">Page 176</p>
<p>1 MR. TRYON: Objection.                  2 THE WITNESS: The law doesn't pertain to                  3 their behavior specifically, correct.                  4 BY COUNSEL SWAMINATHAN:                  5 Q And are you offering an opinion on whether an 01:49:40                  6 11-year-old transgender girl who has been on puberty                  7 blockers since Tanner stage II should be allowed to                  8 play on the girls' cross-country team consistent                  9 with her gender identity?                  10 A I'm not offering a specific opinion like 01:49:54                  11 that, no.                  12 Q Okay. Are you opining that H.B. 3293 is                  13 justified because it discourages children and                  14 adolescents from being on a pathway toward life as a                  15 transgender person? 01:50:12                  16 MR. TRYON: Objection.                  17 THE WITNESS: No, that -- no, I'm not.                  18 BY COUNSEL SWAMINATHAN:                  19 Q Do you believe that H.B. 3293 discourages                  20 children and adolescents from being on a pathway 01:50:22                  21 toward life as a transgender person?                  22 MR. BARHAM: Objection.                  23 MR. TRYON: Objection.                  24 THE WITNESS: There's no way for me to know                  25 that. 01:50:33</p> <p style="text-align: right;">Page 175</p>	<p>1 B.P.J.'s first set of interrogatories, dated                  2 November 23rd, 2021.                  3 I'm going to be focusing on page 9 of the                  4 document, if you are able to turn to page 9.                  5 A One moment. 01:52:40                  6 Q No problem. Take your time.                  7 A Got it.                  8 Q Great. And so Interrogatory No. 6, which is                  9 at the top of the document, asks the State to                  10 "Identify all governmental interests that YOU" -- 01:52:56                  11 the State of West Virginia -- "believe are advanced                  12 by H.B. 3293."                  13 Do you see that?                  14 A Yes, I do.                  15 Q And the state, in its response, says (as 01:53:08                  16 read):                  17 "Without waiver of any objections,                  18 the State asserts the following                  19 interests, primarily and in general,                  20 which are advanced by the Protection 01:53:19                  21 of Women's Sports Act."                  22 And there are three items listed under there.                  23 The first is "To protect Women's Sports." The                  24 second, "To follow Title IX." And the third, "To                  25 protect women's safety in female athletic sports." 01:53:33</p> <p style="text-align: right;">Page 177</p>

<p>1 Do you see that?</p> <p>2 A Yes, I do.</p> <p>3 Q Okay. So are you offering an expert opinion</p> <p>4 with respect to whether H.B. 3293 serves the</p> <p>5 interest of protecting women's sports? 01:53:46</p> <p>6 A I haven't been asked that, no.</p> <p>7 Q Okay. And are you offering an opinion with</p> <p>8 respect to whether H.B. 3293 serves the interest of</p> <p>9 following Title IX?</p> <p>10 A I haven't been asked that, no. 01:54:03</p> <p>11 Q Okay. And are you offering an opinion with</p> <p>12 respect to whether H.B. 3293 serves the interest of</p> <p>13 protecting women's safety in female athletic sports?</p> <p>14 A I have not been asked that, no.</p> <p>15 Q And are you aware that H.B. 3293 applies to 01:54:20</p> <p>16 college athletes as well?</p> <p>17 A Yes.</p> <p>18 Q Do you have any opinions on whether H.B. 3293</p> <p>19 should apply to college athletes?</p> <p>20 A I have no opinion in any direction. 01:54:33</p> <p>21 Q Okay. So it's -- it's fair to say that you</p> <p>22 don't have an opinion on -- on that issue; right?</p> <p>23 A Yes.</p> <p>24 Q Okay. So I want to talk a bit about your</p> <p>25 experience with the treatment of gender dysphoria. 01:54:56</p> <p style="text-align: right;">Page 178</p>	<p>1 on average, who are ages 16 to 18, how many of them</p> <p>2 have a gender dysphoria diagnosis?</p> <p>3 A I don't recall if they came in already with</p> <p>4 such a diagnosis or at least I don't recall how many</p> <p>5 would have had -- would have already been assigned 01:56:46</p> <p>6 such a diagnosis by another clinician before they</p> <p>7 got to me.</p> <p>8 Q Would you be able to share with me roughly</p> <p>9 how many of them identify as transgender or gender</p> <p>10 dysphoric? 01:57:01</p> <p>11 A When they come to me, they're not sure of</p> <p>12 what their identity is. That's often among their</p> <p>13 questions.</p> <p>14 Q Okay. And what professional training or</p> <p>15 expertise do you possess to provide psychotherapy 01:57:14</p> <p>16 counseling to those adolescents who come to you</p> <p>17 questioning whether they have gender dysphoria or</p> <p>18 not?</p> <p>19 A Do you mean my licensing or education?</p> <p>20 Q Your licensing. 01:57:30</p> <p>21 A My licensing is as a clinical psychologist,</p> <p>22 registered in Ontario, specifically for adults and</p> <p>23 adolescents age 16 and up.</p> <p>24 Q Okay. And so that licensing does not</p> <p>25 pertain -- or allow you to provide psychotherapy 01:57:41</p> <p style="text-align: right;">Page 180</p>
<p>1 I understand earlier that you testified that</p> <p>2 you're not an endocrinologist; right?</p> <p>3 A Yes.</p> <p>4 Q And you personally have not diagnosed any</p> <p>5 child or adolescent with gender dysphoria; right? 01:55:05</p> <p>6 A Correct.</p> <p>7 Q And you personally have never treated any</p> <p>8 child or adolescent for gender dysphoria; right?</p> <p>9 A Correct.</p> <p>10 Q Okay. And you don't provide psychotherapy 01:55:18</p> <p>11 counseling to children or adolescents with gender</p> <p>12 dysphoria; right?</p> <p>13 A Age 16 or above, I do. Under age 16, I do</p> <p>14 not.</p> <p>15 Q And so it was your testimony earlier that you 01:55:38</p> <p>16 see about six to eight patients age 16 to 18;</p> <p>17 correct?</p> <p>18 A Roughly, yes.</p> <p>19 Q Roughly. And so roughly, of those six to</p> <p>20 eight patients, how many of those patients come to 01:55:49</p> <p>21 you suffering from gender dysphoria?</p> <p>22 A Those -- those people come to me -- I'm</p> <p>23 sorry, could you ask that again?</p> <p>24 Q Sure. I -- I must have phrased it poorly.</p> <p>25 So of the six to eight patients that you see, 01:56:11</p> <p style="text-align: right;">Page 179</p>	<p>1 counseling to anyone under the age of 16; correct?</p> <p>2 A Correct.</p> <p>3 Q Okay. Are you familiar with the term</p> <p>4 "affirmation on demand"?</p> <p>5 A Yes. 01:57:56</p> <p>6 Q What does that term mean?</p> <p>7 A It refers to permitting a person to engage in</p> <p>8 whatever available methods to acknowledge or to</p> <p>9 medically induce their transition with no other --</p> <p>10 with no evaluation or supervision. 01:58:15</p> <p>11 Q Has any patient ever come to you asking for</p> <p>12 affirmation on demand?</p> <p>13 A No.</p> <p>14 Q What is your basis for saying that providers</p> <p>15 are providing affirmation on demand to children and 01:58:31</p> <p>16 adolescents with gender dysphoria?</p> <p>17 A Through several venues. I get that</p> <p>18 information from parents, from people, you know, in</p> <p>19 society who e-mail me asking for help. There's a</p> <p>20 large number of media reports of it happening 01:58:49</p> <p>21 throughout the world, U.S., Canada and Europe. And</p> <p>22 there's now been -- there are now several</p> <p>23 governmental entities, mostly in Europe, are now</p> <p>24 beginning more formal investiga- -- investigations</p> <p>25 of it. 01:59:05</p> <p style="text-align: right;">Page 181</p>

1 Q Okay. So let me see if I understand this  
 2 correctly.  
 3 You said parents, people who e-mail you, news  
 4 sources and information put out by government  
 5 entities, most commonly in Europe; is that correct? 01:59:17  
 6 Those are the sources from which you've heard that  
 7 providers are providing affirmation on demand?  
 8 A That question sounds slightly different to  
 9 me.  
 10 There's affirmation on demand as an idea. 01:59:36  
 11 Q Uh-huh.  
 12 A And then there are the actual processes that  
 13 clinics are doing in which they're providing  
 14 affirmation without sufficient evaluation. So it's  
 15 starting to approach affirmation on demand, which 01:59:51  
 16 would be the name for the most extreme version.  
 17 Q I see. And so have you spoken to providers  
 18 who claim to provide affirmation on demand to  
 19 children and adolescents with gender dysphoria?  
 20 A No. The people who are -- seem to be 02:00:11  
 21 providing it deny that that's what they're doing.  
 22 Q Have you -- are you personally aware of any  
 23 providers who fail to conduct the sufficient  
 24 evaluation that you just mentioned that teeters on  
 25 the edge of affirmation on demand? 02:00:25  
 Page 182

1 A I'm not clear on what you mean by "personally  
 2 aware" beyond the way that I already described how I  
 3 become aware of it.  
 4 Q I think I'm just trying to understand more  
 5 how that you know for certain providers are 02:00:46  
 6 providing affirmation on demand.  
 7 A Again, that -- that seems to be the question  
 8 you asked before, where it's a series of different  
 9 kinds of sources.  
 10 Q But none of those sources are actual 02:01:00  
 11 providers who provide this care; right?  
 12 A Again, as I said already, most of the people  
 13 who seem to be providing something that would  
 14 reasonably be called that deny that that's what  
 15 they're doing. 02:01:16  
 16 Q Has anyone at your hospital, to your  
 17 knowledge, provided affirmation on demand?  
 18 A When you say my hospital, I assume you mean  
 19 my former affiliation at CAMH.  
 20 Q Yes. Apologies. 02:01:33  
 21 Has anyone, to your knowledge, at CAMH  
 22 provided affirmation on demand?  
 23 A No. The clinic there is known for being  
 24 cautious.  
 25 Q So you've not talked to any other providers 02:01:48  
 Page 183

1 who have claimed to provide affirmation on demand;  
 2 right?  
 3 A Correct. The people who seem to be providing  
 4 it deny that that's what they're providing.  
 5 Q Okay. And your only evidence that 02:02:03  
 6 affirmation on demand is being provided is from  
 7 parents, from people and society directly e-mailing  
 8 you, from news sources and from the government  
 9 entity releases that you spoke about earlier; right?  
 10 A Correct. 02:02:19  
 11 Q Okay. Have you read any studies that show  
 12 that providers are providing affirmation on demand  
 13 to children and adolescents with gender dysphoria?  
 14 A No. No, I'm not. As I say, the -- the  
 15 providers don't acknowledge that that's what they're 02:02:38  
 16 doing to begin with, leaving little opportunity to  
 17 study it at all.  
 18 Q Okay. What do you understand desistance to  
 19 mean in the context of gender dysphoria?  
 20 A Different people use the words in slightly 02:02:53  
 21 different ways or with different cutoffs, but in  
 22 general, they -- they refer to a person realizing  
 23 that they weren't actually trans after all.  
 24 Q So you said different people have maybe  
 25 different definitions. 02:03:08  
 Page 184

1 What is your definition of desistance?  
 2 A I don't think I can really say that I have a  
 3 definition so much as I do my best to understand  
 4 what the person taking to me or the document that  
 5 I'm reading, what they meant by it and then going 02:03:25  
 6 with, you know, whatever meaning it is that -- that  
 7 they meant.  
 8 Q I guess I'm trying to understand.  
 9 So in your professional practice, what  
 10 different variations of understanding of the word 02:03:43  
 11 "desistance" have you encountered?  
 12 A Generally, they would differ according to how  
 13 far along the transition process the person was to  
 14 begin with. A person suspecting that they might be  
 15 trans and then figuring out that they're not is very 02:03:59  
 16 different from a person who transitions, socially  
 17 changed a name and then changed it back, which is  
 18 still again very different from somebody who has  
 19 taken hormones or gone through surgery and then  
 20 regrets that. 02:04:14  
 21 Q Okay. You spoke about regret.  
 22 What do you understand regret to mean in the  
 23 context of desistance?  
 24 A Wishes that they had never gone through  
 25 transition to begin with. 02:04:24  
 Page 185

<p>1 Q Okay. And are you aware of any studies 2 tracking desistance in adolescents with gender 3 dysphoria? 4 A I'm aware of studies that have included it 5 inside of a larger study of the phenomenon -- of 02:04:41 6 trans adolescents in general. There have -- I've 7 seen that there exists now a small handful of 8 studies trying to survey those kids. I haven't 9 studied them yet in any depth, however. 10 Q Okay. Would you know the names of any of 02:05:06 11 these small handful of studies you just mentioned? 12 A Not offhand, no. 13 Q Would you know any of the authors of these 14 studies or the people who are in the process of 15 collecting this data? 02:05:21 16 A Not offhand, no. 17 Q Okay. And are any of these studies cited in 18 your report? 19 A No, they are not. 20 Q Okay. So I'm going to introduce tab 7, which 02:05:29 21 is going to be marked as Exhibit 48. Give me one 22 moment for it to show up on your end. 23 Are you -- 24 (Exhibit 48 was marked for identification 25 by the court reporter and is attached hereto.) 02:06:07 Page 186</p>	<p>1 A No other sexual interest phenomena that would 2 better account or better describe what they're 3 interested -- what they're interested in. 4 Q What are non-regular gay or lesbian folks, 5 then? 02:07:24 6 A For example, somebody with a -- with a 7 paraphilia or with a fetish that makes the 8 determination of their sexual orientation a bit 9 moot. 10 Q What does that mean, to make it a bit moot? 02:07:36 11 A That their sexual interest pattern doesn't 12 follow along what most people are generally familiar 13 with in -- in discussing attraction to men or 14 attraction to women. 15 Q Okay. So if a child's gender dysphoria were 02:07:53 16 to persist and they continued to want to transition 17 by the time they are adults, what are they, in your 18 view? 19 A If -- they would most -- they would be in the 20 running to qualify -- the emotion they would be 02:08:11 21 describing would be gender dysphoria. Whether they 22 qualify for the diagnosis depends on -- would 23 require a more fulsome assessment. 24 Q Would they be irregular, in your mind? 25 A They would be atypical in that it is 02:08:25 Page 188</p>
<p>1 THE WITNESS: Yes. 2 BY COUNSEL SWAMINATHAN 3 Q Great. Do you recognize this blog post, 4 Dr. Cantor? 5 A Yes, I do. 02:06:16 6 Q So this is a blog post entitled "Do trans 7 kids stay trans when they grow up?" 8 You authored this post in Sexology Today!; 9 correct? 10 A Correct. 02:06:29 11 Q And you wrote this in 2016. It says 12 January 11th, 2016; correct? 13 A That's right. 14 Q Okay. And so I want to turn your attention 15 to the -- the second paragraph of -- the top of the 02:06:43 16 page. You write (as read): 17 "Only very few trans- kids still 18 want to transition by the time they 19 are adults. Instead, they generally 20 turn out to be regular gay or 02:06:57 21 lesbian folks." 22 Did I read that accurately? 23 A Yes. 24 Q What does "regular gay or lesbian folks" 25 mean? 02:07:08 Page 187</p>	<p>1 statistically a rarer phenomenon than cisgender is. 2 Q I heard you say, just a few seconds ago, they 3 would be in the running for, and then you kind of 4 cut off, I thought. 5 What did you mean to say when you said they 02:08:44 6 would be in the running for? Would they be in the 7 running for being transgender? 8 A Yes, that would be possible, but I can't make 9 that kind of conclusion without the person 10 undergoing, as I say, a more fulsome assessment, 02:08:57 11 looking for other possible motivators for why they 12 might feel gender dysphoria. 13 Q So what do you -- let's see. 14 Are you aware that gender identity and sexual 15 orientation are distinct concepts? 02:09:12 16 A Yes. 17 Q Yes? Are you aware that someone can be 18 transgender and gay? 19 A Yes, although the particular phrases become a 20 little bit more complicated when a person is 02:09:24 21 changing sex and you're trying to say what they're 22 attracted to relative to the sex they are. 23 Q And is it equally as complicated for the 24 understanding that someone can be transgender and a 25 lesbian? 02:09:43 Page 189</p>



<p>1 A Is it complicated? Yes.                  2 Q Is it more complicated than someone being                  3 transgender and gay?                  4 A No. This is the same complication.                  5 Q The same complication. Okay. 02:09:56                  6 Dr. Cantor, do you believe that social                  7 transition for gender-dysphoric adolescents after                  8 age 12 is appropriate?                  9 A That's an empirical question -- that's an                  10 empirical question, and the science unde- -- is 02:10:17                  11 still somewhat undecided about it.                  12 Q I'm just asking for your opinion, though.                  13 Do you believe that social transition for                  14 gender-dysphoric adolescents after age 12 is                  15 appropriate? 02:10:35                  16 A It's not possible to have an opinion outside                  17 of the science.                  18 COUNSEL SWAMINATHAN: Okay. I'm going to                  19 introduce tab 23, which is now going to be marked as                  20 Exhibit 49. 02:10:49                  21 (Exhibit 49 was marked for identification                  22 by the court reporter and is attached hereto.)                  23 THE WITNESS: I see it.                  24 BY COUNSEL SWAMINATHAN:                  25 Q Great. And if you can turn to the second 02:11:15                  Page 190</p>	<p>1 transition for gender-dysphoric adolescents at age                  2 12?                  3 A No.                  4 Q No? So this article is authored in July of                  5 2020. 02:12:29                  6 So has your opinion changed from July 2020 --                  7 July 2020 to now?                  8 A Science has changed, and as I say, my opinion                  9 just follows the science.                  10 Q How has the science changed? 02:12:42                  11 A The -- several of the papers that were being                  12 circulated in the late 2019s have turned out to be                  13 wrong. Some were retracted. Some were reanalyzed,                  14 and it was shown that their results were not correct                  15 to begin with. And it was recognized that those 02:13:02                  16 studies which did seem to be indicating an                  17 improvement over -- over transition, such kids were                  18 receiving psychotherapy in addition to receiving                  19 medical transition.                  20 Once that was recognized, we could no longer 02:13:15                  21 conclude that it was any -- the medical                  22 transition -- that it was the medical transition or                  23 any other transition being the source of the benefit                  24 rather than the psychotherapy itself.                  25 So once the evidence supporting earlier 02:13:28                  Page 192</p>
<p>1 page of this article, which is an article titled                  2 "When is a 'TERF'" --                  3 COUNSEL SWAMINATHAN: For the court reporter,                  4 that's T-E-R-F.                  5 BY COUNSEL SWAMINATHAN: 02:11:26                  6 Q -- "not a 'TERF'?" authored on July 20- --                  7 July 8th, 2020.                  8 And this is an article written by you, right,                  9 Dr. Cantor?                  10 A Yes, it is. 02:11:36                  11 Q And if you turn to page 2, you'll see, around                  12 the middle of the page, the -- the third paragraph                  13 that begins with (as read):                  14 "I support age 12, not for any                  15 ideological reason, but because that 02:11:51                  16 is what the (current) evidence                  17 supports: The majority of                  18 prepubescent kids cease to feel                  19 trans during puberty, but the                  20 majority of kids who continue to 02:12:04                  21 feel trans after puberty rarely                  22 cease."                  23 Do you see that?                  24 A Yes, I do.                  25 Q So is it fair to say that you support social 02:12:09                  Page 191</p>	<p>1 transition evaporated, then one's opinion of that                  2 science has to change with it.                  3 Q So you mentioned studies that have been                  4 changed or retracted. What studies are you talking                  5 about? 02:13:42                  6 A It's a series of -- a series of studies, all                  7 of which have been -- are cited in my report.                  8 Q Can you name a few of those studies?                  9 A I'm better with names if I could have my                  10 report in front of me at the same time. 02:13:56                  11 MR. BARHAM: The latest report is Exhibit 45;                  12 is that correct?                  13 COUNSEL SWAMINATHAN: That is correct.                  14 THE WITNESS: Bränström and Pachankis 2019                  15 became retracted. 02:14:53                  16 BY COUNSEL SWAMINATHAN:                  17 Q Any others?                  18 A Olson, et al., was demonstrated to be                  19 incorrect.                  20 The Costa study, although it came out 02:15:37                  21 earlier, it then became better known once the other                  22 studies started -- after the other studies started                  23 showing that they were in error.                  24 Q And you're talking about the Costa 2015; is                  25 that correct? 02:16:00                  Page 193</p>

<p>1 A Yes.                  2 Q Okay.                  3 A So those are the --                  4 Q Okay. Thank you, Dr. --                  5 A Those are the ones -- okay. 02:16:06                  6 Q So, Dr. Cantor, what is the Dutch protocol?                  7 A The Dutch protocol started outside of Canada.                  8 The largest clinic for children's gender dysphoria                  9 was in the Netherlands. They also took a                  10 conservative method, like -- like the clinics in 02:16:26                  11 Canada, where children who were otherwise qualified                  12 would be allowed to begin taking puberty blockers at                  13 age 14 and then cross-sex hormones at age 16.                  14 Q And the Dutch protocol allowed for a social                  15 transition after age 12; right? 02:16:46                  16 A It was during adolescence. I don't recall                  17 the specific age.                  18 Q Let me turn your attention to a page in your                  19 report that might help you reflect (sic) your                  20 recollection. 02:17:02                  21 So if you could turn to page 19 of your                  22 report.                  23 A One moment.                  24 Q No problem.                  25 And at the top of the page, it says that "The 02:17:23                  Page 194</p>	<p>1 paragraph 46, in the last sentence of your                  2 paragraph, you state, quote, (as read):                  3 "Internationally, the Dutch Approach                  4 is currently the most widely                  5 accepted and utilized method for 02:18:54                  6 treatment of children who present                  7 with gender dysphoria."                  8 End quote.                  9 Do you agree with that statement?                  10 A Yes, that would -- that would still be fair 02:19:02                  11 to say.                  12 Q Okay. Dr. Cantor, what puberty-blocking                  13 drugs are you aware of?                  14 A Oh, I couldn't tell them to you by name so                  15 much as by function. 02:19:20                  16 Q What are you aware of about the function of                  17 puberty-blocking treatment?                  18 A Well, there are a series of signals in the                  19 brain that indicate to different parts of the brain                  20 and different parts of the body when to -- that they 02:19:34                  21 should be maturing. The puberty blocker stops --                  22 stops that cycle.                  23 Q And, again, you are not an expert in the                  24 different types of prescription drugs that are used                  25 as puberty-blocking agents; right? 02:19:50                  Page 196</p>
<p>1 components of the Dutch Approach are: no social                  2 transition at all considered before age 12..." which                  3 they describe as the watchful waiting period.                  4 A Correct.                  5 Q So is it fair to say that the Dutch protocol 02:17:36                  6 allows for social transition after age 12?                  7 A Allows for it? Yes.                  8 Q So is it your opinion as you testify today                  9 that you disagree with the Dutch protocol with                  10 respect to the age at which it allows for social 02:17:53                  11 transition?                  12 A There were some pieces missing in that.                  13 As I said, the Dutch protocol, at the time,                  14 was developed on the data that was available at that                  15 time. Both have changed -- well, the Dutch 02:18:15                  16 protocol, as we call it, hasn't changed, but the                  17 clinics themselves have -- are now becoming more                  18 conservative, as the original version of the Dutch                  19 protocol has not been as well replicated.                  20 But instead of clinics raising their 02:18:29                  21 standards, like is happening throughout Europe,                  22 clinics in the U.S. who are receiving reports are                  23 lowering their standards.                  24 Q I see. And so if you look at page 18 of your                  25 report, just the page before, and you look at 02:18:42                  Page 195</p>	<p>1 A That is correct.                  2 Q Okay. You have never obtained informed                  3 consent to provide puberty blockers; right?                  4 A Correct.                  5 Q And you've never had a patient sign an 02:20:03                  6 informed consent form relating to puberty blockers;                  7 right?                  8 A Correct.                  9 Q You personally have no experience with                  10 monitoring patients who are undergoing 02:20:15                  11 puberty-blocking treatment; right?                  12 A Correct.                  13 Q You don't know what type of monitoring is                  14 typically done or not done for those patients;                  15 right? 02:20:28                  16 A That's part of medical practice.                  17 Q That's not your practice; right?                  18 A Correct.                  19 Q Okay. Dr. Cantor, you know what cross-sex                  20 hormones are; correct? 02:20:46                  21 A Yes.                  22 Q For transgender women, estrogen is the                  23 hormone that's typically prescribed; correct?                  24 MR. BARHAM: Objection as to terminology.                  25 THE WITNESS: Yes. 02:20:55                  Page 197</p>

<p>1 BY COUNSEL SWAMINATHAN:                  2 Q And for transgender men, testosterone is the                  3 hormone that's typically prescribed; correct?                  4 MR. BARHAM: Objection; terminology.                  5 THE WITNESS: Correct. 02:21:07                  6 BY COUNSEL SWAMINATHAN:                  7 Q Have you ever obtained informed consent to                  8 provide cross-sex hormones to anyone?                  9 A No.                  10 Q You've never had a patient sign an informed 02:21:15                  11 consent form relating to cross-sex hormones; right?                  12 A Correct.                  13 Q Okay. Have you advised patients about                  14 potential risks and benefits of cross-sex hormones?                  15 A No, I have not. 02:21:33                  16 Q Okay. Aside from the literature you have                  17 reviewed, you personally don't know what doctors                  18 tell their patients about cross-sex hormones; right?                  19 MR. BARHAM: Objection as to form and scope.                  20 THE WITNESS: That's not entirely true. For 02:21:55                  21 example, people who have detransitioned or people                  22 who have transitioned, when it's relevant, you know,                  23 will discuss with me conversations that they've had                  24 with their physicians.                  25 ///</p> <p style="text-align: right;">Page 198</p>	<p>1 Q When's the last time you've done that?                  2 A Oh. Last week.                  3 Q Last week. And are you aware that the                  4 Endocrine Society guidelines recommend treating                  5 gender-dysphoric and gender-incongruent adolescents 02:23:18                  6 who have entered puberty at Tanner stage II by                  7 suppression with gonadotropin-releasing hormone                  8 agonists?                  9 A I'm aware that that's in that document, yes.                  10 Q Okay. And if we can take a look back -- I -- 02:23:30                  11 I assume you still have your report pulled up. If                  12 you can take a look at page 3 of your report.                  13 A I'm there.                  14 Q And you look at paragraph 8, subset (e), you                  15 state that (as read): 02:23:59                  16 "Affirmation of a transgender                  17 identity in minors who suffer from                  18 early-onset or adolescent-onset                  19 gender dysphoria is not an accepted                  20 'standard of care.'" 02:24:10                  21 Which is in quotes.                  22 Is that correct?                  23 A That's correct.                  24 Q So this opinion conflicts with the                  25 Endocrine Society recommendations; right? 02:24:20</p> <p style="text-align: right;">Page 200</p>
<p>1 BY COUNSEL SWAMINATHAN:                  2 Q Okay. So your knowledge of what doctors tell                  3 their patients about cross-sex hormones comes from                  4 what your patients who have detransitioned have told                  5 you; is that fair? 02:22:17                  6 A In part. The other sources are the sources                  7 that I mentioned earlier, e-mails and other contacts                  8 from -- from family members, requests for -- for                  9 consultation, media -- and media outlets.                  10 Q Got it. Thank you. Okay. 02:22:34                  11 Did you review --                  12 COUNSEL SWAMINATHAN: Actually, I just want                  13 to check in. You're -- are you okay to keep going?                  14 But it has been about an hour and ten minutes. If                  15 you need a break, that's totally fine. 02:22:44                  16 THE WITNESS: I'm good.                  17 COUNSEL SWAMINATHAN: You're good? Okay.                  18 BY COUNSEL SWAMINATHAN:                  19 Q Did you review the 2017 Endocrine Society                  20 guidelines in full before forming your opinions in 02:22:56                  21 this case?                  22 A Yes, I have.                  23 Q You have? You've read them from top to                  24 bottom as well?                  25 A Yes, I have. 02:23:04</p> <p style="text-align: right;">Page 199</p>	<p>1 A Yes, it does.                  2 Q And you yourself are not a part of the                  3 Endocrine Society; right?                  4 A That is correct.                  5 Q You've never advised the Endocrine Society in 02:24:31                  6 any capacity; right?                  7 A That is correct.                  8 Q You personally were not involved with the                  9 development of the original Endocrine Society                  10 guidelines back in 2009; right? 02:24:47                  11 A Correct.                  12 Q You were not involved with the development of                  13 the updated guidelines in 2017; right?                  14 A Correct.                  15 Q Do you know what kind of scientific 02:24:59                  16 literature review the Endocrine Society conducted in                  17 developing the 2017 updates?                  18 A I'm not aware of its details, no.                  19 Q Are you aware of what kind of outside experts                  20 the Endocrine Society may have consulted in 02:25:16                  21 developing the 2017 updates?                  22 A I'm aware that they had such people whom they                  23 requested, yes.                  24 Q Are you aware of any of these people by name?                  25 A The only one I know by name is from his 02:25:32</p> <p style="text-align: right;">Page 201</p>

<p>1 involvement in this case, Dr. Jensen.                  2 Q Okay. And you don't hold yourself out as an                  3 expert in how the Endocrine Society developed the                  4 original 2009 guidelines for treatment of gender                  5 dysphoria; right? 02:25:50                  6 A It's a little hard to imagine such a question                  7 being used to determine whether a person can be                  8 called an expert on -- on anything. That's a very                  9 narrow topic. However, there has been systematic                  10 evaluation of the Endocrine Society's guidelines. 02:26:08                  11 Q I guess my question is that you don't hold                  12 yourself out personally as an expert in how the                  13 Endocrine Society developed the original 2009                  14 guidelines; right?                  15 A Yes, that would be true. 02:26:23                  16 Q Okay. And the same -- you don't hold                  17 yourself out as an expert in how the                  18 Endocrine Society developed the 2017 updates; right?                  19 A That, again, would, I think, be true.                  20 Q Okay. You know what the WPATH is, right, the 02:26:40                  21 World Professional Association for Transgender                  22 Health?                  23 A Yes, I am.                  24 Q Sorry, yes, you do or yes, you --                  25 A Yes, I am aware. 02:26:54</p> <p style="text-align: right;">Page 202</p>	<p>1 Q When did you review them?                  2 A That was now three or four years ago.                  3 Q And have you reviewed all of the articles                  4 cited in the "References" section of the WPATH                  5 Standards of Care? 02:28:27                  6 A I haven't looked through the reference list                  7 to see how many of them I would have read, no.                  8 Q So you haven't reviewed the reference list;                  9 right?                  10 A Well, I haven't reviewed the reference list 02:28:37                  11 to see how many of those references I happened to                  12 know, no.                  13 Q Okay. And you yourself are not a part of the                  14 WPATH; right?                  15 A Correct. 02:28:48                  16 Q Have you ever been a member of WPATH?                  17 A No.                  18 Q Have you ever advised the WPATH in any                  19 capacity?                  20 A No. 02:29:01                  21 Q Okay. You personally have not been involved                  22 with the development of WPATH Standards of Care,                  23 Version 7; right?                  24 A Correct.                  25 Q Okay. Do you know that WPATH is currently 02:29:13</p> <p style="text-align: right;">Page 204</p>
<p>1 Q Oh, okay. Do you know that WPATH                  2 publishes standards of care for the health of                  3 transgender people?                  4 A Yes, I'm aware.                  5 Q Are you aware that WPATH has been publishing 02:27:07                  6 these standards since 1979?                  7 A Yes, I am.                  8 Q Okay. To your knowledge, what is the latest                  9 standard of care available from WPATH?                  10 A They're in the middle of revising them now. 02:27:21                  11 I don't remember the year of the current -- current                  12 version, but --                  13 Q Do you know the number of the current                  14 version?                  15 A No. I don't recall. 02:27:33                  16 Q Do you know when the most recent version was                  17 published?                  18 A Not without looking it up. I don't remember                  19 the year, no.                  20 Q So in your report, you express some opinions 02:27:47                  21 about the WPATH Standards of Care; right?                  22 A Correct.                  23 Q Before you wrote this report, did you sit                  24 down and review the WPATH Standards of Care?                  25 A Yes. Yes, I did. 02:28:00</p> <p style="text-align: right;">Page 203</p>	<p>1 working on Version 8 of their standards of care?                  2 A Yes, I am.                  3 Q You personally have not been involved in the                  4 development of WPATH Standards of Care, Version 8;                  5 right? 02:29:29                  6 A Correct.                  7 Q And you don't hold yourself out as an expert                  8 in how Version 8 is currently being developed;                  9 right?                  10 A Again, I hesitate to say that that is a 02:29:40                  11 subject in which there exists expertise. It's                  12 within my topic of expertise, but I wouldn't say                  13 that I am an expert in that topic specifically.                  14 Q Okay. And in this particular case, you're                  15 not offering any expert opinions on how Version 8 of 02:29:59                  16 the WPATH Standards of Care are currently being                  17 developed; right?                  18 A Correct. The comments in my report included                  19 evaluation of Version 7.                  20 Q Okay. So, Dr. Cantor, I would love for you 02:30:16                  21 to turn to page 16 of your expert report.                  22 A Got it.                  23 Q Great. If you could just have that open.                  24 So do you agree that the number and                  25 percentage of prepubertal kids with gender dysphoria 02:30:40</p> <p style="text-align: right;">Page 205</p>

<p>1 who do not go on to identify as transgender is                  2 currently unknown?                  3 A No, I don't think that's exactly fair to say.                  4 What --                  5 Q So -- what do you base your opinion -- 02:31:11                  6 MR. BARHAM: I'd ask that -- I'd ask that you                  7 allow him to finish his answer before answer- --                  8 asking the next question.                  9 COUNSEL SWAMINATHAN: Apologies, Counsel.                  10 BY COUNSEL SWAMINATHAN: 02:31:20                  11 Q Please finish your answer, Dr. Cantor.                  12 A There have been 11 studies, and all of them                  13 show that the large majority cease to want to                  14 transition by puberty, but the exact number changes                  15 study by study. So I can't say that the number is 02:31:31                  16 known, in that we haven't found the same number                  17 coming up over and over again, but it would be                  18 unfair to say that, you know, the entire range of                  19 possible numbers are equally possible. They're not.                  20 The studies have consistently even, even 02:31:46                  21 unanimously, said that it was the large majority                  22 desist, but we still can't give a -- a specific                  23 number better than a range.                  24 Q So you agree that the number and percentage                  25 of prepubertal kids with gender dysphoria who do not 02:32:03                  Page 206</p>	<p>1 identify as transgender; right?                  2 A I don't -- no, I'm not off- -- I'm not                  3 offering such a percentage, no. We have -- we don't                  4 have the kind of prospective systematic studies to                  5 give us a better idea of the range. Instead, we 02:33:37                  6 have studies which retrospectively try to ask                  7 questions from these people, but those studies don't                  8 give us an estimate of how many people have already                  9 desisted and, therefore, never took the                  10 questionnaire to begin with. 02:33:53                  11 Q Okay. And, Dr. Cantor, you agree that no                  12 study supports the withholding of gender-affirming                  13 treatment after the onset of puberty; right?                  14 MR. BARHAM: Objection as to terminology.                  15 THE WITNESS: Could you ask that again, 02:34:11                  16 please?                  17 BY COUNSEL SWAMINATHAN:                  18 Q Sure. You agree that no study supports the                  19 withholding of gender-affirming treatment after the                  20 onset of puberty; right? 02:34:19                  21 A That no study supports the withholding.                  22 MR. BARHAM: Objection --                  23 THE WITNESS: That's --                  24 MR. BARHAM: Objection as to terminology.                  25 THE WITNESS: That's true in only a very 02:34:37                  Page 208</p>
<p>1 go on to identify as transgender is currently                  2 unknown; right?                  3 MR. BARHAM: Objection; asked and answered.                  4 MR. TRYON: Objection.                  5 THE WITNESS: Again, I can't say that there 02:32:12                  6 is a specific number, but the range is unanimously,                  7 in every single study, the large majority.                  8 BY COUNSEL SWAMINATHAN:                  9 Q And which studies are you referring to?                  10 A There were 11, and they were the -- the 11 02:32:29                  11 studies listed on my blog, which you posted.                  12 Q I think I have maybe shown you two blog posts                  13 now. Was it tab 40 -- sorry -- Exhibit 48? Is that                  14 the one you're referring to?                  15 A I don't remember the tab number, but only one 02:32:45                  16 of those two had a list of studies, and the other                  17 was, you know, just text from me.                  18 Q Okay. Do you agree that the number and                  19 percentage of adolescents with gender dysphoria who                  20 do not go on to identify as transgender is currently 02:33:00                  21 unknown?                  22 A That is much less known, correct.                  23 Q Okay. And I take it you are not offering any                  24 expert opinions on what number or percentage of                  25 adolescents with gender dysphoria do not go on to 02:33:16                  Page 207</p>	<p>1 vacuous way in that that's not how science, never                  2 mind medical science, is conducted. In science, we                  3 begin with the null hypothesis. Everything starts                  4 with a null hypothesis. The onus of proof belongs                  5 to the person saying that doing something will do 02:35:12                  6 something. It's not possible to prove a null                  7 hypothesis. We start with it and wait for proof                  8 that doing something has whatever intended effect.                  9 All of that is to say it's not possible to                  10 conduct a study that would prove what happens when 02:35:30                  11 you do nothing. We start with that point.                  12 BY COUNSEL SWAMINATHAN:                  13 Q So what is the basis for your opinion that                  14 it's not possible to prove what the effects of,                  15 quote, doing nothing are? 02:35:46                  16 A That's a fundamental tenet of science.                  17 That's what I call the -- as I said, that's called                  18 the null hypothesis. It's a basic functioning of                  19 the scientific process.                  20 Q And so there's -- I'm right, though, that 02:35:58                  21 there's no study that has tracked what you call as                  22 doing nothing in adolescents who are suffering from                  23 gender dysphoria; right?                  24 MR. TRYON: Objection.                  25 THE WITNESS: Correct, there is no such 02:36:17                  Page 209</p>

<p>1 study.                  2 BY COUNSEL SWAMINATHAN:                  3 Q Okay. You recognize that your theory of                  4 withholding social transition to see if prepubertal                  5 kids with gender dysphoria desist is an outlier in 02:36:27                  6 the scientific community?                  7 MR. BARHAM: Objection as to form and                  8 terminology.                  9 THE WITNESS: No, I would not say that at                  10 all. 02:36:41                  11 BY COUNSEL SWAMINATHAN:                  12 Q What do you base your -- that answer on?                  13 A I'm in regular contact with a -- with very,                  14 very many scientists in my field, and they generally                  15 agree with me. It's -- and they generally agree 02:36:51                  16 with -- agree with me. It's the outliers who tend                  17 to speak most often, loudest and most publicly. So                  18 the public mind is very, very different from the                  19 collection of scientists.                  20 Q So you said very, very many people agree with 02:37:08                  21 you. How many people are you talking about?                  22 A Oh. Several scores. I -- of the ones I                  23 interact with, close to a hundred.                  24 Q Can you define score for me?                  25 A 20. 02:37:34</p> <p style="text-align: right;">Page 210</p>	<p>1 this might be a good time for a five-minute break.                  2 I think we've been going for about an hour and                  3 20 minutes now.                  4 Can we go off the record?                  5 THE VIDEOGRAPHER: Yep. We are going off the 02:39:34                  6 record and -- at, let's see, 2:39 p.m., and this is                  7 the end of Media Unit No. 4.                  8 (Recess.)                  9 THE VIDEOGRAPHER: All right. We are back on                  10 the record at 2:53 p.m., and this is the beginning 02:53:07                  11 of Media Unit No. 5.                  12 Go ahead, please.                  13 BY COUNSEL SWAMINATHAN:                  14 Q Dr. Cantor, can you please turn to page 12 of                  15 your expert report, which is Exhibit 45. 02:53:16                  16 A Got it.                  17 Q Okay. So paragraph 29, on page 12, you state                  18 (as read):                  19 "For example, there exist only very                  20 few cases of transition regret among 02:53:48                  21 adult transitioners, whereas the                  22 research has unanimously shown that                  23 the majority of children with gender                  24 dysphoria desist—that is, cease to                  25 experience such dysphoria by or 02:54:01</p> <p style="text-align: right;">Page 212</p>
<p>1 Q So several scores. Would you say 40 to 60 is                  2 an accurate capture of how many people you spoke to?                  3 A Probably closer to a hundred.                  4 Q Okay. And who are these hundred people? I'm                  5 not asking you to identify all 100 by name, but who, 02:37:54                  6 generally, are they?                  7 A Sex researchers and sex therapists.                  8 Q Okay. So beyond the conversations that you                  9 had with these scores of individuals, do you have                  10 any other basis for believing that practitioners 02:38:15                  11 support withholding social transition in prepubertal                  12 patients with gender disorder?                  13 MR. BARHAM: Objection as to form and                  14 terminology.                  15 THE WITNESS: No. That's my primary source. 02:38:33                  16 BY COUNSEL SWAMINATHAN:                  17 Q And do any of those hundred or so individuals                  18 actually treat transgender patients?                  19 A Yes. None of them does it as a specific                  20 specialty, but very many of them, of the clinicians 02:38:55                  21 among them, have or have had trans clients among                  22 their patient base.                  23 Q Okay. Can you please turn to page 18 of your                  24 report --                  25 COUNSEL SWAMINATHAN: And, actually, I think 02:39:26</p> <p style="text-align: right;">Page 211</p>	<p>1 during puberty."                  2 Did I read that correctly?                  3 A Yes.                  4 Q What is your basis for this assertion?                  5 A The 11 studies that were also cited in my 02:54:16                  6 blog.                  7 Q Is there a reason you didn't cite any of                  8 those studies here, in your report?                  9 A I didn't include --                  10 Q I just mean in this paragraph, on this page, 02:54:35                  11 is there a reason there's no footnotes --                  12 A Oh, in that paragraph, on that page? No.                  13 Only because there was an introductory paragraph,                  14 you know, before the rest of the document.                  15 Q And those 11 studies are the -- the same 02:54:52                  16 studies that you mentioned before that you said were                  17 on your blog?                  18 A Correct.                  19 Q Okay. And on page 18 of your expert report,                  20 on -- in paragraph 45 of page 18, you state (as 02:55:10                  21 read):                  22 "Because only a minority of gender                  23 dysphoric children persist in                  24 feeling gender dysphoric in the                  25 first place, 'transition-on-demand' 02:55:25</p> <p style="text-align: right;">Page 213</p>

<p>1 increases the proba-" --                  2 I assume you mean "probability." It says                  3 "probably" here.                  4 A Oh, goodness. That's right.                  5 Q That's right? Okay. 02:55:33                  6 (As read):                  7 -- "increases the probability of                  8 unnecessary transition and                  9 unnecessary medical risks."                  10 Is that fair, as it's read? 02:55:42                  11 A Yes.                  12 Q Okay. What's your basis for this opinion?                  13 A I want to say mathematics.                  14 Q What do you mean by that?                  15 A The -- if only few people regretted 02:56:01                  16 transition, then transitioning everybody would be                  17 the wrong decision for only few people. If most                  18 people cease to want to transition eventually, then                  19 transitioning all of them would be making a much                  20 larger number of errors. 02:56:23                  21 Q What do you mean by "transitioning all of                  22 them"?                  23 A If the people were given transition on                  24 demand.                  25 Q So what do you understand the term 02:56:33                  Page 214</p>	<p>1 persist and which ones were going to desist, then we                  2 would only know that if we transi- -- transitioned                  3 all of them that first day, most of those would end                  4 up being a mistake because we know that most of                  5 those will -- will have ceased to want to transition 02:58:06                  6 by puberty.                  7 Q And is the reason that you don't state --                  8 sorry, strike that.                  9 To your knowledge, are people being                  10 transitioned on the first day? 02:58:20                  11 A Those are the reports that we referred to                  12 earlier that there are becoming more and more cases                  13 getting reported to me or to the -- or via their                  14 families or in the media. Or, as I say, now that                  15 there are investigations going on in other 02:58:40                  16 countries, that's what they're continuing to find.                  17 Q Okay.                  18 A Transition on demand is the most extreme                  19 version of it, but -- but the difference is whether                  20 -- the meaningful part is whether these people are 02:58:51                  21 being transitioned before a meaningful assessment                  22 and a meaningful attempt to -- to estimate who might                  23 persist, who might not, or if we're even capable of                  24 doing that with enough precision to be risking the                  25 kind of medical risks that come into play. 02:59:09                  Page 216</p>
<p>1 "transition on demand" to mean?                  2 A That we give the person -- we recognize                  3 whatever element of that person as soon as they make                  4 that request.                  5 Q So I just want to make sure I understand. 02:56:49                  6 You are saying that your opinion for -- or                  7 your basis for stating that a minority of                  8 gender-dysphoric children persist is based in math;                  9 is that correct?                  10 A No. I'm saying that the -- the conclusion 02:57:00                  11 that we will have more errors and make more mistakes                  12 if we don't consider that statistic. That's math.                  13 Q I guess I'm understanding what -- or trying                  14 to understand, what is the basis for that statistic,                  15 that only a minority of gender-dysphoric children 02:57:17                  16 persist?                  17 A Those 11 studies, which were summarized --                  18 which were summarized in my blog, together with the                  19 number -- the exact numbers of people who continue                  20 to want to transition after puberty and those which 02:57:33                  21 ceased to.                  22 These people only came into the clinics when                  23 they started expressing their gender dysphoria. If                  24 they were transitioned after that first appointment,                  25 because we didn't yet know which ones were going to 02:57:48                  Page 215</p>	<p>1 Q Okay. And so, again, you have no direct                  2 knowledge of this, but the reports you refer to are                  3 the parental anecdotes that are communicated to you,                  4 the e-mails that you receive, the government                  5 entities putting out information and the news 02:59:26                  6 sources that you just mentioned; right?                  7 A We're saying that people are being                  8 transitioned on demand, yes.                  9 Q Yes.                  10 A And when I say media reports, those are no 02:59:36                  11 longer, necessarily, individual cases. These are                  12 also administrators in schools and so on who are                  13 indicating what the policies are in that school or                  14 parents talking about policies in the -- in social                  15 groups and so on. So these are people not going to 02:59:54                  16 clinics at all; they're merely being socially                  17 transitioned by -- you know, within their social                  18 groups.                  19 Q Can you tell me more about those media                  20 reports? 03:00:04                  21 You know, you -- you mentioned an example of                  22 a school. Can you give me a more detail about that                  23 particular report from a school?                  24 A No. I haven't recorded -- I don't recall                  25 particulars. 03:00:17                  Page 217</p>

<p>1 Q Of any of the media reports that you're 2 referencing, you don't recall particulars? 3 A Not -- not at this time, no. Those, I 4 haven't been accumulating. 5 Q Okay. Can you please turn to page 27 of your 03:00:27 6 report? 7 A Got it. 8 Q Great. And so if you look at paragraph 69, 9 you state the following, quote, (as read): 10 "...a child experiencing depression 03:00:48 11 from social isolation might develop 12 hope—" -- 13 A I'm sorry, where did you say you were? 14 Q Oh, apologies. It's the end of page 26, top 15 of page 27. It's the sentence beginning "For 03:01:03 16 example." 17 A Got it. 18 Q Apologies. So let me read that again. 19 So you state, quote, (as read): 20 "For example, a child experiencing 03:01:13 21 depression from social isolation 22 might develop hope—and the 23 unrealistic expectation—that 24 transition will help them fit in, 25 this time as and with the other 03:01:27</p> <p style="text-align: right;">Page 218</p>	<p>1 A Yes. 2 Q Great. And so do you see that it's titled 3 "References" at the top of the page? 4 A Yes. 5 Q Great. And so pages 53 to 61 of your report 03:02:56 6 includes a list of articles that you cite to in your 7 report, and I've done my best to count them, but 8 there are 106 articles cited in your report. 9 Do you see that? 10 A I didn't count them either, but that sounds 03:03:18 11 about right. 12 Q Okay. How did you find these articles? 13 A Oh. I've been accumulating these articles 14 throughout my career, starting with my education and 15 the classic -- and the classic articles with them, 03:03:33 16 and then I read new ones as they come out and get 17 discussed within my field. 18 Q So you found every single one of these 19 articles in your references list. Is that accurate? 20 A Yes. Yes. Yes, it is. 03:03:47 21 Q None of these articles were provided to you 22 by some other source? 23 A Oh. I can't recall if there was a particular 24 e-mail from a colleague who told me, have you seen 25 this or that article. I would -- I can't remember 03:04:03</p> <p style="text-align: right;">Page 220</p>
<p>1 sex." 2 Did I read that accurately? 3 A Yes. 4 Q So what is the basis of this opinion? 5 MR. TRYON: This is Dave Tryon. 03:01:37 6 I'm just going to object that this is one 7 sentence out of an entire paragraph. 8 COUNSEL SWAMINATHAN: Your objection is 9 noted, Counsel. 10 BY COUNSEL SWAMINATHAN: 03:01:50 11 Q Dr. Cantor, you can answer. 12 A It's an explanation -- I offer it as a 13 possible explanation which accounts for all of the 14 existing observations. 15 Q Are you aware of any study that shows that a 03:01:59 16 child experiencing depression from social isolation 17 might develop hope and the unrealistic expectation 18 that transition will help them fit in? 19 A No. That particular hypothesis hasn't 20 been -- hasn't been tested. 03:02:17 21 Q Have you spoken to anyone about this 22 hypothesis? 23 A Oh. Yes, relatively and commonly. 24 Q Okay. Can you please turn to page 53 of your 25 expert report? 03:02:35</p> <p style="text-align: right;">Page 219</p>	<p>1 specifics, but I would not be at all surprised if I 2 received one of these articles as a manuscript, as a 3 peer reviewer, before even it was published. 4 Also, very commonly in science, it's a 5 scientist spending many, many years releasing study 03:04:22 6 after study, and before the study comes out, there 7 are poster conferences and conference presentations. 8 So I'm aware that they are coming even before -- 9 long before they come in print. 10 So there are those indirect methods that -- 03:04:34 11 that are possible. 12 Q But no one sent you any of these articles in 13 connection with your preparation of this report; 14 right? 15 A No. Yes, that is correct, no one has. 03:04:45 16 Q Okay. So you said you accumulated this list 17 of articles over the course of your career; right? 18 A Yes. 19 Q You've known about the existence of many of 20 these articles well before agreeing to serve as an 03:05:02 21 expert in this case; right? 22 A Most of them, yes. 23 Q Most of them. 24 So when did you begin your research for 25 drafting the expert report, version 2022? 03:05:13</p> <p style="text-align: right;">Page 221</p>



<p>1 A It would have been within a few days after I                  2 first received the -- the request to participate at                  3 all.                  4 Q Okay. And so have you read every article                  5 included in this list? 03:05:36                  6 A Yes, I have, with the caveat that some of                  7 them are standard reference texts where only certain                  8 portions of the text are relevant.                  9 Q Okay. And so when you were looking for                  10 articles to include in your report, had you already 03:05:53                  11 formed an opinion about whether transgender women                  12 and girls have an athletic advantage over cisgender                  13 women?                  14 MR. BARHAM: Objection as to scope and                  15 terminology. 03:06:05                  16 THE WITNESS: I was already very, very well                  17 aware of the state of the literature before I                  18 received any notice of this particular case than                  19 when I -- so it was on the basis of the knowledge of                  20 the literature that I already had that gave me, you 03:06:36                  21 know, some idea of what the liter- -- literature had                  22 and then my searching for any other articles,                  23 including articles that weren't relevant or weren't                  24 part of this particular question that I continued to                  25 accumulate, and I found nothing that changed my mind 03:06:59                  Page 222</p>	<p>1 that is, the range of -- of the facts that are                  2 listed -- listed in it, but, again, I wasn't asked                  3 to do it specifically on athleticism.                  4 Q Leaving aside athleticism, do you think this                  5 list of articles accurately captures the most 03:08:35                  6 reputable studies on transgender children and                  7 adolescents?                  8 A Yes, I think that --                  9 MR. TRYON: Objection.                  10 A I think that would be fair to say, yes. 03:08:47                  11 BY COUNSEL SWAMINATHAN:                  12 Q Okay. Do you think these are articles that                  13 you have not included in this list that may present                  14 data that is contrary to your report?                  15 A No, there isn't. 03:08:58                  16 Q Okay. Do you think there are articles that                  17 you have not included in this list that may reach                  18 conclusions that are contrary to your report?                  19 A There exists such conclusions, and they've                  20 been published. I would have to check to see to 03:09:21                  21 what extent those are merely opinions in -- in                  22 letters and commentaries, for example, opposed to                  23 derived from -- derived as conclusions from specific                  24 data.                  25 Q So your testimony is that there may be some 03:09:40                  Page 224</p>
<p>1 as I was doing research for this case.                  2 BY COUNSEL SWAMINATHAN:                  3 Q So prior to this case, what -- what was and,                  4 I guess, in your testimony now, continues to be your                  5 opinion on whether transgender women and girls have 03:07:18                  6 an athletic advantage over cisgender women?                  7 A I wasn't --                  8 MR. BARHAM: Objection as to scope.                  9 THE WITNESS: I wasn't asked that question as                  10 part of this report. 03:07:28                  11 BY COUNSEL SWAMINATHAN:                  12 Q Do you have any opinion on that question                  13 outside of, you know, your involvement in this case?                  14 A Only my other knowledge -- my other knowledge                  15 of the studies that had been done on male and female 03:07:46                  16 child performance.                  17 Q Do any of these 106 or so articles relate to                  18 athletic performance?                  19 A No. I wasn't asked to summarize that part of                  20 the literature. 03:08:02                  21 Q Okay. And just to be clear, do you think                  22 this list of articles is comprehensive of the                  23 existing research on transgender children and                  24 adolescents?                  25 A I would say comprehensive in scope and topic, 03:08:15                  Page 223</p>	<p>1 studies that reach conclusions that are contrary to                  2 your report?                  3 MR. BARHAM: Objection as to form and scope.                  4 THE WITNESS: No. The opposite. It's -- I'm                  5 not aware of any studies that are based on data that 03:09:50                  6 contradict these, although people may have expressed                  7 contradictory opinions.                  8 BY COUNSEL SWAMINATHAN:                  9 Q Via letter and commentary; is that correct?                  10 A Correct. 03:10:01                  11 Q Okay. Great.                  12 Can you please turn to page 24 of the same                  13 exhibit, so continuing with your report.                  14 A Got it.                  15 Q Great. And so the heading above paragraph 62 03:10:22                  16 of your report -- it starts with the letter "c" --                  17 says, quote, (as read):                  18 "Studies by other clinicians in                  19 other countries have failed to                  20 reliably replicate the positive 03:10:39                  21 components of the results reported                  22 by the Dutch clinicians in de Vries                  23 et al. 2011."                  24 COUNSEL SWAMINATHAN: And for the court                  25 reporter, that's D-E, space, capital V-R-I-E-S. 03:10:49                  Page 225</p>

<p>1 BY COUNSEL SWAMINATHAN:                  2 Q Do you see that?                  3 A Oh, you're talking to me?                  4 Yes, I do.                  5 Q I'm sorry. Yes. 03:10:59                  6 What did you mean by this?                  7 A Exactly what it says. There was initially                  8 some research demonstrating improvement among these                  9 kids after transition, but when other countries and                  10 other facilities tried to do it, they were unable to 03:11:17                  11 replicate those results. They were not finding                  12 improvement.                  13 Q So what are the positive components of the                  14 results reported by the Dutch clinicians in                  15 de Vries, et al., 2011? 03:11:33                  16 A They reported some improvements in some                  17 psychological parameters and social function.                  18 Q Any other positive components?                  19 A I would have to reread the original to see if                  20 that's an exhaustive list, but they were essentially 03:11:46                  21 all of those.                  22 Q Are you aware that there are additional                  23 scientific peer-reviewed studies showing the                  24 positive effects of gender-affirming care?                  25 A Yes, there are. 03:12:00                  Page 226</p>	<p>1 Q Okay. Do you agree that the Journal of                  2 American Medical Association is a highly respected                  3 publication?                  4 A That's not this journal.                  5 Q Oh, apologies. The JAMA Network. 03:13:39                  6 Do you agree that the JAMA Network is a                  7 highly respected entity?                  8 A No, it is not. It's relying on the fame of                  9 JAMA itself.                  10 Q It's relying on the fame of what? I 03:13:55                  11 apologize.                  12 A JAMA, the Journal of the American Medical                  13 Association. This is an online offshoot of that.                  14 Q Okay. And you don't know whether these                  15 researchers are highly respected researchers in the 03:14:04                  16 field, right, because you don't know who they are?                  17 A Correct.                  18 Q Okay. Do you know whether this particular                  19 study is a peer-reviewed publication?                  20 A To the best of my knowledge, it is. 03:14:19                  21 Q Okay. Are you aware that this study found                  22 that gender-affirming care was associated with                  23 60 percent lower odds of moderate or severe                  24 depression and 73 percent lower odds of suicidality                  25 over a 12-month follow-up? 03:14:37                  Page 228</p>
<p>1 Q Okay. So are you aware of the 2022 Tordoff,                  2 et al., study titled "Mental Health Outcomes in                  3 Transgender and Nonbinary Youths Receiving                  4 Gender-Affirming Care"?                  5 A Yes, I am. 03:12:17                  6 COUNSEL SWAMINATHAN: Okay. I'm going to                  7 introduce tab 8, which has been marked as                  8 Exhibit 50.                  9 (Exhibit 50 was marked for identification                  10 by the court reporter and is attached hereto.) 03:12:45                  11 BY COUNSEL SWAMINATHAN:                  12 Q Let me know when you're able to see it,                  13 Dr. Cantor.                  14 A I am.                  15 Q Okay. Great. 03:12:54                  16 And you can see at the top that this study                  17 was conducted by Diana Tordoff, Jonathon Wanta,                  18 Arin Collin, Cesalie Stepney, David Inwards-Breland,                  19 and Kim Ahrens; is that correct?                  20 A Yes, that's what I see. 03:13:13                  21 Q Are you familiar with any of these people?                  22 A No, I'm not.                  23 Q You don't have any personal connections to                  24 any of these people; right?                  25 A Correct. 03:13:26                  Page 227</p>	<p>1 A Not in the way that you said you were going                  2 to use the meaning of the word "care," no.                  3 Q So what -- what did you understand this study                  4 to find in the way that you would identify care?                  5 A Well, these kids were -- were receiving 03:14:53                  6 medical care, and 65 percent of them were also                  7 receiving psychotherapy at the same time.                  8 Q So for purposes of the question I'm asking                  9 you, can you understand gender-affirming care to                  10 include psychotherapy and medical care? Is that 03:15:09                  11 fair?                  12 A For the purpose of this question? Sure.                  13 MR. BARHAM: Objection to terminology.                  14 BY COUNSEL SWAMINATHAN:                  15 Q Let me repeat my question, then. 03:15:16                  16 Are you aware that this study found that                  17 gender-affirming care, both psychotherapy and                  18 medical care, was associated with 60 percent lower                  19 odds of moderate or severe depression and 73 percent                  20 lower odds of suicidality over a 12-month follow-up? 03:15:29                  21 A I'm aware that that was their conclusion,                  22 yes.                  23 Q Okay. And at the time you authored your                  24 report, were you aware of those studies?                  25 A No. It had not yet come out. 03:15:43                  Page 229</p>

<p>1 Q Okay. And are you aware of the 2021 Green, 2 et al., study titled "Association of 3 Gender-Affirming Hormone Therapy With Depression, 4 Thoughts of Suicide, and Attempted Suicide Among 5 Transgender and Nonbinary Youth"? 03:16:01 6 A Yes, I am. 7 Q Great. 8 COUNSEL SWAMINATHAN: I'm going to introduce 9 tab 9, which is going to be marked as Exhibit 51. 10 It should pop up on your screen shortly. 03:16:19 11 (Exhibit 51 was marked for identification 12 by the court reporter and is attached hereto.) 13 BY COUNSEL SWAMINATHAN: 14 Q And as you pull that up, Dr. Cantor, I just 15 want to confirm, did you identify the Tordoff study 03:16:37 16 as a part of your continued update to the literature 17 that you were doing before sitting for this 18 deposition? 19 A Well, as I say, that -- that study only just 20 came out. It -- it wasn't available when I 03:16:58 21 submitted my study. And then I became notified of 22 its existence, you know, when it did -- first came 23 out, but my -- but my -- I shouldn't have said 24 "study." Report. I'm sorry. But my report was 25 already submitted when it did come out. So -- 03:17:12 Page 230</p>	<p>1 and Carrie Davis. 2 Do you see that? 3 A Yes, I do. 4 Q Are you familiar with any of these 5 individuals? 03:18:27 6 A Not meaningfully. Myeshia Price, I think I 7 had a three e-mail exchange with a few years ago. 8 Nothing substantive or relevant to today's case. 9 Q Your e-mails did not pertain to transgender 10 people or gender dysphoria at all? 03:18:47 11 A They did pertain to transgender individuals, 12 not athleticism, not today's case, but I couldn't -- 13 I don't recall what aspects of gender dysphoria the 14 discussion was. 15 Q Do you remember if the discussion was focused 03:19:05 16 on adults suffering from gender dysphoria? 17 A I don't recall. 18 Q Okay. That's fair. 19 And so do you see that the study was 20 published -- or accepted on October 28, 2021? And 03:19:19 21 do you agree that the Journal of Adolescent Health 22 is a highly respected publication? 23 A Yes, to the best of my knowledge. 24 Q Is it a peer-reviewed publication? 25 A So far as I know. 03:19:36 Page 232</p>
<p>1 Q I -- I -- 2 A -- had my report been due in six months, it 3 would have been edited. 4 Q I understand that. I just meant in the 5 review that you said you did in preparing for this 03:17:21 6 deposition, was this one of the studies that you had 7 reviewed prior to sitting for this deposition? 8 A The Green study? 9 Q The Tordoff study. 10 A Oh, the -- the Tordoff study? 03:17:33 11 Again, didn't exist when I prepared. 12 Q Okay. So it's -- it didn't exist in the past 13 few weeks? 14 A The -- 15 Q Tordoff study. 03:17:43 16 A When you said in preparation, do you mean for 17 sitting here physically today, or do you mean for my 18 submitted report? 19 Q I mean for sitting here physically today. 20 A For sitting here physically today, I did -- I 03:17:54 21 did review Tordoff, yes. 22 Q Got it. Okay. Thank you. 23 And now we can turn our attention to the 2021 24 Green study, and as you can see, the authors of this 25 study are Amy Green, Jonah DeChants, Myeshia Price 03:18:13 Page 231</p>	<p>1 Q So are you aware that this study found that 2 access to gender-affirming hormones during 3 adolescence was associated with lower odds of recent 4 depression and having attempted suicide in the past 5 year? 03:19:55 6 A In a retrospective survey, I'm aware of that, 7 yes. 8 Q Yes. At the time you authored your report, 9 were you aware of this study? 10 A Yes, I was. 03:20:02 11 Q Did you cite this study in your report? 12 A No, I did not. 13 Q Why didn't you cite this Green 2021 study in 14 your report? 15 A It's not -- it's not methodologically sound 03:20:16 16 enough. This was a retrospective instead of a 17 prospective study. Retrospective studies are not 18 able to come to the kind of conclusions that -- that 19 are not -- retrospective studies are only able to 20 produce correlations. We cannot, from a 03:20:38 21 correlation, say anything about causality. 22 Q Do you cite any retrospective studies in your 23 report? 24 A I would have to go through and check. 25 Q Off the top of your head, can you think of 03:20:59 Page 233</p>

<p>1 any retrospective studies you may have cited in your                  2 report?                  3 A I can't think of one offhand, no.                  4 Q Were any of the 11 studies that you mentioned                  5 that support your theory of desistance retrospective 03:21:17                  6 studies?                  7 A No. It was -- specifically was of                  8 prospective studies.                  9 Q Okay. And so it's your testimony that none                  10 of the studies that you've cited in your report are 03:21:31                  11 retrospective; right?                  12 MR. BARHAM: Objection as to form and                  13 terminology.                  14 THE WITNESS: No. I just can't recall                  15 offhand if any were. 03:21:41                  16 BY COUNSEL SWAMINATHAN:                  17 Q So there may be some retrospective studies                  18 that you rely on in drafting your report?                  19 MR. TRYON: Objection.                  20 THE WITNESS: Yes. But not from making a 03:21:51                  21 causal conclusion.                  22 BY COUNSEL SWAMINATHAN:                  23 Q Okay. And are you aware of the 2012 Achille,                  24 et al., study titled "Longitudinal impact of                  25 gender-affirming endocrine intervention on the 03:22:06                  Page 234</p>	<p>1 A No, I'm not.                  2 Q Okay. And it looks like this study was                  3 conducted in 2020, at some point. I don't see the                  4 date on it.                  5 But is it fair to say that it was -- it came 03:23:54                  6 out in 2020?                  7 A The -- the study was conducted between 2013                  8 and 2018.                  9 Q But the results were published, apologies, in                  10 2020? 03:24:08                  11 A It came out in print in 2020.                  12 Q Okay. And have you read this study before?                  13 A Yes, I have.                  14 Q And are you aware that is study found that                  15 endocrine intervention was associated with decreased 03:24:23                  16 depression and suicidal ideation and improved                  17 quality of life for transgender youth?                  18 A I'm aware that that's what the paper said,                  19 yes.                  20 Q And at the time you authored your report, 03:24:33                  21 were you aware of this study?                  22 A Yes, I was.                  23 Q And you cite this study in your report;                  24 right?                  25 A Correct. 03:24:43                  Page 236</p>
<p>1 mental health and well-being of transgender youths"?                  2 A Yes, I am. It's cited in my report.                  3 Q Great. Would --                  4 COUNSEL SWAMINATHAN: I'm going to introduce                  5 tab 10, which I believe now marks Exhibit 52. 03:22:21                  6 (Exhibit 52 was marked for identification                  7 by the court reporter and is attached hereto.)                  8 BY COUNSEL SWAMINATHAN:                  9 Q And let me know when you're able to see it,                  10 Dr. Cantor. 03:22:52                  11 A Yes, I can see.                  12 Q Okay. Great.                  13 So this study is published in the                  14 International Journal of Pediatric Endocrinology;                  15 correct? 03:23:14                  16 A Yes, it is.                  17 Q And is -- the authors are Chris- --                  18 Christal Achille -- I apologize if I'm                  19 mispronouncing that -- Tenille Taggart, Nicholas                  20 Eaton, Jennifer Osipoff, Kimberly Tafuri, Andrew 03:23:15                  21 Lane and Thomas Wilson.                  22 Do you see that?                  23 A Yes, I do.                  24 Q Are you familiar with any of these                  25 individuals? 03:23:37                  Page 235</p>	<p>1 Q Why didn't you cite this particular                  2 conclusion drawn from the study, that the endocrine                  3 intervention was associated with decreased                  4 depression and suicidal ideation and improved                  5 quality of life for transgender youth? 03:25:00                  6 A Because the improvements are also plausibly                  7 attributed -- attributable to the psychotherapy that                  8 the clients were -- that the patients were getting.                  9 Q But, Dr. Cantor, isn't it true that no study,                  10 including the Dutch study, had a control group of 03:25:17                  11 people who received solely therapy, but no blockers                  12 or hormones?                  13 A That is not correct.                  14 Q Which -- can you tell me what study has a                  15 control group of people who received therapy, but no 03:25:29                  16 blockers and hormones?                  17 A Costa, et al., 2015.                  18 Q Can you spell that for the court reporter?                  19 A C-O-S-T-A --                  20 Q Uh-huh. 03:25:37                  21 A -- et al.                  22 Q 2015?                  23 A Yes.                  24 Q Am I accurate in saying that the Dutch                  25 protocol did not have a control group of people who 03:25:49                  Page 237</p>

<p>1 received therapy, but no blockers and hormones?                  2 A That is correct.                  3 Q And so would you agree that this Achille                  4 study is similarly situated to the Dutch protocol,                  5 in terms of what -- in terms of the two 03:26:07                  6 interventions, both psychotherapy and hormone                  7 treatment, occurring at the same time? Is that fair                  8 to say?                  9 A No, it's not. The research method being used                  10 is not related to the clinical method being used. 03:26:23                  11 The research method is how one analyzes what's been                  12 doing clinically.                  13 Q Okay. So you mentioned that Costa, et al.,                  14 2015, does have a control group. Are there any                  15 other studies that you can think of? 03:26:40                  16 A No, not offhand.                  17 Q Okay. And are you aware of the 2020 Kuper,                  18 et al., study titled "Body Dissatisfaction and                  19 Mental Health Outcomes of Youth on Gender-Affirming                  20 Hormone Therapy"? 03:27:04                  21 A I believe that one's in my report also.                  22 Can I refer to it just a second?                  23 Q Absolutely.                  24 COUNSEL SWAMINATHAN: I will introduce it as                  25 tab 11, which is Exhibit 53. 03:27:16                  Page 238</p>	<p>1 A No, I am not.                  2 Q And so this study was downloaded from the                  3 American Academy of Pediatrics; is that correct?                  4 You can see that --                  5 A It was published in the journal Pediatrics 03:29:25                  6 which is owned by the American Association of                  7 Pediatrics.                  8 Q Yes, apologies.                  9 I was just pointing towards the bottom of the                  10 page where it says this particular article was 03:29:35                  11 downloaded from www.aapublications.org/news, and it                  12 was accepted for publication on December 6, 2019.                  13 Do you see that?                  14 A Yes, I do.                  15 Q Okay. Is this a peer-reviewed publication? 03:29:55                  16 A Yes, it is.                  17 Q Okay. And are you aware that the results of                  18 this study show that hormone therapy for youth is                  19 associated with reducing body dissatisfaction and                  20 modest improvements in mental health? 03:30:09                  21 A That's not what I would call the whole truth.                  22 Q What would you call the whole truth?                  23 A That this group of patients were -- were                  24 given many, many different mental health factors.                  25 The majority of those showed no differences, but the 03:30:30                  Page 240</p>
<p>1 (Exhibit 53 was marked for identification                  2 by the court reporter and is attached hereto.)                  3 THE WITNESS: Oh, no, I meant my report.                  4 BY COUNSEL SWAMINATHAN:                  5 Q Oh, sure. Feel free to reference your 03:27:20                  6 report.                  7 Do you see Exhibit 53, in the share?                  8 MR. BARHAM: Counsel, the witness is still                  9 looking at his expert report, I see.                  10 COUNSEL SWAMINATHAN: Oh, apologies. I'm 03:28:08                  11 unable to see his hands by the --                  12 MR. BARHAM: It's okay.                  13 THE WITNESS: All right. Got it. Okay.                  14 Ready. Yes, Kuper.                  15 BY COUNSEL SWAMINATHAN: 03:28:19                  16 Q No problem.                  17 So, again -- so this study is conducted by                  18 Laura Kuper, Sunita Stewart, Stephanie Preston,                  19 May Lau and Ximena Lopez.                  20 Do you see that? 03:28:33                  21 A One second. We need to switch windows.                  22 Q No problem.                  23 A Yes, I have it.                  24 Q Okay. Are you familiar with any of those                  25 individuals? 03:29:00                  Page 239</p>	<p>1 report and the media reports about this are only                  2 talking about the positive ones, despite that there                  3 was no difference -- that there was generally no                  4 difference.                  5 Q You said that this study has faced media 03:30:42                  6 criticisms. Is that fair?                  7 A Media attention, I would say.                  8 Q Media attention.                  9 What outlets of media have reported that                  10 there were no positive results from this study? 03:30:57                  11 A I didn't say that there were media reports                  12 saying no positive results. The reverse. The media                  13 had been reporting only the positive results.                  14 Q So there were positive results as a result of                  15 this study; right? 03:31:14                  16 MR. TRYON: Objection.                  17 THE WITNESS: Some of the measures indicated                  18 positive results, but when one -- when one runs                  19 many, many, many statistical tests, some of them                  20 will always look like they're positive. 03:31:26                  21 BY COUNSEL SWAMINATHAN:                  22 Q I see. But it's fair to say that there were                  23 positive results reported from the study; right?                  24 A No, I'm not sure that is fair to say. As I                  25 say, it's a statistical property that if you roll 03:31:42                  Page 241</p>

<p>1 the dice enough times, you will eventually get snake                  2 eyes. If you only report the snake eyes and fail to                  3 report everything else, it's not fair to say that                  4 you actually caused snake eyes.                  5 Q Dr. Cantor, so it's your testimony today that 03:31:58                  6 there are no positive results from this Kuper 2020,                  7 et al., study?                  8 MR. BARHAM: Objection as to form.                  9 THE WITNESS: No, that's not my testimony                  10 either. 03:32:10                  11 BY COUNSEL SWAMINATHAN:                  12 Q So your testimony is what, that there -- you                  13 just --                  14 A The positive results they found are easily                  15 attributable to a statistical fluke or game plan 03:32:19                  16 rather than an actual reflection of changes in the                  17 actual age and groups.                  18 Q Okay. So that method also applies to studies                  19 showing negative reports; right?                  20 A The principle applies to -- no, it does not. 03:32:38                  21 The problem of false positives only applies to                  22 positive results.                  23 Q Interesting. So it then isn't true for the                  24 negative results of other studies, but it only                  25 applies to the false positives. Is that your 03:32:59                  Page 242</p>	<p>1 THE WITNESS: Hang on. If I can just refer                  2 to my report again for the van der Miesen section.                  3 BY COUNSEL SWAMINATHAN:                  4 Q No problem. I can speed it up for you and                  5 say that you have cited this report on page 25 and 03:34:19                  6 26.                  7 A Perfect. Thank you.                  8 Q No problem.                  9 Just a -- one more question regarding the --                  10 the statistics we were just talking about. So -- 03:34:37                  11 A One second.                  12 Okay. I'm ready.                  13 Q Is your -- is it your understanding that data                  14 can be skewed or explained by alternate causation in                  15 all of these studies? 03:34:59                  16 A I don't think you're using the word "skew"                  17 the way we use it in statistics.                  18 Can you phrase the question a different way?                  19 Q Sure. Isn't it possible that data can be                  20 represented or explained by alternative causation in 03:35:19                  21 all of these studies?                  22 MR. TRYON: Objection; form of the question.                  23 THE WITNESS: I don't know what you mean by                  24 alternative causality, was it, you said?                  25 ///</p> <p style="text-align: right;">Page 244</p>
<p>1 testimony?                  2 A Not exactly. I think we're using the word                  3 "negative" in different ways.                  4 Q Okay.                  5 A In statistics, the word "negative" means we 03:33:11                  6 didn't find anything. Everything stays flat.                  7 Everything remains exactly where it was.                  8 I'm wondering if you're using the word                  9 "negative" to mean unfortunate or deleterious.                  10 Q No, I think -- I think I -- I understand 03:33:25                  11 your -- the way you've been using "negative," so --                  12 A Okay. In statistics, it is indeed true that                  13 the methods used to find positive results are                  14 different from the ones that we use for analyzing                  15 negative results. They are not equal. 03:33:38                  16 Q Okay. And are you aware of the 2020                  17 van der Miesen, et al., study titled "Psychological                  18 Functioning in Transgender Adolescents Before and                  19 After Gender-Affirmative Care Compared With                  20 Cisgender General Population Peers"? 03:33:58                  21 A Yes, I am. It also is in my report.                  22 COUNSEL SWAMINATHAN: I'm going to introduce                  23 tab 12, which will be Exhibit 54.                  24 (Exhibit 54 was marked for identification                  25 by the court reporter and is attached hereto.) 03:34:06                  Page 243</p>	<p>1 BY COUNSEL SWAMINATHAN:                  2 Q Yeah, of -- you know, you said earlier that,                  3 you know, there -- there are alternate reasons for                  4 why some studies -- some of the results of certain                  5 studies may be misrepresented in how the results are 03:35:46                  6 presented; right?                  7 A Some people will cherry-pick which results                  8 they report, yes.                  9 Q Right. And so are you saying that, you know,                  10 if you roll the dice enough times, you can get 03:36:02                  11 results that you want and that's what some of these                  12 researches have done?                  13 A Yes, that's true.                  14 Q Yeah. And isn't that true that that's a                  15 possibility for all studies? 03:36:20                  16 A Yes, it is.                  17 MR. TRYON: Objection.                  18 BY COUNSEL SWAMINATHAN:                  19 Q Okay.                  20 A Yes, it is. And in figuring out what the 03:36:26                  21 probability of that happening is for any particular                  22 study is itself an important branch of statistics.                  23 Q And so I think you have Exhibit 54 up, is                  24 that correct, the van der Miesen study?                  25 A Yes. 03:36:49</p> <p style="text-align: right;">Page 245</p>

<p>1 Q Great. So this study was conducted -- or it                  2 looks like it was a team of van der Miesen,                  3 Steensma, de Vries, Bos and Popma, is that correct,                  4 as the -- the authors of this study?                  5 A Yes, it is. 03:37:13                  6 Q Okay. And do you know any of these folks?                  7 A No. I've never met anybody.                  8 Q Okay. And so this study was published in                  9 2020 in the Journal of Adolescent Health; is that                  10 right? 03:37:27                  11 A Yes, it is.                  12 Q And are you aware that the results of this                  13 study showed fewer emotional and behavioral problems                  14 after puberty suppression and similar or fewer                  15 problems compared to same-age cisgender peers? 03:37:38                  16 A Yes, I am.                  17 Q Okay. And at the time you authored your                  18 report, were you aware of this study?                  19 A Yes, I was. It's referenced in it.                  20 Q Did you reference this finding in your 03:37:56                  21 report?                  22 A I -- I referenced the finding and also                  23 then -- the people in this clinic also received                  24 psychotherapy along with their medical care.                  25 Q Similar to the Dutch study; right? 03:38:10                  Page 246</p>	<p>1 this study. It's Rosalia Costa, Michael Dunsford,                  2 Elin Skagerberg, Victoria Holt, Polly Carmichael and                  3 Marco Colizzi.                  4 Do you see that?                  5 A Yes, I do. 03:39:40                  6 Q Do you know any of these folks?                  7 A No, I don't.                  8 Q Okay. And this study was published in the                  9 Journal of Sexual Medicine; is that correct?                  10 A Yes, it is. 03:39:48                  11 Q Do you agree that the Journal of Sexual                  12 Medicine is a highly respected publication?                  13 A No, I don't.                  14 Q Why do you disagree?                  15 A I had interactions with not the current 03:40:08                  16 editor, but the prior editor of the journal.                  17 Together with reviews and instructions to peer                  18 reviewers, he asked specifically that authors                  19 increase the number of papers citing that particular                  20 journal and manuscripts sent to that journal which 03:40:28                  21 would elevate that journal's -- it's called an                  22 impact factor. The number of citations to studies                  23 in it is a measure of how important the journal is.                  24 So the prior editor was trying to gain the                  25 system. So at that point, I refused any further 03:40:45                  Page 248</p>
<p>1 A This is one of the Dutch studies.                  2 Q This is a later version; correct?                  3 A That's right.                  4 Q 2020.                  5 And are you -- actually, we -- we just spoke 03:38:24                  6 about the 2015 Costa, et al., article; right? So I                  7 assume you are familiar with "Psychological Support,                  8 Puberty Suppression and Psychosocial Functioning in                  9 Adolescents with Gender Dysphoria"?                  10 A That is correct. 03:38:40                  11 Q Okay.                  12 COUNSEL SWAMINATHAN: I'm going to introduce                  13 tab 13, which will be marked as Exhibit 55.                  14 (Exhibit 55 was marked for identification                  15 by the court reporter and is attached hereto.) 03:38:44                  16 BY COUNSEL SWAMINATHAN:                  17 Q And I'll represent to you that you do cite                  18 this study as well in your report, on page 22, if --                  19 if you would like to reference that, but I won't be                  20 referring to your report in asking my questions. 03:39:11                  21 MR. BARHAM: Do you want the report?                  22 THE WITNESS: No. I'm fine with this.                  23 I see it.                  24 BY COUNSEL SWAMINATHAN:                  25 Q Great. And so let's look at the authors of 03:39:21                  Page 247</p>	<p>1 contact with the -- with the journal itself or that                  2 editor.                  3 As I said, there's a new editor. I have had                  4 some contact with -- with the new editor, who no                  5 longer participates in that policy, but I remain 03:40:52                  6 rather skeptical of the journal itself.                  7 Q Have you ever submitted any of your studies                  8 to be published in the Journal of Sexual Medicine?                  9 A I don't recall. If I did, it would have been                  10 one soon after the journal started. 03:41:18                  11 Q Okay. And is this Journal of Sexual Medicine                  12 a peer-reviewed publication?                  13 A Yes, it is.                  14 Q And are you aware that the results of this                  15 study found increased psychological function after 03:41:36                  16 six months of puberty suppression in adolescents                  17 with gender dysphoria?                  18 A I'm aware that that's what it reported.                  19 Q Did you include that finding in your report?                  20 A Yes, I did, together with the caveat that 03:41:51                  21 becau- -- that they were also receiving mental                  22 healthcare at the same time.                  23 This -- this paper didn't have a medical                  24 care -- medical care only.                  25 Q Okay. And are you aware of the 2014 03:42:07                  Page 249</p>

1 de Vries, et al., study titled "Young Adult  
 2 Psychological Outcome After Puberty Suppression and  
 3 Gender Reassignment"?  
 4 A Yes, I am.  
 5 COUNSEL SWAMINATHAN: I'm going to introduce 03:42:25  
 6 tab 14, which will be marked as Exhibit 56.  
 7 (Exhibit 56 was marked for identification  
 8 by the court reporter and is attached hereto.)  
 9 THE WITNESS: I have it.  
 10 BY COUNSEL SWAMINATHAN: 03:42:50  
 11 Q Great. And so let's look at the authors.  
 12 There's Annelou de Vries, Jenifer McGuire,  
 13 Thomas Steensma, Eva Wagenaar, Theo Doreleijers and  
 14 Peggy Cohen-Kettenis.  
 15 Do you see that? 03:43:11  
 16 A Yes, I do.  
 17 Q Are you familiar with any of these folks?  
 18 A By reputation only.  
 19 Q Who are you familiar with by reputation?  
 20 A De Vries, because of the number of studies 03:43:21  
 21 that -- that they've been involved with, and  
 22 Dr. Cohen-Kettenis with her -- through her  
 23 association with Dr. Zucker.  
 24 Q Have you met either de Vries or  
 25 Cohen-Kettenis before? 03:43:36  
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1 A No, I have not.  
 2 Q Have you communicated with them via e-mail?  
 3 A No, I have not.  
 4 Q Or by phone?  
 5 A No. 03:43:45  
 6 Q Okay. And so this study was accepted for  
 7 publication on July 7th, 2014, and it's published in  
 8 the Pediatrics journal that we just referred to  
 9 earlier.  
 10 Are you aware that this study followed a 03:44:02  
 11 cohort of transgender young people in the  
 12 Netherlands, from puberty suppression through  
 13 surgical treatment?  
 14 A Yes, I am.  
 15 Q And, in fact, these are some of the same 03:44:12  
 16 authors who wrote the Dutch study that you  
 17 described, in great length, in your report; right?  
 18 A This is indeed the Dutch team, and it was on  
 19 the basis of these results that they began forming  
 20 what we're now calling the Dutch model. 03:44:30  
 21 Q And are you aware that this study found that  
 22 the cohort had global functioning that was  
 23 equivalent to the Dutch population?  
 24 A Yes, I am.  
 25 Q And you included this study in your report; 03:44:44  
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1 right?  
 2 A Yes, I did.  
 3 Q And did you take similar issue with the fact  
 4 that this study did not have a control of folks who  
 5 received psychotherapy only? 03:44:57  
 6 A The issue wasn't that it lacked a group of  
 7 psychotherapy only; the problem is that the study  
 8 had no method of separating how much of its result  
 9 was due to psychotherapy versus due to medical  
 10 intervention. 03:45:27  
 11 Q And that's typically done using a control  
 12 group, though; right?  
 13 A That's one of the ways to do that, yes.  
 14 Q What are some of the other ways to do that?  
 15 A It's an advanced statistical technique called 03:45:38  
 16 "allocation of variance," essentially.  
 17 Q Okay.  
 18 A Or there's a better term. I'll get it.  
 19 "Covariance analysis."  
 20 Q Covariance analysis. 03:45:57  
 21 And so is it fair to say that the positive  
 22 findings of the Dutch study have indeed been  
 23 replicated?  
 24 A No, not meaningfully.  
 25 Q What is the difference between having been 03:46:19  
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1 replicated and having been replicated meaningfully?  
 2 A Other studies that have attempted to  
 3 replicate it have changed parts of the protocol in  
 4 one way or another or changed the ways that they  
 5 measure the outcomes in order to make direct 03:46:40  
 6 comparison difficult.  
 7 Q So the de -- de Vries, as you pronounced it,  
 8 2014 study, in your opinion, did not replicate the  
 9 positive findings of the Dutch study?  
 10 A De Vries, 2014, is the Dutch study. 03:46:57  
 11 Q This is -- so I believe we're talking about  
 12 several Dutch studies at this -- at this point.  
 13 So you had testified earlier that, I believe,  
 14 the Dutch study was replicated in 2020 as well; is  
 15 that correct? 03:47:21  
 16 A Are you referring to the van der Miesen  
 17 study?  
 18 Q I am, yes.  
 19 A No. The van der Miesen 2020 study, from the  
 20 Dutch group, would not be fairly called a 03:47:46  
 21 replication of their own 2011 and 2014 studies.  
 22 Q So why isn't it a fair replication?  
 23 A It's a different patient sample approaching  
 24 the clinics now than in the years when -- when the  
 25 first studies came out. 03:48:08  
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<p>1 Q What would you say the primary difference in 2 the patiel -- patient sample is? 3 A The psychological profiles, their ages, their 4 sex ratios. 5 Q Any other differences? 03:48:22 6 A Those are the major ones. 7 Q Okay. 8 COUNSEL SWAMINATHAN: So I'm going to 9 introduce tab 15, which has been marked as 10 Exhibit 57. 03:48:37 11 (Exhibit 57 was marked for identification 12 by the court reporter and is attached hereto.) 13 BY COUNSEL SWAMINATHAN: 14 Q Let me know when you're able to access it, 15 please. 03:49:24 16 A Yes, I have it now. 17 Q Great. And so this is the 2011 Dhejne study; 18 correct? 19 A It's Swedish. 20 Q How would you pronounce that? 03:49:39 21 A Oh, oh, oh, you mean the -- the author's 22 name. I'm sorry. You said "Dane," and my brain 23 registered Danish. 24 Q No. 25 A Actually, I don't know how to pronounce this 03:49:49 Page 254</p>	<p>1 Q Okay. Beyond the Dhejne study, are you aware 2 of any other authority for that claim? 3 A Not offhand, no. 4 Q Okay. And who is the control group for the 5 Dhejne study? 03:51:45 6 A The Danish population, average. 7 Q And you understand that the control group 8 consisted of patients without gender dysphoria; 9 right? 10 A Yes. 03:51:58 11 Q Okay. So what this Dhejne study compared was 12 the suicide rate for patients who underwent 13 gender-affirming surgery against the general Swedish 14 population; right? 15 A Correct. 03:52:12 16 Q Okay. And the suicide rate for patients who 17 underwent gender-affirming surgery was not compared 18 against patients who were transgender, but had no 19 access to medical care; right? 20 A Correct. 03:52:27 21 Q Okay. So no one in the control group was 22 transgender; right? 23 A There's no way to say that. I would hesitate 24 to call the remain- -- the demographics of the 25 remaining population a control group. They didn't 03:52:42 Page 256</p>
<p>1 author's name. 2 Q I've heard "Dhejne" for "Dhejne," so I'm 3 going to go with "Dhejne" today. 4 But do you see that this study was conducted 5 by Cecilia Dhejne, Paul Lichtenstein, Marcus Boman, 03:50:01 6 Anna Johansson, Niklas Långström and Mikael Landén? 7 Do you see that? 8 A Yes. 9 Q And it's titled "Long-Term Follow-Up of 10 Transsexual Persons Undergoing Sex Reassignment 03:50:13 11 Surgery: Cohort Study in Sweden." 12 Did I read that correctly? 13 A Yes. 14 Q You cite this study in your report; correct? 15 A Yes, I believe I do. Let me just refer to my 03:50:26 16 own report with context. 17 Do you have the page number offhand. 18 Q I do. It's page 5 of your report. 19 A Thank you. 20 Yes, ready. 03:51:10 21 Q So one of the points for which you cite this 22 study is to say that Swedish patients who underwent 23 gender-affirming firming surgery had a 19.1 times 24 greater suicide rate than the control group; right? 25 A Yes. 03:51:30 Page 255</p>	<p>1 exactly participate at all except via government 2 statistic. 3 Q And they were ten randomly selected control 4 persons who were matched by sex and birth year; 5 right? 03:52:57 6 A I would have to recheck the original study 7 for the details, but that sounds about correct. 8 Q Okay. You know that there are studies that 9 find that patients with gender dysphoria who don't 10 undergo gender-affirming surgery have a higher risk 03:53:08 11 of suicide compared to the general population. Are 12 you aware of that? 13 A Yes, I am. 14 Q Okay. If you could please turn to page 7 of 15 this study. 03:53:22 16 A Yes. 17 Q And the font size is quite small, but if you 18 look at the left side of the page and the third full 19 paragraph in that left column, it starts with "For 20 the purpose of evaluating." 03:53:45 21 Can you take a moment to read that paragraph, 22 please? 23 A Yes. 24 Q So the authors recognize that persons with 25 gender dysphoria before sex reassignment may differ 03:54:26 Page 257</p>

<p>1 from control patients who do not have gender 2 dysphoria; right? 3 A I'm sorry, say that again. 4 Q Sure. The authors of this study recognize 5 that people with gender dysphoria before sex 03:54:39 6 reassignment may differ from control patients who do 7 not have gender dysphoria; right? 8 A That is correct. 9 Q They say "In other words" -- this is a quote 10 directly from the study (as read): 03:54:55 11 "In other words, the results should 12 not be interpreted such as sex 13 reassignment per se increases 14 morbidity and mortality." 15 Do you see that? 03:55:05 16 A Yes, I do. 17 Q You agree that this study does not support 18 the conclusion that sex reassignment by itself 19 increases the risk of suicide; right? 20 A That would be a bizarre conclusion, correct. 03:55:19 21 Q Okay. And this study does not support the 22 conclusion that sex reassignment by itself increases 23 risk of other morbidities; right? 24 A I'm sorry, ask that again. 25 Q Sure. This study does not support the 03:55:36 Page 258</p>	<p>1 A No, I am not. 2 Q Do you recognize this study? 3 A By title, I do. For content, I need to check 4 my report again. 5 Q Okay. I'll represent to you that you do cite 03:57:18 6 this study in your report, and if helpful, I can 7 point you to the paragraph number. It's 8 paragraph -- 9 A Okay. 10 Q -- paragraph 15 of your report. And I'll get 03:57:32 11 the page number for you. Pages 5 to 6 of your 12 report. 13 A Hold on. 14 Yeah, I have it. 15 Q Great. And so in paragraph 15 of your 03:57:59 16 report, you state, quote, (as read): 17 "Olson's report turned out to be 18 incorrect. The Olson data were 19 reanalyzed and after correcting for 20 statistical errors in the original 03:58:08 21 analysis, the data instead showed 22 that the gender dysphoric children 23 under Olson's care did, in fact, 24 exhibit significantly lower mental 25 health." 03:58:20 Page 260</p>
<p>1 conclusion that sex reassignment by itself increases 2 risks of other morbidities; right? 3 A By itself, no. 4 Q Okay. And the authors even go on to say 5 "Things might have been even worse without sex 03:55:54 6 reassignment." 7 Do you see that? 8 A Yes, I do. 9 Q Okay. 10 COUNSEL SWAMINATHAN: And I'm going to 03:56:05 11 introduce tab 16, which has been marked as 12 Exhibit 58. 13 (Exhibit 58 was marked for identification 14 by the court reporter and is attached hereto.) 15 THE WITNESS: I have it. 03:56:40 16 BY COUNSEL SWAMINATHAN: 17 Q Great. And so I believe we referenced this 18 study earlier in our conversation. This is a study 19 titled "Mental Health of Transgender Children Who 20 Are Supported in Their Identities," and the authors 03:56:52 21 are Kristina Olson, Lily Durwood, Madeleine DeMeules 22 and Katie McLaughlin. 23 Do you see that? 24 A Yes, I do. 25 Q Are you familiar with any of these authors? 03:57:02 Page 259</p>	<p>1 And the cite you have for -- for that 2 statement is "Schumm &amp; Crawford, 2020: Schumm, et 3 al., 2019." 4 Did I read that accurately? 5 A Yes, that's correct. 03:58:34 6 Q Okay. And so is it your understanding that 7 the Olson data was reanalyzed by Schumm and 8 Crawford? 9 A Yes. 10 Q Have you independently conducted your own 03:58:47 11 statistical analysis of the Olson data? 12 A No, I have not. 13 Q Okay. Have you asked any other 14 statistician's opinion on whether Olson's 15 statistical analysis was wrong? 03:59:02 16 A No, I have not. 17 Q Okay. Do you know if Schumm's statistical 18 analysis has ever been questioned in a court of law? 19 A Not that I know of, no. 20 Q Okay. 03:59:19 21 COUNSEL SWAMINATHAN: So I'm going to 22 introduce tab 17, which will be marked as 23 Exhibit 59. 24 (Exhibit 59 was marked for identification 25 by the court reporter and is attached hereto.) 04:00:02 Page 261</p>

<p>1 BY COUNSEL SWAMINATHAN:                  2 Q Let me know when you're able to see it.                  3 A I can see it.                  4 Q Great. And so I'll represent to you that                  5 this is a copy of an opinion from the District Court 04:00:11                  6 of Appeal of Florida, Third District, and the title                  7 of the case is Florida Department of Children and                  8 Families, Appellant, versus Adoption of -- in re                  9 Matter of Adoption of X.X.G. and N.R.G., Appellees.                  10 Do you see that? 04:00:29                  11 A Yes, I do.                  12 Q Are you familiar with this case?                  13 A No, I am not.                  14 Q You don't know what it's about; right?                  15 A Correct. 04:00:44                  16 Q Okay. I'll represent to you that in this                  17 case, Dr. Schumm conducted a methodological analysis                  18 of the works of psychologists on homosexual                  19 parenting. So this is a case about the adoption of                  20 children by a gay parent. And I'll -- I'll make 04:00:57                  21 that representation to you, but also please feel                  22 free to review the document in further detail, if                  23 you -- if you need to. But if not, I would like to                  24 turn your attention to pages 7 and 8 of the PDF.                  25 Start on page 7: 04:01:12                  Page 262</p>	<p>1 Dr. Schumm ultimately concluded that                  2 based on his re-analysis of the                  3 data, there are statistically                  4 significant differences between                  5 children of gay and lesbian parents 04:03:54                  6 as compared to children of                  7 heterosexual parents. Dr. Schumm                  8 understands that much of the                  9 scientific community disagrees with                  10 his conclusions and concedes to the 04:04:01                  11 possibility that some gay parents                  12 may be beneficial to some children."                  13 Did I read this correctly?                  14 A Yes, as best I can see.                  15 Q Had you previously been aware that Dr. Schumm 04:04:12                  16 admitted in a court of law that he applies                  17 statistical standards that depart from conventions                  18 in the field?                  19 A I'm sorry, is that what I read?                  20 Q You can see it says "Dr. Schumm admitted that 04:04:27                  21 he applies statistical standards that depart from                  22 conventions in the field," in the middle of page 8.                  23 A Yes, I see it.                  24 Q If you had known this information, would that                  25 have affected your thinking about whether Schumm was 04:04:45                  Page 264</p>
<p>1 A I'm there.                  2 Q Great. And so if you could read from "We                  3 consider first the Department's experts." If you                  4 could read that paragraph and let me know when you                  5 are done. 04:01:46                  6 A Just the one paragraph on that page?                  7 Q Yes. Just on that page. I just want you to                  8 have the understanding that Dr. Schumm was one of                  9 the department's witnesses in this case.                  10 And then if you turn to the next page, 04:02:06                  11 page 8. If you can read the paragraph -- it's a                  12 lengthy paragraph -- on the left-hand side of the                  13 page, along with the final paragraph at the bottom,                  14 and let me know when you're finished with that, that                  15 would be great. 04:02:26                  16 A Okay.                  17 Q Okay. And so what you just read, it states                  18 the following (as read):                  19 "Dr. Schumm admitted that he applies                  20 statistical standards that depart 04:03:34                  21 from conventions in the field. In                  22 fact, Dr. Cochran and Dr. Lamb                  23 testified that Dr. Schumm's                  24 statistical re-analysis contained a                  25 number of fundamental errors. 04:03:43                  Page 263</p>	<p>1 a reliable source for the reanalysis of the Olson                  2 data?                  3 A No, I don't think so.                  4 Q Why not?                  5 A Because of the lack of the response from the 04:04:59                  6 original team that he commented on.                  7 Q What do you mean by that?                  8 A Olson never replied to Schumm's correction,                  9 and Schumm's correction, in this instance, was                  10 published, unlike what's being described in the case 04:05:15                  11 you just put before me.                  12 Q And are you aware that there was a correction                  13 issued for the 2016 Olson article?                  14 A Yes, I am.                  15 COUNSEL SWAMINATHAN: I'm going to introduce 04:05:28                  16 tab 18, which will be marked as Exhibit 60.                  17 (Exhibit 60 was marked for identification                  18 by the court reporter and is attached hereto.)                  19 BY COUNSEL SWAMINATHAN:                  20 Q Let me know when you have the document up. 04:05:58                  21 A I do.                  22 Q Okay. So I'm going to represent to you that                  23 this is an errata of the Olson 2016 "Mental Health                  24 of Transgender Children Who Are Supported in Their                  25 Identities," and this errata was published in 04:06:08                  Page 265</p>

<p>1 August 2018, as you can see at the bottom of the                  2 page.                  3 A Yes.                  4 Q So if you read the second paragraph on that                  5 page, the only correcting to the article was a 04:06:26                  6 missing comma, not any changes to the statistics in                  7 the Olson analysis; correct?                  8 A Correct.                  9 Q And I'm going to ask you to look back at what                  10 was previously marked as Exhibit 44 -- sorry -- 04:06:38                  11 Exhibit 45, which is your report, again, and if you                  12 could please turn to page 6.                  13 A Yes.                  14 Q In paragraph 16 of your report, on page 6,                  15 you state, quote, (as read): 04:07:09                  16 "I conducted an electronic search of                  17 the research literature to identify                  18 any responses from the Olson team                  19 regarding the Schumm and Crawford                  20 re-analysis of the Olson data and 04:07:20                  21 was not able to locate any. I                  22 contacted Professor Schumm by email                  23 on August 22, 2021 to verify that                  24 conclusion, to which he wrote there                  25 has been: 'No response [from 04:07:34</p> <p style="text-align: right;">Page 266</p>	<p>1 COUNSEL SWAMINATHAN: So I'm going to                  2 introduce tab 19, which will be marked as                  3 Exhibit 61.                  4 (Exhibit 61 was marked for identification                  5 by the court reporter and is attached hereto.) 04:08:53                  6 BY COUNSEL SWAMINATHAN:                  7 Q Also, while we're waiting for that exhibit to                  8 load, is there any reason that you felt the need to                  9 reach out to Professor Schumm, but not                  10 Kristina Olson, with respect to the Olson study? 04:09:03                  11 A Only that given my known reputation, given                  12 that -- the great polarization in the field, I                  13 didn't anticipate a cordial or appropriate response                  14 from Olson. It didn't seem to be -- there didn't                  15 seem to be a point to me. 04:09:30                  16 Q What is your known reputation that you                  17 referred to in the field?                  18 A I'm known as highly critical of a lot of the                  19 claims that people are making.                  20 Q And is that what leads to what you refer to 04:09:41                  21 as the great polarization?                  22 A Leads to, no. I think it's an element of.                  23 Q What are the other elements?                  24 A Well, that the same thing happens to anybody                  25 who says anything critical about anybody's thinking 04:09:56</p> <p style="text-align: right;">Page 268</p>
<p>1 Olson]."                  2 End quote.                  3 Did I read that correctly?                  4 A Yes.                  5 Q Did you ever reach out directly to 04:07:41                  6 Kristina Olson regarding the results of this study?                  7 A No, I did not.                  8 Q Why not?                  9 A It wasn't pertinent to my analysis. Had she                  10 had a response, it should have been published. 04:07:58                  11 Q Did you ever reach out to anyone else on the                  12 Olson team regarding the results of this study?                  13 A No, I did not.                  14 Q Okay. Are you aware of the 2021 Gibson,                  15 et al., study titled "Evaluation of Anxiety and 04:08:12                  16 Depression in a Community Sample of Transgender                  17 Youth"?                  18 A Not by title. Did I cite that one?                  19 Q I don't believe you have included this study                  20 in your report. 04:08:30                  21 A Okay.                  22 Q But as you said, you may have discovered it                  23 in your further research, but I will show it to you                  24 so that we are on the same page of what we're                  25 talking about. 04:08:42</p> <p style="text-align: right;">Page 267</p>	<p>1 on either side of such questions.                  2 Q How do you know that?                  3 A I'm frequently a target of it. I'm                  4 frequently in contact with other targets of it. It                  5 has become one of the most frequently discussed 04:10:19                  6 issues, not -- in the media and among academics.                  7 Q So what evidence do you have that you are                  8 frequently a target of this -- you know, the                  9 polarization that you speak of?                  10 A On social media, the way that my views are 04:10:31                  11 misrepresented in -- I wouldn't say mainstream                  12 media, but in minority media, I'm frequently                  13 misrepresented in -- in -- in similar ways.                  14 Q Okay. And so please let me know if Exhibit                  15 61 has entered your file share. 04:10:56                  16 A Yes, I see it.                  17 Q Okay. Great.                  18 So this is a study conducted by Gibson --                  19 Dominic Gibson, Jessica Glazier and Kristina Olson.                  20 Do you see that? 04:11:17                  21 A Yes, I do.                  22 Q And this was a 2021 study.                  23 Do you see that?                  24 At the bottom of the page, you can --                  25 A Yes, I do. 04:11:31</p> <p style="text-align: right;">Page 269</p>

<p>1 Q Great. And so do you see that Kristina Olson 2 is an author -- one of the authors of this study? 3 A Yes, I see. 4 Q And you told me that you had not seen this 5 study before; correct? 04:11:48 6 A Correct. 7 Q So I want to give you a second to review the 8 introduction and perhaps the -- the first page, as 9 much -- 10 A Okay. Give me a moment. 04:12:10 11 Q Absolutely. 12 A Yes. 13 Q Great. So as you can see, this study has a 14 bigger sample size than the 2016 Olson study; 15 correct? 04:14:12 16 A Yes. 17 Q And you said you were not aware of this more 18 recent study at the time you authored your report; 19 right? 20 A I would hesitate to say that I was unaware 04:14:18 21 entirely, but at least when I was going through the 22 literature, it did not fit what I thought was 23 relevant, so I passed it by. 24 Q Why didn't you think this study was relevant? 25 A Oh, I thought -- as I said, I imagine in the 04:14:36 Page 270</p>	<p>1 and depression in the normative range and equal to 2 or only slightly higher than their sibling -- 3 siblings and cisgender peers. 4 Do you see that? 5 A Yes, I do. 04:16:09 6 Q So are you aware of any studies showing that 7 the existence of a Y chromosome provides an athletic 8 advantage if a person does not go through endogenous 9 male puberty? 10 MR. BARHAM: Objection as to form and scope. 04:16:25 11 MR. TRYON: Objection. 12 THE WITNESS: I'm sorry, could you say that 13 again? 14 BY COUNSEL SWAMINATHAN: 15 Q Sure. Are you aware of any studies showing 04:16:32 16 that the existence of a Y chromosome in an -- in an 17 individual provides an athletic advantage if a 18 person does not go through endogenous male puberty? 19 MR. TRYON: Objection. 20 THE WITNESS: I have seen such studies, but 04:16:58 21 because that question was outside of the scope of 22 what was -- of the questions posed to me, I didn't 23 study them closely. 24 BY COUNSEL SWAMINATHAN: 25 Q Can you name some of those studies that 04:17:08 Page 272</p>
<p>1 mindset then, I still didn't see how it was 2 relevant -- still don't see exactly how it was 3 relevant or would add anything above the studies I 4 already cited. 5 Q So it's your testimony that the study didn't 04:14:45 6 add any new findings or new opinions to the studies 7 that you had already relied on in offering your 8 report; right? 9 A I would have to read it in full in order to 10 be able to say that for sure. When you asked had I 04:14:59 11 seen it before, I can't say whether I actually said 12 (sic) it before and rejected it or if I, in fact, 13 hadn't seen it before, for whatever reason. 14 Q And, Dr. Cantor, do you agree that 15 transgender or gender-dysphoric youth experience 04:15:19 16 significantly higher levels of anxiety and 17 depression than their cisgender peers? 18 A That's what the science seems to indicate, 19 yes. 20 Q So if you look at page 3 of this study, 04:15:32 21 understanding that you have not had the time to 22 fully review it, at the top of the page, the 23 paragraph starting "Nonetheless," this study found 24 that many socially transitioned transgender or 25 gender-dysphoric youth experienced levels of anxiety 04:15:56 Page 271</p>	<p>1 you've seen? 2 A No, not offhand. 3 Q Okay. Are you aware of any studies showing 4 that the existence of genitalia associated with the 5 male sex assigned at birth provides an athletic 04:17:22 6 advantage? 7 MR. BARHAM: Objection as to form, scope and 8 terminology. 9 MR. TRYON: Same objection. 10 THE WITNESS: The studies that I saw didn't 04:17:33 11 break down sex into the various components or 12 evidence that indicates sex. 13 BY COUNSEL SWAMINATHAN: 14 Q So it fair to say that you haven't seen a 15 study showing that the existence of genitalia 04:17:44 16 associated with the male sex assigned at birth 17 specifically provides an athletic advantage? 18 A No -- 19 MR. TRYON: Same objection. 20 THE WITNESS: No, that's not exactly the same 04:17:56 21 thing. The studies typically compare boys versus 22 girls. They didn't compare any of the components 23 that led them to know or believe that the boys were 24 boys and the girls were girls. They divided boys 25 and girls, but they didn't analyze differences 04:18:10 Page 273</p>

<p>1 specifically according to chromosomes or genitalia.                  2 BY COUNSEL SWAMINATHAN:                  3 Q Can you recall the names of any of those                  4 studies that you're referring to?                  5 A No. I didn't study them as closely since 04:18:21                  6 they weren't part of the questions posed to me.                  7 Q Okay.                  8 COUNSEL SWAMINATHAN: I'm going to show you                  9 tab 21, which will be marked as Exhibit 62.                  10 (Exhibit 62 was marked for identification 04:18:32                  11 by the court reporter and is attached hereto.)                  12 THE WITNESS: I hit the wrong button.                  13 MR. BARHAM: Is this a good break time?                  14 COUNSEL SWAMINATHAN: Sure.                  15 Do you need a break, Dr. Cantor? 04:19:22                  16 Can we go off the record?                  17 No problem.                  18 THE VIDEOGRAPHER: Yes. We are going off the                  19 record at 4:19 p.m., and this is the end of Media                  20 Unit No. 5. 04:19:32                  21 (Recess.)                  22 THE VIDEOGRAPHER: Okay. We are back on the                  23 record, 4:31 p.m., and this is the beginning of                  24 Media Unit No. 6.                  25 Go ahead, please. 04:31:03                  Page 274</p>	<p>1 become increasingly aware of their                  2 transsexual members and                  3 participants, they become                  4 increasingly confronted by the needs                  5 to assimilate and accommodate what 04:32:30                  6 they used to ignore. Taking on                  7 these tasks from a position of basic                  8 respect will go a long way in                  9 establishing inclusive policies and                  10 healthy environments." 04:32:41                  11 Did I read that accurately?                  12 A Yes.                  13 Q What inclusive policies are you referring to                  14 here on your website?                  15 A I wasn't referring to any particular policy. 04:32:53                  16 Q So when you say "Taking on these tasks from a                  17 position of basic respect will go a long way in                  18 establishing inclusive policies," what did you mean                  19 inclusive -- what did you mean when you wrote                  20 "inclusive policies"? 04:33:11                  21 A Policies that would help transsexuals feel                  22 included in the rest of society.                  23 Q Got it. And what did you understand -- or                  24 what do you understand the phrase "healthy                  25 environments" to mean? 04:33:22                  Page 276</p>
<p>1 COUNSEL SWAMINATHAN: Great.                  2 BY COUNSEL SWAMINATHAN:                  3 Q So, Dr. Cantor, I believe just before the                  4 break I was introducing tab 21, which is marked as                  5 Exhibit 62, into the Exhibit Share. Please let me 04:31:10                  6 know if you've been able to access it.                  7 A Yes, I can see it.                  8 Q Great. And have you seen this one page                  9 before?                  10 A Yes. I wrote it. 04:31:43                  11 Q Okay. And so JamesCantor.org is your                  12 website; right?                  13 A Yes, it is.                  14 Q Great. And why did you include this bill of                  15 transsexual rights on your website? 04:31:54                  16 A Typically addressing the other pole of this                  17 highly polarized debate.                  18 Q So the first bill of rights states that                  19 "People who are transsexual have the right to                  20 respect." 04:32:10                  21 Do you agree with this statement?                  22 A Yes, I do.                  23 Q Great. And under the statement, it reads (as                  24 read):                  25 "As societies and institutions 04:32:22                  Page 275</p>	<p>1 A I wasn't trying to make a -- I wasn't trying                  2 to be specific, certainly not when I wrote this,                  3 which, I think, now was more than ten years ago. I                  4 was referring in general to how caustic environments                  5 were -- were becoming for everybody in those days. 04:33:41                  6 Unfortunately, environments have become all                  7 the more, as they say, polarized.                  8 Q Do you still agree with this statement as it                  9 reads on your website?                  10 A I -- I agree with the statement, but, of 04:33:52                  11 course, we're in a very different context now.                  12 Society, I mean, is in a very different context now.                  13 Q What's different about the context now as                  14 compared to when you authored this portion of your                  15 website? 04:34:14                  16 A Oh, goodness. Most of the child transition                  17 issues have now become mainstream issues, and people                  18 are making extreme statements and cherry-picking and                  19 overstating the reality on both sides.                  20 Q So I pulled this document, as you can see at 04:34:34                  21 the corner of the page, on March 17th, 2022, at                  22 7:14 a.m. I was up early that day.                  23 Is there a reason that you haven't updated                  24 your website in the last ten years?                  25 A Oh, I just became involved in other projects. 04:34:52                  Page 277</p>

1 It also became easier to communicate with the public  
 2 in other venues. Again, ten years ago, we barely  
 3 had any -- we barely had any social media. I'm not  
 4 even sure we had Twitter then. So now there are  
 5 just other venues by which to communicate these 04:35:11  
 6 types of ideas.  
 7 Q Got it. Okay.  
 8 And so the second bill of rights states (as  
 9 read):  
 10 "People considering transition have 04:35:18  
 11 the right to be free from undue  
 12 pressure to transition -- to  
 13 de-transition, or not to transition.  
 14 Do you agree that people considering  
 15 transition have the right to be free from undue 04:35:28  
 16 pressure to not transition?  
 17 A Yes.  
 18 Q And under this statement, it reads (as read):  
 19 "Some aspects of transition, such as  
 20 medical interventions, affect only 04:35:44  
 21 the person undergoing the process,  
 22 and some aspects of transition  
 23 directly affect other people in  
 24 their lives. People considering and  
 25 undergoing transition have the right 04:35:55  
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1 to make their choices on the basis  
 2 of these only, and not for any  
 3 political, religious, or societal  
 4 statement that it might be perceived  
 5 to be making." 04:36:06  
 6 Did I read that correctly?  
 7 A Yes.  
 8 Q Do you agree that medical interventions and  
 9 transitioning affect only the person undergoing the  
 10 process? 04:36:17  
 11 A That would depend on the medical intervention  
 12 itself. That's not a -- medical interventions  
 13 aren't one thing.  
 14 Q Got it. So it's a -- as your words say,  
 15 "Some aspects of transition, such as medical 04:36:34  
 16 interventions, affect only the person undergoing the  
 17 process..."  
 18 What did you mean by that?  
 19 A I was allowing for the possibility, such as,  
 20 for example, cosmetic -- purely cosmetic changes are 04:36:46  
 21 for the person themselves, but someone who is going  
 22 to be -- replace wearing false breasts with breast  
 23 implants, to the outside world, it will look the  
 24 same, but it will feel very different to the person.  
 25 Q So apologies, you said that medical 04:37:03  
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1 intervention such as cosmetic changes? So is -- is  
 2 a cosmetic change like wearing a, you know, fake  
 3 breast-augmenting device a medical intervention?  
 4 A I didn't mean to and still don't mean to be  
 5 that precise so much as to point out to readers 04:37:21  
 6 that -- that there exists interventions which may  
 7 have absolutely nothing to do with -- with anybody  
 8 other than the transsexual person themselves. I  
 9 didn't mean to try to enumerate or express an  
 10 opinion about any particular one of them. 04:37:40  
 11 Q But you agree that those interventions can be  
 12 medical, correct, as --  
 13 A Yes.  
 14 Q Okay. And you then go on to state that (as  
 15 read): 04:37:47  
 16 "People considering and undergoing  
 17 transition have the right to make  
 18 their choices on the basis of these  
 19 only, and not for any political,  
 20 religious, or societal statement..." 04:38:00  
 21 Do you agree that it should be the  
 22 transgender person's choice whether to go through  
 23 medical treatment?  
 24 A Phrase that again, please.  
 25 Q Do you agree that it should be the 04:38:16  
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1 transgender or gender-dysphoric person's choice  
 2 whether or not to go through medical treatment?  
 3 A Broadly speaking, yes. There can, however,  
 4 and there do legitimately -- there will legitimately  
 5 exist exceptions to that. 04:38:39  
 6 Q Okay. But broadly speaking, yes?  
 7 A In general, it is that person to -- it's up  
 8 to that person to decide whether to do it. But, of  
 9 course, if there's a medical reason not to do it  
 10 that the person is ignoring, it is indeed up to the 04:38:48  
 11 actual medical staff to ensure that those procedures  
 12 are not engaged in, even if it is the wishes of the  
 13 patient.  
 14 Q Okay. And if you turn to the next page,  
 15 page 2 of 3 of your bill of transsexual rights, 04:39:05  
 16 number 5 states (as read):  
 17 "People in the process of transition  
 18 have the right to health care that  
 19 respects the gender in which they  
 20 live, including to be addressed by 04:39:14  
 21 pronouns and other language that  
 22 acknowledges that gender."  
 23 Did I read that correctly?  
 24 A I'm sorry, which number are you reading from?  
 25 Q Number 5. 04:39:34  
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<p>1 A Ah.</p> <p>2 MR. TRYON: Counsel, I'm going to object to</p> <p>3 questions, continued questions, on this. It's</p> <p>4 outside the scope.</p> <p>5 COUNSEL SWAMINATHAN: Thank you, Counsel. 04:39:43</p> <p>6 Your objection is noted.</p> <p>7 THE WITNESS: I'm sorry, I just reread it.</p> <p>8 And, I'm sorry, what was your question again?</p> <p>9 BY COUNSEL SWAMINATHAN:</p> <p>10 Q I hadn't asked one yet, but I will -- 04:39:54</p> <p>11 A Oh.</p> <p>12 Q -- ask it now.</p> <p>13 Do you agree that people in the process of</p> <p>14 transition have the right to be addressed by</p> <p>15 pronouns and other language that acknowledges the 04:39:59</p> <p>16 gender in which they live?</p> <p>17 MR. BARHAM: Objection as to form and scope.</p> <p>18 THE WITNESS: In the context in which I wrote</p> <p>19 it, yes. In today's context, where -- where the</p> <p>20 right is -- "exaggerated" isn't the right word, but 04:40:26</p> <p>21 being abused or used for disingenuous purposes would</p> <p>22 be a reasonable limit to that which really did not</p> <p>23 meaningfully exist when I first -- first wrote this.</p> <p>24 BY COUNSEL SWAMINATHAN:</p> <p>25 Q So do you agree, generally, that people in 04:40:47</p> <p style="text-align: right;">Page 282</p>	<p>1 understanding the question.</p> <p>2 COUNSEL SWAMINATHAN: Court Reporter, can you</p> <p>3 please read back Dr. Cantor's answer before, where</p> <p>4 he expresses the understanding issue?</p> <p>5 (Record read.)</p> <p>6 THE REPORTER: The one before that, do you</p> <p>7 want me to --</p> <p>8 COUNSEL SWAMINATHAN: That's good.</p> <p>9 THE REPORTER: Okay.</p> <p>10 BY COUNSEL SWAMINATHAN:</p> <p>11 Q So, Dr. Cantor, I was just saying, do you</p> <p>12 believe that it's always the case that the word is</p> <p>13 used more broadly and more prematurely?</p> <p>14 A There are people who still use it properly,</p> <p>15 yes. 04:42:58</p> <p>16 Q Okay. So you were a member of the Society</p> <p>17 for the Scientific Study of Sexuality; correct?</p> <p>18 A Yes, that's correct.</p> <p>19 Q What is the purpose of the society?</p> <p>20 A Their stated purpose is to forward and 04:43:15</p> <p>21 promote the conduct and dissemination of sex</p> <p>22 research.</p> <p>23 Q How did you get involved in that society?</p> <p>24 A Oh, I joined when I was a student, as, in</p> <p>25 those days, it was -- it was a well-known large 04:43:36</p> <p style="text-align: right;">Page 284</p>
<p>1 the process of transition have the right to be</p> <p>2 addressed by pronouns and other language that</p> <p>3 acknowledges the gender in which they live, aside</p> <p>4 from these ulterior instances that you just</p> <p>5 referenced? 04:41:03</p> <p>6 MR. BARHAM: Objection as to form and scope.</p> <p>7 MR. TRYON: Same objection.</p> <p>8 THE WITNESS: Again, in general, yes. But</p> <p>9 transition -- the word "transition" and the process</p> <p>10 of transition now is used and meant very differently 04:41:17</p> <p>11 from how it was a decade ago.</p> <p>12 BY COUNSEL SWAMINATHAN:</p> <p>13 Q How is it used differently?</p> <p>14 A It's used more broadly, it's used</p> <p>15 prematurely, and it's used by people who are 04:41:29</p> <p>16 completely outside any healthcare context.</p> <p>17 Q Is it always used more broadly and more</p> <p>18 prematurely now?</p> <p>19 A I don't really understand the question.</p> <p>20 Q Is it always the case that the language that 04:41:51</p> <p>21 you're taking issue with today is due to the fact</p> <p>22 that it's being used prematurely in individuals who</p> <p>23 are gender dysphoric?</p> <p>24 MR. TRYON: Objection to the form.</p> <p>25 THE WITNESS: I'm sorry, I'm still not quite 04:42:09</p> <p style="text-align: right;">Page 283</p>	<p>1 organization, and it had -- it was relatively easy</p> <p>2 to get into. One, essentially, could get into it</p> <p>3 just by signing up.</p> <p>4 Q Were there any fees associated with the</p> <p>5 society? 04:43:51</p> <p>6 A Yes, there were.</p> <p>7 Q Were they annual membership fees?</p> <p>8 A Yes, they were.</p> <p>9 Q Are you able to give me an approximation of</p> <p>10 what those fees were to be a member of the society? 04:44:02</p> <p>11 A I don't really recall. They weren't</p> <p>12 substantial. And, of course, for students, even</p> <p>13 lower, when I first joined.</p> <p>14 Q And how long have you been a member of this</p> <p>15 society? 04:44:21</p> <p>16 A I would have to look it up. It was roughly</p> <p>17 15 to 20 years before I resigned.</p> <p>18 Q Okay. And what did your membership involve?</p> <p>19 A Oh, at that point, really just membership and</p> <p>20 discussions going -- well, actually, technically, 04:44:49</p> <p>21 too, I suppose. One was participation, largely in</p> <p>22 their -- in their Listserv discussions with -- with</p> <p>23 other sex researchers. And the other, I was on the</p> <p>24 editorial board of their journal, the Journal of Sex</p> <p>25 Research. 04:45:07</p> <p style="text-align: right;">Page 285</p>



<p>1 Q And so am I understanding it correctly that                  2 you had to be a member in order to access the                  3 Listserv for the Society for the Scientific Study of                  4 Sexuality?                  5 A Yes, the Listserv was meant for members. 04:45:16                  6 Q Okay. And you said that you resigned from                  7 the society; is that correct?                  8 A That is correct.                  9 Q When did you resign?                  10 A I would have to look up the date. It was 04:45:29                  11 roughly two or three years ago now.                  12 Q Okay.                  13 COUNSEL SWAMINATHAN: I'm going to introduce                  14 tab 22, which has been marked as Exhibit 30 -- or                  15 63. 04:45:59                  16 (Exhibit 63 was marked for identification                  17 by the court reporter and is attached hereto.)                  18 BY COUNSEL SWAMINATHAN:                  19 Q Please let me know when you're able to see                  20 it. 04:46:01                  21 A Got it.                  22 Q Great. And so this is a blog post in                  23 Sexology Today!; correct?                  24 A Yes, it is.                  25 Q And remind me again, what -- what is 04:46:34                  Page 286</p>	<p>1 Q Apologies. It's toward the middle of the                  2 page. I think the fourth paragraph down.                  3 A Yes.                  4 Q Okay. Why were you removed from -- or why                  5 were you suspended from the Listserv? 04:47:49                  6 A That's a good question. There's the reason                  7 they gave me, and there's the reason that everybody                  8 suspects, but nobody will say out loud.                  9 Q Can you describe that a bit more?                  10 A They believe -- or they told me that what I 04:48:05                  11 said they deemed to be disrespect-- -- disrespectful.                  12 Q What did you say that they deemed to be                  13 disrespectful?                  14 A I sincerely don't remember.                  15 Q Did -- to your recollection, did what you 04:48:30                  16 said -- did what you say deal with issues relating                  17 to transgender people or gender-dysphoric people?                  18 A Yes. We were debating something about the                  19 science or findings that were reported in the                  20 science and whether it matched up with whatever it 04:48:51                  21 was somebody else was saying. That led to a -- and                  22 that led to a debate. I don't remember without, you                  23 know, going back through my old e-mails exactly what                  24 it -- what it was.                  25 Q Got it. Can you turn to the next page of the 04:49:06                  Page 288</p>
<p>1 Sexology Today!?                  2 A It's my blog.                  3 Q It's your blog. Okay.                  4 And this blog post was published on                  5 August 10th, 2020; correct? 04:46:45                  6 A Yes, that's correct.                  7 Q And I'm not going to assume, but since it's                  8 your blog, I assume you authored this blog post;                  9 right?                  10 A Yes. 04:46:59                  11 Q Okay. And so I see here that you had a                  12 27-year association with the Society for the                  13 Scientific Study of Sexuality.                  14 Does that ring a bell?                  15 A Yes. Longer than I remember. 04:47:09                  16 Q And I see here that the society had removed                  17 you from the online forum; is that right?                  18 A That's right.                  19 Q It says (as read):                  20 "I then received an unsigned email 04:47:24                  21 informing me that I had been                  22 suspended from the listserv."                  23 Did I read that correctly?                  24 A I'm not seeing that line, but it sounds                  25 familiar. 04:47:34                  Page 287</p>	<p>1 exhibit, please?                  2 A Got it.                  3 Q Okay. And there's a footnote 1 at the bottom                  4 of the page. Can you please review that footnote?                  5 A Yes. 04:49:29                  6 Q So this is an e-mail that you received from                  7 the board of directors?                  8 A Yes, it is.                  9 Q Is the paragraph under the first sentence,                  10 the one beginning with "Nasty, discourteous, unkind, 04:49:43                  11 uncivil, attacking, inappropriate, unprofessional,                  12 harassing, threatening, hateful, racist, sexist,                  13 homophobic, erotophobic, derogatory, or                  14 objectionable remarks or jokes that might be                  15 offensive to other people, abusive, defamatory, 04:50:01                  16 libelous, pornographic, obscene, invasive of                  17 another's privacy, or otherwise torturous or un-- --                  18 torturous or unlawful messages will NOT be deemed                  19 appropriate. Courtesy is highly valued" -- is what                  20 I just read one of the Listserv's guidelines? 04:50:21                  21 A Yes, I believe it is.                  22 Q And did the Society for the Scientific Study                  23 of Sexuality believe that you violated one of these                  24 guidelines?                  25 A There's no way to know what the society 04:50:32                  Page 289</p>

<p>1 thought. The board of directors voted that I did,                  2 but the enormous debate and the other resignations                  3 from the society at the -- at the same time                  4 suggested that was not the opinion of the society;                  5 it was just -- whichever relevant members of the 04:50:51                  6 board.                  7 Q Does this e-mail refresh -- refresh your                  8 recollection of what opinion you expressed that                  9 caused them to suspend your membership from the                  10 Listserv? 04:51:07                  11 A No, it doesn't. I didn't express -- I never                  12 expressed anything on that Listserv that I hadn't                  13 expressed in many other venues, including with other                  14 professionals, with other sex researchers.                  15 Q And so can you please look at the next page, 04:51:20                  16 at footnote 3?                  17 And I believe footnote 3 spans three pages,                  18 from 3 of 9 to 5 of 9, of the exhibit.                  19 And this looks like it's an e-mail from you                  20 to the Society of Scientific Study of Sexuality 04:51:47                  21 members dated July 20th, 2020, at 4:48 p.m.; is that                  22 correct?                  23 A That time is correct. But, no, I did not                  24 write that.                  25 Q This is not your e-mail? 04:52:02                  Page 290</p>	<p>1 and most importantly, to our transgender,                  2 non-binary, and gender nonconforming members who                  3 raised this issue and who have expressed that they                  4 have felt -- they have long felt hurt, disrespected,                  5 marginalized, and unprotected on our listserv and 04:53:33                  6 within our organization, I hear you and I thank you                  7 for sharing your experiences and reactions with such                  8 honesty and courage."                  9 Do you see that?                  10 A Yes, I do. 04:53:46                  11 Q Do you know why Zoe Peterson included that in                  12 her e-mail?                  13 A I assume that she was trying to demonstrate                  14 that people who were resigning should stop resigning                  15 and that she was on what she considered to be the 04:54:02                  16 politically correct avenue.                  17 Q So when she says "Finally, and most                  18 importantly, to our transgender, non-binary, and                  19 gender nonconforming members who raised this issue,"                  20 what issue is she talking about? 04:54:19                  21 A That's a very good question.                  22 Q Do you know the answer to that question?                  23 A No, I don't.                  24 Q Do you have any understanding that may inform                  25 what the issue that she is referring to may be? 04:54:34                  Page 292</p>
<p>1 A Footnote -- in footnote 3, no, it is not.                  2 Q Whose e-mail is this?                  3 A Zoe Peterson, then-president of quad S.                  4 Q Okay. And --                  5 A I believe she signed it at -- yes, that's her 04:52:16                  6 signature at the bottom of it.                  7 Q Great. And so this e-mail was written by                  8 Zoe Peterson in response to your resignation from                  9 the society and your suspension from the Listserv?                  10 A I hesitate to say what she wrote -- I 04:52:33                  11 hesitate to say that she wrote it in response to me.                  12 I think she wrote it in response to the enormous                  13 discussion on the list that happened, saying that                  14 the society disagreed with what the board did in                  15 banning me from the Listserv. 04:52:50                  16 Q I see. Okay.                  17 And so this e-mail did go out after you were                  18 banned from the Listserv; right?                  19 A Correct. Some of the other members continued                  20 to forward to me relevant e-mails about the debate 04:53:00                  21 that was going on which I then couldn't see.                  22 Q Okay. And if you look at page 4 of the                  23 exhibit, at the bottom of the page.                  24 A Yes.                  25 Q There's a paragraph starting with "Finally, 04:53:17                  Page 291</p>	<p>1 A No. My experience is that people are                  2 misrepresenting issues and exaggerating them in                  3 order to come out with whatever political outcome                  4 they want. It is exactly because this is so vague 04:54:51                  5 that I can't come to any other conclusion but that                  6 this is another one of those.                  7 Q So is it your testimony that this response                  8 from Zoe Peterson was not in reaction to your                  9 suspension from the Listserv?                  10 A That's not exactly -- 04:55:11                  11 MR. BARHAM: Objection as to form.                  12 THE WITNESS: That's not exactly true either.                  13 We had a long chain of events, each leading to the                  14 next, leading to the next, leading to the next. So                  15 there's an association, but not a direct 04:55:27                  16 association. And I have no reason to think that she                  17 was writing to me. And she's a politician,                  18 president of the organization. I also can't easily                  19 discount that she's writing it for purely political                  20 purposes and the content -- I -- I -- I can't know 04:55:41                  21 how much she genuinely believes the content.                  22 BY COUNSEL SWAMINATHAN:                  23 Q So can you tell me more generally what the                  24 chain of issues was about?                  25 A No. I honestly can't recall. I'm in many, 04:55:55                  Page 293</p>

<p>1 many debates on many, many different Listservs over                  2 the years, and I can't any longer recall which                  3 particular issue sparked this particular debate.                  4 Q And you said that Zoe Peterson is a                  5 politician because she's the president of the 04:56:13                  6 Society for the Scientific Study of Sexuality. Why                  7 did you --                  8 A She --                  9 Q -- say that?                  10 A She's writing as a politician, in her 04:56:15                  11 political capacity.                  12 Q What is her political capacity as president                  13 for the Society for the Scientific Study of                  14 Sexuality?                  15 A I don't understand that question outside 04:56:33                  16 of -- you answered it exactly within the question.                  17 Q I guess I'm just trying to understand what                  18 makes Zoe Peterson a politician beyond her title as                  19 president of the society.                  20 A That she is in charge of ensuring that the 04:56:45                  21 board of directors has sufficient respect in order                  22 to run the organization. They were losing an                  23 enormous amount of respect over their treatment of                  24 me, and she was trying to shore up what she could.                  25 Q How did you know that they were losing an 04:57:01                  Page 294</p>	<p>1 Q Do you remember the names of those                  2 individuals?                  3 A No, I don't.                  4 Q And how many members were are the society, in                  5 total? 04:58:23                  6 A That's a good question. Only a relatively                  7 small number of members are on the Listserv, only a                  8 small number of those who are on the Listserv ever                  9 participate in the Listserv, but I don't know the                  10 numbers of each of those categories. 04:58:40                  11 Q How many members would you say actively                  12 participate on the Listserv?                  13 A I'd guess about a hundred.                  14 Q Okay. And so of those hundred, you say only                  15 three or four of them would agree with your 04:59:02                  16 retracted access to the Listserv; is that correct?                  17 A Well, no.                  18 MR. TRYON: Objection.                  19 THE WITNESS: We weren't disagreeing over my                  20 access to the Listserv; we were disagreeing over 04:59:18                  21 whatever scientific issue it was that we were                  22 disagreeing over.                  23 BY COUNSEL SWAMINATHAN:                  24 Q Were there folks who were in support of your                  25 resignation and your removal from the Listserv? 04:59:29                  Page 296</p>
<p>1 enormous amount of respect as a result of your ban                  2 from the Listserv and your resignation?                  3 A Oh, dozens and dozens and dozens of people                  4 were e-mailing me directly immediately afterwards.                  5 They were saying things to the list. Even though I 04:57:17                  6 couldn't see the list, they were cc'ing me on their                  7 responses so I could see it as they were sending it,                  8 as people --                  9 Q You said --                  10 A -- people who resigned. 04:57:26                  11 Q Apologies, I interrupted your answer. Please                  12 continue.                  13 A As people were resigning from the                  14 organization, they were e-mailing me to let me know                  15 that they were resigning from the organization. 04:57:36                  16 Q You say dozens and dozens and dozens, does                  17 that mean about 36 people?                  18 A Oh, again, I couldn't count. Somewhere on                  19 the order of under 50 would -- seems about -- feels                  20 about right. 04:57:51                  21 Q Did any members disagree with you in the                  22 Society for the Scientific Study of Sexuality?                  23 A That I recall, three or four people who were                  24 post- -- if that many -- who were posting during the                  25 debate itself. 04:58:13                  Page 295</p>	<p>1 A The only ones I heard about were the people                  2 that Zoe Peterson referred to. I never knew their                  3 names. I don't know who reported me to whom, under                  4 what circumstances, the number of people.                  5 Q Okay. And so if we -- so sitting here today, 04:59:53                  6 you're -- you're not aware of what the issue was                  7 that caused?                  8 A I don't recall, no.                  9 Q Okay. And remind me again -- so you said                  10 Sexology Today! is your blog; right? 05:00:08                  11 A That's correct.                  12 Q Do you control all the content of                  13 Sexology Today!?                  14 A Yes, I do. Except sometimes people post                  15 comments. 05:00:23                  16 Q So the actual blog posts are all your                  17 writing, but the comments came from other people; is                  18 that correct?                  19 A Yes, that's correct.                  20 Q Okay. About how many blog posts have you 05:00:34                  21 offered on Sexology Today!?                  22 A Oh, 20ish, maybe.                  23 Q And when did you start your website?                  24 A Maybe 15 years ago.                  25 Q And so why did you feel the need to write 05:00:56                  Page 297</p>

1 this open letter of resignation from the Society for  
 2 the Scientific Study of Sexuality on your blog post?  
 3 A Oh, because they were failing at their -- at  
 4 their own mission. I was promoting science. Again,  
 5 I don't remember which particular issue within it, 05:01:14  
 6 but it was science -- it was what was being shown in  
 7 the science despite whether anybody else liked what  
 8 was being shown in the science. By blocking me and  
 9 what I was saying, they were blocking the progress  
 10 of science -- of science itself and the purpose of 05:01:31  
 11 the organization.  
 12 Q And I understand that you can't remember the  
 13 incident that led to your resignation and your  
 14 banning from the Listserv, but do you believe that  
 15 you made any statements that would have been 05:01:45  
 16 perceived as offensive to any members of the  
 17 society?  
 18 A I can't automatically collapse together what  
 19 is offensive and what is called offensive. I  
 20 sincerely don't believe and I don't think that any 05:02:09  
 21 objective observer would label anything that I had  
 22 ever said as offensive, but that's very different  
 23 from whether somebody would call it offensive in  
 24 order to keep me from saying it because they didn't  
 25 like its implications. 05:02:24

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1 Q I understand. So it's possible that they  
 2 either didn't like your implications of what you  
 3 said or they were actually taking offense with what  
 4 you had said; is that correct? Those -- those are  
 5 two plausible reactions? 05:02:38  
 6 MR. TRYON: Objection to the form of the  
 7 question.  
 8 THE WITNESS: Yes, both of those are at least  
 9 theoretically possible.  
 10 BY COUNSEL SWAMINATHAN: 05:02:51  
 11 Q Okay. And so, you know, we were talking  
 12 earlier about what you understand gender-affirming  
 13 care to mean versus how I use the phrase.  
 14 So it your opinion that the word "transition"  
 15 can only be applied in the healthcare setting? 05:03:08  
 16 A It depends on the context. It is relatively  
 17 recent that social transition has come to be called  
 18 transition at all. So if one is reading older  
 19 posts, older papers, older words, "transition"  
 20 usually would refer to somebody who has embarked in 05:03:31  
 21 a recognized program and is going through steps.  
 22 When -- people use the word "transition" today much,  
 23 much more broadly.  
 24 Q Okay. And so as you sit here today, is it  
 25 your understanding that the words -- the word 05:03:51

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1 "transition" should only be applied in the  
 2 healthcare setting?  
 3 MR. TRYON: Objection.  
 4 MR. BARHAM: Objection --  
 5 MR. TRYON: Objection. 05:04:02  
 6 MR. BARHAM: Objection as to form.  
 7 THE WITNESS: I can't say that I have any  
 8 opinion about how it should be used. The only  
 9 important criterion to me is that a term, any term,  
 10 is used consistently and concretely and 05:04:18  
 11 objectively -- and as objectively as possible.  
 12 If "transition" is going to continue to mean  
 13 something very, very broad, then we are, once again,  
 14 going to need a term to refer to the more specific  
 15 situations, as long as we're involved in those 05:04:40  
 16 specific situations.  
 17 BY COUNSEL SWAMINATHAN:  
 18 Q And, Dr. Cantor, what is your understanding  
 19 of a competitive sport?  
 20 MR. BARHAM: Objection as to form and scope. 05:04:54  
 21 MR. TRYON: I also object.  
 22 THE WITNESS: I would have to say that I  
 23 really have no understanding of "competitive sport"  
 24 other than a layperson's.  
 25 ///

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1 BY COUNSEL SWAMINATHAN:  
 2 Q Do you have any understanding of what a  
 3 physical advantage is in a sport?  
 4 MR. TRYON: Objection.  
 5 MR. BARHAM: Objection to form and scope. 05:05:19  
 6 THE WITNESS: Again, I know the particular  
 7 terms in the same way that any -- that the lay  
 8 public would, but when questions -- when questions  
 9 are posed or an issue is -- arises where there is a  
 10 quantitative or numeric answer to it, I now have a 05:05:35  
 11 level of expertise for analyzing those statistics  
 12 for answering the question that other people don't.  
 13 BY COUNSEL SWAMINATHAN:  
 14 Q Has anyone ever posed that question to you  
 15 before me today? 05:05:50  
 16 A Not in a formal context, no.  
 17 Q Would you be able to tell me what your  
 18 understanding is of a physical advantage in a  
 19 competitive sport, as you sit here today?  
 20 MR. TRYON: Objection; scope and form. 05:06:05  
 21 MR. BARHAM: Same.  
 22 THE WITNESS: Too var -- any variable that  
 23 has a causal relationship with the outcome of how  
 24 that sport is -- is evaluated.  
 25 ///

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<p>1 BY COUNSEL SWAMINATHAN:                  2 Q And do you agree that there are some                  3 competitive sports teams where physical size is an                  4 advantage?                  5 A That would certainly seem so, yes. 05:06:29                  6 Q Okay.                  7 COUNSEL SWAMINATHAN: I'm going to introduce                  8 tab 23, which will -- which was previously marked as                  9 Exhibit 49. And the article is another blog post                  10 from Sexology Today! titled "When is a 'TERF' not a 05:06:54                  11 TERF?"                  12 THE WITNESS: Got it.                  13 BY COUNSEL SWAMINATHAN:                  14 Q Great. And you authored this article in                  15 July of 2020; correct? 05:07:14                  16 A Correct.                  17 Q And in this article, you write -- and I'll                  18 turn your attention to the middle of the post. It                  19 says (as read):                  20 "I must first challenge the 05:07:27                  21 ironically binary premise that                  22 'exclusion' is all or none. It's                  23 only in the current climate of                  24 extremism that no moderate views get                  25 discussed. Here is a range of some 05:07:40                  Page 302</p>	<p>1 BY COUNSEL SWAMINATHAN:                  2 Q Have you seen any evidence that shows that                  3 physical sides provide -- physical size provides an                  4 advantage in cross-country?                  5 MR. TRYON: Objection; scope. 05:09:15                  6 MR. BARHAM: Objection.                  7 THE WITNESS: No, I haven't read those                  8 studies.                  9 BY COUNSEL SWAMINATHAN:                  10 Q Okay. Sitting here today, do you have any 05:09:19                  11 opinion whether or not the plaintiff in this case,                  12 B.P.J., should be allowed to run on the girls'                  13 cross-country team?                  14 MR. BARHAM: Objection as to scope and form.                  15 MR. TRYON: Same objection. 05:09:36                  16 THE WITNESS: I have no opinion in the actual                  17 outcome.                  18 COUNSEL SWAMINATHAN: Okay. I think this is                  19 a good point for a break. I'm just going to confer                  20 with my co-counsel and see if we have anything else 05:09:44                  21 left to discuss with Dr. Cantor.                  22 But does regrouping at 5:120 work -- sorry --                  23 5:20 work for everyone, a ten-minute break?                  24 MR. BARHAM: Sure.                  25 COUNSEL SWAMINATHAN: Go off the record. 05:10:00                  Page 304</p>
<p>1 areas in which sex/gender require                  2 protection."                  3 And you list employment, housing, public                  4 accommodation, with ellipses, locker rooms/showers,                  5 with nudity, and in parentheses, sauna, hottub, 05:07:57                  6 ellipses, close parentheses, locker room/washrooms,                  7 sex segregated. And the final item you list is                  8 competitive sports team, where physical size is an                  9 advantage.                  10 Did I read that correctly? 05:08:18                  11 A Yes.                  12 Q Great. And so in this blog post, you say                  13 that sex/gender require protection in competitive                  14 sports teams where physical size is an advantage; is                  15 that correct? 05:08:39                  16 A I offered it as more of an example of -- of                  17 an extreme on a range, but it's hard to think of                  18 something that would be even more extreme than that,                  19 yes.                  20 Q Is it your belief that cross-country is a 05:08:48                  21 sport where physical size is an advantage?                  22 MR. TRYON: Objection; scope.                  23 THE WITNESS: I don't know. I would have                  24 to -- I haven't read that part of the literature.                  25 ///                  Page 303</p>	<p>1 THE VIDEOGRAPHER: Yep. We're going off the                  2 record. The time is 5:10 p.m., and this is the end                  3 of Media Unit No. 6.                  4 (Recess.)                  5 THE VIDEOGRAPHER: All right. We are back on 05:26:05                  6 the record at 5:26 p.m., and this is the beginning                  7 of Media Unit No. 7.                  8 Go ahead, please.                  9 BY COUNSEL SWAMINATHAN:                  10 Q Dr. Cantor, I'm going to ask you to take a 05:26:15                  11 look back at your 2022 expert report, page 3.                  12 A I'm sorry, what page again?                  13 Q Page 3.                  14 A Got it.                  15 Q Great. And before we conclude today, I just 05:26:41                  16 to confirm that you are offering no opinions beyond                  17 the principal opinions that you on this page of the                  18 report and the paragraph at the bottom of the page.                  19 Is that accurate?                  20 A Yes, it is. 05:26:56                  21 Q Great.                  22 COUNSEL SWAMINATHAN: Thank you so much for                  23 your time, Dr. Cantor.                  24 I have no further questions right now. I'll                  25 tender the witness, but reserve my right to ask 05:27:03                  Page 305</p>

<p>1 questions should defense counsel ask questions.                  2 So thank you so much.                  3                  4 EXAMINATION                  5 BY MR. BARHAM: 05:27:07                  6 Q I do have a few quick questions for you,                  7 Dr. Cantor.                  8 I want to refer to your expert report and                  9 page 32 of your CV. Unfortunately, I don't know                  10 which page that is in the deck. 05:27:30                  11 THE WITNESS: It's the last page of it, is                  12 it?                  13 BY MR. BARHAM:                  14 Q Correct.                  15 A Goodness, next life, I get a shorter career. 05:27:57                  16 Here we go.                  17 Q Earlier today, when we were discussing your                  18 expert testimony, were you referring -- did you have                  19 this page in front of you at the time?                  20 A No, I did not. 05:28:10                  21 Q On here, there is a 2019 case in probate and                  22 family court, a custody hearing in Boston,                  23 Massachusetts.                  24 Do you see that line on page 32?                  25 A Yes, I do. 05:28:27                  Page 306</p>	<p>1 to get all those questions into the transcript?                  2 THE REPORTER: I've been able to get them                  3 all. It is a little bit difficult to hear you,                  4 though.                  5 MR. BARHAM: I apologize. I slid too far                  6 over to my binder.                  7 THE REPORTER: Thank you.                  8 MR. BARHAM: I will address that.                  9 THE REPORTER: Thank you.                  10 BY MR. BARHAM: 05:29:46                  11 Q Dr. Cantor, we also were earlier discussing                  12 the different types of gender dysphoria, adult                  13 onset, adolescent onset and childhood onset.                  14 If we're dealing with -- if you're confronted                  15 with an individual in, say, his early -- his or her 05:30:04                  16 early 20s who is experiencing gender dysphoria,                  17 which category would that individual likely fall                  18 into? What -- what categories would be possible?                  19 A Both categories are possible. Early 20s, the                  20 adult onset would be more likely, but we can't be 05:30:31                  21 quite as sure today as we could, say, 10, 15 years                  22 ago. But they're -- until relatively recently, the                  23 children who came in were children, prepubescent,                  24 and the adults who came in were generally                  25 middle-aged. We didn't get anybody coming in during 05:30:47                  Page 308</p>
<p>1 Q Could you describe the general issue                  2 involving your expert testimony in that case?                  3 A Yes. Two women, a lesbian couple, were                  4 divorcing. They had joint custody of their child                  5 whom they were fighting over. The child had gender 05:28:38                  6 dysphoria. Now it's a female. One parent believed                  7 that the child should transition; the other parent                  8 did not.                  9 Q Earlier today, we were also discussing the                  10 instances in which you have provided care for 05:28:57                  11 transgender individuals.                  12 Is it the case that you have only provided                  13 care for transgender individuals in your current                  14 clinic?                  15 A No. I was also providing care while I was at 05:29:15                  16 CAMH.                  17 COUNSEL SWAMINATHAN: Can I just interrupt                  18 you for one quick second, Dr. Cantor?                  19 Travis, I'm having trouble hearing you.                  20 MR. BARHAM: Oh, I apologize. 05:29:26                  21 COUNSEL SWAMINATHAN: If you could get closer                  22 to the mic, I would greatly appreciate that.                  23 And sorry, again, to disrupt.                  24 MR. BARHAM: Court Reporter -- is the court                  25 reporter having similar issues, or have we been able                  Page 307</p>	<p>1 their teens or 20s. And so the nicknames for                  2 these -- for these two groups simply became child                  3 onset and adult onset.                  4 As years have gone on and more people started                  5 presenting, there's now a little bit more overlap in 05:31:02                  6 between.                  7 So when age can't be used in order to provide                  8 very obvious categorization -- if somebody comes in                  9 clinically, we would start ask -- asking other                  10 questions that -- that would tell us what group they 05:31:16                  11 belong to, such as their sexual interest patterns,                  12 whether they were attracted to men, women, both and                  13 so on.                  14 Q And when you said a moment ago that both                  15 categories would be possible, what are the two 05:31:31                  16 categories that you had in mind?                  17 A It's possible that the --                  18 COUNSEL SWAMINATHAN: Objection to the form.                  19 THE WITNESS: It's possible that the person                  20 would be an adult-onset case, but coming into a 05:31:40                  21 clinic relatively early, especially now that trans                  22 issues are talked about so much more. Or as a                  23 childhood-onset case who didn't come in for the                  24 medical or other -- other care until atypically                  25 late. 05:31:57                  Page 309</p>

1 MR. BARHAM: All right. I believe those are  
 2 all the questions I need to ask.  
 3 Mr. Tryon, do you need to supplement?  
 4 MR. TRYON: Maybe I could ask just one  
 5 question, Mr. -- Dr. Cantor. 05:32:13  
 6  
 7 EXAMINATION  
 8 BY MR. TRYON:  
 9 Q So in the event that you were to determine  
 10 that someone in that age category, who was a college 05:32:18  
 11 student, were suffering from adult-onset dysphoria,  
 12 would then adult-onset dysphoria become relevant in  
 13 connection with the statute which we have in place  
 14 here, which we are discussing here?  
 15 COUNSEL SWAMINATHAN: Objection to form. 05:32:41  
 16 THE WITNESS: Yes, it would become relevant.  
 17 MR. TRYON: I have no other questions.  
 18 MS. DUPHILY: Should we go off the record?  
 19 COUNSEL SWAMINATHAN: Sounds great.  
 20 THE VIDEOGRAPHER: All right. 05:33:02  
 21 MR. BARHAM: Does this conclude the  
 22 deposition, or are we taking a break?  
 23 THE VIDEOGRAPHER: This --  
 24 COUNSEL SWAMINATHAN: It concludes our  
 25 questioning from plaintiff's side. 05:33:06

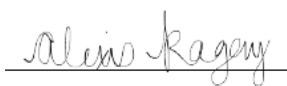
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1 THE VIDEOGRAPHER: Everybody's had a chance;  
 2 otherwise, we'll --  
 3 MS. GREEN: Actually -- this is Roberta Green  
 4 on behalf of WVSSAC, and I would just like to note  
 5 for the record that we have no questions. 05:33:17  
 6 THE VIDEOGRAPHER: Okay.  
 7 MR. CROPP: This is Jeffrey Cropp for the  
 8 Harrison County Board of Education and Dora Stutler.  
 9 We have no questions.  
 10 THE VIDEOGRAPHER: Okay. 05:33:24  
 11 MS. MORGAN: This is Kelly Morgan on behalf  
 12 of the West Virginia Board of Education and  
 13 Superintendent Burch. I don't have any questions.  
 14 Thank you.  
 15 THE VIDEOGRAPHER: Okay. I think that's 05:33:40  
 16 everyone now. So with -- with that, I will take us  
 17 off the record.  
 18 Okay. We are off the record at 5:33 p.m.,  
 19 and this ends today's testimony given by Dr. Cantor.  
 20 The total number of media used was seven and 05:33:54  
 21 will be retained by Veritext Legal Solutions.  
 22 (TIME NOTED: 5:33 p.m.)  
 23  
 24  
 25

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 2  
 3  
 4  
 5 I, JAMES M. CANTOR, do hereby declare under  
 6 penalty of perjury that I have read the foregoing  
 7 transcript; that I have made any corrections as  
 8 appear noted, in ink, initialed by me, or attached  
 9 hereto; that my testimony as contained herein, as  
 10 corrected, is true and correct.  
 11 EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
 12 20\_\_\_\_, at \_\_\_\_\_,  
 (City) (State)  
 13  
 14  
 15  
 16 \_\_\_\_\_  
 JAMES M. CANTOR  
 VOLUME I  
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1  
 2  
 3 I, the undersigned, a Certified Shorthand  
 4 Reporter of the State of California, do hereby  
 5 certify:  
 6 That the foregoing proceedings were taken  
 7 before me at the time and place herein set forth;  
 8 that any witnesses in the foregoing proceedings,  
 9 prior to testifying, were placed under oath; that a  
 10 record of the proceedings was made by me using  
 11 machine shorthand which was thereafter transcribed  
 12 under my direction; further, that the foregoing is  
 13 an accurate transcription thereof.  
 14 I further certify that I am neither  
 15 financially interested in the action nor a relative  
 16 or employee of any attorney of any of the parties.  
 17 IN WITNESS WHEREOF, I have this date  
 18 subscribed my name.  
 19 Dated: MARCH 28, 2022  
 20  
 21  
 22  
 23   
 24 ALEXIS KAGAY  
 25 CSR NO. 13795

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<p>1 TRAVIS C. BARHAM, ESQ.                  2 tbarham@adflegal.org                  3 MARCH 28, 2022                  4 RE: BPJ V. WEST VIRGINIA STATE BOARD OF EDUCATION                  5 MARCH 21, 2022, JAMES M. CANTOR, JOB NO. 5122845                  6 The above-referenced transcript has been                  7 completed by Veritext Legal Solutions and                  8 review of the transcript is being handled as follows:                  9 <u>    </u> Per CA State Code (CCP 2025.520 (a)-(e)) – Contact Veritext                  10 to schedule a time to review the original transcript at                  11 a Veritext office.                  12 <u>    </u> Per CA State Code (CCP 2025.520 (a)-(e)) – Locked .PDF                  13 Transcript - The witness should review the transcript and                  14 make any necessary corrections on the errata pages included                  15 below, notating the page and line number of the corrections.                  16 The witness should then sign and date the errata and penalty                  17 of perjury pages and return the completed pages to all                  18 appearing counsel within the period of time determined at                  19 the deposition or provided by the Code of Civil Procedure.                  20 <u>    </u> Waiving the CA Code of Civil Procedure per Stipulation of                  21 Counsel - Original transcript to be released for signature                  22 as determined at the deposition.                  23 <u>    </u> Signature Waived – Reading &amp; Signature was waived at the                  24 time of the deposition.                  25</p> <p style="text-align: right;">Page 314</p>	<p>1 BPJ V. WEST VIRGINIA STATE BOARD OF EDUCATION                  2 JAMES M. CANTOR (#5122845)                  3 E R R A T A S H E E T                  4 PAGE____ LINE____ CHANGE_____                  5 _____                  6 REASON_____                  7 PAGE____ LINE____ CHANGE_____                  8 _____                  9 REASON_____                  10 PAGE____ LINE____ CHANGE_____                  11 _____                  12 REASON_____                  13 PAGE____ LINE____ CHANGE_____                  14 _____                  15 REASON_____                  16 PAGE____ LINE____ CHANGE_____                  17 _____                  18 REASON_____                  19 PAGE____ LINE____ CHANGE_____                  20 _____                  21 REASON_____                  22 _____                  23 _____                  24 WITNESS _____ Date _____                  25</p> <p style="text-align: right;">Page 316</p>
<p>1 <u>  X  </u> Federal R&amp;S Requested (FRCP 30(e)(1)(B)) – Locked .PDF                  2 Transcript - The witness should review the transcript and                  3 make any necessary corrections on the errata pages included                  4 below, notating the page and line number of the corrections.                  5 The witness should then sign and date the errata and penalty                  6 of perjury pages and return the completed pages to all                  7 appearing counsel within the period of time determined at                  8 the deposition or provided by the Federal Rules.                  9 <u>    </u> Federal R&amp;S Not Requested - Reading &amp; Signature was not                  10 requested before the completion of the deposition.                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 315</p>	



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[hypersexuality - individuals]

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**[sexology - social]**

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[words - zucker]

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	<b>x</b>		
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	<b>y</b>		
	<p><b>y</b> 272:7,16 <b>yeah</b> 16:8 36:19 50:13 84:22 111:5 138:6 146:6 245:2 245:14 260:14 <b>year</b> 22:8,9,23 40:14 41:4,25 47:14,16,20,21 97:17 100:24 113:9 116:4 175:6</p>		

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA  
3 CHARLESTON DIVISION  
4  
5

6 \_\_\_\_\_ )  
B.P.J. by her next friend and )  
mother, HEATHER JACKSON, )  
7 )  
Plaintiff, )  
8 ) No. 2:21-cv-00316  
vs. )  
9 )  
WEST VIRGINIA STATE BOARD OF )  
10 EDUCATION, HARRISON COUNTY )  
BOARD OF EDUCATION, WEST )  
11 VIRGINIA SECONDARY SCHOOL )  
ACTIVITIES COMMISSION, W. )  
12 CLAYTON BURCH in his official )  
capacity as State )  
13 Superintendent, DORA STUTLER, )  
in her official capacity as )  
14 Harrison County )  
Superintendent, and THE STATE )  
15 OF WEST VIRGINIA, )  
 )  
16 Defendants. )  
 )  
17 And )  
 )  
18 LAINEY ARMISTEAD, )  
 )  
19 Defendant-Intervenor. )  
\_\_\_\_\_ )  
20

21 REMOTE VIDEOTAPED DEPOSITION OF  
GREGORY BROWN, Ph.D.  
22 Friday, March 25, 2022  
Volume I

23 Reported by:  
ALEXIS KAGAY  
24 CSR No. 13795  
Job No. 5122856  
25 PAGES 1 - 282

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA CHARLESTON  
 3 DIVISION  
 4  
 5 \_\_\_\_\_  
 6 B.P.J. by her next friend and  
 6 mother, HEATHER JACKSON, )  
 7 )  
 7 Plaintiff, )  
 8 vs. ) No. 2:21-cv-00316  
 8 )  
 9 WEST VIRGINIA STATE BOARD OF )  
 9 EDUCATION, HARRISON COUNTY )  
 10 BOARD OF EDUCATION, WEST )  
 10 VIRGINIA SECONDARY SCHOOL )  
 11 ACTIVITIES COMMISSION, W. )  
 11 CLAYTON BURCH in his official  
 12 capacity as State )  
 12 Superintendent, DORA STUTLER, )  
 13 in her official capacity as )  
 13 Harrison County )  
 14 Superintendent, and THE STATE )  
 14 OF WEST VIRGINIA, )  
 15 )  
 15 Defendants. )  
 16 )  
 16 And )  
 17 )  
 17 LAINEY ARMISTEAD, )  
 18 )  
 18 Defendant-Intervenor.)  
 19 \_\_\_\_\_ )  
 20 Videotaped deposition of GREGORY BROWN, Ph.D.,  
 21 Volume I, taken on behalf of Plaintiff, with all  
 22 participants appearing remotely, beginning at 7:02 a.m.  
 23 and ending at 4:03 p.m. on Friday, March 25, 2022,  
 24 before ALEXIS KAGAY, Certified Shorthand Reporter  
 25 No. 13795.

Page 2

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Page 4

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Page 6	Page 8
<p>1 APPEARANCES (Continued):                  2                  3 For defendants Harrison County Board of Education and                  4 Superintendent Dora Stutler:                  5 STEPTOE &amp; JOHNSON PLLC                  6 BY: JEFFREY M. CROPP                  7 Attorney at Law                  8 400 White Oaks Boulevard                  9 Bridgeport, West Virginia 26330                  10 304.933.8154                  11 Jeffrey.cropp@steptoe-Johnson.com                  12                  13                  14 For West Virginia Board of Education and Superintendent                  15 Burch, Heather Hutchens as general counsel for the                  16 State Department of Education:                  17 BAILEY &amp; WYANT, PLLC                  18 BY: MICHAEL TAYLOR                  19 Attorney at Law                  20 500 Virginia Street                  21 Suite 600                  22 Charleston, West Virginia 25301                  23 MTaylor@Baileywyant.com                  24                  25</p>	<p>1 INDEX                  2 WITNESS EXAMINATION                  3 GREGORY BROWN, Ph.D.                  4 Volume I                  5                  6 BY MR. BLOCK 16                  7                  8                  9 EXHIBITS                  10 NUMBER DESCRIPTION PAGE                  11 Exhibit 64 Declaration of Gregory A. Brown, 24                  12 PH.D., FACSM                  13                  14 Exhibit 65 Declaration of Professor Gregory 26                  15 Brown, Soule Matter                  16                  17 Exhibit 66 Expert Declaration of Gregory A. 26                  18 Brown, Ph.D., FACSM, Hecox Matter                  19                  20 Exhibit 67 White Paper - Concerning Male 28                  21 Physiological and Performance                  22 Advantages in Athletic                  23 Competition and the Effect of                  24 Testosterone Suppression on Male                  25 Athletic Advantage, Gregory A.</p>
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1	Brown, Ph.D., December 14, 2021	1	haemoglobin? Systematic review
2		2	with a focus on the implications
3	Exhibit 68 Video Clip 59	3	for sport participation"
4		4	
5	Exhibit 69 Women's Sports Policy Working 111	5	Exhibit 79 "Integrating transwomen and 228
6	Group Briefing Book a Request to	6	female athletes with Differences
7	Congress and the Administration	7	of Sex Development (DSD) into
8	to Safeguard Girls' and Women's	8	Elite Competition: The FIMS 2021
9	Sport & Include Transgender	9	Consensus Statement"
10	Athletes	10	
11		11	
12	Exhibit 70 Commonwealth of Pennsylvania 123	12	
13	House of Representatives	13	
14	Education Committee Public	14	
15	Hearing, Presentation on HB 972	15	
16	(GLEIM) Fairness in Women's	16	
17	Sports Act	17	
18		18	
19	Exhibit 71 "Proandrogenic and Antiandrogenic 139	19	
20	Progestins in Transgender Youth:	20	
21	Differential Effects on Body	21	
22	Composition and Bone Metabolism"	22	
23		23	
24	Exhibit 72 The Journal of Sexual Medicine 149	24	
25	"Transgender Health: Early	25	
	Page 10		Page 12
1	Hormonal Treatment Affects Body	1	Friday, March 25, 2022
2	Composition and Body Shape in	2	7:02 a.m.
3	Young Transgender Adolescents"	3	
4		4	THE VIDEOGRAPHER: Good morning. We are on
5	Exhibit 73 Brown Blog Post 161	5	the record at 9:02 a.m. on March 25th of 2022. All 07:02:02
6		6	participants are attending remotely.
7	Exhibit 74 "Transwomen Competing in Women's 177	7	Audio and video recording will continue to
8	Sports: What we know, and what we	8	take place unless all parties agree to go off the
9	don't"	9	record.
10		10	This is media unit 1 of the recorded 07:02:20
11	Exhibit 75 "Re-Affirming the Value of the 201	11	deposition of Gregory A. Brown, Ph.D., taken by counsel
12	Sports Exception to Title IX's	12	for the plaintiff, in the matter of B.P.J., by her next
13	General Non-Discrimination Rule"	13	friend and mother, Heather Jackson, versus
14		14	West Virginia State Board of Education, et al., filed
15	Exhibit 76 "Transgender Women in the Female 209	15	in the United States District Court, for the Southern 07:02:36
16	Category of Sport: Perspectives	16	District of West Virginia, Charleston Division, Case
17	on Testosterone Suppression and	17	Number 2:21-cv-00316.
18	Performance Advantage"	18	My name is Kimberlee Decker from Veritext
19		19	Legal Solution (sic), and I am the videographer. The
20	Exhibit 77 World Rugby Transgender Women 217	20	court reporter is Alexis Kagay. I am not related to 07:02:57
21	Guidelines	21	any party in this action, nor am I financially
22		22	interested in the outcome.
23	Exhibit 78 "How does hormone transition in 219	23	Counsel and all present will now state their
24	transgender women change body	24	appearances and affiliations for the record. If there
25	composition, muscle strength and	25	are any objections to proceeding, please state them at 07:03:10
	Page 11		Page 13

<p>1 the time of your appearance, beginning with the                  2 noticing attorney.                  3 MR. BLOCK: Good morning. My name is                  4 Josh Block from the ACLU. My pronouns are he/him. And                  5 I am here on behalf of the plaintiff, B.P.J. 07:03:26                  6 And I'll let my co-counsel introduce                  7 themselves.                  8 MS. HARTNETT: Good morning. This is                  9 Kathleen Hartnett from Cooley for plaintiff.                  10 MR. BARR: Good morning. Andrew Barr from 07:03:38                  11 Cooley, also for plaintiff.                  12 MS. KANG: Good morning. Katelyn Kang from                  13 Cooley, also for plaintiff.                  14 MS. REINHARDT: Good morning. Elizabeth                  15 Reinhardt with Cooley for plaintiff. 07:03:52                  16 MS. HELSTROM: Hello. This is Zoe Helstrom                  17 with Cooley, also for plaintiff.                  18 COUNSEL SWAMINATHAN: Good morning. This is                  19 Sruti Swaminathan from Lambda Legal on behalf of                  20 plaintiff. 07:04:04                  21 MR. CHARLES: Good morning. Carl Charles,                  22 he/him, with Lambda Legal for plaintiff.                  23 MS. SMITH-CARRINGTON: Good morning. Avatara                  24 Smith-Carrington from Lambda Legal on behalf of                  25 plaintiff. 07:04:18                  Page 14</p>	<p>1                  2 EXAMINATION                  3 BY MR. BLOCK:                  4 Q Good morning, Dr. Brown. How are you today?                  5 A I'm doing fine. Thank you. 07:05:38                  6 How are you today, Mr. Block?                  7 Q I'm good. I'm good.                  8 This is our second time seeing each other                  9 virtually for a deposition, isn't it?                  10 A It is. It is. 07:05:48                  11 Q Well, could you state your name for the                  12 record, please.                  13 A My name is Gregory Allen Brown.                  14 Q And have you had your deposition taken before?                  15 A Yes, I have. 07:06:04                  16 MR. FRAMPTON: Josh, real -- real quick, just                  17 before we get too far, I just want to memorialize for                  18 the record, are we proceeding under the same agreement                  19 that all objections except to form and scope are                  20 reserved? 07:06:16                  21 MR. BLOCK: Yes. And -- and I'd like to                  22 actually also propose that, of course, any party is                  23 free to object on their own, but it is also not                  24 necessary for multiple parties to object to the same                  25 question that -- an objection from one defendant or 07:06:33                  Page 16</p>
<p>1 MR. FRAMPTON: I -- I think that's everyone                  2 for plaintiff, but if not, correct me.                  3 This is Hal Frampton with Alliance Defending                  4 Freedom for the intervenor.                  5 MS. CSUTOROS: This is Rachel Csutoros from 07:04:29                  6 Alliance Defending Freedom for the intervenor.                  7 MR. TRYON: This is David Tryon with                  8 West Virginia state attorney general's office on behalf                  9 of the State of West Virginia.                  10 MR. CROPP: This is Jeffrey Cropp on behalf of 07:04:45                  11 defendants Harrison County Board of Education and                  12 Superintendent Dora Stutler.                  13 MS. GREEN: This is Roberta Green, Shuman                  14 McCuskey Slicer, here on behalf of WVSSAC.                  15 MR. TAYLOR: This is Michael Taylor, law firm 07:05:04                  16 of Bailey &amp; Wyant, on behalf of the West Virginia State                  17 Board of Education and W. Clayton Burch,                  18 superintendent.                  19 THE VIDEOGRAPHER: Thank you.                  20 Will the court reporter please swear in the                  21 witness.                  22                  23 GREGORY BROWN, Ph.D.,                  24 having been administered an oath, was examined and                  25 testified as follows:                  Page 15</p>	<p>1 intervenor will preserve the objections for everyone                  2 else as well.                  3 Is that also acceptable?                  4 MR. FRAMPTON: That -- that's acceptable to                  5 the intervenor. 07:06:51                  6 MR. TRYON: This is David Tryon. That is                  7 acceptable to the State.                  8 MS. GREEN: This is Roberta Green. That's                  9 acceptable to WVSSAC.                  10 MR. CROPP: This is Jeffrey Cropp. That's 07:07:03                  11 acceptable to the Harrison County Board of Education                  12 and Dora Stutler.                  13 MR. TAYLOR: This is Michael Taylor. That's                  14 acceptable for the State Board of Education and                  15 Superintendent Burch. 07:07:14                  16 MR. BLOCK: Excellent.                  17 BY MR. BLOCK:                  18 Q So other than your deposition with me, have                  19 you had any other depositions taken?                  20 A No, I have not. 07:07:27                  21 Q All right. Great.                  22 So I'll just review with you some ground rules                  23 again, which you're -- you're probably familiar with,                  24 and I have three of them.                  25 You know, the first is that -- actually, it's 07:07:35                  Page 17</p>

<p>1 less applicable for a video deposition, but it's                  2 important that all of your responses be verbal instead                  3 of head nods so that we can have a -- a transcript of                  4 your responses.                  5 Does that sound good to you? 07:07:53                  6 A Yes. Thank you.                  7 Q Sure. The second is that we need to make sure                  8 not to speak over each other. So if you could wait for                  9 me to complete my question before answering and I'll                  10 wait for you to complete your answer before I ask 07:08:06                  11 another question.                  12 Does that sound fair?                  13 A I'll do my best.                  14 Q So will I.                  15 And the third is that, you know, as always, 07:08:16                  16 it's my job to ask questions that you understand. So                  17 if there's anything about my question you don't                  18 understand, I'm going to rely on you to explain to me                  19 that you don't understand it, and I will do my best to                  20 rephrase it. But if you answer the question, I'm going 07:08:32                  21 to assume that meant that you understood what I was                  22 saying, okay?                  23 A Sounds fair.                  24 Q Terrific.                  25 All right. How did you prepare for the 07:08:44                  Page 18</p>	<p>1 Q Did you conduct any additional research to                  2 prepare for today's deposition?                  3 A Can you explain what you mean by "research"?                  4 Q Well, I guess, did you look for new articles                  5 in the field or anything like that in preparation for 07:10:17                  6 the deposition?                  7 A Yes. In preparation for the deposition, I                  8 have looked to see if there have been any relevant new                  9 publications, and I haven't come up with any that I                  10 haven't cited in the deposition. 07:10:33                  11 Q Great. Have you been retained as an expert                  12 witness before?                  13 A Yes.                  14 Q I want to get a complete list of all of the                  15 times you've been retained as an expert witness. 07:10:46                  16 So could you tell me, to the best of your                  17 recollection, the first time you were retained as an                  18 expert witness?                  19 A That would be for the case of Soule versus the                  20 Connecticut Interscholastic Athletic Association (sic). 07:11:05                  21 Q And who retained you for that case?                  22 A Alliance Defending Freedom.                  23 Q Great. What is the next case in which you                  24 were retained as an expert witness?                  25 A The next case is Hecox versus Little in the 07:11:17                  Page 20</p>
<p>1 deposition today?                  2 A Reviewed what I had written for my                  3 declaration, the expert report. I had a good                  4 breakfast, got a good night's sleep. I have met with                  5 attorneys for Alliance Defending Freedom and 07:09:03                  6 David Tryon to brief me on, you know, what happens in a                  7 deposition, what I should expect.                  8 MR. FRAMPTON: I'm going to instruct the                  9 witness, you don't -- anything that we discussed is                  10 privileged. So you can certainly tell him that you met 07:09:16                  11 with us, but the substance of that discussion should                  12 not be told.                  13 THE WITNESS: Okay.                  14 BY MR. BLOCK:                  15 Q Did -- in preparation for the deposition, did 07:09:25                  16 you review anything that was not cited in your report?                  17 A Yes. Like previous exercise physiology                  18 textbooks, lots of other things that probably weren't                  19 cited in there, just in the course of general                  20 knowledge. 07:09:47                  21 Q And -- and you -- you've reviewed those to                  22 refresh your understanding of them in preparation for                  23 today's deposition?                  24 A Yes. And also in preparation for teaching my                  25 classes and those types of things. 07:10:00                  Page 19</p>	<p>1 state of Idaho.                  2 Q And who retained you as an expert witness in                  3 that case?                  4 A That was the Idaho attorney general's office.                  5 Q And what's the next case where you were 07:11:31                  6 retained as an expert witness?                  7 A The next case is in Florida, and I apologize,                  8 I cannot remember the names and initials on that versus                  9 State of Florida.                  10 Q And what's the general subject of that 07:11:42                  11 litigation?                  12 A Similar to this one, State of Idaho, as                  13 regarding a state law on women's participation in                  14 women's sports.                  15 Q A Florida state law? 07:11:57                  16 A Yes.                  17 Q And who retained you in that case?                  18 A Andy Bardos, if I remember correctly on his                  19 last name. I apologize if I don't get the                  20 pronunciation correctly. And that is -- they're 07:12:16                  21 working for the State of Florida.                  22 Q Is there any other case in which you've been                  23 retained as an expert witness?                  24 A I have agreed to serve as an expert witness in                  25 the state of Arkansas if there is a case that were to 07:12:35                  Page 21</p>

1 come forth there.  
 2 Q Related to sports?  
 3 A Yes. Yeah, same topic.  
 4 Q But not as an expert in any other litigation  
 5 in Arkansas about other types of legislation; right? 07:12:47  
 6 A That's correct.  
 7 Q Is there any other case in which you've been  
 8 retained as an expert witness?  
 9 A Just want to verify that I said them. So  
 10 Soule versus CIAC, Idaho, Florida, Arkansas and then 07:13:05  
 11 the current case.  
 12 Q Okay. How about in Tennessee, are you an  
 13 expert witness in Tennessee?  
 14 A No.  
 15 Q Have you been retained as a nontestifying 07:13:27  
 16 expert witness in connection with any litigation?  
 17 A No.  
 18 Q Okay. All right. So I'm going to just review  
 19 with you some previous expert reports you filed.  
 20 Actually, before I do that, have you filed an 07:13:43  
 21 expert report yet in the Florida litigation?  
 22 A No.  
 23 Q Okay. All right. So -- so this is going to  
 24 be the moment of truth. I'm going to attempt to move a  
 25 document into Exhibit Share, and we'll see -- we'll see 07:13:57  
 Page 22

1 how that -- that works. All right.  
 2 All right. Let's see.  
 3 Actually, first, I'm going to try to get  
 4 your -- your current expert report into here. Just  
 5 give me half a second. 07:14:26  
 6 A Take your time.  
 7 Q Yeah, no, I might need to take my time.  
 8 All right. No, here's the one in your case.  
 9 All right. Moving it into our "Marked  
 10 Exhibits" folder. And in a moment, like when you 07:14:40  
 11 refresh, you should hopefully see a document.  
 12 A So is the document 2022.02.23 Brown Expert  
 13 Report PDF?  
 14 Q Yes. And -- and just --  
 15 MR. BLOCK: Lindsay, does that automatically 07:15:09  
 16 get marked as a -- a sequential exhibit number?  
 17 MS. DUPHILY: It -- I -- I'll fix it. And  
 18 I'll show you -- you need to mark it as a -- introduce  
 19 it as an exhibit. You just moved it.  
 20 MR. BLOCK: I just moved it. Okay. So sorry. 07:15:22  
 21 How -- how do we --  
 22 MS. DUPHILY: I can -- I can correct it. Go  
 23 ahead and continue, and I will correct it.  
 24 MR. BLOCK: Okay. And -- thanks.  
 25 Will you be able to do that for the subsequent 07:15:28  
 Page 23

1 ones, too?  
 2 And sorry for my incompetence.  
 3 MS. DUPHILY: Why don't I just -- I will input  
 4 the next ones and then show you on the break how to do  
 5 it. 07:15:39  
 6 (Exhibit 64 was marked for identification  
 7 by the court reporter and is attached hereto.)  
 8 MR. BLOCK: Terrific. Thank you so much.  
 9 BY MR. BLOCK:  
 10 Q All right. Do you recognize this document? 07:15:41  
 11 A Yes, I do.  
 12 Q What is it?  
 13 A It is my expert declaration for the case of  
 14 B.P.J. versus West Virginia.  
 15 Q And when is it -- when is it dated? 07:16:01  
 16 A It states: "Executed on February 23, 2022."  
 17 Q And that's your signature next to it?  
 18 A Yes, that is.  
 19 Q Okay. So now I'm just going to take you  
 20 through some previous reports that you filed. 09:16:18  
 21 So if you hit refresh, you should see another  
 22 document titled "Brown PI decl."  
 23 A Yes.  
 24 Q Great. Do you recognize that document?  
 25 A Yes, I do. 09:17:01  
 Page 24

1 Q What is it?  
 2 A That is my expert declaration in the case of  
 3 Soule versus Connecticut Association of Schools.  
 4 Q Great. And when is that dated?  
 5 A Dated February 12th, 2020. 09:17:22  
 6 Q Terrific. Let me take a look at that.  
 7 All right. Let me show you another one, I'm  
 8 sorry.  
 9 MS. DUPHILY: Maybe -- maybe we should  
 10 quickly, it's up to you -- 09:17:40  
 11 MR. BLOCK: Yeah, let's do a little bit --  
 12 let's go off the record, and you can give me a  
 13 tutorial, and then we can be -- save time.  
 14 THE VIDEOGRAPHER: We are off the record at  
 15 9:18 a.m. 09:17:49  
 16 (Recess.)  
 17 THE VIDEOGRAPHER: We are on the record at  
 18 9:21 a.m.  
 19 BY MR. BLOCK:  
 20 Q All right. Dr. Brown, during our break, we 09:21:05  
 21 sort of recorrected and marked the exhibits we  
 22 previously looked at.  
 23 Could you, just for the record, look at the  
 24 document marked Exhibit 64, please.  
 25 A All right. Exhibit 064. 09:21:26  
 Page 25

<p>1 Q And what is that exhibit?                  2 A That is my expert declaration for B.P.J.                  3 versus West Virginia.                  4 (Exhibit 65 was marked for identification                  5 by the court reporter and is attached hereto.) 09:21:35                  6 BY MR. BLOCK:                  7 Q Terrific. And -- now, can you look at the                  8 document marked Exhibit 65, please.                  9 A All right. 065.                  10 Q And what is that -- 09:21:52                  11 A Yes --                  12 Q What -- what -- what is that document?                  13 A That is my declaration in the case of                  14 Soule versus Connecticut Association of Schools.                  15 MR. BLOCK: Great. All right. And now I'm 09:22:10                  16 going to give you another document to look at in a                  17 minute. In your folder should be appearing a document                  18 marked Exhibit 66.                  19 (Exhibit 66 was marked for identification                  20 by the court reporter and is attached hereto.) 09:22:16                  21 BY MR. BLOCK:                  22 Q Could you let me know when you see that                  23 document?                  24 A Exhibit 066 - WV AG?                  25 Q Yes. 09:22:29</p> <p style="text-align: right;">Page 26</p>	<p>1 MS. DUPHILY: If you download these exhibits,                  2 you can also access them easier with your software.                  3 MR. FRAMPTON: I think he's almost there.                  4 THE WITNESS: All right. I see my signature                  5 page. Well, yeah, executed 3rd June 2020. 09:24:34                  6 BY MR. BLOCK:                  7 Q Terrific. And then for this litigation of                  8 B.P.J., at the PI stage, you also submitted a copy of                  9 this Hecox declaration; is that right?                  10 A Yes. 09:24:53                  11 MR. BLOCK: Okay. And then I want to show you                  12 another document in a second.                  13 So this document is going to be marked, as                  14 soon as I'm able to mark it, as Exhibit 67. Let me                  15 know when it's visible for you. 09:25:36                  16 (Exhibit 67 was marked for identification                  17 by the court reporter and is attached hereto.)                  18 THE WITNESS: All right. Exhibit 067 -                  19 Gregory Brown Male Athletic --                  20 BY MR. BLOCK: 09:25:49                  21 Q Yes.                  22 A Yes.                  23 Q What is this document?                  24 A That is a "White Paper Concerning Male                  25 Physiological and Performance Advantages in Athletic 09:25:58                  Page 28</p>
<p>1 A And on the first page of that, it's got, in                  2 large bold capital letters, "Exhibit B"?                  3 Q Uh-huh.                  4 A Okay.                  5 Q Could you go to the second page? 09:22:46                  6 A Yes.                  7 Q All right. And could -- do you recognize this                  8 document?                  9 A Yes, I do.                  10 Q And what is it? 09:22:50                  11 A That is my expert declaration for the case of                  12 Hecox versus Little.                  13 Q Terrific. And if you scroll down to -- to                  14 near the end, which I -- if we can find the date on                  15 which that one was executed. It should be on page 69 09:23:05                  16 of the PDF.                  17 Are you -- do you see it?                  18 A I'm still scrolling.                  19 Q All right. You can also type in "69" in                  20 the -- the -- the top box, if that make it easier too. 09:23:33                  21 A Sorry. Sorry, I tried to type in "69," and I                  22 accidentally Google searched for that.                  23 Q Oh, well. Have you gotten to it yet?                  24 A Still scrolling.                  25 Q All right. 09:24:19</p> <p style="text-align: right;">Page 27</p>	<p>1 Competition and The Effect of Testosterone Suppression                  2 on Male Athletic Advantage."                  3 Q And it's dated December 14th, 2021; correct?                  4 A That is correct.                  5 Q Now, this document was not prepared as an 09:26:11                  6 expert report in -- in any litigation, was it?                  7 MR. FRAMPTON: Object to the form.                  8 BY MR. BLOCK:                  9 Q Why did you prepare this document?                  10 A I was asked by Alliance Defending Freedom to 09:26:25                  11 prepare a white paper.                  12 Q Okay. And what is a -- a white paper as                  13 opposed to an expert report?                  14 MR. FRAMPTON: Same objection.                  15 Go ahead. 09:26:36                  16 THE WITNESS: White paper is often used by an                  17 organization, a company, something like that, for                  18 gaining insight or information on a topic.                  19 BY MR. BLOCK:                  20 Q Okay. So did you -- what did you understand 09:26:48                  21 to be the -- the purpose of this white paper?                  22 A My understanding was that this was for                  23 Alliance Defending Freedom and affiliated and interest                  24 organizations to be able to review the research that I                  25 summarize in that paper. 09:27:10</p> <p style="text-align: right;">Page 29</p>

1 Q Okay. And did you -- did you have an  
2 understanding that this white paper would be used for  
3 any lobbying purposes?  
4 MR. FRAMPTON: Object to the form.  
5 BY MR. BLOCK: 09:27:25  
6 Q You can answer, if you understand.  
7 A My understanding was that Alliance Defending  
8 Freedom could do it with what they wanted and people  
9 could ask them for it for purposes that people want to  
10 use it for. 09:27:38  
11 Q But did you -- so did you know one way or  
12 another whether the -- the document would be used for  
13 purposes of lobbying?  
14 A I assumed that it would be introduced to  
15 people who are interested in what the science says on 09:27:57  
16 the matter of transgender athletes competing in women's  
17 sports.  
18 Q And those would include legislators?  
19 A Yes.  
20 Q Okay. And, in fact, you have testified in 09:28:11  
21 support of legislation to restrict the ability of  
22 transgender girls and women to participate in women's  
23 sports; is that right?  
24 MR. TRYON: Objection --  
25 MR. FRAMPTON: Object to the form. 09:28:26  
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1 MR. TRYON: -- terminology.  
2 MR. FRAMPTON: Josh, real quick, could we do  
3 our usual standing objection on terminology so that we  
4 don't have to jump in on that every time?  
5 MR. BLOCK: You know -- yes. Yes, you can. 09:28:37  
6 I -- I will have some questions on that, and you can --  
7 you -- you can -- if we could -- I'll give you that  
8 standing objection, but the witness has also used some  
9 of these terms himself in written reports, so I'm -- I  
10 want to have a little colloquy with him about that. 09:28:57  
11 BY MR. BLOCK:  
12 Q But -- but in the meantime, you -- you have in  
13 fact testified in support of legislation similar to  
14 the -- the legislation at issue in this case; is that  
15 right? 09:29:13  
16 MR. FRAMPTON: Object to the form.  
17 Go ahead.  
18 THE WITNESS: Yes, I have testified in front  
19 of legislative bodies regarding legislation clarifying  
20 the participation of biological females in women's 09:29:25  
21 sports.  
22 BY MR. BLOCK:  
23 Q The participation of biological females, or  
24 did you mean -- did you mean to say transgender females  
25 or, to use your language, biological males? I just 09:29:36  
Page 31

1 want to know the -- want to make sure you spoke  
2 correctly.  
3 A The legislation was to limit the participation  
4 in girls and women's sports to biological females.  
5 Q Great. And so where -- which states did you 09:29:50  
6 testify in -- in support of legislation?  
7 A I may not be able to remember all of them. I  
8 will give you my best recollection.  
9 Ohio, Pennsylvania, Texas, South Dakota,  
10 Maine, North Carolina are ones that I think I testified 09:30:14  
11 either in person or through Zoom.  
12 Q And who asked you to testify in each of those  
13 states?  
14 A That would vary from one state to the next.  
15 Q Okay. So let -- let's take them one at a 09:30:36  
16 time.  
17 In Ohio, who asked you to testify?  
18 A Center for Christian Virtue.  
19 Q And in Texas, who asked you to testify?  
20 A Texas Values, if I remember correctly, is 09:30:50  
21 their name.  
22 Q And in North Carolina, who asked you to  
23 testify?  
24 A I can't remember their name exactly, but it  
25 was something along North Carolina Family Values, 09:31:04  
Page 32

1 something like that.  
2 Q In Pennsylvania, who asked you to testify?  
3 A Pennsylvania Family Alliance, if I remember  
4 correctly.  
5 Q And in Maine, who asked you to testify? 09:31:17  
6 A That, I think, was Save Women's Sports.  
7 Q And do you know whether the legislatures in  
8 any of those states received copies of your white  
9 paper?  
10 A I do not know if they received copies of my 09:31:32  
11 white paper.  
12 Q When you testified in those states, did you  
13 refer to any of the analysis or research you conducted  
14 in the white paper?  
15 A I -- many of those were testified last year 09:31:47  
16 before I had completed the white paper.  
17 Q So what about the ones that were after you had  
18 completed the white paper?  
19 A After completing the white paper, I know I had  
20 referred to my previous expert declaration in 09:32:04  
21 Connecticut and Idaho. I don't remember if I referred  
22 specifically to the white paper.  
23 Q So in Pennsylvania, you don't know if the  
24 Pennsylvania legislature had a copy of your white paper  
25 or not? 09:32:21  
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1 A No. That was before I had written the white  
 2 paper.  
 3 Q So when did you -- during what period of time  
 4 did you write the white paper?  
 5 A Well, I started working on it essentially as 09:32:30  
 6 soon as I had finished the declaration for Idaho, just  
 7 as -- you know, trying to update as new research or new  
 8 information became available. And so it was over the  
 9 course of a year and a half, year and three-quarters  
 10 that I was working on the -- the white paper. 09:32:50  
 11 Q And had ADF asked you to -- to create the  
 12 right -- excuse me -- the white paper a year and a half  
 13 before the publication date?  
 14 MR. FRAMPTON: Object to the form.  
 15 THE WITNESS: No. I was just updating the 09:33:05  
 16 information so that I would be current on the topic.  
 17 BY MR. BLOCK:  
 18 Q And so when were you asked to -- to write down  
 19 that information in the form of a white paper?  
 20 A Sometime this last fall. I can't remember. 09:33:19  
 21 September, October, somewhere in those lines, but I  
 22 cannot remember exactly.  
 23 Q Okay. Were you paid for -- to write the white  
 24 paper?  
 25 A No, I was not. 09:33:40

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1 Q So you have disclosed in your report that your  
 2 hourly rate for preparing your expert report; is that  
 3 right?  
 4 A That is correct.  
 5 Q But is it fair to say that a substantial 09:33:56  
 6 portion of the expert report was based on the white  
 7 paper?  
 8 MR. FRAMPTON: Object to the form.  
 9 THE WITNESS: That would be fair to say that.  
 10 BY MR. BLOCK: 09:34:05  
 11 Q Okay. So to the extent that any of the work  
 12 in the expert report was already conducted for the  
 13 white paper, then that was essentially done for free;  
 14 is that fair?  
 15 MR. FRAMPTON: Same objection. 09:34:19  
 16 Go ahead.  
 17 THE WITNESS: Yes, it would be fair to say  
 18 that the white paper was not paid for, for my work on  
 19 that, and so overlap between the white paper and the  
 20 expert report was primarily volunteer work. 09:34:30  
 21 BY MR. BLOCK:  
 22 Q And when you first became interested in the  
 23 topic of the participation of transgender people in  
 24 sports, you were the person who reached out to ADF; is  
 25 that right? 09:34:46

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1 A That is correct.  
 2 Q And why did you do that?  
 3 A I had seen a news report about the Soule  
 4 versus Connecticut case and -- well, a -- a report. I  
 5 guess I shouldn't say "news" because I can't remember 09:35:00  
 6 where I saw it. And so I reached out to Alliance  
 7 Defending Freedom to see if I could be of help.  
 8 Q So you -- you personally feel strongly about  
 9 this issue; is that fair?  
 10 MR. FRAMPTON: Object to the form. 09:35:16  
 11 THE WITNESS: I don't know that I would  
 12 characterize my interest as a feeling so much as an  
 13 intellectual and professional interest.  
 14 BY MR. BLOCK:  
 15 Q Is there any other circumstance in which 09:35:25  
 16 you've reached out to an organization to volunteer  
 17 yourself as an expert source?  
 18 A Yes.  
 19 Q What -- can you tell me what those situations  
 20 are? 09:35:47  
 21 A I have reached out to legislators in the state  
 22 of Nebraska to state that I am an exercise physiologist  
 23 and would be willing to help if they have questions on  
 24 litigation in this -- or legislation in this area, not  
 25 just trans women's -- transgender individuals in 09:36:07

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1 sports, but relative to my professional expertise in  
 2 exercise physiology.  
 3 Q Okay. Any other instance?  
 4 A I am trying to remember.  
 5 I -- I can't remember others. They may have 09:36:30  
 6 happened, where I reached out and did not get a  
 7 response.  
 8 Q But sitting here today, you can't remember  
 9 what those other instances were?  
 10 A That is correct. 09:36:41  
 11 Q Okay. And you -- you're not sure that there  
 12 were other instances; is that right?  
 13 A That is correct.  
 14 Q All right. So that -- that's all my questions  
 15 on that topic. 09:36:56  
 16 I do have some questions just about  
 17 terminology here.  
 18 You know what the term "cisgender" means;  
 19 right?  
 20 MR. FRAMPTON: Object to the form. 09:37:05  
 21 THE WITNESS: Cisgender means a person whose  
 22 gender identity aligns with their biology.  
 23 BY MR. BLOCK:  
 24 Q And you don't have any objection to using the  
 25 word "cisgender," do you? 09:37:17

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<p>1 A Yes, I do.                  2 Q You've used the word "cisgender" in other                  3 publications, haven't you?                  4 A I have.                  5 Q Okay. Why did you use the word "cisgender" in 09:37:28                  6 those publications?                  7 A Because it is a frequently used term in the --                  8 in this field, and so it is probably the appropriate                  9 term to use.                  10 Q So why do you have an objection to using that 09:37:42                  11 term in the deposition if -- if that's the appropriate                  12 term to use?                  13 MR. FRAMPTON: Object to the form.                  14 THE WITNESS: I know of individuals who do not                  15 like the term "cisgender" because when it is applied in 09:38:00                  16 the term such as "cis male" or "cis female," they                  17 consider it to be infringing upon their identity as                  18 male or female and the "cis" is unnecessary.                  19 BY MR. BLOCK:                  20 Q Do you consider the word -- the term 09:38:20                  21 "cisgender male" to be infringing upon your identity as                  22 a male?                  23 MR. FRAMPTON: Object to the form.                  24 THE WITNESS: No, I do not.                  25 ///</p> <p style="text-align: right;">Page 38</p>	<p>1 referring to cisgender males, you -- you would be able                  2 to clarify that for me; correct?                  3 MR. FRAMPTON: Object to the form.                  4 THE WITNESS: Yes, it is my understanding that                  5 a cisgender male is an individual who is biologically 09:40:04                  6 male and their gender identity is male.                  7 BY MR. BLOCK:                  8 Q And you know what the term "transgender"                  9 means; right?                  10 MR. FRAMPTON: Same objection. 09:40:15                  11 THE WITNESS: Yes.                  12 BY MR. BLOCK:                  13 Q What does it mean?                  14 A Transgender is for someone whose gender                  15 identity does not align with their biological sex. 09:40:25                  16 Q And you don't have any objection to using the                  17 word "transgender" in this deposition, do you?                  18 A No, I do not.                  19 Q Okay. And you've used the word "transgender"                  20 in your own writings, haven't you? 09:40:38                  21 A That is correct.                  22 Q Okay. Do you know what the term "transgender                  23 woman" means?                  24 MR. FRAMPTON: Same objection.                  25 THE WITNESS: I get confused with transgender 09:40:45</p> <p style="text-align: right;">Page 40</p>
<p>1 BY MR. BLOCK:                  2 Q Okay. Who are the individuals that -- that                  3 you know that view the term "cisgender" as infringing                  4 on their own identity?                  5 A I could not tell you every person I know that 09:38:43                  6 states that. I have colleagues and coworkers that have                  7 stated that to me in private conversations, family                  8 members that have stated that to me in private                  9 conversations. Even students have stated to me that                  10 they do not like being referred to as cisgender. 09:39:02                  11 Q And have any of those people, to the best of                  12 your knowledge, been directly referred to as being                  13 cisgender?                  14 A To my knowledge, yes, they have.                  15 Q Okay. So -- but you -- you personally don't 09:39:19                  16 view the term "cisgender male" as infringing on your                  17 own identity; correct?                  18 A That is correct.                  19 Q Okay. So if I use the term "cisgender" during                  20 this deposition, you'll understand what I'm talking 09:39:34                  21 about; correct?                  22 A Yes, I understand it is the term commonly used                  23 in this type of matter, legally and professionally.                  24 Q Okay. And if -- if I ask you to clarify                  25 whether a particular statement that you made is 09:39:50</p> <p style="text-align: right;">Page 39</p>	<p>1 woman sometimes because I'm not sure if that means a                  2 trans woman or someone who is transgender that                  3 identifies as a woman.                  4 Does that make sense?                  5 BY MR. BLOCK: 09:41:00                  6 Q Yeah. Well, so do you know what the term                  7 "trans woman" means?                  8 A Yes, I do.                  9 Q Okay. What -- what does the word "trans                  10 woman" mean to you? 09:41:09                  11 A A trans woman is an individual who is                  12 biologically male but whose gender identity is that of                  13 a woman.                  14 Q And you've used the term "trans woman" in your                  15 writings, haven't you? 09:41:19                  16 A That is correct.                  17 Q Okay. So if I ask you to clarify whether the                  18 people you refer to in a question are trans women,                  19 you'll be able to clarify that for me?                  20 MR. FRAMPTON: Object to the form. 09:41:34                  21 THE WITNESS: Yes, I will do my best.                  22 BY MR. BLOCK:                  23 Q Okay. And do you know what the term                  24 "transgender girl" means?                  25 A Same as with transgender woman, it is 09:41:42</p> <p style="text-align: right;">Page 41</p>

<p>1 sometimes confusing to me if they mean if this is a boy                  2 that identifies as girl or a girl that identifies as                  3 boy.                  4 Q How about if I use the term "trans girl,"                  5 will -- do you understand what that would mean? 09:42:01                  6 A Yes, I understand "trans girl."                  7 Q Okay. And what does trans girl mean to you?                  8 A A trans girl is a juvenile/youth/child whose                  9 biological sex is male but who identifies as a girl.                  10 Q Okay. You've been using the phrase 09:42:18                  11 "biological sex"; correct?                  12 A That is correct.                  13 Q What is your understanding of what the term                  14 "biological sex" means?                  15 A So sex is a biological variable. Sex is 09:42:29                  16 determined at conception with the conferral of sex                  17 chromosomes.                  18 Q And is it your understanding that "biological                  19 sex" refers to anything other than chromosomes?                  20 A Yes. 09:42:53                  21 Q So what else besides chromosomes does the term                  22 "biological sex" refer to?                  23 A So if we are referring to a person who is a                  24 biological male, they would have sex chromosomes of                  25 male and their body system of organization, 09:43:08                  Page 42</p>	<p>1 is a Y chromosome present?                  2 MR. FRAMPTON: Object to the form, scope.                  3 THE WITNESS: That is the beginning of sex                  4 determination, is if there is a Y or an X chromosome.                  5 BY MR. BLOCK: 09:44:44                  6 Q Right. So as to -- to clarify, so as long as                  7 there's a Y chromosome, you, in your understanding of                  8 the term "biological sex," would view that person as                  9 being biologically male?                  10 MR. FRAMPTON: Same objections, form and 09:44:56                  11 scope.                  12 Go ahead.                  13 THE WITNESS: That is my understanding, yes.                  14 BY MR. BLOCK:                  15 Q Okay. And when -- do you have any opinions on 09:45:02                  16 whether a person with complete androgen insensitivity                  17 syndrome should be allowed to play on sports teams for                  18 girls and women?                  19 MR. FRAMPTON: Objection; form and scope.                  20 Go ahead. 09:45:28                  21 THE WITNESS: So situations such as complete                  22 androgen insensitivity syndrome is very debated in the                  23 sports science community right now on how best to                  24 handle those individuals and where they should                  25 participate in sports. 09:45:41                  Page 44</p>
<p>1 anatomically and physiologically, would be around the                  2 production of small gametes, which means sperm.                  3 Q And how would you refer to the biological sex                  4 of someone with complete androgen insensitivity                  5 syndrome? 09:43:32                  6 MR. FRAMPTON: Object to the form.                  7 THE WITNESS: My understanding of someone with                  8 complete androgen insensitivity syndrome is they are                  9 biologically male, but they are not receptive to                  10 androgens, but their body is still organized around the 09:43:43                  11 production of sperm.                  12 BY MR. BLOCK:                  13 Q And how would you refer to the biological sex                  14 of someone with XXY chromosomes?                  15 A If I remember correctly -- 09:43:59                  16 MR. TRYON: I would like to just object to the                  17 scope.                  18 Thank you.                  19 MR. FRAMPTON: Objection; form, scope.                  20 THE WITNESS: If I remember correctly, XXY is 09:44:08                  21 Turner syndrome, in which a person is biologically                  22 male. They have an extra X chromosome, but they are                  23 still male.                  24 BY MR. BLOCK:                  25 Q So you define biological sex as male if there 09:44:22                  Page 43</p>	<p>1 BY MR. BLOCK:                  2 Q And what's your opinion?                  3 MR. FRAMPTON: Same objections.                  4 THE WITNESS: So I have been retained as an                  5 expert witness in this matter primarily dealing with 09:45:49                  6 biological male and biological female and not as an                  7 expert on disorders or differences of sexual                  8 development. And so I would say I probably would not                  9 be the best person to offer a statement on where                  10 someone with CAIS should participate. 09:46:05                  11 BY MR. BLOCK:                  12 Q But you just testified earlier that you view                  13 someone with -- with CAIS as being a biological male,                  14 isn't that so?                  15 A That is correct. 09:46:18                  16 Q And so if you're providing expert testimony on                  17 the participation of biological males, wouldn't that                  18 include testimony about a biological male with -- in                  19 your words -- with CAIS?                  20 MR. FRAMPTON: Objection; form and scope. 09:46:33                  21 THE WITNESS: If I had been asked to provide                  22 expert information on that matter, I could perhaps look                  23 more into it, but I have not been asked to provide                  24 expert witness, expert statement on where individuals                  25 with disorders/differences of sexual development should 09:46:52                  Page 45</p>

<p>1 participate.                  2 BY MR. BLOCK:                  3 Q Okay. So you -- you have no expert opinion on                  4 the participation of people with DSDs in sports for                  5 girls and women; right? 09:47:05                  6 MR. FRAMPTON: Objection; form and scope.                  7 Go ahead.                  8 THE WITNESS: In my declaration, there is a                  9 small statement in there about DSDs, and I will stand                  10 by that statement. 09:47:15                  11 BY MR. BLOCK:                  12 Q All right. Well, let's look to that.                  13 If you could turn to that -- that exhibit                  14 and -- and identify for me the statement about DSDs.                  15 A Which exhibit number is that? 09:47:34                  16 Q That's a good question. I think it's Exhibit                  17 Number -- separate windows are tough. I believe it's                  18 the first one up there, Exhibit 64.                  19 So it might be in paragraph 4 of your report,                  20 if you could look at that. 09:48:20                  21 A All right. I am looking at paragraph 4.                  22 Q Okay. Is this the reference to DSDs that                  23 you're -- that you were referring to just now?                  24 A That is correct.                  25 Q Okay. So the -- the first sentence -- the 09:48:31                  Page 46</p>	<p>1 MR. FRAMPTON: Same objection.                  2 THE WITNESS: I do not know off the top of my                  3 head.                  4 BY MR. BLOCK:                  5 Q Okay. So -- so to the best of your knowledge, 09:49:44                  6 does H.B. 3293 make any distinction between people with                  7 DSDs and people who are transgender?                  8 MR. FRAMPTON: Objection; form and scope.                  9 THE WITNESS: I would need to refresh my                  10 reading on that bill to see what it states on that 09:50:06                  11 matter.                  12 BY MR. BLOCK:                  13 Q So -- but the scope of your expert testimony,                  14 when you provide opinions about people who, in your                  15 language, are biological males, you are limiting your 09:50:14                  16 expert opinion to people who are biological males                  17 who -- who are either cisgender males or trans girls                  18 and trans women; is that right?                  19 MR. FRAMPTON: Same objections.                  20 THE WITNESS: Can you please restate the 09:50:39                  21 question for me?                  22 BY MR. BLOCK:                  23 Q Yeah. So -- so you're providing testimony                  24 about, quote, biological males; correct?                  25 A Biological males and biological females. 09:50:46                  Page 48</p>
<p>1 first two sentences of that paragraph say (as read):                  2 "Although disorders of sexual                  3 development (DSDs) are sometimes                  4 confused with discussions of                  5 transgender individuals, the two are 09:48:43                  6 different phenomena. DSDs are                  7 disorders of physical development.                  8 Many DSDs are 'associated with genetic                  9 mutations that are now well known to                  10 endocrinologists and geneticists.'" 09:48:57                  11 Did I read that correctly?                  12 A Yes, you did.                  13 Q Okay. And so that's the extent of your expert                  14 testimony about DSDs?                  15 A That is correct. 09:49:07                  16 Q Okay. Do you know if complete androgen                  17 insensitivity syndrome is associated with a genetic                  18 mutation?                  19 MR. FRAMPTON: Object to the form.                  20 THE WITNESS: I will stand by that statement 09:49:24                  21 which is a quote from the endocrinology --                  22 Endocrine Society.                  23 BY MR. BLOCK:                  24 Q But sitting here today, you don't know whether                  25 CAIS is associated with a genetic mutation, do you? 09:49:32                  Page 47</p>	<p>1 Q Okay. So in terms of biological males, the                  2 only biological males you're addressing in your                  3 testimony, to -- to use your phrase, biological males,                  4 are cisgender boys and men and trans girls and women,                  5 but not any biological males, in your language, that 09:51:07                  6 have DSDs; is that fair?                  7 MR. FRAMPTON: Objection; form and scope.                  8 Go ahead.                  9 THE WITNESS: Yes, I was not asked to offer                  10 expert opinion on differences or disorders of sexual 09:51:17                  11 development.                  12 BY MR. BLOCK:                  13 Q All right. Including people who you consider                  14 to be biological males who have DSDs; correct?                  15 MR. FRAMPTON: Same objection. 09:51:28                  16 THE WITNESS: That is correct.                  17 BY MR. BLOCK:                  18 Q Okay. Do you know what the term "sex assigned                  19 at birth" refers to?                  20 A Yes, I understand the term "sex assigned at 09:51:47                  21 birth."                  22 Q Okay. So -- so if I use the term "sex                  23 assigned at birth," you can understand what I'm saying?                  24 A Yes, I can understand what you're saying.                  25 Q Okay. Great. 09:51:56                  Page 49</p>

<p>1 I have some questions just about your                  2 education and research background, but, you know, I'd                  3 prefer not to belabor them by going through your CV                  4 line by line. So I'm going to ask you questions, and                  5 if you think you need to refer specifically to your CV, 09:52:20                  6 we can do that, but I'm hoping that's not necessary.                  7 So as part of your formal education, you never                  8 took any courses regarding transgender people; is that                  9 right?                  10 A I did not take a course where the title of the 09:52:34                  11 course was "Transgender Individuals."                  12 Q Okay. And did you take a course where                  13 transgender individuals were discussed?                  14 A Yes.                  15 Q And how many courses? 09:52:52                  16 A That would be difficult to say. To give a                  17 number, I mean, I would be speculating right now. It's                  18 been 20 years.                  19 Q Do you -- do you have any specific                  20 recollection of any courses where transgender people 09:53:10                  21 were discussed?                  22 A I am pretty sure that transgender individuals                  23 were discussed in the undergraduate Abnormal Psychology                  24 class I took. Very possibly in General Psychology.                  25 Possibly discussed in any of the numerous physiology 09:53:25                  Page 50</p>	<p>1 Q Okay. Did you conduct any other form of                  2 research other than what you referred to as primary                  3 research?                  4 A I probably looked for research papers or maybe                  5 saw research papers on transgender individuals. Again, 09:55:07                  6 it may have been as part of an assigned reading in a                  7 class, or it may have been something come across in                  8 other reading for general knowledge.                  9 Q You're just saying that this could have                  10 happened, but you don't have a specific recollection of 09:55:20                  11 it, do you?                  12 A That is correct. I did not write down in a                  13 diary when I would read a paper.                  14 Q Well, no, but you -- sitting here today, you                  15 don't have any recollection of ever reading a paper on 09:55:30                  16 transgender people as part of obtaining your                  17 undergraduate, your Master's or your Ph.D. degrees;                  18 correct?                  19 A I don't think that's what I said.                  20 Q Well, so -- 09:55:44                  21 A I think I said I -- I might have. I didn't                  22 say that I did not.                  23 Q Well, but you don't have any affirmative                  24 memory of doing so?                  25 MR. FRAMPTON: Object to the form. 09:55:55                  Page 52</p>
<p>1 classes as an undergraduate or graduate student.                  2 Possibly in the endocrinology class as a graduate                  3 student.                  4 Q This is all just possibly; right? You don't                  5 have a specific recollection? 09:53:44                  6 A Just thinking, also some of the sociology                  7 classes may have included it. But, again, it might                  8 have; it might not have been. And also, whether that                  9 was a discussion that the instructor initiated or the                  10 students initiated, I couldn't testify at this point. 09:54:00                  11 Q Okay. You received your undergrad degree in                  12 1997; right?                  13 A That is correct.                  14 Q Do you -- do you think it's -- it's plausible                  15 that you had a lot of discussions about transgender 09:54:11                  16 people from 1993 to 1997?                  17 A Yes, it's very plausible.                  18 Q Okay. Have you ever -- as part of your --                  19 obtaining any -- any of your degrees, did you ever                  20 conduct any research concerning transgender people? 09:54:32                  21 A Can you clarify what you mean by "research"?                  22 Q I -- I mean original research, where you have                  23 a hypothesis and you test it.                  24 A So, no, I did not conduct any primary research                  25 on transgender individuals. 09:54:55                  Page 51</p>	<p>1 THE WITNESS: What do you mean by "affirmative                  2 memory"?                  3 BY MR. BLOCK:                  4 Q Well, by -- by saying you might have, that --                  5 that's different to me than saying you remember doing 09:56:04                  6 it in some form, but don't remember the exact time or                  7 place. So I'm trying to clarify whether you remember                  8 doing it, but can't, you know, put your finger on                  9 exactly when it happened, or whether you're saying you                  10 can't rule out the possibility that you did it. 09:56:20                  11 So are you saying that you can't rule out the                  12 possibility that you did it?                  13 A So I am saying that it's very likely that I                  14 had discussions in classes on transgender individuals.                  15 It's very likely that there was a paper that I read or 09:56:35                  16 more than one paper regarding transgender individuals,                  17 possibly even a textbook chapter.                  18 Q Okay. And do you consider reading a textbook                  19 chapter or paper for class to be academic research?                  20 A Reading a scholarly paper would be considered 09:56:56                  21 academic research as it could lead to something like a                  22 literature review, a meta-analysis, and it is an                  23 essential part of the research process.                  24 Q Right. But you didn't do any reading as part                  25 of preparing for literature review or meta-analysis; 09:57:11                  Page 53</p>

<p>1 correct?</p> <p>2 A I did not include any in my literature review</p> <p>3 or meta-analysis. I may have done reading as part of</p> <p>4 my Master's thesis and doctoral dissertation.</p> <p>5 I know for a fact, because of the topic of my 09:57:38</p> <p>6 Master's thesis and doctoral dissertation, I had to</p> <p>7 read very widely on steroid hormone, biogenesis and</p> <p>8 actions.</p> <p>9 Q So we had a discussion about some of this two</p> <p>10 years ago. Do you think your memory about what -- your 09:57:59</p> <p>11 readings was more accurate two years ago or more</p> <p>12 accurate today?</p> <p>13 MR. FRAMPTON: Object to the form.</p> <p>14 THE WITNESS: I would say more accurate today</p> <p>15 because I have -- since you asked me this two years 09:58:14</p> <p>16 ago, I've thought about it more to remember, okay, did</p> <p>17 this happen in Abnormal Psychology, in Sports</p> <p>18 Psychology, something like that.</p> <p>19 BY MR. BLOCK:</p> <p>20 Q Okay. So I just want to be clear about a 09:58:23</p> <p>21 distinction between conducting reading as in a -- as a</p> <p>22 class assignment and conducting reading as part of your</p> <p>23 research process. All right? Does that distinction</p> <p>24 make sense to you?</p> <p>25 A Yes. 09:58:41</p> <p style="text-align: right;">Page 54</p>	<p>1 review.</p> <p>2 Q Had you ever written a meta-analysis about</p> <p>3 transgender people?</p> <p>4 A No, I had not performed a meta-analysis</p> <p>5 regarding transgender individuals. 10:00:07</p> <p>6 Q Okay. So what other professional research</p> <p>7 might you have done regarding transgender people?</p> <p>8 A Trying to keep up with the legislation in</p> <p>9 sports regarding the participation of transgender</p> <p>10 individuals and then on seeing the legislation, out of 10:00:25</p> <p>11 my own curiosity, looking to see what research was</p> <p>12 informing that legislation.</p> <p>13 Q Okay. In terms of original research that</p> <p>14 you've done, have any of the subjects in your original</p> <p>15 research been transgender, to the best of your 10:00:41</p> <p>16 knowledge?</p> <p>17 A To the best of my knowledge, none of any</p> <p>18 subjects have been transgender.</p> <p>19 Q Okay. Have you worked with transgender people</p> <p>20 in any capacity? 10:00:52</p> <p>21 MR. FRAMPTON: Object to the form.</p> <p>22 THE WITNESS: I -- I think there are</p> <p>23 individuals at the university that are transgender that</p> <p>24 I have worked with on committees or other things.</p> <p>25 ///</p> <p style="text-align: right;">Page 56</p>
<p>1 Q Okay. So you've -- you've talked about maybe</p> <p>2 reading a paper or a chapter as part of a class</p> <p>3 assignment; correct?</p> <p>4 A Yes.</p> <p>5 Q Okay. So in terms of reading as part of your 09:58:52</p> <p>6 own independent research process, do you have any</p> <p>7 recollection of doing any reading about transgender</p> <p>8 people as part of your own independent research process</p> <p>9 while obtaining your degrees?</p> <p>10 A I don't have a specific recollection of doing 09:59:09</p> <p>11 that independently while reading my -- while performing</p> <p>12 my Master's and doctoral research, but, again, I might</p> <p>13 have.</p> <p>14 Q Okay. So since receiving your doctorate until</p> <p>15 the time when you first reached out to ADF, have you -- 09:59:28</p> <p>16 had you ever conducted any research concerning</p> <p>17 transgender people?</p> <p>18 A Once again, please clarify what you mean by</p> <p>19 "research."</p> <p>20 Q All right. Well, let's do primary research. 09:59:42</p> <p>21 A No, I had not done primary research of</p> <p>22 transgender individuals.</p> <p>23 Q Had you ever conducted any literature review</p> <p>24 regarding transgender people?</p> <p>25 A I have not formally written a literature 09:59:56</p> <p style="text-align: right;">Page 55</p>	<p>1 BY MR. BLOCK:</p> <p>2 Q Okay. How many transgender people do you</p> <p>3 think you've met?</p> <p>4 MR. FRAMPTON: Same objection.</p> <p>5 THE WITNESS: I can think of two by name and 10:01:22</p> <p>6 others that I've met, but -- I've met a lot of people,</p> <p>7 and so to try and come up with a number that were</p> <p>8 transgender is going to be very, very difficult.</p> <p>9 BY MR. BLOCK:</p> <p>10 Q Have you ever appeared on any podcasts? 10:01:41</p> <p>11 A Yes.</p> <p>12 Q Which ones?</p> <p>13 A I probably can't name all of them.</p> <p>14 Q Okay.</p> <p>15 A I can do my best. 10:01:55</p> <p>16 Q Great.</p> <p>17 A So there was a podcast Muscle for Life with --</p> <p>18 with Mike Matthews, I think. I was on the Megyn Kelly</p> <p>19 podcast. I was on Munk Debates podcast. I was on</p> <p>20 Governor Ricketts' podcast. There's another one out 10:02:18</p> <p>21 there that I remember the podcast. I don't remember</p> <p>22 the name of it.</p> <p>23 Q Do you remember approximately when the</p> <p>24 Megyn Kelly podcast was?</p> <p>25 A A little less than a year ago, if I remember 10:02:39</p> <p style="text-align: right;">Page 57</p>

<p>1 right.</p> <p>2 Q And what was the topic of that podcast?</p> <p>3 A That was regarding the participation of</p> <p>4 biological males in female sports.</p> <p>5 Q And what was the Munk Debates podcast? 10:02:51</p> <p>6 A That was also about biological males</p> <p>7 participating in female -- in women's sports.</p> <p>8 Q And when -- when was that podcast?</p> <p>9 A Last summer, maybe late last summer.</p> <p>10 Q Okay. And when you refer to biological males 10:03:12</p> <p>11 in these podcasts, did you discuss at all people with</p> <p>12 DSDs?</p> <p>13 A If we did, it was not a major topic of</p> <p>14 discussion.</p> <p>15 Q Okay. So your -- your podcast with 10:03:24</p> <p>16 Governor Ricketts, that's on his show "The Nebraska</p> <p>17 Way"; is that -- is that correct?</p> <p>18 A That is correct.</p> <p>19 Q Okay. And you appeared on September 1st,</p> <p>20 2021? 10:03:42</p> <p>21 A I will trust you on the date on that. I don't</p> <p>22 remember myself.</p> <p>23 Q All right. Does that sound around the time?</p> <p>24 A That sounds like the right time period.</p> <p>25 MR. BLOCK: Okay. Great. 10:03:53</p> <p style="text-align: right;">Page 58</p>	<p>1 Can you see the screen share?</p> <p>2 A Yes.</p> <p>3 Q Great.</p> <p>4 (Video clip played.)</p> <p>5 MR. BLOCK: Thank you to the concierge. 10:06:32</p> <p>6 BY MR. BLOCK:</p> <p>7 Q Does -- does this video clip appear to be an</p> <p>8 accurate excerpt of your interview with</p> <p>9 Governor Ricketts?</p> <p>10 A Yes, that's me. 10:06:41</p> <p>11 Q Okay. Do you still agree with everything you</p> <p>12 said in that video clip?</p> <p>13 MR. FRAMPTON: Objection; form and scope.</p> <p>14 MR. TRYON: Objection; scope.</p> <p>15 BY MR. BLOCK: 10:06:50</p> <p>16 Q You can answer.</p> <p>17 A Can you repeat your question, please?</p> <p>18 Q Do you still agree with everything you said in</p> <p>19 that video clip?</p> <p>20 A Yes, I do. 10:06:58</p> <p>21 Q Okay. You're not a mental health expert;</p> <p>22 right?</p> <p>23 A That is correct.</p> <p>24 Q You don't have any education or training</p> <p>25 that -- that would provide a basis for you to offer an 10:07:10</p> <p style="text-align: right;">Page 60</p>
<p>1 So I'm going to introduce an exhibit marked 68</p> <p>2 and if you can open it up.</p> <p>3 The concierge -- it's an -- it's a video clip,</p> <p>4 and the concierge is going to have to play it for us.</p> <p>5 But let me know what appears on -- on your 10:04:18</p> <p>6 screen before -- before I ask the concierge to -- to</p> <p>7 play it.</p> <p>8 Do you see a file?</p> <p>9 (Exhibit 68 was marked for identification</p> <p>10 by the court reporter and is attached hereto.) 10:04:28</p> <p>11 THE WITNESS: I see Exhibit 068 - Clip, space,</p> <p>12 2005.</p> <p>13 BY MR. BLOCK:</p> <p>14 Q Okay. I'm going to have -- I'm going to ask</p> <p>15 the concierge to play the clip now. And it's -- it's a 10:04:37</p> <p>16 little bit over a minute long. I didn't want to -- you</p> <p>17 to think that I've cut anything off here. And then</p> <p>18 after the clip plays, I'll ask you a few questions</p> <p>19 about it.</p> <p>20 Does that sound okay? 10:04:50</p> <p>21 A Will the clip show up in the -- in this Zoom</p> <p>22 meeting, or is it going to be a different window?</p> <p>23 Q It's going to show up as a screen share --</p> <p>24 A Okay.</p> <p>25 Q -- right now. 10:05:05</p> <p style="text-align: right;">Page 59</p>	<p>1 expert opinion on the proper healthcare for transgender</p> <p>2 youth, do you?</p> <p>3 MR. FRAMPTON: Objection; form and scope.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: No, I would not be called upon 10:07:19</p> <p>6 to offer treatment for transgender individuals.</p> <p>7 BY MR. BLOCK:</p> <p>8 Q But my question is, to offer an expert opinion</p> <p>9 on treatment for transgender individuals, you don't</p> <p>10 have any, you know, credentials that would allow you to 10:07:34</p> <p>11 provide an expert opinion on that topic, do you?</p> <p>12 MR. FRAMPTON: Same objection.</p> <p>13 Go ahead.</p> <p>14 THE WITNESS: I have not been asked to offer</p> <p>15 an expert opinion on the psychological or psychiatric 10:07:44</p> <p>16 care of transgender individuals.</p> <p>17 BY MR. BLOCK:</p> <p>18 Q But my question is, do you have the</p> <p>19 credentials and training that would allow you to offer</p> <p>20 such an opinion, if you were asked? 10:07:52</p> <p>21 MR. FRAMPTON: Same objection.</p> <p>22 THE WITNESS: No, I do not have those</p> <p>23 credentials or degrees.</p> <p>24 BY MR. BLOCK:</p> <p>25 Q Okay. In this clip, you used the word 10:08:07</p> <p style="text-align: right;">Page 61</p>

<p>1 "transgenderism"; right?                  2 A That is correct.                  3 Q Is that a medical term?                  4 MR. FRAMPTON: Objection; form and scope.                  5 THE WITNESS: I'm not sure what you mean, is 10:08:19                  6 it a medical term?                  7 BY MR. BLOCK:                  8 Q What does transgenderism mean?                  9 A An individual who is transgender.                  10 Q Okay. In any of the -- the scholarly articles 10:08:28                  11 that you've read about transgender people, have any of                  12 them used the term "transgenderism"?                  13 A I cannot recall, to answer that question, if                  14 they have or have not.                  15 Q Okay. In the clip, you mentioned Ben Shapiro; 10:08:45                  16 correct?                  17 A That is correct.                  18 Q Who is Ben Shapiro?                  19 A Ben Shapiro is an individual that does a lot                  20 of podcasts, news clips, news interviews, speaking at 10:09:00                  21 organizations on social and political matters.                  22 Q Do you -- do you think he's a reliable source                  23 of authority on mental healthcare for transgender                  24 youth?                  25 MR. FRAMPTON: Objection; form and scope. 10:09:19                  Page 62</p>	<p>1 MR. FRAMPTON: Same objection.                  2 THE WITNESS: I don't think it has affected my                  3 opinion on healthcare for transgender youth.                  4 BY MR. BLOCK:                  5 Q Okay. Is new toy syndrome a medical term? 10:10:47                  6 MR. FRAMPTON: Same objections.                  7 THE WITNESS: No.                  8 BY MR. BLOCK:                  9 Q Okay. Do you think that receiving                  10 gender-affirming care is analogous to playing with a 10:10:56                  11 new toy?                  12 MR. FRAMPTON: Objection; form and scope.                  13 THE WITNESS: I'm sorry, can you state the --                  14 restate the question?                  15 BY MR. BLOCK: 10:11:13                  16 Q Yeah. Do you -- do you think transgender                  17 youth receiving gender-affirming care is analogous to a                  18 person playing with a new toy?                  19 MR. FRAMPTON: Same objections.                  20 THE WITNESS: In the context that I quoted 10:11:22                  21 Ben Shapiro, in that interview, it is a good analogy.                  22 BY MR. BLOCK:                  23 Q How is it a good analogy?                  24 A As I explained in that, also as it was                  25 explained by Ben Shapiro, when people get a new toy, 10:11:37                  Page 64</p>
<p>1 THE WITNESS: In the role that he is filling,                  2 I think Ben Shapiro is able to provide reliable                  3 information on what has been written in these matters.                  4 BY MR. BLOCK:                  5 Q Okay. And reliable enough that you -- you 10:09:32                  6 thought it was worth repeating to the audience of the                  7 podcast; correct?                  8 MR. FRAMPTON: Same objections.                  9 THE WITNESS: That is correct.                  10 BY MR. BLOCK: 10:09:49                  11 Q Okay. In what context have you heard his                  12 opinions about transgender youth?                  13 A Do you mean context or format?                  14 Q Let's start with format.                  15 A So in a number of videos and radio clips and 10:10:02                  16 seeing on the news, I have seen Ben Shapiro make                  17 statements regarding transgender individuals.                  18 Q And has that affected your own opinion on                  19 these issues?                  20 MR. FRAMPTON: Objection; form and scope. 10:10:21                  21 THE WITNESS: No, I don't think what he has                  22 said has affected my opinion.                  23 BY MR. BLOCK:                  24 Q Has it affected your opinion on mental                  25 healthcare for transgender youth? 10:10:37                  Page 63</p>	<p>1 they're often very happy with it, and then the newness                  2 wears off. That is drawn as an analogy to what has                  3 been demonstrated in scholarly literature about                  4 transgender individuals.                  5 Q What scholarly literature? 10:11:53                  6 MR. FRAMPTON: Objection; form and scope.                  7 THE WITNESS: The research is cited on the                  8 SEGM web page.                  9 BY MR. BLOCK:                  10 Q What's SEGM? 10:12:05                  11 A I may not be able to tell you precisely, but                  12 it is something like Society for Evidence-Based Gender                  13 Medicine.                  14 Q And why have you been reading the SEGM web                  15 page? 10:12:25                  16 MR. FRAMPTON: Objection; form and scope.                  17 THE WITNESS: It is a good place to find                  18 information about transgender individuals to help make                  19 sure that I am staying current on the information in                  20 this area. 10:12:34                  21 BY MR. BLOCK:                  22 Q How is information about the mental healthcare                  23 of transgender individuals relevant to you in your                  24 work?                  25 MR. FRAMPTON: Same objections. 10:12:48                  Page 65</p>

1 THE WITNESS: The mental healthcare is often  
 2 associated with the use of either puberty blockers,  
 3 testosterone suppression, estrogen administration,  
 4 which then has physiological effects.  
 5 BY MR. BLOCK: 10:13:06  
 6 Q So -- so you read about -- well, I -- I guess,  
 7 could you explain further? How -- how is utility of  
 8 the mental healthcare relevant to your opinion about  
 9 physiological issues and athletic advantages?  
 10 MR. FRAMPTON: Same objection, form and scope. 10:13:27  
 11 THE WITNESS: If an individual is being given  
 12 a physiologically active medicine, such as a puberty  
 13 blocker, such as testosterone suppression or  
 14 administration of estrogen, that will affect their  
 15 physiology, which then may or may not have an affect on 10:13:47  
 16 their ability to compete in athletics.  
 17 So it is important to know what is being done.  
 18 BY MR. BLOCK:  
 19 Q Does -- does the mental health impacts of  
 20 those treatments matter in terms of the physiological 10:14:04  
 21 effects?  
 22 A If the mental health treatment includes the  
 23 administration of physiological substances, then it  
 24 affects physiological responses.  
 25 Q Yeah, so, I guess, that's not really answering 10:14:25

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1 my question.  
 2 So you -- you -- you talked about how, in your  
 3 opinion, the positive mental effects of  
 4 gender-affirming care for some people would -- are like  
 5 a new toy, that they have a positive effect and then 10:14:39  
 6 that positive mental health effect wears off, and my  
 7 question is whether the -- the fact that you alleged  
 8 that positive mental health effect would wear off has  
 9 any implication for the physiological results of having  
 10 taken that medication. 10:15:04  
 11 Does that make sense?  
 12 MR. TRYON: Objection --  
 13 MR. FRAMPTON: Objection; form.  
 14 MR. TRYON: -- form.  
 15 THE WITNESS: I would ask you to try and break 10:15:11  
 16 that question down a little more.  
 17 BY MR. BLOCK:  
 18 Q Sure.  
 19 A I'm not sure where you're going.  
 20 Q Sure. So the -- if -- if -- assuming that -- 10:15:17  
 21 taking it as an assumption, that puberty blockers and  
 22 gender-affirming hormones had no positive health  
 23 effects for mental health, how would that assumption  
 24 impact your opinion on the physiological effects of  
 25 taking those medications? 10:15:43

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1 MR. FRAMPTON: Objection; form and scope.  
 2 Go ahead.  
 3 THE WITNESS: Well, puberty blockers and  
 4 testosterone suppression and estrogen administration  
 5 are physiological active substances. What they do for 10:15:57  
 6 mental health compared to what they do for athletic  
 7 performance and physiological responses might be  
 8 separate issues.  
 9 BY MR. BLOCK:  
 10 Q Okay. So if they're separate issues, why do 10:16:08  
 11 you read about the mental health effects of taking  
 12 those medications?  
 13 MR. FRAMPTON: Same objections.  
 14 THE WITNESS: I think I previously answered  
 15 this question, to know what are the treatments that are 10:16:27  
 16 being used that could then affect physiological  
 17 responses to exercise.  
 18 BY MR. BLOCK:  
 19 Q Okay. So what other sources of information do  
 20 you consult on the -- the mental health effects of 10:16:39  
 21 puberty blockers and gender-affirming hormones?  
 22 MR. FRAMPTON: Objection; scope.  
 23 THE WITNESS: So I will find scholarly  
 24 articles and read those to find information. A lot of  
 25 the information, if I find it on a web page, I will 10:17:01

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1 look to see if it is to a scholarly journal, scholarly  
 2 article that's reputable, but then I can verify that  
 3 the information on the web page is valid, at least  
 4 based on what has been presented in scholarly  
 5 literature. Of course, you see things in the news as 10:17:18  
 6 well; right?  
 7 BY MR. BLOCK:  
 8 Q Is there any scholarly article that -- that  
 9 likens gender-affirming care to a new toy?  
 10 MR. FRAMPTON: Objection; form and scope. 10:17:32  
 11 THE WITNESS: I could not say.  
 12 BY MR. BLOCK:  
 13 Q Okay. What scholarly articles, sitting here  
 14 today, can -- can you think of having read on the topic  
 15 of mental healthcare for transgender youth? 10:17:46  
 16 MR. FRAMPTON: Same objection; form and scope.  
 17 THE WITNESS: So there was a review on the  
 18 effects of puberty blockers that was put out by Sweden,  
 19 Karolinski Institute, and so I read that article and  
 20 looked up a number of the articles that were referenced 10:18:11  
 21 in there. Similar type of thing came out of  
 22 Great Britain, their national health organization,  
 23 something like that. And so I looked at a lot of those  
 24 articles.  
 25 I -- I have also, again, coming across some on 10:18:24

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<p>1 PubMed or Google Scholar. I've seen other articles                  2 looking at the effects of hormone treatment in                  3 transgender individuals and measures of mental health.                  4 BY MR. BLOCK:                  5 Q And can you remember any of the articles on 10:18:39                  6 PubMed or Google Scholar?                  7 A I cannot remember them by author or title.                  8 Q Okay. Have you read the Endocrine Society                  9 guidelines on providing gender-affirming care to                  10 transgender people? 10:18:58                  11 A I --                  12 MR. FRAMPTON: Objection; scope.                  13 Go ahead.                  14 THE WITNESS: I have read the information on                  15 the web page. I have read the article. I cannot 10:19:04                  16 remember which journal it's published in.                  17 BY MR. BLOCK:                  18 Q Well, I'm sorry, what -- what -- what are you                  19 referring to when you say a web page and an article?                  20 A So the Endocrine Society has a web page 10:19:22                  21 regarding the administration of puberty blockers and                  22 estrogen -- or testosterone suppression, estrogen                  23 administration for -- for transgender individuals. And                  24 so I have read through that web page, and there is an                  25 article associated with the information on that web 10:19:42                  Page 70</p>	<p>1 youth who you think provides a good description of the                  2 science?                  3 MR. FRAMPTON: Objection; form and scope.                  4 THE WITNESS: So I've cited a number of papers                  5 in my article -- or, sorry, in my expert declaration. 10:21:25                  6 So I've read those articles of scholars.                  7 As far -- as far as political commentary, it's                  8 all over the place these days, so it's hard to identify                  9 who has or has not opined on that.                  10 Q All right. Do you -- I'm going to turn to a 10:21:42                  11 new line of questions. Do you need a break before                  12 then?                  13 A Yeah, let's take five.                  14 Q Okay. Great.                  15 THE VIDEOGRAPHER: We are off the record at 10:21:59                  16 10:22 a.m.                  17 (Recess.)                  18 THE VIDEOGRAPHER: We are on the record at                  19 10:29 a.m.                  20 MR. BLOCK: Great. 10:29:11                  21 BY MR. BLOCK:                  22 Q I want to go back in time and ask you about                  23 the time that you first reached out to ADF on this                  24 issue of the participation of transgender athletes.                  25 Do you remember who you contacted at ADF? 10:29:30                  Page 72</p>
<p>1 page that was published in a scholarly journal.                  2 Q Okay. And -- and that -- that would be the --                  3 the -- the 2017 guidelines for care of people with                  4 gender dysphoria and gender incongruence?                  5 A That is my recollection, yes. 10:19:57                  6 Q When did you read that?                  7 A Sometime in the past year.                  8 Q So at the time of our past deposition, you                  9 hadn't read that yet; is that correct?                  10 A As I recall, that is correct. 10:20:14                  11 Q Okay. But -- but since then, you have read                  12 it?                  13 A Yes. You seem to make a strong suggestion                  14 that I should read that.                  15 Q Okay. Did you learn anything from reading it? 10:20:26                  16 A Yes, I did.                  17 Q What did you learn?                  18 A I learned that the recommendations of the                  19 Endocrine Society for testosterone suppression result                  20 in much, much lower testosterone concentration than 10:20:39                  21 those recommended by world -- or, sorry, by world sport                  22 or by the Olympics.                  23 Q Great. Just to close the loop, can you think                  24 of any other source of information or political                  25 commentator you've heard and talk about transgender 10:21:05                  Page 71</p>	<p>1 A I do not remember who I contacted.                  2 Q And do you remember why you knew that ADF was                  3 the organization to contact?                  4 A I saw a news clip or information online about                  5 the Soule versus CIAC case, and it identified Alliance 10:29:57                  6 Defending Freedom as representing Selina Soule.                  7 Q Okay. And, you know, at the time you first                  8 contacted ADF, had you done any research on the -- the                  9 effects of puberty blockers or gender-affirming                  10 hormones on transgender people? 10:30:19                  11 A Once again, what do you mean by "research"?                  12 Q Have you -- had you read anything on the -- on                  13 the physiological effects of gender-affirming care at                  14 the time you first reached out to ADF?                  15 A Yes, I had. 10:30:39                  16 Q What had you read?                  17 A I had read some articles on the effects of                  18 gender-affirming hormone therapy, to use your                  19 terminology on that, on various physiological factors,                  20 such as muscle size or strength or muscle mass, those 10:30:55                  21 types of things.                  22 Q You -- you had already read that research                  23 before you reached out to ADF?                  24 A I had read some.                  25 Q Okay. And had you read that research before 10:31:10                  Page 73</p>

<p>1 you saw the news item about the transgender runners in                  2 Connecticut?                  3 A Yes.                  4 Q Okay. So -- so you -- you had previously had                  5 occasion to read research on the effects of 10:31:26                  6 gender-affirming hormones on muscle mass, and then you                  7 saw the news clip about the runners in Connecticut, and                  8 then you contacted ADF? That's the chronology of how                  9 it went?                  10 MR. FRAMPTON: Objection; form. 10:31:39                  11 THE WITNESS: Yes, that sounds like a correct                  12 timeline.                  13 BY MR. BLOCK:                  14 Q Okay. And what -- what would have prompted                  15 you to -- to do any research specifically on the 10:31:48                  16 effects of gender-affirming hormones before seeing the                  17 news item about transgender people in Connecticut?                  18 A As I had mentioned previously, staying up to                  19 date on what the laws are or the rules, I guess would                  20 be a more appropriate way to say it, regarding the 10:32:10                  21 participation of transgender women in women's sports or                  22 trans women in women's sports. Student questions,                  23 asking about that. Particularly after 2019, when                  24 Cecé Telfer won the 400-meter hurdles in Division II,                  25 because I had some students that were there and had 10:32:35                  Page 74</p>	<p>1 Q Okay. So what -- what -- how had you been                  2 looking into it before the student questions?                  3 A Before the student questions, I would look at                  4 the policies as put out by the NCAA, put out by the                  5 N -- IOC and tried to look at research that informed 10:34:08                  6 those policies by searching Google Scholar, PubMed,                  7 reading news articles about it and see if they had                  8 links or information on research.                  9 Q And what about Cecé's participation did the                  10 students think were unfair? 10:34:26                  11 A Cecé is a biological male and was competing in                  12 women's sports.                  13 Q And why did they think that was unfair?                  14 A They thought it was unfair for a biological                  15 male to compete in women's sports. 10:34:43                  16 Q And when you say you did earlier research on                  17 NCAA policy and the IOC, you know, what had prompted                  18 you to do that research?                  19 A It's an important topic in sports, in my                  20 field. It's possible that the textbook I was using at 10:35:03                  21 the time had a statement on it.                  22 Q Had you done any research on the participation                  23 of Caster Semenya in the IOC?                  24 A I have read some news articles on                  25 Caster Semenya and probably heard some things on 10:35:20                  Page 76</p>
<p>1 questions.                  2 Q What do you mean, that were there?                  3 A I have students that are student athletes that                  4 compete in Division II women's track and field and were                  5 at that national championship where Cecé Telfer won the 10:32:53                  6 400-meter hurdles.                  7 Q And were those students upset that Cecé Telfer                  8 had won?                  9 MR. FRAMPTON: Form.                  10 THE WITNESS: The students had questions and 10:33:05                  11 many of them stated questions such as how can that be                  12 fair.                  13 BY MR. BLOCK:                  14 Q So were they upset?                  15 MR. FRAMPTON: Same objection. 10:33:20                  16 THE WITNESS: I guess I would need more                  17 clarification on "upset."                  18 BY MR. BLOCK:                  19 Q So they didn't think it was fair?                  20 A That would be correct. 10:33:32                  21 Q And so in response to those student questions,                  22 you -- you started doing research; is that right?                  23 A I had been looking it prior to the student                  24 questions, but in response to the student questions, I                  25 suppose you could say I tried to dig deeper. 10:33:52                  Page 75</p>	<p>1 podcasts about Caster Semenya.                  2 Q Okay. But you didn't do any research about                  3 that?                  4 A I -- again, more than news articles, I cannot                  5 recall a specific article that said this was 10:35:37                  6 Caster Semenya's medical condition in the scholarly                  7 literature.                  8 Q Okay. But you were more interested in doing                  9 research on transgender athletes than on athletes like                  10 Caster Semenya; is that fair? 10:35:54                  11 MR. FRAMPTON: Objection; form.                  12 THE WITNESS: That would be fair to say.                  13 BY MR. BLOCK:                  14 Q Okay. And why is that?                  15 A We are dealing with separate issues. 10:36:06                  16 Disorders of sexual development are not the same as a                  17 transgender individual.                  18 Q And so why were you more interested in the                  19 participation -- researching the participation of                  20 transgender individuals as opposed to individuals with 10:36:20                  21 DSDs?                  22 MR. FRAMPTON: Same objection.                  23 THE WITNESS: The policies seem to, if I                  24 recall, state "transgender individuals." The student                  25 questions were about transgender individuals. The 10:36:35                  Page 77</p>

<p>1 stuff I was seeing in the news was about transgender 2 individuals. 3 BY MR. BLOCK: 4 Q When did the topic of the participation of 5 transgender individuals in -- in sports first come to 10:36:45 6 your attention? 7 A That would be very challenging to say, but I 8 would say sometime after 2004. 9 Q Why sometime after 2004? 10 A That seems to be the first IOC policy I 10:37:04 11 remember that addressed transgender individuals. 12 Q And when did a transgender individual first 13 participate in the Olympics? 14 A I don't know. 15 Q You have no idea? 10:37:23 16 A No. 17 Q Do you know if it was, like, before 2010? 18 A I don't know. 19 Q Okay. You have no -- do you have any 20 knowledge or recollection of any transgender people 10:37:45 21 participating in the Olympics? 22 A Would you consider the participation of 23 Bruce Jenner to be a transgender individual 24 participating in the Olympics? 25 Q About a -- a -- a transgender person competing 10:38:01 Page 78</p>	<p>1 A Sometime in the past 15 or so years. In my 2 readings, I remember seeing something about 3 Renée Richards. 4 Q Okay. And did the readings -- what did the 5 readings say about her? 10:39:55 6 A I can't recall at this point in time. 7 Q Okay. And did you have any feelings about 8 whether it was fair for her to be participating in 9 women's tennis in the '70s? 10 MR. FRAMPTON: Objection; form and scope. 10:40:06 11 Go ahead. 12 THE WITNESS: I -- I would, once again, go 13 back to my statement that if Renée Richards was a 14 biological male, then biological males have advantages 15 over biological females in sports. 10:40:23 16 BY MR. BLOCK: 17 Q Yeah, but I'm just -- I'm asking about, sir, 18 when you formed an opinion about -- about 19 Renée Richards, if you do -- if you did form an opinion 20 about Renée Richards, like when you -- when you first 10:40:35 21 heard about it, did you have an opinion about it being 22 fair or unfair? 23 MR. FRAMPTON: Same objection. 24 MR. TRYON: Objection. 25 THE WITNESS: So I -- I think I answered that 10:40:46 Page 80</p>
<p>1 post transition. 2 A So I do know of someone that has done that. 3 Q Who? 4 A Laurel Hubbard. 5 Q Okay. Anyone before her? 10:38:19 6 A I cannot recall anyone before that. 7 Q Okay. When did you first -- when did you 8 first become -- well, let me -- I'll -- I'll -- I'll 9 come back to that. 10 When -- when is the first time a transgender 10:38:42 11 person -- a transgender woman competed in women's 12 tennis events? 13 A I -- I don't know. 14 Q You -- you have no idea? 15 A There's something I seem to recall of a 10:39:05 16 situation that was in the '70s or '80s, but I can't 17 recall off the top of my head more specifics. 18 Q Does the name Renée Richards refresh your 19 recollection about it? 20 A So as you mention that, yes, the name 10:39:24 21 Renée Richards playing tennis -- again, I couldn't, at 22 this point in time, put it in a timeframe other than I 23 think it was probably before I was even in college. 24 Q Okay. And when did you first become aware 25 that that had happened? 10:39:40 Page 79</p>	<p>1 when I stated that biological males should not be 2 competing in women's sports. 3 BY MR. BLOCK: 4 Q Okay. So -- but you had that opinion the 5 first time you heard about Renée Richards; right? 10:40:58 6 MR. FRAMPTON: Same objections. 7 THE WITNESS: Again, where I can't put in a 8 specific timeframe when I first heard about 9 Renée Richards, I can't say if Renée Richards 10 influenced my opinion one way or another or what my 10:41:15 11 opinion was before reading that article. 12 BY MR. BLOCK: 13 Q So did you have an opinion about the 14 participation of transgender athletes in women's sports 15 before you did further research on the topic? 10:41:32 16 MR. FRAMPTON: Objection; form and scope. 17 THE WITNESS: Well, as long as I can recall, 18 sports has been separated. So you have sports for men, 19 meaning biological men, and sports for women, meaning 20 biological women, and that separation has been there. 10:41:51 21 Again, as long as I can recall, my knowledge of anatomy 22 and physiology, since I have been involved in study of 23 anatomy and physiology as a student, indicates there 24 are differences. 25 ///</p> <p style="text-align: right;">Page 81</p>

1 BY MR. BLOCK:  
 2 Q Okay. And so -- so that was your -- that was  
 3 your sort of baseline assumption before you conducted  
 4 research, that -- that it would be unfair to allow a  
 5 transgender woman to participate in women's sports? 10:42:16  
 6 MR. FRAMPTON: Objection --  
 7 MR. TRYON: Objection.  
 8 MR. FRAMPTON: -- form.  
 9 THE WITNESS: I think it would be fair to say  
 10 that based on the experience that sports have been 10:42:26  
 11 separated by sex and knowing of the differences between  
 12 biological males and biological females, there's a --  
 13 they should be separated on sex.  
 14 BY MR. BLOCK:  
 15 Q All right. Just going to -- going on to a -- 10:42:47  
 16 a new topic now.  
 17 In your report, you say that even before  
 18 puberty, prepubertal boys outperform prepuberto --  
 19 prepubertal girls in athletic competition; right?  
 20 A Yes, I state that in my report. 10:43:08  
 21 Q Okay. And you -- and you attribute those  
 22 differences in performances to biological factors  
 23 instead of social ones?  
 24 MR. FRAMPTON: Objection; form.  
 25 You can -- 10:43:17

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1 THE WITNESS: Yes, biological factors are the  
 2 primary reason that boys outperform girls in athletic  
 3 events.  
 4 BY MR. BLOCK:  
 5 Q Yeah, so -- but for prepubertal boys and 10:43:29  
 6 prepubertal girls, you attribute their difference in  
 7 performance to biological factors?  
 8 A That is correct.  
 9 Q Okay. What biological factors provide an  
 10 advantage to prepubertal boys over prepubertal girls? 10:43:48  
 11 A Boys have more lean body mass, which includes  
 12 more lean muscle mass, than girls. There are perhaps  
 13 other factors that contribute to that more lean body  
 14 mass and more muscle mass.  
 15 Q What does that -- what does that mean, there 10:44:09  
 16 other factors that contribute to the more lean body  
 17 mass and lean muscle mass?  
 18 A Well, having a Y chromosome compared to being  
 19 XX chromosome, there are a multitude of genes in  
 20 muscles that respond to the Y chromosome differently 10:44:30  
 21 than they do to X chromosomes.  
 22 Q And is there any research on how they respond  
 23 before puberty?  
 24 A The research is focused on the fact that there  
 25 is a difference in lean body mass before puberty. 10:44:50

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1 Q Okay. So besides --  
 2 A To the best of my knowledge.  
 3 Q Sorry, I didn't mean to cut you off.  
 4 Besides lean body mass and lean muscle mass,  
 5 are there any other physiological differences connected 10:45:01  
 6 to athletic performance between boys and girls --  
 7 MR. FRAMPTON: Same objection.  
 8 BY MR. BLOCK:  
 9 Q -- before puberty?  
 10 A Yes. There are differences in overall growth 10:45:12  
 11 between boys and girls, as evidenced by the CDC and the  
 12 World Health Organization having separate growth charts  
 13 for both male and female fetuses and for boys and  
 14 girls.  
 15 Q But -- but in terms of physiological 10:45:25  
 16 characteristics associated with athletic performance,  
 17 what other physiological differences besides 10 percent  
 18 difference in lean body mass and lean muscle mass?  
 19 MR. FRAMPTON: Objection; form:  
 20 THE WITNESS: I would say -- that is the one 10:45:43  
 21 that we will focus on because that is the one that has  
 22 been fairly well demonstrated. There has to be  
 23 something else that contributes that lean body mass  
 24 biologically.  
 25 ///

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1 BY MR. BLOCK:  
 2 Q Okay. Do you -- but you can't think of any  
 3 other measurable factor besides lean body mass that is  
 4 tied to athletic performance advantages for prepubertal  
 5 boys over prepubertal girls; right? 10:46:21  
 6 MR. FRAMPTON: Objection; form.  
 7 Go ahead.  
 8 THE WITNESS: Well, the paper by Eiberg that's  
 9 cited in my report demonstrated differences in VO2 max,  
 10 even when controlled for lean body mass, it seemed like 10:46:33  
 11 the boys' VO2 max was higher.  
 12 BY MR. BLOCK:  
 13 Q Okay. Did the McManis article also confirm  
 14 those findings?  
 15 A I would need to look at the McManis article to 10:46:46  
 16 refer. I cannot remember if McManis -- it was written  
 17 after Eiberg, I think, but I cannot remember if they  
 18 cite Eiberg.  
 19 Q Okay. Well, we might -- we might come back to  
 20 that. 10:47:33  
 21 The difference in lean body mass and lean  
 22 muscle mass that you refer to in your report is a  
 23 10 percent difference?  
 24 MR. FRAMPTON: Objection; form.  
 25 Go ahead. 10:47:40

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<p>1 THE WITNESS: The 10 percent number is stated                  2 in the article by McManis.                  3 BY MR. BLOCK:                  4 Q Do you have any other knowledge of the                  5 difference besides 10 percent? 10:47:49                  6 A I cite several articles demonstrating                  7 difference in body composition in children prepuberty.                  8 I would need to look at those articles to either                  9 calculate the difference myself or see if they specify                  10 the difference. 10:48:05                  11 Q But in your report, you -- you quoted the                  12 10 percent figure; correct?                  13 A That is correct.                  14 Q Okay. If you could turn to your report, which                  15 I believe is -- is Exhibit 46 -- 64. I got that 10:48:24                  16 flipped.                  17 A All right.                  18 Q Thank you. I'm going to point you to a                  19 specific paragraph in a second.                  20 Paragraph 42 on page 17. 10:49:27                  21 A Sorry, the page numbering on the document is                  22 different than the page number that Acrobat --                  23 Q No.                  24 A -- is taking me to, so it will take me a                  25 second, sorry. 10:49:59                  Page 86</p>	<p>1 difference in lean body mass on athletic performance?                  2 A I'm going to say yes, I'm sure there's studies                  3 that are correlating lean body mass with performance.                  4 Q But my question is a 10 percent difference in                  5 lean body mass. 10:51:26                  6 MR. FRAMPTON: Objection; form.                  7 THE WITNESS: Again, there are -- I -- I will                  8 say there are studies that are correlating percent lean                  9 body mass with athletic performance in all sorts of                  10 different events, and so that would include a 10:51:42                  11 10 percent difference, along with other differences,                  12 probably.                  13 BY MR. BLOCK:                  14 Q You -- you don't cite anything in your report                  15 that purports to study the effect of a -- a 10 percent 10:51:51                  16 difference in lean body mass in athletic performance,                  17 do you?                  18 MR. FRAMPTON: Same objection.                  19 THE WITNESS: Can you clarify what you're                  20 trying to ask me there? 10:52:05                  21 BY MR. BLOCK:                  22 Q In your report, do you cite any studies                  23 reflecting what affect a difference in -- I'll say that                  24 again, sorry.                  25 Do you, in your report, cite any studies 10:52:21                  Page 88</p>
<p>1 Q Sure thing.                  2 A All right. Paragraph 42.                  3 Q You say (as read):                  4 "No -- No single physiological                  5 characteristic alone accounts for all 10:50:05                  6 or any one of the measured advantages                  7 that men enjoy in athletic                  8 performance."                  9 Do you see that?                  10 A Yes, I do. 10:50:13                  11 Q Okay. So does a difference in lean body mass                  12 account for all or any one of the measured advantages                  13 that men enjoy in athletic performance?                  14 A Lean body mass is a major factor that provides                  15 men -- males with athletic advantages over females. 10:50:34                  16 Q Does it -- does it alone account for all or                  17 any one of the measured advantages that men enjoy in                  18 athletic performance?                  19 MR. FRAMPTON: Objection; form.                  20 THE WITNESS: I think I've answered your 10:50:57                  21 question by stating it's a major factor, but not the                  22 only factor.                  23 BY MR. BLOCK:                  24 Q Is -- are there any studies about the -- a                  25 difference -- about the effect of a 10 percent 10:51:04                  Page 87</p>	<p>1 measuring the effect of a 10 percent difference in lean                  2 body mass on athletic performance?                  3 MR. FRAMPTON: Objection; form.                  4 THE WITNESS: I don't recall citing any                  5 studies that specifically identify how much a 10:52:35                  6 10 percent advantage enhances performance.                  7 BY MR. BLOCK:                  8 Q Okay. Thank you.                  9 Are you aware of any study proving that                  10 differences in athletic performance between prepubertal 10:53:01                  11 boys and girls are caused by biological factors and not                  12 social ones?                  13 MR. FRAMPTON: Objection; form.                  14 THE WITNESS: From a scientific standpoint,                  15 science does not prove. 10:53:19                  16 BY MR. BLOCK:                  17 Q Science does not prove what?                  18 A Science doesn't prove anything from a                  19 scientific standpoint.                  20 Q Well, do you have -- are there any articles 10:53:31                  21 that purport to exclude social factors as a cause of                  22 difference in performance between prepubertal boys and                  23 prepubertal girls?                  24 A Yes. Eiberg.                  25 Q How does that purport to exclude social 10:53:47                  Page 89</p>

<p>1 factors?                  2 A So Eiberg measured six- to seven-year-old boys                  3 and girls, very objectively measured physical activity                  4 in those children, measured very objectively VO2 max in                  5 those children and body composition in those children 10:54:09                  6 and found that even for the children of the same amount                  7 of physical activity, boys have higher fitness.                  8 Q And what -- what do you mean, even for                  9 children of the same physical activity?                  10 A So boys and girls that engage in the same 10:54:24                  11 amount of physical activity -- running, jumping,                  12 whatever constitutes physical activity -- the boys had                  13 higher fitness.                  14 Q So -- but does this mean physical activity in                  15 terms of what was measured, like for a particular 10:54:40                  16 event, or -- or physical activity in all aspects of                  17 their life?                  18 A This was physical activity as measured by an                  19 accelerometer which measures the quantity and intensity                  20 of physical activity during the time period the 10:54:54                  21 accelerometer is worn.                  22 Q Okay. So can you just explain to me how that                  23 can give you information about, you know, whether these                  24 boys and girls, as a general matter, like, were equally                  25 physically active, like, outside of the laboratory? 10:55:16                  Page 90</p>	<p>1 A Yes, for boys and girls with the same quantity                  2 of physical activity, same intensity, as equal as                  3 possible could be measured, the boys were more fit than                  4 the girls.                  5 Q And how was fitness measured? 10:57:02                  6 A Fitness was measured for body composition and                  7 VO2 max.                  8 Q Got it. Did the study measure any athletic                  9 performances?                  10 A This was not a study of competitive athletic 10:57:23                  11 performances.                  12 Q Got it. So it just -- it was about body                  13 composition, meaning like percentage of fat? Is that                  14 what you meant by "body composition"?                  15 A That would be a measure of how much of your 10:57:40                  16 body is fat, how much of your body is lean body mass.                  17 Q Got it. And -- and VO2 is the other thing                  18 measured?                  19 A So VO2 max is maximal aerobic capacity, which                  20 accounts for 30 to 40 percent of the performance in 10:57:55                  21 endurance-type activities.                  22 Q Okay. So if what's being measured is the                  23 percentage of lean body mass and we already know                  24 that -- that prepubertal boys, on average, would have                  25 10 percent more lean body mass than -- than girls, what 10:58:12                  Page 92</p>
<p>1 A Sure. So an accelerometer is a small device                  2 that is typically worn on your belt, usually on your                  3 right hip, aligned over your knee, and then that                  4 accelerometer, because of the scientific engineering --                  5 okay, I'll call it voodoo magic, but that's not really 10:55:37                  6 the right way to say it. The way the accelerator                  7 works, it measures the movement of the body, and then                  8 it quantifies that movement as far as intensity.                  9 And then after your study period, you have the                  10 person wear the accelerometer for the period of time 10:55:54                  11 you want, typically free living, you put it on the                  12 children and ask them to wear it for a week or two                  13 weeks or however long, then you come back, you connect                  14 the accelerometer to the computer, it downloads the                  15 information from the accelerometer, gives you what are 10:56:07                  16 known as counts. And again, you can quantify those                  17 counts as sedentary, light, moderate or vigorous                  18 intensity physical activity.                  19 So between the two, you get an amount of                  20 physical activity, an intensity of physical activity 10:56:22                  21 for the given time period of study.                  22 Q And so what -- what this study found is that                  23 people who were similarly -- like, just active during                  24 the period in which they were wearing this device, the                  25 boys were more physically fit than the girls? 10:56:45                  Page 91</p>	<p>1 does the study add to that, in terms of translating                  2 that into an athletic advantage?                  3 MR. FRAMPTON: Objection; form.                  4 THE WITNESS: What the study is doing is                  5 quantifying and clarifying the differences between boys 10:58:29                  6 and girls that -- well, for the same amount of physical                  7 activity, boys have a higher VO2 max than girls.                  8 Q Anything else besides the VO2 max?                  9 MR. FRAMPTON: Objection; form.                  10 THE WITNESS: And again, body composition, 10:58:51                  11 which, again, lean body mass is another determinant of                  12 potential for athletic performance and performance in                  13 sorts.                  14 BY MR. BLOCK:                  15 Q But -- but that's just confirming something 10:59:02                  16 that we already know, that -- that prebertyal boys --                  17 prepubertal boys have, on average, 10 percent more lean                  18 body mass?                  19 MR. FRAMPTON: Objection; form.                  20 THE WITNESS: If I recall, the study also 10:59:17                  21 validated that for the same body composition, the boys                  22 had a higher VO2 max. I would need to refer to the                  23 study to verify if that was in there.                  24 Q Okay. Anything else that -- that you think                  25 purports to exclude social causes as a difference in 10:59:41                  Page 93</p>

<p>1 measured athletic performance --                  2 MR. HAMPTON: Objection; form.                  3 BY MR. BLOCK:                  4 Q -- between prepubertal boys and prepubertal                  5 girls? 10:59:56                  6 MR. FRAMPTON: Sorry, same objection.                  7 Go ahead.                  8 THE WITNESS: So again, those papers that I                  9 cite showing the differences in body composition                  10 between prepubertal boys and prepubertal girls because 11:00:03                  11 lean body mass is a biological factor.                  12 BY MR. BLOCK:                  13 Q Right. But besides body composition, I'm                  14 talking about athletic performance. And is there                  15 anything else that purports exclude social causes for 11:00:17                  16 differences in athletic performance as opposed to body                  17 composition?                  18 MR. FRAMPTON: Same objection.                  19 THE WITNESS: To the best of my knowledge,                  20 there are no studies quantifying the effects of social 11:00:30                  21 causes on differences in athletic performance or                  22 physiological factors of athletic performance between                  23 boys and girls.                  24 BY MR. BLOCK:                  25 Q In preparation for your report, did you 11:00:41                  Page 94</p>	<p>1 the form of white papers and expert reports for over                  2 two years now; right?                  3 A That is correct.                  4 Q Have you ever attempted to submit any of your                  5 analysis for publication? 11:02:02                  6 A I have not submitted these papers for                  7 publication.                  8 Q But your -- have you ever, like, tried to                  9 submit your research on this topic in -- in general for                  10 publication? 11:02:18                  11 MR. FRAMPTON: Objection; form.                  12 THE WITNESS: So in general, do you mean                  13 differences between boys and girls?                  14 BY MR. BLOCK:                  15 Q I mean on the participation of transgender 11:02:27                  16 girls and women.                  17 A So as stated in my declaration, I have the                  18 Physiology Educator (sic) Community of Practice blog                  19 post that I have written, that was reviewed prior to                  20 being published on the web, and I have the presentation 11:02:43                  21 I made at the American Physiological Society Sex and                  22 Gender conference.                  23 Q Okay. Anything else?                  24 A Those are the only two that I can remember                  25 that I have put out for public dissemination. 11:02:58                  Page 96</p>
<p>1 conduct original research on the athletic performance                  2 of prepubertal boys and prepubertal girls?                  3 A I have --                  4 MR. FRAMPTON: Objection; form.                  5 Go ahead. 11:00:59                  6 THE WITNESS: I have downloaded, as stated in                  7 my report, data from Athletic.net, looking at the                  8 performance of seven- and eight-year-old children, of                  9 nine- and ten-year-old children, which are presumed to                  10 be prepubertal, and not just the numbers in the report, 11:01:14                  11 but other data, I have analyzed it statistically, and                  12 the boys outperform the girls in all of the track                  13 events that I analyzed.                  14 BY MR. BLOCK:                  15 Q Have you tried to have your analysis published 11:01:25                  16 anywhere?                  17 A The analysis is being presented at UNK Student                  18 Research Day Thursday of next week. After                  19 presentation, the student author and I will probably                  20 explore publication opportunities. 11:01:39                  21 BY MR. BLOCK:                  22 Q All right. But you haven't so far?                  23 A No, I have not submitted it for publication                  24 yet.                  25 Q Okay. You've been writing on this topic in 11:01:46                  Page 95</p>	<p>1 Q Okay. And were -- were either of those two                  2 examples peer reviewed?                  3 A They were both peer reviewed.                  4 Q Okay. Have you had -- well, we'll look at --                  5 we'll look at those in -- in a minute, but there's no 11:03:16                  6 other example of you attempting to submit work on this                  7 topic to a peer-reviewed publication?                  8 A I have reached out to a journal editor about a                  9 possible letter to the editor, but the journal said                  10 they don't publish letters to the editor. 11:03:40                  11 Q Okay. Why didn't you attempt to have your                  12 white paper, you know, published by a peer-reviewed                  13 journal?                  14 A Well, quite honestly, because Emma Hilton,                  15 Tommy Lundberg, Joanna Harper and FIMS have all already 11:03:59                  16 published on this and have done a pretty good job                  17 reviewing the literature, so I'm not sure that another                  18 review of the literature is going to add to the                  19 scholarly knowledge.                  20 Q What did the letter to the editor that you 11:04:12                  21 wanted to write say?                  22 A I just asked the editor if they would accept a                  23 letter regarding the participation of trans women in                  24 women's sports.                  25 Q What publications was that? 11:04:27                  Page 97</p>

<p>1 A I cannot remember if it was Medicine &amp; Science                  2 in Sports &amp; Exercise or the Journal of Strength and                  3 Conditioning Research.                  4 Q Okay. And did you say what the letter would                  5 opine about? 11:04:43                  6 A No.                  7 MR. FRAMPTON: Objection; form.                  8 THE WITNESS: Sorry.                  9 I just asked if they would accept a letter on                  10 the topic. 11:04:52                  11 BY MR. BLOCK:                  12 Q Okay. Are you aware of any studies that                  13 specifically examine the athletic performance of                  14 prepubertal transgender girls?                  15 MR. FRAMPTON: Objection; form. 11:05:07                  16 THE WITNESS: I am not aware of any studies                  17 evaluating the performance of prepubertal biological                  18 gir- -- biological boys competing in girls' sports.                  19 BY MR. BLOCK:                  20 Q Okay. So let's -- we agreed before that if I 11:05:18                  21 say the term, you know, "trans girls," you understand                  22 what I'm saying; right?                  23 A Yes. I just am speaking to make sure I'm                  24 clear to myself in what I'm saying.                  25 Q Okay. So, you know, I -- I understand that 11:05:31                  Page 98</p>	<p>1 experience that the male advantage                  2 increases rapidly, and becomes much                  3 larger, as boys undergo puberty and                  4 become men. Empirically, this can be                  5 seen by contrasting the modest 11:07:17                  6 advantages reviewed immediately above                  7 against the large performance                  8 advantages enjoyed by men that I have                  9 detailed in Section II."                  10 Did I read that right? 11:07:26                  11 A It sure seemed like you read it word for word.                  12 Q All right. Thanks, I did my best.                  13 So even though you contend that boys have a                  14 performance advantage before puberty, you believe those                  15 advantages are modest when compared with the large 11:07:41                  16 performance advantages resulting from puberty?                  17 MR. FRAMPTON: Objection; form.                  18 THE WITNESS: Yes, they are smaller than the                  19 advantages that occur after puberty.                  20 BY MR. BLOCK: 11:07:55                  21 Q Okay. And -- and "modest" was your word;                  22 right?                  23 A Yes, "modest" was my word.                  24 Q Okay. And do you think it's unfair for                  25 prepubertal boys and girls in elementary school to -- 11:08:11                  Page 100</p>
<p>1 there's physical fitness data on -- on prepubertal boys                  2 versus prepubertal girls, and my question is, are you                  3 aware of any data that specifically breaks out                  4 prepubertal trans girls and reports on their                  5 performance? 11:05:53                  6 A I am not aware of any data analyzing trans                  7 girls.                  8 Q Okay. So are you aware of any data comparing                  9 the performance of prepubertal trans girls to                  10 prepubertal cis girls? 11:06:12                  11 A I am not aware of any research on that topic.                  12 Q Okay. If you could turn to page -- sorry --                  13 paragraph 114 of your report again.                  14 A Yes, paragraph 114, page 37.                  15 Q Okay. I have to pull it up, too. 11:06:38                  16 All right. And it -- it continues from page                  17 37 to 38. You say (as read):                  18 "While boys exhibit some performance                  19 advantages even before puberty, it is                  20 both true and" -- 11:06:52                  21 Sorry, my -- my PDF -- I'll read this again                  22 for the record. I apologize. (As read):                  23 "While boys exhibit some performance                  24 advantages even before puberty, it is                  25 both true and well known to common 11:07:03                  Page 99</p>	<p>1 to play on coed or mixed teams?                  2 MR. FRAMPTON: Objection; form, scope.                  3 THE WITNESS: Before puberty, boys have                  4 athletic advantages compared to girls.                  5 BY MR. BLOCK: 11:08:29                  6 Q Do you think it's unfair for prepubertal boys                  7 and girls in elementary school to play on coed or mixed                  8 teams?                  9 MR. FRAMPTON: Same objections.                  10 THE WITNESS: I really haven't been retained 11:08:38                  11 as an expert witness to state fair or unfair in this                  12 matter as much as to provide the information and allow                  13 the policymakers to determine fair versus unfair.                  14 BY MR. BLOCK:                  15 Q Okay. So you're not, in your expert report, 11:08:50                  16 providing an opinion on whether it's fair for trans                  17 girls and women to compete on women's sports teams; is                  18 that right?                  19 MR. FRAMPTON: Objection; form and scope.                  20 Go ahead. 11:09:05                  21 THE WITNESS: In my expert report, I have done                  22 my best to focus on the known biological differences                  23 between males and females, how those known biological                  24 differences gives male an athletic advantage and how                  25 that athletic advantage is not erased by a transgender 11:09:17                  Page 101</p>



<p>1 identity or the use of puberty blockers, gender --                  2 transgender hormones.                  3 BY MR. BLOCK:                  4 Q Okay. So you don't provide an expert opinion                  5 on whether the goals of fairness, safety and 11:09:30                  6 transgender inclusion are reconcilable?                  7 MR. FRAMPTON: Objection; form.                  8 THE WITNESS: If I recall correctly, I think I                  9 quote a source or two that state on that or perhaps                  10 paraphrase a source or two on what has been stated on 11:09:49                  11 that.                  12 BY MR. BLOCK:                  13 Q Okay. So -- so just to clarify the scope of                  14 the opinions you're offering, you are not presenting an                  15 expert opinion on whether it is fair or unfair for 11:09:57                  16 girls and women who are transgender to participate on                  17 girls and women's sports teams; correct?                  18 MR. FRAMPTON: Objection; form.                  19 THE WITNESS: I have tried to focus on the                  20 biological differences and how those differences 11:10:16                  21 provide male advantages and how those differences are                  22 not erased due to transgender identity or                  23 gender-affirming hormone therapy. I have tried to not                  24 give an opinion on fair versus unfair.                  25 ///</p> <p style="text-align: right;">Page 102</p>	<p>1 BY MR. BLOCK:                  2 Q So you -- you are not an expert on whether it                  3 is fair or unfair for girls and women who are                  4 transgender to participate on girls and women's sports                  5 teams? 11:12:01                  6 MR. FRAMPTON: Objection; form.                  7 THE WITNESS: I'm not a sports philosopher in                  8 whom that field would fall into.                  9 BY MR. BLOCK:                  10 Q Right. Therefore, you are not providing an 11:12:15                  11 expert opinion on whether it is fair or unfair for                  12 girls and women who are transgender to participate on                  13 girls and women's sports teams?                  14 MR. FRAMPTON: Same objection.                  15 THE WITNESS: As I've said, I've done my best 11:12:25                  16 to try and stick to the data and not give my opinion on                  17 what is fair or unfair.                  18 BY MR. BLOCK:                  19 Q I'm sorry, Dr. Brown, this -- this really                  20 should be like a -- a simple question. Because when 11:12:35                  21 you say "focus" and "I've tried to," that -- that's                  22 just not answering my question. I just really need a                  23 question (sic) on whether evidence is going to be                  24 submitted in this case, from you, in the form of an                  25 expert opinion under Federal Rules of Evidence 702 on 11:12:50                  Page 104</p>
<p>1 BY MR. BLOCK:                  2 Q Okay. And, you know, I apologize for being                  3 persnickety in the phrasing of the question, but I want                  4 to make sure that -- that -- that you're not answering                  5 about what you're focusing on. I want to know whether 11:10:45                  6 any evidence is going to be submitted in the form of an                  7 expert opinion by you regarding fairness of girls and                  8 women who are transgender participating in -- in girls                  9 and women's sports.                  10 So I'm just going to ask it again, and I would 11:11:05                  11 just appreciate a "yes" or "no" answer, if you're                  12 capable of giving it.                  13 Are you providing an expert opinion in this                  14 case regarding whether it is fair or unfair for girls                  15 and women who are transgender to compete on girls and 11:11:18                  16 women's sports teams?                  17 MR. FRAMPTON: Objection; form, scope.                  18 Go ahead.                  19 THE WITNESS: I don't think I can answer that                  20 as a yes-or-no question because the information 11:11:30                  21 demonstrates that there's an advantage for biological                  22 males. And so then we come to a question of fair,                  23 which is a very challenging metaphysical question that                  24 I would prefer others address.                  25 ///</p> <p style="text-align: right;">Page 103</p>	<p>1 whether or not it is fair or unfair for girls and women                  2 who are transgender to participate.                  3 Regardless of whether it's your focus,                  4 regardless of whether you're trying -- what you're                  5 trying or not trying to do, I just need a "yes" or "no" 11:13:07                  6 answer on whether you are providing an expert opinion                  7 on the topic of fairness.                  8 MR. FRAMPTON: Same objection.                  9 THE WITNESS: So would you allow me a few                  10 minutes to review the conclusions to my declaration? 11:13:21                  11 Because I don't want to say something that is                  12 contradictory to what I have said in what is submitted                  13 as an expert declaration.                  14 MR. BLOCK: All right. We can -- we can go                  15 off the record, if you would like to do that right now. 11:13:38                  16 Does counsel want to go off the record?                  17 MR. FRAMPTON: No, we don't need to go off the                  18 record. If he wants to review something, he can review                  19 it.                  20 MR. BLOCK: Well, I'm not taking time out from 11:13:47                  21 the deposition for him to review what -- what his                  22 expert opinions are in -- in this case.                  23 So, you know, if he wants to do it during a                  24 break, you know, you're welcome to, but you're not                  25 using my deposition time to answer a simple question. 11:14:00                  Page 105</p>

<p>1 I mean, this witness should know what he's                  2 providing an expert opinion on, so --                  3 MR. FRAMPTON: And I think he's told you about                  4 three times now, but again, I don't need to argue that                  5 on the record. 11:14:13                  6 BY MR. BLOCK:                  7 Q But you know you're not providing an expert                  8 opinion on whether it's fair or unfair for prepubertal                  9 girls and boys in elementary school to play on coed or                  10 mixed sports teams? 11:14:28                  11 A I think I've already answered that question                  12 with my statement about focusing on what the science is                  13 saying on who has advantages.                  14 Q All right. Are you qualified to offer an                  15 expert opinion on fairness? 11:14:39                  16 MR. FRAMPTON: Objection; form.                  17 THE WITNESS: Who is a qualified expert to                  18 offer an opinion on fairness?                  19 BY MR. BLOCK:                  20 Q I don't know. Are you? 11:14:53                  21 MR. FRAMPTON: Same objection.                  22 Go ahead.                  23 THE WITNESS: I think I can offer fairness as                  24 far as my understanding of what the policies and                  25 procedures are that are set to determine what is fair 11:15:08                  Page 106</p>	<p>1 participation. Since I'm teaching it and I'm judged by                  2 my peers as an expert in it, then I would say I can                  3 give an expert opinion on it.                  4 Q Who -- who are -- who -- who judges you as                  5 quali- -- what peers judge you as qualified to -- to 11:16:40                  6 give an expert opinion on whether it's fair for girls                  7 and women who are transgender to compete in girls and                  8 women's sports?                  9 A Well, my -- again, I've been accepted by my                  10 peers as an expert to present on this topic, on the 11:16:59                  11 participation and the physiological effects of                  12 transgender individuals.                  13 Q Right. My question was about fairness.                  14 Have you been -- who, among your peers, have                  15 said that you are qualified to opine on the fairness of 11:17:16                  16 the participation of girls and women who are                  17 transgender in -- in girls and women's sports?                  18 A My colleagues at the university I work at,                  19 administrators at the university I work at, they honor                  20 my opinion. 11:17:35                  21 Q I thought that your opinion in this matter                  22 just reflects your own views, not the views of the                  23 university; is that right?                  24 A That is correct.                  25 Q Okay. So what do you mean by -- when you say 11:17:43                  Page 108</p>
<p>1 in sports.                  2 BY MR. BLOCK:                  3 Q Your personal opinion; right?                  4 MR. FRAMPTON: Same objection.                  5 THE WITNESS: No. For instance, there are a 11:15:27                  6 lot of policies that specify the -- that use of                  7 performance-enhancing substances are unfair, in which                  8 that is something that I would teach in my sports -- my                  9 sport nutrition class. Since I'm teaching it in a                  10 class, I've been judged by my peers to be an expert on 11:15:41                  11 that.                  12 BY MR. BLOCK:                  13 Q Okay. But are you qualified to offer an                  14 expert opinion on whether it's fair or unfair for girls                  15 and women who are transgender to compete in women's 11:15:50                  16 sports?                  17 MR. FRAMPTON: Same objection.                  18 THE WITNESS: Am I qualified? Well, the                  19 policies state that it is not fair. And so if I am                  20 following the policy, I suppose I am an expert in that. 11:16:02                  21 BY MR. BLOCK:                  22 Q I don't understand what that means.                  23 A So when I teach in my classes, in my field, in                  24 my expertise, quite often we discuss and teach about                  25 the policies on what is fair participation or unfair 11:16:20                  Page 107</p>	<p>1 that the university honors your opinion?                  2 A They allow me to express my opinion, and they                  3 recognize that it falls within my discipline and my                  4 field and the scope of my professional expertise.                  5 Q How did they recognize that? 11:18:03                  6 A They've told me.                  7 Q Who has told you?                  8 A The athletic director, the -- one of the                  9 senior vice chancellors, I can't remember her full                  10 title, another one of the vice chancellors for academic 11:18:24                  11 and student affairs.                  12 Q Has any --                  13 A Along -- along with some of my colleagues in                  14 the department.                  15 Q Did the university tell you to testify in this 11:18:32                  16 case?                  17 A The university did not tell me to or not to                  18 testify in this case.                  19 Q Okay. Did any of the -- your -- your                  20 colleagues that honor your opinions, are any of them 11:18:43                  21 experts in fairness?                  22 MR. FRAMPTON: Objection; form.                  23 THE WITNESS: Well, one of them is a -- I                  24 guess his area would be sports sociology and sports                  25 psychology and does a lot of work in the area of 11:19:03                  Page 109</p>

<p>1 policies and procedures for sports, so I would say that                  2 he's probably an expert in fairness.                  3 BY MR. BLOCK:                  4 Q Have you been invited by any sort of                  5 professional policymaking organizations to participate 11:19:15                  6 in crafting policies?                  7 A No, I have not.                  8 Q Okay. Do you know whether West Virginia has                  9 any laws or policies regarding sex-separated sports for                  10 prepubertal children? 11:19:43                  11 MR. FRAMPTON: Objection; form.                  12 THE WITNESS: My understanding of the law that                  13 we're meeting about now does specify that you                  14 participate in sports based on biological sex.                  15 BY MR. BLOCK: 11:19:57                  16 Q Do you -- do you know whether West Virginia                  17 has any laws or policies regarding the participa- --                  18 let me say this again.                  19 Do you know whether West Virginia has any laws                  20 or policies regarding sex-separated sports in 11:20:13                  21 elementary school?                  22 MR. FRAMPTON: Objection; form.                  23 THE WITNESS: If I recall correctly, this law                  24 applies to elementary school.                  25 ///</p> <p style="text-align: right;">Page 110</p>	<p>1 BY MR. BLOCK:                  2 Q All right. Soon appearing in your folder will                  3 be a document marked Exhibit 69. Let me know when                  4 that's available.                  5 Do you see it? 11:22:09                  6 A Exhibit 69, Briefing Book, WSPWG?                  7 Q Yes. And you cite to this document in your                  8 report; right?                  9 A Yes, I think I do.                  10 Q Okay. Great. 11:22:21                  11 If you could turn to footnote 2, I believe,                  12 footnote 2, page 8 of the document.                  13 Can you let me know when you get to that?                  14 A Footnote 2, page 8 starts off with the word                  15 "endocrinologists." 11:22:51                  16 Q Yes.                  17 A Yes.                  18 Q Okay. If you look at what that footnote 2,                  19 like, refers to, in the third paragraph, beginning with                  20 "at the same time." 11:23:05                  21 Do you see in the text "at the same time"?                  22 A Sorry.                  23 Q Yeah. Sure. The third paragraph from the top                  24 of the page begin- --                  25 A Oh, sorry. Sorry. Yes, I've got it. 11:23:19</p> <p style="text-align: right;">Page 112</p>
<p>1 BY MR. BLOCK:                  2 Q Would your opinions in this case change if you                  3 were to learn that the law doesn't apply to elementary                  4 school?                  5 MR. FRAMPTON: Objection to form. 11:20:36                  6 THE WITNESS: No, my opinion would not change                  7 because there are biological differences between males                  8 and females that give males an inherent athletic                  9 advantage.                  10 BY MR. BLOCK: 11:20:45                  11 Q Do you think it's reasonable for a state to                  12 say that it wants sex-separated teams beginning in                  13 middle school, but not in elementary school?                  14 MR. FRAMPTON: Objection; form.                  15 THE WITNESS: I think it is reasonable since 11:21:06                  16 most of the time younger children's leagues are                  17 considered developmental and the children are not                  18 competing for prizes or honors. A lot of times that                  19 competition begins in middle or high school.                  20 MR. BLOCK: Okay. That -- that's a great 11:21:24                  21 lead-in to the next exhibit. So if you would give me a                  22 second to make that happen.                  23 (Exhibit 69 was marked for identification                  24 by the court reporter and is attached hereto.)                  25 ///</p> <p style="text-align: right;">Page 111</p>	<p>1 Q Yeah. The second sentence of that paragraph,                  2 it says (as read):                  3 "Because the onset of male puberty —                  4 normally around ages 11 - 12 in boys —                  5 is the physical justification for 11:23:30                  6 separate sex sport..."                  7 And then that's what triggers the footnote 2;                  8 correct?                  9 A Yes.                  10 Q Okay. And then footnote 2 says (as read): 11:23:39                  11 "Endocrinologists explain that puberty                  12 in boys should start between ages 9-13                  13 and in girls between ages 8-12; that                  14 puberty usually takes 4-5 years to                  15 complete so that 95% of boys will have 11:23:53                  16 started puberty by age 13. This                  17 timing is consistent with the formal                  18 position of the Women's Sports                  19 Foundation providing that [p]rior to                  20 puberty, females and males should 11:24:05                  21 compete with and against each other on                  22 coeducational teams."                  23 Did I read that correctly?                  24 A Yes, you read that correctly.                  25 Q Okay. And then it cites to a document from 11:24:21</p> <p style="text-align: right;">Page 113</p>

<p>1 the Women's Sports Foundation; correct?                  2 A Yes.                  3 Q Did you read that document?                  4 A I cannot recall specifically if I've read that                  5 or not. I think I probably did, but I can't recall. 11:24:29                  6 Q Okay. And so you understand that it's the                  7 position of the Women's Sports Foundation that prior to                  8 puberty, females and males should compete with and                  9 against each other on coeducational teams?                  10 A Well, that is what is stated in this document. 11:24:51                  11 Q Okay. Do you feel like you -- do you feel                  12 that you are qualified to offer an expert opinion on                  13 the fairness of elementary school kids participating on                  14 coeducational teams?                  15 MR. FRAMPTON: Objection; form. 11:25:08                  16 THE WITNESS: I think I can offer information                  17 on the differences in -- the -- the biological                  18 differences between boys and girls and how that gives                  19 boys an advantage in athletics.                  20 BY MR. BLOCK: 11:25:23                  21 Q Do you think the Women's Sports Foundation is                  22 a better source of information than you on what                  23 benefits prepubertal girls in athletic participation?                  24 MR. FRAMPTON: Objection; form.                  25 THE WITNESS: Can you rephrase that question? 11:25:40                  Page 114</p>	<p>1 Is that right?                  2 A That is correct.                  3 Q Okay. So do you think that -- that                  4 prepubertal boys and prepubertal girls should not be                  5 playing in competition with each other in recreational 11:27:34                  6 events?                  7 MR. FRAMPTON: Objection; form.                  8 THE WITNESS: I think if they are competing                  9 for prizes, for awards, the boys have an advantage.                  10 BY MR. BLOCK: 11:27:45                  11 Q And, therefore, they should not be competing                  12 against each other for prizes and awards?                  13 MR. FRAMPTON: Objection; form, scope.                  14 THE WITNESS: I would say that if we are --                  15 yeah, the boys should not be competing against the 11:28:06                  16 girls if they're competing for prizes and awards.                  17 BY MR. BLOCK:                  18 Q Do you think that in the case of transgender                  19 girls and women after puberty, do you think they should                  20 not be allowed to play on recreational teams with 11:28:24                  21 cisgender girls and women?                  22 MR. FRAMPTON: Objection; form, scope.                  23 THE WITNESS: I have concerns about the safety                  24 of cisgender girls and women competing against                  25 biologically male -- sorry -- trans women. 11:28:45                  Page 116</p>
<p>1 BY MR. BLOCK:                  2 Q Yeah, yeah.                  3 Who -- who -- who do you think is a better                  4 source of authority on -- on -- on -- on what is in the                  5 best interest of prepubertal girls when it comes to 11:25:53                  6 athletics, you or the Women's Sports Foundation?                  7 MR. FRAMPTON: Objection; form.                  8 THE WITNESS: I think this may be a situation                  9 where I don't agree with the Women's Sports Foundation.                  10 BY MR. BLOCK: 11:26:08                  11 Q Okay. If you go back to -- to your report, on                  12 page 4, page 4 of your report. It's not in numbered                  13 paragraphs yet. And this is Exhibit 64, I believe.                  14 A Okay. Page 4 where I have "Overview"?                  15 Q Yes. 11:26:59                  16 A All right.                  17 Q In the first bullet point, you say (as read):                  18 "At the level of (a) elite, (b)                  19 collegiate, (c) scholastic, and (d)                  20 recreational competition, men, 11:27:10                  21 adolescent boys, or male children,                  22 have an advantage over equally aged,                  23 gifted, and trained women, adolescent                  24 girls, or female children in almost                  25 all athletic events." 11:27:19                  Page 115</p>	<p>1 BY MR. BLOCK:                  2 Q Do you think that cisgender girls and women                  3 should be allowed to play on football teams with                  4 biological boys?                  5 MR. FRAMPTON: Objection; form, scope. 11:29:00                  6 THE WITNESS: If the girls are informed of the                  7 risks, then the girls should be able to make an                  8 informed choice on that matter.                  9 BY MR. BLOCK:                  10 Q So you don't think it's the -- the -- safety 11:29:13                  11 reasons should prohibit cisgender girls and women from                  12 playing football with cisgender boys?                  13 MR. FRAMPTON: Same objection.                  14 THE WITNESS: If the girls would like to play                  15 on the boys' team and they and their parents make an 11:29:28                  16 informed choice that they're willing to accept those                  17 risks, then I think that is up to them to choose.                  18 BY MR. BLOCK:                  19 Q Okay. And -- and do you think that cisgender                  20 girls and women should be allowed to play on wrestling 11:29:42                  21 teams with cisgender boys and men?                  22 MR. FRAMPTON: Same objection.                  23 THE WITNESS: I would say the same statement,                  24 if they are aware of the inherent risks and recognize                  25 the advantages that males have, they can make that 11:29:56                  Page 117</p>

<p>1 choice.</p> <p>2 BY MR. BLOCK:</p> <p>3 Q Going back to recreational competition, do you</p> <p>4 think that transgender girls and women should not be</p> <p>5 allowed to play recreational sports on girls and 11:30:07</p> <p>6 women's teams if the sport is a noncontact or collision</p> <p>7 sport?</p> <p>8 MR. FRAMPTON: Same objection.</p> <p>9 THE WITNESS: If it is a women's league, then</p> <p>10 that should be limited to biological women. 11:30:25</p> <p>11 BY MR. BLOCK:</p> <p>12 Q Even if they're not competing for prizes?</p> <p>13 MR. FRAMPTON: Same objection.</p> <p>14 THE WITNESS: Can I walk through this for just</p> <p>15 a minute? 11:30:37</p> <p>16 BY MR. BLOCK:</p> <p>17 Q Sure.</p> <p>18 A Oh. So if women are signing up for a women's</p> <p>19 recreational league, I think they do so with the</p> <p>20 expectation they will be playing -- and even if it's 11:30:47</p> <p>21 not competing for prizes, but they are competing --</p> <p>22 with other women. And so introducing a trans woman is</p> <p>23 not fair to the women that have said that they are</p> <p>24 competing against biological women.</p> <p>25 Q Why isn't it fair if they're not competing for 11:31:04</p> <p style="text-align: right;">Page 118</p>	<p>1 an athletic advantage over cisgender girls and women</p> <p>2 when it comes to riflery?</p> <p>3 MR. FRAMPTON: Objection; form and scope.</p> <p>4 THE WITNESS: Yes, I do think that transgender</p> <p>5 girls and women have an advantage over cisgender girls 11:32:41</p> <p>6 and women because you still have to hold the rifle, you</p> <p>7 still have to feel the recoil, and a larger individual</p> <p>8 will have less felt recoil.</p> <p>9 BY MR. BLOCK:</p> <p>10 Q So in terms of recreational activities, if a 11:33:16</p> <p>11 policy said that transgender girls and women can't</p> <p>12 compete in, you know, championship competition but can</p> <p>13 compete on recreational teams with cisgender girls and</p> <p>14 women and that policy is well known, is it your</p> <p>15 position that transgender girls and women should still, 11:33:43</p> <p>16 you know, not be allowed to compete on the -- to</p> <p>17 participate on those recreational teams with cisgender</p> <p>18 girls and women?</p> <p>19 MR. FRAMPTON: Objection; form and scope.</p> <p>20 THE WITNESS: It's kind of a long, complicated 11:33:57</p> <p>21 question. Can you simplify it for me?</p> <p>22 BY MR. BLOCK:</p> <p>23 Q Well, your -- your answer on recreational</p> <p>24 teams was that you want the cisgender people to be</p> <p>25 informed that a transgender person might be there. 11:34:12</p> <p style="text-align: right;">Page 120</p>
<p>1 prizes?</p> <p>2 MR. FRAMPTON: Same objection.</p> <p>3 THE WITNESS: Well, if they are competing --</p> <p>4 even if it's not prizes, they are competing.</p> <p>5 BY MR. BLOCK: 11:31:21</p> <p>6 Q What if they're just -- just participating</p> <p>7 together for recreational purposes?</p> <p>8 MR. FRAMPTON: Objection; form.</p> <p>9 THE WITNESS: Then I think that the cisgender</p> <p>10 women still need to be fully informed of whether there 11:31:38</p> <p>11 will be trans women or not, and then they could make</p> <p>12 their choice on a recreational pickup game type of</p> <p>13 play.</p> <p>14 BY MR. BLOCK:</p> <p>15 Q Okay. If -- how about riflery, should 11:31:47</p> <p>16 transgender girls and women be allowed to play on a</p> <p>17 recreational riflery league with cisgender girls and</p> <p>18 women?</p> <p>19 MR. FRAMPTON: Objection; form and scope.</p> <p>20 THE WITNESS: Once again, if they are just out 11:32:14</p> <p>21 shooting for fun and they're not competing and the</p> <p>22 recognition is that it is not exclusively a women's</p> <p>23 event. All of those need to be considered.</p> <p>24 BY MR. BLOCK:</p> <p>25 Q Do you think transgender girls and women have 11:32:28</p> <p style="text-align: right;">Page 119</p>	<p>1 So my question is, assuming that they're</p> <p>2 informed, do you still think that transgender girls and</p> <p>3 women should not be allowed to participate on</p> <p>4 recreational teams with cisgender girls and women?</p> <p>5 MR. FRAMPTON: Objection; form, scope. 11:34:27</p> <p>6 THE WITNESS: So if the governing policies for</p> <p>7 that recreational league indicate that transgender</p> <p>8 girls and women can compete there and if it doesn't</p> <p>9 violate some type of law that would regulate the</p> <p>10 funding for that recreational league and if the 11:34:36</p> <p>11 women -- if everyone is fully informed of who they will</p> <p>12 be playing with in this recreational league, then that</p> <p>13 would be okay for the trans women to participate in</p> <p>14 that league.</p> <p>15 BY MR. BLOCK: 11:34:59</p> <p>16 Q But you think that the cisgender girls and</p> <p>17 women would need to be specifically notified that there</p> <p>18 is an identifiable trans participant on the team as</p> <p>19 opposed to just knowing that as a matter of policy</p> <p>20 there might be one? 11:35:15</p> <p>21 MR. FRAMPTON: Same objection.</p> <p>22 THE WITNESS: My experience tells me that a</p> <p>23 lot of women would like to know that.</p> <p>24 BY MR. BLOCK:</p> <p>25 Q Why? 11:35:23</p> <p style="text-align: right;">Page 121</p>

<p>1 A Because --                  2 MR. FRAMPTON: Same objection.                  3 Go ahead.                  4 THE WITNESS: Because they want to know who                  5 they're competing against and because of our 11:35:29                  6 longstanding policy of sex-segregated sports, they want                  7 to know if they're playing on a coed team or a                  8 sex-segregated team.                  9 BY MR. BLOCK:                  10 Q When you say your experience tells you that 11:35:42                  11 women would like to know that, what experience?                  12 A Talking with friends and family members,                  13 students, colleagues, those types of things.                  14 MR. BLOCK: So I -- I am going to another                  15 section. I'm happy to continue going, unless you need 11:36:13                  16 a -- a break.                  17 THE WITNESS: I need a bathroom break.                  18 MR. BLOCK: Sure. See you in five minutes.                  19 THE WITNESS: All right. Thanks.                  20 THE VIDEOGRAPHER: We are off the record at 11:36:24                  21 11:36 a.m.                  22 (Recess.)                  23 THE VIDEOGRAPHER: We are on the record at                  24 11:47 a.m.                  25 MR. BLOCK: Great. 11:47:20                  Page 122</p>	<p>1 H.B. 972, Fairness in Women's Sports Act.                  2 Is that -- do you agree that's what this                  3 document appears to be?                  4 A Yes, that appears to be a transcript of a                  5 hearing on that. 11:49:14                  6 Q Okay. And that hearing was on August 4th,                  7 2021; correct?                  8 A That's what it says.                  9 Q Okay. And do you remember providing testimony                  10 as part of this hearing? 11:49:24                  11 A I do remember providing testimony for that.                  12 Q Okay. Terrific.                  13 If you can go to page 15.                  14 A Sorry. It's loading slowly. As I scroll, I                  15 have to wait for the page to load. 11:49:54                  16 Q Yeah. No, I -- I appreciate that.                  17 A Okay. Page 15?                  18 Q Yes.                  19 A Starts off "Biological sex confers"?                  20 Q Yeah. 11:50:03                  21 A Okay.                  22 Q "Biological" -- I'm just going to read it into                  23 the record. (As read):                  24 "Biological sex confers inherent                  25 athletic advantages to human males 11:50:09                  Page 124</p>
<p>1 BY MR. BLOCK:                  2 Q Dr. Brown, during the break, did you have a                  3 chance to review your expert report to determine                  4 whether you're offering an opinions on fairness?                  5 MR. FRAMPTON: Objection; form. 11:47:30                  6 THE WITNESS: I didn't take advantage of that                  7 time to look at that.                  8 MR. BLOCK: Okay. I'm going to mark another                  9 exhibit here. So this -- this exhibit, which will                  10 appear shortly, is going to be marked as Exhibit 70. 11:47:58                  11 (Exhibit 70 was marked for identification                  12 by the court reporter and is attached hereto.)                  13 BY MR. BLOCK:                  14 Q Please let me know when it's up on your                  15 screen. 11:48:05                  16 A All right. Exhibit 70, 070 - 2021.                  17 Q Yes. Can you tell me -- well, first of all,                  18 have you ever seen this document?                  19 A You know, I can't promise that I have seen                  20 this document. 11:48:38                  21 Q Okay. What does -- this is a document -- I've                  22 got to scroll back up to page 1 of this document                  23 myself.                  24 This document is a transcript of hearings                  25 in -- in the Pennsylvania house of representatives on 11:48:56                  Page 123</p>	<p>1 compared to human females such that                  2 even before puberty, males have                  3 10 percent more muscle mass, less body                  4 fat, larger hearts and lungs, denser                  5 bones, and other anatomical and 11:50:20                  6 physiological traits that give males                  7 inherent athletic advantages over                  8 comparably aged and trained females."                  9 Did I read that right?                  10 A Yes. 11:50:31                  11 Q And do you recall giving that testimony?                  12 A Yes.                  13 Q Is it true that -- that prepubertal boys have                  14 denser bones than prepubertal girls?                  15 A I would need to look back at my research 11:50:50                  16 that -- you know, the papers that I've read to see on                  17 that.                  18 Q Okay. Is it -- is it true that prepubertal                  19 boys have larger hearts and lungs than prepubertal                  20 girls? 11:51:01                  21 A They have larger lungs. And again, I would                  22 want to refer back to my research on the larger hearts.                  23 Q Okay. Now, if you go to page 16.                  24 A Okay.                  25 Q Actually, go to page 17, line 3. 11:51:31                  Page 125</p>

<p>1 You say (as read):                  2 "And a male to female individual will                  3 never experience nor need to learn how                  4 to cope with menstrual-cycle                  5 challenges, whereas 50 to 71 percent 11:51:49                  6 of female athletes expressed concerns                  7 that their menstrual cycle may                  8 influence their physical performance."                  9 Did I read that right?                  10 A Yes, you did. 11:52:03                  11 Q So is it your testimony that one advantage                  12 that transgender girls and women have over cisgender                  13 girls is that they don't have to worry about their                  14 menstrual-cycle concerns?                  15 MR. FRAMPTON: Objection to the form and 11:52:09                  16 scope.                  17 Go ahead.                  18 THE WITNESS: Yes, that is what I said in this                  19 situation in Philadelphia.                  20 BY MR. BLOCK: 11:52:16                  21 Q Okay. Do you --                  22 A Sorry, Harrisburg.                  23 Q Okay. Are you offering that opinion in this                  24 case?                  25 A I did not include that opinion in my written 11:52:23                  Page 126</p>	<p>1 A Because they're all biologically female.                  2 Q Even though some of them would have the                  3 advantage of not having to worry about their menstrual                  4 cycle; is that right?                  5 MR. FRAMPTON: Same objection. 11:53:46                  6 THE WITNESS: Again, what -- can you please                  7 rephrase that?                  8 There were some questions -- some statements                  9 in there that were more absolute than I'm comfortable                  10 answering. 11:54:00                  11 BY MR. BLOCK:                  12 Q Okay. So despite the fact that cisgender                  13 girls and women who don't menstruate don't have to                  14 worry about how their menstrual cycle will affect                  15 athletic performance, you think that it's still fair 11:54:13                  16 for girls and women who menstruate to participate on                  17 the same sports teams as girls and women who don't                  18 menstruate; correct?                  19 MR. FRAMPTON: Objection; form and scope.                  20 THE WITNESS: So when you're talking about 11:54:30                  21 menstruate, I want to make sure we're on the same page                  22 here.                  23 Do you mean they have lost having their                  24 menstrual cycle?                  25 ///                  Page 128</p>
<p>1 statement for this case.                  2 Q Okay. Are you offering that opinions now in                  3 this case?                  4 A I would offer that opinions now.                  5 Q Okay. And -- so do you think that cisgender 11:52:33                  6 girls who are not menstruating have an advantage over                  7 cisgender girls who do menstruate?                  8 MR. FRAMPTON: Objection; form, scope.                  9 THE WITNESS: So the research regarding the                  10 effects of the menstrual cycle on athletic performance 11:52:53                  11 are very difficult and very confusing and some                  12 instances so -- show that phase of the menstrual cycle                  13 influence a performance, some do not.                  14 But as I stated there, depending on which                  15 survey you're looking at, 50 to 71 percent of female 11:53:11                  16 athletes are concerned that their menstrual cycle will                  17 negatively impair their performance.                  18 BY MR. BLOCK:                  19 Q Okay. Do you think we should have separate                  20 teams for girls and women who menstruate and girls and 11:53:22                  21 women who don't?                  22 MR. FRAMPTON: Same objection.                  23 THE WITNESS: No, I do not.                  24 BY MR. BLOCK:                  25 Q Why not? 11:53:36                  Page 127</p>	<p>1 BY MR. BLOCK:                  2 Q I -- you know, I -- some -- that -- that could                  3 be one thing. Some -- some girls and women who are cis                  4 don't have a menstrual cycle.                  5 So for whatever reason, a cisgender girl and 11:54:58                  6 women who do not menstruate, should they be playing on                  7 different teams from girls and women who do menstruate?                  8 MR. FRAMPTON: Objection; form and scope.                  9 THE WITNESS: So loss of the menstrual cycle                  10 is generally a negative connotation for a woman in 11:55:15                  11 terms of athletic performance. It would indicate                  12 somewhere progressing on the female athlete triad. And                  13 so they're still biological women. They should still                  14 be on the women's team.                  15 BY MR. BLOCK: 11:55:39                  16 Q So is it really relevant one way or another                  17 whether or not someone is menstruating to their                  18 athletic performance?                  19 MR. FRAMPTON: Same objection.                  20 THE WITNESS: Again, 50 to 71 percent of 11:55:47                  21 female athletes are concerned that their menstrual                  22 cycle will influence their physical athletic                  23 performance.                  24 BY MR. BLOCK:                  25 Q So is it relevant to their athletic 11:56:01                  Page 129</p>

<p>1 performance whether or not someone is menstruating?                  2 MR. FRAMPTON: Same objection.                  3 THE WITNESS: For some women, it is. For some                  4 women, it is not.                  5 BY MR. BLOCK: 11:56:21                  6 Q In your report, you refer, several times, to                  7 something called "puberty blockers"; right?                  8 A Yes.                  9 Q Okay. So I want to make sure that we're using                  10 the same terminology when we're using that phrase. 11:56:34                  11 When I use the phrase "puberty blockers," I'm                  12 referring to gonadotropin-releasing hormone analogues.                  13 Is that consistent with your understanding of                  14 the term "puberty blockers"?                  15 A I know the gonadotropin-releasing hormone. I 11:56:53                  16 cannot remember if the word is "analogues" or                  17 "antagonists" or "agonists."                  18 Q Okay. So GR- --                  19 A GnR- -- yes.                  20 Q I'm sorry, can you say that again? 11:57:06                  21 A Yeah. G-N-R-H-As. And again --                  22 Q So --                  23 A -- I cannot remember specifically what the A                  24 stands for.                  25 Q So -- so it's your understanding that the term 11:57:13                  Page 130</p>	<p>1 "Tanner stages 2 and 3 generally                  2 encompass" --                  3 You say "an range," but I think you mean "a                  4 range" -- sorry -- "a age range" -- no, I messed that                  5 up. I'll say that again. I apologize for inserting an 11:59:00                  6 error into your -- your sentence.                  7 You say (as read):                  8 "Tanner stages 2 and 3 generally                  9 encompass an age range from 10 to 14                  10 years old, with significant 11:59:07                  11 differences between individuals."                  12 And then you go on to say that you're not                  13 aware of research directly addressing the implications                  14 for athletic capability of the use of puberty blockers.                  15 So, you know, my question is, when you wrote 11:59:24                  16 that paragraph, did you think it -- did you consult the                  17 Endocrine Society guidelines that we had previously                  18 discussed?                  19 MR. FRAMPTON: Objection to form.                  20 THE WITNESS: I cannot recall if I 11:59:45                  21 specifically looked at the Endocrine Society guidelines                  22 as I was writing that. As I -- as I said, "as I                  23 recall," I think, is the wording I used.                  24 BY MR. BLOCK:                  25 Q Okay. Did you make any effort to determine 11:59:57                  Page 132</p>
<p>1 "hormone blockers" refers to GnRHa's; correct?                  2 A Puberty blockers.                  3 Q Sorry. Puberty blockers.                  4 It's your understanding that the term "puberty                  5 blocker" refers to the GnRHa's; correct? 11:57:27                  6 A That is correct.                  7 Q Okay. Great.                  8 If we go to paragraph 110 of your report --                  9 again, that's Exhibit 64. Let me know when you're --                  10 when you get there. 11:57:39                  11 A Paragraph 110 is what I'm headed for?                  12 Q Yep.                  13 A All right. Paragraph 110, page 36.                  14 Q Great. So in paragraph 110, you say -- if you                  15 go, like -- one, two, three, four -- five lines down, 11:58:18                  16 after the parenthetical number 9, you say (as read):                  17 "While it is outside my expertise, my                  18 understanding is that current practice                  19 with regard to administration of                  20 puberty blockers is similar in the 11:58:33                  21 United States."                  22 I think you're referring to as in the UK; is                  23 that correct?                  24 A Yes.                  25 Q Okay. And then you say (as read): 11:58:43                  Page 131</p>	<p>1 what the -- the practice in the United States is with                  2 regard to administering puberty blockers?                  3 MR. FRAMPTON: Objection; form.                  4 Go ahead.                  5 THE WITNESS: Well, there's the 12:00:13                  6 Endocrine Society guidelines, but those are not                  7 specific to the United States, if I recall, and so I --                  8 BY MR. BLOCK:                  9 Q Right.                  10 A -- don't know of a specific United States 12:00:22                  11 policy compared to the UK policy. I think it's more of                  12 a this is the policy.                  13 Q Yeah, got it.                  14 But did you make any effort to determine what                  15 the practice is in the United States? 12:00:35                  16 A I'm -- yes, I know I did look into it.                  17 Q How? How did you look into it?                  18 A Reading scholarly literature on the topic to                  19 see what it says. Looking at web pages on the topic.                  20 Q So -- so you read scholarly literature and web 12:00:57                  21 pages on the topic and you couldn't determine whether                  22 the practice in the United States is to administer                  23 puberty blockers at Tanner II versus Tanner III?                  24 MR. FRAMPTON: Objection; form.                  25 THE WITNESS: As I said there, my -- that is 12:01:16                  Page 133</p>



<p>1 outside my scope of my expertise, and so I don't want                  2 to be construed as saying this is the policy. So I was                  3 trying to make sure that I was not giving specific                  4 medical advice on when someone should be administering                  5 puberty blockers. 12:01:32                  6 BY MR. BLOCK:                  7 Q If you submitted an article to a peer-reviewed                  8 journal and it included a sentence saying "while it is                  9 outside my expertise, my understanding is that," you                  10 know, and then the sentence continued, do you think 12:01:48                  11 that type of statement would be accepted in a                  12 peer-reviewed article?                  13 A It would need to be taken in the context of                  14 the type of article. And some reviewers would find it                  15 acceptable because -- acknowledging what I don't know, 12:02:06                  16 and others would say perhaps not.                  17 Q Do you think that your expert report in this                  18 case should be held to the same standards that a                  19 peer-reviewed article would be held to?                  20 MR. FRAMPTON: Objection; form, scope. 12:02:21                  21 THE WITNESS: No, this is not held in the same                  22 standards of a peer-reviewed article.                  23 BY MR. BLOCK:                  24 Q Why not?                  25 A This is written for a different audience. 12:02:31                  Page 134</p>	<p>1 BY MR. BLOCK:                  2 Q Yeah, but that wasn't my question.                  3 Can you answer my question, please?                  4 A Can you restate my your question, please?                  5 MR. BLOCK: Could the reporter read back my 12:03:50                  6 question?                  7 THE REPORTER: Yes.                  8 (Record read.)                  9 MR. FRAMPTON: Objection; form and scope.                  10 THE WITNESS: Generally, in a peer-reviewed 12:04:16                  11 article, you are not providing opinions; you are                  12 summarizing literature. And that's primarily what I've                  13 done here, is summarize literature.                  14 BY MR. BLOCK:                  15 Q Do you think the accuracy of the -- of your 12:04:26                  16 summaries in an expert report should be held to the                  17 same standard as the accuracy of summaries in a                  18 peer-reviewed article?                  19 MR. FRAMPTON: Objection; form and scope.                  20 THE WITNESS: The information needs to be 12:04:43                  21 correct, accurate, truthful.                  22 MR. BLOCK: Can you read back my question,                  23 Reporter?                  24 (Record read.)                  25 MR. FRAMPTON: Objection; form and scope. 12:05:06                  Page 136</p>
<p>1 Q So why -- why should it not be held to the                  2 same standards?                  3 MR. FRAMPTON: Objection; form and scope.                  4 THE WITNESS: Once again, this is written for                  5 a different audience. This is not written for the 12:02:48                  6 other experts in the field. This is written to provide                  7 information to policymakers and in a legal situation                  8 like this.                  9 BY MR. BLOCK:                  10 Q Well, but do you think that the -- regardless 12:02:58                  11 of the style in which something is written, do you                  12 think the same underlying rigor should be required for                  13 an expert report as a peer-reviewed article?                  14 MR. FRAMPTON: Objection; form and scope.                  15 THE WITNESS: No, an expert report is not 12:03:17                  16 going to be held to the same rigor as a peer-reviewed                  17 article.                  18 BY MR. BLOCK:                  19 Q Okay. So you -- do you think that the                  20 opinions expressed in an expert report don't have to be 12:03:27                  21 as reliable as the opinions expressed in a                  22 peer-reviewed article?                  23 MR. FRAMPTON: Objection; form and scope.                  24 THE WITNESS: The opinions in an expert report                  25 need to be accurate, they need to be correct. 12:03:43                  Page 135</p>	<p>1 THE WITNESS: I thought I answered that by                  2 saying it needs to be accurate and correct and                  3 truthful.                  4 BY MR. BLOCK:                  5 Q Can you answer the question? 12:05:13                  6 I -- I asked -- give me a "yes" or "no"                  7 answer, please.                  8 MR. FRAMPTON: Same objection.                  9 THE WITNESS: I don't know that this is really                  10 a yes-or-no question. 12:05:25                  11 BY MR. BLOCK:                  12 Q Are there different standards of accuracy for                  13 an expert report than for a peer-reviewed article?                  14 MR. FRAMPTON: Objection; form and scope.                  15 THE WITNESS: They both need to be accurate 12:05:45                  16 and correct. The writing style is so phenomenally                  17 different.                  18 BY MR. BLOCK:                  19 Q All right. But they -- but the accuracy needs                  20 to be the same; correct? 12:05:58                  21 MR. FRAMPTON: Same objection.                  22 THE WITNESS: Yes, they need to be accurate                  23 and correct.                  24 BY MR. BLOCK:                  25 Q Okay. Is it fair to say that you did not 12:06:03                  Page 137</p>

<p>1 approach the task of writing this report with the same                  2 analytical rigor that you would have approached the                  3 task of writing a peer-reviewed article?                  4 MR. FRAMPTON: Objection; form and scope.                  5 THE WITNESS: That would not be a correct 12:06:16                  6 statement.                  7 BY MR. BLOCK:                  8 Q Okay. Would you be comfortable submitting the                  9 opinions that you expressed in this report in a                  10 peer-reviewed article? 12:06:26                  11 A Yes, I would be comfortable submitting them in                  12 a peer-reviewed article.                  13 Q Okay. If we could go back to your report, to                  14 paragraph 111. So your report is Exhibit 64.                  15 A So paragraph 111 starts "Tack et al." 12:06:50                  16 Q Yes, it does.                  17 It says (as read):                  18 "Tack et al. (2018) observed that in                  19 21 transgender-identifying biological                  20 males, administration of antiandrogens 12:07:02                  21 for 5-31 months (commencing at 16.3 ±                  22 1.21 years of age)" --                  23 And then I think it says "age" again in                  24 parentheses. Or -- or is that just in my copy? I'm                  25 sorry. I -- this is the second time I've -- I've 12:07:17                  Page 138</p>	<p>1 article that you are referring to?                  2 A Yes, it is.                  3 Q Okay. Great.                  4 So do you think this article is relevant to                  5 the discussion about whether transgender girls who 12:08:53                  6 receive puberty blockers have an athletic advantage                  7 over cisgender girls?                  8 A Yes, I think it is relevant.                  9 Q Okay. Now, if you remember the conversation                  10 we had a few minutes ago, we agreed that puberty 12:09:06                  11 blockers referred to -- refers to GnRHa's; correct?                  12 A That is correct.                  13 Q Okay. Did any of the transgender girls in the                  14 study receive GnRHa's?                  15 A Not as I recall. 12:09:22                  16 Q In fact, the transgender girls in the study                  17 actually received a different type of hormone                  18 medication called progestins; isn't that right?                  19 A That is correct.                  20 Q So this isn't actually a study about puberty 12:09:43                  21 blockers, is it?                  22 MR. FRAMPTON: Objection; form.                  23 THE WITNESS: I never said this was a study                  24 about puberty blockers.                  25 ///                  Page 140</p>
<p>1 introduced an error into your words, so I will start                  2 that over again.                  3 (As read):                  4 "111. Tack et al. (2018) observed                  5 that in 21 transgender-identifying 12:07:31                  6 biological males, administration of                  7 antiandrogens for 5-31 months                  8 (commencing at 16.3 ± 1.21 years of                  9 age) resulted in nearly, but not                  10 completely, halting of normal 12:07:45                  11 age-related increases in muscle                  12 strength."                  13 Okay. Did I read that correctly?                  14 A Yes, you did.                  15 MR. BLOCK: All right. Sorry for the error 12:07:54                  16 the first time around.                  17 So I'm going to introduce an exhibit now.                  18 Okay. And so this exhibit, when it -- when it                  19 pops up in your folder, will be marked Exhibit 71.                  20 (Exhibit 71 was marked for identification 12:08:26                  21 by the court reporter and is attached hereto.)                  22 BY MR. BLOCK:                  23 Q Can you please let me know when you see it.                  24 A All right. Exhibit 71.                  25 Q All right. Is that -- is this the Tack 12:08:41                  Page 139</p>	<p>1 BY MR. BLOCK:                  2 Q Why did you include this paragraph in a                  3 discussion about the effects of puberty blockers?                  4 A Well, I clarified, in this paragraph, that                  5 they were using antiandrogens. Because as the authors 12:10:05                  6 have stated on page 2148 (as read):                  7 This will contribute to determining                  8 the place of GnRHa and progestins,                  9 respectively, in the pharmacological                  10 treatment of trans youth and to 12:10:20                  11 improving our knowledge on the                  12 long-term effects of these                  13 interventions, as has been suggested                  14 recently.                  15 And then they cite a source. 12:10:27                  16 Q So in paragraph 110 of your report, you begin                  17 a discussion about the effects of puberty blockers on                  18 athletic performance; correct?                  19 A Let me refer back to -- just to make sure                  20 we've got the right paragraph number there. 12:10:47                  21 Paragraph 110. Yes, that paragraph does bring                  22 up the idea of puberty suppression and puberty                  23 blockers.                  24 Q Okay. And then in paragraph 111, you discuss                  25 this article by Tack; correct? 12:11:22                  Page 141</p>

<p>1 A That is correct.</p> <p>2 Q And then in paragraph 112, you say (as read):</p> <p>3 "Klaver et al. (2018 at 256)</p> <p>4 demonstrated that the use of puberty</p> <p>5 blockers did not eliminate the 12:11:37</p> <p>6 differences in lean body mass between</p> <p>7 biological male and female teenagers."</p> <p>8 Correct?</p> <p>9 A That is correct.</p> <p>10 Q And then paragraph 113, again, begins with the 12:11:44</p> <p>11 words "the effects of puberty blockers"; isn't that</p> <p>12 right?</p> <p>13 A That is correct.</p> <p>14 Q Okay. So paragraph 110, 112 and 113 are all</p> <p>15 discussing the effects of puberty blockers; correct? 12:11:55</p> <p>16 A Yes.</p> <p>17 Q And -- but paragraph 111, which is in between</p> <p>18 110 and 112, is describing a study that does not</p> <p>19 involve puberty blockers; correct?</p> <p>20 MR. FRAMPTON: Objection; form. 12:12:15</p> <p>21 THE WITNESS: That's correct.</p> <p>22 BY MR. BLOCK:</p> <p>23 Q Do you think that someone reading your report</p> <p>24 could form the false impression that this article in</p> <p>25 fact discusses puberty blockers when in reality it 12:12:24</p> <p style="text-align: right;">Page 142</p>	<p>1 BY MR. BLOCK:</p> <p>2 Q So why does a paragraph in your report, in the</p> <p>3 middle of discussing puberty blockers, talk about</p> <p>4 antiandrogens at all?</p> <p>5 A Because, to the best of my knowledge, that is 12:13:43</p> <p>6 the only research that is out there on the effects of</p> <p>7 transgender hormone treatment in teenagers on muscle</p> <p>8 strength.</p> <p>9 Q I see. But wouldn't it be better to include</p> <p>10 that article in the subsequent sections of your report 12:14:01</p> <p>11 that discuss the effect of suppressing testosterone?</p> <p>12 MR. FRAMPTON: Objection; form.</p> <p>13 THE WITNESS: I think this is a matter of</p> <p>14 opinion. I think it fits well because this is focusing</p> <p>15 on transgender youth. 12:14:17</p> <p>16 BY MR. BLOCK:</p> <p>17 Q Oh, okay. So your -- your testimony is this</p> <p>18 section of the article is supposed to address the topic</p> <p>19 of transgender youth in general and not the topic of</p> <p>20 puberty suppression. Is that your testimony? 12:14:32</p> <p>21 A No. My testimony is this is about transgender</p> <p>22 youth, including puberty suppression, and what we know</p> <p>23 on the topic of transgender youth and how it would</p> <p>24 affect athletic performance.</p> <p>25 Q I see. Let's go to the beginning of this 12:14:49</p> <p style="text-align: right;">Page 144</p>
<p>1 doesn't?</p> <p>2 MR. FRAMPTON: Objection; form.</p> <p>3 THE WITNESS: If someone is reading it and</p> <p>4 pays attention to the statement of antiandrogens, they</p> <p>5 would know that those are not puberty blockers. 12:12:35</p> <p>6 BY MR. BLOCK:</p> <p>7 Q Do you -- I thought you said recently that</p> <p>8 this report is not meant for an audience of experts in</p> <p>9 the field; right?</p> <p>10 MR. FRAMPTON: Objection; form. 12:12:46</p> <p>11 THE WITNESS: That is correct.</p> <p>12 BY MR. BLOCK:</p> <p>13 Q Okay. So do you think a lay audience, not of</p> <p>14 experts in the field, would immediately understand that</p> <p>15 antiandrogens are different from puberty blockers in 12:12:58</p> <p>16 the context of this discussion?</p> <p>17 MR. FRAMPTON: Objection; form.</p> <p>18 THE WITNESS: So that's a difficult question</p> <p>19 for me to answer because as I read through it, I notice</p> <p>20 paragraph 110, puberty blockers, 112, -13, -14, all 12:13:13</p> <p>21 specifically state puberty blockers, 111 states</p> <p>22 antiandrogens. As I read that, as a critical thinker,</p> <p>23 I would then say, well, why does this say antiandrogens</p> <p>24 rather than puberty blockers and what -- learn the</p> <p>25 difference. 12:13:32</p> <p style="text-align: right;">Page 143</p>	<p>1 section, which is several pages up. It's a long</p> <p>2 section. But the section begins on page 28 of your</p> <p>3 report. 23 on the bottom pagination, 28 of the PDF.</p> <p>4 And paragraph 68.</p> <p>5 A All right. 12:15:28</p> <p>6 Q Okay. So beginning with paragraph 68, you are</p> <p>7 discussing -- oh, sorry. I -- can we just go a little</p> <p>8 further down, to subsection A? I skipped over it</p> <p>9 myself. So this is actually paragraph 71.</p> <p>10 A Okay. 12:15:55</p> <p>11 Q Thank you.</p> <p>12 So subsection A (as read):</p> <p>13 "Boys exhibit advantages in athletic</p> <p>14 performance even before puberty."</p> <p>15 Did I correctly read that that's the 12:16:04</p> <p>16 subsection?</p> <p>17 A Yes, that is correct.</p> <p>18 Q Okay. And then, you know, if you -- if you</p> <p>19 continue scrolling, you can take your time, it's a</p> <p>20 bunch of paragraphs on, you know, physiological 12:16:14</p> <p>21 characteristics before puberty, athletic performance</p> <p>22 before puberty; correct?</p> <p>23 A Yes.</p> <p>24 Q All right. And if you keep -- keep scrolling,</p> <p>25 I think all the way until we get to -- I -- I believe 12:16:31</p> <p style="text-align: right;">Page 145</p>

<p>1 it's paragraph 110.                  2 A Yes.                  3 Q All right. So for all these paragraphs until                  4 110, you've been discussing characteristics of boys                  5 before puberty; correct? 12:16:53                  6 A Yes. The athletic differences and                  7 physiological differences between biolo- -- between                  8 boys and girls before puberty.                  9 Q Okay. And then in paragraph 110, you say (as                  10 read): 12:17:03                  11 "For the most part, the data I review                  12 above relate to pre-pubertal children.                  13 Today, we also face the question of                  14 inclusion in female athletics of males                  15 who have undergone 'puberty 12:17:13                  16 suppression."                  17 Isn't that right?                  18 A Yes.                  19 Q Okay. So what connects paragraph 110 to                  20 everything that came before it, as I understand it, is 12:17:22                  21 that it's supposed to provide information on athletic                  22 performance and advantages of what you call biological                  23 males who have not experienced endogenous, typically                  24 male, puberty yet; correct?                  25 MR. FRAMPTON: Objection; form. 12:17:49                  Page 146</p>	<p>1 MR. FRAMPTON: Objection; form.                  2 THE WITNESS: So what you're saying is there's                  3 kind of a rough transition there?                  4 BY MR. BLOCK:                  5 Q Well, I -- I'm saying that -- I'm just asking 12:19:04                  6 why are they in the same subsection that discusses                  7 biological males before puberty?                  8 A Well, because the puberty blockers would halt                  9 puberty. That is the purpose of them.                  10 Q Exactly. So this then leads to my question of 12:19:24                  11 why do you then have a paragraph discussing                  12 antiandrogens administered, you know, near the end of                  13 puberty?                  14 MR. FRAMPTON: Objection; form.                  15 THE WITNESS: Because that is the only 12:19:42                  16 information we have on teenagers and how their gender                  17 treatment of hormones would be influenced.                  18 If you look at some of those previous tables                  19 and the tables in the appendix that go along with that,                  20 they go up to 17-year-old children. 12:19:57                  21 BY MR. BLOCK:                  22 Q Right. But the -- the subsection is talking                  23 ability prepubertal children; right?                  24 MR. FRAMPTON: Objection; form.                  25 THE WITNESS: That is the primary focus of 12:20:06                  Page 148</p>
<p>1 THE WITNESS: Yes, so if I understand what                  2 you're referring to there, there's a lot of paragraphs                  3 there about the differences between males and females                  4 before puberty.                  5 BY MR. BLOCK: 12:18:02                  6 Q Right. Okay.                  7 And so -- and what thematically connects that                  8 to puberty blockers is that -- the argument is that                  9 girls who are transgender and on puberty blockers never                  10 experience, typically, male puberty; correct? 12:18:15                  11 MR. FRAMPTON: Same objection. Objection to                  12 form.                  13 THE WITNESS: Can you state that again,                  14 please?                  15 BY MR. BLOCK: 12:18:25                  16 Q Yeah. So transgender girls on hormone                  17 blockers never experience, typically, male puberty if                  18 they begin the blockers at stage Tanner II; is that                  19 right?                  20 MR. FRAMPTON: Objection; form, scope. 12:18:39                  21 THE WITNESS: That is my understanding.                  22 BY MR. BLOCK:                  23 Q Okay. And so that's thematically what                  24 connects the discussion of prepubertal kids to the                  25 discussion of trans girls on puberty blockers; correct? 12:18:52                  Page 147</p>	<p>1 that subsection, yes.                  2 BY MR. BLOCK:                  3 Q Okay. And the -- the teenagers discussed in                  4 the Tack study are not prepubertal teenagers; correct?                  5 A That's correct. They are mid-prepubertal. 12:20:26                  6 Q All right. Well, now let's look at                  7 paragraph 112 of your report which discusses a 2018                  8 study by Klaver.                  9 Is that your understanding of how to pronounce                  10 the name Klaver? 12:20:41                  11 A Yes, that is my understanding of how to                  12 pronounce the name. Thanks for asking.                  13 MR. BLOCK: Okay. Great. And please feel                  14 free to correct me if I pronounce anyone else's name                  15 incorrectly. 12:20:54                  16 All right. I'm going to introduce an exhibit.                  17 This exhibit, when it appears on your screen, is going                  18 to be marked as Exhibit 72.                  19 (Exhibit 72 was marked for identification                  20 by the court reporter and is attached hereto.) 12:21:14                  21 BY MR. BLOCK:                  22 Q Please let me know when it's visible.                  23 A Exhibit 072 - Klaver - Early Hormonal                  24 Treatment...                  25 Q Right. And is this the article that you're 12:21:28                  Page 149</p>

<p>1 referring -- that you are referring to in                  2 paragraph 112?                  3 A I think so. Without double-checking between                  4 my references cited, I -- I think this is the same                  5 article. 12:21:46                  6 Q Okay. Is it your understanding that the                  7 people in this study received puberty blockers at the                  8 beginning of Tanner II?                  9 A As I recall, they received puberty blockers,                  10 and I cannot recall the Tanner stage. I remember it 12:22:06                  11 giving the ages.                  12 Q Okay. What -- what age?                  13 A Average age of fourteen and a half, if I                  14 remember correctly.                  15 Q Okay. And is fourteen and a half typically 12:22:15                  16 the beginning of Tanner stage II?                  17 A Not typically.                  18 Q Okay. So if you go to page 254 of the Klaver                  19 study --                  20 A 2-5-4, yes. 12:22:37                  21 Q All right. 2-5-4.                  22 And if you look at the column that says                  23 "Transwomen," it says (as read):                  24 "Age at start of GnRH<sub>a</sub>, 14.5 ± 1.8."                  25 Is that right? 12:22:59</p> <p style="text-align: right;">Page 150</p>	<p>1 which -- let me pull it up directly so I don't misread                  2 it again.                  3 Paragraph 112 of your report, the first                  4 sentence you say (as read):                  5 "Klaver et al. (2018 at 256) 12:24:29                  6 demonstrated that the use of puberty                  7 blockers did not eliminate the                  8 differences in lean body mass between                  9 biological male and female teenagers."                  10 Did I read that right? 12:24:40                  11 A I'm still getting to 112, sorry.                  12 That -- that -- that sounds correct, but I'm                  13 not --                  14 Q Right.                  15 A -- there to verify. 12:24:49                  16 All right. Now I'm at 112.                  17 Q Okay. I'll read it again. (As read):                  18 "Klaver et al. (2018 at 256)                  19 demonstrated that the use of puberty                  20 blockers did not eliminate the 12:25:03                  21 differences in lean body mass between                  22 biological male and female teenagers."                  23 Did I read that sentence right?                  24 A Yes.                  25 Q Okay. And then it says (as read): 12:25:09</p> <p style="text-align: right;">Page 152</p>
<p>1 A Yes.                  2 Q Okay. And so accord- -- so with those                  3 figures, that means that the earliest that any of the                  4 trans girls in the study received puberty blockers was                  5 at age 12.7; correct? 12:23:14                  6 A Do you want me to take the time to do the math                  7 on that?                  8 Q Well, 14.5 minus 1.8 is 12.7, but --                  9 A So that's only one standard deviation. That                  10 only accounts for, basically, a third of the 12:23:37                  11 individuals below and above that age. So take out                  12 another 1.8 to get two standard deviations away.                  13 Q Got it.                  14 A And you take they way that 1.8 again to                  15 encompass the whole 99.99 percent. 12:23:50                  16 Q Oh, okay. So what's your understanding of the                  17 youngest age at which someone -- the girls in the study                  18 receive puberty blockers, just -- if you can do it                  19 or -- without --                  20 A Just eyeball it. I'll say 10.7. 12:24:04                  21 Q Okay. Thank you.                  22 But the average age is 14.5; right?                  23 A That is the average age, yes.                  24 Q Okay. Great.                  25 Now, you see in paragraph 112 of your report, 12:24:14</p> <p style="text-align: right;">Page 151</p>	<p>1 "Subsequent use of puberty blockers                  2 combined with cross-sex hormone use                  3 (in the same subjects) still did not                  4 eliminate the differences in lean body                  5 mass between biological male and 12:25:19                  6 female teenagers."                  7 Is that right?                  8 A Yes.                  9 Q Okay. Great.                  10 Did Klaver report any findings on percentage 12:25:26                  11 of body fat?                  12 A Let me look.                  13 Yes.                  14 Q And -- and what were the findings on -- on                  15 body fat? 12:25:45                  16 A Just looking at it to make sure I'm reading                  17 these correctly.                  18 So it gives -- this is table -- or, sorry,                  19 figure 2. At the top of figure 2, there is percent                  20 body fat presented. 12:26:08                  21 Q Yep. And the first part of that graph,                  22 page 256, table 2, shows the percent body fat of the                  23 trans women being virtually the same as the body fat of                  24 the cis women; correct?                  25 A Sorry, how do you zoom on this Exhibit Share? 12:26:26</p> <p style="text-align: right;">Page 153</p>

<p>1 It's a tiny graph on my screen.                  2 MS. DUPHILY: If you take your mouse on to the                  3 bottom and push, you should be able to see a plus and a                  4 minus to make it look bigger.                  5 THE WITNESS: Okay. Ah, there we are. 12:26:47                  6 All right. Sorry, it's taking me a minute to                  7 zoom in on that.                  8 MR. BLOCK: Sure thing.                  9 THE WITNESS: Okay. So to make sure we're                  10 looking at the same figure, the trans women are shown 12:27:05                  11 in the solid line, the trans men are shown in the light                  12 gray line, the cis men are shown in the dotted line,                  13 and the cis women are shown in the hash line; correct?                  14 BY MR. BLOCK:                  15 Q Correct. 12:27:19                  16 A Okay. So the percent body fat in the trans                  17 women and the percent body fat in the cis women, the                  18 lines overlap at the part indicated as "Start CHT."                  19 Q Okay. So that indicates that by the time the                  20 trans women in the study had begun CHT, their 12:27:42                  21 percentages of body fat overlapped with the percentages                  22 of body fat for cis women; right?                  23 A That is correct.                  24 Q Okay. And is body fat -- percentage of body                  25 fat a factor in athletic advantage? 12:28:01                  Page 154</p>	<p>1 THE WITNESS: I don't recall where I specified                  2 which is more or least important in --                  3 MR. BLOCK: Okay.                  4 THE WITNESS: -- in regards to body                  5 composition. 12:29:23                  6 BY MR. BLOCK:                  7 Q Okay. You have a whole section in your report                  8 on the subject of body fat percentage; correct?                  9 A Again, I would have to look to see if it's a                  10 whole section, if we're talking about a couple 12:29:38                  11 paragraphs, a couple of pages or whatnot, but, yes, I                  12 talk about body composition.                  13 Q Okay. And you don't cite this study when you                  14 discuss body composition related to fat; correct?                  15 A So I'm -- you're saying that I'm not citing 12:29:51                  16 Klaver in my previous discussions of body composition                  17 as a determinant of athletic performance?                  18 Q In your discussion of the role of body fat in                  19 the -- as a determinant of athletic performance, you                  20 never cite to the findings of this Klaver article; 12:30:09                  21 correct?                  22 A I -- I don't think so. I think these are the                  23 only paragraphs where I cite the Klaver articles, and                  24 we're talking specifically about with the puberty                  25 blockers. 12:30:23                  Page 156</p>
<p>1 A Yes, it is. Having excess body fat is                  2 considered a disadvantage.                  3 Q Okay. So why didn't you mention this finding                  4 in your summary of the Klaver study?                  5 A Because I mentioned the next part of the 12:28:16                  6 figure demonstrating that there was not elimination of                  7 the difference in lean body mass.                  8 Q No, I understand that, but why did you just                  9 report on the lean body mass and not the body fat                  10 finding? 12:28:31                  11 MR. FRAMPTON: Objection; form.                  12 THE WITNESS: Because lean body mass is a more                  13 important determinant of athletic performance.                  14 BY MR. BLOCK:                  15 Q I see. Does your report ever say that lean 12:28:45                  16 body mass is a more important determinant?                  17 MR. FRAMPTON: Objection; form.                  18 THE WITNESS: I have stated multiple times in                  19 there that lean body mass is a determinant of athletic                  20 performance, and I've stated that -- and I have stated 12:29:02                  21 that excess body fat is a disadvantage.                  22 BY MR. BLOCK:                  23 Q Okay. But my question is, do you state that                  24 lean body mass is a more important determinant?                  25 MR. FRAMPTON: Objection; form. 12:29:19                  Page 155</p>	<p>1 Q I see. So -- but you -- you cite a finding of                  2 the Klaver article that you think is -- supports your                  3 view, but you don't cite a finding of the Klaver                  4 article that cuts against your view. Is that a fair                  5 statement? 12:30:41                  6 MR. FRAMPTON: Objection; form.                  7 THE WITNESS: Yes, I would say that it's fair                  8 to say that I don't cite Klaver on the differences in                  9 percent body fat.                  10 BY MR. BLOCK: 12:30:55                  11 Q Okay. So you testified earlier that you think                  12 that an expert report needs to be held to the same                  13 standards of accuracy as a peer-reviewed article;                  14 right?                  15 A Yes, that is correct. 12:31:06                  16 MR. FRAMPTON: Objection --                  17 THE WITNESS: Oh, sorry.                  18 BY MR. BLOCK:                  19 Q So do -- do you think your -- your paragraph                  20 about Klaver is an accurate summary of the article in 12:31:14                  21 its entirety?                  22 MR. FRAMPTON: Objection; form.                  23 THE WITNESS: The paragraph is not intended to                  24 be a summary of the article in its entirety.                  25 ///                  Page 157</p>

<p>1 BY MR. BLOCK:                  2 Q Okay. The paragraph is -- is just intended to                  3 pick out the portions of the article that support your                  4 argument; is that right?                  5 MR. FRAMPTON: Objection; form. 12:31:33                  6 THE WITNESS: The paragraph is intended to                  7 demonstrate that biological males retain athletic                  8 advantages.                  9 BY MR. BLOCK:                  10 Q Well, the -- the article doesn't say anything 12:31:44                  11 about athletic advantages; correct?                  12 A I do not recall that the article uses the word                  13 "athletic advantages."                  14 Q All right. If you go to -- if you look at                  15 page 255 of the Klaver article. So I think that's, 12:32:02                  16 like, one page before the -- the -- where we were                  17 looking.                  18 A You're looking at table 2?                  19 Q No. I'm -- I am just looking at the -- the --                  20 the text of it. 12:32:25                  21 A Okay.                  22 Q If you look at the first full sentence in the                  23 text that begins with "As a result."                  24 A Okay.                  25 Q Do you see that? 12:32:45</p> <p style="text-align: right;">Page 158</p>	<p>1 THE VIDEOGRAPHER: We are on the record at                  2 12:38 p.m.                  3 MR. BLOCK: Okay. Great.                  4 BY MR. BLOCK:                  5 Q I'd like to move on from the topic of puberty 12:38:43                  6 blockers and ask a few questions about trans women who                  7 suppress circulating levels of testosterone after                  8 puberty.                  9 Can we turn to page 56 of your report?                  10 A Come on. Waiting for it to load. 12:39:04                  11 All right. So page 56 by the page numbers;                  12 correct?                  13 Q Correct.                  14 A All right. I'm there.                  15 Q Great. So if you go to the third bullet 12:39:27                  16 point, you say (as read):                  17 "The administration of androgen                  18 inhibitors and cross-sex hormones to                  19 men or adolescent boys after the onset                  20 of male puberty does not eliminate the 12:39:40                  21 performance advantage that men and                  22 adolescent boys have over women and                  23 adolescent girls in almost all                  24 athletic events."                  25 Did I read that right? 12:39:50</p> <p style="text-align: right;">Page 160</p>
<p>1 A Yes, I do.                  2 Q All right. It says (as read):                  3 "As a result of these changes, in                  4 young adult transwomen at age 22" --                  5 Excuse me. (As read): 12:32:56                  6 "As a result of these changes, in                  7 young adult transwomen at 22 years of                  8 age, SDS for WHR, body fat, and LBM                  9 showed greater similarity to ciswomen                  10 than to cismen." 12:33:08                  11 Did I read that correctly?                  12 A Yes, you read that correctly.                  13 Q Okay. And do you mention that finding in your                  14 report?                  15 A I do not think I quote that in my report. 12:33:17                  16 Q Okay. All right.                  17 MR. BLOCK: It's 1:30 -- can we go off the                  18 record?                  19 THE WITNESS: Is that okay with you going off                  20 the record? 12:33:41                  21 MS. DUPHILY: Kimberlee, are you there?                  22 THE WITNESS: Nope.                  23 MS. DUPHILY: We're going off the record at                  24 approximately 1:32 p.m. [Sic]                  25 (Recess.) 12:38:29</p> <p style="text-align: right;">Page 159</p>	<p>1 A Yes, you did.                  2 Q Okay. Great.                  3 Have you read the expert reports that -- the                  4 expert reports that Dr. Safer submitted in this case?                  5 A Yes, I read the reports by Dr. Safer. 12:40:00                  6 Q All right. You read both the initial and the                  7 rebuttal reports?                  8 A Yes.                  9 Q Okay. Isn't it fair to say that the effects                  10 of male to female hormone treatment on important 12:40:10                  11 determinants of athletic performance still remain                  12 largely unknown?                  13 MR. FRAMPTON: Object to form.                  14 THE WITNESS: Sorry, I blanked out there for a                  15 second after the objection. 12:40:28                  16 There are still a lot of questions. There are                  17 still a lot of questions.                  18 MR. BLOCK: Okay. So I'd like to show you                  19 another exhibit. And we have to mark it as such.                  20 All right. This is going to hopefully appear 12:41:08                  21 on your screen as Exhibit 73.                  22 (Exhibit 73 was marked for identification                  23 by the court reporter and is attached hereto.)                  24 BY MR. BLOCK:                  25 Q Can you let me know when -- when you see it? 12:41:18</p> <p style="text-align: right;">Page 161</p>

<p>1 A All right. Exhibit 073 - Brown Blog Post.                  2 Q Yes. Do you recognize what this document is?                  3 A Yes.                  4 Q What is it?                  5 A That is my blog post for the Physiology 12:41:38                  6 Educators Community of Practice about The Olympics,                  7 sex, and gender in the physiology classroom.                  8 Q Okay. What -- what is the Physi- --                  9 Physiology Educators Community of Practice blog?                  10 A So this is a blog sponsored by the American 12:41:58                  11 Physiological Society and their -- specifically their                  12 educators' interest group -- it probably has a                  13 different name than that, but that's what it is -- just                  14 sharing information for other teachers in physiology,                  15 typically geared towards college-level educators. 12:42:16                  16 Q And is there a submission process?                  17 A Yes, there is.                  18 Q What -- what is that submission process?                  19 A Well, you have to contact the person that runs                  20 the blog post and say you are interested. They connect 12:42:33                  21 you, then, to the editor for Advances in Physiology                  22 Education who then asks what you would like to blog on                  23 and lets you know of available times, and then once you                  24 agree on that, you'll submit it. And then, once again,                  25 the editor reviews it, someone else associated also 12:42:55                  Page 162</p>	<p>1 got during the revision process?                  2 A The feedback was very positive, and I was told                  3 that this is an extremely important topic that needs to                  4 be presented. And I really think the feedback was                  5 relevant to the -- the -- the graph that I had in there 12:44:41                  6 to ensure that I had appropriate copyright permission                  7 or whatever permission to have that reproduced.                  8 Q Okay. Great.                  9 This blog post doesn't discuss prepubertal                  10 children; right? 12:44:57                  11 A Sorry, I'm just reviewing it to see.                  12 I don't recall that it discusses prepubertal                  13 children.                  14 Q And the blog also doesn't discuss trans girls                  15 and women who received puberty blockers and never went 12:45:25                  16 through endogenous puberty; right?                  17 MR. FRAMPTON: Objection to the form.                  18 THE WITNESS: I don't recall discussing that                  19 in there, and I'm not seeing it, as I look at the blog                  20 post. 12:45:43                  21 BY MR. BLOCK:                  22 Q Okay. So if you can just go to page 2, and if                  23 you go to the first full paragraph on page 2, beginning                  24 with the -- the second sentence, do you --                  25 A Yes. 12:46:04                  Page 164</p>
<p>1 reviews it prior to being put up on the web.                  2 Q Okay. And so did you reach out with your                  3 interest in -- in submitting something?                  4 A Yes, I did.                  5 Q You weren't invited to submit something; 12:43:13                  6 correct?                  7 A I did receive an in- -- an e-mail inviting to                  8 submit to the Peacock blog, and I e-mailed back and                  9 said, yes, I'm interested.                  10 Q And did -- were you invited to submit 12:43:27                  11 something on the topic of transgender women                  12 participating in sports?                  13 A The invitation was not specific on what I                  14 was -- would be blogging on.                  15 Q And was it an invitation to you individually, 12:43:43                  16 or was it an invitation to a larger group?                  17 A I think both, honestly. There is an                  18 invitation that goes out, periodically, to the larger                  19 group of published a paper in Advances in Physiology                  20 Education and received an invitation to me. 12:44:03                  21 Q Okay. And so did this blog go through a                  22 revision process after you first submitted it?                  23 A There was one round of revisions, if I                  24 remember correctly.                  25 Q Okay. And do you remember what feedback you 12:44:23                  Page 163</p>	<p>1 Q -- see that?                  2 A Yes, I do.                  3 Q Okay. So the second sentence there says (as                  4 read):                  5 "It is also important to note that the 12:46:18                  6 effects of male-to-female hormone                  7 treatment on the important                  8 determinants of athletic performance                  9 remain largely unknown."                  10 Did I read that right? 12:46:26                  11 A Yes, you did.                  12 Q Okay. Do you still agree with that statement?                  13 A Yes, I still agree with that statement.                  14 Q And so you think it's important to note that                  15 the effects remain largely unknown; correct? 12:46:36                  16 MR. FRAMPTON: Objection; form.                  17 THE WITNESS: Yes. Prior to allowing                  18 biological males to compete in female sports, we should                  19 have a better understanding of how that process would                  20 influence competition. 12:46:52                  21 BY MR. BLOCK:                  22 Q Okay. So in your expert report, do you ever                  23 note that the effects of male to female hormone                  24 treatment on important determinants of athletic                  25 performance advantage remain largely unknown? 12:47:05                  Page 165</p>



<p>1 A I could look and see, but I think I say --                  2 state something in my conclusion where there are still                  3 a lot of variables that have not been measured.                  4 BY MR. BLOCK:                  5 Q Okay. In this paragraph that I was reading 12:47:20                  6 from, I'm just going to go into the next one. It says                  7 (as read):                  8 "Measurements of VO2max in transwomen                  9 using direct or indirect calorimetry                  10 are not available." 12:47:35                  11 Did I read that right, even if I didn't                  12 pronounce it correctly?                  13 A Yes.                  14 Q Okay.                  15 A "Calorimetry" is how I say it because it kind 12:47:41                  16 of flows when you say it fast.                  17 Q Okay. That makes sense.                  18 Do you ever note in your expert report that                  19 measurements of VO2 max in trans women using direct or                  20 indirect calorimetry are not available? 12:47:59                  21 A Once again, I would need to refer back to my                  22 report in the conclusions to see if I had included that                  23 in there.                  24 Q Do you think it would make sense to have                  25 included that in there? 12:48:16                  Page 166</p>	<p>1 A Correct.                  2 Q All right. Then on 40, there's a subsection                  3 that says, "Hand Grip Strength."                  4 A Okay.                  5 Q Okay. And if you -- apologies. You know, 12:49:38                  6 I -- I should have directed you to page 46,                  7 subsection B of that. So if you can just skip ahead to                  8 46.                  9 A Okay. Page 46.                  10 Q Great. Thank you. 12:50:00                  11 So subsection B says (as read):                  12 "Testosterone suppression does not                  13 reverse important male physiological                  14 advantages."                  15 Right? 12:50:09                  16 A Yes.                  17 Q Okay. And then if you turn the page, on 47,                  18 at the -- page 47, at the bottom, there's a little                  19 discussion on cardiovascular advantages; right?                  20 A Yes. 12:50:20                  21 Q All right. And where would VO2 -- where would                  22 the discussion of VO2 max go? Would that be in the                  23 "Cardiovascular Advantage" section or in a different                  24 subsection of this discussion?                  25 MR. FRAMPTON: Object to the form. 12:50:40                  Page 168</p>
<p>1 MR. FRAMPTON: Objection; form.                  2 THE WITNESS: Yes, I think it would make sense                  3 to include that in there, but it also -- like I said, I                  4 cannot recall if I did or did not.                  5 BY MR. BLOCK: 12:48:33                  6 Q Okay. Well, let's -- well, let's look at your                  7 report on -- so if you begin on page 39 of your report.                  8 A All right.                  9 Q All right. So this is -- Roman numeral V says                  10 (as read): 12:49:04                  11 "The available evidence shows that                  12 suppression of testosterone in a male                  13 after puberty has occurred does not                  14 substantially eliminate the male                  15 athletic advantage." 12:49:14                  16 Right? That -- that's what section Roman                  17 numeral V says; correct?                  18 A That is correct.                  19 Q Okay. And then subsection A on that page                  20 talks about (as read): 12:49:25                  21 "Empirical studies find that males                  22 retain a strong performance advantage                  23 even after lengthy testosterone                  24 suppression."                  25 Correct? 12:49:31                  Page 167</p>	<p>1 THE WITNESS: It would probably belong in the                  2 cardiovascular advantages.                  3 BY MR. BLOCK:                  4 Q Okay. So do you see, just in this subsection,                  5 a discussion of the fact that measurements of VO2 max in 12:50:51                  6 trans women using direct or indirect calorimetry are                  7 not available?                  8 A I have not directly made that statement.                  9 Q Okay. And if -- toggling back over to -- to                  10 Exhibit 73, your blog post, after that statement I just 12:51:17                  11 read, you say (as read):                  12 "Measurements of muscle strength in                  13 standard lifts (e.g. bench press, leg                  14 press, squat, deadlift, etc.) in                  15 transwomen are not available." 12:51:29                  16 Is that correct?                  17 A That is correct.                  18 Q All right. Do you disclose that information                  19 in your expert report?                  20 MR. FRAMPTON: Objection to the form. 12:51:39                  21 THE WITNESS: In my expert report, I talk                  22 about the measurements of strength that have been                  23 conducted.                  24 BY MR. BLOCK:                  25 Q But you do not discuss the measurements of 12:51:52                  Page 169</p>

<p>1 strength that have not been conducted; correct?                  2 MR. FRAMPTON: Objection to the form.                  3 THE WITNESS: I'm scrolling up to see if I                  4 have some statement in there about, you know, specific                  5 measurements. 12:52:13                  6 Here again, no, I do not specifically state                  7 that those measurements have not been conducted.                  8 BY MR. BLOCK:                  9 Q Okay. And then in the next sentence of the                  10 blog post, you say (as read): 12:52:27                  11 "Nor have there been evaluations of                  12 the effects of male-to-female hormone                  13 therapy on agility, flexibility, or                  14 reaction time."                  15 Is that right? 12:52:37                  16 A That is correct.                  17 Q Okay. And you do not, in your report, say                  18 anything about whether -- about the effects of hormone                  19 therapy on agility, flexibility or reaction time, do                  20 you? 12:52:55                  21 MR. FRAMPTON: Objection to the form.                  22 THE WITNESS: On page 39, I state that only a                  23 limited number of studies have directly measured the                  24 effect of testosterone suppression and the                  25 administration of female hormones on the athletic 12:53:05                  Page 170</p>	<p>1 "And there are only anecdotal reports                  2 of the competitive athletic                  3 performance of transwomen before and                  4 after using male-to-female hormone                  5 treatment." 12:54:20                  6 Is that right?                  7 A That is correct.                  8 Q Okay. So it's fair to say that when you                  9 discuss Cecé Telfer in your report, that's an example                  10 of one of the anecdotal reports you refer to in this 12:54:31                  11 sentence; correct?                  12 A That's correct.                  13 Q Okay. So the discussion of Cecé Telfer and                  14 Lia Thomas and Andraya Yearwood and Terry Miller, those                  15 are, to use your words from the blog post, quote, only 12:54:56                  16 anecdotal reports; correct?                  17 MR. FRAMPTON: Objection to the form.                  18 Go ahead.                  19 THE WITNESS: If I may state, in my                  20 declaration, I do cite a prepublished study by 12:55:12                  21 Michael Joyner that is evaluating -- or, sorry,                  22 Senefeld and Joyner that is evaluating Lia Thomas.                  23 But yes, those -- those would primarily be                  24 anecdotal reports.                  25 ///                  Page 172</p>
<p>1 performance of males. And so then I go through those                  2 studies which, you know, by default, then says those                  3 other things have not been studied.                  4 BY MR. BLOCK:                  5 Q Okay. But you do discuss agility, flexibility 12:53:18                  6 and reaction time when you're discussing the advantages                  7 of cisgender men over cisgender women; right?                  8 A Yes.                  9 Q Okay. But then you don't have -- well, let me                  10 just read the next part of the -- the blog post. (As 12:53:39                  11 read):                  12 "There has been no controlled research                  13 evaluating how male-to-female hormone                  14 treatment influences the adaptations                  15 to aerobic or resistance training." 12:53:50                  16 Is that correct?                  17 A That is correct.                  18 Q And again, that's not something you mention in                  19 your report; correct?                  20 MR. FRAMPTON: Objection to the form. 12:54:01                  21 THE WITNESS: It is indirectly stated with my                  22 statement about limited number of studies.                  23 BY MR. BLOCK:                  24 Q Okay. And then the final sentence in that                  25 paragraph is (as read): 12:54:10                  Page 171</p>	<p>1 BY MR. BLOCK:                  2 Q Okay. If you go to the second sentence in the                  3 final paragraph, you say, (as read):                  4 In the end, whether it is safe and                  5 fair to include transgender athletes 12:55:46                  6 and athletes with DSD in women's                  7 sports comes down to a -- to a few                  8 facts that can be extrapolated, lots                  9 of opinions, and an interesting but                  10 complicated discussion. 12:55:57                  11 Did I read that right?                  12 A I'm sorry, where were you reading that from?                  13 Q Yeah, it's the -- it's the second sentence in                  14 the last paragraph of your blog post.                  15 A Okay. There. 12:56:12                  16 Q Okay. I'll read it again. (As read):                  17 In the end, whether it is safe and                  18 fair to include transgender athletes                  19 and athletes with DSD in women's                  20 sports comes down to a few facts that 12:56:21                  21 can be extrapolated, lots of opinions,                  22 and an interesting but complicated                  23 discussion.                  24 Is that right?                  25 A That is correct. 12:56:31                  Page 173</p>

<p>1 Q And you still agree with that statement?                  2 A Yes.                  3 Q Okay. What do you -- what do you mean by                  4 "interesting but complicated discussion"?                  5 A Well, as I was writing this for fellow 12:56:43                  6 educators, this could be a very complicated discussion                  7 because of -- this could be a very heated topic.                  8 Q Okay. So when you say that there -- "a few                  9 facts that can be extrapolated, lots of opinions, and                  10 an interesting but complicated discussion," were you 12:57:09                  11 referring at all to the underlying substance being                  12 interesting but complicated?                  13 MR. FRAMPTON: Objection to the form.                  14 THE WITNESS: Yeah, I'm not sure what you mean                  15 by "underlying substance." 12:57:25                  16 BY MR. BLOCK:                  17 Q Yeah, is the discussion of whether -- aside                  18 from something being heated, is -- is the -- this topic                  19 complicated?                  20 MR. FRAMPTON: Objection to the form. 12:57:40                  21 THE WITNESS: Yes, this is a complicated                  22 topic.                  23 BY MR. BLOCK:                  24 Q Okay. So if we go to your report again --                  25 let's see -- on page 57 of your report. 12:57:57                  Page 174</p>	<p>1 for transgender inclusion while                  2 calling for fair competition and                  3 safety.                  4 But what we currently know tells us                  5 that these policy goals—fairness, 12:59:28                  6 safety, and full transgender                  7 inclusion—are irreconcilable for many                  8 or most sports.                  9 Did I read those sentences correctly?                  10 A Yes, you did. 12:59:40                  11 Q Okay. How come -- why, in your blog post, did                  12 you not say that the goals of fairness, safety and full                  13 transgender inclusion are irreconcilable?                  14 MR. FRAMPTON: Objection to the form.                  15 THE WITNESS: The purpose of the blog post was 12:59:58                  16 to stimulate discussions in classroom while providing a                  17 little bit of guidance, but not advocate for a specific                  18 position within a classroom.                  19 BY MR. BLOCK:                  20 Q Why didn't you say in your expert report that 01:00:13                  21 whether it is safe and fair to include transgender                  22 athletes and athletes with DSD in women's sports comes                  23 down to a few facts that can be extrapolated, lots of                  24 opinions, in an interesting but complicated discuss?                  25 MR. FRAMPTON: Objection to the form. 01:00:28                  Page 176</p>
<p>1 A All right. Page 57.                  2 Q So if you look just at the paragraph beginning                  3 with the word "but."                  4 A Okay. All right.                  5 Q All right. You say -- you know, actually, 12:58:32                  6 instead, let's go a few sentences above that, so in the                  7 middle of the previous paragraph beginning with -- the                  8 sentence beginning with "instead."                  9 Do you see that?                  10 A I'm sorry, which -- 12:58:49                  11 Q So this is about five -- five lines from the                  12 top.                  13 A Okay. Yes. It says, "Instead, the IOC"?                  14 Q Yeah. So this says --                  15 A Okay. 12:58:58                  16 Q -- (as read):                  17 Instead, the IOC calls on other                  18 sporting bodies to define criteria for                  19 transgender inclusion, while demanding                  20 that such criteria simultaneously 12:59:05                  21 ensure fairness, safety, and inclusion                  22 for all. The recent -- recently                  23 updated NCAA policy on transgender                  24 participation also relies on other                  25 sporting bodies to establish criteria 12:59:19                  Page 175</p>	<p>1 THE WITNESS: I think that a reasonable person                  2 would come to those conclusions after reading all --                  3 how many pages of my report?                  4 BY MR. BLOCK:                  5 Q Okay. So it's your expert testimony that 01:00:39                  6 whether it is safe and fair to include trans girls and                  7 women on girls and women's sports teams comes down to a                  8 few facts that can be extrapolated, lots of opinions                  9 and an interesting but complicated discussion?                  10 MR. FRAMPTON: Object to the form. 01:01:01                  11 THE WITNESS: Yes, I will stand by that                  12 statement in my blog post.                  13 MR. BLOCK: Okay. Great.                  14 So I'm going to now ask a few questions about                  15 your other, you know -- your other publication or 01:01:17                  16 submission on this topic. Let me just move it into the                  17 actual exhibits.                  18 Let's see. So I -- this is a PowerPoint                  19 document. It's going to marked as Exhibit 74, although                  20 I am not sure that it is actually going to work, 01:02:07                  21 showing up, so please let me know if it actually shows                  22 up for you.                  23 (Exhibit 74 was marked for identification                  24 by the court reporter and is attached hereto.)                  25 THE WITNESS: All right. I see Exhibit 074. 01:02:21                  Page 177</p>

1 MR. BLOCK: Okay. And I think we're going to  
 2 need some assistance in how -- how do we zoom in again,  
 3 Concierge?  
 4 MS. DUPHILY: You just hold your mouse over  
 5 the bottom of the image, and you'll see the positive 01:02:37  
 6 and negative-looking glasses at the bottom, and you  
 7 can -- there's a menu.  
 8 Do you see that?  
 9 MR. BLOCK: Mouse over the image?  
 10 MS. DUPHILY: You want to click on it when 01:02:54  
 11 you're --  
 12 MR. BLOCK: All right.  
 13 MS. DUPHILY: Did you do it?  
 14 MR. FRAMPTON: With the witness, we're not  
 15 getting that. 01:03:03  
 16 MS. DUPHILY: Hold on a minute. Let me see.  
 17 MR. TRYON: Yeah, this is Dave Tryon. I've  
 18 seen that on other exhibits, but this one, it's not  
 19 showing up for me.  
 20 MR. BLOCK: If you're able to download a 01:03:19  
 21 copy --  
 22 MS. DUPHILY: Yeah, you're probably better off  
 23 downloading this because it's a PowerPoint.  
 24 BY MR. BLOCK:  
 25 Q Have you been able to download it, Dr. Brown? 01:04:02  
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1 A It appears that my computer is trying to  
 2 update PowerPoint at this very moment.  
 3 Q Okay.  
 4 MR. BLOCK: So why don't we -- can we go off  
 5 the record, please? 01:04:12  
 6 MR. FRAMPTON: It looks like it's nearly --  
 7 THE VIDEOGRAPHER: We are off the record at  
 8 1:04 p.m.  
 9 (Recess.)  
 10 THE VIDEOGRAPHER: We are on the record at 01:05:37  
 11 1:05 p.m.  
 12 MR. BLOCK: Thanks.  
 13 BY MR. BLOCK:  
 14 Q So is this a presentation that you authored,  
 15 Dr. Brown? 01:05:51  
 16 A Yes, it is.  
 17 Q And the title of this presentation is  
 18 "Transwomen Competing in Women's Sports: What We Know,  
 19 and What We Don't"; is that right?  
 20 A That is correct. 01:06:01  
 21 Q Okay. And what conference did you submit this  
 22 presentation to?  
 23 A This was the American Physiological Society  
 24 Sex and Gender conference, if I remember the title  
 25 correctly. 01:06:18  
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1 Q Yeah. If I -- if I said it was called "The  
 2 New Trends in Sex and Gender Medicine" conference, does  
 3 that sound accurate to you?  
 4 A Yes.  
 5 Q Okay. And am I right that the conference took 01:06:28  
 6 place from October 19th to October 22nd?  
 7 A That sounds correct.  
 8 Q Okay. Did you attend any meetings or panel  
 9 discussions as part of this conference?  
 10 A So this was a virtual conference for everyone. 01:06:42  
 11 Q Uh-huh.  
 12 A And so, yes, I sat in on discussions and panel  
 13 discussions and presentations and such.  
 14 Q Okay. Did you sit in on the panel discussion  
 15 at this conference titled "New Trends in Transgender 01:07:05  
 16 Medicine"?  
 17 A I honestly can't remember if I sat in and  
 18 attended that or not.  
 19 Q Okay. You have no recollection one way or the  
 20 other? 01:07:18  
 21 A Yeah, I -- there was a lot of meetings, a lot  
 22 of presentations and a lot of discussions, so I can't  
 23 say exactly which ones I was in and which ones I was  
 24 not.  
 25 Q Do you think it would have been informative to 01:07:32  
 Page 180

1 attend that presentation?  
 2 A Yes.  
 3 MR. FRAMPTON: Objection to the form.  
 4 THE WITNESS: Sorry.  
 5 MR. FRAMPTON: Go ahead. 01:07:39  
 6 BY MR. BLOCK:  
 7 Q You can answer.  
 8 A Yes, it -- it would have been informative.  
 9 Q Okay. And do you think it would have been at  
 10 least as relevant to your research as Ben Shapiro? 01:07:49  
 11 MR. FRAMPTON: Object to the form.  
 12 THE WITNESS: It's possible that I had a  
 13 conflicting obligation that made it so I'm not able to  
 14 attend. Again, I know that I did with all of them, I  
 15 wasn't able to attend every single session I wanted 01:08:04  
 16 because of other obligations.  
 17 BY MR. BLOCK:  
 18 Q I see. But -- but my question is, would -- it  
 19 would be a more reliable source of information than  
 20 Ben Shapiro, was my question. 01:08:19  
 21 MR. FRAMPTON: Object to the form.  
 22 THE WITNESS: I guess that would depend on  
 23 what we're asking, Ben Shapiro is -- is speaking about  
 24 and where he is citing his sources versus what is being  
 25 discussed in that discussion. 01:08:37  
 Page 181

1 BY MR. BLOCK:  
 2 Q Okay. Now, would -- would this  
 3 presentation quali- -- would -- could this be  
 4 prescribed as a poster presentation?  
 5 A Yes. 01:08:51  
 6 Q Okay. Does your CV identify it as a poster  
 7 presentation?  
 8 A I don't think my CV discriminates on my  
 9 various academic presentations, as to what format they  
 10 were presented in. 01:09:06  
 11 Q Okay. So it's not your regular practice to  
 12 denote whether a presentation is specifically a poster  
 13 presentation?  
 14 A That is correct.  
 15 Q Okay. All right. What was the review process 01:09:13  
 16 for submitting this?  
 17 A So I -- I was encouraged by an editor from the  
 18 American Journal of Physiology to submit to this, after  
 19 having read my blog post. I submitted it, paid the  
 20 abstract submission fee, like any other professional 01:09:34  
 21 conference, and awaited for acceptance of the abstract.  
 22 Q And what -- were there edits to the abstract  
 23 sent back to you?  
 24 A No. They don't edit the abstracts.  
 25 Q Okay. All right. 01:09:47  
 Page 182

1 If you go to the bottom right-hand corner of  
 2 this presentation, there's a box titled "What we don't  
 3 know"; right?  
 4 A Correct.  
 5 Q Okay. And then -- and this box says, "What We 01:10:09  
 6 Don't Know," and then the first bullet is "No  
 7 controlled training studies with male-to-female hormone  
 8 use"; correct?  
 9 A Correct.  
 10 Q Okay. And -- and again, as we discussed 01:10:20  
 11 before, that -- that statement is not in your expert  
 12 report; right?  
 13 MR. FRAMPTON: Object to the form.  
 14 THE WITNESS: That statement is not verbatim  
 15 in my expert report. 01:10:36  
 16 BY MR. BLOCK:  
 17 Q And then the second bullet point is "No  
 18 measurements of changes in VO2max, running economy,  
 19 lactate threshold, anaerobic power (e.g. Wingate test),  
 20 vertical jump, 1-Repetition Maximum (e.g. bench press, 01:10:47  
 21 leg press, squat, deadlift), or many other common  
 22 determinants of athletic performance"; correct?  
 23 A That is correct.  
 24 Q And that information in that bullet point is  
 25 not included in your expert report; correct? 01:11:05  
 Page 183

1 MR. FRAMPTON: Object to the form.  
 2 THE WITNESS: Again, in my expert report, I  
 3 state that there is limited evaluation. I don't make  
 4 that statement exactly.  
 5 BY MR. BLOCK: 01:11:17  
 6 Q Okay. How come this poster presentation  
 7 doesn't say that the policy goals of fairness, safety  
 8 and full transgender inclusion are irreconcilable for  
 9 many or most sports?  
 10 MR. FRAMPTON: Object to the form. 01:11:28  
 11 THE WITNESS: This poster was put together and  
 12 presented before the recent IOC or NCAA adjustments,  
 13 stating that that was a requirement. And again, the  
 14 poster is summarizing the science of what we know and  
 15 what we do not know. 01:11:48  
 16 BY MR. BLOCK:  
 17 Q So would you feel comfortable making the  
 18 statement to a -- a peer-reviewed publication that the  
 19 policy goals of fairness, safety and full transgender  
 20 inclusion are irreconcilable? 01:12:05  
 21 A Yes, I would feel very comfortable saying that  
 22 in a peer-reviewed pol- -- publication or presentation.  
 23 Q Can you tell me your understanding of what  
 24 this case is about?  
 25 MR. FRAMPTON: Object to the form. 01:12:31  
 Page 184

1 Go ahead.  
 2 THE WITNESS: So the State of West Virginia,  
 3 like about currently 11 other states, if I recall,  
 4 passed a law to limit participation in women's sports  
 5 to biological women. 01:12:43  
 6 In this case, a young trans girl has retained  
 7 some lawyers and filed a lawsuit asking to be able to  
 8 participate in girls sports.  
 9 The judge has given an injunction specifically  
 10 for the plaintiff, but not halting the law overall. 01:13:05  
 11 BY MR. BLOCK:  
 12 Q And do you -- so the -- the plaintiff's name  
 13 is -- is Becky.  
 14 Do you oppo- -- do you think Becky should not  
 15 be allowed to participate on her middle school 01:13:23  
 16 cross-country team?  
 17 MR. FRAMPTON: Object to the form and scope.  
 18 THE WITNESS: So my understanding is the  
 19 plaintiff is biologically male, so a trans girl, who  
 20 wants to compete on girls sports. 01:13:39  
 21 BY MR. BLOCK:  
 22 Q Yes. And -- and so what's the answer to my  
 23 question?  
 24 A So --  
 25 MR. FRAMPTON: Same objections. 01:13:54  
 Page 185

<p>1 THE WITNESS: So if we were to follow the law,                  2 then the plaintiff should not be participating in                  3 girls' sports.                  4 BY MR. BLOCK:                  5 Q Yeah, but it's your -- is it your expert 01:14:01                  6 opinions that Becky should not be participating in the                  7 girls' cross-country team at her middle school?                  8 MR. FRAMPTON: Objection; form and scope.                  9 THE WITNESS: So my expert statement, expert                  10 declaration, is not meant to make judgments on an 01:14:17                  11 individual basis, but overall policy and law.                  12 BY MR. BLOCK:                  13 Q Okay. Well, so you -- you made a distinction                  14 between the fact that the injunction is -- applies only                  15 to Becky and not to the -- the statute on its face, and 01:14:31                  16 so I'm just trying to figure out whether your expert                  17 opinion is only about other applications of the statute                  18 to people beyond Becky or whether you are also offering                  19 expert testimony with respect to the specific issue of                  20 Becky's as-applied challenge. 01:14:51                  21 MR. FRAMPTON: Objection; form and scope.                  22 THE WITNESS: I've not made any statements                  23 that I'm aware of specific to an individual plaintiff                  24 in this case or -- I don't think in any of the cases.                  25 ///</p> <p style="text-align: right;">Page 186</p>	<p>1 cisgender girls; right?                  2 MR. FRAMPTON: Object to the form and scope.                  3 THE WITNESS: Based on the information I have                  4 read, the information cited in my expert report, if we                  5 are comparing the plaintiff to a similarly aged trained 01:16:34                  6 and gifted girl, the plaintiff, as a biological male,                  7 will have athletic advantages.                  8 BY MR. BLOCK:                  9 Q Well, that -- that raises questions for me.                  10 I -- I -- I guess my understanding of your 01:16:49                  11 report was that you were discussing average group-based                  12 differences between males and females; right?                  13 A If you look at my --                  14 MR. FRAMPTON: Objection; form.                  15 Go ahead. 01:17:01                  16 THE WITNESS: If you look at my report, I -- I                  17 provide information on individuals in the 10th                  18 percentile, individuals in the 50th percentile,                  19 individuals in the 90th percentile, and state multiple                  20 times if we compare equally trained, gifted and 01:17:14                  21 talented same-age individuals, the males have an                  22 advantage.                  23 BY MR. BLOCK:                  24 Q Well, what do you mean by "gifted"?                  25 A There are many gifts that could help a person 01:17:25</p> <p style="text-align: right;">Page 188</p>
<p>1 BY MR. BLOCK:                  2 Q Okay. So you're not offering an expert                  3 opinions in this case with regard to whether Becky, as                  4 an individual, should be allowed to participate on her                  5 girl's cross-country team in middle school? 01:15:22                  6 MR. FRAMPTON: Objection; form and scope.                  7 THE WITNESS: I'm offering an expert opinion                  8 based on what the science says and what we know overall                  9 regarding differences between males and females and how                  10 those differences are affected by transgender hormone 01:15:37                  11 use.                  12 BY MR. BLOCK:                  13 Q Okay. And are you offering any opinion on                  14 whether Becky, as an individual, has any athletic                  15 advantages compared to cisgender girls? 01:15:52                  16 MR. FRAMPTON: Objection; form and scope.                  17 THE WITNESS: I'm not making statements                  18 specific to Becky. I am talking about boys and girls                  19 overall.                  20 BY MR. BLOCK: 01:16:07                  21 Q Okay. And it's possible that Becky, as an                  22 individual, as opposed to people with a male sex                  23 assigned at birth overall -- let me just rephrase that.                  24 It's possible that Becky, as an individual,                  25 may not have any athletic advantages compared with 01:16:21</p> <p style="text-align: right;">Page 187</p>	<p>1 be a better athlete than others, whether --                  2 Q So --                  3 A -- whether it is something biological, whether                  4 that is something with family support.                  5 Q Okay. But -- so when -- when you're 01:17:43                  6 discussing the physiological characteristics that, on                  7 average, make cisgender boys have better outcomes in                  8 athletic performance than cisgender girls, you're not                  9 saying that every single cisgender boy has                  10 physiological characteristics that make -- that give 01:18:03                  11 them an advantage over the average cisgender girl of                  12 the same age and training, are you?                  13 MR. FRAMPTON: Object to the form.                  14 THE WITNESS: When we look at the data, if you                  15 compare comparably gifted aged and trained males and 01:18:24                  16 females, the males have an advantage.                  17 BY MR. BLOCK:                  18 Q Yeah, but you're -- you're smuggling in the                  19 word "gifted" here, and you're including these                  20 physiological characteristics as meaning gifted, it 01:18:34                  21 sounds like.                  22 I'm trying to isolate your testimony about                  23 physiological advantages, okay?                  24 And so it's possible there's -- there's plenty                  25 of boys that are shorter than girls; right? 01:18:46</p> <p style="text-align: right;">Page 189</p>

<p>1 A Yes, there are some boys that are shorter than 2 some girls.</p> <p>3 Q Yes. So not -- not every -- and there are 4 some boys that are shorter than the average girl of the 5 same age; correct? 01:19:04</p> <p>6 A Yes, there are some boys that are shorter than 7 the average girl.</p> <p>8 Q Okay. So not -- not every -- so even if 9 males, on average, are taller than females, on average, 10 not every male is gifted with greater height than the 01:19:18 11 average girl of the same age; right?</p> <p>12 A 50 percent of men are taller than 90 percent 13 of women.</p> <p>14 Q Yeah. And I know you're -- you're -- you're 15 making a statement, though, that that doesn't answer my 01:19:38 16 question. And so I'm taking that as -- is the answer 17 to my question "correct"?</p> <p>18 A Could you restate the question, please?</p> <p>19 Q Yes. Not every boy is taller than the average 20 cisgender woman; right? 01:19:54</p> <p>21 Let me switch from boys to gir- -- to a woman. 22 Not every cisgender boy is taller than the 23 average cisgender girl of the same age; correct?</p> <p>24 A If I can -- I'm -- I'm just a little confused 25 here because you are comparing an absolute of every boy 01:20:13 Page 190</p>	<p>1 what we would see if we compare equal, as much as 2 possible, males to females.</p> <p>3 Q And is it your understanding of -- of this law 4 that it prevents girls who are transgender from 5 participating on the same sports teams as cisgender 01:22:06 6 girls?</p> <p>7 MR. FRAMPTON: Object to the form and scope.</p> <p>8 THE WITNESS: My understanding is, yes, this 9 states that people should participate in sports 10 based -- based on their biological sex. 01:22:21</p> <p>11 BY MR. BLOCK:</p> <p>12 Q Right. And, therefore, transgender girls 13 should not be allowed to participate on the same sports 14 team as cisgender girls; correct?</p> <p>15 MR. FRAMPTON: Same objection. 01:22:32</p> <p>16 THE WITNESS: Just going to rephrase that. 17 So trans girls should not be competing with 18 cis girls, yes.</p> <p>19 BY MR. BLOCK:</p> <p>20 Q Okay. Thank you. 01:22:40</p> <p>21 And you think H.B. 3293 -- well, let me say, 22 do you know what I'm talking about when I refer to 23 H.B. 3293?</p> <p>24 A I know we're talking about H.B. I don't 25 remember the number. I will assume that it is the law 01:22:57 Page 192</p>
<p>1 with average.</p> <p>2 Q Yes, I -- I -- I am. I -- I'm saying that it 3 is entirely possible that there's an individual that is 4 not taller than the -- an individual who is a boy that 5 is not taller than the average girl, the mean -- or the 01:20:31 6 mean height of girls of the same age; right?</p> <p>7 A Yes. So if you look at the distribution 8 curves for body height, boys on the shorter end of the 9 distribution curve may be shorter than girls in the 10 average of the distribution curve. 01:20:47</p> <p>11 Q And -- and the same is true for speed; right?</p> <p>12 A If I may, I would actually like to refer back 13 to the graphs by Gabe Higgard so we could look and see 14 where the slowest boys are relative to the 15 50th percentile for the girls in those competitions. 01:21:09</p> <p>16 Q Okay. We can -- so we -- I appreciate that. 17 We can refer back to that later.</p> <p>18 Are -- are you familiar at all with Becky's 19 athletic performance?</p> <p>20 A No. I know nothing of Becky's athletic 01:21:26 21 performance.</p> <p>22 Q Okay. And you -- as we said before, you are 23 not providing expert testimony about her as an 24 individual; correct?</p> <p>25 A Right. I'm providing testimony on overall 01:21:41 Page 191</p>	<p>1 in West Virginia.</p> <p>2 Q Okay. Great.</p> <p>3 You think H.B. 3293 is justified by science; 4 right?</p> <p>5 MR. FRAMPTON: Object to the form and scope. 01:23:06</p> <p>6 THE WITNESS: Yes, I do.</p> <p>7 BY MR. BLOCK:</p> <p>8 Q Okay. And you think it's justified by science 9 even though it applies to trans girls who, as a result 10 of puberty blockers and gender-affirming hormones, 01:23:23 11 never go through endogenous puberty; right?</p> <p>12 MR. FRAMPTON: Same objections.</p> <p>13 THE WITNESS: Yes.</p> <p>14 BY MR. BLOCK:</p> <p>15 Q And you think H.B. 3293 is justified by 01:23:29 16 science even though it applies to trans girls and women 17 who go through endogenous puberty and then take 18 medication to lower their levels of circulating 19 testosterone; right?</p> <p>20 MR. FRAMPTON: Same objections. 01:23:43</p> <p>21 THE WITNESS: Yes.</p> <p>22 BY MR. BLOCK:</p> <p>23 Q Okay. And you think H.B. 3293 is justified by 24 science even though it applies the same categorical 25 rule to all sex-separated sports instead of creating 01:23:50 Page 193</p>

1 different standards for different sports; is that  
 2 right?  
 3 MR. FRAMPTON: Same objections.  
 4 THE WITNESS: Yes.  
 5 BY MR. BLOCK: 01:24:01  
 6 Q Okay. I would like to direct your attention  
 7 to paragraph 8 of your report. Let me know when you're  
 8 there.  
 9 A It is on page 7, under item II, "Biological  
 10 men"? 01:24:29  
 11 Q Yes.  
 12 A Okay.  
 13 Q Okay. Make sure I'm there myself.  
 14 Okay. So I'm just going to read this to you,  
 15 beginning with the second sentence. (As read): 01:24:44  
 16 "I cited many" --  
 17 Actually, I'll begin with the first sentence.  
 18 Sorry.  
 19 You say (as read):  
 20 "Nevertheless, these differences have 01:24:52  
 21 been extensively studied and measured.  
 22 I cited many of these studies in the  
 23 first paper on this topic that I  
 24 prepared, which was submitted in  
 25 litigation in January 2020. 01:25:03  
 Page 194

1 Since then, in light of current  
 2 controversies, several authors have  
 3 compiled valuable collections or  
 4 reviews of data extensively  
 5 documenting this objective fact about 01:25:11  
 6 the human species, as manifest in  
 7 almost all sports, each of which I  
 8 have reviewed and found informative.  
 9 Did I read that correctly so far?  
 10 A Yes, you did. 01:25:23  
 11 Q Okay. Thanks.  
 12 And you say (as read):  
 13 "These include Coleman (2020), Hilton  
 14 & Lundberg (2021), World Rugby (2020),  
 15 Harper (2021), Hamilton (2021), and a 01:25:36  
 16 'Briefing Book' prepared by the  
 17 Women's Sports Policy Working Group  
 18 (2021).  
 19 Did I read that right?  
 20 A Yes. 01:25:46  
 21 Q Okay. And if you -- if you could look at  
 22 the -- that list that you gave, and I'd like you to --  
 23 to tell me -- and I -- and I will write it down --  
 24 which of those sources support excluding transgender  
 25 girls and women from sports if they have had puberty 01:26:08  
 Page 195

1 blockers and gender-affirming hormones and, as a  
 2 result, have not gone through endogenous puberty.  
 3 MR. FRAMPTON: Object to the form.  
 4 THE WITNESS: Can you please rephrase that  
 5 question? It was just kind of long. 01:26:21  
 6 BY MR. BLOCK:  
 7 Q Yeah, sure.  
 8 So I -- I'm talking about trans girls who have  
 9 been on puberty blockers and, as a result, not  
 10 experienced endogenous puberty. 01:26:33  
 11 Which of the sources identified in paragraph 8  
 12 support excluding those trans girls who are on puberty  
 13 blockers from participating in girls and women's  
 14 sports?  
 15 MR. FRAMPTON: Object to the form. 01:26:47  
 16 THE WITNESS: I cannot recall right now which  
 17 or if any of those papers discuss specifically puberty  
 18 blockers.  
 19 BY MR. BLOCK:  
 20 Q Okay. So -- so you can't recall whether any 01:26:58  
 21 of those papers discuss puberty blockers at all. Is  
 22 that what you're saying?  
 23 A I'm saying I cannot recall if they advocate  
 24 for preventing people who have used puberty blockers  
 25 from participating in girls' sports. 01:27:15  
 Page 196

1 Q Okay. Can you recall if any of them advocate  
 2 in favor of allowing girls who use puberty blockers to  
 3 participate in girls and women's sports?  
 4 A Well, as we discussed earlier, the Women's  
 5 Sports Policy Working Group has a statement about that, 01:27:37  
 6 and I think World Rugby has a statement about that.  
 7 Q Okay. Any others?  
 8 A I can't recall from the others.  
 9 Q Okay. So just in terms of what you can  
 10 recall, at least two of them advocate in favor of 01:27:52  
 11 allowing trans girls on puberty blockers to participate  
 12 and you can't recall if any of the others support  
 13 excluding girls who are transgender?  
 14 MR. TRYON: Objection.  
 15 MR. FRAMPTON: Same objection. Form. 01:28:17  
 16 THE WITNESS: So I can't recall specifically.  
 17 I think Hilton and Lundberg have some mention on that  
 18 topic, but again, I can't recall without referring back  
 19 to the paper to look.  
 20 BY MR. BLOCK: 01:28:28  
 21 Q Okay. And so which of the sources cited in  
 22 this paragraph advocate in favor of excluding trans  
 23 girls and women who go through puberty and then  
 24 suppress testosterone?  
 25 MR. FRAMPTON: Objection; form. 01:28:46  
 Page 197



<p>1 Go ahead.</p> <p>2 THE WITNESS: I think that is Hilton and</p> <p>3 Lundberg and World Rugby and Harper and Hamilton and</p> <p>4 the Women's Sports Policy Working Group.</p> <p>5 BY MR. BLOCK: 01:28:55</p> <p>6 Q Okay. So it's Hilton and Lundberg and Harper</p> <p>7 and World Rugby and Women's Sports Policy Working</p> <p>8 Group?</p> <p>9 A And, I think, Hamilton.</p> <p>10 Q Okay. You think that those five sources 01:29:12</p> <p>11 advocate in favor of excluding transgender girls and</p> <p>12 women from participating on girls and women's sports</p> <p>13 team if they have gone through endogenous puberty and</p> <p>14 then lowered their levels of circulating testosterone?</p> <p>15 MR. FRAMPTON: Object to the form. 01:29:36</p> <p>16 THE WITNESS: Yes, I think those all indicate</p> <p>17 that women deserve to compete in a protected category.</p> <p>18 BY MR. BLOCK:</p> <p>19 Q Okay. And then which of the sources cited in</p> <p>20 paragraph 8 advocate in favor of having a categorical 01:29:49</p> <p>21 rule that apply to all sports instead of</p> <p>22 differentiating based on what sport is at issue?</p> <p>23 MR. FRAMPTON: Object to the form.</p> <p>24 THE WITNESS: So World Rugby is speaking</p> <p>25 specifically about rugby; and, therefore, I would not 01:30:14</p> <p style="text-align: right;">Page 198</p>	<p>1 to all sports.</p> <p>2 My question is which of the sources support</p> <p>3 having a single standard that applies to all sports</p> <p>4 instead of having individual standards crafted to</p> <p>5 different sports. 01:31:46</p> <p>6 MR. FRAMPTON: Objection to the form.</p> <p>7 THE WITNESS: I would need to review each of</p> <p>8 them to be specific and certain. So going off of</p> <p>9 memory, Hilton and Lundberg, Hamilton, Women's</p> <p>10 Sport (sic) Policy Working Group, again, as I recall, 01:32:05</p> <p>11 without looking at them specifically, state that it</p> <p>12 should be categorical women's sports and men's sports.</p> <p>13 MR. BLOCK: Okay. Can we go off the record</p> <p>14 for a second?</p> <p>15 MR. FRAMPTON: Sure. 01:32:19</p> <p>16 THE VIDEOGRAPHER: We are off the record at</p> <p>17 1:32 p.m.</p> <p>18 (Recess.)</p> <p>19 THE VIDEOGRAPHER: We are on the record at</p> <p>20 2:08 p.m. 02:08:00</p> <p>21 BY MR. BLOCK:</p> <p>22 Q Good afternoon, Dr. Brown.</p> <p>23 A Mr. Block, how are you doing?</p> <p>24 Q I -- I'm good.</p> <p>25 Okay. So, you know, we -- just before the 02:08:12</p> <p style="text-align: right;">Page 200</p>
<p>1 expect it to talk too much about other sports.</p> <p>2 If I recall correctly, Hamilton states</p> <p>3 specifically that women deserve to compete in a</p> <p>4 protected category, which implies all sports.</p> <p>5 Hilton and Lundberg advocate for sex 01:30:31</p> <p>6 segregation of sports, and, as far as I know, it's for</p> <p>7 all sports.</p> <p>8 And Harper indicates that trans women have a</p> <p>9 retained athletic advantage compared to cisgender</p> <p>10 women. 01:30:45</p> <p>11 BY MR. BLOCK:</p> <p>12 Q And so just to clarify, my question isn't</p> <p>13 whether or not there should be separation in those --</p> <p>14 in all sports; the question is whether or not there</p> <p>15 should be the same rules for excluding transgender 01:30:58</p> <p>16 girls and women in all sports.</p> <p>17 MR. FRAMPTON: Objection; form.</p> <p>18 THE WITNESS: I guess you'll need to rephrase</p> <p>19 the question because I thought I answered it.</p> <p>20 BY MR. BLOCK: 01:31:17</p> <p>21 Q Yeah. So IOC used to have a single standard</p> <p>22 that applied to all sports. They then changed their</p> <p>23 policy so that individual standards could be crafted</p> <p>24 for different sports.</p> <p>25 H.B. 3293 has a single standard that applies 01:31:30</p> <p style="text-align: right;">Page 199</p>	<p>1 break, we had just a series of questions about some of</p> <p>2 the sources quoted in your report, and I'm trying to</p> <p>3 just pull back, again, the -- the paragraph where this</p> <p>4 was discussed.</p> <p>5 This is paragraph 8, page 7, from your expert 02:08:32</p> <p>6 report, you know, marked Exhibit 64.</p> <p>7 A Yes.</p> <p>8 Q And, you know, we -- we had a series of</p> <p>9 questions about them. And if you recall, my questions</p> <p>10 focused on three features of H.B. 3293. One is the 02:08:46</p> <p>11 fact that it excludes trans girls and women even if</p> <p>12 they've had blockers. Two is that it includes trans</p> <p>13 girls and women if they've gone through puberty and</p> <p>14 suppressed their testosterone. And three is that it</p> <p>15 has an across-the-board rule. And I asked you a series 02:09:09</p> <p>16 of questions about those elements of it, and now I'm</p> <p>17 going to turn to looking at the sources cited in</p> <p>18 paragraph 8, with an eye towards those elements. So</p> <p>19 that's not a question for you; that's just to orient</p> <p>20 you for the next couple of questions. 02:09:27</p> <p>21 MR. BLOCK: So if you could look in your</p> <p>22 exhibit file, Exhibit 75, that should be a PDF of</p> <p>23 Coleman -- of the first Coleman article. Coleman 2020.</p> <p>24 (Exhibit 75 was marked for identification</p> <p>25 by the court reporter and is attached hereto.) 02:09:46</p> <p style="text-align: right;">Page 201</p>

<p>1 THE WITNESS: Yes. By Doriane Coleman and                  2 Michael Joyner and Donna L.                  3 BY MR. BLOCK:                  4 Q Yes. All right. So if we look at that                  5 article -- if you could turn to page 130 of her 02:10:12                  6 article. Let me know when you're there. It's near the                  7 end.                  8 A Still scrolling. Almost there.                  9 All right. Page 130. Duke Journal of Gender                  10 and Law Policy, Volume 27:69, 2020. 02:10:49                  11 Q Yep. Okay.                  12 Now, just to preface this, you know, this                  13 article uses the phrase "category affirming" and                  14 "category defeating."                  15 Are you familiar with those terms? 02:11:01                  16 A If I remember correctly, category affirming                  17 applies to male and female. Is that correct?                  18 Q So my understanding, which I'll represent to                  19 you, is that category affirming means that the                  20 participation is consistent with the purposes of having 02:11:20                  21 a female category, and category defeating means                  22 allowing someone to participate would sort of defeat                  23 the purpose of having a female category.                  24 So if -- does that ring a bell at all for you?                  25 A Yes, it does. It does. 02:11:37                  Page 202</p>	<p>1 MR. FRAMPTON: Object to the form.                  2 THE WITNESS: I'm looking at the sentence                  3 after that, however, which has some exceptions, which                  4 would include invitational and postseason                  5 opportunities. 02:12:53                  6 BY MR. BLOCK:                  7 Q Yes. Is it your understanding that H.B. 3293                  8 is limited to excluding trans girls from invitational                  9 and postseason opportunities?                  10 MR. FRAMPTON: Object to the form. 02:13:04                  11 THE WITNESS: Yes, it is my understanding that                  12 the law in West Virginia states that biological females                  13 only compete in female sports.                  14 BY MR. BLOCK:                  15 Q Right. But not just -- not just the 02:13:22                  16 invitational and postseason opportunities of female                  17 sports; right?                  18 MR. FRAMPTON: Same objection.                  19 THE WITNESS: Yes, it is my understanding that                  20 it is all parts of the sports. 02:13:31                  21 BY MR. BLOCK:                  22 Q Right. So the H.B. 3293 does not allow trans                  23 girls to participate on girls' teams in the regular                  24 season play of sports; correct?                  25 MR. FRAMPTON: Object to the form. 02:13:46                  Page 204</p>
<p>1 Q Okay. So if you look at the -- the paragraph                  2 beginning "In high school" --                  3 A Uh-huh.                  4 Q -- "In high school intramural."                  5 Do you see that? 02:11:48                  6 A Yes, I do.                  7 Q Okay. So it says (as read):                  8 "In high school intramural, junior                  9 varsity, and regular season play,                  10 where institutional goals are 02:11:57                  11 primarily related to health and                  12 fitness and to the development of                  13 social skills, unconditional inclusion                  14 of gender diverse students according                  15 to their gender identity rather than 02:12:06                  16 their sex will usually be category                  17 affirming."                  18 Do you see that?                  19 A I do.                  20 Q Okay. So that sentence indicates that it 02:12:12                  21 would be consistent with the female category according                  22 to Coleman 2020 to have -- to allow trans girls to                  23 participate in intramural, junior varsity and regular                  24 season play without any medical interventions                  25 whatsoever. Do you agree? 02:12:39                  Page 203</p>	<p>1 THE WITNESS: I will trust your interpretation                  2 on that.                  3 BY MR. BLOCK:                  4 Q Would you support a policy of allowing trans                  5 girls to participate in regular season play? 02:14:01                  6 MR. FRAMPTON: Object to the form and scope.                  7 THE WITNESS: Inasmuch as biological males                  8 have inherent athletic advantages over biological                  9 females, I think the category should be retained.                  10 BY MR. BLOCK: 02:14:19                  11 Q Yeah, I know. I'm -- I'm sorry, I really just                  12 need like a clear answer to my questions.                  13 This article draws a distinction between                  14 allowing trans girls to play in regular season play                  15 versus in postseason opportunities. I'm just trying to 02:14:30                  16 get an answer from you about whether you agree with                  17 that distinction or not. So --                  18 MR. FRAMPTON: Objection to the form that                  19 misstates the article.                  20 MR. BLOCK: Okay. 02:14:44                  21 BY MR. BLOCK:                  22 Q So --                  23 MR. FRAMPTON: You can go ahead and answer.                  24 BY MR. BLOCK:                  25 Q So do you think that trans girls should not be 02:14:45                  Page 205</p>

<p>1 allowed to play on girls' teams for regular season 2 play? 3 MR. FRAMPTON: Object to the form. 4 Go ahead. 5 THE WITNESS: I think that whether it's 02:14:58 6 regular season, preseason, postseason, males have 7 inherent athletic advantages; therefore, we should 8 protect women's sports and men's sports. 9 BY MR. BLOCK: 10 Q So -- so that's a yes? 02:15:13 11 MR. FRAMPTON: Same objection. 12 THE WITNESS: I think you could take that as a 13 yes. 14 BY MR. BLOCK: 15 Q Thank you. 02:15:17 16 All right. Then if you go down, continuing in 17 the article, the paragraph that says -- let me find 18 this. All right. The paragraph above that begins with 19 "where combined." (As read): 20 Where combined teams or practices 02:15:44 21 coupled with sex segregated 22 competition cannot be -- cannot 23 accomplish institutional goals, the 24 accommodations approach detailed in 25 Part IIC4 should be adopted." 02:15:55 Page 206</p>	<p>1 Do you see that? 2 A Yes, I see that. 3 Q Okay. So am I correct in saying that this 4 article points to the NCAA transgender policy as 5 illustrative of a model of allowing trans girls to 02:16:58 6 participate so long as their inclusion can be 7 relatively -- relevantly conditioned? 8 MR. FRAMPTON: Object to the form. 9 THE WITNESS: And I'm unclear what they mean 10 by "relevantly conditioned," so I don't know how I can 02:17:21 11 answer that. 12 BY MR. BLOCK: 13 Q Okay. Why do you think they're citing the 14 NCAA transgender policy? 15 A This is the old NCAA policy, not the current 02:17:35 16 NCAA policy, and the old NCAA policy did have a 17 statement about testosterone suppression. 18 Q So -- and so they are citing testosterone 19 suppression as an example of an accommodations approach 20 that should be used in circumstances for sex-segregated 02:18:00 21 teams and events remain necessary to secure parity of 22 opportunity for females; right? 23 MR. TRYON: Objection. 24 MR. FRAMPTON: Object to the form. 25 THE WITNESS: And again, what -- I'm still not 02:18:19 Page 208</p>
<p>1 And that cross references a section that I 2 don't think we need to turn to for purposes of this 3 question, but let me know if you disagree. 4 Then the -- then the paragraph continues, 5 so -- (as read): 02:16:08 6 "This will be the case" -- 7 Meaning the accommodations approach should be 8 adopted. 9 (As read): 10 -- "in circumstances where sex 02:16:14 11 segregated teams and events remain 12 necessary to secure parity of 13 opportunity for females. Where the 14 accommodations approach is adopted, 15 trans students will train and compete 02:16:24 16 consistent with their gender identity 17 so long as their inclusion can be 18 relevantly conditioned. The NCAA 19 transgender policy is illustrative of 20 a hormonal condition in this category; 02:16:38 21 others that do not require 22 medicalization— such as handicaps, 23 offsets, and quotas— exist as more 24 appropriate models for the high school 25 sports space. 02:16:45 Page 207</p>	<p>1 sure what you're asking me here. 2 BY MR. BLOCK: 3 Q Sure. I'm -- I'm asking, does this article 4 support a policy of -- of excluding trans girls and 5 women from all female athletic events, even if they 02:18:28 6 suppress testosterone after puberty? 7 MR. FRAMPTON: Same objection. 8 THE WITNESS: As I read it, this article is 9 kind of confusing on that. 10 MR. BLOCK: Okay. All right. I'll -- I'll 02:18:50 11 leave that article at that. 12 Let's next look at the Hilton and Lundberg 13 article, which I will cue up for you. For some reason, 14 Exhibit Share is being slow. 15 (Exhibit 76 was marked for identification 02:19:43 16 by the court reporter and is attached hereto.) 17 BY MR. BLOCK: 18 Q Okay. This should pop up on your exhibit list 19 as Exhibit 76. 20 A All right. Exhibit 076 - Hilton - Transgender 02:20:00 21 Women...? 22 Q Yes. 23 A Okay. 24 Q So, you know, we discussed this, you know, 25 as -- you -- you cited this as an exam- -- as, 02:20:12 Page 209</p>

<p>1 potentially, an example of an article supporting a                  2 categorical rule across sports; correct?                  3 A That is correct.                  4 Q Okay. And you cited this, potentially, as an                  5 example of an article supporting an exclusion of trans 02:20:29                  6 girls and women even if they've suppressed                  7 testosterone; right?                  8 MR. FRAMPTON: Same -- object to the form.                  9 THE WITNESS: Yes.                  10 BY MR. BLOCK: 02:20:40                  11 Q Okay. Great.                  12 So let's look on page 211 of this article.                  13 Let me know when you're there.                  14 A All right. Yep, page 211.                  15 Q Great. All right. Sorry. One second. 02:21:08                  16 All right. If you look on the right-hand                  17 column, the second -- the third sentence there, where                  18 it begins, "It is also," do you see that?                  19 A So page 211, right-hand column?                  20 Q Second full paragraph, third sentence. 02:21:44                  21 A Yes. "It is also important to recognize..."                  22 Q Yeah. So that says (as read):                  23 "It is also important to recognize the                  24 performance in most sports may be                  25 influenced by factors outside muscle 02:21:58                  Page 210</p>	<p>1 and may alter the importance of                  2 retained performance advantages.                  3 Thus, we argue against universal                  4 guidelines for transgender athletes in                  5 sport and instead propose that each 02:23:17                  6 individual sports federation evaluate                  7 their own conditions for inclusivity,                  8 fairness and safety."                  9 Do you see that?                  10 A Yes, I do. 02:23:26                  11 Q Okay. So is it fair to say that this article,                  12 they state that they argue against universal guidelines                  13 for transgender athletes in sport?                  14 MR. FRAMPTON: Object to form.                  15 THE WITNESS: Yes, that would be a correct 02:23:42                  16 statement based on what is written right there.                  17 BY MR. BLOCK:                  18 Q Okay. So based on what is written right                  19 there, they do not support a single categorical rule                  20 that applies equally to all sporting events; correct? 02:23:52                  21 MR. FRAMPTON: Same objection.                  22 THE WITNESS: Based on that sentence, that is                  23 correct.                  24 BY MR. BLOCK:                  25 Q Okay. Let's go to page 209 of this. 02:23:59                  Page 212</p>
<p>1 mass and strength, and the balance                  2 between inclusion, safety and fairness                  3 therefore differs between sports."                  4 Do you see that?                  5 A Yes. 02:22:06                  6 Q Okay. Does that refresh your recollection at                  7 all about whether or not this article advocates for a                  8 single across-the-board rule?                  9 MR. FRAMPTON: Object to the form.                  10 THE WITNESS: It doesn't make a clear 02:22:21                  11 statement one way or the other, necessarily.                  12 BY MR. BLOCK:                  13 Q Okay. So let's continue reading.                  14 If you go to the final full paragraph.                  15 A Okay. 02:22:47                  16 Q The second sentence beginning with                  17 "regardless."                  18 A Okay.                  19 Q Okay. It says (as read):                  20 "Regardless of what the future will 02:22:54                  21 bring in terms of revised transgender                  22 policies, it is clear that different                  23 sports differ vastly in terms of                  24 physiological determinants of success,                  25 which may create safety considerations 02:23:05                  Page 211</p>	<p>1 At the top of the page, on the left-hand                  2 column.                  3 A Okay.                  4 Q Okay. The paragraph beginning -- I mean, not                  5 the paragraph. The sentence beginning with the word 02:24:28                  6 "however."                  7 Do you see that --                  8 A Yes.                  9 Q -- right in the middle of that first                  10 paragraph? 02:24:35                  11 All right. It says (as read):                  12 "However, given the plausible                  13 disadvantages with testosterone                  14 suppression mentioned in this section,                  15 together with the more marginal male 02:24:43                  16 advantage in endurance-based sports,                  17 the balance between inclusion and                  18 fairness is likely closer to                  19 equilibrium in weight-bearing                  20 endurance-based sports compared with 02:24:55                  21 strength-based sports where the male                  22 advantage is still substantial.                  23 Do you see that?                  24 A Yes, I do.                  25 Q All right. So -- and feel free to read more 02:25:03                  Page 213</p>

1 of that paragraph of which this is an excerpt, but is  
 2 it fair to say that the authors of this article are  
 3 saying there is a substantial advantage for  
 4 strength-based sports for transgender women who  
 5 suppress testosterone, but when it comes to -- when it 02:25:25  
 6 comes to weightbearing endurance-based sports, the  
 7 balance between inclusion and fairness is likely closer  
 8 to equilibrium?  
 9 MR. FRAMPTON: Object to the form.  
 10 MR. TRYON: Objection. 02:25:45  
 11 THE WITNESS: I think you need to take that  
 12 particular statement in context of the other  
 13 information presented in this article in which the  
 14 authors clearly demonstrate a 10 to 13 percent  
 15 advantage in endurance performance for males compared 02:25:57  
 16 to females relative to the 30 to 60 percent -- I guess  
 17 I could look up at the table and tell you exactly the  
 18 percent -- that they're showing for advantage in  
 19 strength-based sports.  
 20 And then if you look at the para- -- the 02:26:10  
 21 sentence right above what you've quoted, they mention  
 22 about unknown effects on vari- -- a number of the  
 23 determinants of endurance performance.  
 24 And so I really can't say too much beyond that  
 25 that is kind of a speculative statement. 02:26:26  
 Page 214

1 BY MR. BLOCK:  
 2 Q I see. So if you look on page 208, there's a  
 3 discussion about -- on the right-hand column, there's a  
 4 discussion about hemoglob- -- hemoglobin levels being  
 5 reduced with once testosterone is suppressed; correct? 02:26:48  
 6 A Yes. Second paragraph down, page 208, starts  
 7 "Circulating hemoglobin."  
 8 Q Right. And if you -- and then if you look at  
 9 the next paragraph, it also says (as read):  
 10 "The typical increase in body fat 02:27:07  
 11 noted in transgender women may also be  
 12 a disadvantage for sporting activities  
 13 (e.g. running) where body weight (or  
 14 fat distribution) presents a marginal  
 15 disadvantage." 02:27:21  
 16 Right?  
 17 A Correct.  
 18 Q Okay. All right. I'll leave it at that  
 19 article.  
 20 We already -- you mentioned the World Rugby 02:27:36  
 21 policies, and you already noted that World Rugby allows  
 22 girls and women -- trans girls and women to -- I guess  
 23 I'll start over.  
 24 You already mentioned that World Rugby allows  
 25 trans women to participate in women's rugby if they've 02:27:55  
 Page 215

1 had puberty blockers and, therefore, not experienced  
 2 endogenous puberty; right?  
 3 MR. FRAMPTON: Object to form.  
 4 Go ahead.  
 5 I'm sorry. I couldn't tell if you finished 02:28:11  
 6 the question.  
 7 Go --  
 8 MR. FRAMPTON: But objection.  
 9 Go ahead and answer.  
 10 THE WITNESS: All right. That is my 02:28:14  
 11 understanding of what World Rugby has stated.  
 12 BY MR. BLOCK:  
 13 Q Okay. So you don't need me to put on the  
 14 screen a -- a copy of the World Rugby policy to -- to  
 15 point out that provision, do you? 02:28:27  
 16 A I would ask you to put it on the screen so we  
 17 can evaluate if they cite any sources to make that  
 18 statement.  
 19 Q Sure. Let's put that -- let's put it on the  
 20 screen. One second. 02:28:40  
 21 MS. DUPHILY: Did you say you wanted to put  
 22 something on the screen or --  
 23 MR. BLOCK: No, I'll take -- I'll take care of  
 24 it. I'm just looking up which specific one I want to  
 25 put up. 02:29:03  
 Page 216

1 MS. DUPHILY: Okay.  
 2 (Exhibit 77 was marked for identification  
 3 by the court reporter and is attached hereto.)  
 4 BY MR. BLOCK:  
 5 Q All right. So this is going to pop up as 02:29:22  
 6 marked as Exhibit 77. Let me know when you see it.  
 7 A All right. Exhibit 077 - World Rugby  
 8 Transgender...?  
 9 Q Yes. All right. And you see it says, "Can  
 10 transgender women play rugby?" right? 02:29:58  
 11 A Yes.  
 12 Q Okay. And the first bullet point says (as  
 13 read):  
 14 "Transgender women who transitioned  
 15 pre-puberty and have not experienced 02:30:08  
 16 the biological effects of testosterone  
 17 during puberty and adolescence can  
 18 play women's rugby (subject to  
 19 confirmation of medical treatment and  
 20 the timing thereof). 02:30:18  
 21 Right?  
 22 A Yes, I see that.  
 23 Q Okay. The third bullet point also says (as  
 24 read):  
 25 "Transgender women can play 02:30:22  
 Page 217

<p>1 mixed-gender non-contact rugby."                  2 Right?                  3 A Yes.                  4 Q Okay. And if we -- scroll down.                  5 Do you know -- do you know if World Rugby at 02:31:00                  6 all talks about any advantages for -- between boys and                  7 girls before puberty?                  8 A I don't recall this document from World Rugby                  9 evaluating differences between boys and girls                  10 prepuberty. 02:31:25                  11 Q Can you recall any document from World Rugby                  12 evaluating that?                  13 A Sitting here right now, I cannot recall that                  14 World Rugby has evaluated and cited sources on                  15 differences before puberty or the effect of puberty 02:31:45                  16 blockers on those differences.                  17 Q Okay. All right.                  18 So that's -- that's World Rugby. So we can                  19 put that down as not supporting a policy of excluding                  20 trans girls and women from participating in girls and 02:32:04                  21 women's sports if they've had puberty blockers;                  22 correct?                  23 MR. FRAMPTON: Object to the form.                  24 THE WITNESS: I think it's important that                  25 that's specific to rugby. 02:32:18                  Page 218</p>	<p>1 it.                  2 A All right. Exhibit 078 - Harper.                  3 Q All right. See if I can grab -- all right.                  4 So if you go to page 7. Let me know when you're there.                  5 A All right. Page 7 of 9. 02:34:17                  6 Q Yeah. So if you look at the first full                  7 paragraph, beginning with "in contrast," do you see                  8 that?                  9 A Yes.                  10 Q Okay. It says (as read): 02:34:35                  11 "In contrast to strength-related data,                  12 blood cell findings revealed a                  13 different time course of change.                  14 After 3-4 months on GAHT" -- which is                  15 gender-affirming hormone therapy -- 02:34:48                  16 "the HCT or Hgb levels of transwomen                  17 matched those of cisgender women, with                  18 levels remaining stable within the                  19 'normal' female range for studies                  20 lasting up to 36 months." 02:35:02                  21 Do you see that?                  22 A Yes, I do.                  23 Q Okay. And then if you look at the bottom of                  24 the paragraph, so that's the top of the second column,                  25 it says (as read): 02:35:19                  Page 220</p>
<p>1 BY MR. BLOCK:                  2 Q I -- I understand. But the -- the answer to                  3 my question is correct; right?                  4 MR. FRAMPTON: Object to the form.                  5 THE WITNESS: Isn't that what I said? 02:32:26                  6 BY MR. BLOCK:                  7 Q No. You -- you've made a different statement,                  8 so I -- I just -- I need you to answer my question                  9 before you make a different statement.                  10 So it's fair to say that -- that 02:32:35                  11 World Rugby -- this World Rugby policy does not support                  12 excluding trans girls and women from girls and women's                  13 teams in rugby if they have been on hormone blockers                  14 and not experien- -- puberty blockers and not                  15 experienced endogenous puberty; correct? 02:32:58                  16 MR. FRAMPTON: Object to the form.                  17 THE WITNESS: Yes, that is correct, as you                  18 stated, the World Rugby statement is about rugby.                  19 (Exhibit 78 was marked for identification                  20 by the court reporter and is attached hereto.) 02:33:10                  21 BY MR. BLOCK:                  22 Q Okay. All right. Now let's look at the                  23 Harper 2021 article.                  24 All right. This is going to appear on your                  25 screen as Exhibit 78. Please let me know once you have 02:33:36                  Page 219</p>	<p>1 "Given this, and that the changes in                  2 Hgb/HCT follow a different time course                  3 than strength changes, sport-specific                  4 regulations for transwomen in                  5 endurance versus strength sports may 02:35:30                  6 be needed."                  7 Do you see that?                  8 A Yes, I see that.                  9 Q Okay. So is this Harper article advocating                  10 for a single categorical rule that doesn't distinguish 02:35:41                  11 between endurance sports and strength sports?                  12 MR. FRAMPTON: Object to the form.                  13 THE WITNESS: That would appear to be correct.                  14 BY MR. BLOCK:                  15 Q Okay. Now, if you look at the bottom right, 02:35:53                  16 so the last paragraph, bottom right of page 7, it says                  17 (as read):                  18 "Although the data we present are                  19 meaningful, the effects of GAHT on                  20 these parameters, or indeed athletic 02:36:15                  21 performance in transgender people who                  22 engage in training and competition,                  23 remain unknown."                  24 Do you see that?                  25 A Yes. 02:36:23                  Page 221</p>

<p>1 Q Okay. Great.</p> <p>2 And then if we move down -- actually, never</p> <p>3 mind. I'll come -- I'll come back to this article.</p> <p>4 I -- I have one more to quote for you, and then I'll</p> <p>5 come back to this article. 02:36:44</p> <p>6 If you go to page 8, at the very end, the</p> <p>7 second to last sentence.</p> <p>8 A Is that the one that starts "Whether</p> <p>9 transgender"?</p> <p>10 Q Yes. It says (as read): 02:36:57</p> <p>11 Whether --</p> <p>12 A Okay.</p> <p>13 Q (As read):</p> <p>14 "Whether transgender and cisgender</p> <p>15 women can engage in meaningful sport, 02:37:02</p> <p>16 even after gender-affirming hormone</p> <p>17 therapy, is a highly debated question.</p> <p>18 However, before this question can be</p> <p>19 answered with any certainty, the</p> <p>20 intricacies and complexity of factors 02:37:12</p> <p>21 that feed into the development of</p> <p>22 high-performance athletes warrant</p> <p>23 further investigation of attributes</p> <p>24 beyond those assessed herein."</p> <p>25 Do you see that? 02:37:23</p> <p style="text-align: right;">Page 222</p>	<p>1 going to read it again for the record. (As read):</p> <p>2 "Whether transgender and cisgender</p> <p>3 women can engage in meaningful sport,</p> <p>4 even after gender-affirming hormone</p> <p>5 therapy, is a highly debated question. 02:38:47</p> <p>6 However, before this question can be</p> <p>7 answered with any certainty, the</p> <p>8 intricacies and complexity of factors</p> <p>9 that feed into the development of</p> <p>10 high-performance athletes warrant 02:38:56</p> <p>11 further investigation of attributes</p> <p>12 beyond those assessed herein."</p> <p>13 Do you agree or disagree with that statement?</p> <p>14 MR. FRAMPTON: Object to the form.</p> <p>15 Go ahead. 02:39:08</p> <p>16 THE WITNESS: So what is the question I'm</p> <p>17 agreeing with or not agreeing with?</p> <p>18 BY MR. BLOCK:</p> <p>19 Q I -- I believe the question is that until --</p> <p>20 until the intricacies and complexity of factors that 02:39:24</p> <p>21 feed into the development of high-performance</p> <p>22 athletes -- let me ask the question again in a -- in a</p> <p>23 clearer way.</p> <p>24 Do you -- the -- the question is, do you -- is</p> <p>25 the information presented in this article sufficient 02:39:37</p> <p style="text-align: right;">Page 224</p>
<p>1 A I see that.</p> <p>2 Q Okay. So do the authors of this article</p> <p>3 believe that the information they present here allows a</p> <p>4 policy maker to determine with any certainty whether</p> <p>5 transgender and cisgender women can engage in 02:37:38</p> <p>6 meaningful sport after GAHT?</p> <p>7 MR. FRAMPTON: Object to the form.</p> <p>8 MR. TRYON: Objection.</p> <p>9 THE WITNESS: The authors state that that</p> <p>10 question cannot be answered. 02:37:52</p> <p>11 BY MR. BLOCK:</p> <p>12 Q Okay. And you -- do you think the question</p> <p>13 can be answered?</p> <p>14 MR. FRAMPTON: Object to the form.</p> <p>15 Go ahead. 02:38:05</p> <p>16 THE WITNESS: I think that the question can be</p> <p>17 answered sufficiently that we should not do away with</p> <p>18 existing policies until further information</p> <p>19 demonstrating the removal of biological male advantage</p> <p>20 has been obtained. 02:38:18</p> <p>21 BY MR. BLOCK:</p> <p>22 Q Okay. Let me ask that again.</p> <p>23 So the -- the -- the -- because I'm just not</p> <p>24 sure it came out clearly.</p> <p>25 So the authors of this article say -- I'm just 02:38:32</p> <p style="text-align: right;">Page 223</p>	<p>1 for a policy maker to answer with any certainty whether</p> <p>2 transgender and cisgender women can engage in</p> <p>3 meaningful sport after gender-affirming hormone</p> <p>4 therapy?</p> <p>5 MR. FRAMPTON: Same objection. 02:39:55</p> <p>6 Go ahead.</p> <p>7 THE WITNESS: What is meant by "meaningful</p> <p>8 sport"?</p> <p>9 BY MR. BLOCK:</p> <p>10 Q What -- what do you think is meant by 02:39:59</p> <p>11 "meaningful sport"?</p> <p>12 A I asked first.</p> <p>13 Q So you can't answer the question without</p> <p>14 knowing more what they mean by "meaningful sport"?</p> <p>15 A Yes, I would like know what they mean more by 02:40:19</p> <p>16 "meaningful sport."</p> <p>17 Q Okay. Do you think that -- all right. We can</p> <p>18 come back to this article later too.</p> <p>19 So a question about the Hamilton article. You</p> <p>20 have several times, if I'm right, referenced a 02:40:45</p> <p>21 statement in the Hamilton article about how women have</p> <p>22 a right to compete in a protected category; is that</p> <p>23 right?</p> <p>24 A Yes, I have stated that.</p> <p>25 Q Okay. Is there any other portion of the 02:41:02</p> <p style="text-align: right;">Page 225</p>

<p>1 Hamilton article that you remember?                  2 MR. FRAMPTON: Object to the form.                  3 THE WITNESS: I remember there was a lot of                  4 statements in the Hamilton article that seemed                  5 confusing and contradictory. 02:41:18                  6 BY MR. BLOCK:                  7 Q What do you mean by "confusing and                  8 contradictory"?"                  9 A Again, if I'm remembering the article                  10 correctly, it seemed like they would make a statement 02:41:30                  11 in one place about how trans women retain significant                  12 advantages and then in another statement state                  13 something about how those advantages wouldn't influence                  14 sport performance and then come back and state that                  15 those are advantages that influence sport performance. 02:41:48                  16 I'm -- I'm grossly generalizing here, but that                  17 was my impression because I read a lot of the article.                  18 Q Okay. Which portions of the article did you                  19 decide to cite in your report?                  20 MR. FRAMPTON: Object to the form. 02:42:06                  21 THE WITNESS: The -- if I'm remembering                  22 correctly, that is a direct quote from Hamilton, that                  23 cisgender women deserve to compete in a protected                  24 category, and I thought that was a very clear statement                  25 from that article. 02:42:22</p> <p style="text-align: right;">Page 226</p>	<p>1 participate; right?                  2 MR. FRAMPTON: Object to the form.                  3 THE WITNESS: Yes, that is what I quoted.                  4 BY MR. BLOCK:                  5 Q Okay. And why did you choose to cite the 02:43:55                  6 portions that you believe support opposing -- I'll ask                  7 again.                  8 Why did you choose to cite to the portions                  9 that would support excluding transgender women instead                  10 of the portions of the article that you think support 02:44:08                  11 including them?                  12 MR. FRAMPTON: Object to the form.                  13 THE WITNESS: Because as I read the article                  14 and evaluated the information, I thought it was a clear                  15 statement opposing the inclusion of trans women in 02:44:22                  16 women's sports.                  17 (Exhibit 79 was marked for identification                  18 by the court reporter and is attached hereto.)                  19 BY MR. BLOCK:                  20 Q Okay. So let's look at the -- let's look at 02:44:28                  21 the article.                  22 So this will appear on your screen in a second                  23 as Exhibit 79. Let me know when it appears.                  24 A All right. Exhibit 079 - Hamilton.                  25 Q Okay. Is this article that you were 02:45:19</p> <p style="text-align: right;">Page 228</p>
<p>1 BY MR. BLOCK:                  2 Q Okay. But -- but you had said before that                  3 several statements in the article are contradictory;                  4 right?                  5 A Yes. 02:42:30                  6 Q Okay. And in your report, you quoted the                  7 statements that you believe support excluding trans                  8 girls and women from female sports; is that right?                  9 MR. FRAMPTON: Object to the form.                  10 THE WITNESS: Yes, I quoted from Hamilton 02:42:56                  11 those parts that -- yeah, as you said.                  12 BY MR. BLOCK:                  13 Q Okay. But you didn't quote any of the                  14 portions of the Hamilton article that are contradictory                  15 with that; right? 02:43:19                  16 MR. FRAMPTON: Object to the form.                  17 THE WITNESS: I didn't put quotations in there                  18 that were confusing and contradictory to other                  19 quotations in the article.                  20 BY MR. BLOCK: 02:43:28                  21 Q Well, so if there's two quotations in the                  22 article, one of them supports allowing trans women to                  23 participate and the other one opposes allowing                  24 transgender women to participate, you decided to cite                  25 to the quote that opposes allowing trans women to 02:43:42</p> <p style="text-align: right;">Page 227</p>	<p>1 referencing when you cited to the 2021 Hamilton                  2 article?                  3 A Yes. I think I also refer to it in my                  4 declaration as the FIMS 2021 statement.                  5 Q Yeah. What -- what is FIMS? 02:45:33                  6 A It's the International Sports Medicine                  7 Federation. I think it's French, is why it's like                  8 Federation International Medicine Sport. That's why it                  9 becomes FIMS.                  10 Q Uh-huh. 02:45:46                  11 A Beyond that, it's just a -- it's a                  12 professional organization of people interested in                  13 sports medicine.                  14 Q Is -- in your -- your report, you say that the                  15 statement is "signed by more than 60 sports medicine 02:46:01                  16 experts from prestigious institutions around the                  17 world"; is that right?                  18 A What page is that on my declaration so I make                  19 sure I'm agreeing to a number that --                  20 Q Sure. It's paragraph 167, which is page 56 of 02:46:16                  21 the PDF. And it's page 51 of the bottom pagination.                  22 A All right. Yes, that is what I stated in my                  23 declaration.                  24 Q Okay. So the views expressed by this body,                  25 you think, are entitled to significant weight; right? 02:46:36</p> <p style="text-align: right;">Page 229</p>



<p>1 MR. FRAMPTON: Object to the form.                  2 THE WITNESS: It is an -- it is a statement                  3 from an organization that is, you know, a respected                  4 organization.                  5 BY MR. BLOCK: 02:46:58                  6 Q Okay. If you turn to page 2 of this, so                  7 page 1402, at the top left, there's a little box that                  8 says "Key Points."                  9 Do you see that?                  10 A Yes. 02:47:08                  11 Q Okay. Key Points. And the first point there                  12 is (as read):                  13 "The use of testosterone concentration                  14 limits of 5 nmol/L in transwomen and                  15 DSD women athletes is a justifiable 02:47:19                  16 threshold based on the best available                  17 scientific evidence."                  18 Did I read that right?                  19 A You read that correctly.                  20 Q And so of the points in this article 02:47:29                  21 highlighted as the key points, this is the first one;                  22 right?                  23 MR. FRAMPTON: Object to the form.                  24 THE WITNESS: Yes, that appears to be the                  25 first highlighted key point. 02:47:39                  Page 230</p>	<p>1 information discussed in the article, these are the                  2 consensus statements that FIMS agreed upon; right?                  3 A That's a reasonable conclusion, yes.                  4 Q Okay. So the third bullet point on the                  5 right-hand column is (as read): 02:49:13                  6 "Transwomen have a (sic) right to                  7 compete in sports. However, cisgender                  8 women have the right to compete in a                  9 protected category."                  10 Is that right? 02:49:26                  11 A That's correct.                  12 Q Okay. And this bullet point is a bullet point                  13 that you included in your report; right?                  14 A Correct.                  15 Q Okay. Do you know if you included any of the 02:49:33                  16 other bullet points in your report?                  17 A I don't think I included any of the other                  18 bullet points.                  19 Q Okay. So let's look at some of those other                  20 bullet points. 02:49:46                  21 If you go two bullet points down from the --                  22 the one we just looked at, it says (as read):                  23 "As each sport can vary greatly in                  24 terms of physiological demands, we                  25 support the view held also by others 02:49:58                  Page 232</p>
<p>1 BY MR. BLOCK:                  2 Q Okay. But you didn't choose to mention this                  3 first key point in your report; right?                  4 A That is correct.                  5 Q Okay. Why not? 02:47:49                  6 A I disagree with that key point.                  7 Q Okay. So you only highlighted -- you only                  8 cited to the portions of this article that you agreed                  9 with; right?                  10 MR. FRAMPTON: Object to the form. 02:47:58                  11 THE WITNESS: I cited the information that I                  12 agree with after evaluating the other scientific                  13 information.                  14 BY MR. BLOCK:                  15 Q Let's go to 1409. 02:48:22                  16 Do you see that?                  17 A Yes.                  18 Q Okay. So the third bullet point here, when we                  19 get to -- this is -- I'm sorry, under -- this whole                  20 section of bullet points is under the subsection 5.7 02:48:41                  21 "FIMS Consensus Statements for the Integration of DSD                  22 Women and Transwomen Athletes into Elite Female Sport";                  23 right?                  24 A That is correct.                  25 Q All right. So based on the foregoing 02:48:53                  Page 231</p>	<p>1 stating that individual                  2 sport-governing bodies should develop                  3 their own individual policies based on                  4 broader guidelines developed on the                  5 best available scientific evidence, 02:50:09                  6 determined experimentally from a                  7 variety of sources with a particular                  8 preference for studies on transwomen                  9 and DSD women athletes."                  10 Did I read that right? 02:50:19                  11 A Yes.                  12 Q Okay. So this bullet point supports having                  13 different policies developed by different sport's                  14 governing bodies; right?                  15 MR. FRAMPTON: Object to the form. 02:50:32                  16 THE WITNESS: That is a great example of a                  17 bullet point that seems contradictory to a previous                  18 statement.                  19 BY MR. BLOCK:                  20 Q Okay. But this statement here does not 02:50:39                  21 support an across-the-board policy that applies to all                  22 difference types of sports; is that right?                  23 MR. FRAMPTON: Same objection.                  24 Go ahead.                  25 THE WITNESS: That is correct. 02:50:54                  Page 233</p>

<p>1 BY MR. BLOCK:                  2 Q And then two more bullet points down, it says                  3 (as read):                  4 "The use of serum testosterone                  5 concentrations as the primary 02:51:17                  6 biomarker to regulate the inclusion of                  7 athletes into male and female                  8 categories is currently the most                  9 justified solution as it is supported                  10 by the available scientific literature 02:51:27                  11 and should be implemented at the elite                  12 level, where there is an emphasis on                  13 performance enhancement."                  14 Did I read that right?                  15 A Yes, you read that correctly. 02:51:38                  16 Q Okay. And that's -- that's similar to the key                  17 point that we talked about before, on the second page;                  18 right?                  19 A That is similar to that previous key point.                  20 Q Okay. And then if you turn the page, the 02:51:46                  21 first full -- fir- -- excuse me -- the first full                  22 bullet point at the top, you know, again, is --                  23 essentially restates the -- the key point that we                  24 discussed before; is that right?                  25 MR. FRAMPTON: Same objection. 02:52:04                  Page 234</p>	<p>1 MR. FRAMPTON: Object to the form.                  2 THE WITNESS: Assuming that the authors, you                  3 know, agreed to it with their signature, that is a                  4 reasonable assumption.                  5 BY MR. BLOCK: 02:53:31                  6 Q Okay. Great.                  7 And actually -- in fact -- one second.                  8 All right. If you look at page 1403, it                  9 says -- at the bottom of that first paragraph, do you                  10 see where it says "all statements"? 02:54:16                  11 A The bottom of which paragraph?                  12 Q Sorry. On the right-hand column, on                  13 page 1403, under the "Methods" section, do you see                  14 that? The paragraph begins with -- with "here."                  15 "Here, we present." 02:54:37                  16 A Yes.                  17 Q Okay. So the last sentence -- the last two                  18 sentences say (as read):                  19 "All statements received unanimous                  20 approval by all named authors except 02:54:48                  21 for the statement on the testosterone                  22 limit of 5 nmol/L, which received                  23 majority approval and the voting                  24 result is included in this (sic)                  25 article." 02:54:59                  Page 236</p>
<p>1 Go ahead.                  2 THE WITNESS: Yes. That reiterates the                  3 5 nmol/L threshold for testosterone.                  4 BY MR. BLOCK:                  5 Q Okay. And then the sentence also says that 02:52:14                  6 that threshold may be modified as new evidence arises                  7 for an event or sport-specific concentrations; is that                  8 right?                  9 A Yes, that is what it says.                  10 Q Okay. And so -- so that -- that bullet point 02:52:28                  11 and the other bullet point we looked at about the use                  12 of serum testosterone and the other bullet point about                  13 having individual policies for individual sports are                  14 bullet points that you disagreed with; right?                  15 A That is correct. 02:52:49                  16 Q Okay. And because you disagreed with them,                  17 you did not include them in your report?                  18 MR. FRAMPTON: Object to the form.                  19 Go ahead.                  20 THE WITNESS: That is correct. 02:53:01                  21 BY MR. BLOCK:                  22 Q Okay. But at least according to this                  23 document, the -- all the authors of this statement had                  24 agreed on those bullet points as consensus statements;                  25 right? 02:53:19                  Page 235</p>	<p>1 Do you see that?                  2 A Yes, I see that.                  3 Q All right. So let's go down to what the                  4 voting results were for that.                  5 Okay. It's actually on the bullet points that 02:55:20                  6 we looked at before, on 1410.                  7 A On page 1410?                  8 Q Uh-huh.                  9 A All right.                  10 Q Okay. So beginning with -- so the first -- 02:55:38                  11 the second full bullet point, it says (as read):                  12 "The statement on the testosterone                  13 concentration threshold for transwomen                  14 and DSD women athletes was the only                  15 point of contention for the FIMS 02:55:48                  16 Panel. All 70 authors voted, of whom                  17 87% were in favour of the 5 nmol/L                  18 threshold, 2% of the authors were in                  19 favour of a threshold of 8 nmol/L, 2%                  20 were in favour of a threshold around 02:56:04                  21 the upper testosterone concentration                  22 of normal healthy females of                  23 0.2-1.7 nmol/L, and 8% of authors were                  24 in favour of no change to the limit                  25 until further evidence was acquired." 02:56:18                  Page 237</p>

<p>1 Do you see that?</p> <p>2 A Yes, I see that.</p> <p>3 Q Okay. So -- so based on this paragraph, it</p> <p>4 appears that none of the 70 authors supported a policy</p> <p>5 of prohibiting trans women from participating, you 02:56:35</p> <p>6 know, regardless of how low they suppressed their</p> <p>7 circulating testosterone levels; right?</p> <p>8 MR. FRAMPTON: Object to the form.</p> <p>9 THE WITNESS: Can you restate the question?</p> <p>10 BY MR. BLOCK: 02:56:58</p> <p>11 Q Sure. Did any of the 70 au- -- 70 authors</p> <p>12 vote in favor of prohibiting trans women completely</p> <p>13 from prohibiting -- from -- from participating in</p> <p>14 women's sports regardless of how low they -- they</p> <p>15 lowered their levels of circulating testosterone? 02:57:15</p> <p>16 MR. FRAMPTON: Same objection.</p> <p>17 THE WITNESS: I would really like to read the</p> <p>18 article more and not just look at this particular</p> <p>19 statement on their decision on what they thought were</p> <p>20 acceptable testosterone levels. 02:57:27</p> <p>21 BY MR. BLOCK:</p> <p>22 Q Okay. But based on this paragraph, it appears</p> <p>23 that none of the 70 authors supported a policy</p> <p>24 analogous to H.B. 3293; right?</p> <p>25 MR. FRAMPTON: Same objection. 02:57:46</p> <p style="text-align: right;">Page 238</p>	<p>1 briefing book. So this is Exhibit 69, if you could</p> <p>2 pull it up again.</p> <p>3 A All right. Women's Sports Policy Working</p> <p>4 Group, Briefing Book?</p> <p>5 Q Yes. 02:59:21</p> <p>6 All right. If you look at page 15.</p> <p>7 A All right. Page 15.</p> <p>8 Q So at the -- the top, you can see this is</p> <p>9 their Proposed Amendment to the Title IX Regulations.</p> <p>10 Do you see that? 03:00:04</p> <p>11 A Yes.</p> <p>12 Q Okay. So if we scroll down to subsection C,</p> <p>13 Treatment of Transgender Athletes, do you see that?</p> <p>14 A Yes.</p> <p>15 Q Okay. So -- so subsection (c)(1) says (as 03:00:12</p> <p>16 read):</p> <p>17 Because trans girls/women who have not</p> <p>18 begun male puberty do not have</p> <p>19 significant male linked -- male</p> <p>20 sex-linked advantages, they shall be 03:00:24</p> <p>21 included in girls' and women's sports</p> <p>22 without conditions or limitations.</p> <p>23 Do you see that?</p> <p>24 A I see that.</p> <p>25 Q All right. So to the extent that H.B. 3293 03:00:33</p> <p style="text-align: right;">Page 240</p>
<p>1 THE WITNESS: And this is another example of</p> <p>2 something that is confusing and contradictory to me, is</p> <p>3 when they say that cisgender women deserve a protected</p> <p>4 category and then have this kind of a statement.</p> <p>5 BY MR. BLOCK: 02:57:57</p> <p>6 Q Well, isn't one way to reconcile it that it's</p> <p>7 possible to have a protected category for cisgender</p> <p>8 women if appropriate conditions are placed on the</p> <p>9 participation of trans women?</p> <p>10 MR. FRAMPTON: Object to the form. 02:58:17</p> <p>11 THE WITNESS: My understanding of the</p> <p>12 intention of the authors is then it would no longer be</p> <p>13 a protected category.</p> <p>14 BY MR. BLOCK:</p> <p>15 Q Well, it would be protected from participation 02:58:24</p> <p>16 by cisgender men or anyone else with circulating levels</p> <p>17 of testosterone over the threshold limit; right?</p> <p>18 MR. FRAMPTON: Same objection.</p> <p>19 THE WITNESS: Within the -- the field, a</p> <p>20 protected category of women typically means biological 02:58:38</p> <p>21 women.</p> <p>22 BY MR. BLOCK:</p> <p>23 Q Okay. Let's look at the next document.</p> <p>24 All right. And, actually, we already marked</p> <p>25 this one as an exhibit. This is the women's policy 02:58:57</p> <p style="text-align: right;">Page 239</p>	<p>1 prohibits trans girls and women from participating in</p> <p>2 women's sports, even if they have not experienced</p> <p>3 endogenous male puberty, the authors of this briefing</p> <p>4 book would disagree with H.B. 3293, to that extent?</p> <p>5 MR. FRAMPTON: Object to the form. 03:00:56</p> <p>6 THE WITNESS: I don't think that I can speak</p> <p>7 on behalf of these authors for what they agree or</p> <p>8 disagree with regarding H.B. 323 (sic) -- whatever it</p> <p>9 is. Sorry.</p> <p>10 BY MR. BLOCK: 03:01:12</p> <p>11 Q Okay. So do you think that subsection (c)(1)</p> <p>12 is consistent with H.B. 3293?</p> <p>13 MR. FRAMPTON: Object to the form.</p> <p>14 THE WITNESS: Well, (c)(1) says they shall be</p> <p>15 included in girls and women's sports. 03:01:28</p> <p>16 BY MR. BLOCK:</p> <p>17 Q So the answer to my question is yes?</p> <p>18 MR. FRAMPTON: Object to the form.</p> <p>19 BY MR. BLOCK:</p> <p>20 Q I mean -- no, I'll just ask that again. 03:01:40</p> <p>21 Can you just give me a "yes" or "no" answer so</p> <p>22 I don't have to worry about getting a clean transcript?</p> <p>23 So just -- my question is, is section (c)(1)</p> <p>24 consistent with H.B. 3293?</p> <p>25 MR. FRAMPTON: Same objection. 03:01:52</p> <p style="text-align: right;">Page 241</p>

<p>1 Go ahead.</p> <p>2 THE WITNESS: I think there is an</p> <p>3 inconsistency there.</p> <p>4 BY MR. BLOCK:</p> <p>5 Q Okay. Thank you. 03:02:02</p> <p>6 If you look at section (c)(3), it says (as</p> <p>7 read):</p> <p>8 "Trans girls/women who have</p> <p>9 experienced all or part of male</p> <p>10 puberty and who have sufficiently 03:02:14</p> <p>11 mitigated their male sex-linked</p> <p>12 advantages — through surgery and/or</p> <p>13 gender affirming hormones consistent</p> <p>14 with the rules of their international</p> <p>15 federations — may participate in 03:02:25</p> <p>16 girls'/women's sport without</p> <p>17 additional conditions or limitations."</p> <p>18 Do you see that?</p> <p>19 A I see that.</p> <p>20 Q Okay. And so section (c)(3) is also 03:02:32</p> <p>21 inconsistent with H.B. 3293; correct?</p> <p>22 MR. FRAMPTON: Same objection.</p> <p>23 Go ahead.</p> <p>24 THE WITNESS: I would say that it may or may</p> <p>25 not, apparently depending on the rules of the 03:02:44</p> <p style="text-align: right;">Page 242</p>	<p>1 Q All right. Does -- did the recent change from</p> <p>2 swimming categorically exclude trans girls and women</p> <p>3 from participating in women's swimming events?</p> <p>4 MR. FRAMPTON: Objection to the form.</p> <p>5 THE WITNESS: I would need to look at the 03:04:28</p> <p>6 document to be sure.</p> <p>7 BY MR. BLOCK:</p> <p>8 Q Isn't it true that the new swimming policy</p> <p>9 extended the period of hormone suppression to three</p> <p>10 years? Does that sound familiar to you? 03:04:46</p> <p>11 A As you say it, it sounds familiar, but I can't</p> <p>12 be sure if I'm remembering it because you told me I</p> <p>13 should remember it.</p> <p>14 Q Okay. Well, we'll -- we'll get you a -- a</p> <p>15 copy of that. 03:05:05</p> <p>16 And then subsection (4) says (as read):</p> <p>17 "Trans girls/women who have</p> <p>18 experienced all or part of male</p> <p>19 puberty and who have not, or only</p> <p>20 insufficiently, mitigated their male 03:05:19</p> <p>21 sex-linked advantages according to the</p> <p>22 international federation standards in</p> <p>23 their sport may be accommodated within</p> <p>24 girls'/women's sports but not in</p> <p>25 head-to-head competition with female 03:05:31</p> <p style="text-align: right;">Page 244</p>
<p>1 international federations.</p> <p>2 BY MR. BLOCK:</p> <p>3 Q Okay. So are there any international</p> <p>4 federations, aside from rugby, that categorically</p> <p>5 exclude girls and women who are transgender from 03:02:58</p> <p>6 participating in the female category?</p> <p>7 A There have been a lot of changes in those</p> <p>8 lately and a lot of organizations debating that, and so</p> <p>9 I can't say for certain whether there is or is not an</p> <p>10 organization or no organizations that specifically 03:03:16</p> <p>11 state that.</p> <p>12 Q But you consider yourself an expert on this</p> <p>13 issue, don't you?</p> <p>14 A Yes. And there's at lot of organizations that</p> <p>15 are in process of making decisions, and so I can't say 03:03:29</p> <p>16 what their decisions are when they have not released</p> <p>17 their decisions.</p> <p>18 Q All right. Well, has any organization</p> <p>19 released a decision excluding trans girls and women</p> <p>20 from participating in the female category, even if they 03:03:43</p> <p>21 have lowered their circulating testosterone, besides</p> <p>22 rugby?</p> <p>23 A I know swimming had a recent change, and I</p> <p>24 can't remember the exact wording on that, and -- again,</p> <p>25 that's what I can remember right now at this moment. 03:04:10</p> <p style="text-align: right;">Page 243</p>	<p>1 athletes."</p> <p>2 Do you see that?</p> <p>3 A I see that.</p> <p>4 Q Okay. And so that also is inconsistent with</p> <p>5 H.B. 3293; correct? 03:05:39</p> <p>6 MR. FRAMPTON: Object to the form.</p> <p>7 THE WITNESS: This is somewhat of a confusing</p> <p>8 statement because how is somehow included in women's</p> <p>9 sports if they're not competing head-to-head with</p> <p>10 women. 03:05:50</p> <p>11 BY MR. BLOCK:</p> <p>12 Q Well, there's scrimmages and, you know, team</p> <p>13 practices and other events that are not for trophies.</p> <p>14 Those are some examples; right?</p> <p>15 A And I would ask, are they really included, 03:06:07</p> <p>16 then, if they can only participate in limited aspects</p> <p>17 of the sport.</p> <p>18 Q Okay. But my question is whether or not this</p> <p>19 is consistent with H.B. 3293.</p> <p>20 And so section (c)(4) is inconsistent with 03:06:22</p> <p>21 H.B. 3293; correct?</p> <p>22 MR. FRAMPTON: Object to the form.</p> <p>23 THE WITNESS: I would need to refer back to</p> <p>24 the bill to be certain, but I think that your statement</p> <p>25 is, yes, this is an inconsistency. 03:06:39</p> <p style="text-align: right;">Page 245</p>

<p>1 BY MR. BLOCK:                  2 Q Okay. Let's go back to your report. So                  3 that's Exhibit -- oh, I'm sorry, I just want to make                  4 sure we got through all of the sources cited in that                  5 paragraph of your report. So let me -- let's turn to 03:07:09                  6 your report and just make sure we've -- we've looked at                  7 all of them because I don't want to leave any out.                  8 I believe -- is this on page 8? Or                  9 paragraph 8? It's paragraph 8, I believe. On page 7,                  10 paragraph 8. 03:07:30                  11 Let me know when you're there.                  12 A I'm there.                  13 Q Okay. So we looked at Coleman 2020; correct?                  14 A Yes.                  15 Q And Hilton and Lundberg 2021; correct? 03:07:42                  16 A Yes.                  17 Q And World Rugby?                  18 A Yes.                  19 Q And Harper 2021?                  20 A Yes. 03:07:53                  21 Q And Hamilton 2021?                  22 A Yes.                  23 Q And a briefing book prepared by the Women's                  24 Sports Policy Working Group 2021; right?                  25 A Yes. 03:08:00</p> <p style="text-align: right;">Page 246</p>	<p>1 BY MR. BLOCK:                  2 Q Okay. And did any of these sources support                  3 having a single across-the-board rule that applied to                  4 all sporting events?                  5 MR. FRAMPTON: Object to the form. 03:09:37                  6 THE WITNESS: Again, the same statement with                  7 Hamilton seems to state that, with the caveat that, I                  8 guess, you and I can agree there is some contradiction                  9 or confusion there.                  10 BY MR. BLOCK: 03:09:51                  11 Q Okay. Let's look at page 4 of your report.                  12 A All right. Page 4, Overview.                  13 Q Yes. If you look at the second bullet point.                  14 A Okay.                  15 Q It says (as read): 03:10:13                  16 "Biological male physiology is the                  17 basis for the performance advantage                  18 that men, adolescent boys, or male                  19 children have over women, adolescent                  20 girls, or female children in almost 03:10:25                  21 all athletic events."                  22 Did I read that right?                  23 A Yes, you read that correctly.                  24 Q Okay. And so your expert opinions about                  25 transgender women are based on the premise that 03:10:34</p> <p style="text-align: right;">Page 248</p>
<p>1 Q Okay. So now that we've looked at all of                  2 those, do any of them advocate in favor of excluding                  3 girls and women who are trans from participating in                  4 women's sports if they have had puberty blockers and                  5 not gone through endogenous puberty? 03:08:17                  6 MR. FRAMPTON: Object to the form.                  7 Go ahead.                  8 THE WITNESS: I still think that that                  9 statement from Hamilton, where they say women deserve a                  10 protected category, with the understanding that 03:08:24                  11 protected category, as it is used in the field, means                  12 biological women only.                  13 BY MR. BLOCK:                  14 Q Okay. But other portions of the -- the                  15 Hamilton statement don't support that; correct? 03:08:39                  16 A Correct.                  17 Q Okay. So after reviewing all these sources,                  18 let's see, how -- how many of them do we think support                  19 excluding girls and women who are transgender if                  20 they've experienced puberty and then suppressed their 03:09:04                  21 testosterone?                  22 MR. FRAMPTON: Object to the form.                  23 THE WITNESS: So as we've reviewed these                  24 sitting here, I would say Hamilton supports it, with                  25 the caveat that it is, at times, contradictory. 03:09:20</p> <p style="text-align: right;">Page 247</p>	<p>1 transgender women who have not had any gender-affirming                  2 medical interventions will have the same physiology as                  3 cisgender men; right?                  4 MR. FRAMPTON: Object to the form.                  5 THE WITNESS: Yes, they are still biological 03:10:51                  6 males.                  7 BY MR. BLOCK:                  8 Q And will have the same physiological                  9 characteristics that are the basis for the performance                  10 advantage; correct? 03:10:59                  11 MR. FRAMPTON: Same objection.                  12 THE WITNESS: That is correct. Male                  13 physiology is the basis of the performance advantage.                  14 BY MR. BLOCK:                  15 Q So let's go back to that Hamilton article we 03:11:09                  16 were discussing. So that is, I believe, Exhibit 79.                  17 A All right.                  18 Q Okay. Can you go to page 1402, please.                  19 A All right. 1402.                  20 Q Okay. Pull that up. 03:11:39                  21 If you look on the right-hand column, on this                  22 little table 1 --                  23 A Yes.                  24 Q -- do you see that?                  25 And then you go -- one, two, three, four -- 03:11:54</p> <p style="text-align: right;">Page 249</p>

<p>1 five items down there, there's a line that begins with                  2 "the assumption."                  3 Do you see that?                  4 A I do see that.                  5 Q Okay. And that sentence says (as read): 03:12:04                  6 "The assumption that the physiology of                  7 elite DSD women and transwomen                  8 athletes is the same as elite male                  9 athletes is an oversimplified view."                  10 Do you see that? 03:12:15                  11 A I see that statement.                  12 Q Okay. And you didn't cite to that statement                  13 in your report; right?                  14 A I disagree with that statement.                  15 Q And, therefore, because you disagreed with it, 03:12:23                  16 you chose not to cite it in your report?                  17 MR. FRAMPTON: Object to the form.                  18 THE WITNESS: I don't think it's appropriate                  19 to cite a statement that I don't think I can defend.                  20 BY MR. BLOCK: 03:12:36                  21 Q Okay. Do you think it's appropriate to cite                  22 an article who -- that contains many statements that --                  23 that you don't think you can defend?                  24 MR. FRAMPTON: Object to the form.                  25 THE WITNESS: Yes. Trying to cite that there 03:12:53                  Page 250</p>	<p>1 the data and the information with which I agree with as                  2 an expert.                  3 BY MR. BLOCK:                  4 Q Okay. So you -- you don't see your role in                  5 this case as prevent- -- presenting an overview of the 03:14:32                  6 data for and against H.B. 3293; right?                  7 MR. TRYON: Objection.                  8 MR. FRAMPTON: Object to form.                  9 THE WITNESS: I think I'm suppo- -- my role is                  10 presenting the information from the best of my 03:14:52                  11 expertise and analysis of it, which -- what I think is                  12 the correct information.                  13 BY MR. BLOCK:                  14 Q Okay. Not -- so -- so you don't think -- if                  15 the Court wanted just an overview of the information 03:15:07                  16 out there for and against H.B. 3293, your expert report                  17 wouldn't be the source of getting that; right?                  18 MR. FRAMPTON: Object to the form.                  19 MR. TRYON: Objection.                  20 THE WITNESS: I would think that would be a 03:15:27                  21 specific request made by the Court to get information.                  22 BY MR. BLOCK:                  23 Q So -- but you saw -- but you said, when you                  24 wrote your blog post, that, you know, the purpose of                  25 that blog post was to provide information for educators 03:15:46                  Page 252</p>
<p>1 is a lot of information out there.                  2 BY MR. BLOCK:                  3 Q I see.                  4 If we go to page 1406 -- well, actually,                  5 before going there, were you aware of this statement in 03:13:07                  6 the Hamilton article at the time that you wrote your                  7 report?                  8 A Yes. I cited the Hamilton article. I had                  9 read it.                  10 Q All right. You -- okay. So you read the 03:13:22                  11 whole thing, and then you picked out certain statements                  12 to cite?                  13 A Correct.                  14 Q Okay. So if you go to page 1406.                  15 Do you -- do you see your role in this case as 03:13:45                  16 an advocate for one side or the other?                  17 MR. FRAMPTON: Object to the form.                  18 THE WITNESS: I have been retained to give my                  19 expert opinion, my expert analysis of the data.                  20 BY MR. BLOCK: 03:14:01                  21 Q All right. And to -- but do -- do you see                  22 your role in this case as presenting the portions of                  23 the data that support one side?                  24 MR. FRAMPTON: Object to the form.                  25 THE WITNESS: I think my role is to present 03:14:19                  Page 251</p>	<p>1 to use on their own, to teach the subject; right?                  2 A That is correct.                  3 Q Okay. And so you wrote that blog post with a                  4 different purpose in mind than you wrote this document;                  5 right? 03:16:03                  6 A Yes. The blog post was intended for                  7 educators.                  8 Q And do you think that it's important for                  9 educators to have accurate information?                  10 MR. FRAMPTON: Object to the form. 03:16:20                  11 THE WITNESS: Yes, educators need accurate                  12 information.                  13 BY MR. BLOCK:                  14 Q Okay. So do -- do you think educators need                  15 information different from what the court needs? 03:16:26                  16 MR. FRAMPTON: Object to the form.                  17 THE WITNESS: Truthful information is truthful                  18 information, and I've done my best to present truthful                  19 information.                  20 BY MR. BLOCK: 03:16:40                  21 Q Okay. So let's go to 1406 of -- of Hamilton.                  22 MR. TRYON: Before you go on.                  23 Mr. Frampton, I can't hear you when you're                  24 objecting. If you could speak a little louder, please.                  25 MR. FRAMPTON: Sure. 03:17:08                  Page 253</p>

<p>1 BY MR. BLOCK:                  2 Q So in -- in 1406, in the paragraph beginning                  3 with the words "despite the lack," do you see that?                  4 A Page 1406?                  5 Q Left -- left-hand column -- 03:17:23                  6 A Okay. Yeah. That's three down?                  7 Q Yes.                  8 A Okay.                  9 Q Okay. If you look at, I think, the third                  10 sentence, after it says "Table 1," in parentheses, it 03:17:39                  11 says (as read):                  12 "Data showing lower baseline isometric                  13 torque and muscle volume in transwomen                  14 compared to cisgender males highlight                  15 the problematic nature of inferring 03:17:50                  16 that transwomen and cisgender males                  17 are the same, as this ignores the                  18 impact of gender-affirming treatments                  19 such as HRT and GAS and the                  20 psychological effects of gender 03:18:00                  21 dysphoria such as low self-esteem,                  22 anxiety and/or depression, and                  23 becoming socially isolated."                  24 Do you see that?                  25 A I see that. 03:18:09                  Page 254</p>	<p>1 enough detail to completely answer that.                  2 Q Okay. Hold on one second. All right.                  3 Let's go to the Harper article again. So that                  4 is Exhibit 78.                  5 A All right. 03:20:13                  6 Q So if you go to page 7 of the Harper.                  7 A All right.                  8 Q All right. There's a paragraph that begins                  9 with "of interest."                  10 Do you see that? 03:20:42                  11 A Right-hand side, first full paragraph, under                  12 the table?                  13 Q Yes.                  14 A Okay.                  15 Q All right. Where it says (as read): 03:20:48                  16 "Of interest, compared with cisgender                  17 men, hormone-naive transwomen                  18 demonstrate 6.4%-8.0% lower lean body                  19 mass, 6.0%-11.4% lower muscle CSA and                  20 approximately 10%-14% lower handgrip 03:21:05                  21 strength."                  22 Do you see that?                  23 A Yes.                  24 Q And then it says (as read):                  25 "This disparity is noteworthy given 03:21:14                  Page 256</p>
<p>1 Q Okay. Do you disagree that there is data                  2 showing lower baseline isometric torque and muscle                  3 volume for trans women compared to cisgender women?                  4 A So if I'm remembering correctly, reference 51                  5 here is probably to the -- the article by Wiik and 03:18:26                  6 Lundberg and others. That is the only paper I'm aware                  7 of that evaluated isometric torque and muscle volume in                  8 transgender individuals.                  9 Can I refer to that paper to verify?                  10 Q Yeah. If you look at 51, it -- it does go 03:18:40                  11 back to the -- the Wiik article.                  12 You're saying you want to look directly at the                  13 Wiik article?                  14 A I would like to.                  15 Q All right. Well, we can try to make time for 03:18:51                  16 that later.                  17 So -- but sitting here, you're saying you're                  18 not sure that that sentence accurately reports the --                  19 the findings of the Wiik article?                  20 A Yeah, I can't remember for -- right now what 03:19:08                  21 the baseline data were in the Wiik article, whether                  22 they were statistically significant or just numerically                  23 different or what.                  24 Q Okay.                  25 A I can see the graph in my mind, but not in 03:19:22                  Page 255</p>	<p>1 that hormone-naive transwomen and                  2 cisgender men have similar                  3 testosterone levels."                  4 Do you see that?                  5 A Yes. 03:21:20                  6 Q Okay. So do you have any reason to disagree                  7 with those reported findings?                  8 A I would like to include the next sentence,                  9 where it says "explanations for this strength                  10 difference are unclear," and continuing on with that, 03:21:37                  11 indicating that the trans women may actively refrain                  12 from building muscle and/or engaging in disordered                  13 eating.                  14 So there's a whole statement of speculative                  15 explanations for that. 03:21:51                  16 Q So do you -- do you have any explanations for                  17 those differences?                  18 A Well, we have no known biological markers in                  19 which we can draw blood or a sample of something to say                  20 that a person is transgender. And so it would 03:22:10                  21 apparently be a social explanation for why the                  22 transgender individuals have lower handgrip strength                  23 and smaller muscles.                  24 Q Okay. And so does that -- does that affect                  25 whether or not having lower handgrip strength and 03:22:31                  Page 257</p>

<p>1 stronger (sic) muscles gives an advantage in athletic 2 performance? 3 MR. FRAMPTON: Object to the form. 4 Go ahead. 03:22:43 5 THE WITNESS: In those cited studies, the 6 handgrip strength of the trans women was in the 90 to 7 95th percentile for cisgender women. 8 So while they may be slightly less strong than 9 a typical male, they are considerably stronger than the 10 typical female. 03:22:57 11 Q Okay. Right. But my -- but my question is, 12 in terms of comparing the strength of trans women to 13 the strength of cis men, don't those studies show that, 14 with respect to those indicators of athletic 15 performance, the trans women are not the same as the 03:23:19 16 cis men? 17 MR. FRAMPTON: Object to the form. 18 THE WITNESS: So, Mr. Block, are you trying to 19 say that smaller, weaker men are trans women? 20 BY MR. BLOCK: 03:23:37 21 Q I'm -- I'm asking my question. 22 Can you answer my question, please? 23 A Could you please clarify the question? 24 Q Yes. 25 Don't those -- doesn't that data show that -- 03:23:47 Page 258</p>	<p>1 participants on -- in those studies had performed 2 physical fitness tests alongside cisgender men, would 3 it be reasonable to assume that the participants in 4 these studies would not have performed as well on those 5 physical fitness tests? 03:25:26 6 MR. FRAMPTON: Object to form. 7 THE WITNESS: So if we are stating these 8 participants, yes, these participants were not as 9 strong as their comparison group. 10 But I do again want to caveat that neither of 03:25:40 11 these groups really were designed to represent 12 population-wide strength or body mass distributions. 13 BY MR. BLOCK: 14 Q Now, you've discussed in your article -- or 15 your article -- you've discussed in your report, you 03:25:57 16 know, your view that once you have acquired muscle 17 mass, that lowering your circulating testosterone does 18 not sufficiently reduce that muscle mass to eliminate a 19 performance advantage; is that right? 20 A I think you've appropriately characterized 03:26:20 21 what I've stated. 22 Q Thank you. 23 And so in your article, do -- or in your 24 report, do you discuss at all whether if someone lowers 25 their circulating testosterone before acquiring a lot 03:26:37 Page 260</p>
<p>1 to use the words of Harper -- hormone-naive trans women 2 may not, on average, have the same athletic attributes 3 as cisgender men? 4 MR. FRAMPTON: Object to the form. 5 Go ahead. 03:24:05 6 THE WITNESS: I think there are a whole lot of 7 qualifying statements that need to be included in that. 8 BY MR. BLOCK: 9 Q Okay. And so putting aside the cause of these 10 differences, putting aside whether those causes are, 03:24:22 11 you know, physiological or as a result of social 12 factors, all right, at the end of the day, regardless 13 of the cause, doesn't this data reflect that on a 14 population level, hormone-naive trans women may not, on 15 average, have the same athletic attributes as cisgender 03:24:46 16 men? 17 MR. FRAMPTON: Same objection. 18 Go ahead. 19 THE WITNESS: Those studies were not 20 attempting to evaluate baseline population-wide 03:24:57 21 strength for trans women, and so I don't think that we 22 can accurately extrapolate them to the population of 23 trans women. 24 BY MR. BLOCK: 25 Q Okay. If the participa- -- in the 03:25:08 Page 259</p>	<p>1 of muscle mass or doing exercises or training, whether 2 having a lower level of testosterone would restrict 3 their ability to add new muscle mass? 4 MR. FRAMPTON: Object to the form. 5 THE WITNESS: I don't think I addressed that 03:27:04 6 topic specifically, as far as how much reducing 7 testosterone and then engaging in training can 8 compensate for reduced testosterone. 9 BY MR. BLOCK: 10 Q Okay. So let's say the -- the trans women in 03:27:16 11 this study and the cis men in the study both engage in 12 the same types of exercise regimens, but the trans 13 women, given their lower baselines and -- have these 14 lower baselines and have lowered their testosterone 15 before engaging in these exercise regimens, is it -- do 03:27:49 16 you have an expert opinion on whether you would expect 17 that these trans women, having lowered their 18 testosterone levels, would be able to acquire new 19 muscle mass at the same degree as the cis men who had 20 not lowered their testosterone levels? 03:28:05 21 MR. FRAMPTON: Object to the form. 22 THE WITNESS: Based on research not cited in 23 my article, because I didn't think it was worth going 24 into in that particular publication -- or that expert 25 declaration, there is information that in middle-aged 03:28:20 Page 261</p>



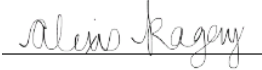
<p>1 men who suppress their testosterone and such as a                  2 treatment for prostate health problems, they're able to                  3 engage in strength training to overcome the lost                  4 testosterone. And so that is the closest to a                  5 speculative statement we can make regarding of how 03:28:43                  6 transgender women, or trans women, would respond to                  7 training.                  8 BY MR. BLOCK:                  9 Q Okay. If we go back to the Hamilton article                  10 for a second. I apologize. If you go to 1407 of the 03:29:05                  11 Hamilton article.                  12 Let me know when you're there, okay?                  13 A All right. 1407. I'm there.                  14 Q Uh-huh. It says -- halfway through the -- the                  15 first paragraph there, there's a sentence that begins 03:30:11                  16 "in contrast."                  17 Do you see that?                  18 A Page 1407. Are we on the left-hand side?                  19 Q I'm sorry, on the right-hand side.                  20 A Ah, okay. I wondered. 03:30:26                  21 There we go. Right-hand side, just after                  22 citation to 61, it says, "In contrast."                  23 Q Right. It says (as read):                  24 "In contrast, when bioavailable                  25 testosterone was reduced to castrate 03:30:34                  Page 262</p>	<p>1 training to overcome the deficit?                  2 MR. FRAMPTON: Object to the form.                  3 THE WITNESS: Looking at that study and the                  4 study I was referring to, it appears that the two are                  5 somewhat contradictory, but it's also hard to say with 03:32:21                  6 this saying young men and the older -- the other one                  7 was dealing with older men.                  8 Without looking at both studies side by side,                  9 it's really hard to make a comparison.                  10 BY MR. BLOCK: 03:32:32                  11 Q Okay. So in the -- in the Hamilton article,                  12 after the sentence I read, it says (as read):                  13 "Assuming these findings are                  14 replicated and if extrapolated to                  15 elite DSD women athletes and 03:32:46                  16 transwomen athletes, they would imply                  17 that decreasing bioavailable                  18 testosterone concentrations would                  19 mitigate to some extent any previous                  20 sporting advantage due to the 03:32:57                  21 previously high testosterone                  22 concentrations."                  23 Do you agree with that sentence?                  24 MR. FRAMPTON: Object to the form.                  25 THE WITNESS: Would mitigate to some extent, 03:33:12                  Page 264</p>
<p>1 levels in young men, isometric                  2 strength did not increase after                  3 resistance exercise training."                  4 Are you familiar with that study that --                  5 that's being referred to? 03:30:48                  6 A I am not familiar with that study.                  7 Q Okay. If you look at footnote 62 of the                  8 article, it says it's a study by Kvorning,                  9 K-V-O-R-N-I-N-G, from 2006.                  10 Just sitting here today, does -- are you 03:31:09                  11 familiar with the Kvorning study from 2006?                  12 A That -- that study is not ringing a bell.                  13 Q Okay.                  14 Okay. The -- the name of the study is                  15 "Suppression of endogenous testosterone production 03:31:27                  16 attenuates the response to strength training: a                  17 randomized, placebo-controlled, and blinded                  18 intervention study."                  19 Still doesn't ring a bell?                  20 A Still not ringing a bell. 03:31:40                  21 Q Okay. So if -- if -- from the title of that                  22 study, does the study seem to be in tension with the                  23 study you just cited to me about how people, the                  24 cisgender men, who are on therapies that lower their                  25 testosterone -- testosterone being able to have strength 03:32:01                  Page 263</p>	<p>1 yes.                  2 BY MR. BLOCK:                  3 Q Okay.                  4 MR. BLOCK: Can we take a break and go off the                  5 record? 03:33:19                  6 THE VIDEOGRAPHER: We are off -- off the                  7 record at 3:33 p.m.                  8 (Recess.)                  9 THE VIDEOGRAPHER: We are on the record at                  10 3:43 p.m. 03:43:29                  11 BY MR. BLOCK:                  12 Q Hi, Dr. Brown. I -- I won't keep you too much                  13 longer, but -- but I do have some -- I'm going to keep                  14 you a little bit longer, though.                  15 If -- 03:43:39                  16 A No worries.                  17 Q If we could go to the Hilton article again,                  18 which is marked as Exhibit -- I can't see it on my                  19 computer. One sec. The Hilton article is Exhibit 76.                  20 A All right. 03:44:05                  21 Q All right. Thanks.                  22 If you look at page 208, under 4.3.                  23 A Yes.                  24 Q All right. Just the second sentence there, it                  25 says (as read): 03:44:35                  Page 265</p>

<p>1 "Sex differences in endurance 2 performance are generally smaller than 3 for events relying more on muscle mass 4 and explosive strength." 5 Do you see that? 03:44:43 6 A Yes, I see that. 7 Q Okay. Do you -- do you agree with that 8 statement? 9 A Typically, the differences between males and 10 females for endurance running events or swimming events 03:44:52 11 are somewhere in the range of 10 to 13 percent compared 12 to the 25 percent or more in strength sports. 13 Q So -- so that means you agree with that 14 statement? 15 A Yes. 03:45:08 16 Q Okay. Thanks. 17 All right. If you look at, again, 208, it 18 says -- the paragraph before 4.3. 19 A That big long one? 20 Q Yep. 03:45:49 21 And near -- like two-thirds down, there's a 22 sentence that begins with "furthermore." 23 Do you see that? 24 A Okay. Furthermore, given the (sic) cohorts? 25 Q Yeah. So I -- I just want to direct your 03:46:01</p> <p style="text-align: right;">Page 266</p>	<p>1 Q Okay. And so Hilton cites this article for 2 the proposition that -- I have to get -- I don't want 3 to misquote her. Hold on -- it says -- cites for the 4 proposition that cohorts of transgender women often 5 have slightly lower baseline measurements of muscle and 03:47:36 6 strength than control males; right? 7 A Yes, that is what it says. 8 Q Okay. And so that's a sim- -- that's similar 9 to the statement in the Hamilton article; right? 10 MR. FRAMPTON: Object to the form. 03:47:47 11 THE WITNESS: I'm sorry, can we go back to 12 what the Hamilton article says, or could you -- 13 BY MR. BLOCK: 14 Q Sorry, I'm -- I just want to -- you know, we 15 looked at two sources that talk about how the baseline 03:47:54 16 measurements of trans women are not always the same as 17 the baseline measurements of control cis men. And we 18 looked at two studies saying that, one was the Hamilton 19 study and one was the Harper study. And all I want to 20 do is add this study as -- this article as a third 03:48:13 21 article making that observation. 22 Would you agree that this article is another 23 article that at least makes the observation that the 24 baseline measurements for trans women appear to often 25 be lower than the baseline measurements for cisgender 03:48:36</p> <p style="text-align: right;">Page 268</p>
<p>1 attention to the first half of the sentence. This is 2 the Hilton article. And it says (as read): 3 "Furthermore, given that cohorts of 4 transgender women often have slightly 5 lower baseline measurements of muscle 03:46:15 6 and strength than control males." 7 Do you see that? 8 A Yes. 9 Q Okay. And then if you follow that footnote, 10 it goes to footnote 53, and there's an article by 03:46:25 11 someone whose name I can't pronounce. It's Van 12 C-A-E-N-E-G-E-M. 13 Are you able to click through to footnote 53? 14 A Can we agree to call that Van C? 15 Q Oh, good -- good call. Yes. 03:46:46 16 A Yeah, I don't know how to say the last name 17 either. 18 Q Okay. All right. 19 And so could you -- you see the footnote? 20 A Yes. 03:46:52 21 Q Okay. And the footnote is to an article that 22 says, "Preservation of volumetric bone density and 23 geometry in trans women during cross-sex hormonal 24 therapy: a prospective observational study"; right? 25 A Yes. 03:47:06</p> <p style="text-align: right;">Page 267</p>	<p>1 men who are used as controls? 2 MR. FRAMPTON: Object to the form. 3 THE WITNESS: I -- I think in this article by 4 Hilton, a couple of key points here is where it says 5 "cohorts of transgender women," not saying population 03:48:53 6 representative sampling or anything like that. And 7 then there's a lot of further qualifications that you 8 go on in that sentence emphasizing caution with 9 interpreting these data. 10 BY MR. BLOCK: 03:49:10 11 Q Yeah. Well, so, actually, I have a question 12 for you. 13 So you talk about how these are just cohorts 14 of trans women, not population samples, but you cite to 15 these same articles in support of your argument that -- 03:49:20 16 about the effects of gender-affirming hormones, don't 17 you? 18 A Yes, I cite these articles. 19 Q Okay. So how come -- can't the same caveat be 20 made that whatever conclusions you're drawing about 03:49:39 21 trans women from these articles don't necessarily apply 22 to trans women at a population level? 23 MR. FRAMPTON: Object to the form. 24 THE WITNESS: These are the best sources of 25 information that we have, and the studies looking at 03:49:54</p> <p style="text-align: right;">Page 269</p>

<p>1 changes over time or changes in strength, muscle mass                  2 and such that I've cited, that was the purpose of the                  3 study, was to evaluate those changes and then                  4 statistically apply it to a population whereas those                  5 studies were not designed to get a population baseline 03:50:13                  6 sampling for normative data.                  7 BY MR. BLOCK:                  8 Q Okay. Well, that -- I'm glad you made that                  9 point because -- let's go to -- to your expert report                  10 where -- on page -- on page -- let me make sure I have 03:50:28                  11 the right page.                  12 So page 2 -- actually, go to page 1, so I'm                  13 not missing anything.                  14 Let me know when you're at page 1.                  15 A So is page 1 Personal Qualifications and 03:51:02                  16 Disclosure?                  17 Q It is.                  18 A Okay.                  19 Q So right before the bullet points, you say (as                  20 read): 03:51:08                  21 "Articles that I have published that                  22 are closely related to topics that I                  23 discuss in this white paper                  24 include..."                  25 And then there's a list. Right? 03:51:14                  Page 270</p>	<p>1 Q Okay. So -- so what you just said before,                  2 when we were talking about the -- the cohorts of trans                  3 women, you had said, well, the purpose of those studies                  4 was not to provide population sampling on, you know,                  5 the physiological characteristics of -- of the trans 03:52:43                  6 women in the study; therefore, you couldn't extrapolate                  7 that as a general matter, all trans women were likely                  8 to have similar characteristics.                  9 Is that -- is that a fair summary of what you                  10 had just said? 03:52:59                  11 MR. FRAMPTON: Object to the form.                  12 THE WITNESS: Yes, that is a fair summary.                  13 BY MR. BLOCK:                  14 Q But in your description of your study here, do                  15 you think a reader, reading that sentence, would think 03:53:10                  16 that you are making the statement that as a general                  17 matter, on a population-wide basis, you found in your                  18 study that height, body mass and mox -- maximal oxygen                  19 consumption were higher for the male NCAA competitors                  20 compared to female NCAA competitors? 03:53:32                  21 MR. FRAMPTON: Object to the form.                  22 THE WITNESS: I'm kind of unclear with what                  23 you're trying to ask.                  24 BY MR. BLOCK:                  25 Q Yeah, so I'm saying that this happened to be 03:53:45                  Page 272</p>
<p>1 A Yes.                  2 Q And -- and then if you go to the -- the second                  3 to last bullet point.                  4 A Yes.                  5 Q Do you see that? 03:51:26                  6 That says (as read):                  7 "A study finding (among other things)                  8 that height, body mass, and maximal                  9 oxygen consumption were higher in a                  10 group of male NCAA Division 2 distance 03:51:36                  11 runners, while women NCAA Division 2                  12 distance runners had higher percent                  13 body fat."                  14 Do you see that?                  15 A Yes. 03:51:48                  16 Q Okay. And we discussed this study during our                  17 previous deposition. Do you remember that?                  18 A Yeah. It's a fun paper.                  19 Q Yeah. But we discussed how this data about                  20 height, body mass and oxygen consumption was base- -- 03:52:00                  21 was data -- baseline data that you took of -- of these                  22 athletes, but the purpose of the study was not to do a                  23 population-wide, you know, sampling of -- of height,                  24 body mass and oxygen consumption; right?                  25 A Yes, that is correct. 03:52:22                  Page 271</p>	<p>1 the data for a particular cohort that you're doing a                  2 different study on; correct?                  3 MR. FRAMPTON: Object to the form.                  4 THE WITNESS: So, yes, as I've stated, this is                  5 a group of male and female Division II distance 03:53:57                  6 runners.                  7 BY MR. BLOCK:                  8 Q Okay. And so that study wouldn't allow you to                  9 draw any conclusions generalizable to other males and                  10 females about, you know, what their comparative height, 03:54:10                  11 body mass and oxygen consumption would be; right?                  12 MR. FRAMPTON: Same objection.                  13 THE WITNESS: I don't think I've ever                  14 purported that that was the purpose of this study.                  15 BY MR. BLOCK: 03:54:24                  16 Q You don't think that someone reading that                  17 sentence, where it says the study -- a study finding                  18 these things, you don't think someone reading that                  19 sentence would have the impression that that was the                  20 purpose of the study? 03:54:40                  21 MR. FRAMPTON: Object to the form.                  22 THE WITNESS: Those were findings of the                  23 study. That's what I have states, is those are                  24 findings of the study.                  25 ///                  Page 273</p>

<p>1 BY MR. BLOCK:                  2 Q Was the rest of the -- is the rest of the                  3 study relevant to the topic of this case?                  4 A You mean is that the male athletes were faster                  5 than the female athletes? 03:55:10                  6 Q I mean -- what -- what I mean is you -- you --                  7 you select this finding from the study, but were any                  8 other findings from that study relevant to this case?                  9 A Yes, we could say that. For the same heart                  10 rate, the men were faster than the women. 03:55:32                  11 Q Okay. Okay. Let's go to -- to page 4.                  12 A On my declaration?                  13 Q Yeah. Or your report.                  14 A Yeah, just make sure we're on the same -- so                  15 this is the overview? 03:55:54                  16 Q Yes. And I just want to direct your attention                  17 to the three bullet points that you've listed there.                  18 Do you see them?                  19 A Yes, I do.                  20 Q Okay. Are you offering any expert opinions in 03:56:11                  21 this case other than the opinions contained in those                  22 three bullet points?                  23 MR. FRAMPTON: Object to the form.                  24 THE WITNESS: Well, I -- I mean, those are the                  25 basis for everything else, those three bullet points, 03:56:35                  Page 274</p>	<p>1 MR. FRAMPTON: Object to the form and scope.                  2 Go ahead.                  3 THE WITNESS: So I think this comes back to                  4 our previous discussion where we discuss the                  5 irreconcilable differences between inclusion and 03:58:21                  6 fairness.                  7 BY MR. BLOCK:                  8 Q Yes, it does, which is why I'm coming back to                  9 it.                  10 So I -- I -- you know, I understand that, you 03:58:37                  11 know, you have laid out your criteria, your -- excuse                  12 me -- your credentials for proving -- for providing an                  13 expert opinion on whether an advantage exists, and so                  14 I -- I -- I just want to find out whether or not, you                  15 know, the -- in light of that information you present 03:58:58                  16 regarding the existence or nonexistence of an                  17 advantage, whether a particular policy maker will then                  18 decide that something is fair or unfair, is not -- is                  19 not something that you are providing an expert opinion                  20 on; right? 03:59:18                  21 MR. FRAMPTON: Same objection.                  22 Go ahead.                  23 THE WITNESS: So I'm trying to detail the                  24 advantages, the differences between males and females                  25 biologically, documenting the advantages in athletic 03:59:30                  Page 276</p>
<p>1 and most of the other information is trying to support                  2 and substantiate why I drew those conclusions.                  3 BY MR. BLOCK:                  4 Q Okay. So -- but there are no -- I appreciate                  5 that. 03:56:48                  6 There's -- you're not offering an opinions on                  7 any other issue, are you?                  8 MR. FRAMPTON: Object to the form.                  9 THE WITNESS: Kind of unclear what you're                  10 asking. 03:57:07                  11 I think it states there fairly clearly what                  12 I'm -- the -- the statements I'm trying to make.                  13 BY MR. BLOCK:                  14 Q Yeah, I'm just trying to nail down the full                  15 scope of the expert opinions you're offering here. And 03:57:24                  16 so you're not offering any expert opinions on the                  17 appropriateness of particular modes of healthcare for                  18 trans people; is that right?                  19 A That is correct, I'm not offering an opinion                  20 on healthcare for transgender individuals. 03:57:45                  21 Q Okay. And you are not -- you discuss these                  22 bullet points, what you say are advantages, but you are                  23 not offering an opinions on whether particular policies                  24 are fair or unfair in light of the data that you                  25 present here, are you? 03:58:08                  Page 275</p>	<p>1 performance the males have over female, documenting                  2 what we know regarding transgender individuals and                  3 their -- the treatments that they might receive and how                  4 that would affect athletic advantages, and then                  5 bringing up the point that there is, apparently, some 03:59:47                  6 irreconcilable differences -- I'm not sure if that's                  7 the best way to state it, but I state it in the                  8 document -- between goals of inclusion and fairness.                  9 BY MR. BLOCK:                  10 Q Yeah, I guess -- someone reading your 04:00:00                  11 report -- you know, let's say someone reads all the                  12 information in the report, absorbs all the facts, you                  13 know, and then, you know, is asked, based on all the                  14 facts presented in your report, is it fair to include                  15 trans girls and women or not to include them, would you 04:00:21                  16 have any greater expertise in answering that ultimate                  17 question than anyone else who has absorbed the facts                  18 you presented in your report?                  19 MR. FRAMPTON: Object to the form.                  20 THE WITNESS: Are you saying does every piece 04:00:46                  21 of knowledge I've ever written put on -- on this                  22 document and someone would know everything that I know?                  23 BY MR. BLOCK:                  24 Q No. I'm saying that based on these facts, you                  25 know, someone needs to draw a conclusion about what's 04:01:02                  Page 277</p>

<p>1 fair, okay? And so my question is -- you know, I                  2 understand that you're providing an expert -- you know,                  3 opinions on the -- the -- the -- the facts you say in                  4 your report. All my question is that, you know, the                  5 second step of drawing a conclusion about what's fair 04:01:18                  6 or unfair is not something that you are an expert on;                  7 right?                  8 MR. FRAMPTON: Object to the form.                  9 Go ahead.                  10 THE WITNESS: I would hope that someone would 04:01:33                  11 read my document, and they're also going to read the                  12 document from the other experts, weigh the evidence and                  13 make a decision on what is -- what is fair.                  14 BY MR. BLOCK:                  15 Q And -- and you are not offering, you know, 04:01:52                  16 that decision, that ultimate decision, as part of your                  17 expert report; right? That's for someone else to                  18 decide?                  19 MR. FRAMPTON: Object to the form.                  20 THE WITNESS: Yes, that is my intention, is 04:02:16                  21 that someone else will weigh the information, weigh the                  22 data and make their decision.                  23 MR. BLOCK: All right. Thank you, Dr. Brown.                  24 I have no further questions.                  25 MR. FRAMPTON: Anyone else? 04:02:37                  Page 278</p>	<p>1 will be retained by Veritext Legal Solutions.                  2 (TIME NOTED: 4:03 p.m.)                  3                  4                  5                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25                  Page 280</p>
<p>1 MS. GREEN: This is Roberta Green on behalf of                  2 WVSSAC. No questions.                  3 THE VIDEOGRAPHER: Can we go off the record,                  4 Attorney Block?                  5 MR. BLOCK: Sure. Unless anyone else wants to 04:02:52                  6 say on the record that they don't have any other                  7 questions.                  8 MR. CROPP: This is Jeffrey Cropp with                  9 Harrison County Board of Education and Dora Stutler. I                  10 have no question. 04:02:57                  11 MR TAYLOR: Michael Taylor on behalf of the                  12 State BOE and Superintendent Burch. No questions.                  13 MR. TRYON: Dave Tryon. No questions.                  14 MR. FRAMPTON: Hal Frampton for the                  15 intervenor. No questions.                  16 It sounds like we're done.                  17 MR. BLOCK: See you in another two years,                  18 Dr. Brown.                  19 (Simultaneous speaking.)                  20 MS. DUPHILY: Hold on. Let's take this off 04:03:24                  21 the record. One second.                  22 THE VIDEOGRAPHER: We are off the record at                  23 4:03 p.m., and this concludes today's testimony given                  24 by Gregory Brown.                  25 The total number of media used was eight and 04:03:31                  Page 279</p>	<p>1 I, GREGORY BROWN, Ph.D., do hereby declare                  2 under penalty of perjury that I have read the foregoing                  3 transcript; that I have made any corrections as appear                  4 noted, in ink, initialed by me, or attached hereto;                  5 that my testimony as contained herein, as corrected, is                  6 true and correct.                  7 EXECUTED this ____ day of _____,                  8 20____, at _____, _____                  (City) (State)                  9                  10                  11                  12                  13 GREGORY BROWN, Ph.D.                  14 Volume I                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25                  Page 281</p>

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2  
3 I, the undersigned, a Certified Shorthand  
4 Reporter of the State of California, do hereby certify:  
5 That the foregoing proceedings were taken  
6 before me at the time and place herein set forth; that  
7 any witnesses in the foregoing proceedings, prior to  
8 testifying, were placed under oath; that a record of  
9 the proceedings was made by me using machine shorthand  
10 which was thereafter transcribed under my direction;  
11 further, that the foregoing is an accurate  
12 transcription thereof.  
13 I further certify that I am neither financially  
14 interested in the action nor a relative or employee of  
15 any attorney of any of the parties.  
16 IN WITNESS WHEREOF, I have this date subscribed  
17 my name.  
18  
19 Dated: April 5, 2022  
20  
21  
22   
23 ALEXIS KAGAY  
24 CSR NO. 13795  
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1  Federal R&S Requested (FRCP 30(e)(1)(B)) – Locked .PDF  
2 Transcript - The witness should review the transcript and  
3 make any necessary corrections on the errata pages included  
4 below, notating the page and line number of the corrections.  
5 The witness should then sign and date the errata and penalty  
6 of perjury pages and return the completed pages to all  
7 appearing counsel within the period of time determined at  
8 the deposition or provided by the Federal Rules.  
9  Federal R&S Not Requested - Reading & Signature was not  
10 requested before the completion of the deposition.  
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1 GREGORY BROWN, Ph.D.  
2 brownga@unk.edu  
3 APRIL 6, 2022  
4 RE: B.P.J. v. WEST VIRGINIA STATE BOARD OF EDUCATION  
5 MARCH 25, 2022, GREGORY BROWN, Ph.D., 5122856  
6 The above-referenced transcript has been  
7 completed by Veritext Legal Solutions and  
8 review of the transcript is being handled as follows:  
9  Per CA State Code (CCP 2025.520 (a)-(e)) – Contact Veritext  
10 to schedule a time to review the original transcript at  
11 a Veritext office.  
12  Per CA State Code (CCP 2025.520 (a)-(e)) – Locked .PDF  
13 Transcript - The witness should review the transcript and  
14 make any necessary corrections on the errata pages included  
15 below, notating the page and line number of the corrections.  
16 The witness should then sign and date the errata and penalty  
17 of perjury pages and return the completed pages to all  
18 appearing counsel within the period of time determined at  
19 the deposition or provided by the Code of Civil Procedure.  
20  Waiving the CA Code of Civil Procedure per Stipulation of  
21 Counsel - Original transcript to be released for signature  
22 as determined at the deposition.  
23  Signature Waived – Reading & Signature was waived at the  
24 time of the deposition.  
25

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1 B.P.J. v. WEST VIRGINIA STATE BOARD OF EDUCATION  
2 GREGORY BROWN, Ph.D. (#5122856)  
3 E R R A T A S H E E T  
4 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_  
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**[association - bardos]**

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**[class - complicated]**

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[versus - witness]

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**[witness - women's]**

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[women's - ±]

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

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THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

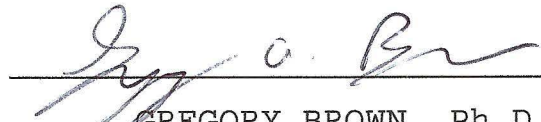
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1 I, GREGORY BROWN, Ph.D., do hereby declare  
2 under penalty of perjury that I have read the foregoing  
3 transcript; that I have made any corrections as appear  
4 noted, in ink, initialed by me, or attached hereto;  
5 that my testimony as contained herein, as corrected, is  
6 true and correct.

7 EXECUTED this 9 day of May,  
8 2022, at Kearney, Nebraska.  
(City) (State)

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12   
GREGORY BROWN, Ph.D.

13 Volume I  
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1 GREGORY BROWN, Ph.D.

2 brownga@unk.edu

3 APRIL 6, 2022

4 RE: B.P.J. v. WEST VIRGINIA STATE BOARD OF EDUCATION

5 MARCH 25, 2022, GREGORY BROWN, Ph.D., 5122856

6 The above-referenced transcript has been  
7 completed by Veritext Legal Solutions and  
8 review of the transcript is being handled as follows:

9 \_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext  
10 to schedule a time to review the original transcript at  
11 a Veritext office.

12 \_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF  
13 Transcript - The witness should review the transcript and  
14 make any necessary corrections on the errata pages included  
15 below, notating the page and line number of the corrections.  
16 The witness should then sign and date the errata and penalty  
17 of perjury pages and return the completed pages to all  
18 appearing counsel within the period of time determined at  
19 the deposition or provided by the Code of Civil Procedure.

20 \_\_\_ Waiving the CA Code of Civil Procedure per Stipulation of  
21 Counsel - Original transcript to be released for signature  
22 as determined at the deposition.

23 \_\_\_ Signature Waived - Reading & Signature was waived at the  
24 time of the deposition.

25

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1     \_x\_ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF

2           Transcript - The witness should review the transcript and  
3           make any necessary corrections on the errata pages included  
4           below, notating the page and line number of the corrections.  
5           The witness should then sign and date the errata and penalty  
6           of perjury pages and return the completed pages to all  
7           appearing counsel within the period of time determined at  
8           the deposition or provided by the Federal Rules.

9     \_\_ Federal R&S Not Requested - Reading & Signature was not  
10           requested before the completion of the deposition.

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Page 284

1 B.P.J. v. WEST VIRGINIA STATE BOARD OF EDUCATION  
2 GREGORY BROWN, Ph.D. (#5122856)

3 E R R A T A S H E E T

4 PAGE 29 LINE 23 CHANGE The word "interest" should  
be "interested"

5  
6 REASON This more accurately reflects what was said

7 PAGE 85 LINE 13 & 16 CHANGE McManis should be spelled  
McManus

8  
9 REASON Correct Spelling

10 PAGE 151 LINE 10 CHANGE Change "a third" to  
"two thirds"

11  
12 REASON This more accurately reflects what was said

13 PAGE 157 LINE 7 CHANGE change to "...yes, as to the  
first part of the question. And as to the second part I would  
14 say it's fair to say that I don't cite Klaver in percent body  
fat

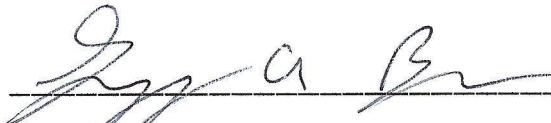
15 REASON Clarifying my answers to a two part questions

16 PAGE 163 LINE 19 CHANGE Change text to "...group. And  
17 I recently published in Advances in..."

18 REASON This more accurately reflects what was said

19 PAGE 163 LINE 8 CHANGE The word "peacock" should be  
20 "PECOP"

21 REASON PECOP is the correct title

22  
23 

24 WITNESS

23 

24 Date

1 B.P.J. v. WEST VIRGINIA STATE BOARD OF EDUCATION  
2 GREGORY BROWN, Ph.D. (#5122856)

3 E R R A T A S H E E T

4 PAGE 191 LINE 13 CHANGE change "Higgard" to Higerd"

5 \_\_\_\_\_  
6 REASON Correct Spelling

7 PAGE 245 LINE 8 CHANGE change "somehow" to "someone"

8 \_\_\_\_\_  
9 REASON this more accurately reflects what was said

10 PAGE 273 LINE 23 CHANGE change "states" to "stated"

11 \_\_\_\_\_  
12 REASON this more accurately reflects what was said

13 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

14 \_\_\_\_\_  
15 REASON \_\_\_\_\_

16 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

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18 REASON \_\_\_\_\_

19 PAGE \_\_\_\_\_ LINE \_\_\_\_\_ CHANGE \_\_\_\_\_

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21 REASON \_\_\_\_\_

22 \_\_\_\_\_  
23 [Signature] May 9, 2022

24 WITNESS Date

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

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)  
B.P.J. by her next friend and) mother, HEATHER JACKSON, )  
) Plaintiff, )  
) No. 2:21-cv-00316  
) vs. )  
) WEST VIRGINIA STATE BOARD OF )  
EDUCATION, HARRISON COUNTY )  
BOARD OF EDUCATION, WEST )  
VIRGINIA SECONDARY SCHOOL )  
ACTIVITIES COMMISSION, W. )  
CLAYTON BURCH in his official) capacity as State )  
Superintendent, DORA STUTLER,) in her official capacity as )  
Harrison County )  
Superintendent, and THE STATE) OF WEST VIRGINIA, )  
) Defendants. )  
) LAINEY ARMISTEAD, )  
) Defendant-Intervenor. )

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REMOTE VIDEOTAPED DEPOSITION OF  
CHAD T. CARLSON, M.D., FACSM  
Monday, March 28, 2022  
Volume I

Reported by:  
ALEXIS KAGAY  
CSR No. 13795  
Job No. 5122881  
PAGES 1 - 227

<p>1 IN THE UNITED STATES DISTRICT COURT                  2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA                  3 CHARLESTON DIVISION                  4                  5 _____                  )                  6 B.P.J. by her next friend and                  mother, HEATHER JACKSON, )                  7 )                  Plaintiff, )                  8 )No. 2:21-cv-00316                  vs. )                  9 )                  WEST VIRGINIA STATE BOARD OF )                  10 EDUCATION, HARRISON COUNTY )                  BOARD OF EDUCATION, WEST )                  11 VIRGINIA SECONDARY SCHOOL )                  ACTIVITIES COMMISSION, W. )                  12 CLAYTON BURCH in his official)                  capacity as State )                  13 Superintendent, DORA STUTLER, )                  in her official capacity as )                  14 Harrison County )                  Superintendent, and THE STATE )                  15 OF WEST VIRGINIA, )                  )                  16 Defendants. )                  )                  17 LAINEY ARMISTEAD, )                  )                  18 )                  Defendant-Intervenor. )                  19 )                  20 _____                  21 Videotaped deposition of CHAD T. CARLSON,                  22 M.D., FACSM, Volume I, taken on behalf of Plaintiff,                  23 with all participants appearing remotely, beginning                  24 at 9:01 a.m. and ending at 3:19 p.m. on Monday,                  25 March 28, 2022, before ALEXIS KAGAY, Certified                  Shorthand Reporter No. 13795.</p> <p style="text-align: right;">Page 2</p>	<p>1 APPEARANCES (Continued):                  2                  3 For defendants Harrison County Board of Education                  4 and Superintendent Dora Stutler:                  5 STEPTOE &amp; JOHNSON PLLC                  6 BY: JEFFREY CROPP                  7 Attorney at Law                  8 400 White Oaks Boulevard                  9 Bridgeport, West Virginia 26330                  10 304.933.8154                  11 Jeffrey.Cropp@Steptoe-Johnson.com                  12                  13 For West Virginia Board of Education and                  14 Superintendent Burch, Heather Hutchens as general                  15 counsel for the State Department of Education:                  16 BAILEY &amp; WYANT, PLLC                  17 BY: KELLY MORGAN                  18 Attorneys at Law                  19 500 Virginia Street                  20 Suite 600                  21 Charleston, West Virginia 25301                  22 KMorgan@Baileywyant.com                  23                  24                  25</p> <p style="text-align: right;">Page 4</p>
<p>1 APPEARANCES (via Zoom Videoconference):                  2                  3 For the State of West Virginia:                  4 WEST VIRGINIA ATTORNEY GENERAL                  5 BY: DAVID TRYON                  6 Attorney at Law                  7 112 California Avenue                  8 Charleston West Virginia 25305-0220                  9 681.313.4570                  10 David.C.Tryon@wvago.gov                  11                  12 For the Intervenor:                  13 ALLIANCE DEFENDING FREEDOM                  14 BY: HAL FRAMPTON                  15 BY: RACHEL CSUTOROS                  16 Attorneys at Law                  17 20116 Ashbrook Place                  18 Suite 250                  19 Ashburn, Virginia 20147                  20 HFRampton@adflegal.org                  21 RCsutoros@adflegal.org                  22                  23                  24                  25</p> <p style="text-align: right;">Page 3</p>	<p>1 APPEARANCES (Continued):                  2                  3 For The Plaintiff, B.P.J.:                  4 COOLEY                  5 BY: ELIZABETH REINHARDT                  6 BY: KATHLEEN HARTNETT                  7 BY: ANDREW BARR                  8 BY: KATELYN KANG                  9 BY: ZOE HELSTROM                  10 BY: VALERIA PELET DEL TORO                  11 BY: JULIE VEROFF                  12 Attorneys at Law                  13 500 Boylston Street                  14 14th Floor                  15 Boston, Massachusetts 02116-3740                  16 617.937.2305                  17 EReinhardt@cooley.com                  18 VPeletdeltoro@cooley.com                  19 Khartnett@cooley.com                  20 KKang@cooley.com                  21 ABarr@cooley.com                  22 ZHolestrom@cooley.com                  23 JVeroff@cooley.com                  24                  25</p> <p style="text-align: right;">Page 5</p>

<p>1 APPEARANCES (Continued):                  2                  3 For West Virginia Secondary School Activities                  4 Commission:                  5 SHUMAN MCCUSKEY SLICER                  6 BY: ROBERTA GREEN                  7 Attorney at Law                  8 1411 Virginia Street E                  9 Suite 200                  10 Charleston, West Virginia 25301-3088                  11 RGreen@Shumanlaw.com                  12                  13                  14 For the Plaintiff:                  15 AMERICAN CIVIL LIBERTIES UNION                  16 BY: JOSHUA A. BLOCK                  17 125 Broad Street                  18 18th Floor                  19 New York, New York 10004                  20 JBlock@aclu.org                  21 212.549.2500                  22                  23                  24                  25</p> <p style="text-align: right;">Page 6</p>	<p>1 INDEX                  2 WITNESS EXAMINATION                  3 CHAD T. CARLSON, M.D., FACSM                  4 Volume I                  5                  6 BY MR. BLOCK 13                  7                  8                  9 EXHIBITS                  10 NUMBER DESCRIPTION PAGE                  11 Exhibit 80 Declaration of Dr. Chad T. 27                  12 Carlson, M.D., FACSM                  13                  14 Exhibit 81 Declaration of Dr. Chad T. 28                  15 Carlson, M.D., FACSM White Paper                  16                  17 Exhibit 82 CMDA Ethics Statement, 33                  18 Transgender Identification                  19                  20 Exhibit 83 Tack Document, "Proandrogenic and 169                  21 Antiandrogenic Progestins in                  22 Transgender Youth: Differential                  23 Effects on Body Composition and                  24 Bone Metabolism"                  25</p> <p style="text-align: right;">Page 8</p>
<p>1 APPEARANCES (Continued):                  2                  3 For Plaintiff:                  4 LAMBDA LEGAL                  5 BY: SRUTI SWAMINATHAN                  6 Attorney at Law                  7 120 Wall Street                  8 Floor 19                  9 New York, New York 10005-3919                  10 SSwaminathan@lambdalegal.org                  11                  12                  13                  14                  15                  16 Also Present:                  17 MITCH REISBORD - VERITEXT CONCIERGE                  18                  19 Videographer:                  20 KIMBERLEE DECKER                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 7</p>	<p>1 Exhibit 84 "Suppression of endogenous 176                  2 testosterone production                  3 attenuates the response to                  4 strength training: a randomized,                  5 placebo-controlled, and blinded                  6 intervention study"                  7                  8 Exhibit 85 Rider Document "Health and Care 215                  9 Utilization of Transgender and                  10 Gender Nonconforming Youth: A                  11 Population-Based Study"                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 9</p>

<p>1 Monday, March 28, 2022                  2 9:01 a.m.                  3 THE VIDEOGRAPHER: Good morning. We are on                  4 the record at 9:01 a.m. on March 28th of 2022.                  5 All participants are attending remotely. 09:01:01                  6 Audio and video recording will continue to                  7 take place unless all parties agree to go off the                  8 record.                  9 This is media unit 1 of the recorded                  10 deposition of Dr. Chad T. Carlson, taken by counsel 09:01:19                  11 for the plaintiff, in the matter of B.P.J., by her                  12 next friend and mother, Heather Jackson, versus                  13 West Virginia State Board of Education, et al.,                  14 filed in the U.S. District Court, Southern District                  15 of West Virginia, Charleston Division, Case 09:01:38                  16 Number 2:21-cv-00316.                  17 My name is Kimberlee Decker from Veritext                  18 Legal Solutions, and I am the videographer. The                  19 court reporter is Alexis Kagay.                  20 I am not related to any party in this action, 09:01:54                  21 nor am I financially interested in the outcome.                  22 Counsel and all present will now state their                  23 appearances and affiliations for the record. If                  24 there are any objections to proceeding, please state                  25 them at the time of your appearance, beginning with 09:02:07                  Page 10</p>	<p>1 West Virginia Attorney General's Office representing                  2 the State of West Virginia.                  3 And just to clarify for the record, the time                  4 starting was Central Time, so 9:00 a.m., Central                  5 Time. 09:03:18                  6 MR. CROPP: This is Jeffrey Cropp with                  7 Steptoe &amp; Johnson representing defendant Harrison                  8 County Board of Education and Dora Stutler.                  9 MS. MORGAN: This is Kelly Morgan with                  10 Bailey &amp; Wyant representing the West Virginia Board 09:03:34                  11 of Education and Superintendent Burch.                  12 MS. GREEN: This is Roberta Green,                  13 Shuman McCuskey Slicer, here on behalf of                  14 West Virginia Secondary School Activities                  15 Commission.                  16 THE VIDEOGRAPHER: Thank you.                  17 Will the court reporter please swear in the                  18 witness.                  19 (Witness sworn.)                  20 MR. BLOCK: Great.                  21                  22 CHAD T. CARLSON, M.D., FACSM,                  23 having been administered an oath, was examined and                  24 testified as follows:                  25</p>
<p>1 the noticing attorney.                  2 MR. BLOCK: Good morning. This is Josh Block                  3 from the ACLU on behalf of Plaintiff. And I'll have                  4 my co-counsel introduce themselves.                  5 MS. HARTNETT: Good morning. This is 09:02:22                  6 Kathleen Hartnett from Cooley, LLP, for Plaintiff.                  7 MR. BARR: Good morning. Andrew Barr from                  8 Cooley, LLP, for Plaintiff.                  9 MS. KANG: Good morning. Katelyn Kang from                  10 Cooley, LLP, for Plaintiff. 09:02:38                  11 MS. HELSTROM: Hello. This is Zoe Helstrom                  12 from Cooley, LLP, for Plaintiff.                  13 MS. PELET DEL TORO: Good morning. This is                  14 Valeria Pelet del Toro from Cooley, LLP, for                  15 Plaintiff.                  16 COUNSEL SWAMINATHAN: Good morning. This is                  17 Sruti Swaminathan from Lambda Legal on behalf of                  18 Plaintiff.                  19 MR. FRAMPTON: Good morning. Hal Frampton                  20 from Alliance Defending Freedom on behalf of the 09:02:57                  21 intervenor.                  22 MS. CSUTOROS: Hello. Rachel Csutoros from                  23 Alliance Defending Freedom on behalf of the                  24 intervenor.                  25 MR. TRYON: This is David Tryon with the 09:03:05                  Page 11</p>	<p>1 EXAMINATION                  2 BY MR. BLOCK:                  3 Q Good morning, Dr. Carlson. My name is                  4 Josh Block from the ACLU. I'll be taking your                  5 deposition today. 09:04:22                  6 Could you state your whole name for the                  7 record.                  8 A My name is Chad Thomas Carlson.                  9 Q Have you ever had your deposition taken                  10 before? 09:04:30                  11 A In a couple of local cases, yes.                  12 Q All right. What were those?                  13 A I can't recall. One was -- I -- I was                  14 retained as a witness in a traffic case and can't                  15 recall the -- and that never went to trial. And 09:04:48                  16 then I was retained as a witness in an injury case                  17 in a gym, and that also never went to trial. I was                  18 deposed in a local case once. I can't remember the                  19 circumstance. It was over ten years ago.                  20 Q Do you remember if those cases were -- if any 09:05:11                  21 of those were in federal court?                  22 A No, never --                  23 Q Okay.                  24 A -- in federal court.                  25 Q Okay. So maybe you'll remember some of this 09:05:17                  Page 13</p>

<p>1 discussion from ten years ago, but if not, here's a                  2 refresher. I just want to go over ground rules                  3 for -- for the deposition, and I have -- I have                  4 three main ground rules.                  5 The first is that, you know, although we have 09:05:31                  6 the video, the court reporter is also trying to                  7 write down everything we say, so it's important that                  8 your responses be verbal, by saying "yes" or "no"                  9 instead of nodding or shaking your head.                  10 Is that okay with you? 09:05:46                  11 A I understand that, and that's fine.                  12 Q Great. And -- and you didn't nod your head,                  13 which is what some people do in response to that                  14 first ground rule, so you're already off to a good                  15 start. 09:05:59                  16 The second is, again, related to the                  17 transcript, that the court reporter can't write down                  18 when two people are talking at the same time, so                  19 it's important that you wait until I finish the                  20 question before you answer, and in return, I'll wait 09:06:10                  21 for you to finish your answer before I ask another                  22 question.                  23 Does that sound fair?                  24 A I appreciate that, and yes.                  25 Q Okay. And the third is that, you know, it's 09:06:20                  Page 14</p>	<p>1 BY MR. BLOCK:                  2 Q Okay. How did you prepare for this                  3 deposition?                  4 A I reread through my statement, I read through                  5 the Safer rebuttal, and I met with counsel several 09:07:43                  6 times and reviewed some of the citations in the                  7 paper.                  8 Q In which paper?                  9 A In my white paper, sorry.                  10 Q When you say your white paper, are you 09:08:04                  11 referring to your expert report submitted in                  12 February of 2022?                  13 A Yes.                  14 Q Okay. Did you review any other -- any                  15 documents to prepare for this deposition besides 09:08:20                  16 your report and Dr. Safer's report?                  17 A As I said, I reviewed some relevant papers,                  18 yes.                  19 Q Did you review anything that wasn't already                  20 cited in your expert report? 09:08:36                  21 A I -- I reviewed the FIMS paper from 2021. I                  22 reviewed a paper by Klaver. I reviewed some data                  23 on (technical difficulty) by Tomkinson.                  24 Q I'm sorry, the audio cut out.                  25 A I said, I reviewed some data on youth 09:09:18                  Page 16</p>
<p>1 my job to ask questions that you understand and that                  2 you can provide an answer to. So if anything in my                  3 question is unclear, I'm asking you to let me know,                  4 and I will rephrase it, okay?                  5 A Okay. 09:06:35                  6 Q And if you do answer the question, I'm going                  7 to take that to mean that you understood it.                  8 Does that sound okay to you?                  9 A That's reasonable, yes.                  10 Q Okay. How did you prepare for this 09:06:46                  11 deposition?                  12 MR. FRAMPTON: Josh, real quick, before we do                  13 that, this seems like a good time to memorialize our                  14 typical understanding that all objections except to                  15 form and scope are reserved; is that fair? 09:07:03                  16 MR. BLOCK: Yes. And we will agree again                  17 that although any defendant can object, an objection                  18 by one defendant preserves the objection for all of                  19 them.                  20 MR. FRAMPTON: Okay. Thank you. 09:07:16                  21 MR. TRYON: This is Dave Tryon. I agree with                  22 that.                  23 MR. BLOCK: Okay. And unless another party                  24 speaks up, we'll take that as agreement for                  25 everyone. 09:07:34                  Page 15</p>	<p>1 performance by Tomkinson.                  2 I reviewed Gregg Brown's report.                  3 Q Did you review a transcript of Dr. Brown's                  4 deposition?                  5 A Can you clarify what you're asking? 09:09:40                  6 Q Yeah. Did you -- so Dr. Brown had a                  7 deposition on Friday.                  8 Have you reviewed a transcript of that                  9 deposition?                  10 A No. 09:09:50                  11 Q Okay. Is there any other additional research                  12 you conducted?                  13 A Not that I can think of offhand.                  14 Q Okay. So you -- you mentioned before, in                  15 response to my questions about whether you've had a 09:10:11                  16 deposition, some cases in which you had been a                  17 witness.                  18 In which of those cases were you retained as                  19 an expert witness?                  20 A I believe the -- well, I was -- none of 09:10:30                  21 these -- when -- when I was retained as -- I was                  22 retained in a witness in all of them, I believe.                  23 Q Okay. So you weren't -- you weren't like                  24 a -- a firsthand witness to a traffic accident?                  25 A No. No. I -- no. It had to do with the 09:10:49                  Page 17</p>



1 nature of the injuries.  
 2 Q I see. So other than those three cases we  
 3 discussed, is there any other case in which you've  
 4 been retained as an expert witness?  
 5 A Oh. I'm sorry, yes, I have been retained by 09:11:03  
 6 the State of Florida in a case similar to this. I'm  
 7 sorry.  
 8 Q And have you submitted an expert report in  
 9 that Florida case?  
 10 A I've submitted a different version of a white 09:11:20  
 11 paper -- of the white paper that I submitted to the  
 12 State of West Virginia.  
 13 Q And have you been deposed in that case?  
 14 A No.  
 15 Q Is there any other case in which you've been 09:11:36  
 16 retained as an expert, even in a nontestifying role?  
 17 A Not that I can recall, no.  
 18 Q Okay. If -- if you recall over the course of  
 19 this deposition, can you please bring that to my  
 20 attention? 09:11:51  
 21 A Absolutely.  
 22 Q Okay. What -- what was your -- what is your  
 23 hourly rate as an expert witness in this case?  
 24 A I'm being paid \$650 an hour for review and  
 25 \$800 an hour for deposition time. 09:12:09  
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1 Q And is that the hourly rate you use in the  
 2 Florida case as well?  
 3 A Yes.  
 4 Q Is that your standard hourly rate for -- for  
 5 whenever you appear as an expert witness? 09:12:25  
 6 A For local cases, no.  
 7 Q What's your hourly rate for local cases?  
 8 A I'd have to go back and look, but I believe  
 9 it's somewhere around \$500 an hour.  
 10 Q And -- and how did you determine that as your 09:12:40  
 11 hourly rate?  
 12 A How did I determine what?  
 13 Q Sorry, the \$650 an hour, how did you  
 14 determine that as your hourly rate?  
 15 A I can't speak to that. I -- it's the -- 09:13:02  
 16 it's -- I was -- I tried to -- to be consistent with  
 17 each state that is talking to me, and that's the  
 18 rate we came down on.  
 19 Q Okay. So I have some questions for you just  
 20 about terminology so we can make sure we're 09:13:46  
 21 understanding each other.  
 22 Do you know what the term "cisgender" means?  
 23 MR. FRAMPTON: Object to the form.  
 24 And, Josh, can we do our standing objection  
 25 as to terminology? 09:13:59  
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1 MR. BLOCK: Yes, absolutely.  
 2 MR. FRAMPTON: Thank you.  
 3 BY MR. BLOCK:  
 4 Q But you can answer. Do you know what the  
 5 term -- 09:14:03  
 6 MR. FRAMPTON: Yes, go ahead and answer.  
 7 THE WITNESS: I'm familiar with the term,  
 8 yes.  
 9 BY MR. BLOCK:  
 10 Q Okay. What -- what do you understand the 09:14:07  
 11 term to mean?  
 12 A Well, the terminology is not what I use, but  
 13 what I understand a cisgender individual to be is an  
 14 individual who, for example, is a biologically born  
 15 male who identifies as a male. 09:14:29  
 16 Q So if -- if I use the term "cisgender" in my  
 17 questions, you can understand what I'm talking  
 18 about?  
 19 A I can understand what you're talking about.  
 20 I would prefer the term "natal male," but... 09:14:42  
 21 Q Okay. Well --  
 22 A I can understand what you're talking about.  
 23 Q Okay. So -- so to you -- well --  
 24 A Or "biological male."  
 25 Q But to the extent that I want to distinguish 09:14:57  
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1 between someone who is transgender and someone who  
 2 is not, I -- I may ask you questions that -- that  
 3 use the term "cisgender."  
 4 So just to confirm, I want to -- you will  
 5 understand what I'm referring to when I say 09:15:15  
 6 "cisgender"; correct?  
 7 A Yes, I will understand what you're referring  
 8 to.  
 9 Q Okay. And do you know what the term  
 10 "transgender" means? 09:15:22  
 11 A I believe I understand what you're saying,  
 12 yes.  
 13 Q What -- what does it mean?  
 14 A I believe a transgender male, most likely by  
 15 your definition, would be an individual that is born 09:15:33  
 16 a certain sex but identifies as the opposite sex.  
 17 Q Okay. So if I use the word "transgender,"  
 18 you'll know what I'm talking about?  
 19 A Yes, if you use the word "transgender," I  
 20 will know what you're talking about. 09:15:55  
 21 Q Do you have any objection to using the word  
 22 "transgender" yourself?  
 23 A I -- I choose to use the -- the term  
 24 "biological male" and "biological female." I  
 25 believe that that's an appropriate designator, but I 09:16:11  
 Page 21

<p>1 have -- I can understand your terminology, and I'm                  2 comfortable using it.                  3 Q So -- so how -- so, in your words, if -- if                  4 you want -- you wanted to, you know, describe, you                  5 know, a -- a transgender woman and to distinguish 09:16:27                  6 between a transgender woman and a cisgender man, how                  7 would you -- how would you explain the difference                  8 between a transgender woman and a cisgender man,                  9 using your preferred terminology?                  10 A I would probably use the -- 09:16:42                  11 MR. FRAMPTON: Object to the form.                  12 Go ahead and answer.                  13 THE WITNESS: I would probably use the                  14 descriptor and just say a biological male                  15 identifying as female. 09:16:50                  16 And, I'm sorry, you said cisgender what?                  17 BY MR. BLOCK:                  18 Q Man.                  19 A Again, I would use the descriptor and say a                  20 biological male identifying as male. 09:16:59                  21 Q Do you -- do you think that -- do you think                  22 that being transgender is a real thing?                  23 MR. FRAMPTON: Object to the form.                  24 THE WITNESS: Define what you mean by "real                  25 thing." 09:17:38</p> <p style="text-align: right;">Page 22</p>	<p>1 that subcategorize into XY or XX.                  2 Q And how would you refer to the biological sex                  3 for the minority of people that don't subcategorize                  4 into XY or XX?                  5 A Well, I -- 09:19:40                  6 MR. FRAMPTON: Object to the form.                  7 Go ahead.                  8 THE WITNESS: I'm a board-certified sports                  9 medicine physician. I'm not an endocrinologist.                  10 And even though I've studied endocrinology to some 09:19:49                  11 extent in my training, I -- I wasn't really retained                  12 to offer an opinion on that.                  13 BY MR. BLOCK:                  14 Q Okay. So you're not offering an opinion                  15 today on -- on -- an expert opinion today on -- on 09:19:59                  16 the definition of biological sex?                  17 MR. FRAMPTON: Object to the form.                  18 Go ahead.                  19 THE WITNESS: I was -- I was retained today                  20 to offer an opinion on the issue of sports safety as 09:20:14                  21 pertains to biological males crossing over into                  22 female sports.                  23 BY MR. BLOCK:                  24 Q So do you -- are you offering an expert                  25 opinion on the safety of people with DSDs, 09:20:29</p> <p style="text-align: right;">Page 24</p>
<p>1 BY MR. BLOCK:                  2 Q Well, do you think that -- do -- do you -- I                  3 think, you know -- well, what do you understand                  4 gender identity to be?                  5 MR. FRAMPTON: Object to the form. 09:18:02                  6 Go ahead.                  7 THE WITNESS: Well, I was retained in this                  8 case as a witness for sports safety, so I don't know                  9 that I was really retained to provide an opinion                  10 here, but to the extent that I understand it, I 09:18:16                  11 understand gender identity to mean the extent to                  12 which a person perceives themselves as being a                  13 certain sex.                  14 BY MR. BLOCK:                  15 Q Did you receive any -- as part of your -- 09:18:45                  16 well, actually, I'll come back to that. I'm sorry                  17 for jumping ahead a little bit.                  18 What -- you've been using the phrase                  19 "biological sex." What -- what's your understanding                  20 of what that term means? 09:18:58                  21 A I would look to the -- the common parlance of                  22 that, which is the biological characteristics that a                  23 person is born with that -- that identify them as                  24 male or female. And if you want to extend it to                  25 chromosomal analysis, the great majority of people 09:19:22</p> <p style="text-align: right;">Page 23</p>	<p>1 differences of sexual development, participating in                  2 women's sports?                  3 MR. FRAMPTON: Same objection.                  4 Go ahead.                  5 THE WITNESS: My report does not speak to 09:20:46                  6 that specifically, no.                  7 BY MR. BLOCK:                  8 Q Okay. So do you know what complete androgen                  9 insensitivity syndrome is?                  10 A I'm familiar with it, yes. 09:20:53                  11 Q Okay. So you're not offering an expert                  12 opinion on the safety implications of allowing                  13 someone with complete androgen insensitivity                  14 syndrome to participate in women's sports; right?                  15 MR. FRAMPTON: Object to the form. 09:21:09                  16 Go ahead.                  17 THE WITNESS: Well, first of all, my report                  18 speaks to safety issues and whether there are risks                  19 for (technical difficulty) faster individuals to                  20 participate in pools of athletes who don't share 09:21:30                  21 those same traits. It's not my job to create policy                  22 or decide which groups are more appropriate.                  23 BY MR. BLOCK:                  24 Q I understand that. I'm just trying to                  25 determine whether you're offering an expert opinion 09:21:44</p> <p style="text-align: right;">Page 25</p>

1 on whether someone with complete androgen  
 2 insensitivity syndrome, who has XY chromosomes, can  
 3 safely participate in women's sports; right? You're  
 4 not offering that opinion today?  
 5 A I am not. 09:22:02  
 6 MR. FRAMPTON: Object to the form.  
 7 Go ahead.  
 8 THE WITNESS: I -- I'm not offering that  
 9 opinion, no.  
 10 BY MR. BLOCK: 09:22:07  
 11 Q Okay. Do you know what the term "sex  
 12 assigned at birth" is?  
 13 A Do I know what the term -- can you --  
 14 Q Do you understand --  
 15 A I believe I do, yes. 09:22:26  
 16 Q Sure, sure.  
 17 What -- what do you understand the -- the  
 18 term "sex assigned at birth" to refer to?  
 19 A I would bring that back to common parlance  
 20 and just say that it's -- it's the determination 09:22:39  
 21 that's made based on visual evidence at the time  
 22 that the baby is born.  
 23 Q Okay. Thank you.  
 24 All right. Now we get to look at some  
 25 documents. So if you can get your Exhibit Share 09:22:57  
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1 ready, I'm going to mark the first document for you,  
 2 and it will, hopefully, appear in your -- your  
 3 folder as Exhibit 80. Let's see if that actually  
 4 works.  
 5 (Exhibit 80 was marked for identification 09:23:20  
 6 by the court reporter and is attached hereto.)  
 7 THE WITNESS: Do I need to hit refresh on  
 8 this computer?  
 9 BY MR. BLOCK:  
 10 Q You -- you might. Actually -- 09:23:27  
 11 MR. FRAMPTON: I'll jump in. Yeah, as he  
 12 adds exhibits, we're going to have to refresh for  
 13 the exhibit to pop up in your folder.  
 14 Right?  
 15 MR. BLOCK: Yes. 09:23:38  
 16 And could we go off the record for a second?  
 17 I have a question for the concierge, just about  
 18 the -- the --  
 19 MR. FRAMPTON: Sure. That's fine with me.  
 20 THE VIDEOGRAPHER: We're off the record at 09:23:48  
 21 9:24 a.m.  
 22 (Recess.)  
 23 THE VIDEOGRAPHER: We are on the record at  
 24 9:24 a.m.  
 25 ///  
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1 BY MR. BLOCK:  
 2 Q All right. So if you can let me know when  
 3 Exhibit 80 appears in your folder.  
 4 A Okay. I see it. I'm pulling it up.  
 5 Q Great. Do you recognize this document? 09:24:32  
 6 A Yes. I believe that this is the declaration  
 7 I signed with the State of West Virginia.  
 8 Q Great. And what's the date on the document?  
 9 A February 23rd, 2022.  
 10 Q And that's your signature along with it? 09:24:51  
 11 A That is my signature, yes.  
 12 Q Okay. And have you filed any other reports  
 13 or declarations in this case?  
 14 A I filed a copy of a white paper that speaks  
 15 to sports safety. 09:25:12  
 16 MR. BLOCK: So I'm going to introduce  
 17 Exhibit 81, which should appear in your -- in your  
 18 folder in one second.  
 19 (Exhibit 81 was marked for identification  
 20 by the court reporter and is attached hereto.) 09:25:28  
 21 THE WITNESS: Let me figure out how to close  
 22 out of this.  
 23 So is it Exhibit G?  
 24 BY MR. BLOCK:  
 25 Q Yeah. So if you -- 09:25:46  
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1 A Yeah.  
 2 Q So if you look at the second page --  
 3 A Yes.  
 4 Q -- is that your -- your signature again,  
 5 Dr. Chad T. Carlson, M.D.? 09:25:54  
 6 A It is, yes.  
 7 Q Okay. And is this the -- the declaration and  
 8 copy of the white paper that you're referring to?  
 9 A This was executed June 22nd, 2021, so I  
 10 believe that this was prior to a preliminary 09:26:13  
 11 injunction.  
 12 Q So it's submitted in connection with opposing  
 13 the motion for preliminary injunction in this case?  
 14 A Correct, yes.  
 15 Q Okay. And if you go to the next page, it -- 09:26:23  
 16 it says, "White Paper by Dr. Chad Thomas Carlson,  
 17 MD."  
 18 Do you see that?  
 19 A I do, yes.  
 20 Q And the date of that white paper is 09:26:35  
 21 June 22nd, 2021; correct?  
 22 A Correct.  
 23 Q So that's the same day as your declaration is  
 24 dated; correct?  
 25 A I'd have to -- I can look, but I -- yes, it 09:26:45  
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1 is.  
 2 Q Have -- are there any earlier versions of  
 3 this white paper that you've authored?  
 4 A Earlier than the June 22nd version that you  
 5 have here? 09:27:02  
 6 Q Yes.  
 7 A No.  
 8 Q Okay. So you -- did you author this white  
 9 paper specifically for purposes of this litigation?  
 10 A When you say "this litigation," do you mean 09:27:14  
 11 West Virginia's suit?  
 12 Q Yes.  
 13 A No. It just -- the -- the timing of  
 14 completion of it coincided with the -- the deadline  
 15 for the case. 09:27:32  
 16 Q Who retained you to write this white paper?  
 17 MR. FRAMPTON: Objection to form.  
 18 Go ahead.  
 19 THE WITNESS: Alliance Defending Freedom.  
 20 BY MR. BLOCK: 09:27:42  
 21 Q And when did they retain you to write the  
 22 white paper?  
 23 A I was contacted by ADF in, I believe,  
 24 February of 2020, at a time that I was president of  
 25 our national academy. 09:28:01  
 Page 30

1 Q What national academy?  
 2 A The American Medical Society for Sports  
 3 Medicine.  
 4 It was, I believe, Christiana Holcomb, and  
 5 she said that they had interest in retaining an 09:28:15  
 6 expert to speak on sports safety with transgender  
 7 sports for a pending litigation.  
 8 Q And you said this was in February 2020?  
 9 A Yes.  
 10 Q So about a year and a half before this white 09:28:31  
 11 paper was finalized?  
 12 A Correct.  
 13 Q Okay. And did you -- so were you actually  
 14 retained in February 2020?  
 15 A No. 09:28:47  
 16 Q Okay. When were you actually retained?  
 17 A It would have been towards the end of 2020.  
 18 Q And without --  
 19 A I had -- sorry.  
 20 Q No, you go ahead. 09:28:59  
 21 A I had made initial contact with Roger Brooks,  
 22 following their -- their initial contact, and we had  
 23 been scheduled to meet sometime the second week of  
 24 March, and that was right when COVID exploded. I  
 25 own a private practice, and our -- our volume went 09:29:36  
 Page 31

1 to about 15 percent of year before, and so we had  
 2 other concerns, so... It deferred conversation of  
 3 this for a while.  
 4 Q Are things looking better now?  
 5 A Yes. 09:29:57  
 6 Q Good. I'm glad to hear that.  
 7 So you -- so when -- you -- you say the  
 8 initial contact was from ADF to you, not you to ADF;  
 9 correct?  
 10 A Correct. 09:30:11  
 11 Q Okay. And without revealing any contents of  
 12 your communications with ADF, do you have any  
 13 independent understanding of why you might have been  
 14 seen as a potential expert as opposed to some other  
 15 person who does sports medicine? 09:30:34  
 16 MR. FRAMPTON: And just quickly, as -- as --  
 17 as Mr. Block instructed you, don't reveal the  
 18 substance of your conversations with folks at ADF,  
 19 but to the extent you can answer the question  
 20 without doing that, please do so. 09:30:49  
 21 THE WITNESS: Well, I can't speak to what  
 22 people at ADF were thinking. I should say that I --  
 23 I believe that the introduction was made through a  
 24 third party, and I -- I believe that they probably  
 25 got my name from Christian Medical/Dental 09:31:13  
 Page 32

1 Association and their policy person, and I can't  
 2 recall his name. And I think that the fact that I  
 3 was head of our national organization at the time  
 4 probably played into it.  
 5 BY MR. BLOCK: 09:31:40  
 6 Q What -- what is the Christian Medical/Dental  
 7 Association?  
 8 A It's just an organization of Christian  
 9 physicians and dentists. I have very little  
 10 involvement with them. I pay dues periodically. 09:31:55  
 11 Q So you are a member of the Christian/Medical  
 12 Dental Association?  
 13 A I might be. I honestly don't recall whether  
 14 I'm current on my dues or not.  
 15 Q Okay. Have you read -- are you aware of the 09:32:10  
 16 Christian Medical/Dental Association's policies with  
 17 respect to transgender people?  
 18 A No, I'm not.  
 19 MR. BLOCK: Hold on. I'm going to -- if you  
 20 give me half a second, I will show something to you. 09:32:41  
 21 This is going to pop up in your -- your  
 22 folder as Exhibit 82, I believe. Let me know when  
 23 you see it.  
 24 (Exhibit 82 was marked for identification  
 25 by the court reporter and is attached hereto.) 09:33:16  
 Page 33

1 THE WITNESS: It's refreshing. Hold on.  
 2 Okay. I see it.  
 3 BY MR. BLOCK:  
 4 Q Okay. Have you ever seen this document  
 5 before? 09:33:23  
 6 A I don't believe so, no.  
 7 Q Okay. If you look at the -- the document --  
 8 here, I -- I want to give you, you know, the time,  
 9 whatever time you need, to look at it, but I would  
 10 like to just direct your -- your attention to -- let 09:33:41  
 11 me scroll down myself.  
 12 So if you go to page 2 of that document, near  
 13 the end, it says "Accordingly" -- do you see the --  
 14 the line that begins "Accordingly"?  
 15 A I do, yes. 09:34:12  
 16 Q Okay. And it says (as read):  
 17 "Accordingly, CMDA opposes medical  
 18 assistance with gender  
 19 transitions (sic) on the following  
 20 grounds." 09:34:21  
 21 Do you see that?  
 22 A Yes.  
 23 Q Okay. And do you -- do you also oppose  
 24 medical assistance with gender transition on  
 25 biblical grounds? 09:34:36  
 Page 34

1 MR. FRAMPTON: Object to the form and scope.  
 2 THE WITNESS: Can you clarify that question?  
 3 BY MR. BLOCK:  
 4 Q Sure. It says (as read):  
 5 "CMDA opposes medical assistance 09:34:44  
 6 with gender transition on the  
 7 following grounds."  
 8 And then it's -- there's a capital letter A,  
 9 and it says "Biblical." And there's about seven  
 10 different entries under -- biblical reasons for 09:35:00  
 11 opposing medical assistance with gender transition.  
 12 And -- and my question is, do you agree with  
 13 this part of this CMDA statement?  
 14 A Are you asking me to read --  
 15 MR. FRAMPTON: Objection -- 09:35:16  
 16 THE WITNESS: -- all of this?  
 17 MR. FRAMPTON: -- to form and scope.  
 18 THE WITNESS: Because I can right now.  
 19 BY MR. BLOCK:  
 20 Q Yeah, sure. 09:35:22  
 21 A Okay. Give me some time.  
 22 I just want to clarify. Are you asking me if  
 23 I agree with A, B, C, D, E -- and E?  
 24 Q I asked -- I'm asking you if you agree with  
 25 A. 09:38:00  
 Page 35

1 A Okay. So I've -- I've read through that.  
 2 Q Okay. And do you agree with it?  
 3 MR. FRAMPTON: Objection; form and scope.  
 4 THE WITNESS: There's a lot in there to  
 5 unpack, so I -- I can't say I agree with all of 09:38:10  
 6 that. And I was retained as a witness in this case  
 7 to speak to sports safety. I wasn't retained to  
 8 provide an opinion in this regard.  
 9 And again, I had no interaction, really, with  
 10 CMDA as an organization. 09:38:34  
 11 BY MR. BLOCK:  
 12 Q Do you have any religious views about  
 13 transgender people that will have informed your  
 14 expert opinion in this case?  
 15 MR. FRAMPTON: Objection; form and scope. 09:38:57  
 16 You can answer.  
 17 THE WITNESS: I would say that my opinions in  
 18 this case are informed, just like UK Sport, entirely  
 19 on the science. I don't believe my religious  
 20 opinions really play into this. I would view my 09:39:19  
 21 role as providing a scientific opinion.  
 22 BY MR. BLOCK:  
 23 Q Okay. Does -- if you recall earlier, we --  
 24 we just had a discussion about, like, using the --  
 25 the word "transgender." 09:39:40  
 Page 36

1 Do you have any religious beliefs that would  
 2 preclude you from using the word "transgender"?  
 3 MR. FRAMPTON: Objection; form and scope.  
 4 THE WITNESS: No. I just -- I believe that  
 5 it's best to speak with clarity, and I believe that 09:39:56  
 6 in many circles of discussion with people who aren't  
 7 familiar with these types of terms, it gets very  
 8 confusing to people to keep track of what a  
 9 transgender woman is or what a transgender man is.  
 10 I have found that it's easier to refer to biological 09:40:15  
 11 males and females and then refer to their gender  
 12 identity.  
 13 THE REPORTER: I'm so sorry to interrupt.  
 14 Mr. Frampton, I hear some background noise in your  
 15 room. I don't know if there's a door you can shut.  
 16 MR. FRAMPTON: I'm sorry. This is  
 17 Hal Frampton. It's -- it's -- I'm with the witness,  
 18 and it's not in our room.  
 19 THE REPORTER: Okay. Kimberlee, do you know  
 20 where it's coming from?  
 21 THE VIDEOGRAPHER: It looked like it was his  
 22 mic.  
 23 But could we go off the record real quick?  
 24 Off the record, is that all right?  
 25 MR. FRAMPTON: Sure. 09:40:50  
 Page 37

<p>1 MR. BLOCK: Yes.</p> <p>2 THE VIDEOGRAPHER: Off the record at</p> <p>3 9:41 a.m.</p> <p>4 (Recess.)</p> <p>5 THE VIDEOGRAPHER: We are on the record at 09:41:37</p> <p>6 9:42 a.m.</p> <p>7 MR. BLOCK: Thanks.</p> <p>8 BY MR. BLOCK:</p> <p>9 Q If you go to the -- the last page of this</p> <p>10 document -- 09:41:51</p> <p>11 A Sorry, I got to go back.</p> <p>12 Q Actually, page 14 of the document.</p> <p>13 A They aren't numbered, so --</p> <p>14 Q Which --</p> <p>15 A The last page -- the last page of text. 09:42:06</p> <p>16 Q This -- no, this should be the -- it's --</p> <p>17 it's page 14 of the PDF. If you click on the</p> <p>18 PDF with the --</p> <p>19 A Oh, I see. Yeah. I -- I'm there.</p> <p>20 Q Okay. So at the bottom, it says "A final 09:42:27</p> <p>21 comment on language."</p> <p>22 Do you see that?</p> <p>23 A Yes.</p> <p>24 Q Okay. I'm just going to read this into the</p> <p>25 record. It says (as read): 09:42:36</p> <p style="text-align: right;">Page 38</p>	<p>1 "transgender" amounts to ideological programming?</p> <p>2 MR. TRYON: Objection.</p> <p>3 MR. FRAMPTON: Objection; form and scope.</p> <p>4 THE WITNESS: You cut out. I didn't hear the</p> <p>5 question. I'm sorry. 09:43:36</p> <p>6 BY MR. BLOCK:</p> <p>7 Q Sorry. Sorry.</p> <p>8 Do you think that the term "transgender" is a</p> <p>9 form -- is ideological -- I'll rephrase it.</p> <p>10 Do you think that using the term 09:43:45</p> <p>11 "transgender" is ideological programming?</p> <p>12 MR. FRAMPTON: Objection; form and scope.</p> <p>13 THE WITNESS: Again, I was consulted into</p> <p>14 this case as a board-certified physician to provide</p> <p>15 an opinion on sports safety. To the extent that I 09:43:59</p> <p>16 have an opinion on gender terminology, you know,</p> <p>17 I've never thought of it in that way, no.</p> <p>18 BY MR. BLOCK:</p> <p>19 Q Okay. And do you --</p> <p>20 A I've never even heard that description. 09:44:13</p> <p>21 Q Okay. And do you think that -- that</p> <p>22 transgender identity is not an objective reality?</p> <p>23 MR. FRAMPTON: Objection; form and scope.</p> <p>24 THE WITNESS: I don't believe I'm rendering</p> <p>25 an opinion on that. 09:44:42</p> <p style="text-align: right;">Page 40</p>
<p>1 "Terms should be as descriptively</p> <p>2 accurate as possible while avoiding</p> <p>3 ideological programming. For</p> <p>4 instance, because an individual's</p> <p>5 intrinsic sex cannot be changed, and 09:42:44</p> <p>6 gender is essentially a biologically</p> <p>7 meaningless term or concept aside</p> <p>8 from biological sex, terms such as</p> <p>9 'transgender identity,' as if it</p> <p>10 were an objective reality, should be 09:42:56</p> <p>11 replaced by 'transgender-identified,</p> <p>12 -identifying, or -identification,'</p> <p>13 which are descriptively accurate.</p> <p>14 Similarly, because 'gender</p> <p>15 transition' is not ontologically or 09:43:05</p> <p>16 biologically possible, more</p> <p>17 descriptively accurate terms, such</p> <p>18 as, 'attempted transition efforts,'</p> <p>19 or 'attempted transition-affirming</p> <p>20 treatments or procedures,' are more 09:43:16</p> <p>21 accurate and preferred."</p> <p>22 Did I read that correctly?</p> <p>23 A You read it correctory -- correctly, yes.</p> <p>24 Q Okay. Thanks.</p> <p>25 Do you think that using the term 09:43:24</p> <p style="text-align: right;">Page 39</p>	<p>1 BY MR. BLOCK:</p> <p>2 Q And you're not qualified to render an opinion</p> <p>3 on that; correct?</p> <p>4 A On whether transgender -- what was the --</p> <p>5 restate it. 09:44:53</p> <p>6 Q Transgender identity is an objective reality.</p> <p>7 MR. FRAMPTON: Objection; form and scope.</p> <p>8 THE WITNESS: I don't believe I am -- I've</p> <p>9 been retained to provide an opinion on that</p> <p>10 statement, no. 09:45:12</p> <p>11 BY MR. BLOCK:</p> <p>12 Q Do you have a personal opinion on that</p> <p>13 statement?</p> <p>14 MR. FRAMPTON: Objection; form and scope.</p> <p>15 THE WITNESS: Define what -- what's -- define 09:45:26</p> <p>16 an objective reality when it comes to gender</p> <p>17 identification. Can you tell me that?</p> <p>18 BY MR. BLOCK:</p> <p>19 Q Well, I'm just referring to the phrasing in</p> <p>20 this document. So do you not -- do you have an -- 09:45:37</p> <p>21 A Restate your question one more time.</p> <p>22 Q Sure. Do you have any personal opinions on</p> <p>23 whether transgender identity is an objective</p> <p>24 reality?</p> <p>25 MR. FRAMPTON: Objection; form and scope. 09:45:47</p> <p style="text-align: right;">Page 41</p>

<p>1 THE WITNESS: I don't know what it means to                  2 say that -- I don't know what objective reality with                  3 respect to transgender identification even is, so I                  4 don't think I can answer that question.                  5 BY MR. BLOCK: 09:46:07                  6 Q You're not offering any expert opinions in                  7 this case on whether gender identity has any                  8 biological underpinnings, are you?                  9 A No, I'm not. Again, I've been retained in                  10 this case as a physician to provide on safety issues 09:46:37                  11 with respect to individuals who have transgender                  12 identification that are crossing over into other                  13 sports.                  14 Q So -- so in that sentence, you use the term                  15 "individuals who have transgender identification" 09:46:56                  16 instead of "transgender individuals," which is                  17 similar to what this document says people should use                  18 in terms of language. So I'm just trying to explore                  19 why you're using the word "transgender                  20 identification" instead of "transgender 09:47:10                  21 individuals."                  22 So why are you using the term "transgender                  23 identification" instead of "transgender                  24 individuals"?                  25 MR. FRAMPTON: Objection; form and scope. 09:47:21                  Page 42</p>	<p>1 don't have a problem using it. I'm just -- I don't                  2 know.                  3 BY MR. BLOCK:                  4 Q So -- so I'll ask, again, an earlier                  5 question. Why do you use the phrase "transgender 09:48:40                  6 identification" instead of "transgender                  7 individuals"?                  8 MR. FRAMPTON: Objection; form and scope.                  9 THE WITNESS: I can't speak to that. I -- I                  10 can't tell you why I chose that term. 09:48:57                  11 BY MR. BLOCK:                  12 Q Okay. You don't know why?                  13 A No.                  14 Q Okay. Have you -- have you written anything                  15 else on the topic of transgender people? 09:49:13                  16 A Written?                  17 Q Yes. Besides this white paper and this                  18 expert report.                  19 A Are you talking about -- define "written" for                  20 me. 09:49:34                  21 Q Well, I guess I'll go through different types                  22 of writing.                  23 Have you -- have you written any articles in                  24 professional journals about transgender people or                  25 the -- touching on the topic of transgender people? 09:49:46                  Page 44</p>
<p>1 THE WITNESS: I -- I don't know that I can                  2 speak to that. I mean, it -- it relates, in a                  3 sense, to the term "gender identity," does it not?                  4 BY MR. BLOCK:                  5 Q How so? 09:47:36                  6 A Well, transgender identification speaks to                  7 identification. Identification is analogous to                  8 gender identity. I'm just trying to avoid confusing                  9 terms.                  10 Q And you think saying "transgender 09:48:03                  11 individuals" is a confusing term?                  12 A I didn't --                  13 MR. FRAMPTON: Objection --                  14 THE WITNESS: -- say that.                  15 MR. FRAMPTON: -- form and scope. 09:48:07                  16 THE WITNESS: You did.                  17 BY MR. BLOCK:                  18 Q I'm sorry, you and your counsel were talking                  19 over each other.                  20 Do you think "transgender individuals" is a 09:48:15                  21 confusing term?                  22 MR. FRAMPTON: Objection; form and scope.                  23 Go ahead.                  24 THE WITNESS: I -- I didn't say that it's a                  25 confusing term. I don't think it's confusing. I 09:48:23                  Page 43</p>	<p>1 A No.                  2 Q Have you written anything in popular media                  3 touching on the topic of transgender people?                  4 A No.                  5 Q Have you given any conference presentations 09:49:57                  6 or talks on the topic of -- touching on the topic of                  7 transgender people?                  8 A No.                  9 Q Have you disseminated any written document,                  10 in any way, authored by you on the -- touching on 09:50:15                  11 the topic of transgender people.                  12 MR. FRAMPTON: Object to the form.                  13 Go ahead.                  14 THE WITNESS: Are you speaking to e-mail?                  15 BY MR. BLOCK: 09:50:33                  16 Q Sure. Have -- have you written -- have you                  17 written e-mails on the -- touching on the topic of                  18 transgender people?                  19 A Yes.                  20 Q Are these e-mails to -- to Listservs? 09:50:42                  21 A No.                  22 Q Who are these e-mails to?                  23 A So in my role as president of AMSSM and on my                  24 time on the executive committee, occasionally this                  25 issue would -- would crop up, and there were 09:51:07                  Page 45</p>

1 discussions about it.  
 2 Q So I'd like, to the best of your ability, for  
 3 you to recall the specific occasions on which this  
 4 issue cropped up.  
 5 Can you remember any of them? 09:51:24  
 6 A Yep. The first time that I can recall it --  
 7 let me back up and just say that we have --  
 8 MR. BLOCK: The witness's video froze for me.  
 9 THE VIDEOGRAPHER: Yeah, he looks frozen.  
 10 Let's go off the record. 09:51:54  
 11 BY MR. BLOCK:  
 12 Q Sorry, you're -- you froze for -- for that  
 13 answer, so I think you were just telling me the --  
 14 the first occasion of the list in which this issue  
 15 cropped up. 09:52:06  
 16 A So I said that I was going to back up for a  
 17 second and just say that our academy hosts several  
 18 meetings each year, one of which is the annual  
 19 meeting, and it's usually about five days long, and  
 20 it's -- it's structured with different symposia that 09:52:20  
 21 are themed. And periodically, particularly since, I  
 22 don't know, 2016, maybe, when I was -- I don't --  
 23 I'd have to think what year I went on to exec, maybe  
 24 it was 2017, but there had been, once in a while,  
 25 inquiries by members about whether there would be a 09:52:43  
 Page 46

1 transgender medicine symposium at the annual  
 2 meeting, because there had never been one before.  
 3 And so in 2018, as we were -- as my program chair  
 4 and I were putting together content for the meeting,  
 5 this issue briefly came up around that. 09:53:03  
 6 Q Was there a transgender medicine component to  
 7 that symposium?  
 8 A That was -- that was for the annual meeting  
 9 we had in Houston in 2019, and, no, we did not  
 10 include that. 09:53:29  
 11 Q Why not?  
 12 A Well, there were lots of reasons, but we had  
 13 a budget that we had to work from, and we already  
 14 had a pretty strong sense of what we were wanting to  
 15 pay for to bring in other speakers to that meeting, 09:53:49  
 16 and I felt like if we were going to have a symposium  
 17 on transgender -- on the transgender athlete, that  
 18 it ought to be something that was structured with a  
 19 point/counterpoint format and that we would probably  
 20 want to bring in outside academicians to help create 09:54:12  
 21 that dialogue.  
 22 Q Do most of -- do other components of the  
 23 symposia have point/counterpoint formats to them?  
 24 A Often, yes.  
 25 Q What are some examples of -- of other 09:54:40  
 Page 47

1 portions of the symposia that have had point and  
 2 counterpoint formats?  
 3 A There's many examples, but one would be youth  
 4 sport specialization versus having your child play  
 5 in multiple different sports, point or counterpoint. 09:54:57  
 6 Q So you said there were several reasons why  
 7 you didn't include a transgender medicine component  
 8 of the symposium. What are some others?  
 9 A As I said, we were -- we already had a sense  
 10 of what we wanted included in that meeting, and 09:55:22  
 11 there's always topics that need to be left for  
 12 future meetings, and that was --  
 13 Q Was -- sorry. Did you have a transgender  
 14 medicine component of a future meeting?  
 15 A We haven't had an insight future meeting 09:55:38  
 16 since that Houston meeting because of COVID, so --  
 17 the 2020 meeting and the 2021 meeting were canceled.  
 18 Well, actually, I want to clarify.  
 19 The 2021 meeting was done virtually, and  
 20 there was a transgender component to that meeting, 09:55:55  
 21 yes.  
 22 Q What was the transgender component?  
 23 A I can't speak to it. I -- I wasn't part of  
 24 it.  
 25 Q What do you mean you weren't part of it? 09:56:10  
 Page 48

1 A I mean I didn't have anything to do with  
 2 organizing it.  
 3 Q Did you attend it?  
 4 A No.  
 5 Q Why not? 09:56:23  
 6 A Because the meeting was virtual, and I was  
 7 down in Florida with my family at the time, and we  
 8 were, I believe, at a park that day.  
 9 Q Which one?  
 10 A Which park? 09:56:38  
 11 Q Yeah.  
 12 A I don't remember which park we were at that  
 13 day, but it was -- it was either Hollywood Studios  
 14 or EPCOT or Magic Kingdom. I don't know.  
 15 Q Is there a way to watch the transgender 09:56:52  
 16 component of the virtual symposium after the fact?  
 17 A I believe for a time there is. I don't know  
 18 if I -- I don't know if it's still accessible,  
 19 but...  
 20 Q Do you know who the speakers were at that 09:57:11  
 21 symposium -- at that transgender component of the  
 22 symposium?  
 23 A No, I don't recall.  
 24 Q Do you recall the topic?  
 25 A You mean the specific topics within sports 09:57:21  
 Page 49



<p>1 and transgenderism?                  2 Q Yeah. At that symposium.                  3 A No.                  4 Q Now, by the time this symposium -- this                  5 portion of the symposium occurred -- well, actually, 09:57:45                  6 let me step back.                  7 Around when did this 2021 virtual symposium                  8 occur?                  9 A In April of 2021.                  10 Q In that -- by the time it occurred, had you 09:58:03                  11 already been retained by ADF?                  12 A Yes.                  13 Q So did you think that the content of the                  14 symposium might relate to any of the topics on which                  15 you would be opining for ADF? 09:58:21                  16 MR. FRAMPTON: Object to the form.                  17 Go ahead.                  18 THE WITNESS: I can't speak to that. I was                  19 already well into my work on the paper.                  20 BY MR. BLOCK: 09:58:40                  21 Q Did you think that the contents of the                  22 symposium might be helpful in providing you                  23 additional relevant information for you paper?                  24 MR. FRAMPTON: Same objection.                  25 THE WITNESS: I -- I feel like the process 09:58:54                  Page 50</p>	<p>1 A That every line in that paper is my own words                  2 and thought.                  3 Q Is every line of the February 23rd, 2022,                  4 paper also your own words and thought?                  5 A I've reviewed every line in -- in both 10:00:53                  6 papers, made extensive edits through it, and it                  7 represents my own thought completely, yes.                  8 Q All right. Well, first you said every line                  9 was your own words and thought, and then you said it                  10 represents your thoughts completely, and so I just 10:01:15                  11 want to get clarity.                  12 Is every line of the February 23rd paper your                  13 own words and thought?                  14 MR. TRYON: I'm just going to object and make                  15 sure the witness understands that any communications 10:01:26                  16 between him and either this office or ADF is covered                  17 by the attorney-client privilege.                  18 MR. FRAMPTON: Yes, same -- same objection.                  19 So we're not to discuss the substance of                  20 those communications. 10:01:42                  21 Go ahead.                  22 THE WITNESS: Can you repeat the question?                  23 BY MR. BLOCK:                  24 Q Yeah. Is every line of the February 23rd,                  25 2022, paper your own words and thought? 10:01:52                  Page 52</p>
<p>1 that we went through to create that paper, that I                  2 went through to create that paper, was thorough, and                  3 I'm confident that we canvassed most of the                  4 available literature on the subject prior to the                  5 date of the paper being submitted. 09:59:19                  6 BY MR. BLOCK:                  7 Q You said "we canvassed."                  8 Who do you -- who do you mean by "we"?                  9 MR. FRAMPTON: Object to the form.                  10 THE WITNESS: I mean Alliance Defending 09:59:37                  11 Freedom and myself.                  12 BY MR. BLOCK:                  13 Q Did Alliance Defending Freedom help provide                  14 you with papers to review?                  15 MR. FRAMPTON: Objection to the form. 09:59:44                  16 THE WITNESS: When we first sat down to flesh                  17 through what this paper might look like, I met with                  18 one of the attorneys from Alliance Defending                  19 Freedom, I outlined with him what we thought might                  20 be an appropriate take on this paper, and then both 10:00:06                  21 of us did literature searches. I compiled what I                  22 thought was relevant for the paper.                  23 The paper is entirely mine.                  24 BY MR. BLOCK:                  25 Q What do you mean by that? 10:00:38                  Page 51</p>	<p>1 MR. FRAMPTON: Same objection.                  2 Go ahead.                  3 THE WITNESS: The additions that were made to                  4 that paper are my additions, yes.                  5 BY MR. BLOCK: 10:02:18                  6 Q When did you first become interested on the                  7 topic of transgender women competing in women's                  8 sports?                  9 A I -- I would say that I first became aware of                  10 it around the time that Joanna Harper had released 10:02:36                  11 her paper.                  12 Q Which paper by Joanna Harper are you                  13 referring to?                  14 A The -- the one where she published race times                  15 of transgender athletes that transitioned and -- and 10:03:03                  16 was comparing them to both their biological                  17 competitors and then -- and then their                  18 transgender -- was comparing race times and how they                  19 stratified both and after transition.                  20 Q So this is her first paper? 10:03:30                  21 A I -- yes. It was the first paper she                  22 published, yes.                  23 Q And when did you read that paper first?                  24 A I couldn't tell you. Years ago.                  25 Q So you read it close to the time that it 10:03:42                  Page 53</p>

<p>1 first came out?                  2 A I don't know if I -- I don't recall if I read                  3 it or if I was reading reference to it, but it would                  4 have been around that time.                  5 Q What other reading on the topic of 10:03:54                  6 transgender women competing in women's sports had                  7 you done before you were first contacted by Alliance                  8 Defending Freedom?                  9 A I don't know if it's -- it's not specific to                  10 transgenderism and sport, but McHugh's paper in the 10:04:24                  11 New Atlantis had come up around the issue, again,                  12 when I was at AMSSM, so that -- that had led to                  13 discussions about transgenderism.                  14 Q It led to discussions at ASSM (sic)?                  15 A Yeah, just with other -- other people there. 10:04:46                  16 Q And what were those discussions?                  17 A It -- well, the -- the paper had to do with                  18 the biological underpinnings of -- of gender                  19 identity.                  20 Q How -- 10:05:01                  21 A But --                  22 Q How did -- I didn't mean to cut you off. Go                  23 on.                  24 A So to your point, it's not directly related                  25 to transgenderism and sport. 10:05:10</p> <p style="text-align: right;">Page 54</p>	<p>1 A That it was -- it -- that it was not a                  2 balanced discussion of the pros and cons of                  3 transgender participation in sport.                  4 Q So in which direction was it skewed?                  5 A It was skewed towards more affirmative 10:07:32                  6 participation.                  7 Q And so who -- who reviews the submissions to                  8 The Sideline Report?                  9 A At the time, people on the executive                  10 committee. It was shared with them. 10:07:50                  11 Q And were you on the executive committee at                  12 that time?                  13 A Yes.                  14 Q And who raised concerns that it was not a                  15 balanced discussion? 10:08:08                  16 MR. FRAMPTON: Objection to the form.                  17 Go ahead.                  18 THE WITNESS: As I recall, I and some others                  19 on the committee raised concerns.                  20 BY MR. BLOCK: 10:08:24                  21 Q Did you say you and some others on the                  22 committee?                  23 A Correct.                  24 Q And who is the person that brought the McHugh                  25 article to folks' attention? 10:08:37</p> <p style="text-align: right;">Page 56</p>
<p>1 Q So in what context did it arise for                  2 discussion at AMSSM, then?                  3 A There was discussion about a paper in a                  4 non-published newsletter on transgenderism in                  5 sports, and there was discussion about the way that 10:06:00                  6 that paper was being presented and whether it was                  7 contextually sound.                  8 Q So the paper was sent in a newsletter?                  9 A The paper was submitted for publication in a                  10 newsletter. 10:06:27                  11 Q In what newsletter?                  12 A It's called The Sideline Report.                  13 Q And who publishes The Sideline Report?                  14 A The American Medical Society for Sports                  15 Medicine. 10:06:37                  16 Q And -- and who presented the paper for -- for                  17 submission?                  18 A I don't recall his name.                  19 Q Do you remember what the paper said,                  20 generally? 10:06:48                  21 A It was -- it was a -- again, I -- it's been                  22 years since I've read that paper, but my                  23 recollection of it is that it was somewhat skewed in                  24 terms of its ideology.                  25 Q Skewed -- 10:07:13</p> <p style="text-align: right;">Page 55</p>	<p>1 A I did.                  2 MR. FRAMPTON: Same objection.                  3 BY MR. BLOCK:                  4 Q Go ahead.                  5 A I did. 10:08:41                  6 Q So had you already read the McHugh article                  7 before -- before this incident arose?                  8 A Well, I hadn't read the entire article,                  9 because it's extremely long, but going back to what                  10 we were talking about earlier, trying to decide what 10:09:01                  11 a transgender symposium what point and counterpoint                  12 might look like, one of the considerations at the                  13 time was whether to bring one of those authors to,                  14 you know, what would be the 2019 meeting to provide                  15 input against -- to provide input in -- in context 10:09:27                  16 of that issue.                  17 Q So around when was this discussion about                  18 The Sideline Report article? What time?                  19 MR. FRAMPTON: Objection to the form.                  20 Go ahead. 10:09:46                  21 THE WITNESS: I believe it would have been                  22 sometime in early 2020.                  23 BY MR. BLOCK:                  24 Q All right. So -- so I have --                  25 A I don't recall that -- I -- I don't want to 10:10:01</p> <p style="text-align: right;">Page 57</p>

<p>1 say that. I don't recall that offhand. I'd have to                  2 go back and look.                  3 Q Okay. So I want to make sure I just have a                  4 complete list of incidents in which this came --                  5 this topic related to transgender people came up for 10:10:06                  6 discussion.                  7 So I have, from you, this discussion about                  8 the submission to The Sideline Report. I have, from                  9 you, this discussion in 2018 about whether or not to                  10 have a transgender medicine component to the 10:10:27                  11 upcoming symposium.                  12 Are there any other times in which topics                  13 related to transgender people came up at ASSM -- or                  14 AMSSM?                  15 MR. FRAMPTON: Objection to the form. 10:10:41                  16 Go ahead.                  17 THE WITNESS: I can't recall that issue                  18 coming up in others, no.                  19 BY MR. BLOCK:                  20 Q And so how did you become aware of McHugh's 10:10:57                  21 paper?                  22 A It was all over the news at the time that it                  23 came out.                  24 Q Where in the news?                  25 MR. FRAMPTON: Objection to the form. 10:11:20                  Page 58</p>	<p>1 BY MR. BLOCK:                  2 Q I'm -- I'm sorry, can you -- can you say it                  3 again? Counsel and you were cross talking.                  4 So I'll ask it again and wait for your                  5 counsel to object, and then you can answer, okay? 10:12:24                  6 Do you view Ben Shapiro to be a reliable                  7 source of information on medical topics concerning                  8 transgender people?                  9 MR. FRAMPTON: Objection to the form and                  10 scope. 10:12:35                  11 Go ahead.                  12 THE WITNESS: I have no opinion on that.                  13 BY MR. BLOCK:                  14 Q Well, you don't have any -- I -- I need an                  15 answer to the -- to the question. So if you can 10:12:44                  16 answer to the best of your ability --                  17 A I don't know enough about Ben Shapiro's                  18 opinions to be able to state one way or the other                  19 what I think of them.                  20 Q Okay. Do you know who Ben Shapiro is? 10:12:58                  21 A Yes, I've heard of him.                  22 Q Okay. Do you -- do you listen to him or --                  23 or watch his shows?                  24 A No.                  25 Q Would you ever rely on Ben Shapiro in 10:13:13                  Page 60</p>
<p>1 Go ahead.                  2 THE WITNESS: I can't tell you that. I get                  3 my news from lots of sources, so I can't tell you                  4 where I first heard of it.                  5 BY MR. BLOCK: 10:11:27                  6 Q Do you get your news from Ben Shapiro at all?                  7 A No.                  8 Q Do you view Ben Shapiro to be a reliable                  9 source of information?                  10 MR. FRAMPTON: Objection to the form. 10:11:37                  11 Go ahead.                  12 THE WITNESS: I was not retained to provide                  13 an opinion there, but -- again, I was retained to                  14 provide an opinion as to the sports safety                  15 implications for transgender athletes crossing over 10:11:51                  16 into cisgender sporting events.                  17 But to your point -- what -- what was your                  18 question?                  19 BY MR. BLOCK:                  20 Q Would -- would you view Ben Shapiro to be a 10:12:08                  21 reliable source of information on these matters?                  22 A I have no --                  23 MR. FRAMPTON: Objection --                  24 THE WITNESS: -- opinion on that.                  25 MR. FRAMPTON: -- to the form. 10:12:16                  Page 59</p>	<p>1 providing an expert opinion?                  2 MR. FRAMPTON: Objection to the form and                  3 scope.                  4 THE WITNESS: Are you asking if I would rely                  5 on Ben Shapiro to provide an expert medical opinion? 10:13:20                  6 BY MR. BLOCK:                  7 Q Yes.                  8 A Of course not.                  9 Q So at the time that you first talked with ADF                  10 about, you know, what a white paper would look like, 10:13:40                  11 had you already formed an opinion on the issue?                  12 MR. FRAMPTON: Objection; form and scope.                  13 Go ahead.                  14 THE WITNESS: So, you know, I -- I've been                  15 practicing sports medicine for 20-plus years now, 10:13:53                  16 and I have lots of experience taking care of injured                  17 athletes. And so understanding that there was                  18 perhaps the possibility of larger individuals                  19 crossing over into sports where there were smaller                  20 individuals and, you know, participating in contact 10:14:19                  21 sports, I had concerns, but I hadn't really fully                  22 fleshed out an opinion, no. I believed that I went                  23 into the process of data review with open eyes.                  24 Q What does that mean, you went into the                  25 process of data review with open eyes? 10:14:41                  Page 61</p>

<p>1 A That I went to the data that was culled,                  2 looking to see what the data spoke to in terms of                  3 sports safety. I didn't have a predetermined bias                  4 or view. Well, I didn't have a predetermined answer                  5 to that question, that's what I would say. 10:15:09                  6 Q Now, did -- were you -- when you discussed                  7 being retained to provide this white paper to ADF,                  8 were -- were you -- did you discuss compensation at                  9 the same time?                  10 A I don't -- I don't recall -- I don't believe 10:15:32                  11 compensation came up until later.                  12 Q Do you know if you had arrived at the                  13 conclusion that it was safe for transgender women to                  14 participate, would you have received compensation                  15 from ADF for -- for work done in reaching that 10:15:51                  16 opinion?                  17 MR. FRAMPTON: Objection; form and scope.                  18 THE WITNESS: There's a lot in that question.                  19 Can you restate it, please?                  20 BY MR. BLOCK: 10:16:01                  21 Q Sure. You said that when you began your                  22 writing process, after being retained from ADF, you                  23 didn't have a predetermined view of what the                  24 question would be, and so my question is whether                  25 your compensation was in any way related to whether 10:16:15                  Page 62</p>	<p>1 Go ahead.                  2 THE WITNESS: -- the -- the white paper is                  3 not a comprehensive literature review on the                  4 subject. It is an assessment of how the literature                  5 speaks to the issue of sports safety, particularly. 10:17:38                  6 I included what I thought was relevant to that                  7 discussion.                  8 BY MR. BLOCK:                  9 Q So -- but in -- in your -- in deciding what                  10 to include in your white paper, understanding that 10:17:55                  11 you can find it specifically to the topic of safety,                  12 did you include in the white paper everything                  13 that -- you know, pro and con to your argument, or                  14 did you just quote things that -- that you thought                  15 supported your contention that it would be unsafe 10:18:17                  16 for transgender women to participate?                  17 MR. FRAMPTON: Objection; form, scope.                  18 THE WITNESS: Well, obviously I can't speak                  19 to how successful I was at -- while the final                  20 reflects that, but I believe that it was fair 10:18:40                  21 consideration given to what ought to go into that                  22 paper and that the appropriate relevant things that                  23 needed to be in there were in there.                  24 BY MR. BLOCK:                  25 Q Did you view the purpose of the white paper 10:18:58                  Page 64</p>
<p>1 your ultimate answer was that it would be safe or                  2 unsafe for transgender women to participate.                  3 A No, the --                  4 MR. FRAMPTON: Objection.                  5 I'm sorry, let me do my objection. 10:16:31                  6 Objection.                  7 Answer his question.                  8 THE WITNESS: No, to the best of my                  9 knowledge, my compensation was not tied to the                  10 determination of literature review around this 10:16:39                  11 subject.                  12 BY MR. BLOCK:                  13 Q So when you did a literature review, are you                  14 confident that you searched for everything that                  15 would support or oppose the position you're 10:17:00                  16 advocating for in your report?                  17 MR. FRAMPTON: Objection; form and scope.                  18 THE WITNESS: I'm confident that available                  19 literature, pro and con, was accessed and reviewed.                  20 BY MR. BLOCK: 10:17:18                  21 Q And are you confident that your report                  22 adequately discusses the available literature, pro                  23 and con?                  24 A Again --                  25 MR. FRAMPTON: Objection; form and scope. 10:17:29                  Page 63</p>	<p>1 to provide an overview of -- overview of both sides                  2 of the argument, or did you view the purpose of the                  3 white paper to be, you know, making a specific                  4 argument that it was unsafe and -- and just                  5 providing, you know, citations to materials that 10:19:17                  6 supported that argument?                  7 MR. FRAMPTON: Objection; form and scope.                  8 Go ahead.                  9 THE WITNESS: I wouldn't say that the point                  10 of the argument was to argue -- or the paper was to 10:19:27                  11 argue that it was unsafe. It was to -- it was to                  12 lay out the evidence that says whether it was safe                  13 or not and what -- and lay out the thought process                  14 that would go into making that determination.                  15 BY MR. BLOCK: 10:19:56                  16 Q If you could go to --                  17 A I think the underpinning of the whole thing                  18 is my background as a physician and just the thought                  19 processes that go into the practice of medicine on a                  20 daily basis when you're looking at injury risk and 10:20:19                  21 what -- what sorts of things factor into that. So                  22 that -- that underpins the paper before we even                  23 start.                  24 Q And before starting on the paper, did you                  25 have any experience in working with sports injuries 10:20:31                  Page 65</p>

1 related to the participation of transgender people?  
 2 MR. FRAMPTON: Objection; form and scope.  
 3 Go ahead.  
 4 THE WITNESS: Possibly. I -- I see men and  
 5 women, boys and girls, every day in the office. I 10:20:53  
 6 don't make a habit of asking them what their gender  
 7 identity is. I take care of them all as well as I  
 8 possibly can.  
 9 BY MR. BLOCK:  
 10 Q To the best of your knowledge, did you ever 10:21:03  
 11 treat a sports injury for a transgender patient?  
 12 A Again, I don't make a habit of asking that  
 13 question of my patients. So whether I've seen a  
 14 transgender individual or not, I couldn't speak to  
 15 that. 10:21:22  
 16 Q So you -- you have no idea one way or another  
 17 whether you've treated a transgender patient?  
 18 MR. TRYON: Objection.  
 19 MR. FRAMPTON: Same objection; form and  
 20 scope. 10:21:30  
 21 Go ahead.  
 22 THE WITNESS: I -- I may have seen and  
 23 treated one or I -- I may not have. I don't ask  
 24 that question of people. And I see men and women,  
 25 boys and girls, in the office every day. 10:21:38  
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1 BY MR. BLOCK:  
 2 Q Well, so, I guess, if a -- if a  
 3 transgender -- if you saw a transgender patient, you  
 4 wouldn't be able to tell from their physiology what  
 5 their -- what their, as you say, biological sex is? 10:22:00  
 6 MR. TRYON: Objection.  
 7 MR. FRAMPTON: Objection; form.  
 8 Go ahead.  
 9 THE WITNESS: What do you mean by  
 10 physiological form? 10:22:13  
 11 BY MR. BLOCK:  
 12 Q Let's say your -- a transgender -- let's say  
 13 a woman comes into your office with a -- you know, a  
 14 knee injury. Would -- by inspecting their knee,  
 15 would you be able to tell whether or not this was a 10:22:36  
 16 cisgender woman or a transgender woman?  
 17 MR. FRAMPTON: Objection; form and scope.  
 18 Go ahead.  
 19 THE WITNESS: Not necessarily, no.  
 20 BY MR. BLOCK: 10:22:44  
 21 Q Why not?  
 22 A A knee doesn't have sex-identifying  
 23 characteristics to it.  
 24 Q You wouldn't be able to tell from muscle mass  
 25 on the -- the patient's, you know, legs whether or 10:23:00  
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1 not that patient was a transgender woman or a  
 2 cisgender woman?  
 3 MR. FRAMPTON: Objection; form.  
 4 THE WITNESS: I'm not sure where you're going  
 5 with this. I'm not sure I understand the question. 10:23:17  
 6 BY MR. BLOCK:  
 7 Q Well -- well -- well, these -- so you've  
 8 talked, in your paper, about physiological  
 9 differences between people with male sex assigned at  
 10 birth and female sex assigned at birth and about, 10:23:35  
 11 you know, how -- you know, how stark those  
 12 differences are and that they're not affected by  
 13 hormone therapy, and so I guess my question is, in  
 14 light of that, I find it a little surprising that --  
 15 that you would then say that you could examine or 10:23:49  
 16 treat a sports injury and not know whether the  
 17 person you're treating had a female sex assigned at  
 18 birth or a male sex assigned at birth. So that's  
 19 the context for my question.  
 20 A Well, I think the -- the initial -- 10:24:05  
 21 MR. FRAMPTON: Hold on.  
 22 Objection to the form.  
 23 MR. TRYON: Objection.  
 24 MR. FRAMPTON: Go ahead.  
 25 THE WITNESS: The initial question was 10:24:10  
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1 whether I had ever treated transgender individuals,  
 2 and what I told you was that I try to view my  
 3 patients as the individual in front of me. I don't  
 4 routinely ask them what their gender identity is.  
 5 If you're asking me if anecdotal I could 10:24:26  
 6 identify a, to use your language, trans woman if I  
 7 was doing a knee exam, I suppose I could, but I  
 8 can't speak to that, and it's far afield of why I  
 9 was retained in this case.  
 10 BY MR. BLOCK: 10:24:47  
 11 Q So -- but to the best of your knowledge, you  
 12 don't know one way or another whether or not you've  
 13 ever treated a transgender patient?  
 14 MR. FRAMPTON: Objection; form.  
 15 Go ahead. 10:24:56  
 16 THE WITNESS: To the best of my knowledge, I  
 17 don't know whether I've treated a transgender  
 18 patient, no.  
 19 BY MR. BLOCK:  
 20 Q Did you have any interactions with ADF before 10:25:03  
 21 you were first contacted as potentially being  
 22 retained as an expert?  
 23 A No.  
 24 Q Have you provided any testimony in support of  
 25 any legislation related to transgender people? 10:25:16  
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<p>1 A No.</p> <p>2 Q Have you provided any testimony in support of</p> <p>3 legislation similar to the legislation challenged in</p> <p>4 this case?</p> <p>5 A What are you asking? 10:25:39</p> <p>6 Q Well, yeah, I -- I -- I'm just trying to make</p> <p>7 sure I cover all the bases of my question.</p> <p>8 And so I've -- I've -- it has been argued in</p> <p>9 this case that the statute at issue here, H.B. 3293,</p> <p>10 is not about transgender people, and so I -- I 10:26:10</p> <p>11 didn't want you to answer my question based on a</p> <p>12 similar type of distinction.</p> <p>13 So -- so my question is, did you ever testify</p> <p>14 in support of any legislation that would have the</p> <p>15 affect of precluding transgender people from 10:26:25</p> <p>16 participating on sports teams consistent with their</p> <p>17 sex assigned -- with their gender identity?</p> <p>18 MR. FRAMPTON: Objection to the form.</p> <p>19 Go ahead.</p> <p>20 THE WITNESS: I don't believe that I have 10:26:38</p> <p>21 ever provided testimony to any legislative</p> <p>22 committee, pending -- or pending legislation around</p> <p>23 issues similar to what we're talking about today.</p> <p>24 BY MR. BLOCK:</p> <p>25 Q Thank you. 10:26:59</p> <p style="text-align: right;">Page 70</p>	<p>1 your formal education for your undergraduate degree,</p> <p>2 did you ever take any courses regarding transgender</p> <p>3 people?</p> <p>4 MR. FRAMPTON: Objection; form.</p> <p>5 Go ahead. 10:35:03</p> <p>6 THE WITNESS: To the best of my recollection,</p> <p>7 I never took a course in trans- -- affecting -- or</p> <p>8 reflecting transgender people in undergraduate, no.</p> <p>9 BY MR. BLOCK:</p> <p>10 Q And did you ever conduct any research 10:35:12</p> <p>11 concerning transgender people as an undergrad?</p> <p>12 MR. FRAMPTON: Object to the form.</p> <p>13 Go ahead.</p> <p>14 THE WITNESS: No, I never conducted research</p> <p>15 as an undergraduate on transgender people. 10:35:25</p> <p>16 BY MR. BLOCK:</p> <p>17 Q And then as part of your formal education for</p> <p>18 your M.D., did you ever take any courses regarding</p> <p>19 transgender people?</p> <p>20 MR. FRAMPTON: Object to the form. 10:35:37</p> <p>21 THE WITNESS: No. There were no courses on</p> <p>22 transgender people offered during my training in</p> <p>23 medical school.</p> <p>24 BY MR. BLOCK:</p> <p>25 Q And did you -- did you ever conduct any 10:35:45</p> <p style="text-align: right;">Page 72</p>
<p>1 MR. BLOCK: I -- I'm okay continuing, but do</p> <p>2 you need a break?</p> <p>3 MR. FRAMPTON: We're at about an hour and a</p> <p>4 half. It's -- it's up to you, if you want five</p> <p>5 minutes or if you want to go for another half hour 10:27:13</p> <p>6 or whatever.</p> <p>7 THE WITNESS: Is this a good break point for</p> <p>8 you, or do you --</p> <p>9 MR. BLOCK: Either way. I can break in half</p> <p>10 an hour or I can keep going. 10:27:24</p> <p>11 THE WITNESS: I can use the restroom.</p> <p>12 MR. BLOCK: Okay. So --</p> <p>13 MR. FRAMPTON: Then let's do five minutes.</p> <p>14 MR. BLOCK: Great. See you in five.</p> <p>15 MR. FRAMPTON: All right. Thank -- 10:27:33</p> <p>16 THE VIDEOGRAPHER: We're off -- off the</p> <p>17 record at 10:27 a.m.</p> <p>18 (Recess.)</p> <p>19 THE VIDEOGRAPHER: We are on the record at</p> <p>20 10:34 a.m. 10:34:34</p> <p>21 BY MR. BLOCK:</p> <p>22 Q Good morning again. I just have some</p> <p>23 questions about your -- your training as related to</p> <p>24 transgender people.</p> <p>25 To the best of your recollection, as part of 10:34:49</p> <p style="text-align: right;">Page 71</p>	<p>1 research concerning transgender people in medical</p> <p>2 school?</p> <p>3 MR. FRAMPTON: Object to the form.</p> <p>4 THE WITNESS: No, I never conducted research</p> <p>5 on transgender people in medical school. 10:35:51</p> <p>6 BY MR. BLOCK:</p> <p>7 Q Okay. And in -- in your residency, did you</p> <p>8 receive any training related to transgender people?</p> <p>9 MR. FRAMPTON: Object to the form.</p> <p>10 Go ahead. 10:36:04</p> <p>11 THE WITNESS: I can't recall offhand if there</p> <p>12 were lectures on that subject during the time that I</p> <p>13 was there.</p> <p>14 To the best of my recollection, the answer to</p> <p>15 that is no. 10:36:18</p> <p>16 BY MR. BLOCK:</p> <p>17 Q And in your fellowship, did you receive any</p> <p>18 training related to transgender people?</p> <p>19 MR. FRAMPTON: Same objection.</p> <p>20 THE WITNESS: Again, to the best of my 10:36:30</p> <p>21 recollection, I do not recall specific training on</p> <p>22 the transgender athlete during my fellowship.</p> <p>23 BY MR. BLOCK:</p> <p>24 Q So you're not -- you're not an expert in the</p> <p>25 treatment of transgender people; correct? 10:36:47</p> <p style="text-align: right;">Page 73</p>

<p>1 MR. FRAMPTON: Object to the form, scope.                  2 Go ahead.                  3 THE WITNESS: As I said, I'm a                  4 board-certified sports medicine physician. I've                  5 been retained in this case to offer an opinion on 10:36:58                  6 sports safety. I'm not a board-certified                  7 endocrinologist.                  8 BY MR. BLOCK:                  9 Q Okay. So I -- I just asked -- I need to                  10 define the scope of the opinions you're offering. 10:37:08                  11 So you're not -- you -- you are not an expert                  12 in the treatment of transgender people; correct?                  13 MR. FRAMPTON: Object to the form.                  14 THE WITNESS: I do not treat transgender --                  15 I -- I do not have training in the treatment of 10:37:22                  16 transgender people. I am not a board-certified                  17 endocrinologist.                  18 BY MR. BLOCK:                  19 Q And -- and you are not an expert in the                  20 treatment of transgender people; correct? 10:37:31                  21 A Define --                  22 MR. FRAMPTON: Sam objection.                  23 THE WITNESS: Define "treatment" for me.                  24 BY MR. BLOCK:                  25 Q Medical care for transgender people. 10:37:47                  Page 74</p>	<p>1 A Define "gender dysphoria."                  2 Q It's the medical condition recognized in the                  3 DSM-V.                  4 Do you -- do you know what the DSM-V is?                  5 A I'm familiar with it, yes. 10:39:21                  6 Q Okay. So are -- are -- are you a -- an                  7 expert in mental healthcare for treating the                  8 condition of gender dysphoria as defined in the                  9 DSM-V?                  10 A I am a board-certified sports physician who 10:39:34                  11 has been retained to provide information on safety                  12 in athletes, some of whom may be transgender.                  13 Q Okay. But you are not -- you have not been                  14 retained to provide an expert opinion on the                  15 treatment of gender dysphoria; correct? 10:39:53                  16 A Correct.                  17 Q Okay. If we go down to -- if you would look                  18 at Exhibit 80, please. That's your expert report.                  19 A Exhibit 80, you said?                  20 Q Yeah. 10:40:36                  21 A Okay.                  22 Q And if you go to your abbreviated CV, which                  23 is, you know, the last three pages.                  24 A Okay.                  25 Q And if you go to -- it's the paginated page 10:40:55                  Page 76</p>
<p>1 MR. FRAMPTON: Same objection to the form.                  2 Go ahead.                  3 THE WITNESS: I would be considered an expert                  4 for the sports medicine care of an injured athlete                  5 who happens to be transgender. 10:38:03                  6 BY MR. BLOCK:                  7 Q Okay. So --                  8 A I'm not an -- I am not a board-certified                  9 endocrinologist. So if your speaking to hormonal                  10 manipulation, then no. 10:38:12                  11 Q And you're not -- you're not an expert in                  12 mental healthcare for transgender people; correct?                  13 MR. FRAMPTON: Object to the form.                  14 Go ahead.                  15 THE WITNESS: Well, in the context of the 10:38:24                  16 work that we do with patients every day, we have to                  17 take into consideration mental health, so it touches                  18 on what I do every day.                  19 BY MR. BLOCK:                  20 Q How so? 10:38:46                  21 A The -- I treat the person in front of me and                  22 whatever they're bringing into the room.                  23 Q So you're -- you're not an expert in the                  24 treatment of gender dysphoria, in particular, are                  25 you? 10:39:07                  Page 75</p>	<p>1 73 at the bottom. There's a section of your CV that                  2 says "Special Qualifications."                  3 Do you see that?                  4 A I do.                  5 Q Okay. I just have a couple of questions 10:41:06                  6 about -- about this.                  7 The -- the first entry under "Special                  8 Qualifications" is "Prior legal consulting work in                  9 cases with both local and national reach."                  10 Do you see that? 10:41:21                  11 A Yes.                  12 Q Okay. What are the cases with national reach                  13 that you're referring to?                  14 A This one.                  15 Q Any others? 10:41:48                  16 A The -- as I said, I've been retained in the                  17 Florida case.                  18 Q Okay. So further down, it says -- this is                  19 about, like, the seventh bullet point -- it says (as                  20 read): 10:41:56                  21 "Extensive experience speaking to                  22 large national groups on issues                  23 pertaining to sports medicine,                  24 including but not limited to:"                  25 And then there's a list of things. 10:42:06                  Page 77</p>

1 Do you -- do any of the topics you've spoken  
2 on include anything about transgender people?  
3 A No, I have never --  
4 MR. FRAMPTON: Objection to form.  
5 Go ahead. 10:42:21  
6 THE WITNESS: In my role as a sports  
7 physician, I have not spoken on the topic of  
8 transgenderism in sports.  
9 BY MR. BLOCK:  
10 Q In -- in any other role, have you spoken on 10:42:28  
11 the topic of transgendered people in sports?  
12 A No.  
13 Q Now, the -- the second to last sub-bullet  
14 point of the things you've spoken of says "Advocacy  
15 in Sports Medicine." 10:42:44  
16 Do you see that?  
17 A Yes, I do.  
18 Q When you give speeches on the topic of  
19 advocacy in sports medicine, what do you talk about?  
20 A So prior to being on executive, I was -- I 10:42:55  
21 served two terms on the AMSSM's board of directors,  
22 and I became noted as somebody who was involved in  
23 public policy. And I guess I'd define that by  
24 advocating for sports medicine issues in the -- in  
25 the public sphere. 10:43:22

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1 discussions or debates about whether to form an  
2 official position on the topic of transgender  
3 athletes participating in sports?  
4 A To the best of my recollection, not that  
5 specifically, no. 10:45:40  
6 Q Anything -- to the best of your knowledge,  
7 has AMSSM taken -- had any discussions about taking  
8 an official position in any other topic related to  
9 transgender people?  
10 MR. FRAMPTON: Objection to the form. 10:45:57  
11 Go ahead.  
12 THE WITNESS: There was a position statement  
13 several years ago on mental health issues in  
14 athletes, and I can't recall offhand whether the  
15 transgender athlete was referenced to in that paper, 10:46:14  
16 but I think it was, possibly. I'm not sure.  
17 BY MR. BLOCK:  
18 Q And were you involved in those discussions at  
19 all?  
20 A No. I was on executive at the time, so 10:46:27  
21 drafts of those always came across for us to review,  
22 but I don't recall the specifics of that paper.  
23 Q Going back to the -- the 2021 AMSSM  
24 conference, why is it that you didn't have any  
25 involvement in planning for the sessions related to 10:46:56

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1 So during the time that I was on executive,  
2 we interviewed and hired our first lobbyist. We  
3 developed a state by state network of physician  
4 members who would inform us of legislative issues  
5 going on around the United States. We were involved 10:43:43  
6 in some creation of legislation. That's -- that's  
7 the sort of advocacy that I'm talking about.  
8 So -- so the advocacy would be teaching other  
9 physicians how to advocate for sports medicine  
10 issues in the legislative arena. 10:44:08  
11 Q So what's an example of advocating for sports  
12 medicine issues?  
13 A I helped Tom Latham write a bill that  
14 would -- that clarified legal questions about  
15 physicians who took care of teams across state lines 10:44:37  
16 and didn't have licensure in the state that they  
17 were traveling into, and that bill passed the  
18 U.S. Congress and was signed by President Trump.  
19 Q Does AMSSM have any official position on the  
20 participation of transgender athletes in sports? 10:45:04  
21 A I don't believe they do.  
22 Q Does AMSSM issue official positions on -- on  
23 topics?  
24 A Occasionally, yes.  
25 Q Do you know whether AMSSM ever had any 10:45:25

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1 transgender medicine?  
2 MR. FRAMPTON: Objection to the form.  
3 Go ahead.  
4 THE WITNESS: Because the -- the format on  
5 executive is that you're elected to a four-year 10:47:12  
6 term. And your first year, you're the second vice  
7 president. Your second year, you're the first vice  
8 president. Your third year, you're the president.  
9 The fourth year, you're the immediate past  
10 president. All four years, you're a voting member 10:47:25  
11 of executive. The second vice president is  
12 responsible for planning an upcoming annual meeting.  
13 So those conversations that I was telling you  
14 about occurred at the time that I was second vice  
15 president and working on formulating what would be 10:47:46  
16 the Houston meeting.  
17 BY MR. BLOCK:  
18 Q And so other -- so you didn't have  
19 discussions about the meetings other than that year  
20 when you were the second vice president, is that 10:48:05  
21 what you said?  
22 MR. FRAMPTON: Objection to form.  
23 THE WITNESS: My responsibility was for the  
24 2019 annual meeting.  
25 ///

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1 BY MR. BLOCK:  
 2 Q Okay. And so you weren't involved in  
 3 discussions for planning for the 2021 meeting?  
 4 MR. FRAMPTON: Same objection.  
 5 Go ahead. 10:48:23  
 6 THE WITNESS: No, I was not.  
 7 BY MR. BLOCK:  
 8 Q Okay. So the 2021 -- actually, let me just  
 9 introduce another exhibit. Actually, I'll do it  
 10 later. 10:49:00  
 11 Let's go to your -- Exhibit 81, which is your  
 12 June 22nd, 2021, report and white paper.  
 13 A Did you say 81?  
 14 Q Yes. It's the document that says "Exhibit G"  
 15 at the top, and then it is your declaration from 10:49:23  
 16 June 22nd, 2021.  
 17 A Okay.  
 18 Q Do you have that in front of you?  
 19 A I do.  
 20 Q Okay. So in this June 2021 white paper, do 10:49:33  
 21 you express any opinions about whether prepubertal  
 22 boys have an athletic advantage over prepubertal  
 23 girls?  
 24 A I don't want to overstate. I can't recall  
 25 offhand, but I -- I don't think the focus of that 10:49:49  
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1 paper included prepubertal girls or boys.  
 2 Q Were they discussed at all?  
 3 A I can't recall.  
 4 Q If you can turn to, you know, page 7, just  
 5 referring to the -- the document's pagination, not 10:50:11  
 6 the -- not the PDF pagination, in -- in -- at the  
 7 very top of page 7. Let me know when you get there.  
 8 A Okay. I'm there.  
 9 Q Okay. So there's sub -- subparagraph D.  
 10 Do you see that? 10:50:32  
 11 A Yes.  
 12 Q Okay. Subparagraph D says (as read):  
 13 "Current research supports the  
 14 conclusion that suppression of  
 15 testosterone levels by males who 10:50:40  
 16 have already begun puberty will not  
 17 fully reverse the effects of  
 18 testosterone on skeletal size,  
 19 strength, or muscle hypertrophy,  
 20 leading to persistence of sex-based 10:50:53  
 21 differences in power, speed, and  
 22 force generating capacity."  
 23 Did I read that right?  
 24 A It's "hypertrophy," but yes.  
 25 Q All right. Good. My second question would 10:51:02  
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1 be did I pronounce that word right.  
 2 A Close.  
 3 Q "Hypertrophy"?  
 4 A "Hypertrophy."  
 5 Q Okay. Does that -- in this paragraph, do you 10:51:11  
 6 say anything about athletes before puberty?  
 7 A That paragraph references males who have  
 8 already begun puberty.  
 9 Q And there's no reference there to males  
 10 before puberty, is there? 10:51:32  
 11 A No.  
 12 Q Okay.  
 13 A There is not.  
 14 Q And now if we go to paragraph -- if we go to  
 15 page 18 -- I'm sorry -- paragraph 18, page 11, of 10:51:48  
 16 the same document.  
 17 A Same pagination?  
 18 Q Yeah. So -- yeah. So paragraph 18. That's  
 19 the paragraph that begins with "External risk  
 20 factors." 10:52:08  
 21 A Yes, I see.  
 22 Q And if you go five lines from the bottom,  
 23 there's a sentence that begins with "To the latter  
 24 point."  
 25 A Uh-huh. 10:52:16  
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1 Q Okay. It says (as read):  
 2 "To the latter point, children don't  
 3 play contact sports with adults and,  
 4 as has already been discussed, after  
 5 the onset of puberty, men and women 10:52:24  
 6 compete in categories specific to  
 7 their own biological sex."  
 8 Do you see that?  
 9 A Yes, I do.  
 10 Q And I've read that correctly? 10:52:32  
 11 A You did.  
 12 Q Okay. And so this sentence also refers to  
 13 men and women competing in -- I'll say this again.  
 14 You don't discuss anything about people  
 15 before puberty in this sentence, do you? 10:52:49  
 16 MR. FRAMPTON: Objection to the form.  
 17 Go ahead.  
 18 THE WITNESS: No, I don't.  
 19 BY MR. BLOCK:  
 20 Q Okay. Why did you say "after the onset of 10:52:57  
 21 puberty, men and women compete in categories  
 22 specific to their own biological sex"?  
 23 A Well, that was probably overstated. It --  
 24 those categories clearly exist prior to puberty as  
 25 well. 10:53:23  
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<p>1 Q Why -- why did you include the words "after 2 the onset of puberty"?</p> <p>3 MR. FRAMPTON: Objection to the form.</p> <p>4 Go ahead.</p> <p>5 THE WITNESS: I believe because the divisions 10:53:30 6 are consistent -- are most consistent after puberty.</p> <p>7 BY MR. BLOCK:</p> <p>8 Q And every line of this paper is your own 9 words and thought, right?</p> <p>10 A Correct. 10:53:57</p> <p>11 Q Okay. And so you thought it was relevant to 12 include the words "after the onset of puberty" in 13 this sentence; correct?</p> <p>14 MR. FRAMPTON: Objection; form.</p> <p>15 Go ahead. 10:54:07</p> <p>16 THE WITNESS: Yes. For example, 17 six-year-olds will often play soccer together, boys 18 and girls.</p> <p>19 BY MR. BLOCK:</p> <p>20 Q And do you think that that is a threat to the 10:54:21 21 safety of the girls?</p> <p>22 MR. FRAMPTON: Objection to the form.</p> <p>23 THE WITNESS: I didn't say that.</p> <p>24 BY MR. BLOCK:</p> <p>25 Q Well, I'm -- I'm asking you. 10:54:31</p> <p style="text-align: right;">Page 86</p>	<p>1 today on the safety implications of allowing 2 prepubertal boys and prepubertal girls to play 3 sports together on the same team?</p> <p>4 MR. FRAMPTON: Objection to the form. 5 Go ahead. 10:56:25</p> <p>6 THE WITNESS: I'm providing an opinion on the 7 safety issues of boys and girls playing together on 8 the same team, including prepube- -- the prepube- -- 9 the prepubertal population.</p> <p>10 BY MR. BLOCK: 10:56:44</p> <p>11 Q So -- so you are -- you are also offering 12 testimony today on the safety of prepubertal boys 13 and prepubertal girls playing on the same team?</p> <p>14 A I'm offering an opinion on safety as it -- 15 when -- particularly when boys cross over into 10:57:02 16 girls' sports, play on teams that are designated as 17 girls' teams, and those -- and the issues there have 18 to do with retained differences.</p> <p>19 Q Okay. So just focusing on prepubertal 20 population -- okay, so nothing about after puberty, 10:57:38 21 just focusing on prepubertal population -- are -- 22 you are offering testimony that it -- there are 23 safety risks of -- well, I'll take that back.</p> <p>24 Just focusing on the prepubertal population, 25 are you offering testimony that it is not safe for 10:57:51</p> <p style="text-align: right;">Page 88</p>
<p>1 Is -- are six -- when six-year-old boys and 2 six-year-old girls play soccer together, is that a 3 threat to the safety of those six-year-old girls?</p> <p>4 MR. FRAMPTON: Same objection.</p> <p>5 Go ahead. 10:54:45</p> <p>6 THE WITNESS: Generally, when six-year-olds 7 play soccer together, there is not high risk to --</p> <p>8 BY MR. BLOCK:</p> <p>9 Q I'm sorry, I -- I didn't hear the end of your 10 sentence. 10:55:06</p> <p>11 A I said --</p> <p>12 MR. FRAMPTON: Well, let me -- objection to 13 the form.</p> <p>14 Go ahead and answer the question.</p> <p>15 THE WITNESS: Six-year-olds play soccer 10:55:15 16 together. Their risks are -- the risk of injury, as 17 a group, is less.</p> <p>18 BY MR. BLOCK:</p> <p>19 Q Do you think the -- the risk is increased 20 when boys play? 10:55:33</p> <p>21 A To the extent that boys are faster than 22 girls, there could be increased risk. The overall 23 speed and mass of six-year-olds is such that the 24 absolute risks are minuscule.</p> <p>25 Q Okay. Are you providing an expert opinion 10:56:04</p> <p style="text-align: right;">Page 87</p>	<p>1 prepubertal boys to play on -- on teams designated 2 for prepubertal girls?</p> <p>3 MR. FRAMPTON: Objection to the form.</p> <p>4 THE WITNESS: I believe that there is a 5 safety risk when -- that there can be a safety risk 10:58:06 6 when prepubertal boys cross over and play onto 7 girls' teams, yes.</p> <p>8 BY MR. BLOCK:</p> <p>9 Q Is there a safety risk when prepubertal boys 10 and prepubertal girls play on coed teams? 10:58:20</p> <p>11 A Define a -- well, what coed team are you 12 talking about?</p> <p>13 Q Well, a team that --</p> <p>14 A Talking about -- are you talking about 15 recreational teams or competitive leagues? What are 10:58:33 16 you talking about?</p> <p>17 Q Do you -- do you see a distinction between 18 the two?</p> <p>19 A Yes, I do.</p> <p>20 Q Okay. So do you think -- are you testifying 10:58:47 21 that there's a safety risk when prepubertal boys and 22 prepubertal girls play on coed recreational teams?</p> <p>23 MR. FRAMPTON: Objection to the form.</p> <p>24 THE WITNESS: So recreational teams are 25 unique in that they're primarily designed for 10:59:02</p> <p style="text-align: right;">Page 89</p>

<p>1 enjoyment. They're not primarily stratified for                  2 purpose of competition. So oftentimes the rules in                  3 these leagues are altered to promote safety.                  4 MR. BLOCK: So can you --                  5 Can the court reporter read back my question? 10:59:23                  6 THE REPORTER: Yes.                  7 (Record read.)                  8 MR. FRAMPTON: Objection to the form.                  9 Go ahead.                  10 THE WITNESS: There -- there could be safety 10:59:53                  11 risks with coed participation, yes.                  12 BY MR. BLOCK:                  13 Q On recreational teams?                  14 A It depends on how the sport is structured,                  15 but yes. 11:00:03                  16 Q So you're comfortable saying when                  17 six-year-olds play soccer together, the safety risks                  18 are minuscule. Is that true when seven-year-olds                  19 play -- prepubertal boys and girls play soccer                  20 together? 11:00:19                  21 MR. FRAMPTON: Object to the form.                  22 Go ahead.                  23 THE WITNESS: I couldn't speak to that.                  24 BY MR. BLOCK:                  25 Q But you can speak to six-year-olds? 11:00:26                  Page 90</p>	<p>1 THE WITNESS: In part.                  2 BY MR. BLOCK:                  3 Q Why -- what's the other part?                  4 A Well, there are retained -- there are                  5 biological differences from the beginning, and then 11:01:43                  6 those biological differences start to combine with                  7 additional distincters that begin to lead to                  8 additive risk.                  9 Q All right. But -- but those additional                  10 distincters are a result of them acquiring 11:02:09                  11 additional skills?                  12 MR. FRAMPTON: Same objection.                  13 Go ahead.                  14 THE WITNESS: Well, define "skills." If by                  15 "skills" you mean they're becoming faster, they're 11:02:23                  16 starting to become stronger, then yes.                  17 BY MR. BLOCK:                  18 Q Well, you know, I'm trying to -- what did you                  19 mean when you said develop additional skills a                  20 couple of questions ago? 11:02:42                  21 A Well, if you look at data on youth, in                  22 elementary-aged youth, there's several studies out                  23 there looking at population data, and they -- they                  24 come to pretty consistent findings, which is that                  25 boys outperform girls in measures of strength and 11:03:04                  Page 92</p>
<p>1 MR. FRAMPTON: Same objection.                  2 THE WITNESS: I have.                  3 I thought I answered that question.                  4 BY MR. BLOCK:                  5 Q Why -- why can you speak to the safety 11:00:35                  6 implications of six-year-olds, but not                  7 seven-year-olds?                  8 MR. FRAMPTON: Object to the form.                  9 Go ahead.                  10 THE WITNESS: As boys age, they develop skill 11:00:52                  11 sets, and those evolve year to year.                  12 BY MR. BLOCK:                  13 Q So --                  14 A I -- I cannot speak to a peer-reviewed study                  15 that designates age six from age seven, no. 11:01:05                  16 Q So the difference between, you know, six and                  17 seven or, you know, six and eight is that the boys                  18 are developing skill sets that they didn't have when                  19 they were younger?                  20 A In part. 11:01:23                  21 MR. FRAMPTON: Objection to the form.                  22 BY MR. BLOCK:                  23 Q Can you repeat your answer?                  24 MR. FRAMPTON: Yeah, my objection is noted.                  25 Go ahead and repeat your answer. 11:01:32                  Page 91</p>	<p>1 speed and girls are generally more flexible. And                  2 the findings --                  3 Q Why --                  4 A -- are pretty consistent from region to                  5 region and from investigator to investigator. 11:03:13                  6 Q And why didn't you include a discussion of                  7 that in -- in this June 2021 paper?                  8 A I referenced Dr. Brown's paper, and he goes                  9 through that fairly extensively.                  10 Q Well, do you reference Dr. Brown in this 11:03:29                  11 June 2021 paper?                  12 A No.                  13 Q Okay. So why didn't you discuss prepubertal                  14 boys and girls in this June 2021 paper?                  15 MR. FRAMPTON: Object to the form. 11:03:46                  16 Go ahead.                  17 THE WITNESS: That wasn't the focus of -- of                  18 the paper. The focus of that paper was primarily                  19 the effect of testosterone on athletic development.                  20 BY MR. BLOCK: 11:04:07                  21 Q Why did you make that the focus of your                  22 June 2021 paper?                  23 MR. FRAMPTON: Object to the form.                  24 THE WITNESS: I don't recall offhand what                  25 specifically went into that decision. 11:04:26                  Page 93</p>

<p>1 BY MR. BLOCK:                  2 Q Can you recall what generally went into that                  3 decision?                  4 MR. FRAMPTON: Same objection.                  5 THE WITNESS: I would say the same thing. 11:04:37                  6 BY MR. BLOCK:                  7 Q So you -- you don't know why you decided to                  8 focus on testosterone, you know, beginning with the                  9 onset of puberty for your June 2021 paper?                  10 MR. TRYON: Objection. 11:04:53                  11 MR. FRAMPTON: Same objection.                  12 THE WITNESS: I -- I -- I can't recall                  13 specifically why I excluded the prepubertal                  14 population from that -- that paper.                  15 BY MR. BLOCK: 11:05:03                  16 Q If we go to page -- to paragraph 40, on                  17 page 21 of the same document.                  18 THE WITNESS: Let me know when you're there.                  19 MR. FRAMPTON: Sorry, Josh, you said page 40?                  20 MR. BLOCK: Paragraph 40, page -- 11:05:28                  21 MR. FRAMPTON: Paragraph 40. Thank you. I'm                  22 so sorry.                  23 THE WITNESS: I think he did say page 40.                  24 Hold on.                  25 Okay. 11:05:44</p> <p style="text-align: right;">Page 94</p>	<p>1 DeVarona, and Harper, there's a sentence that begins                  2 with "As a medical doctor."                  3 Do you see that?                  4 A I do.                  5 Q Okay. So the -- it says (as read): 11:07:08                  6 "As a medical doctor, I will focus                  7 on those" --                  8 I'll read this again, sorry. (As read):                  9 "As a medical doctor, I will focus                  10 on those specific sex-based 11:07:15                  11 characteristics of males who have                  12 undergone normal sex-determined                  13 pubertal skeletal growth and                  14 maturation that are relevant to the                  15 safety of female athletes." 11:07:27                  16 Did I read that right?                  17 A Yes.                  18 Q Okay. And so -- so this June 2021 paper is                  19 focusing on sex-based characteristics of males who                  20 have undergone normal sex-determined prepubertal 11:07:50                  21 skeletal growth and maturation?                  22 A Correct.                  23 Q Why did you focus on people who have                  24 undergone normal sex-determined prepubertal skeletal                  25 growth and maturation? 11:08:03</p> <p style="text-align: right;">Page 96</p>
<p>1 BY MR. BLOCK:                  2 Q If you go -- one, two, three, four, five --                  3 seven -- seven or eight lines down, there's a                  4 sentence that begins with "All of us."                  5 A Okay. 11:05:59                  6 Q That sentence says (as read):                  7 "All of us are familiar with basic                  8 objective physiological differences                  9 between the sexes which become                  10 apparent after the onset of puberty, 11:06:06                  11 and persist throughout adulthood."                  12 Did I read that right?                  13 A You did.                  14 Q And this sentence, again, is talking about                  15 things that happen after the onset of puberty; 11:06:18                  16 correct?                  17 A Correct.                  18 Q And there's nothing in this sentence                  19 referring to prepubertal kids; correct?                  20 A That wasn't the focus of this paper, so yes. 11:06:29                  21 Q Okay. Now let's actually go to page 40,                  22 paragraph 79. Let me know when you're there.                  23 A I'm there.                  24 Q So after -- in the middle of the paragraph,                  25 after the parenthetical, that cites to Hilton, 11:06:59</p> <p style="text-align: right;">Page 95</p>	<p>1 A Well, I --                  2 MR. FRAMPTON: Objection to form.                  3 Go ahead.                  4 THE WITNESS: I thought you asked me that                  5 already, and I thought I answered that I -- I can't 11:08:14                  6 recall what the reason was for specifically focusing                  7 on adolescent, postadolescent, over prepubertal.                  8 BY MR. BLOCK:                  9 Q You don't -- do you have -- you didn't have                  10 any background, medical training, that would, you 11:08:24                  11 know, provide you information on why focusing on                  12 changes that occur during puberty would be                  13 important?                  14 MR. TRYON: Objection.                  15 MR. FRAMPTON: Objection to the form. 11:08:40                  16 THE WITNESS: I already answered that                  17 question. I think my last answer was best -- or my                  18 first answer was best, but if you want me to answer                  19 again, I will tell you again that I don't remember                  20 why postadolescent or prepubertal -- or the pubertal 11:09:00                  21 phase was focused on exclusively.                  22 BY MR. BLOCK:                  23 Q All right. Now let's turn to your expert                  24 report dated February 23rd, 2022. So that's                  25 Exhibit 80. 11:09:42</p> <p style="text-align: right;">Page 97</p>

<p>1 A Okay. I've got it.                  2 Q So if you go to paragraph -- so page 9,                  3 paragraph 11 C.                  4 A Okay.                  5 Q And in the middle of paragraph 11 C, the -- 11:10:07                  6 there's a sentence that begins with "Even before."                  7 A Correct.                  8 Q So there you say (as read):                  9 "Even before puberty, males have a                  10 performance advantage over females 11:10:24                  11 in most athletic events."                  12 Correct?                  13 A That is correct.                  14 Q And that sentence wasn't contained in your                  15 first version of your white paper from June 2021; 11:10:32                  16 right?                  17 A As I said, that was not the focus of that                  18 paper, so that's correct.                  19 Q Okay. Why did you decide to include it in                  20 this paper? 11:10:48                  21 A When --                  22 MR. FRAMPTON: Objection to the form.                  23 Go ahead.                  24 THE WITNESS: When I was retained by                  25 West Virginia in this case, discussions between 11:11:04                  Page 98</p>	<p>1 THE WITNESS: Many of the considerations that                  2 exist in that first paper are relevant to the                  3 prepubertal group. I suspected that they would                  4 probably hold, and I do believe that they hold.                  5 BY MR. BLOCK: 11:12:58                  6 Q So -- so before you were asked to update your                  7 paper, you had an expert opinion that it would be                  8 unsafe for prepubertal girls and play -- and boys to                  9 play together?                  10 MR. FRAMPTON: Objection to the form. 11:13:10                  11 THE WITNESS: As I said, I suspected that                  12 there was probably risk in that population as well.                  13 BY MR. BLOCK:                  14 Q Now, you talked about the literature review                  15 you conducted for creating your white paper. What 11:13:31                  16 sort of literature review did you conduct for the                  17 process of updating the right -- the white paper to                  18 discuss prepubertal kids?                  19 A I went more into the picture on population                  20 testing, looking at what differences in performance 11:14:01                  21 were between boys and girls. I looked at                  22 international and national performance records,                  23 databases. I looked at ratified standards for --                  24 that had been determined through, for instance, the                  25 presidential physical fitness test. 11:14:35                  Page 100</p>
<p>1 attorneys at ADF and attorneys at West Virginia --                  2 MR. TRYON: I just want to insert here,                  3 please don't -- again, this is attorney-client --                  4 don't get into attorney-client protected                  5 information. So discussions with counsel are 11:11:26                  6 protected.                  7 MR. FRAMPTON: Right.                  8 MR. TRYON: But to the extent that you can                  9 answer that without disclosing that -- those                  10 communications, you may do so. 11:11:32                  11 MR. FRAMPTON: Yeah, same -- same                  12 instruction.                  13 THE WITNESS: Okay. So I -- I -- I guess                  14 what I would say is that the initial report was                  15 filed -- was created prior to being retained by the 11:11:42                  16 State of West Virginia and the updated paper that                  17 you have was updated to include the prepubertal                  18 population because my understanding is that the                  19 defendant in this case is -- is young.                  20 BY MR. BLOCK: 11:12:14                  21 Q Before you were asked to update the white                  22 paper, did you have an expert opinion regarding the                  23 safety implications of prepubertal boys and girls                  24 playing together?                  25 MR. FRAMPTON: Objection to the form. 11:12:26                  Page 99</p>	<p>1 Q How did you identify what sources to look at?                  2 A PubMed. I own -- well, PubMed.                  3 Q Did you review any sources that were not                  4 included in Dr. Brown's 2022 expert report?                  5 MR. FRAMPTON: Objection to the form. 11:15:06                  6 THE WITNESS: I couldn't speak to that                  7 because I haven't cross-referenced his bibliography                  8 to mine.                  9 BY MR. BLOCK:                  10 Q In paragraph 16, page 12 of your report, 11:15:26                  11 could you turn to that?                  12 A Yes, I'm there.                  13 Q So -- so right before paragraph 17, the --                  14 the final sentence in paragraph 16, it says (as                  15 read): 11:15:53                  16 "Although most easily documented in                  17 athletes who have gone through                  18 puberty, these differences are not                  19 exclusively limited to                  20 post-pubescent athletes either." 11:16:04                  21 Did I read that right?                  22 A You did.                  23 Q Okay. And how -- can you explain to me how                  24 these differences are most easily documented in                  25 athletes who have gone through puberty? 11:16:17                  Page 101</p>

<p>1 A Of course.                  2 The differences between men and women with                  3 regards to strength and -- both upper and lower                  4 body -- and muscle mass and power increase,                  5 there's -- there's greater separation between the 11:16:48                  6 sexes after puberty has occurred. That doesn't mean                  7 that there's no difference prior.                  8 Q But you -- you say it's most easily                  9 documented. What did you mean by "most easily                  10 documented"? 11:17:07                  11 MR. FRAMPTON: Object to the form.                  12 MR. BLOCK: I'm sorry, what's the -- what's                  13 the form objection to that?                  14 MR. FRAMPTON: The objection is I -- I                  15 don't -- I don't think you've properly stated what 11:17:30                  16 he said.                  17 BY MR. BLOCK:                  18 Q What -- what did you mean when you said "most                  19 easily documented"?                  20 A Meaning that the -- that wider differences 11:17:39                  21 are more apparent than narrow differences.                  22 Q So paragraph 17 says (as read):                  23 "I have reviewed the expert                  24 declaration of Gregory A. Brown,                  25 Ph.D., FACM of February 23, 2022, 11:17:58                  Page 102</p>	<p>1 variety of sources, including                  2 population-based mass testing data,                  3 as well as age-stratified                  4 competition results, all of which                  5 support the idea that prepubertal 11:19:35                  6 males run faster, jump higher and                  7 farther, exhibit higher aerobic                  8 power output, and have greater upper                  9 body strength (evidenced by stronger                  10 hand grip and better performance 11:19:45                  11 with chin-ups or bent arm hang) than                  12 comparably aged females."                  13 Did I read that right?                  14 A You did.                  15 Q Okay. And then you go on to say that this is 11:19:55                  16 documented in Presidential Fitness Test, Euro                  17 Fitness Test and additional mass testing data from                  18 the UK and Australia; correct?                  19 A Correct.                  20 Q Now, are those fitness tests what you were 11:20:05                  21 referring to earlier when you were discussing                  22 additional research you had done to update your                  23 white paper?                  24 A Yes.                  25 Q Okay. Do you actually cite to those fitness 11:20:18                  Page 104</p>
<p>1 provided in this case..."                  2 Correct?                  3 A Correct.                  4 Q Okay. And the date of this document that                  5 we're reading from is also February 23rd, 2022; 11:18:09                  6 correct?                  7 A Correct.                  8 Q Okay. So how did you read Dr. Brown's expert                  9 declaration dated the same day as your declaration?                  10 A That was provided to me by attorneys at ADF. 11:18:31                  11 Q Did you read Dr. Brown's declaration after it                  12 had already been signed?                  13 A I can't speak to when he signed that, so I                  14 don't know the answer to that question.                  15 Q Did you review Dr. Brown's declaration on 11:18:52                  16 February 23rd, 2022?                  17 A I don't recall when I reviewed it.                  18 Q Now, the sentence continues -- I'll just read                  19 it from the beginning again.                  20 (As read): 11:19:15                  21 "I have reviewed the expert                  22 declaration of Gregory A. Brown,                  23 Ph.D., FACM of February 23, 2022,                  24 provided in this case, which                  25 includes evidence from a wide 11:19:23                  Page 103</p>	<p>1 test results in the bibliography of this white                  2 paper?                  3 A I don't believe that that's in there.                  4 Q Okay. So does this refresh your recollection                  5 about whether you -- about how -- I'll take this -- 11:20:36                  6 I'll -- strike that. I'll ask again.                  7 Do you -- did you become aware of these                  8 differences in test results from reading Dr. Brown's                  9 declaration?                  10 A No. I had been familiar with some of those 11:20:55                  11 papers prior.                  12 Q When did you become familiar with them?                  13 A In the course of -- likely in the course of                  14 initial review, on -- on PubMed searches.                  15 Q Can you turn to page 61 of the document? 11:21:24                  16 That's your bibliography.                  17 A Okay.                  18 Q Can you point out to me the sources in the                  19 bibliography addressing performance differences                  20 between -- or -- or differences in body composition 11:22:03                  21 between prepubertal girls and prepubertal boys?                  22 A We're speaking to performance differences;                  23 correct?                  24 Q Or physiological differences.                  25 A Papers that I referenced are not in there. 11:23:25                  Page 105</p>

<p>1 Q Okay. Why not?</p> <p>2 A I reviewed -- papers that I had reviewed</p> <p>3 beforehand were referenced within Dr. Brown's</p> <p>4 report.</p> <p>5 Q On the -- if -- going back to paragraph 17, 11:24:26</p> <p>6 which is -- well, if you could go back to</p> <p>7 paragraph 17. So that's pages 12 and 13.</p> <p>8 12 and 13. Hopefully, I said that correctly.</p> <p>9 If you could go to the end of paragraph 17,</p> <p>10 which is on page 13. 11:24:51</p> <p>11 A Okay.</p> <p>12 Q Let me know when you're there.</p> <p>13 A I'm there.</p> <p>14 Q Okay. It says (as read):</p> <p>15 In sum, a large and unbridgeable 11:25:01</p> <p>16 performance gap exists between</p> <p>17 the" -- "exists" --</p> <p>18 Let me try that again. I need another cup of</p> <p>19 coffee.</p> <p>20 It says (as read): 11:25:11</p> <p>21 "In sum, a large and unbridgeable</p> <p>22 performance gap between the sexes is</p> <p>23 well-studied and equally</p> <p>24 well-documented, beginning in many</p> <p>25 cases before puberty." 11:25:20</p> <p style="text-align: right;">Page 106</p>	<p>1 as early as age seven and ups at between 100 and</p> <p>2 1200 percent improved.</p> <p>3 Q And do you have an expert opinion on whether</p> <p>4 or not those differences are attributable to innate</p> <p>5 physiological characteristics? 11:27:41</p> <p>6 A As -- as a physician who works with athletes</p> <p>7 of all ages, every day, I do have an opinion that</p> <p>8 biology plays a role in the measured performance</p> <p>9 differences that exist in the literature with</p> <p>10 respect to prepubertal children, yes. 11:28:11</p> <p>11 Q So you said biology plays a role.</p> <p>12 Is biology the exclusive thing that plays a</p> <p>13 role?</p> <p>14 A I'm not aware of any peer-reviewed study that</p> <p>15 looks at the exact contribution of biology versus 11:28:36</p> <p>16 other causes when it comes to performance in</p> <p>17 prepubertal children.</p> <p>18 Q Are you -- are you aware of any data</p> <p>19 measuring the performance of transgender girls</p> <p>20 before puberty in -- in athletic contests or 11:28:51</p> <p>21 physical fitness studies?</p> <p>22 A I'm not aware of any literature looking</p> <p>23 specifically at prepubertal transgender girls in --</p> <p>24 in their performance of sport, no.</p> <p>25 Q Just to clarify the scope of your expert 11:29:14</p> <p style="text-align: right;">Page 108</p>
<p>1 Do you see that sentence?</p> <p>2 A I do.</p> <p>3 Q Okay. Is -- do you believe that the</p> <p>4 performance gap before puberty is unbridgeable?</p> <p>5 A No, that's not what I said. 11:25:37</p> <p>6 Q That's why I'm asking the question.</p> <p>7 A No.</p> <p>8 Q Do -- do you --</p> <p>9 A What -- what it says is large and</p> <p>10 unbridgeable performance gap between the sexes is 11:25:46</p> <p>11 well-studied beginning in many cases before puberty.</p> <p>12 Q Okay. In -- in many cases, is there an</p> <p>13 unbridgeable performance gap before puberty?</p> <p>14 A I believe, based on the -- I believe if you</p> <p>15 look at the -- of how sex-based records break down, 11:26:14</p> <p>16 that we're talking about upper-end performance that</p> <p>17 it reflects, in -- as I said, in many cases, an</p> <p>18 unbridgeable gap.</p> <p>19 Q How about average differences between boys</p> <p>20 and girls before puberty, is the gap so large to be 11:26:44</p> <p>21 unbridgeable?</p> <p>22 A Not in all cases, no.</p> <p>23 Q In which case is -- is it large enough to be</p> <p>24 unbreakable?</p> <p>25 A Well, for example, boys can outperform girls 11:27:02</p> <p style="text-align: right;">Page 107</p>	<p>1 opinions in this case, are you providing an expert</p> <p>2 opinion in this case regarding athletic advantages</p> <p>3 between males and females?</p> <p>4 MR. FRAMPTON: Objection; form.</p> <p>5 Go ahead. 11:29:46</p> <p>6 THE WITNESS: I am providing an opinion in</p> <p>7 this case on the safety issues that exist when those</p> <p>8 of one sex cross over and participate in sports.</p> <p>9 BY MR. BLOCK:</p> <p>10 Q So -- so your expert opinion in this case is 11:30:01</p> <p>11 exclusively about the safety issues; correct?</p> <p>12 THE VIDEOGRAPHER: I believe Dr. Carlson's</p> <p>13 Internet might have been having a problem. You</p> <p>14 might need to repeat your question.</p> <p>15 MR. BLOCK: Sure. 11:30:37</p> <p>16 BY MR. BLOCK:</p> <p>17 Q So your expert testimony in this case is</p> <p>18 exclusively about the safety issues involved when</p> <p>19 males and females play together; right?</p> <p>20 MR. FRAMPTON: Objection; form. 11:30:53</p> <p>21 Go ahead.</p> <p>22 THE WITNESS: It is about the safety issues</p> <p>23 that are involved when males and -- when males cross</p> <p>24 over into women's sports particularly, and some of</p> <p>25 that opinion relates to differences in certain 11:31:08</p> <p style="text-align: right;">Page 109</p>

<p>1 variables, such as speed.                  2 BY MR. BLOCK:                  3 Q You're not providing an expert opinion on the                  4 fairness of allowing transgender girls to                  5 participate on girls' teams; right? 11:31:29                  6 A I'm not providing an opinion on fairness as                  7 relates to transgender participation, no.                  8 Q If you could go to paragraph 21 of your                  9 report -- it's on page 15. So about four lines from                  10 the top -- there's a sentence that begins with "To 11:32:12                  11 the latter point."                  12 A "To the latter point, children don't play                  13 contact sports...?"                  14 Q Yeah. So it says (as read):                  15 "To the latter point, children don't 11:32:28                  16 play contact sports with adults and,                  17 in a great majority of cases, men                  18 and women compete in categories                  19 specific to their own biological                  20 sex." 11:32:37                  21 Do you see that?                  22 A I do.                  23 Q Okay. And so that sentence has been changed                  24 from the version of that sentence that appeared in                  25 your June 2021 report; correct? 11:32:49                  Page 110</p>	<p>1 expanded slightly to include consideration of the                  2 prepubertal athlete. And since sport -- gender --                  3 or sex stratification in youth teams is still widely                  4 prevalent, they altered those words.                  5 Q Are you providing an expert opinion in this 11:34:50                  6 case about transgender girls and women who never go                  7 through endogenous puberty as a result of puberty                  8 blockers followed by gender-affirming hormones?                  9 MR. FRAMPTON: Objection; form.                  10 THE WITNESS: Can you -- you ask that one 11:35:07                  11 more time?                  12 BY MR. BLOCK:                  13 Q Yeah. So are you providing an expert                  14 report -- excuse me, I'll say it again.                  15 Are you providing an expert opinion in this 11:35:14                  16 case about transgender girls and women who never go                  17 through endogenous puberty as a result of taking                  18 puberty blockers followed by gender-affirming                  19 hormones?                  20 MR. FRAMPTON: Same objection. 11:35:29                  21 Go ahead.                  22 THE WITNESS: So to the extent that they are                  23 prepubertal biological males, yes.                  24 BY MR. BLOCK:                  25 Q How about to the extent that they have 11:35:36                  Page 112</p>
<p>1 A I can't recall. I'd have to go back and look                  2 at that report.                  3 Q Okay. Let's go back and look at it. It's on                  4 page 11 of your earlier report.                  5 A Okay. 11:33:37                  6 Q All right. So on page 11 of your report,                  7 paragraph 18, a couple lines from the bottom, it                  8 says (as read):                  9 "To the latter point, children don't                  10 play contact sports with adults and, 11:33:45                  11 as has already been discussed, after                  12 the onset of puberty, men and women                  13 compete in categories specific to                  14 their own biological sex."                  15 Do you see that? 11:33:54                  16 A I do.                  17 Q Okay. And so then in your February report,                  18 the -- the words after "the onset of puberty" are                  19 taken out, and the words "in the great majority of                  20 cases" are -- are put in; is that right? 11:34:10                  21 A Correct.                  22 Q Okay. And so why did you make that change?                  23 A Well, I believe, as we had discussed, the                  24 focus on the first draft was primarily in the                  25 adolescent age and later, and the second draft was 11:34:23                  Page 111</p>	<p>1 received puberty blockers followed by                  2 gender-affirming hormones to stimulate the                  3 equivalent of a typically female puberty?                  4 MR. FRAMPTON: Objection; form.                  5 THE WITNESS: My opinion in this case extends 11:35:51                  6 to sports safety issues in both the prepubertal and                  7 the pubertal population.                  8 BY MR. BLOCK:                  9 Q Okay. Does it address safety issues of the                  10 participation of transgender girls and women who 11:36:11                  11 receive puberty blockers and then receive                  12 gender-affirming hormone therapy that has effects on                  13 bone and muscle structure and causes them to                  14 develop, you know, typically female hips and -- and                  15 things like that? 11:36:26                  16 MR. FRAMPTON: Objection to form.                  17 MR. TRYON: Objection; form.                  18 THE WITNESS: That's -- that's a complex                  19 question. Can you unpack that a little bit?                  20 BY MR. BLOCK: 11:36:39                  21 Q Sure. So you, so far -- in response to my                  22 questions about people who have blockers, you've                  23 equated transgender girls who have blockers to                  24 prepubertal boys and someone who has -- a                  25 transgender girl who has puberty blockers and then 11:36:52                  Page 113</p>



1 receives gender-affirming hormones, you know,  
 2 stimulates a lot of other changes that prepubertal  
 3 boys don't have; correct?  
 4 MR. FRAMPTON: Objection to form.  
 5 THE WITNESS: I don't -- 11:37:05  
 6 MR. FRAMPTON: Go ahead.  
 7 THE WITNESS: I don't think that that's been  
 8 widely looked at. I know that there's -- I -- I  
 9 don't think that that's been widely looked at or  
 10 extensively looked at, as to what the effects of 11:37:16  
 11 that treatment would be on athletic performance.  
 12 BY MR. BLOCK:  
 13 Q Are you providing an expert opinion on what  
 14 the effects of that treatment would be on safety?  
 15 MR. FRAMPTON: Object to the form. 11:37:36  
 16 Go ahead.  
 17 THE WITNESS: I'm providing an opinion on the  
 18 potential effects on safety of a biological male,  
 19 even at age 10 or 11, pick your age, of crossing  
 20 over into a woman's sport and participating in 11:37:53  
 21 contact and collision sports.  
 22 BY MR. BLOCK:  
 23 Q All right. That's not the answer to my  
 24 question. I -- I asked are you providing an expert  
 25 opinion on the safety of -- of some -- a transgender 11:38:03  
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1 girl who has received blockers and then  
 2 gender-affirming hormones participating on girls'  
 3 sports teams.  
 4 A Am I -- I -- I am providing an opinion on the  
 5 potential safety issues of a hypothetical individual 11:38:39  
 6 like this participating on girls' sport team --  
 7 girls' sports teams, yes.  
 8 Q What -- what's your basis for providing an  
 9 expert opinion regarding a transgender girl who has  
 10 received blockers and then gone on to receive 11:38:57  
 11 gender-affirming hormones?  
 12 A That would have to do with whether or not  
 13 there are differences between the sexes at the time  
 14 of puberty.  
 15 Q Well, I'm talking about someone who has 11:39:21  
 16 received blockers but then received gender-affirming  
 17 hormones to stimulate the equivalent of a typically  
 18 female puberty.  
 19 Are you -- what's your basis for providing an  
 20 expert opinion on the safety risks of that person 11:39:39  
 21 participating on girls' sports?  
 22 MR. TRYON: Objection.  
 23 THE WITNESS: To my --  
 24 MR. FRAMPTON: Objection to form.  
 25 ///  
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1 BY MR. BLOCK:  
 2 Q You can answer.  
 3 A There's not extensive research looking at the  
 4 situation that you're talking about.  
 5 Q So -- 11:39:59  
 6 A The effect of sports -- of gender-affirming  
 7 hormones on sports participation.  
 8 Q So if there's not a lot of research, do you  
 9 have a basis for offering an expert opinion about  
 10 it? 11:40:16  
 11 MR. FRAMPTON: Same objection.  
 12 Go ahead.  
 13 THE WITNESS: My opinion is grounded in an  
 14 understanding of what plays into injury risk and  
 15 differences that exist between the sexes. 11:40:30  
 16 BY MR. BLOCK:  
 17 Q Do you know what differences exist for --  
 18 between a cisgender woman and a transgender woman  
 19 who received puberty blockers followed by  
 20 gender-affirming hormones? 11:40:49  
 21 MR. TRYON: Objection to form.  
 22 THE WITNESS: My -- my understanding is there  
 23 is retained differences in lean body mass between  
 24 them.  
 25 ///  
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1 BY MR. BLOCK:  
 2 Q What's that understanding based on?  
 3 A The one study I'm familiar with that looked  
 4 at that, which was authored by Klaver.  
 5 Q And that's a study that you didn't cite in 11:41:10  
 6 your report; correct?  
 7 A Correct.  
 8 Q You only looked at that study for the first  
 9 time in preparing for this deposition; correct?  
 10 MR. FRAMPTON: Objection to the form. 11:41:22  
 11 BY MR. BLOCK:  
 12 Q You can answer.  
 13 A I looked at it in preparation for this  
 14 deposition, yes.  
 15 Q So you looked at it for the first time after 11:41:37  
 16 you had already submitted your report; correct?  
 17 A Correct.  
 18 Q And is it your understanding that the people  
 19 in that study received puberty blockers at the  
 20 beginning of Tanner II? 11:41:49  
 21 A Around -- I believe around age 13, 14.  
 22 Q And as a medical doctor, what's your  
 23 understanding of when Tanner II typically begins for  
 24 boys?  
 25 A Again, I'm a sports medicine physician. I'm 11:42:05  
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<p>1 not an endocrinologist.                  2 Q Well --                  3 MR. FRAMPTON: Did it not pick up his answer?                  4 I thought he answered the -- there was no reaction                  5 when he said an age, so I just wanted to make sure 11:42:27                  6 it was picked up.                  7 MR. BLOCK: It was not.                  8 MR. FRAMPTON: Okay.                  9 THE WITNESS: I said age 12.                  10 BY MR. BLOCK: 11:42:34                  11 Q Age 12.                  12 Have you done any modeling of the safety                  13 risks associated with prepubertal boys playing on                  14 sports teams with prepubertal girls?                  15 MR. FRAMPTON: Objection to the form. 11:42:57                  16 Go ahead.                  17 THE WITNESS: Define what you mean by                  18 "modeling."                  19 BY MR. BLOCK:                  20 Q You discuss modeling of safety risks in your 11:43:08                  21 report, don't you?                  22 A Correct.                  23 Q So that's what I mean by "modeling."                  24 Have you conducted any modeling of the safety                  25 risks of prepubertal boys playing on teams with 11:43:22                  Page 118</p>	<p>1 I understand why that's necessary.                  2 If -- if -- there either are or there aren't                  3 differences between the sexes in terms of variables                  4 that equate to athletic performance or -- or lead to                  5 athletic performance, and if there are, then 11:45:19                  6 absolute injury risk can be increased.                  7 BY MR. BLOCK:                  8 Q So you don't -- no -- no matter how small a                  9 difference is, you don't think that's relevant to                  10 assessing, you know, safety risks? 11:45:33                  11 MR. FRAMPTON: Object to the form.                  12 THE WITNESS: I'm not sure what you're asking                  13 there, but -- but measurable differences can lead to                  14 increased safety risk, yes.                  15 BY MR. BLOCK: 11:45:55                  16 Q World Rugby actually calculated a -- a model                  17 of the safety risks of an average man playing rugby                  18 with an average woman; correct?                  19 A Correct. That was part of their process.                  20 Q Okay. And so they went through the steps of 11:46:12                  21 actually calculating it; correct?                  22 A They did.                  23 Q Okay. And -- but you did not go through                  24 those steps for purposes of calculating a safety                  25 risk of an -- prepubertal boys playing on teams with 11:46:26                  Page 120</p>
<p>1 prepubertal girls?                  2 A I'm not sure what you mean by modeling these                  3 risks. The -- the extent to which prepubertal kids                  4 do or don't fit into that model depends on whether                  5 there are measurable differences between the sexes 11:43:50                  6 in terms of things like speed or strength.                  7 Q And so --                  8 A To the extent that there are measurable                  9 differences noted between them, then, yes, the model                  10 applies. 11:44:13                  11 Q But you haven't actually done that modeling,                  12 have you?                  13 MR. FRAMPTON: Objection to the form.                  14 THE WITNESS: I thought I answered that                  15 question. I'm not sure -- do you mean have I 11:44:22                  16 published data on that?                  17 BY MR. BLOCK:                  18 Q Not have you published it. Have you done it                  19 yourself? Have you plugged the values into                  20 equations and -- and come up with a model similar 11:44:35                  21 to, you know, rugby's model?                  22 MR. FRAMPTON: Objection to the form.                  23 Go ahead.                  24 THE WITNESS: Have I taken a calculator and                  25 calculated this out with prepubertals? I'm not sure 11:44:56                  Page 119</p>	<p>1 prepubertal girls; right?                  2 MR. FRAMPTON: Same objection.                  3 THE WITNESS: Well, I think I speak to the --                  4 in the paper as to how that risk might be                  5 calculated. 11:46:39                  6 BY MR. BLOCK:                  7 Q Yeah, you -- you spoke to how it might be                  8 calculated, but you didn't actually calculate it;                  9 correct?                  10 A I'm not -- I'm not sure where you're going 11:46:46                  11 with that, but --                  12 Q I just need a "yes" or "no" answer whether                  13 you did it or not.                  14 MR. FRAMPTON: Object to the form.                  15 Go ahead. 11:46:55                  16 BY MR. BLOCK:                  17 Q You did not actually go through the steps of                  18 calculating the model of the safety risk for                  19 prepubertal boys playing with prepubertal girls?                  20 A I did not take, for example, an 11:47:02                  21 eight-year-old male and -- his mass and speed into a                  22 force equation and then compare it to another                  23 eight-year-old female. I'm not sure what that                  24 was -- would accomplish.                  25 Q Okay. So how -- so you don't have the -- the 11:47:19                  Page 121</p>

<p>1 modeling data to compare the relative risk for                  2 prepubertal kids to the relative risk for men and                  3 women after puberty, do you?                  4 A I do not have a database to present to you,                  5 no. 11:47:41                  6 Q Is it your understanding that the risk is                  7 smaller for prepubertal kids than for people after                  8 puberty?                  9 MR. TRYON: Objection; form of the question.                  10 MR. FRAMPTON: Same objection. 11:47:57                  11 THE WITNESS: Do you want to rephrase?                  12 BY MR. BLOCK:                  13 Q Is -- is it your understanding that the                  14 increased risk is smaller with respect to                  15 prepubertal boys and girls than adult men and women? 11:48:10                  16 MR. TRYON: Objection to form.                  17 THE WITNESS: I'm asked -- I'm retained to                  18 look to -- to weigh in on whether or not a risk                  19 exists, and based on differences between the sexes,                  20 even at a prepubertal age, a heightened risk exists. 11:48:28                  21 BY MR. BLOCK:                  22 Q So -- wait, so -- so your expert opinion is                  23 only whether or not there is exists -- a risk                  24 exists, not on how great the risk is?                  25 MR. FRAMPTON: Object to the form. 11:48:42                  Page 122</p>	<p>1 imparted risk on an athletic field.                  2 Q And there's no peer-reviewed study looking at                  3 prepubertal kids and their -- boys and their                  4 imparted risk on an athletic field, is there?                  5 A That's why I was retained. 11:50:18                  6 Q Okay. And there's no peer-reviewed study                  7 looking at transgender women and their risk to other                  8 women from participating in an athletic field;                  9 right?                  10 MR. FRAMPTON: Object to the form. 11:50:30                  11 Go ahead.                  12 THE WITNESS: There are multiple studies that                  13 show retention of significant differences in the                  14 types of things that would lead to disparities in                  15 strength, power, speed, etcetera, all of which can 11:50:47                  16 contribute to heightened injury risk, which was the                  17 underpinning of World Rugby's finding.                  18 BY MR. BLOCK:                  19 Q Right. But --                  20 MR. BLOCK: Can you read back my question, 11:50:58                  21 Court Reporter.                  22 (Record read.)                  23 MR. FRAMPTON: Same objection.                  24 MR. TRYON: Objection; form.                  25 THE WITNESS: To my knowledge, there has been 11:51:21                  Page 124</p>
<p>1 THE WITNESS: I can -- I can speak to the                  2 fact that the risk is going to be greater with a                  3 larger, faster, more powerful individual than it                  4 would be with somebody who is less so, but as long                  5 as there are retained differences, there's still 11:49:01                  6 risk.                  7 BY MR. BLOCK:                  8 Q Have you calculated the difference in risk                  9 from a woman with PCOS participating in women's                  10 sports? 11:49:19                  11 A I'm not -- I haven't been retained to weigh                  12 in on individuals with disorders of sexual                  13 development.                  14 Q Okay. So do you -- you don't know one way or                  15 another whether or not there's an increased risk 11:49:32                  16 when a woman with PCOS plays with other women in --                  17 in female sports?                  18 MR. TRYON: Objection to form.                  19 MR. FRAMPTON: Object to the form.                  20 THE WITNESS: I have not looked at that 11:49:49                  21 specifically.                  22 BY MR. BLOCK:                  23 Q So --                  24 A To my knowledge, there is not a peer-reviewed                  25 study looking at individuals who have PCOS and their 11:49:56                  Page 123</p>	<p>1 no peer-reviewed study looking at the injury risk                  2 that exists to cisgender women when transgender                  3 women cross over and play. That issue is, to my                  4 knowledge, not often tracked.                  5 BY MR. BLOCK: 11:51:45                  6 Q Can we look at page 2 of your report.                  7 A Which report are you talking about?                  8 Q Your -- your February report.                  9 MR. FRAMPTON: I'm sorry, Josh, what -- what                  10 page did you tell him to go to? 11:52:05                  11 MR. BLOCK: Page 2. Exhibit --                  12 MR. TRYON: Which exhibit is this, please?                  13 MR. BLOCK: 80. Exhibit 80.                  14 THE WITNESS: Okay.                  15 BY MR. BLOCK: 11:52:26                  16 Q If you look at the -- the final sentence, at                  17 the bottom, that begins with "As a medical doctor."                  18 A Okay.                  19 Q It says (as read):                  20 "As a medical doctor who has spent 11:52:32                  21 my career in sports medicine, it is                  22 my opinion that World Rugby's                  23 assessment of the evidence is                  24 scientifically sound, and that                  25 injury modeling meaningfully 11:52:41                  Page 125</p>

1 predicts that biologically male  
 2 transgender athletes do constitute a  
 3 safety risk for the biologically  
 4 female athlete in women's sports."  
 5 Did I read that right? 11:52:53  
 6 A Yes.  
 7 Q And so you think that World Rugby did a  
 8 thorough job; correct?  
 9 A I think that their approach, as they've  
 10 described it, was sound. I wouldn't say that they 11:53:10  
 11 did a thorough job, no.  
 12 Q Why wouldn't you?  
 13 A Because the research database that they  
 14 published relates completely to adult athletes or  
 15 postpubescent athletes. 11:53:33  
 16 Q How do you know that?  
 17 A Because I've looked at it.  
 18 Q When did you look at it to determine whether  
 19 it relates solely to adult athletes?  
 20 MR. FRAMPTON: Object to the form. 11:53:46  
 21 Go ahead.  
 22 THE WITNESS: I -- I can't tell you that  
 23 exactly. It would have been around the time that I  
 24 was reformatting this report.  
 25 ///

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1 BY MR. BLOCK:  
 2 Q So you looked more closely at that issue, you  
 3 know, after the first version of your report was  
 4 filed; right?  
 5 A Yes. 11:54:00  
 6 Q What is World Rugby's policy with respect to  
 7 the participation of transgender women who have had  
 8 puberty blockers followed by gender-affirming  
 9 hormones?  
 10 A By understanding is that they, in their 11:54:13  
 11 policy statement, have stated that those individuals  
 12 are not subject to the same exclusions.  
 13 Q When did you become aware that World Rugby  
 14 allows those individuals to participate?  
 15 MR. FRAMPTON: Object to the form. 11:54:36  
 16 THE WITNESS: Well, it's -- it's in their  
 17 report. So I don't recall. I mean, at -- again, at  
 18 the point in time that I was reviewing their data.  
 19 I can't tell you when that was.  
 20 BY MR. BLOCK: 11:54:47  
 21 Q When -- when you submitted your June 2021  
 22 report, were you aware that World Rugby allowed  
 23 transgender women to participate if they had  
 24 received blockers and never gone through endogenous  
 25 puberty? 11:55:02

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1 MR. FRAMPTON: Objection; form.  
 2 Go ahead.  
 3 THE WITNESS: I can't -- I can't recall. I  
 4 can't speak to that. Again, it wasn't really the  
 5 focus of that report. 11:55:17  
 6 BY MR. BLOCK:  
 7 Q So do -- do you think that you know better  
 8 than World Rugby about the safety risks of allowing  
 9 a transgender woman to play if she's received  
 10 blockers followed by gender-affirming care? 11:55:31  
 11 MR. FRAMPTON: Objection to form.  
 12 MR. TRYON: Objection to form.  
 13 MR. FRAMPTON: Go ahead.  
 14 THE WITNESS: I think with any set of  
 15 guidelines, clinicians particularity, since these 11:55:41  
 16 types of things bear relevance on what we do, we  
 17 have to kind of look at everything and make  
 18 determinations based on what we know and what's  
 19 being said.  
 20 And so I -- I can agree with the bulk of the 11:55:54  
 21 findings of World Rugby, particularly with regards  
 22 to the type of athlete that's reflected in the  
 23 literature review that they've provided, and still  
 24 take exception with the idea that there isn't  
 25 risk -- that there isn't a risk consideration with 11:56:21

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1 prepubertal athletes.  
 2 BY MR. BLOCK:  
 3 Q Do -- you don't -- do you think that the  
 4 degree of -- of risk is relevant in determining  
 5 whether it justifies an exclusion? 11:56:30  
 6 A That's a policy --  
 7 MR. FRAMPTON: Objection to form and scope.  
 8 Go ahead.  
 9 THE WITNESS: That's a policy issue. That's  
 10 not my job. My job is just to say is there a risk. 11:56:40  
 11 BY MR. BLOCK:  
 12 Q All right. Well, there's increased risk from  
 13 the participation of a taller cisgender woman;  
 14 correct?  
 15 A That's a vague question. Can you restate it? 11:56:52  
 16 Q Yeah. So the taller -- so when -- the taller  
 17 a female athlete is, the more she increases the risk  
 18 of injury for other female athletes; correct?  
 19 A Again, I don't feel like I can answer that  
 20 question. You're not providing me with enough 11:57:19  
 21 context.  
 22 Q Well, you said as long as there's a  
 23 difference, that that can create risk.  
 24 So doesn't height affect the safety risks for  
 25 other athletes? 11:57:33

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1 A Height in the context of what? Give me  
 2 context.  
 3 Q How about volleyball.  
 4 A Okay. So ask it in -- in the context of  
 5 volleyball. 11:57:49  
 6 Q So the taller a female athlete is, the  
 7 greater risk she poses to other female athletes in  
 8 volleyball; correct?  
 9 A So we're talking about biological females  
 10 playing with each other? Is that what we're talking 11:57:59  
 11 about?  
 12 Q Yes.  
 13 A I -- I think with -- when it comes to  
 14 biological females playing together, they tend to --  
 15 there are outliers, of course, but they're outliers 11:58:16  
 16 within a relatively defined biological pool.  
 17 To your question, if you have a really tall  
 18 athlete in volleyball, at the net, they're going to  
 19 be able to spike the ball vertically, theoretically,  
 20 or forcefully, but it's not just height that plays 11:58:42  
 21 into that. It's leg strength. It's jumping  
 22 ability. It's arm extension. So you've got a  
 23 convergence of factors that are going to play into  
 24 it.  
 25 But -- but within the sexes, yeah, you can 11:58:55  
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1 have some individuals that provide -- who -- who are  
 2 larger and taller, stronger than others.  
 3 But that's not the same thing as blending  
 4 sexes.  
 5 Q So -- but you're not -- you're not providing 11:59:17  
 6 an expert opinion on the degree of risks; correct?  
 7 You're just providing an expert opinion on whether a  
 8 risk of any amount exists?  
 9 MR. FRAMPTON: Objection to the form.  
 10 THE WITNESS: I was retained in this case to 11:59:33  
 11 provide an opinion on whether there -- there's a  
 12 safety risk associated with gender crossover in  
 13 interscholastic sports.  
 14 BY MR. BLOCK:  
 15 Q So -- 11:59:47  
 16 A And it's not my role to determine the  
 17 relevance of absolute risk; it's just to say whether  
 18 a risk exists.  
 19 Q Okay. So you're not providing an expert  
 20 opinion comparing the degree of risk from allowing a 12:00:03  
 21 transgender woman to compete to the degree of risk  
 22 from allowing any particular cisgender woman to  
 23 compete?  
 24 A Well, I didn't say that.  
 25 MR. FRAMPTON: Objection to the form. 12:00:18  
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1 BY MR. BLOCK:  
 2 Q That's my question.  
 3 So -- so you're -- are you -- are you -- are  
 4 you providing an opinion that allowing a transgender  
 5 woman who's received blockers to compete with other 12:00:27  
 6 women provides a greater safety risk than allowing  
 7 certain cisgender women to compete on the team?  
 8 MR. FRAMPTON: Objection to the form.  
 9 THE WITNESS: I am arguing that allowing a  
 10 transgender -- a biologically born male who 12:00:47  
 11 transitions to a female and plays on a female sports  
 12 team, I am arguing that there are safety risks  
 13 associated with that, yes.  
 14 BY MR. BLOCK:  
 15 Q So -- so I'm focusing now -- 12:01:09  
 16 A That have the potential to exceed that of  
 17 overall risks when cisgender athletes are playing  
 18 together.  
 19 Q So I'm -- I'm focusing specifically on a  
 20 transgender woman who has received blockers followed 12:01:23  
 21 by gender-affirming care. So I want to focus your  
 22 attention on that specific fact pattern.  
 23 The only physiological difference that has  
 24 been identified in your report, you know, for that  
 25 population of people, is potentially 10 percent 12:01:36  
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1 greater lean body mass.  
 2 And my question is, are you providing an  
 3 expert opinion on whether there's a greater risk for  
 4 allowing that person to participate on a woman's  
 5 team than allowing a cisgender woman with 10 percent 12:01:56  
 6 greater body mass than the average woman participate  
 7 on a woman's team?  
 8 MR. FRAMPTON: Objection to the form.  
 9 Go ahead.  
 10 THE WITNESS: You're comparing apples and 12:02:06  
 11 oranges because you're talking about a biological  
 12 male that brings a certain -- that can bring certain  
 13 characteristics to puberty with him.  
 14 BY MR. BLOCK:  
 15 Q Well, the only characteristic identified is 12:02:21  
 16 10 percent difference in body mass.  
 17 A That's the only characteristic you  
 18 identified.  
 19 Q What -- what other physiological  
 20 characteristic, you know, exists? 12:02:31  
 21 A Again, going back to published data on  
 22 performance in the elementary school population,  
 23 there are consistent findings of greater strength  
 24 and speed in preadolescent boys than preadolescent  
 25 girls. 12:02:56  
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<p>1 Q But those -- those aren't -- those aren't                  2 discussions of physiological -- innate physiological                  3 characteristics, are they?                  4 A We don't know that.                  5 MR. FRAMPTON: Object to the form. 12:03:04                  6 THE WITNESS: We -- we -- I -- in fact, I                  7 suspect that there's a significant biological                  8 contribution to that.                  9 BY MR. BLOCK:                  10 Q So what -- what -- what study have you done 12:03:13                  11 on physiological differences between prepubertal                  12 boys and girls?                  13 A What study have I done?                  14 MR. FRAMPTON: Objection to the form.                  15 THE WITNESS: Is that what you said? 12:03:23                  16 BY MR. BLOCK:                  17 Q Yeah.                  18 MR. FRAMPTON: Objection to the form.                  19 Answer the question.                  20 THE WITNESS: I have not conducted a study on 12:03:27                  21 physiological differences between preadolescent boys                  22 and girls.                  23 BY MR. BLOCK:                  24 Q All right. Are there -- are there                  25 differences in bone structure between preadolescent 12:03:35                  Page 134</p>	<p>1 BY MR. BLOCK:                  2 Q The --                  3 A You're -- you're -- you're equating the two                  4 without acknowledging that there are sex-based                  5 differences in performance that play into injury 12:05:28                  6 risk that are brought to that point.                  7 So I don't know how to answer your question.                  8 Q You -- you know, are -- you've said                  9 repeatedly you're not providing an opinion                  10 quantifying the amount of risk; you're just 12:05:48                  11 providing an opinion that some quantum of increased                  12 risk exists; correct?                  13 A Correct.                  14 MR. FRAMPTON: Object to the form.                  15 BY MR. BLOCK: 12:06:05                  16 Q I didn't hear the answer.                  17 A I'm providing an opinion as to the fact that                  18 there is risk.                  19 Q And there is also increased risk when a                  20 cisgender woman with 10 percent greater lean body 12:06:12                  21 mass than an average cisgender woman participates in                  22 women's sports; correct?                  23 MR. TRYON: Objection to form.                  24 MR. FRAMPTON: Same objection.                  25 THE WITNESS: Repeat that question. 12:06:27                  Page 136</p>
<p>1 boys and girls, you know, relevant to athletic                  2 performance?                  3 A I believe that the differences that exist                  4 between boys and girls are performance based. There                  5 is a biological difference in lean body mass between 12:04:04                  6 boys and girls that manifest at a very early age.                  7 There are other performance-based measures that                  8 contribute to risk that are well defined.                  9 Q So focusing on 10 percent difference in lean                  10 body mass that -- on average, are you providing an 12:04:20                  11 opinion on whether -- if the only physiological                  12 difference is 10 percent lean body mass -- let me                  13 phra that -- phrase that again.                  14 Are you providing an expert opinion comparing                  15 the risk associated with allowing a transgender 12:04:41                  16 woman who has been on blockers and hormones and has                  17 10 percent greater lean body mass than a cisgender                  18 woman to the risk of allowing a cisgender woman with                  19 10 percent greater lean body mass than an average                  20 cisgender woman to participate in women's sports? 12:05:01                  21 MR. TRYON: Objection to form.                  22 MR. FRAMPTON: Objection to form and scope.                  23 THE WITNESS: That question has assumptions                  24 in it that I think keep me from answering it.                  25 ///                  Page 135</p>	<p>1 MR. BLOCK:                  2 Q There is an increased risk to safety when a                  3 cisgender woman with 10 percent greater lean body                  4 mass than an average cisgender woman participates in                  5 women's sports; correct? 12:06:39                  6 MR. TRYON: Objection.                  7 MR. FRAMPTON: Objection.                  8 THE WITNESS: I didn't say that.                  9 BY MR. BLOCK:                  10 Q Is there or is there not? 12:06:43                  11 A There's more than just that variable that                  12 play into injury risk with --                  13 Q There might be -- there might -- I'm sorry, I                  14 said I wouldn't cut you off. Go ahead and answer.                  15 A If the question was is a cisgender woman with 12:07:02                  16 10 percent increased lean body mass, in part, higher                  17 injury risk to other female cisgender athletes, the                  18 answer is you can't answer that question because                  19 there are other things that play in.                  20 Q I don't -- 12:07:22                  21 A I'm saying is the -- you're phrasing this                  22 question as if the only difference between an                  23 individual who comes to the point of going onto                  24 puberty blockers is a 10 percent difference in lean                  25 body mass, and I'm telling you that there are 12:07:42                  Page 137</p>

<p>1 population-based performance differences between the                  2 sexes that exist prior to that.                  3 Q All right. So --                  4 A I'm not sure how to answer that question.                  5 Q Are there any differences in the Klaver study 12:07:59                  6 identified between cisgender women and the                  7 transgender women in the study other than the                  8 10 percent greater lean body mass?                  9 A Some differences in fat distribution.                  10 Q There are differences in -- in fat 12:08:17                  11 distribution at the end of the period?                  12 A There are.                  13 Q You know what? I'll come back to that. I                  14 don't want to waste my time.                  15 I'm still struggling with your -- your answer 12:08:47                  16 to whether or not you're capable of providing an                  17 expert opinion comparing the risks of allowing a                  18 transgender woman to participate to the risks of                  19 allowing an unusually tall or an unusually strong                  20 cisgender woman to participate. So I -- 12:09:03                  21 MR. FRAMPTON: Object --                  22 MR. BLOCK: I -- I haven't finished my                  23 question yet. You can object --                  24 MR. FRAMPTON: I'm sorry. My apologies.                  25 MR. BLOCK: Yeah. Okay. 12:09:12                  Page 138</p>	<p>1 without quantifying them?                  2 A Well, I don't think either side has been                  3 quantified, has it?                  4 Q Well, no.                  5 So how do you know that the risks of allowing 12:10:47                  6 a transgender woman who's been on blockers and                  7 gender-affirming hormones to participate is greater                  8 or less than the risk of allowing an unusually                  9 strong or tall cisgender woman to participate on                  10 women's sports? 12:11:06                  11 MR. TRYON: Objection --                  12 THE WITNESS: I think that goes --                  13 MR. TRYON: -- to the form of the question.                  14 THE WITNESS: -- to the whole -- the whole                  15 heart of this case, which is that when you bring 12:11:11                  16 biological males into a pool of biological females,                  17 that you're bringing not just in body mass, but --                  18 but a other list of -- of retained differences that                  19 have the potential to be greater than -- than                  20 anything that you're going to see in that second 12:11:37                  21 pool of -- of athletes.                  22 And -- and so normal variation between the                  23 sexes and what that means for injury doesn't look                  24 the same as what it -- what that risk would look                  25 like if you're bringing somebody who isn't in that 12:11:56                  Page 140</p>
<p>1 BY MR. BLOCK:                  2 Q So I'm -- I'm still struggling with that.                  3 So are you -- are you or are you not                  4 providing an expert opinion comparing the relative                  5 risks between transgender women participating and 12:09:26                  6 between unusually strong or tall cisgender women                  7 participating in women's sports?                  8 A Yes.                  9 MR. FRAMPTON: Object to form.                  10 BY MR. BLOCK: 12:09:37                  11 Q Yes, you are?                  12 A Yes.                  13 Q How -- okay. How are you able to provide                  14 that opinion if you are unable to quantify the                  15 amount of increased risk for -- when transgender 12:09:44                  16 women participate?                  17 MR. FRAMPTON: Same objection.                  18 Go ahead.                  19 THE WITNESS: You don't need to quantify risk                  20 in a -- in a modeling scenario to know that risk is 12:10:05                  21 increased. The model -- going back to World Rugby,                  22 to just consideration of issues like speed, power,                  23 mass.                  24 BY MR. BLOCK:                  25 Q How are you able to compare two things 12:10:34                  Page 139</p>	<p>1 category and placing them in that second group.                  2 That was the whole point of World Rugby's                  3 assertions.                  4 BY MR. BLOCK:                  5 Q The differences between cisgender men and 12:12:06                  6 cisgender women are far greater than a 10 percent                  7 difference in lean body mass; correct?                  8 A 10 percent -- say that one more time.                  9 Q The differences between cisgender men and                  10 cisgender women that were analyzed by World Rugby 12:12:23                  11 were far greater than a difference in 10 percent                  12 lean body mass; correct?                  13 MR. FRAMPTON: Objection to the form.                  14 Go ahead.                  15 THE WITNESS: I believe that's accurate. 12:12:36                  16 I'm -- I would have to go back and look at the                  17 report.                  18 BY MR. BLOCK:                  19 Q So, in fact, the differences between adult                  20 cisgender mean and adult cisgender women are far 12:12:45                  21 greater than the differences between prepubertal                  22 boys and prepubertal girls; correct?                  23 MR. FRAMPTON: Objection to the form.                  24 THE WITNESS: There is a -- are you talking                  25 about lean body mass? 12:13:03                  Page 141</p>

1 BY MR. BLOCK:  
 2 Q I'm talking about across the board.  
 3 MR. FRAMPTON: Same objection.  
 4 THE WITNESS: The -- the differences are  
 5 greater between adult men and women than prepubertal 12:13:14  
 6 boys and girls, yes.  
 7 BY MR. BLOCK:  
 8 Q They're -- they're far greater; correct?  
 9 A That's a subjective term, but I'll -- I'll  
 10 say they're greater. 12:13:27  
 11 Q In fact, the differences is, between  
 12 cisgender men and cisgender women -- actually --  
 13 actually, let me -- let me quote the language from  
 14 your report.  
 15 Let's go to page 9, paragraph 11 C. 12:13:41  
 16 Are you there?  
 17 A I'm there.  
 18 Q You are?  
 19 A I -- I am there.  
 20 Q Yeah. So it says (as read): 12:14:07  
 21 "Males exhibit large average  
 22 advantages in size, weight, and  
 23 physical capacity over  
 24 females—often falling far outside  
 25 female ranges." 12:14:15  
 Page 142

1 Do you see that?  
 2 A I do see that.  
 3 Q Okay. So the differences in things before  
 4 puberty, do the -- do the size, weight and physical  
 5 capacity of prepubertal boys fall far outside the -- 12:14:34  
 6 the range of prepubertal girls?  
 7 A Well, I would say that the physical capacity  
 8 of boys consistently is shown to exceed that of  
 9 girls in many different ways of looking at it, yes.  
 10 Q It falls far outside the female range? 12:14:52  
 11 A Male -- males consistently exceed female  
 12 performance in the preadolescent population in  
 13 measurements such as upper body strength, speed,  
 14 etcetera.  
 15 Q Does it fall outside the female range? 12:15:32  
 16 MR. FRAMPTON: Objection to form.  
 17 THE WITNESS: To some degree, when you look  
 18 at individual records in age-based categories, you  
 19 would have to say that they do.  
 20 BY MR. BLOCK: 12:16:10  
 21 Q Are you thinking of anything in particular?  
 22 A I'm thinking of categories in, for instance,  
 23 track and field and weight lifting records.  
 24 Q There's weight lifting records for  
 25 prepubertal boys and girls? 12:16:40  
 Page 143

1 A There are.  
 2 Q Like -- like, taking weights and -- and --  
 3 and doing competition in weight lifting?  
 4 A There are.  
 5 Q Where? Where -- where are those records? 12:16:51  
 6 Are they published anywhere?  
 7 A I believe they are. I'd have to -- I'd have  
 8 to find them.  
 9 MR. FRAMPTON: Josh, we're -- we're over  
 10 90 minutes. I don't want to cut you off, if you 12:17:17  
 11 want to finish something, but I think it is an  
 12 appropriate time for a break sometime in the near  
 13 future.  
 14 MR. BLOCK: Yeah, sure, we can take a break.  
 15 Do you want to come back at -- how much time 12:17:31  
 16 do you need? Half an hour or 45 minutes?  
 17 THE VIDEOGRAPHER: Can we go off the record?  
 18 MR. FRAMPTON: Yeah, let's go off the record.  
 19 Let's not do lunch at --  
 20 THE VIDEOGRAPHER: Hold on. Hold on. Hold 12:17:44  
 21 on.  
 22 MR. FRAMPTON: Oh, I'm sorry.  
 23 THE VIDEOGRAPHER: Off the record at  
 24 12:18 p.m.  
 25 (Recess.) 12:27:58  
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1 THE VIDEOGRAPHER: We are on the record at  
 2 12:28, Central Time.  
 3 BY MR. BLOCK:  
 4 Q Dr. Carlson, we've previously discussed that  
 5 you're not an endocrinologist; right? 12:28:28  
 6 A Correct. I'm a board-certified sports  
 7 medicine physician.  
 8 Q And you're not an expert in transgender  
 9 medicine; right?  
 10 A I do not care for -- I do not run a clinic 12:28:40  
 11 for transgender people, no.  
 12 Q Do you -- do you have any expertise in -- in  
 13 the physiological changes that occur to a  
 14 transgender person's body if they have puberty  
 15 blockers followed by gender-affirming hormones? 12:29:07  
 16 MR. FRAMPTON: Object to the form.  
 17 Go ahead.  
 18 THE WITNESS: I'm not a board-certified  
 19 endocrinologist. I know what I know based on review  
 20 of the literature. 12:29:19  
 21 BY MR. BLOCK:  
 22 Q All right. So do you have any expertise to  
 23 be an expert witness and offer an expert opinion on  
 24 the physiological changes that occur when a  
 25 transgender person has puberty blockers followed by 12:29:30  
 Page 145



<p>1 gender-affirming hormones?                  2 MR. FRAMPTON: Object to the form.                  3 THE WITNESS: As that touches on                  4 participation in sports, I am offering an opinion on                  5 the safety profile of transgender athletes crossing 12:29:52                  6 over into other -- to -- to a cisgender sport that                  7 they're -- into cisgender sports.                  8 BY MR. BLOCK:                  9 Q That wasn't my question.                  10 Do you have any expert -- do you have any 12:30:10                  11 reasons for offering an expert opinion on what                  12 physiological changes occur to a person's body if                  13 they have puberty blockers followed by                  14 gender-affirming hormones?                  15 MR. FRAMPTON: Object to the form. 12:30:25                  16 THE WITNESS: If you're asking if I can speak                  17 to the one study that I'm aware of that looks at                  18 that, then, yes, I -- I suppose I can speak to it.                  19 BY MR. BLOCK:                  20 Q No. So you're only aware of one study 12:30:43                  21 that -- that speaks to the physiological changes                  22 that occur when you have puberty blockers followed                  23 by gender-affirming hormones?                  24 A In -- I've -- I've told you the study that                  25 I'm familiar with. 12:31:11</p> <p style="text-align: right;">Page 146</p>	<p>1 that because a lot of my -- the information in my                  2 white paper speaks to the impact on athletic                  3 performance of gender-affirming hormones, and I want                  4 to make sure that you're only speaking to puberty                  5 blockers specifically. 12:34:11                  6 Q I'm speaking to puberty blockers followed by                  7 gender-affirming hormones, which is different from                  8 taking gender-affirming hormones after having                  9 already undergone puberty.                  10 And so my question, do you have any basis of 12:34:24                  11 knowledge, other than this paper that you recently                  12 read, about the physiological changes that occur                  13 when someone has puberty blockers followed by                  14 gender-affirming hormones?                  15 MR. TRYON: Objection to form. 12:34:42                  16 THE WITNESS: That presupposes that, you                  17 know, the individuals that have transitioned, you                  18 know, in mid adolescence or what have you, weren't                  19 on pubertal blockers either.                  20 So I don't -- I -- I -- I'm not -- I'm not 12:35:00                  21 trying to be evasive. I'm just trying to understand                  22 your question. Because what I'm telling you is                  23 that -- that I believe that there's basis on -- in                  24 the literature that's available to say that                  25 individuals that get to the cusp of puberty have -- 12:35:24</p> <p style="text-align: right;">Page 148</p>
<p>1 Q All right. So -- so you -- you've read a                  2 study by Klaver to prepare for this deposition. And                  3 other than that, do you have any knowledge of the                  4 physiological changes that occur when someone has                  5 puberty blockers followed by gender-affirming 12:31:22                  6 hormones?                  7 A I'm not aware of other studies looking at                  8 what you're referencing.                  9 Q Do you have any other form of knowledge about                  10 it? 12:31:37                  11 A About it being the physiologic changes                  12 associated with the use of puberty blockers?                  13 Q Followed by gender-affirming hormones.                  14 A I'm going to be careful what I say here                  15 because much of what I've written in that white 12:32:13                  16 paper speaks to the effect of gender-affirming                  17 hormone therapy. So I want to parse that out from                  18 the issue of puberty blocker administration.                  19 Q Are you still thinking about it?                  20 A I thought I answered the question. 12:33:39                  21 Q No, I'm sorry, if you did, it didn't come                  22 out. So I -- are you still thinking about it?                  23 What -- what was the answer to your                  24 question -- to my question?                  25 A I said that I want to be careful how I parse 12:33:48</p> <p style="text-align: right;">Page 147</p>	<p>1 that there are measurable differences in performance                  2 that they bring with them and -- and that those                  3 differences are going to, in some way, equate to                  4 heightened risk.                  5 BY MR. BLOCK: 12:35:42                  6 Q And I'm asking you to --                  7 A So -- and I get that you're -- you're trying                  8 to limit this conversation to the effect of pubertal                  9 blockers, and what I'm telling you is that if -- if                  10 you're going to -- you can't talk about that in a 12:35:56                  11 vacuum. There's other differences once that                  12 individual jumps over into sports play with the                  13 opposite sex will come into view.                  14 Q Do you have any expert basis -- do you have                  15 any basis for offering an expert opinion on what 12:36:15                  16 physiological differences are carried forward from                  17 having puberty blockers followed by gender-affirming                  18 hormones other than this article that you read                  19 recently?                  20 A I don't believe that -- 12:36:31                  21 MR. FRAMPTON: Objection --                  22 THE WITNESS: -- that there are --                  23 MR. FRAMPTON: -- to the form.                  24 Go ahead. Go ahead.                  25 THE WITNESS: To my knowledge, there are not 12:36:37</p> <p style="text-align: right;">Page 149</p>

<p>1 peer-reviewed studies looking at the effect of                  2 puberty blockers on performance. So I don't -- I                  3 don't believe that that question can be answered.                  4 BY MR. BLOCK:                  5 Q So you -- you've made an assertion about 12:36:48                  6 physiological differences being carried forward. My                  7 question is whether you have any expert basis, of                  8 any kind, other than this article that you recently                  9 read, to testify about the effects of gen- -- of                  10 having puberty blockers followed by gender-affirming 12:37:09                  11 hormones on someone's physiology.                  12 A You said --                  13 MR. TRYON: Objection as to form.                  14 THE WITNESS: -- performance.                  15 MR. TRYON: Dr. Carlson -- 12:37:22                  16 THE WITNESS: You said performance.                  17 MR. TRYON: -- please -- Dr. Carlson, can you                  18 please just let me object first? Thanks.                  19 Objection as to form.                  20 Go ahead. 12:37:29                  21 THE WITNESS: You're using two different                  22 terms. You -- you said performance earlier.                  23 BY MR. BLOCK:                  24 Q Physiology.                  25 Do you have any expert basis of any kind to 12:37:34                  Page 150</p>	<p>1 an opinion on it one way or another; correct?                  2 MR. FRAMPTON: Objection to the form.                  3 THE WITNESS: The opinion on safety in                  4 athletes who are crossing over into other gender                  5 sports takes into account considerations that go 12:38:57                  6 well beyond what you're talking about, so I don't --                  7 I don't accept the assumptions of the question.                  8 BY MR. BLOCK:                  9 Q My -- my question was do you have any basis                  10 for offering an expert opinion on performance 12:39:19                  11 advantages for people who have had puberty blockers                  12 followed by gender-affirming hormones since there's                  13 no studies of that one way or the other.                  14 MR. FRAMPTON: Objection to the form.                  15 THE WITNESS: And what I have told you -- 12:39:37                  16 Sorry.                  17 And what I have told you, I -- I thought,                  18 several times, is that those individuals come into                  19 puberty carrying categorical distinctions that are                  20 sex based that contribute to risk, regardless of 12:39:57                  21 whether or not they transition.                  22 BY MR. BLOCK:                  23 Q But you have no expert basis for saying that                  24 they carry it through puberty and transition.                  25 You -- you're are offering an opinion about what 12:40:08                  Page 152</p>
<p>1 offer an opinion on what physiological                  2 characteristics exist for someone who has had                  3 puberty blockers followed by gender-affirming                  4 hormones?                  5 MR. TRYON: Same objection. 12:37:50                  6 MR. FRAMPTON: Same objection.                  7 THE WITNESS: My opinion on physiology for                  8 puberty-blocking hormones would be limited to that                  9 paper, but my opinion with respect to performance, I                  10 believe, carries more weight because, to my 12:38:06                  11 knowledge, there aren't studies looking at that                  12 question.                  13 BY MR. BLOCK:                  14 Q But you don't have any basis for offering an                  15 expert opinion on performance of people who have had 12:38:24                  16 puberty blockers followed by gender-affirming                  17 hormones either because there's no studies of that;                  18 correct?                  19 MR. FRAMPTON: Objection --                  20 THE WITNESS: It cuts both ways. 12:38:35                  21 MR. FRAMPTON: -- to form.                  22 BY MR. BLOCK:                  23 Q So -- but you don't have a -- fine.                  24 But answer my question.                  25 You don't have an expert basis for offering 12:38:43                  Page 151</p>	<p>1 happens before puberty and transition, but there's                  2 no studies at all about, you know, what happens                  3 after transition. That's just something that you're                  4 saying, but there's no studies about it; correct?                  5 A Well, again -- 12:40:21                  6 MR. FRAMPTON: Objection to the form.                  7 Go ahead and answer.                  8 THE WITNESS: Again, I've said many times                  9 that there are not published studies looking at                  10 performance in the individuals that you're 12:40:33                  11 describing once they've transitioned through                  12 puberty.                  13 BY MR. BLOCK:                  14 Q Does sex-determined pubertal skeletal growth                  15 and maturation have an effect on -- on the safety of 12:41:34                  16 allowing an athlete to compete?                  17 A In the assumptions I'm making, it's not key.                  18 Q It's not.                  19 Well, let's go to -- to page -- I'll come                  20 back to it. 12:41:53                  21 Do -- does bone length have a -- does bone                  22 size have an effect on muscle size?                  23 A Does bone size have an effect on muscle size?                  24 Q Yes. Does the -- does the size of someone's                  25 bones affect how, like, much muscle mass they can 12:42:42                  Page 153</p>

<p>1 put on those bones?                  2 A There is an association there.                  3 Q It's just an association?                  4 A They play against each other. Large muscle                  5 mass creates greater bone mineralization too, just 12:43:05                  6 from the tug of the muscles on bones. So there's an                  7 association, yes.                  8 Q Let's go to page? Page 1 of your report.                  9 A Which report are we talking about?                  10 Q Your -- your February report. 12:43:34                  11 A Okay.                  12 Q The final sentence of this first paragraph,                  13 you say (as read):                  14 "And in fact, biologically male                  15 transgender athletes have competed 12:43:53                  16 in a wide range of high school,                  17 collegiate, and professional girls'                  18 or women's sports, including, at                  19 least, basketball, soccer,                  20 volleyball, softball, lacrosse, and 12:44:01                  21 even women's tackle football."                  22 Correct?                  23 A That's what that says.                  24 Q Okay. Are you aware of any injuries                  25 resulting from their participation in those sports? 12:44:11                  Page 154</p>	<p>1 least, basketball, soccer,                  2 volleyball, softball, lacrosse, and                  3 even women's tackle football."                  4 And my question is, are you aware of any                  5 injuries that resulted from the participation of 12:45:25                  6 transgender girls and women in those sports?                  7 A And so my answer would be that's not                  8 adequately tracked, and so no, I'm not familiar.                  9 Q Are you aware of any evidence that the                  10 participation of transgender women in these events 12:45:40                  11 actually has increased the frequency and severity of                  12 injury suffered by such gender female athletes?                  13 A You're speaking to those sports listed?                  14 Q Yes.                  15 A Again, it's inadequately tracked, so I'm not 12:46:01                  16 familiar.                  17 Q And let's go to paragraph 47 of that                  18 document, the same document. Page 27, paragraph 47.                  19 A Page 27, you said?                  20 Q Yeah. In paragraph 47, at the bottom. 12:46:29                  21 A Okay.                  22 Q It says (as read):                  23 "In 2014, a male mixed-martial art                  24 fighter identifying as female and                  25 fighting under the name Fallon Fox 12:46:40                  Page 156</p>
<p>1 A I'm not -- I'm not --                  2 MR. BLOCK: I think Mr. Carlson froze.                  3 THE VIDEOGRAPHER: Yeah, just -- we should                  4 pause a sec.                  5 (Technical issues.) 12:44:32                  6 THE WITNESS: Because it's not adequately --                  7 Sorry, I don't know if it's when I go to look                  8 at the document or what, but -- can you see me now?                  9 BY MR. BLOCK:                  10 Q You'll have to answer that again. 12:44:39                  11 So are you aware of any injuries that have                  12 resulted from the participation of those transgender                  13 athletes?                  14 A This issue is inadequately tracked, so no,                  15 I'm not aware. 12:44:57                  16 Q Okay.                  17 A Well, actually, that's not true.                  18 Rephrase your question. I want to make sure                  19 I'm understanding it.                  20 Q You wrote that (as read): 12:45:08                  21 "In fact, biologically male                  22 transgender athletes have competed                  23 in a wide range of high school,                  24 collegiate, and professional girls'                  25 or women's sports, including, at 12:45:15                  Page 155</p>	<p>1 fought a woman named Tamikka Brents,                  2 and caused significant facial                  3 injuries in the course of their                  4 bout."                  5 And then if you continue going -- this -- 12:46:51                  6 this quote that you have in, you know, indentation                  7 has a footnote 15.                  8 Do you see that?                  9 A I do.                  10 Q Okay. And the -- the website that that 12:47:04                  11 quotes to -- that that footnote goes to is                  12 bjj-world.com/transgender.mma-fighter-fallon-fox-                  13 breaks-skull-of-her-female-opponent; is that right?                  14 A That's what I see, yes.                  15 Q Okay. Did Fallon Fox actually break the 12:47:28                  16 skull of her opponent?                  17 A Well, I don't believe that -- I don't believe                  18 that he did, no.                  19 Q What -- what -- what --                  20 A I didn't make that claim. That's a link to a 12:47:40                  21 website page that just references to the event,                  22 so...                  23 Q Right. So what -- actually, the -- the                  24 injury that actually was sustained was an orbital                  25 fracture; correct? 12:47:52                  Page 157</p>

1 A Yeah, it was a facial fracture.  
 2 Q Okay. And do you know how common orbital  
 3 fractures are in MMA events?  
 4 A I -- I couldn't give you a specific --  
 5 incidents, no. 12:48:08  
 6 Q No.  
 7 So -- so you don't know the rates of -- of  
 8 orbital fractures, you know, among cisgender MMA  
 9 competitors fighting each other; correct?  
 10 A No, I could give not give you that statistic. 12:48:18  
 11 I -- I -- I don't recall it.  
 12 Q Do you know who the plaintiff is in this  
 13 case?  
 14 A I -- I do not know who the plaintiff is. I  
 15 know of -- the initials of the plaintiff. 12:48:44  
 16 Q Okay. Do you know how old the plaintiff is?  
 17 A I -- I actually couldn't tell you that.  
 18 Q Okay. Do you know what sports the plaintiff  
 19 plays?  
 20 A I believe the plaintiff is a runner, but I'm 12:48:53  
 21 not sure.  
 22 Q Do you know how the plain- -- do you know how  
 23 the plaintiff has scored in physical fitness tests?  
 24 A No. I have no idea about the specifics of  
 25 this case. 12:49:11  
 Page 158

1 Q Okay. Do you know if, you know, whatever  
 2 things you were referring to before, about, you  
 3 know, skills, you know, acquired of preper --  
 4 prepubertal boys, do you -- do you know anything  
 5 about whether the plaintiff, you know, has any of 12:49:26  
 6 those skills?  
 7 A I don't. And I believe that -- I told you  
 8 that I -- I don't -- I'm not familiar with the  
 9 particulars of your plaintiff. And to the extent  
 10 that -- you know, this -- this is a -- I'm familiar 12:49:45  
 11 with the -- I -- I'm under the impression that the  
 12 law that's being challenged -- I'm -- I'm not  
 13 familiar with the particulars of this case.  
 14 Q Do you know how much lean body mass the  
 15 plaintiff has? 12:50:10  
 16 A I do not know how much lean body mass the  
 17 plaintiff has.  
 18 Q Do you know if the plaintiff in this case has  
 19 any physiological characteristics that would impact  
 20 safety that are different than the physiological 12:50:25  
 21 characteristics of a cisgender girl?  
 22 A I do not.  
 23 MR. FRAMPTON: Object to the form.  
 24 BY MR. BLOCK:  
 25 Q Sorry, could -- could I hear the answer -- 12:50:36  
 Page 159

1 MR. FRAMPTON: That was probably garbled, but  
 2 I object to the form.  
 3 Go ahead and answer the question.  
 4 THE WITNESS: I do not.  
 5 BY MR. BLOCK: 12:50:44  
 6 Q Do you know whether the participation of this  
 7 plaintiff in sports would pose any more of a safety  
 8 risk than the participation of any other cisgender  
 9 girl in sports?  
 10 MR. FRAMPTON: Object to the form. 12:51:02  
 11 THE WITNESS: Because I don't know the  
 12 particulars of this person, I certainly could not  
 13 speak to that.  
 14 BY MR. BLOCK:  
 15 Q Are you providing an -- expert testimony at 12:51:15  
 16 all regarding safety risks from cross-country?  
 17 A I was asked to provide a report on safety  
 18 risks as relates to participation in -- of athletes  
 19 in contact in collision sports, but that's  
 20 defined -- the -- the nature of that is defined 12:51:42  
 21 within my paper.  
 22 Q Okay. So it does not -- so contact and  
 23 collision sports does not include cross-country;  
 24 correct?  
 25 A That's correct. 12:51:52  
 Page 160

1 Q And contact and collision sports doesn't  
 2 include track and field; correct?  
 3 A Correct.  
 4 Q Okay. Do you -- would it be fair to say that  
 5 the effects of male-to-female hormones on important 12:52:27  
 6 determinants of athletic performance still remain  
 7 largely unknown?  
 8 A I -- I -- I didn't hear -- the effects of  
 9 male and female hormones on what?  
 10 Q On determinants of athletic performance 12:52:42  
 11 remain largely unknown.  
 12 MR. FRAMPTON: Object to the form.  
 13 Go ahead.  
 14 THE WITNESS: What do you mean by "largely  
 15 unknown"? 12:52:52  
 16 BY MR. BLOCK:  
 17 Q I don't know. Do you think it's a fair  
 18 statement, that they remain largely unknown?  
 19 MR. FRAMPTON: Object to the form.  
 20 THE WITNESS: I think that there's good 12:53:04  
 21 evidence that testosterone has a significant impact  
 22 on performance.  
 23 BY MR. BLOCK:  
 24 Q But do you think the effects of lowering  
 25 circulating testosterone on athletic performance 12:53:17  
 Page 161

<p>1 remains largely unknown?                  2 MR. FRAMPTON: Same objection.                  3 THE WITNESS: I wouldn't say largely unknown.                  4 I'd say it's evolving and we've learned a lot over                  5 the last few years. 12:53:33                  6 BY MR. BLOCK:                  7 Q Has there been any controlled research                  8 evaluating how lowering circulating testosterone                  9 influences aerobic or resistance training?                  10 A There is -- there is a study on Air Force 12:53:45                  11 cadets answering that question.                  12 Q Has there been any study of the effects of                  13 lowering circulating testosterone on bench presses                  14 or leg presses or squats or dead lifts?                  15 MR. FRAMPTON: Object to form. 12:54:20                  16 THE WITNESS: I believe that those studies --                  17 there are studies looking at the effect of                  18 testosterone on things like punching power and...                  19 BY MR. BLOCK:                  20 Q Anything else? 12:54:56                  21 A There -- there are -- there are studies                  22 looking at -- I'm sorry, say the question one more                  23 time.                  24 Q Sure. Are there studies looking at the                  25 effects of lowering circulating testosterone on 12:55:12                  Page 162</p>	<p>1 MR. FRAMPTON: Objection to the form.                  2 THE WITNESS: Well, you -- I mean, you -- you                  3 began this by speaking of -- well, I told you that                  4 there was a study on Air Force cadets and part of                  5 that was push-up. So that's a -- and -- and these 12:57:26                  6 are -- these proxies are accepted proxies for what                  7 we're talking about, so...                  8 BY MR. BLOCK:                  9 Q So I -- just the answer to my question --                  10 A The answer to your question is -- is that 12:57:41                  11 there have been studies looking at the effect of                  12 testosterone suppression in transgender individuals                  13 on measures of strength and power, lean mass.                  14 Q On -- on proxies for those things; correct?                  15 A Yes. Accepted proxies. Noncontroversial 12:58:03                  16 proxies.                  17 Q So in -- let's look at paragraph 90 of your                  18 report.                  19 A Okay.                  20 Q Paragraph 90 says (as read): 12:58:43                  21 "In addition, multiple studies have                  22 found that testosterone suppression                  23 may modestly reduce, but not does                  24 not come close to eliminating the                  25 male advantage in muscle mass and 12:58:56                  Page 164</p>
<p>1 muscle strength in standard lifts, like bench press,                  2 leg press, squats, dead lifts?                  3 MR. FRAMPTON: Objection to the form.                  4 Go ahead.                  5 THE WITNESS: I believe that there are 12:55:29                  6 studies looking at the effect of testosterone                  7 reduction on...                  8 BY MR. BLOCK:                  9 Q I'm sorry, did you finish answering the                  10 question? 12:56:09                  11 A Are you talking about in transgender                  12 athletes, or are you talking about transgender                  13 individuals as a whole?                  14 Q Either one.                  15 A There -- there are -- there are studies 12:56:28                  16 looking at the effect of transition on loss of                  17 muscle mass, and there are studies looking at                  18 proxies for upper body strength, like grip strength,                  19 and there are studies looking at proxies for                  20 punching power. 12:56:57                  21 Q But their -- their studies are looking at                  22 proxies for those things as opposed to measuring                  23 muscle -- muscle strength, you know, through bench                  24 presses, leg presses, squats or other traditional                  25 measurements of strength; correct? 12:57:14                  Page 163</p>	<p>1 lean body mass, which together                  2 contribute to the greater average                  3 male weight. Researches looking at                  4 transitioning adolescents found that                  5 the weight of biological male 12:59:05                  6 subjects increased rather than                  7 decreased after treatment with an                  8 antiandrogen testosterone                  9 suppressor."                  10 Did I read that right? 12:59:15                  11 A Yes.                  12 Q Okay. So -- and then you cite to a study by                  13 Tack in 2018; correct?                  14 A Correct.                  15 Q Okay. So did the Tack study find that after 12:59:30                  16 taking antiandrogen testosterone suppressor, the                  17 transgender subjects's muscle mass and lean body                  18 mass increased?                  19 A I believe that the Tack study looked at                  20 several things, one of which was grip strength, and 12:59:58                  21 found that grip strength did not decrease.                  22 Q So that's not my question. My question is,                  23 did the Tack study find that muscle mass and lean                  24 body mass increased?                  25 A I believe that muscle mass helps stabl- -- 01:00:18                  Page 165</p>

<p>1 I'd have to go back and look at that.                  2 Can I see my report?                  3 Q Your report is there --                  4 A I'm sorry, I -- I'd have to go back and --                  5 and -- and reference that, but -- 01:00:42                  6 Q Okay. Well --                  7 A I can't recall.                  8 Q Okay. So this first sentence in paragraph 90                  9 talks about how testosterone suppression doesn't                  10 come close to eliminating the male advantage in 01:00:52                  11 muscle mass and lean body mass; correct?                  12 That's what the first sentence talks about?                  13 A Correct.                  14 Q All right. And the second sentence says that                  15 the Tack study found that the weight of biological 01:01:06                  16 male subjects increased rather than decreased;                  17 correct?                  18 A Correct.                  19 Q So is it a fair inference from the first                  20 sentence, followed by the second sentence, that 01:01:21                  21 you're implying here that what increases was muscle                  22 mass and lean body mass?                  23 MR. FRAMPTON: Objection --                  24 THE WITNESS: No --                  25 MR. FRAMPTON: -- to the form. 01:01:32                  Page 166</p>	<p>1 Harper study and talks about their lean body mass                  2 and muscle area; correct?                  3 A That -- that is a -- the Harper references to                  4 a -- a review paper.                  5 Q Okay. But the -- 01:03:03                  6 A So -- yeah, so I'd have to go back and look                  7 at that review paper to see what the original                  8 citation is that that's referencing.                  9 Q Sure. But in your paragraph 90, the first                  10 sentence, the third sentence and the fourth sentence 01:03:23                  11 refer to muscle mass or muscle area or lean body                  12 mass; right?                  13 MR. FRAMPTON: Objection to the form.                  14 Go ahead.                  15 THE WITNESS: Which sentences again? 01:03:41                  16 BY MR. BLOCK:                  17 Q The first, the third and the fourth.                  18 A The first sentence refers to muscle mass,                  19 lean body mass and -- and average weight. The third                  20 references lean body mass and muscle area. 01:04:01                  21 And you said the fourth?                  22 Q Yep.                  23 A References muscle area.                  24 Q Do any of those sentences reference fat?                  25 A Well, they do indirectly, when you're 01:04:27                  Page 168</p>
<p>1 Go ahead.                  2 THE WITNESS: No, I'm not trying to imply                  3 that.                  4 BY MR. BLOCK:                  5 Q You're not trying to imply that. 01:01:38                  6 So then why is it relevant that the weight                  7 increased?                  8 A Well, lean body mass -- where lean body mass                  9 settles is relevant. That's one thing. But overall                  10 weight of the individual, again, within an injury 01:01:58                  11 model, matters, too.                  12 Q Sure. But in this paragraph -- so the first                  13 sentence discusses muscle mass and lean body mass;                  14 correct?                  15 A Correct. 01:02:11                  16 Q And then the second sentence mentions the                  17 Tack study; correct?                  18 A Well, I -- I would say that the first                  19 sentence speaks to the advantage in muscle mass and                  20 lean body mass, and then it references to average 01:02:24                  21 male weight. So all three are referenced there.                  22 Q Okay. And the second sentence talks about                  23 the Tack study; correct?                  24 A Correct.                  25 Q And then the third sentence talks about a 01:02:35                  Page 167</p>	<p>1 referring to lean body mass and shifts in lean body                  2 mass.                  3 Q Do they do -- do they do directly, reference                  4 fat?                  5 MR. FRAMPTON: Object to the form. 01:04:47                  6 Go ahead.                  7 THE WITNESS: They do not directly. They do                  8 indirectly.                  9 MR. BLOCK: So if you look in your exhibit                  10 folder, I'm going to mark this Exhibit 83. It 01:04:56                  11 should soon appear.                  12 (Exhibit 83 was marked for identification                  13 by the court reporter and is attached hereto.)                  14 BY MR. BLOCK:                  15 Q Let me know when it's up. 01:05:16                  16 A It's up. I'm just looking to see if I can                  17 zoom this. Right here.                  18 Okay.                  19 Q Is -- is this the Tack study that you're                  20 referring to? 01:05:37                  21 A Yes.                  22 Q Okay. If you can turn to page 2151 of the                  23 study.                  24 A Okay.                  25 Q Okay. If you look in the second -- in the 01:06:07                  Page 169</p>

<p>1 right column, you know, the first full paragraph,                  2 it -- it says (as read):                  3 "Trans girls treated with CA showed                  4 a significant increase in fat mass                  5 (Figure 1D) and decrease in lean 01:06:22                  6 mass (Figure 1C), resulting in an                  7 increased body fat percentage,                  8 without changes in total mass."                  9 Did I read that right?                  10 A Yes. 01:06:34                  11 Q Okay. So according to the summary, was there                  12 actually an increase in -- in total mass for these                  13 trans girls?                  14 MR. FRAMPTON: Object to the form.                  15 Go ahead. 01:07:04                  16 THE WITNESS: Can I have a minute to look at                  17 this paper?                  18 BY MR. BLOCK:                  19 Q Yeah, sure.                  20 A Thanks. 01:07:17                  21 Reference weight before hormonal therapy                  22 averaged 63.7 kilograms; afterwards, averaged                  23 66.3 kilograms.                  24 Q So what do you interpret to be the -- what --                  25 what do you think -- what do you interpret the 01:08:34                  Page 170</p>	<p>1 sentence.                  2 Do you see that?                  3 A Yes, I do.                  4 Q So it says (as read):                  5 No significant changes in grip 01:11:47                  6 strength were observed in trans                  7 girls during the study period,                  8 resulting in decreased Z scores                  9 compared with the -- compared with                  10 age-matched peers of the same gender 01:11:57                  11 recorded at birth.                  12 Do you see that?                  13 A I do.                  14 Q What does that mean, by negative Z scores?                  15 A That's a comparison of your score to 01:12:04                  16 age-matched norms.                  17 Q Okay. So in -- in context, does this mean                  18 that compared to -- that the cisgender boys that                  19 these subjects are being compared to continue to                  20 increase their grip strength while the grip strength 01:12:27                  21 of the transgender girls remained flat?                  22 A Yes, that's accurate.                  23 Q Okay. So the -- the use -- suppressing                  24 testosterone had an effect on the ability to                  25 increase grip strength; correct? 01:12:47                  Page 172</p>
<p>1 sentence we just read to refer to when it says                  2 "without changes in total mass"?                  3 A That's speaking to a shift in -- you -- you                  4 are correct that there is no change in body weight                  5 associated with that statement. 01:09:21                  6 Q Okay. And so this -- did this study find                  7 that -- that muscle mass in the transgender girls                  8 actually increased?                  9 A Well, one of the -- the changes in lean body                  10 mass in this study were negative. 01:10:36                  11 Q Okay. The study --                  12 A But we don't know where they settled compared                  13 to a cisgender population because it wasn't                  14 analyzed.                  15 Q Okay. 01:10:51                  16 A We do know that grip strength didn't change.                  17 Q How -- is increase in fat generally                  18 associated with enhanced athletic performance?                  19 A In the conte- -- it can be with -- as a --                  20 energy stored, but in the context of this, no. 01:11:24                  21 Q Okay. On grip strength -- let's look further                  22 down in that paragraph we were reading from, on page                  23 2151.                  24 A Uh-huh.                  25 Q So this is the -- the beginning of the final 01:11:38                  Page 171</p>	<p>1 MR. FRAMPTON: Object to the form.                  2 THE WITNESS: In this case, yes.                  3 BY MR. BLOCK:                  4 Q Okay. If we can go to page 55, bottom of                  5 paragraph 95. 01:13:13                  6 A Are we back on my report?                  7 Q Yeah, we are. Thanks.                  8 A Page 55, paragraph what?                  9 Q 95. So the -- the -- the bottom half of the                  10 paragraph that's, you know, continuing. 01:13:37                  11 A Okay.                  12 Q So -- so let's go just from the middle of                  13 that paragraph.                  14 Do you see "the important point to make"? Do                  15 you see where you write that? 01:13:53                  16 A I do.                  17 Q Okay. So you write (as read):                  18 "The important point to make is that                  19 the only effect strength training                  20 could have on these athletes is to 01:13:59                  21 counteract and reduce the limited                  22 loss of muscle mass and strength                  23 that does otherwise occur to some                  24 extent over time with testosterone                  25 blockade. There has been at least 01:14:10                  Page 173</p>

<p>1 one study that illustrates this,                  2 although only over a short period,                  3 measuring strength during a                  4 twelve-week period where                  5 testosterone was suppressed to 01:14:19                  6 levels of 2 nmol/L. During that                  7 time, subjects actually increased                  8 leg lean mass by 4% and total lean                  9 mass by 2%, and subject performance                  10 on the 10 rep max leg press improved 01:14:31                  11 by 32%, while their bench press                  12 performance improved by 17%."                  13 And you cite to -- to Kvorning, K-V-O-R-N-I                  14 N-G, 2006; right?                  15 A Correct. 01:14:47                  16 Q Okay. So do you -- do you recall what this                  17 study -- this Kvorning study was analyzing?                  18 A I believe that it was analyzing                  19 non-transgender subjects who were -- (technical                  20 difficulty). 01:15:18                  21 MR. FRAMPTON: Sorry, he did answer --                  22 THE WITNESS: Did you hear me?                  23 MR. FRAMPTON: -- the question. Did it not                  24 come through?                  25 MR. BLOCK: It didn't come through. 01:15:22                  Page 174</p>	<p>1 files should be a -- a document marked Exhibit 84.                  2 THE WITNESS: Okay.                  3 BY MR. BLOCK:                  4 Q Let me know when it's there.                  5 A I have it. 01:16:36                  6 Q Okay. Okay. And so this document is titled                  7 "Suppression of endogenous testosterone production                  8 attenuates the response to strength training: a                  9 randomized, placebo-controlled, and blinded                  10 intervention study." 01:16:55                  11 Did I read that right?                  12 A You did.                  13 Q And this is the study you were citing to;                  14 correct?                  15 A Correct. 01:17:01                  16 Q And, you know, randomized,                  17 placebo-controlled, and blinded is pretty much                  18 the -- the best a study can be, right? That's, you                  19 know, the gold standard, isn't it?                  20 MR. FRAMPTON: Object to the form. 01:17:11                  21 Go ahead.                  22 THE WITNESS: Well, yeah, double blinded                  23 would be the gold standard, but yes.                  24 BY MR. BLOCK:                  25 Q Good point. 01:17:18                  Page 176</p>
<p>1 MR. FRAMPTON: I'm sorry.                  2 Answer it again.                  3 THE WITNESS: I -- I said I believed that it                  4 refers to non-transgender subjects who underwent                  5 hormonal suppression. 01:15:30                  6 BY MR. BLOCK:                  7 Q Okay. And are -- does it -- are those                  8 non-tran- -- are those non-transgender subjects                  9 compared to a -- a different group, a control group                  10 of any kind? 01:15:39                  11 A I -- I don't recall. I'd have to go back and                  12 look.                  13 Q Okay. Let's do that. I -- I have it already                  14 for you.                  15 MR. FRAMPTON: Sorry, I'm just going to tilt 01:15:59                  16 his screen a little bit. It looks like his chin is                  17 getting cut off. I can't tell if that's just on my                  18 screen or -- or not.                  19 MR. BLOCK: No, it's -- it's on -- it's on                  20 mine, too. 01:16:09                  21 MR. FRAMPTON: Okay.                  22 MR. BLOCK: Thank you.                  23 (Exhibit 84 was marked for identification                  24 by the court reporter and is attached hereto.)                  25 MR. BLOCK: So popping up in your exhibit 01:16:16                  Page 175</p>	<p>1 And so just reading from the -- the abstract                  2 a little bit, if you go, you know, five lines down                  3 from the abstract, it says (as read):                  4 "We hypothesized that suppression of                  5 endogenous testosterone would 01:17:31                  6 inhibit the adaptations to strength                  7 training in otherwise healthy men."                  8 Right?                  9 A Right.                  10 Q And so tell me if my description of what 01:17:47                  11 happened is right. You know, they -- they took two                  12 groups of, you know, cisgender men, and for one                  13 group, they suppressed their testosterone, and then                  14 they had both groups undergo a strength-training                  15 period of eight weeks; is that right? 01:18:07                  16 A Correct.                  17 Q Okay. And then they compared the two groups;                  18 right?                  19 Is that right?                  20 A I -- I want to make sure I'm answering you 01:18:27                  21 correctly, so give me a minute.                  22 Q Fair. I just wanted to make sure.                  23 A Yeah, so -- just so that I'm clear, can you                  24 restate your question again?                  25 Q Yeah. So, you know, after having the two 01:19:14                  Page 177</p>



<p>1 groups undergo this period of strength training,                  2 they then compared the results of the two groups;                  3 right?                  4 A Yes.                  5 Q Okay. If we can just look at -- if we can 01:19:29                  6 just look at page E1329. Let me know when you're                  7 there.                  8 A Go ahead.                  9 Q Okay. So if you look at the paragraph                  10 beginning -- so the final paragraph on this page, on 01:20:08                  11 1329, it says (as read):                  12 "The placebo group adapted to the                  13 strength training period by                  14 significantly larger increases in                  15 both lean leg mass and isometric 01:20:18                  16 strength. Although those in the                  17 goserelin group were able to have                  18 the same progression in training                  19 load as those in the placebo group,                  20 they did not gain muscle mass or 01:20:31                  21 increased isometric strength in the                  22 laboratory test."                  23 Right?                  24 A That's what that says.                  25 Q Okay. And then if we can just go to the -- 01:20:38                  Page 178</p>	<p>1 testosterone on the ability of someone to build new                  2 strength and muscle?                  3 MR. FRAMPTON: Object to the form.                  4 THE WITNESS: Yeah, can I go back to my                  5 report to answer that? 01:22:32                  6 BY MR. BLOCK:                  7 Q Yes, sure.                  8 A I'm back on page 55, if you want to go there.                  9 Q Of your report?                  10 A Yes. Where -- where you started. 01:23:02                  11 Q Yeah.                  12 A So -- and I'm sorry, restate your question                  13 one more time.                  14 Q Sure. Does your report address the effects                  15 of suppressing testosterone on an -- on an athlete's 01:23:16                  16 ability to -- to acquire new increases in mass and                  17 strength?                  18 MR. FRAMPTON: Objection to the form.                  19 Go ahead.                  20 THE WITNESS: I think it speaks to it here. 01:23:31                  21 It doesn't speak to the degree to which it affects                  22 it, but it -- what this study says is that gains are                  23 feasible.                  24 BY MR. BLOCK:                  25 Q Sure. Does -- does this study compare the 01:23:46                  Page 180</p>
<p>1 well, let's just -- I'll ask you questions about                  2 that.                  3 So the -- the -- tell me if I'm wrong about                  4 this, but the study, you know, seems to support an                  5 argument that reducing circulating testosterone 01:20:55                  6 affects a biological male's ability to increase                  7 muscle mass and strength. Is that a fair -- in                  8 response to training. Is that a fair statement?                  9 MR. FRAMPTON: Object to the form.                  10 Go ahead. 01:21:18                  11 THE WITNESS: I would say that it -- it does                  12 show that the effects -- that it does affect the                  13 ability to improve strength training, yes.                  14 BY MR. BLOCK:                  15 Q And so when -- when athletes -- 01:21:33                  16 A I would say affects, not eliminate, but...                  17 Q Okay. When -- when athletes train for                  18 athletic competitions, they engage in new strength                  19 training; right?                  20 A Depending on the sport, yes. 01:21:55                  21 Q Okay. So is it -- so -- yeah, I understand                  22 that -- you know, that your report talks about the                  23 ability of suppressing testosterone to reduce muscle                  24 and strength that's already been acquired, but does                  25 your report address the effects of lowering 01:22:17                  Page 179</p>	<p>1 amount of gains that a cisgender man who's lowered                  2 testosterone would have to the gains that a                  3 cisgender woman would have?                  4 A No, the study looked at men.                  5 Q All right. So we -- we don't really have a 01:24:04                  6 basis to -- to know one way or the other whether a                  7 cisgender woman receiving the same strength training                  8 would have increases in -- in muscle mass that are                  9 greater or less than the increases that the                  10 cisgender men who lowered testosterone had; right? 01:24:27                  11 A Well, I think what's relevant to the                  12 discussion is that a cisgender male can enter into a                  13 strength training program at the time that hormonal                  14 therapy has started.                  15 That male, in many cases, will already have 01:24:43                  16 retained differences in lean muscle mass and                  17 strength when comparing to a cisgender female                  18 population.                  19 And rather than come in -- (technical                  20 difficulty) -- they have the capability of coming in 01:24:58                  21 higher.                  22 So I think that's the relevant comparison.                  23 Q And you said in many cases they would have                  24 muscle mass that's greater than the cisgender                  25 female, but if they don't already have that muscle 01:25:06                  Page 181</p>

1 mass, then they will have a harder time acquiring it  
 2 than they otherwise would have had; right?  
 3 MR. FRAMPTON: Objection --  
 4 THE WITNESS: I didn't say that.  
 5 MR. FRAMPTON: -- to the form. 01:25:20  
 6 Go ahead.  
 7 BY MR. BLOCK:  
 8 Q I'm saying that. I'm asking that.  
 9 You know, you said that in many cases, a -- a  
 10 cisgen- -- a transgender girl will have entered into 01:25:27  
 11 a tournament already having acquired certain muscle  
 12 mass.  
 13 And so my question is about, you know, people  
 14 who lowered testosterone, you know, before, you  
 15 know, acquiring any muscle mass and the effects that 01:25:48  
 16 lowering testosterone would have on their ability to  
 17 acquire it.  
 18 A That doesn't --  
 19 MR. FRAMPTON: Objection to the form.  
 20 THE WITNESS: -- have anything to do with 01:25:59  
 21 what we're talking about. We're talking about --  
 22 you brought up the issue of whether or not  
 23 individuals who enter into a strength-training  
 24 program at the time that they are starting hormonal  
 25 therapy gain ground or not. 01:26:12  
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1 And that study showed that -- that you can  
 2 gain ground, and it was done in a male population,  
 3 the applicably of -- applicability of which, to this  
 4 conversation, is that those males can then, in turn,  
 5 cross over into a female sport when they now have 01:26:27  
 6 greater lean muscle mass than they had before they  
 7 started, and they already had a retained advantage.  
 8 I'm not sure --  
 9 BY MR. BLOCK:  
 10 Q The study is about cisgender men who have 01:26:44  
 11 already completed puberty; right?  
 12 A Again, I would have to go back and look at  
 13 the age range of the study, but I believe that  
 14 that's true.  
 15 Q All right. So transgender girls who 01:26:55  
 16 transition before completing puberty will not have  
 17 the same amount of muscle mass as a cisgender man  
 18 who has completed puberty; right?  
 19 MR. FRAMPTON: Object to the form.  
 20 THE WITNESS: Say -- say that one more time. 01:27:14  
 21 BY MR. BLOCK:  
 22 Q Do people --  
 23 A Transgender girls who have not -- what did  
 24 you say?  
 25 Q Who have not completed puberty do not have 01:27:20  
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1 the same amount of muscle mass as cisgender men who  
 2 have completed puberty; right?  
 3 A I'll grant you that. Yes, that's true.  
 4 Q Okay. So lowering testosterone, according to  
 5 the study, has an effect on their ability to 01:27:34  
 6 accumulate new muscle mass; right?  
 7 A Well, you -- you left that study. We're no  
 8 longer talking about that study. I can't speak to  
 9 the applicability of that study on the scenario that  
 10 you just gave. They're two different things. 01:27:53  
 11 Q Okay. So you -- you can't -- you can't speak  
 12 to the applicability of studies on the effects of  
 13 lowering circulating testos- -- circulating  
 14 testosterone on transgender girls who have not  
 15 completed puberty? 01:28:07  
 16 A That's not what I said. I said I can't speak  
 17 to the applicability of the study you raised to the  
 18 scenario that you then went to.  
 19 Q Why not?  
 20 A Because this study is looking at the effects 01:28:17  
 21 of strength training in men who are transitioning.  
 22 Q So why is it relevant to this report?  
 23 A This report, what do you mean?  
 24 MR. FRAMPTON: Object to the form.  
 25 ///  
 Page 184

1 BY MR. BLOCK:  
 2 Q I mean, you're -- you're discussing the study  
 3 because it has -- you think it has some relevance to  
 4 the participation of transgender women; right?  
 5 A Yes. I spoke to that already. 01:28:52  
 6 Q Okay. Do you think it has relevance only to  
 7 the participation of transgender women who have  
 8 completed puberty, or does it also have relevance to  
 9 the participation of transgender women who received  
 10 puberty blockers or hormones before completing 01:29:04  
 11 puberty?  
 12 MR. FRAMPTON: Object to the form.  
 13 THE WITNESS: The -- the study wasn't  
 14 designed to look to that group, so I have no way to  
 15 speak to that. And that study hasn't -- and that 01:29:16  
 16 has not been looked at.  
 17 BY MR. BLOCK:  
 18 Q So -- so you don't think it's relevant to the  
 19 participation of transgender girls and women who  
 20 have not completed puberty; right? 01:29:24  
 21 MR. FRAMPTON: Object to the form.  
 22 THE WITNESS: I didn't say that. You did.  
 23 BY MR. BLOCK:  
 24 Q So -- so is it -- is it relevant or isn't it,  
 25 to -- to girls -- participation of girls and women 01:29:32  
 Page 185

<p>1 who are transgender who have not completed puberty?                  2 A So --                  3 MR. FRAMPTON: Same objection.                  4 THE WITNESS: -- I'm a little bit                  5 uncomfortable with the assumptions that I've got to 01:29:43                  6 make to answer that question, but to step out of                  7 what you're saying and say in theory, is this study                  8 applicable to prepubertal kids who are entered into                  9 a strength-training program at the time that they                  10 start hormonal manipulation, possibly. 01:30:03                  11 MR. FRAMPTON: We're at -- we're at 1:30                  12 here. I think that we probably would like to do a                  13 lunch break sometime soon, but I'm not -- I'm not                  14 telling you you've got to do that now, by any                  15 stretch, if you were trying to complete a line of 01:30:28                  16 questioning or something.                  17 MR. BLOCK: Yeah -- yeah, I would. Just give                  18 me ten more minutes, and then we can take a break.                  19 MR. FRAMPTON: Yeah.                  20 MR. BLOCK: Is that okay with you, 01:30:40                  21 Dr. Carlson?                  22 THE WITNESS: Yeah, that's fine.                  23 Can I have 30 seconds just to pop some food                  24 in my mouth? Is that all right?                  25 MR. BLOCK: Sure. Can we go off the record 01:30:49                  Page 186</p>	<p>1 A Sorry, I was -- I was trying to find my place                  2 when you started reading, so I'm -- I'm on that page                  3 now.                  4 Q Sure. Do you -- okay.                  5 So about five lines from the bottom of 01:32:53                  6 paragraph 93, you say -- in -- when discussing this                  7 Hilton study, you say (as read):                  8 "The authors also noted that since                  9 males who identify as women often                  10 have lower baseline (i.e., before 01:33:09                  11 hormone treatment) muscle mass than                  12 the general population of males..."                  13 And then the sentence continues, but I just                  14 want to ask you a question about this part where you                  15 say that the authors of the study noted that males 01:33:23                  16 who identify as women often have lower baseline                  17 muscle mass than the general population of males.                  18 So do you -- do you have any reason to                  19 disagree with them, that -- that transgender women                  20 often have lower baseline muscle mass than the 01:33:44                  21 population of cisgender males?                  22 A No. I think there are -- a fair read of                  23 studies that do exist says that in many cases                  24 transgender -- I'm going to use your term --                  25 transgender females come into baseline with some 01:34:03                  Page 188</p>
<p>1 for 30 seconds?                  2 THE VIDEOGRAPHER: We are off the record at                  3 1:31 p.m.                  4 (Recess.)                  5 THE VIDEOGRAPHER: We are on the record at 01:31:34                  6 1:32 p.m.                  7 MR. BLOCK: Great. Thank you.                  8 THE VIDEOGRAPHER: Central Time. Sorry,                  9 Central Time.                  10 BY MR. BLOCK: 01:31:57                  11 Q If you go to page 54, near the end of                  12 paragraph 93.                  13 A Back on my report?                  14 Q Yeah.                  15 A 54, paragraph what? 01:32:13                  16 Q 93. So at the very end, paragraph 93.                  17 When you're discussing this Lapauw 2008 and                  18 Hilton 2021 study, you say -- this is like five                  19 paragraphs from the bottom -- (as read):                  20 "The authors also noted that since 01:32:32                  21 males who identify as women often                  22 have lower baseline (i.e., before                  23 hormone treatment) muscle mass than                  24 the general population of males..."                  25 And then it continues, but I -- 01:32:44                  Page 187</p>	<p>1 lower measures of lean muscle mass and -- but the                  2 relevant -- and so the relevant question is where do                  3 they fall related to cisgender females, but to your                  4 point.                  5 Q So the -- so my -- so my question is, do -- 01:34:25                  6 so by lowering their levels of circulating                  7 testosterone, that would affect their ability to                  8 acquire new muscle mass like at the same rate as a                  9 cisgender male; correct?                  10 MR. FRAMPTON: Objection to the form. 01:34:48                  11 THE WITNESS: Their -- their ability to                  12 acquire lean muscle mass at the same rate as a                  13 representative cisgender male population would be --                  14 studies show that it would show less, yes.                  15 Is that what you were asking? 01:35:18                  16 BY MR. BLOCK:                  17 Q Yeah, I was asking whether or not lowering                  18 their circulating testosterone would impair their                  19 ability to increa- -- to develop new muscle mass at                  20 the same rate as a cisgender male who is -- has 01:35:29                  21 regular levels of circulating testosterone.                  22 A At the same rate, yes.                  23 Q And do you know how -- whether -- do you know                  24 what the effects of lowering testosterone has on                  25 a -- a transgender woman's ability to acquire new 01:35:48                  Page 189</p>

<p>1 muscle mass compared to how quickly a cisgender                  2 woman can acquire new muscle mass?                  3 MR. FRAMPTON: Object to the form.                  4 Go ahead.                  5 THE WITNESS: Restate that question. 01:36:06                  6 BY MR. BLOCK:                  7 Q Yeah, sure. So I -- do you -- do you -- are                  8 you aware of any data comparing the ability of a                  9 transgender woman who's lowered circulating                  10 testosterone to acquire new muscle mass against the 01:36:20                  11 ability of a cisgender woman to acquire new muscle                  12 mass?                  13 MR. FRAMPTON: Same objection.                  14 Go ahead and answer.                  15 THE WITNESS: This comparison to cisgender 01:36:30                  16 women, trying to think of a specific study. Wiik.                  17 I'd have to look at -- I'd have to go back                  18 and look at my references.                  19 Q Sure.                  20 MR. BLOCK: Okay. We can take a break for -- 01:37:07                  21 for lunch now. Let's go off the record.                  22 THE VIDEOGRAPHER: We are off the record at                  23 1:37 p.m., Central Time.                  24 (Lunch recess.)                  25 THE VIDEOGRAPHER: We are on the record at 02:15:44                  Page 190</p>	<p>1 limiting larger athletes from                  2 playing positions where their size                  3 and strength is likely to result in                  4 injury to smaller players. Thus, in                  5 youth football, players exceeding a 02:17:21                  6 certain weight threshold may be                  7 temporarily restricted to playing on                  8 the line and disallowed from                  9 carrying the ball, or playing in the                  10 defensive secondary, where they 02:17:32                  11 could impose high-velocity hits on                  12 smaller players.                  13 Did I read that correctly?                  14 A Yes, you did.                  15 Q Okay. Great. So, you know -- so my question 02:17:39                  16 is, this is an example of a way to improve safety                  17 even within a team solely consisting of boys or                  18 solely consisting of girls; correct?                  19 A Correct.                  20 Q Okay. 02:18:09                  21 A I mean, it doesn't all speak to team sports,                  22 but yes.                  23 Q Okay. Now, would this also be a way to                  24 increase safety in a coed team?                  25 A That does occur in some coed rec sports, yes. 02:18:18                  Page 192</p>
<p>1 2:16 p.m., Central Time.                  2 BY MR. BLOCK:                  3 Q Good afternoon, Dr. Carlson.                  4 A Hello.                  5 Q I'd like to direct your attention to 02:15:54                  6 Exhibit 80, so your February 2022 report, on                  7 page 15. Let me know when you're there.                  8 A Okay. I am on page 15.                  9 Q Okay. And if you can look at footnote 10.                  10 A Okay. 02:16:38                  11 Q Are you there?                  12 A I -- I said, "Okay." I'm sorry.                  13 Q Okay. So in the footnote, you know, it says                  14 (as read):                  15 In some cases, safety requires even 02:16:49                  16 further division or exclusion. A                  17 welterweight boxer would not compete                  18 against a heavyweight, nor a                  19 heavyweight wrestle against                  20 smaller -- a smaller athlete. In 02:16:59                  21 the case of youth sports, when                  22 children are at an age where growth                  23 rates can vary widely, leagues will                  24 accommodate for naturally-occurring                  25 large discrepancies in body size by 02:17:10                  Page 191</p>	<p>1 Q Okay. So there are ways to make rule                  2 modifications to account for safety concerns without                  3 completely excluding certain members of the team?                  4 MR. FRAMPTON: Object to the form.                  5 THE WITNESS: The way that you -- the -- the 02:18:35                  6 type of changes that we're talking about can be                  7 made, but they alter the nature of the sport itself,                  8 so... You -- you cannot do it without changing the                  9 essence of what the sport is.                  10 BY MR. BLOCK: 02:19:07                  11 Q So if --                  12 A Whether that's acceptable or not acceptable,                  13 that's not really what I was retained for.                  14 Q Okay. So if we could go to paragraph 42.                  15 A Okay. 02:19:35                  16 Q All right. So if you go to the second                  17 sentence, where it says "this is one reason."                  18 Do you see that?                  19 A I'm reading the first, so just give me a                  20 second. 02:19:47                  21 I see it.                  22 Q Okay. So you see "This is one reason that                  23 rule modifications often exist in leagues where coed                  24 participation occurs." And then for footnote 14,                  25 you say, "For example, see" this website "(detailing 02:20:08                  Page 193</p>

<p>1 variety of rule modifications applied in co-ed                  2 basketball)." And then you say, "Similarly, coed                  3 soccer leagues often prohibit so-called 'slide                  4 tackles,' which are not prohibited in either men's                  5 or women's soccer." 02:20:28                  6 Do you see those sentences?                  7 A I do.                  8 Q Okay. And so, again, would it be possible to                  9 make similar rule modifications if a transgender                  10 participant is playing? 02:20:39                  11 MR. FRAMPTON: Object to the form.                  12 Go ahead.                  13 THE WITNESS: Can -- you can change a                  14 sport -- you can change the rules of the sport any                  15 way you want, but you can't do that without changing 02:20:50                  16 the essence of the sport.                  17 BY MR. BLOCK:                  18 Q Okay. But are these rule changes for these                  19 coed participation sports adequate, in your opinion,                  20 to minimize safety concerns? 02:21:05                  21 MR. FRAMPTON: Object to the form.                  22 THE WITNESS: I'm not sure I can speak to                  23 adequate or not. That implies that safety                  24 guardrails can -- that there's an end to it, but --                  25 restate your question, I'm sorry. 02:21:36                  Page 194</p>	<p>1 BY MR. BLOCK:                  2 Q What -- do you think there's safety risks                  3 involved when a -- a cisgender high school girl                  4 competes at -- competes on a football team with                  5 cisgender boys? 02:23:46                  6 A Do I think that there are risks? Is that                  7 what you said?                  8 Q Are there risks to that cisgender girl.                  9 A Well, if -- if -- if we're going to say that                  10 there -- sports is not a zero sum risk, then any 02:23:59                  11 participation involves some risk.                  12 Q Okay. Well, do you think it's safe for a                  13 high school girl to play tackle football with a high                  14 school boy?                  15 MR. FRAMPTON: Object to the form. 02:24:16                  16 THE WITNESS: You want to specify that                  17 question more or just leave it the way it is?                  18 BY MR. BLOCK:                  19 Q I want -- do you think it's safe for a high                  20 school girl to play tackle football with a high 02:24:29                  21 school boy?                  22 MR. FRAMPTON: Same objection.                  23 Go ahead.                  24 THE WITNESS: I think that there is                  25 heightened risk for a high school girl to play 02:24:36                  Page 196</p>
<p>1 BY MR. BLOCK:                  2 Q I said, are these rule changes that you                  3 discuss in footnote 14, in your opinion, adequate --                  4 adequate to minimize safety risks from coed                  5 participation? 02:21:54                  6 MR. FRAMPTON: Object to the form.                  7 THE WITNESS: I believe that they -- I -- I                  8 would assume that in the leagues that use them, that                  9 they serve the purpose of risk reduction in those                  10 leagues. Not total risk reduction, relative risk 02:22:36                  11 reduction.                  12 BY MR. BLOCK:                  13 Q Is it ever possible to totally eliminate risk                  14 from participating in contact or collision sports?                  15 A No, of course not. 02:22:45                  16 Q But --                  17 A Well, yes. By not playing.                  18 Q Okay. So -- but -- so do you think sports                  19 should be eliminated to eliminate the possibility of                  20 risk? 02:23:01                  21 MR. FRAMPTON: Object to the form.                  22 THE WITNESS: Well, that's -- that's a                  23 societal -- that's not why I was retained for this.                  24 I was retained to speak to safety issues as exist in                  25 sport, not whether a sport ought to continue. 02:23:20                  Page 195</p>	<p>1 football with a high school boy; however, there's a                  2 couple of things to say about that.                  3 First of all, that individual can select                  4 certain positions that are going to reduce the risk                  5 more than others. So, for instance, you might have 02:24:55                  6 somebody who kicks the ball off, who -- (technical                  7 difficulty).                  8 Second, in that case, it's an individual                  9 choosing to participate and assuming that risk.                  10 But as to whether there is risk, yeah, 02:25:15                  11 there's risk.                  12 BY MR. BLOCK:                  13 Q Are you able to compare that risk to the risk                  14 of 11-year-old boys and girls playing soccer                  15 together? 02:25:27                  16 MR. FRAMPTON: Object to the form.                  17 THE WITNESS: Am I able to compare the risk                  18 of a high school female playing football on a men's                  19 team with 11-year-old boy and girls playing soccer                  20 together? Is that what you're asking? 02:25:48                  21 BY MR. BLOCK:                  22 Q That's what I'm asking.                  23 MR. FRAMPTON: Same objection.                  24 THE WITNESS: That's not something that's                  25 been looked at. 02:25:57                  Page 197</p>

<p>1 If you're asking me whether there's a general                  2 increase in risk, I would say yes.                  3 BY MR. BLOCK:                  4 Q An increase in risk for the football fact                  5 pattern? 02:26:13                  6 MR. FRAMPTON: Object to the form.                  7 THE WITNESS: That's not what you asked.                  8 BY MR. BLOCK:                  9 Q Well, I'm just trying to understand what you                  10 said at the end. 02:26:19                  11 You said, If you're asking if it's a general                  12 increase in risk, I'd say yes.                  13 I just wanted to just clarify what you were                  14 referring to at the end.                  15 A I'm not sure what you were asking. So you 02:26:29                  16 were asking whether --                  17 Q What's -- what's -- sorry, I -- I can clarify                  18 my question. Would that help?                  19 A Yes, I think so.                  20 Q Yeah, what's riskier, an 11-year-old girl 02:26:40                  21 playing soccer with an 11-year-old boy or a                  22 17-year-old girl playing football with a 17-year-old                  23 boy?                  24 A Well, that's anecdote and --                  25 MR. TRYON: Objection. 02:26:56                  Page 198</p>	<p>1 allow you to compare the risks of 11-year-olds                  2 playing soccer together to 17-year-olds playing                  3 football together; right?                  4 MR. FRAMPTON: Object to the form.                  5 THE WITNESS: To your point, I look at -- 02:28:44                  6 yes, the -- the -- the modeling risks apply to many                  7 different age categories.                  8 BY MR. BLOCK:                  9 Q Is there any data at all on injuries to                  10 cisgender prepubertal girls from playing with 02:29:09                  11 cisgender prepubertal boys?                  12 A I'm not aware of that specifically, no.                  13 Q On page -- paragraph 78. Let me know when                  14 you're at paragraph 78.                  15 A Okay. 02:30:09                  16 Q Okay. Paragraph 78, you say (as read):                  17 "Of course there exists variation in                  18 all these factors within a given                  19 group of males or females. However,                  20 it is also true that within 02:30:17                  21 sex-specific pools, size                  22 differential is somewhat predictable                  23 and bounded, even considering                  24 outliers."                  25 Did I read that right? 02:30:25                  Page 200</p>
<p>1 BY MR. BLOCK:                  2 Q Go on.                  3 MR. TRYON: Go ahead.                  4 THE WITNESS: Me? Okay.                  5 That's anecdote. And it's obviously going to 02:27:06                  6 depend on this situation.                  7 If you're comparing a high school placekicker                  8 and that's all she does to two 11-year-olds where                  9 there's wide discrepancy between a larger, faster                  10 male and a smaller, slower female, then there's 02:27:28                  11 going to be more risk in the soccer side of it. If                  12 you're comparing a high school female who's playing                  13 linebacker, the risk might fall to the other side.                  14 But those are hypotheticals around, again,                  15 anecdotes, so... 02:27:51                  16 BY MR. BLOCK:                  17 Q Isn't this whole -- isn't your expert report                  18 all about hypotheticals and anecdotes?                  19 MR. FRAMPTON: Object to the form.                  20 THE WITNESS: I wouldn't say that they're 02:28:03                  21 about anecdotes. I would say that it's based on                  22 modeling assumptions that -- informed by research                  23 that speaks to a sex-based difference.                  24 BY MR. BLOCK:                  25 Q And those same modeling assumptions would 02:28:24                  Page 199</p>	<p>1 A Yes.                  2 Q Okay. So I think this goes back a little bit                  3 to our discussion from -- from before, having a                  4 larger cisgender woman on a girls' -- a woman's                  5 sports team is riskier to the other participants 02:30:43                  6 than having a smaller cisgender woman on that team;                  7 correct?                  8 A I don't -- you're equating size to risk in a                  9 way that make it hard to answer that question. You                  10 haven't told me the sport. You haven't told me the 02:31:18                  11 other characteristics of the athletes. So it could                  12 run either way.                  13 Injury risk is a net effect. You could have                  14 a -- well, I'll just leave it at that.                  15 Q Okay. So you say size differential here, so 02:31:37                  16 that's why I talked about size.                  17 When you -- when you said it's also true that                  18 within sex-specific pools, size differential is                  19 somewhat predictable.                  20 What point were you making when you said 02:31:51                  21 that?                  22 A I -- I -- I suppose a more artful way to say                  23 that would be physical attributes are somewhat --                  24 or -- or performance-based attributes -- physical                  25 and performance attributes are somewhat predictable 02:32:35                  Page 201</p>

<p>1 and bounded.</p> <p>2 Q And so your concern about allowing</p> <p>3 transgender women to participate on women's teams is</p> <p>4 that you would be introducing athletes into the pool</p> <p>5 that fall outside of the outer bounds that would 02:32:50</p> <p>6 exist if it were just limited to cisgender women</p> <p>7 athletes?</p> <p>8 MR. FRAMPTON: Objection --</p> <p>9 THE WITNESS: It --</p> <p>10 MR. FRAMPTON: -- to form. 02:33:04</p> <p>11 BY MR. BLOCK:</p> <p>12 Q Go ahead.</p> <p>13 A My concern would be that in -- in the</p> <p>14 aggregate, there are more than any one -- there's</p> <p>15 more than any one attribute that makes up a male, 02:33:12</p> <p>16 and that taken as a whole, those attributes fall</p> <p>17 outside the bounds of -- into the other pool.</p> <p>18 Q And is that going to be true for every</p> <p>19 transgender woman?</p> <p>20 A I can't speak to how that would apply to any 02:33:38</p> <p>21 given -- (technical difficulty) -- but from a</p> <p>22 population standpoint, it would certainly hold true.</p> <p>23 Q So what if eligibility were limited to</p> <p>24 transgender women whose physical attributes fell</p> <p>25 within the -- the predictable and bounded range of 02:34:18</p> <p style="text-align: right;">Page 202</p>	<p>1 A Correct.</p> <p>2 Q Okay. And if you look at your report on --</p> <p>3 go to section -- on page 33, section VI.</p> <p>4 A Are you talking about paragraph 57?</p> <p>5 Q Yeah, yeah. But I'm focusing on the headline 02:37:08</p> <p>6 "Enhanced Female Vulnerability to Certain Injuries,"</p> <p>7 right? Do you see that?</p> <p>8 A I see that.</p> <p>9 Q Okay. And then there's -- there's a</p> <p>10 subsection A on concussions and a subsection B on 02:37:23</p> <p>11 ACL tears.</p> <p>12 Are the things discussed in this section an</p> <p>13 example of internal risk factors?</p> <p>14 A Well, I -- you know, when you go back and you</p> <p>15 look at the discussion around injury epidemiology, 02:37:45</p> <p>16 I -- I think I make it clear that -- that those are</p> <p>17 often blended.</p> <p>18 And so in the case of both concussion and ACL</p> <p>19 risk, there are -- there are innate things about the</p> <p>20 female that seem to predispose them to those 02:38:04</p> <p>21 injuries, but at the same time, those injuries can</p> <p>22 be imparted by being struck, so...</p> <p>23 Q And are -- is there any data on the</p> <p>24 susceptibility of transgender girls and women to</p> <p>25 those injuries, you know, if they have had puberty 02:38:30</p> <p style="text-align: right;">Page 204</p>
<p>1 physical attributes for cisgender women, would that</p> <p>2 raise safety concerns?</p> <p>3 MR. FRAMPTON: Object to the form.</p> <p>4 THE WITNESS: There's problems, first of all,</p> <p>5 with measurement validity when we're talking about 02:34:33</p> <p>6 an unlimited -- kind of an unbounded list of</p> <p>7 biological categories. So that's a problem.</p> <p>8 So I -- I don't -- I think there's an</p> <p>9 assumption underneath all of that that says that you</p> <p>10 can kind of boil down a transgender and cisgender 02:34:49</p> <p>11 female into the exact same categories, and I -- I</p> <p>12 don't know that that's true.</p> <p>13 BY MR. BLOCK:</p> <p>14 Q Do you know the effects of lowering</p> <p>15 testosterone to levels of circulating testosterone 02:35:11</p> <p>16 typical of women on all the various physiological</p> <p>17 attributes that would play into the analysis of</p> <p>18 safety?</p> <p>19 A That's an evolving area of study, and it</p> <p>20 hasn't been completely studied yet, but the -- but 02:35:40</p> <p>21 the -- the net effect of the studies that we do have</p> <p>22 seem to tilt in the same direction, which is that</p> <p>23 there is retained difference.</p> <p>24 Q In your report, you talk about internal risk</p> <p>25 factors and external risk factors; correct? 02:36:32</p> <p style="text-align: right;">Page 203</p>	<p>1 blockers followed by gender-affirming hormones?</p> <p>2 MR. FRAMPTON: Object to the form.</p> <p>3 THE WITNESS: I'm not aware of research</p> <p>4 specifically looking at the risk of a transgender</p> <p>5 female who's prepubertal to ACL risk or concussion 02:38:52</p> <p>6 risk.</p> <p>7 Did I say transgender prepu- -- pre- --</p> <p>8 prepubertal females?</p> <p>9 BY MR. BLOCK:</p> <p>10 Q I thought you did. Or at least that's what I 02:39:16</p> <p>11 understood.</p> <p>12 A I just wanted to clarify.</p> <p>13 Q So if you -- turn to page 4 in your report.</p> <p>14 A Okay.</p> <p>15 Q On the second -- the -- the -- you know, 02:39:47</p> <p>16 actually, let's go to Exhibit 81. So this is the</p> <p>17 first white paper you -- you -- you made. Page 3.</p> <p>18 It's page 3 of Exhibit 81, on the -- the internal</p> <p>19 pagination.</p> <p>20 A Okay. I'm -- I'm there. 02:40:09</p> <p>21 Q Okay. So this paragraph, it says (as read):</p> <p>22 "Unfortunately, apart from</p> <p>23 World Rugby's careful review, the</p> <p>24 public discourse is lacking any</p> <p>25 careful consideration of the 02:40:31</p> <p style="text-align: right;">Page 205</p>

<p>1 question of safety. As a physician                  2 who has spent my career caring for                  3 athletes, I find this silence about                  4 safety both surprising and                  5 concerning. It is my hope through 02:40:39                  6 this white paper to equip and                  7 motivate sports leagues and policy                  8 makers to give adequate attention to                  9 the issue of safety for female                  10 athletes." 02:40:49                  11 Did I read that right?                  12 A Yes, you did.                  13 Q Okay. And does this white paper disclose                  14 anywhere that you were hired to write it by ADF?                  15 MR. FRAMPTON: Object to the form. 02:41:04                  16 THE WITNESS: I don't think that that's in                  17 there, no.                  18 BY MR. BLOCK:                  19 Q Okay. When -- when you say in the white                  20 paper that you find the silence about safety both 02:41:18                  21 surprising and concerning, when did you acquire that                  22 opinion?                  23 A I imagine in the context of culling together                  24 this material.                  25 Q So you didn't mean to say that you were just 02:41:43                  Page 206</p>	<p>1 Q Page 7 of your February 22 report,                  2 Exhibit 80.                  3 Oh, no, I'm sorry --                  4 A I'm not seeing that.                  5 Q No, no, no, no. I was looking at the wrong 02:43:57                  6 one, I apologize. It was my -- my fault.                  7 This would then be page -- page 9 of your --                  8 of that one.                  9 A Okay.                  10 Q So you're -- you're discussing here -- you're 02:44:21                  11 listing various sports that fall within your                  12 definition of collision and contact.                  13 A Uh-huh.                  14 Q And we have boxing, wrestling, rugby,                  15 ice hockey, football, basketball. And then we also 02:44:36                  16 have mixed martial arts, field hockey, soccer,                  17 rugby, lacrosse, volleyball, baseball and softball.                  18 Do you think that the increased risk that you                  19 talk about is equally present to the same degree in                  20 all of these sports that you list? 02:45:05                  21 A No, I wouldn't say that.                  22 Q Okay. So there's some contact in collision                  23 sports where there's a greater increased risk than                  24 another contact in collision sports; right?                  25 A That's correct. 02:45:17                  Page 208</p>
<p>1 a doctor listening to the discourse and just spurred                  2 into action organically by your surprising concern                  3 about the lack of discussion of safety?                  4 MR. FRAMPTON: Object to the form.                  5 THE WITNESS: Well, I think going back to 02:42:05                  6 what we were talking about earlier, I -- I -- you                  7 know, this -- this issue has become more prominent                  8 on the public radar, particularly over the last five                  9 years, and -- you know, so from the beginning, when                  10 I was with AMSSM, you know, those conversations were 02:42:22                  11 cropping up.                  12 And as I said earlier, I had some concerns                  13 about the issue of safety when it came to size                  14 differential, but those concerns -- I -- I believe                  15 that those concerns have been validated by review of 02:42:43                  16 the available evidence in conjunction with my                  17 experience as a physician.                  18 BY MR. BLOCK:                  19 Q Going back to your -- your February 2022                  20 report, on page 7. 02:43:11                  21 A Okay.                  22 Q So in this paragraph, you discuss various                  23 sports that fall within your definition of contact                  24 or collision, and I wanted to --                  25 A What -- what page are you on? 02:43:41                  Page 207</p>	<p>1 Q Which of these contact and collision sports                  2 do you think have the least degree of increased                  3 risk?                  4 A Of the sports listed there, I would -- I -- I                  5 would qualify this and say -- you know, I would need 02:45:39                  6 to rely on epidemiological statistics, but I would                  7 guess that in terms of traumatic injury, volleyball                  8 is probably near the bottom.                  9 MR. BLOCK: If you could just give me another                  10 five minutes, I'll -- I'll just come back with any 02:46:21                  11 remaining questions I have.                  12 Can -- can we go off the record?                  13 THE VIDEOGRAPHER: We are off the record at                  14 2:46 p.m., Central Time.                  15 (Recess.) 02:56:18                  16 THE VIDEOGRAPHER: We are on the record at                  17 2:56 p.m., Central Time.                  18 BY MR. BLOCK:                  19 Q Okay. So just a few more questions,                  20 Dr. Carlson, but I won't keep you too much longer. 02:56:31                  21 If you could go to -- oh, jeez. I thought I                  22 had the paper -- page -- this is it. Page 28 of                  23 your -- of Exhibit 80, your February 2022 report.                  24 A Page 28?                  25 Q Yeah. Paragraph 49. 02:57:09                  Page 209</p>



<p>1 A Okay.</p> <p>2 Q Just four lines down, you -- you say, in a 3 parenthetical, that prime athletic years are ages 18 4 to 29.</p> <p>5 Do you see that? 02:57:43</p> <p>6 A Yes.</p> <p>7 Q Could you explain why those are the prime 8 athletic years?</p> <p>9 A Well, it's -- I don't recall offhand how I 10 came to include that in, so... But looking at it, 02:58:04 11 it's roughly from the age of the end of puberty 12 through your third decade. That makes sense to me.</p> <p>13 Q Why does it make sense to you that the prime 14 athletic years would begin roughly at the age of the 15 end of puberty? 02:58:25</p> <p>16 A We -- we've already spoken somewhat to the 17 effect of puberty on performance.</p> <p>18 Q So the -- the further along on -- you are on 19 puberty, the greater effect it will have on your 20 performance? 02:58:50</p> <p>21 A I -- I think that that term -- or that -- 22 that phrase could be rephrased in -- in other ways. 23 Because obviously it depends on the sport; right? 24 So take gymnastics, for example, the prime years for 25 an Olympic gymnast are not going to fall in that 02:59:16 Page 210</p>	<p>1 transgender girls have an athletic advantage over 2 cisgender girls in girls gymnastics?</p> <p>3 MR. FRAMPTON: Same objection, form and 4 scope.</p> <p>5 Go ahead. 03:00:36</p> <p>6 THE WITNESS: Certainly not all the way 7 around, but there may be aspects of different events 8 in gymnastics that they -- they may have a -- they 9 may have some advantage within.</p> <p>10 BY MR. BLOCK: 03:00:56</p> <p>11 Q So are you -- would you -- do you feel 12 confident in that answer? I know I just asked you 13 to give it off the top of your head, so is that, you 14 know, an answer that you -- you feel sure about 15 or -- 03:01:07</p> <p>16 A Well, that study -- that -- that has never 17 been looked at, as far as I'm aware, in a 18 peer-reviewed study, but to the extent that you're 19 making me answer it, I think I've given you an 20 answer. 03:01:20</p> <p>21 Q Okay. If you could go to -- 22 A Sorry, I didn't hear you.</p> <p>23 Q No, sorry, I -- I -- I stopped my sentence 24 halfway through.</p> <p>25 If you can go to page 59. 03:01:47 Page 212</p>
<p>1 range.</p> <p>2 Q Do you think that a trans girl has an 3 athletic advantage over a cisgender girl in girls' 4 gymnastics?</p> <p>5 A I have never -- 02:59:30</p> <p>6 MR. FRAMPTON: Object to the form. 7 Go ahead.</p> <p>8 THE WITNESS: I have never considered that.</p> <p>9 BY MR. BLOCK:</p> <p>10 Q Well, sitting here, considering it now, can 02:59:40 11 you -- what's your opinion?</p> <p>12 A Do I think a trans girl has an advantage over 13 a cis girl in women's gymnastics?</p> <p>14 Q Yes.</p> <p>15 MR. FRAMPTON: Object to the form. 02:59:50 16 Go ahead.</p> <p>17 THE WITNESS: It would depend on the 18 apparatus that you're talking about, I suppose. For 19 instance, assuming that that individual may have an 20 advantage in vault. But again, you're -- we're 03:00:08 21 talking about anecdotal hypothesis about individuals 22 and not population, so -- you know, I -- I don't 23 know that I can really answer that question.</p> <p>24 BY MR. BLOCK:</p> <p>25 Q Well, at a population level, do you think 03:00:26 Page 211</p>	<p>1 A Okay.</p> <p>2 Q Okay. So in the second sentence of that 3 paragraph, you say (as read): 4 "While, as I have noted, some 5 biological males have indeed 03:02:20 6 competed in a variety of girls' and 7 women's contact sports, the numbers 8 up till now have been small." 9 Excuse me.</p> <p>10 "But recent studies have reported 03:02:31 11 very large increases in the number 12 of children and young people 13 identifying as transgender compared 14 to historical experience. For 15 example, an extensive survey of 9th 03:02:39 16 and 11th graders in Minnesota found 17 that 2.7% identified as transgender 18 or gender-nonconforming -- well over 19 100 times historical rates..." 20 And you cite that to Rider 2018 for that. 03:02:54 21 Did I read that right?</p> <p>22 A I believe so.</p> <p>23 Q Okay. Well, first of all, are you aware of 24 any statistics about the number of people 25 identifying as transgender in West Virginia? 03:03:07 Page 213</p>

<p>1 A I believe I have read at some point in time                  2 that the percentage of transgender-identifying                  3 people in West Virginia is high to the national                  4 average.                  5 Q Okay. How about transgender youth? 03:03:26                  6 A I -- I can't remember if what I read was                  7 specific to transgender youth or not.                  8 Q And do you know whether any transgender girl                  9 besides the plaintiff in this case has ever competed                  10 in girls or women's sports in West Virginia? 03:03:42                  11 A Again, I couldn't speak to that.                  12 Q Okay. So --                  13 A I was -- I wasn't retained for that, so I                  14 don't know.                  15 Q So this -- this study by Rider 2018, in 03:03:52                  16 Minnesota, do you know what percentage of the                  17 2.7 percent of students in that study identified as                  18 transgender as opposed to gender nonconforming?                  19 A I don't recall that, no.                  20 Q Okay. Do you recall ever looking it up? 03:04:19                  21 A I'm sure at -- at some point I did look it                  22 up, but I don't recall what the number is.                  23 MR. BLOCK: Okay. So if you could check your                  24 inbox -- I mean, exhibit box, Exhibit 85. We can                  25 look at it together. Let me know when you see it. 03:04:57                  Page 214</p>	<p>1 participating in girls and women's sports?                  2 MR. FRAMPTON: Object to the form.                  3 THE WITNESS: I -- the definition that you                  4 just read for me is not the same thing as a                  5 transgender individual as you've defined it. 03:06:38                  6 BY MR. BLOCK:                  7 Q Okay. Now, if you go to -- if you go to the                  8 first page of the study, for the abstract, if you go                  9 to "Results."                  10 A Yes, I see that. 03:07:17                  11 Q So it says (as read):                  12 "We found that students who are TGNC                  13 reported significantly poorer                  14 health, lower rates of preventative                  15 health checkups, and more nurse 03:07:26                  16 office visits than cisgender youth.                  17 Do you see that?                  18 A I do see that.                  19 Q All right. As a general matter, at a                  20 population level, if a group of folks reports 03:07:38                  21 significantly poorer health than a control group, is                  22 that usually a sign of athletic advantage?                  23 MR. FRAMPTON: Object to the form.                  24 Go ahead.                  25 THE WITNESS: That's so far removed from 03:07:55                  Page 216</p>
<p>1 (Exhibit 85 was marked for identification                  2 by the court reporter and is attached hereto.)                  3 THE WITNESS: I said I have it up.                  4 BY MR. BLOCK:                  5 Q Okay. Great. Could you go to page 2. 03:05:20                  6 A I'm there.                  7 Q Okay. So if you -- just scroll down to --                  8 just -- actually, you don't even have to scroll                  9 down. The second sentence on page 2, where it                  10 describes -- it begins with "gender nonconforming." 03:05:41                  11 A Yes.                  12 Q Okay. So page -- so this sentence says (as                  13 read):                  14 "Gender nonconforming describes                  15 individuals whose gender expression 03:05:54                  16 does not follow stereotypical                  17 conventions of masculinity and                  18 femininity and who may or may not                  19 identify as transgender."                  20 Do you see that? 03:06:04                  21 A Yes, I see that.                  22 Q Okay. Do you think that -- to the extent                  23 that the study is talking about gender nonconforming                  24 people, do you think it's still relevant to                  25 assessing an increase in transgender people 03:06:17                  Page 215</p>	<p>1 specifics of athletic advantage that I don't know                  2 that I can answer that, what -- what -- what plays                  3 into poorer health.                  4 BY MR. BLOCK:                  5 Q Okay. Well, do -- do you think that having a 03:08:15                  6 poor -- poorer health -- well, what connection do                  7 you have -- do you see, if any, between, you know,                  8 someone having poorer health and being a good                  9 athlete?                  10 MR. FRAMPTON: Object to the form. 03:08:35                  11 THE WITNESS: Again, I -- I think without                  12 knowing how poorer health is defined here, I                  13 hesitate to answer that question.                  14 BY MR. BLOCK:                  15 Q Okay. Well, is it fair to say that there are 03:08:47                  16 a variety of ways in which, at a population level,                  17 the -- the health of transgender girls and women may                  18 be different than the health of cisgender boys and                  19 men?                  20 MR. FRAMPTON: Same objection. 03:09:10                  21 THE WITNESS: Again, I'm a board-certified                  22 sports medicine physician, I'm not an                  23 endocrinologist, and you're asking questions about                  24 population distinctions between transgender and                  25 cisgender individuals. I don't know that I was 03:09:24                  Page 217</p>

1 retained to ask -- answer those questions.  
2 BY MR. BLOCK:  
3 Q So -- so you can't offer an expert opinion on  
4 how similar or dissimilar transgender girls and  
5 women are to cisgender boys and men -- 03:09:43  
6 MR. FRAMPTON: Object to --  
7 THE WITNESS: I didn't --  
8 MR. FRAMPTON: -- the form.  
9 THE WITNESS: -- say that. You were asking  
10 me about their population -- the reflection of 03:09:53  
11 overall health on that population versus cisgender.  
12 Is that what you're asking me?  
13 BY MR. BLOCK:  
14 Q Well, I asked you that, and then I asked you  
15 another question, which is, you know, the basis for 03:10:10  
16 your expert opinion opining on the similarities  
17 between cisgender girls and women -- excuse me. I  
18 was asking the basis for your expert opinion opining  
19 on the similarities between transgender girls and  
20 women and cisgender boys and men. 03:10:27  
21 A Between trans- --  
22 MR. FRAMPTON: Object to the form.  
23 Go ahead.  
24 THE WITNESS: Between transgender boys and  
25 women, is that what you said? 03:10:39  
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1 BY MR. BLOCK:  
2 Q Transgender girls and women compared to  
3 cisgender boys and men. What's the basis of your  
4 expertise in drawing a comparison between those two  
5 groups of people? 03:10:52  
6 A So you're talking about trans women --  
7 Q Yes.  
8 A -- or trans men?  
9 Q Sorry, I'm talking about trans girls and  
10 women and cis -- 03:11:01  
11 A Can you rephrase --  
12 Q -- boys and men --  
13 A -- the question because I'm not sure -- I  
14 want to understand what you're saying.  
15 Q Yeah. People assigned a male sex assigned at 03:11:09  
16 birth who have female gender identities are the  
17 people I'm referring to as trans girls and women.  
18 A Okay.  
19 Q And my question is, do you have any expert  
20 basis to opine on how similar that group of people 03:11:30  
21 are to cisgender boys and men?  
22 MR. FRAMPTON: Object to the form.  
23 Go ahead.  
24 THE WITNESS: Yes, I do.  
25 ///  
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1 BY MR. BLOCK:  
2 Q And what -- what is that expert basis? What  
3 is the basis for that expert opinion?  
4 A I'm a board-certified sports medicine  
5 physician, and I can speak to the safety issues 03:11:53  
6 involved with these two populations.  
7 Q But are you -- you don't -- what information  
8 do you have about the -- you know, the -- the health  
9 and physical profile of transgender girls and women?  
10 MR. FRAMPTON: Object to the form. 03:12:12  
11 THE WITNESS: I think I told you that, A, I  
12 was retained to speak to the issues around these  
13 populations that deal with sports safety.  
14 BY MR. BLOCK:  
15 Q And -- okay. So what's the basis of your 03:12:42  
16 ability to render an expert opinion, though?  
17 MR. FRAMPTON: Object to the form.  
18 Go ahead.  
19 THE WITNESS: Sure, I understand the  
20 question. I'm sorry. 03:12:55  
21 I -- I'm not sure how that relates to what  
22 we're looking at here.  
23 BY MR. BLOCK:  
24 Q Sure. Sure. And I -- I -- I won't keep you  
25 too much longer. 03:13:06  
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1 I understand everything you've opined on in  
2 your report about cisgender boys and men and their  
3 differences between cisgender girls and women. You  
4 know, this case is about transgender girls and women  
5 and that population, you would agree, is different 03:13:26  
6 in some ways, at least, from cisgender boys and men;  
7 right?  
8 MR. FRAMPTON: Object to the form.  
9 Go ahead.  
10 THE WITNESS: There aren't population-level 03:13:35  
11 studies that have really looked at that. You can --  
12 so I don't know that we can say that.  
13 BY MR. BLOCK:  
14 Q So without population studies that have  
15 looked at transgender girls and women, we can't say 03:13:57  
16 whether they are the same as cisgender boys and men;  
17 right?  
18 MR. FRAMPTON: Object to the form.  
19 THE WITNESS: Are you saying that -- are you  
20 asking if there are baseline characteristic 03:14:18  
21 differences between transgender women and cisgender  
22 women?  
23 BY MR. BLOCK:  
24 Q Sure. That's one of them. Sure, yes. No,  
25 no, no, no. No. I'm asking between transgender 03:14:35  
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<p>1 women and cisgender men.                  2 Are there baseline differences between                  3 transgender women and cisgender men?                  4 A We don't have good studies that were designed                  5 to look at large populations to answer baseline 03:14:51                  6 questions. We have inferences we can make about                  7 certain studies. That's it.                  8 Q Okay.                  9 MR. BLOCK: All right. Thank you,                  10 Dr. Carlson. That's all the questions I have. 03:15:02                  11 THE WITNESS: Thank you.                  12 THE VIDEOGRAPHER: Any other questions?                  13 MR. TRYON: This is Dave --                  14 THE VIDEOGRAPHER: Okay.                  15 MR. TRYON: This is Dave Tryon from the State 03:15:13                  16 of West Virginia. I -- I have no questions for the                  17 witness.                  18 MR. CROPP: This is Jeffrey Cropp for the                  19 defendants Harrison County Board of Education and                  20 Superintendent Dora Stutler. I have no questions. 03:15:24                  21 MS. MORGAN: This is Kelly Morgan on behalf                  22 of the West Virginia Board of Education and                  23 Superintendent Burch. I have no questions.                  24 Thank you very much.                  25 MS. GREEN: This is Roberta Green on behalf 03:15:36                  Page 222</p>	<p>1 A There are -- there are studies that look at                  2 retained differences in -- in muscle mass and -- so                  3 the Wiik study.                  4 Q And we don't --                  5 A Many of these are cited in my report. 03:17:51                  6 Q And -- and we don't have any studies on the                  7 differences between transgender girls and women and                  8 cisgender boys and men before transition, do we?                  9 MR. FRAMPTON: Object to the form.                  10 Go ahead. 03:18:08                  11 THE WITNESS: Say that one more time.                  12 BY MR. BLOCK:                  13 Q We don't have any studies on the differences                  14 between transgender girls and women and cisgender                  15 boys and men before transition, do we? 03:18:16                  16 MR. FRAMPTON: Same objection.                  17 Go ahead.                  18 THE WITNESS: I don't believe -- again, I                  19 can't recall if the Klaver study made that                  20 comparison, so I'd have to go back and look at it. 03:18:46                  21 MR. BLOCK: No further questions.                  22 THE VIDEOGRAPHER: Anyone else?                  23 MR. FRAMPTON: I don't have anything further.                  24 THE VIDEOGRAPHER: We are off the record at                  25 3:19 p.m., Central Time. This completes today's 03:19:02                  Page 224</p>
<p>1 of WVSSAC. I have no questions.                  2 Thank you.                  3 THE VIDEOGRAPHER: We are off the record                  4 at --                  5 MR. FRAMPTON: Hang on. Hang on. Hang on. 03:15:50                  6 Hang on.                  7 I have -- I think I've got probably one just                  8 to follow-up on Mr. Block's last question.                  9 Dr. Carlson, do we have information on                  10 whether there are retained physical advantages when 03:16:04                  11 people undergo a transition from -- undergo a                  12 transition from male to female?                  13 MR. BLOCK: Objection to form.                  14 THE WITNESS: Yes.                  15 MR. FRAMPTON: Okay. That's all I had. 03:16:19                  16 MR. BLOCK: All right. So I have another                  17 question.                  18 BY MR. BLOCK:                  19 Q What -- can you please describe the studies                  20 that we have that provide information that form the 03:16:36                  21 basis of your answer to counsel's question?                  22 A Retained differences in -- well, the Roberts                  23 study, for one. The Roberts study showed retained                  24 differences in speed.                  25 Q Are there any others? 03:17:12                  Page 223</p>	<p>1 deposition of Dr. Chad Carlson.                  2 The total number of media units used was                  3 eight and will be retained by Veritext Legal                  4 Solutions.                  5 (TIME NOTED: 3:19 p.m.)                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25                  Page 225</p>



<p>1 CASE: B.P.J. vs. WEST VIRGINIA STATE BOARD OF EDUCATION 2 WITNESS: CHAD T. CARLSON, M.D., (#JOB NO 5122881) 3 ERRATA SHEET 4 PAGE___ LINE___ CHANGE_____ 5 _____ 6 REASON_____ 7 PAGE___ LINE___ CHANGE_____ 8 _____ 9 REASON_____ 10 PAGE___ LINE___ CHANGE_____ 11 _____ 12 REASON_____ 13 PAGE___ LINE___ CHANGE_____ 14 _____ 15 REASON_____ 16 PAGE___ LINE___ CHANGE_____ 17 _____ 18 REASON_____ 19 PAGE___ LINE___ CHANGE_____ 20 _____ 21 REASON_____ 22 _____ 23 _____ 24 WITNESS _____ Date _____ 25 _____</p>	

[&amp; - 63.7]

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**[650 - affect]**

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**[difficulty - endocrinologist]**

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**[endocrinology - expression]**

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**[extend - fitness]**

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**[fitness - frampton]**

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**[frampton - girls]**

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**[girls - habit]**

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**[pattern - playing]**

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**[playing - preventative]**

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[tryon - videographer]

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[witness - year]

100:1,11 101:6 109:6,22 112:10 112:22 113:5,18 114:5,7,17 115:23 116:13,22 118:9 118:17 119:14,24 120:12 121:3 122:11,17 123:1 123:20 124:12,25 125:14 126:22 127:16 128:3,14 129:9 131:10 132:9 133:10 134:6,15,20 135:23 136:25 137:8 139:19 140:12,14 141:15 141:24 142:4 143:17 145:18,23 146:3,16 148:16 149:22,25 150:14 150:16,21 151:7 151:20 152:3,15 153:8 155:6 160:4 160:11 161:14,20 162:3,16 163:5 164:2 166:24 167:2 168:15 169:7 170:16 173:2 174:22 175:3 176:2,22 179:11 180:4,20 182:4,20 183:20 185:13,22 186:4 186:22 189:11 190:5,15 193:5 194:13,22 195:7 195:22 196:16,24 197:17,24 198:7 199:4,20 200:5 202:9 203:4 205:3	206:16 207:5 211:8,17 212:6 215:3 216:3,25 217:11,21 218:7,9 218:24 219:24 220:11,19 221:10 221:19 222:11,17 223:14 224:11,18 227:15 228:13,16 229:2,5 230:2,24 <b>witness's</b> 46:8 <b>witnesses</b> 227:6 <b>woman</b> 22:5,6,8 37:9 67:13,16,16 68:1,2 69:6 116:18,18 120:18 123:9,16 128:9 129:13 131:21,22 132:5,20 133:5,6 135:16,18,18,20 136:20,21 137:3,4 137:15 138:18,20 140:6,9 157:1 181:3,7 190:2,9,11 201:4,6 202:19 <b>woman's</b> 114:20 133:4,7 189:25 201:4 <b>women</b> 53:7 54:6 62:13 63:2 64:16 66:5,24 85:5,13,21 102:2 110:18 111:12 112:6,16 113:10 122:3,15 123:16 124:7,8 125:2,3 127:7,23 132:6,7 138:6,7 139:5,6,16 141:6 141:10,20 142:5 142:12 156:6,10 185:4,7,9,19,25	187:21 188:9,16 188:19 190:16 202:3,6,24 203:1 203:16 204:24 217:17 218:5,17 218:20,25 219:2,6 219:10,17 220:9 221:3,4,15,21,22 222:1,3 224:7,14 <b>women's</b> 25:2,14 26:3 53:7 54:6 109:24 123:9 126:4 135:20 136:22 137:5 139:7 140:10 154:18,21 155:25 156:3 194:5 202:3 211:13 213:7 214:10 216:1 <b>word</b> 21:17,19,21 36:25 37:2 42:19 84:1 <b>words</b> 22:3 52:1,4 52:9,13,25 86:1,9 86:12 111:18,19 112:4 <b>work</b> 47:13 50:19 62:15 75:16 77:8 <b>working</b> 65:25 81:15 <b>works</b> 27:4 108:6 <b>world</b> 120:16 124:17 125:22 126:7 127:6,13,22 128:8,21 139:21 141:2,10 205:23 <b>world.com</b> 157:12 <b>wrestle</b> 191:19 <b>wrestling</b> 208:14 <b>write</b> 14:7,17 30:16,21 79:13	173:15,17 206:14 <b>writing</b> 44:22 62:22 <b>written</b> 44:14,16 44:19,23 45:2,9,16 45:17 147:15 <b>wrong</b> 179:3 208:5 <b>wrote</b> 155:20 <b>wvago.gov</b> 3:10 <b>wvssac</b> 223:1 <b>wyant</b> 4:16 12:10  <b>x</b>  <b>x</b> 229:1 <b>xx</b> 24:1,4 <b>xy</b> 24:1,4 26:2  <b>y</b>  <b>yeah</b> 17:6 27:11 28:25 29:1 35:20 38:19 46:9 49:11 50:2 52:24 54:15 70:6 76:20 84:18 84:18 91:24 99:11 110:14 112:13 121:7 129:16 130:25 134:17 138:25 142:20 144:14,18 155:3 156:20 158:1 168:6 170:19 173:7 176:22 177:23,25 179:21 180:4,11 186:17 186:17,19,22 187:14 189:17 190:7 197:10 198:20 204:5,5 209:25 219:15 <b>year</b> 31:10 32:1 46:18,23 81:5,6,7 81:8,9,19 86:17
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**[year - zoom]**

87:1,2,3,6,15,23 90:17,18,25 91:6,7 91:11,11 121:21 121:23 197:14,19 198:20,21,22,22 199:8 200:1,2 <b>years</b> 13:19 14:1 53:24 55:22 61:15 80:13 81:10 162:5 207:9 210:3,8,14 210:24 <b>yep</b> 46:6 168:22 <b>york</b> 6:19,19 7:9,9 <b>young</b> 99:19 213:12 <b>younger</b> 91:19 <b>youth</b> 8:22 9:10 16:25 48:3 92:21 92:22 112:3 191:21 192:5 214:5,7 216:16
<b>z</b>
<b>z</b> 172:8,14 <b>zero</b> 196:10 <b>zholestrom</b> 5:22 <b>zoe</b> 5:9 11:11 <b>zoom</b> 3:1 169:17

Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

VERITEXT LEGAL SOLUTIONS  
COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

Veritext Legal Solutions is committed to maintaining the confidentiality of client and witness information, in accordance with the regulations promulgated under the Health Insurance Portability and Accountability Act (HIPAA), as amended with respect to protected health information and the Gramm-Leach-Bliley Act, as amended, with respect to Personally Identifiable Information (PII). Physical transcripts and exhibits are managed under strict facility and personnel access controls. Electronic files of documents are stored in encrypted form and are transmitted in an encrypted fashion to authenticated parties who are permitted to access the material. Our data is hosted in a Tier 4 SSAE 16 certified facility.

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Inquiries about Veritext Legal Solutions' confidentiality and security policies and practices should be directed to Veritext's Client Services Associates indicated on the cover of this document or at [www.veritext.com](http://www.veritext.com).

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I, CHAD T. CARLSON, M.D., FACSM, do hereby declare under penalty of perjury that I have read the foregoing transcript; that I have made any corrections as appear noted, in ink, initialed by me, or attached hereto; that my testimony as contained herein, as corrected, is true and correct.

EXECUTED this 11 day of May\_\_\_\_\_,  
2022\_\_, at West Des Moines\_\_\_\_\_, Iowa\_\_\_\_\_.  
(City) (State)



CHAD T. CARLSON, M.D., FACSM  
VOLUME I

1 I, the undersigned, a Certified Shorthand  
2 Reporter of the State of California, do hereby  
3 certify:

4 That the foregoing proceedings were taken  
5 before me at the time and place herein set forth;  
6 that any witnesses in the foregoing proceedings,  
7 prior to testifying, were placed under oath; that a  
8 record of the proceedings was made by me using  
9 machine shorthand which was thereafter transcribed  
10 under my direction; further, that the foregoing is  
11 an accurate transcription thereof.

12 I further certify that I am neither  
13 financially interested in the action nor a relative  
14 or employee of any attorney of any of the parties.

15 IN WITNESS WHEREOF, I have this date  
16 subscribed my name.

17  
18 Dated: April 11, 2022

19  
20  
21 

22 ALEXIS KAGAY

23 CSR NO. 13795

24  
25

1 HAL FRAMPTON

2 HFrampton@adflegal.org

3 April 11, 2022

4 RE: B.P.J. vs. WEST VIRGINIA STATE BOARD OF EDUCATION

5 March 28, 2022, CHAD T. CARLSON, M.D., JOB NO. 5122881

6 The above-referenced transcript has been

7 completed by Veritext Legal Solutions and

8 review of the transcript is being handled as follows:

9 \_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Contact Veritext  
10 to schedule a time to review the original transcript at  
11 a Veritext office.

12 \_\_\_ Per CA State Code (CCP 2025.520 (a)-(e)) - Locked .PDF  
13 Transcript - The witness should review the transcript and  
14 make any necessary corrections on the errata pages included  
15 below, notating the page and line number of the corrections.  
16 The witness should then sign and date the errata and penalty  
17 of perjury pages and return the completed pages to all  
18 appearing counsel within the period of time determined at  
19 the deposition or provided by the Code of Civil Procedure.

20 \_\_\_ Waiving the CA Code of Civil Procedure per Stipulation of  
21 Counsel - Original transcript to be released for signature  
22 as determined at the deposition.

23 \_\_\_ Signature Waived - Reading & Signature was waived at the  
24 time of the deposition.

25

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1     \_X\_ Federal R&S Requested (FRCP 30(e)(1)(B)) - Locked .PDF  
2           Transcript - The witness should review the transcript and  
3           make any necessary corrections on the errata pages included  
4           below, notating the page and line number of the corrections.  
5           The witness should then sign and date the errata and penalty  
6           of perjury pages and return the completed pages to all  
7           appearing counsel within the period of time determined at  
8           the deposition or provided by the Federal Rules.  
9     \_\_ Federal R&S Not Requested - Reading & Signature was not  
10           requested before the completion of the deposition.

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1 CASE: B.P.J. vs. WEST VIRGINIA STATE BOARD OF EDUCATION

2 WITNESS: CHAD T. CARLSON, M.D., (#JOB NO 5122881)

3 E R R A T A S H E E T

4 PAGE\_\_25\_\_ LINE\_\_19\_\_ CHANGE\_\_\_\_\_

5 should read "categorically stronger and  
6 faster"\_\_\_\_\_ REASON\_\_replacing  
7 technical difficulty\_\_\_\_\_

8 PAGE\_\_41\_\_ LINE\_\_8\_\_ CHANGE\_should read "I don't\_\_\_\_\_

9 believe I've been retained to provide"\_\_\_\_\_

10 REASON\_more accurately reflects what was said\_\_\_\_\_

11 PAGE\_\_41\_\_ LINE\_15-17\_\_ CHANGE\_I believe some of this

12 text was Mr. Block\_\_\_\_\_

13 REASON\_more accurately reflects what was said\_\_\_\_\_

14 PAGE\_\_48\_\_ LINE\_\_15\_\_ CHANGE\_should read "on site" not

15 "insight"\_\_\_\_\_

16 REASON\_more accurately reflects what was said\_\_\_\_\_

17 PAGE\_\_53\_\_ LINE\_\_19\_\_ CHANGE\_Should read "both before

18 and after transition"\_\_\_\_\_

19 REASON\_more accurately reflects what was said\_\_\_\_\_

20 PAGE\_\_112\_\_ LINE\_\_4\_\_ CHANGE\_"they" should be

21 "I"\_\_\_\_\_

22 REASON\_\_more accurately reflects what was said\_\_\_\_\_

23  \_\_\_\_\_ May 11, 2022\_\_\_\_\_

24 WITNESS Date

25



1 CASE: B.P.J. vs. WEST VIRGINIA STATE BOARD OF EDUCATION  
2 WITNESS: CHAD T. CARLSON, M.D., (#JOB NO 5122881)

3 E R R A T A S H E E T

4 PAGE\_149\_\_\_ LINE\_11\_\_\_ CHANGE\_"There's" should be  
5 "Those"\_\_\_\_\_

6 REASON\_more accurately reflects what was said\_\_\_\_\_

7 PAGE\_\_202\_\_\_ LINE\_\_21\_\_\_ CHANGE\_replace (technical  
8 difficulty) with "individual"\_\_\_\_\_

9 REASON\_filling in testimony missed because of technical  
10 difficulty\_\_\_\_\_

11 PAGE\_\_18\_\_\_ LINE\_5\_\_\_ CHANGE\_I was also retained by the  
12 State of Arkansas, but I have not performed any work for  
13 that engagement because the law has not been challenged

14 REASON\_\_remembered additional

15 engagemenet\_\_\_\_\_ PAGE\_\_\_\_\_ LINE\_\_\_\_\_

16 CHANGE\_\_\_\_\_

17

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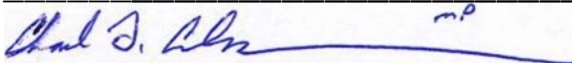
19

20 REASON\_\_\_\_\_

21 PAGE\_\_\_\_\_ LINE\_\_\_\_\_ CHANGE\_\_\_\_\_

22

23 REASON\_\_\_\_\_

24 

May 11, 2022\_\_\_

25 WITNESS

Date

1 IN THE UNITED STATES DISTRICT COURT  
2 FOR THE WESTERN DISTRICT OF WEST VIRGINIA  
3 CHARLESTON DIVISION  
4

5 \_\_\_\_\_  
6 B.P.J. by her next friend and )  
mother, HEATHER JACKSON, )  
7 Plaintiff, )

8 vs. )

No. 2:21-cv-00316

9 WEST VIRGINIA STATE BOARD OF )  
EDUCATION, HARRISON COUNTY )  
10 BOARD OF EDUCATION, WEST )  
VIRGINIA SECONDARY SCHOOL )  
11 ACTIVITIES COMMISSION, W. )  
CLAYTON BURCH in his official )  
12 capacity as State )  
Superintendent, DORA STUTLER, )  
13 in her official capacity as )  
Harrison County )  
14 Superintendent, and THE STATE )  
OF WEST VIRGINIA, )

15 Defendants, )

16 LAINEY ARMISTEAD, )

17 Defendant-Intervenor.)  
18 \_\_\_\_\_)

19 VIDEOTAPED DEPOSITION OF  
STEPHEN LEVINE

20 Wednesday, March 30, 2022

Volume I

21  
22  
23 Reported by:  
ALEXIS KAGAY  
24 CSR No. 13795  
Job No. 5122884  
25 PAGES 1 - 289

1 IN THE UNITED STATES DISTRICT COURT  
 2 FOR THE WESTERN DISTRICT OF WEST VIRGINIA  
 3 CHARLESTON DIVISION  
 4  
 5 \_\_\_\_\_  
 6 B.P.J. by her next friend and  
 mother, HEATHER JACKSON, )  
 7 )  
 Plaintiff, )  
 8 ) No. 2:21-cv-00316  
 vs. )  
 9 )  
 WEST VIRGINIA STATE BOARD OF )  
 10 EDUCATION, HARRISON COUNTY )  
 BOARD OF EDUCATION, WEST )  
 11 VIRGINIA SECONDARY SCHOOL )  
 ACTIVITIES COMMISSION, W. )  
 12 CLAYTON BURCH in his official  
 capacity as State )  
 13 Superintendent, DORA STUTLER,  
 in her official capacity as )  
 14 Harrison County )  
 Superintendent, and THE STATE )  
 15 OF WEST VIRGINIA, )  
 )  
 16 Defendants, )  
 )  
 17 LAINEY ARMISTEAD, )  
 )  
 18 Defendant-Intervenor.)  
 \_\_\_\_\_ )  
 19 )  
 20 Remote videotaped deposition of  
 21 STEPHEN LEVINE, Volume I, taken on behalf of Plaintiff,  
 22 with all participants appearing remotely, beginning at  
 23 9:09 a.m. and ending at 5:46 p.m. on Wednesday,  
 24 March 30, 2022, before ALEXIS KAGAY, Certified  
 25 Shorthand Reporter No. 13795.

1 APPEARANCES (via Zoom Videoconference):  
 2  
 3 For The Plaintiff B.P.J.:  
 4 COOLEY  
 5 BY: KATELYN KANG  
 6 BY: VALERIA M. PELET DEL TORO  
 7 BY: ANDREW BARR  
 8 BY: KATHLEEN HARTNETT  
 9 BY: JULIE VEROFF  
 10 BY: ELIZABETH REINHARDT  
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 14 For West Virginia Board of Education and Superintendent  
 15 Burch, Heather Hutchens as general counsel for the  
 16 State Department of Education:  
 17 BAILEY & WYANT, PLLC  
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<p>1 APPEARANCES (Continued):                  2                  3 For defendants Harrison County Board of Education and                  4 Superintendent Dora Stutler:                  5 STEPTOE &amp; JOHNSON PLLC                  6 BY: SUSAN L. DENIKER                  7 Attorney at Law                  8 400 White Oaks Boulevard                  9 Bridgeport, West Virginia 26330                  10 304.933.8154                  11 Susan.Deniker@Steptoe-Johnson.com                  12                  13                  14 For West Virginia Secondary School Activities                  15 Commission:                  16 SHUMAN MCCUSKEY SLICER                  17 BY: SHANNON ROGERS                  18 Attorney at Law                  19 1411 Virginia Street E                  20 Suite 200                  21 Charleston, West Virginia 25301-3088                  22 SRogers@Shumanlaw.com                  23                  24                  25</p>	<p>1 INDEX                  2 WITNESS EXAMINATION                  3 STEPHEN LEVINE                  4 Volume I                  5                  6 BY MS. HARTNETT 14                  7                  8                  9 EXHIBITS                  10 NUMBER DESCRIPTION PAGE                  11 Exhibit 86 Expert Declaration of Dr. Stephen 51                  12 B. Levine in Support of                  13 Plaintiff's Motion for                  14 Preliminary Injunction                  15                  16 Exhibit 87 Declaration of Stephen B. Levine, 69                  17 M.D.                  18                  19 Exhibit 88 Presentation of Healthcare Models 217                  20 for Transgender Adolescents                  21                  22 Exhibit 89 Video Clip 256                  23                  24 Exhibit 90 Video Clip 258                  25</p>
Page 6	Page 8
<p>1 APPEARANCES (Continued):                  2                  3 For West Virginia Secondary School Activities                  4 Commission:                  5 SHUMAN MCCUSKEY SLICER                  6 BY: ROBERTA GREEN                  7 Attorney at Law                  8 1411 Virginia Street E                  9 Suite 200                  10 Charleston, West Virginia 25301-3088                  11 RGreen@Shumanlaw.com                  12                  13                  14                  15 Also Present:                  16 MITCH REISBORD - VERITEXT CONCIERGE                  17                  18 Videographer:                  19 KIMBERLEE DECKER                  20                  21                  22                  23                  24                  25</p>	<p>1 Exhibit 91 Video Clip 260                  2                  3 Exhibit 92 Video Clip 261                  4                  5 Exhibit 93 Video Clip 263                  6                  7 Exhibit 94 Video Clip 265                  8                  9 Exhibit 95 Video Clip 267                  10                  11 Exhibit 96 Video Clip 267                  12                  13 Exhibit 97 Video Clip 268                  14                  15 Exhibit 98 Video Clip 269                  16                  17 Exhibit 99 Video Clip 270                  18                  19 Exhibit 100 Video Clip 271                  20                  21 Exhibit 101 Video Clip 272                  22                  23 Exhibit 102 Video Clip 275                  24                  25 Exhibit 103 Video Clip 278</p>
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<p>1 2 Exhibit 104 Video Clip 278 3 4 Exhibit 105 Video Clip 279 5 6 7 8 9 10 11 12 13 14 15 16 17 18 19 20 21 22 23 24 25</p> <p style="text-align: right;">Page 10</p>	<p>1 noticing attorney. 2 MS. HARTNETT: Good morning. I am Kathleen 3 Hartnett from Cooley, LLP, and I represent the 4 plaintiff B.P.J. 5 I will let my co-counsel introduce themselves, 06:10:40 6 starting with my colleagues at Cooley. 7 MR. BARR: Good morning. Andrew Barr from 8 Cooley, LLP, for the plaintiff. 9 MS. VEROFF: Good morning. This is Julie 10 Veroff from Cooley, LLP, for Plaintiff. 06:10:53 11 MS. KANG: Good morning. This is Katelyn Kang 12 from Cooley, LLP, for Plaintiff. 13 MS. PELET DEL TORO: Good morning. This is 14 Valeria Pelet del Toro of Cooley, for Plaintiff. 15 MS. REINHARDT: Good morning. This is 06:11:00 16 Elizabeth Reinhardt at Cooley, for Plaintiff. 17 MS. HELSTROM: Hello. This is Zoe Helstrom 18 from Cooley, LLP, for Plaintiff. 19 COUNSEL SWAMINATHAN: Good morning. This is 20 Sruti Swaminathan from Lambda Legal, for Plaintiff. 06:11:26 21 And I have a paralegal at Lambda, Maia Zelkind, with me 22 as well. 23 MR. BLOCK: Good morning. This is Josh Block 24 from the ACLU, for Plaintiff. 25 MS. DENIKER: Good morning. Susan Deniker 06:11:44 Page 12</p>
<p>1 Wednesday, March 30, 2022 2 9:09 a.m. A.M. 3 THE VIDEOGRAPHER: We are on the record at 4 9:09 a.m. on March the 30th of 2022. 5 All participants are attending remotely. 06:09:27 6 Audio and video recording will continue to 7 take place unless all parties agree to go off the 8 record. 9 This is media unit 1 of the recorded 10 deposition of Dr. Stephen Levine, taken by counsel for 06:09:39 11 the plaintiff, in the matter of B.P.J., by her be- -- 12 by her next friend and mother, Heather Jackson, versus 13 West Virginia State Board of Education, filed in the 14 U.S. District Court, for the Southern District of 15 West Virginia, Charleston Division, Case 06:09:59 16 Number 2:21-cv-00316. 17 My name is Kimberlee Decker from Veritext 18 Legal Solutions, and I am the videographer. The court 19 reporter is Alexis Kagay. 20 I am not related to any party in this action, 06:10:16 21 nor am I financially interested in the outcome. 22 Counsel and all present will now state your 23 appearances and affiliations for the record. If there 24 are any objections to proceeding, please state them at 25 the time of your appearance, beginning with the 06:10:31 Page 11</p>	<p>1 from Steptoe &amp; Johnson, PLLC, representing Harrison 2 County Board of Education and Superintendent Dora 3 Stutler. 4 MS. MORGAN: This is Kelly Morgan on behalf of 5 the West Virginia Board of Education and 06:11:58 6 Superintendent Burch. 7 MS. ROGERS: This is Shannon Rogers on behalf 8 of the West Virginia Secondary School Activities 9 Commission. 10 MR. TRYON: This is David Tryon. I'm with the 06:12:12 11 West Virginia attorney general's office, representing 12 the State of West Virginia. 13 MR. BROOKS: This is Roger Brooks with 14 Alliance Defending Freedom, representing the intervenor 15 Lainey Armistead and defending Dr. Levine today in this 06:12:28 16 deposition. With me is my colleague and law clerk, 17 Lawrence Wilkinson. 18 THE VIDEOGRAPHER: Thank you. 19 Will the court reporter please swear in the 20 witness. 06:12:41 21 22 STEPHEN LEVINE, 23 having been administered an oath, was examined and 24 testified as follows: 25</p> <p style="text-align: right;">Page 13</p>

<p>1 EXAMINATION                  2 BY MS. HARTNETT:                  3 Q Good morning, Dr. Levine.                  4 A Good morning.                  5 MS. HARTNETT: Before we start, I'm just going 06:13:01                  6 to put a housekeeping matter on the record that the                  7 attorneys discussed before we went on the record and                  8 that is that objection to form preserves all objections                  9 other than privilege and that the parties will make an                  10 effort to use "form," "scope" and "terminology" as the 06:13:13                  11 shorthand objections. In addition, an objection by one                  12 defendant is an objection for all defendants.                  13 Could any counsel for the defense let me know                  14 if they have any disagreement with that?                  15 MR. BROOKS: We have agreed, in fact. 06:13:30                  16 MS. HARTNETT: Thank you very much.                  17 BY MS. HARTNETT:                  18 Q So again, my name is Kathleen Hartnett, and                  19 I'm with the law firm called Cooley, LLP.                  20 Can you hear me okay? 06:13:41                  21 A I do. At this point, yes.                  22 Q Okay. Please let me know if that changes.                  23 I use she/her pronouns.                  24 Would you please state and spell your name for                  25 the record. 06:13:53</p> <p style="text-align: right;">Page 14</p>	<p>1 psychiatric evaluation of the developmental history and                  2 the in prison history of the patient and the -- the                  3 psychology of his new transgender identity.                  4 Q And you say "new transgender identity."                  5 Was the new identity of -- male or female? 06:16:02                  6 A The -- the new identity as a transgender                  7 woman.                  8 MR. BROOKS: And -- and, Counsel, I will                  9 caution that obviously any detail about a psychiatric                  10 evaluation of an individual prisoner is a matter 06:16:18                  11 covered by confidentiality that Dr. Levine is not free                  12 to get into detail about.                  13 MS. HARTNETT: I hear you. I -- this is not a                  14 disclosed matter on his CV and is a recent deposition,                  15 so we'll have to just determine whether we need more 09:16:23                  16 information, but thank you.                  17 BY MS. HARTNETT:                  18 Q Could you let me know what -- without giving                  19 any personal identifying -- or, I guess, any more                  20 detail than you believe appropriate, could you tell me 09:16:33                  21 what the nature of any recommendations you made were in                  22 that matter?                  23 A My recommendations were to provide a pathway                  24 towards further evaluation so that eventually a                  25 decision could be made about whether sex reassignment 09:16:56</p> <p style="text-align: right;">Page 16</p>
<p>1 A Stephen Barrett Levine, S-T-E-P-H-E-N                  2 B-A-R-R-E-T L-E-V-I-N-E.                  3 Q And what pronouns do you use?                  4 A He/him.                  5 Q Thank you. Dr. Levine, you've been deposed 06:14:07                  6 many times before; correct?                  7 A Yes.                  8 Q Was the most recent deposition that you gave                  9 in September of last year, 2021?                  10 A No. 06:14:21                  11 Q What was the most recent deposition that you                  12 gave?                  13 A In -- within the last month, I was deposed in                  14 a Connectica- -- a Connecticut case involving a                  15 transgender prisoner. 06:14:41                  16 Q Do you know the name of that case?                  17 A Probably Clark versus the department of                  18 corrections in Connecticut. Connecticut Department of                  19 Corrections (sic).                  20 Q Okay. And what was your -- the nature of your 06:15:01                  21 testimony in that Connecticut case, this recent                  22 deposition that you gave?                  23 A Well, I provided a psychiatric evaluation of                  24 the patient and made recommendations. It -- it was --                  25 I'm hesitating because -- I provided a thorough 06:15:28</p> <p style="text-align: right;">Page 15</p>	<p>1 surgery would be appropriate.                  2 The -- the reason I'm hesitating is that that                  3 really did not come to be the subject of the                  4 deposition. The subject of the deposition really was                  5 the contents of my evaluation, which was done two years 09:17:24                  6 before, and -- so lots of things had happened in the                  7 two years since I saw the patient or interviewed the                  8 patient and -- so I was not able to make                  9 recommendations based on current knowledge of the                  10 patient, and so I did not. 09:17:43                  11 Q And was the -- prior to this recent deposition                  12 in Clark, was the most recent deposition before that                  13 the deposition in September of last year?                  14 A Yes.                  15 Q Thank you. And I'm asking that by way of 09:18:03                  16 introduction just because I want to make sure we're on                  17 the same page about the ground rules for the                  18 deposition, and it sounds like you've been through this                  19 before, but I'll just let you know my basic ground                  20 rules and make sure we're on the same page. 09:18:18                  21 So I will ask questions, and you must answer                  22 the questions unless your counsel instructs you not to                  23 answer.                  24 Do you understand that?                  25 A I do. 09:18:26</p> <p style="text-align: right;">Page 17</p>

<p>1 Q And if your counsel objects, you'll still need 2 to answer my question unless you've been instructed not 3 to answer.</p> <p>4 Do you understand that?</p> <p>5 A I do. 09:18:35</p> <p>6 Q If you don't answer (sic) my question, could 7 you please let me know, and I'll be happy to try to 8 rephrase it or make it clear for you?</p> <p>9 Does that make sense?</p> <p>10 A I'll try to remember. 09:18:48</p> <p>11 Q And if you answer, I will assume you 12 understood the question.</p> <p>13 Do you understand that?</p> <p>14 A Yes.</p> <p>15 Q I'm going to try -- try to take a break every 09:19:00 16 hour or so. If you need a break at a different time, 17 please let me know.</p> <p>18 Do you understand that?</p> <p>19 A I understand.</p> <p>20 Q And if I've asked a question, you'll need to 09:19:11 21 provide an answer before we take a break.</p> <p>22 Do you also understand that?</p> <p>23 A I do.</p> <p>24 Q I will do my best not to speak over you -- and 25 please use verbal answers so the court reporter can 09:19:25 Page 18</p>	<p>1 under oath today just as if you were testifying in 2 court?</p> <p>3 A Yes.</p> <p>4 Q Is there anything that would prevent you from 5 testifying truthfully today? 09:20:32</p> <p>6 A No.</p> <p>7 Q Are you taking any medication that would 8 affect your ability to give truthful testimony?</p> <p>9 A Well, I took a sleeping pill last night, but I 10 feel reasonably alert today. 09:20:48</p> <p>11 Q Okay. So you don't -- you don't have a belief 12 that that medication you took last night will affect 13 your ability to give truthful testimony today?</p> <p>14 A I -- I don't think it will.</p> <p>15 Q Do you know what case you're being deposed in 09:21:06 16 today?</p> <p>17 A Well, I -- yes.</p> <p>18 Q What case is that?</p> <p>19 A B.P.J. versus Department of Education.</p> <p>20 Q And do you know what jurisdiction this case is 09:21:19 21 from?</p> <p>22 A West Virginia.</p> <p>23 Q And do you have -- sorry.</p> <p>24 Do you have an understanding of the issue 25 presented by this case? 09:21:35 Page 20</p>
<p>1 transcribe your answers. Nodding or shaking your head 2 can't be captured on the transcript.</p> <p>3 Do you understand that?</p> <p>4 A I do, but I can guarantee you you'll have to 5 remind me of that. 09:19:36</p> <p>6 Q Well, you may have to do the same for me, but 7 we'll try.</p> <p>8 I also just want to explain what I'm going to 9 mean when I use a couple of terms today.</p> <p>10 For purposes of this deposition, when I say 09:19:51 11 "cisgender," I will mean someone who's gender identity 12 matches the sex that was recorded for that person at 13 birth.</p> <p>14 Do you understand that?</p> <p>15 A Yes. 09:20:02</p> <p>16 Q And then when I say the word "transgender," I 17 will mean someone whose gender identity does not match 18 the sex for which was recorded at birth.</p> <p>19 Do you understand that?</p> <p>20 A Yes. 09:20:13</p> <p>21 Q And when I say "B.P.J.," I'm referring to the 22 plaintiff in this case.</p> <p>23 Do you understand that?</p> <p>24 A Yes.</p> <p>25 Q Do you understand that you are testifying 09:20:21 Page 19</p>	<p>1 A I have an understanding. I'm not sure it is 2 the correct understanding, but I do have an 3 understanding.</p> <p>4 Q Understood. What is your understanding of 5 this case? 09:21:47</p> <p>6 A The plaintiff and next friend and mother wish 7 the young person to be able to compete in athletics 8 according to their current gender identity and 9 apparently the State Board of Education is -- 10 disagrees. 09:22:13</p> <p>11 Q Okay. Thank you.</p> <p>12 So we already touched on that you had been 13 deposed previously. I just want to ask you about a 14 couple of specific depositions you gave to see if you 15 recall those? 09:22:29</p> <p>16 There was a matter in North Carolina called 17 Kadel that you gave a deposition in September of 2021 18 regarding state employee healthcare.</p> <p>19 Do you recall giving that deposition?</p> <p>20 A Would you repeat -- regarding what? I didn't 09:22:41 21 hear that last phrase.</p> <p>22 Q I'll try to speak more slowly.</p> <p>23 That was regarding -- so let me just start 24 that one again.</p> <p>25 So do you recall giving a deposition in a 09:22:51 Page 21</p>

<p>1 North Carolina matter called Kadel in September of 2021                  2 regarding state employee healthcare?                  3 A Yes.                  4 Q Do you recall giving a deposition in a Florida                  5 case in December of 2020 called "Claire"? That was 09:23:07                  6 also about state employee healthcare.                  7 A Yes.                  8 Q There also was a case called Keohane in                  9 Florida where you gave a deposition in 2017 and that                  10 was a prisoner case. 09:23:21                  11 Do you recall that?                  12 A Yes.                  13 Q Did you give true and correct testimony in                  14 those depositions?                  15 A Yes. 09:23:31                  16 Q Have you always given true and correct                  17 testimony in your depositions?                  18 A To the best of my knowledge, yes.                  19 Q Thank you. And you've had depositions in                  20 cases involving prisoners who were seeking care for 09:23:45                  21 gender dysphoria; is that correct?                  22 A Yes.                  23 Q Have you ever testified in favor of a prisoner                  24 who was seeking medical care for gender dysphoria?                  25 A Yes. 09:23:59</p> <p style="text-align: right;">Page 22</p>	<p>1 testified that a prisoner should receive gender                  2 confirmation surgery?                  3 A I'm hesitating to answer the question because                  4 it's about testimony. In my work as consultant, I have                  5 repeatedly recommended both surgery and, more -- more 09:26:25                  6 commonly, hormone treatment, electrolysis treatment,                  7 canteen item treatment. Most of -- the vast majority                  8 of these cases never come to trial.                  9 Q When is the last time that you recommended                  10 that a pres- -- a prisoner should have hormone 09:26:46                  11 treatment?                  12 A It would have been the third Thursday in                  13 March, this year.                  14 Q And where is that prisoner located?                  15 A Massachusetts. 09:27:06                  16 Q Can you estimate how many prisoners you've                  17 given a recommendation about through the course of your                  18 career?                  19 A That would be very difficult. I've been the                  20 consultant to the department of corrections gender 09:27:30                  21 identity committee since, I think, 2008 and every month                  22 since that time, with less than one handful of                  23 exceptions, I've been present at discussions, and we've                  24 recommended accommodations in prison to people who                  25 declare identity as a trans woman. And I would say 09:27:58</p> <p style="text-align: right;">Page 24</p>
<p>1 Q Can you describe those instances where you've                  2 testified in favor of a prisoner seeking medical care                  3 for gender dysphoria?                  4 A In the last case involving a prisoner by the                  5 name of Soneeya, S-O-N-E-E-Y-A, I recommended transfer 09:24:14                  6 to a female prisoner and -- sorry -- transfer to a                  7 female prison and the opportunity to have sex                  8 reassignment surgery if, after a year of adaptation                  9 there, there were no significant decompensations or                  10 problems. 09:24:44                  11 Q And do you remember what year you made that                  12 recommendation?                  13 A I think it was 2019.                  14 Q Okay. And can you -- are you aware of any                  15 other examples of you having testified in favor of a 09:25:05                  16 prisoner seeking medical care for gender dysphoria?                  17 A I'm hesitating because medical care includes                  18 many things. And so the answer is yes. It involves                  19 accommodations to their current gender identity in                  20 terms of canteen items, for example, and it includes 09:25:35                  21 the prescription of cross gender -- cross-sex hormones.                  22 So I've been involved in the provision of those kind of                  23 things repeatedly over the years for prisoners.                  24 Q Have you ever, other than in the Soneeya                  25 matter, recommended that a prisoner -- sorry -- 09:26:04</p> <p style="text-align: right;">Page 23</p>	<p>1 probably, and I ask you not to hold me to this number,                  2 40 times.                  3 Q Sorry, 40 times describes what?                  4 A That -- that I've joined a group of people who                  5 decided to provide electrolysis, canteen item -- 09:28:25                  6 special privileges for canteen items, that is, female                  7 canteen items, the ability to shower alone, the ability                  8 to be tapped down or searched by a female attendant,                  9 not a male attendant, a correction officer, hormone --                  10 the beginning of hormone treatment and -- and, of 09:28:52                  11 course, bilateral mastectomies and -- and on several                  12 occasions, male gender confirming surgery for biologic                  13 males who are living as trans women. In other words,                  14 the whole gamete of services.                  15 Q So 40 times you've recommended something -- or 09:29:19                  16 joined in a recommendation for something for -- a                  17 prisoner to receive medical care, as you've broadly                  18 described that term?                  19 A Yes.                  20 Q And then how many times can you estimate where 09:29:34                  21 you had made a recommendation that the prisoner should                  22 not receive medical care, as you've broadly defined it?                  23 A I don't think I've ever recommended that no                  24 treatment be offered to this person. The -- the --                  25 because the treatment involves that entire array of 09:30:07</p> <p style="text-align: right;">Page 25</p>



<p>1 matters that I just delineated.                  2 And so prisons -- or at least Massachusetts,                  3 where I work as a consultant, has been very --                  4 eventually, by 2008, has been -- have been very                  5 interested in providing individual services to -- to 09:30:26                  6 help these people diminish their pain about their                  7 incongruence, and I have been one of the people who                  8 devised the program.                  9 Q The prisoner that you reco- -- you                  10 recommended -- sorry -- that you were referring earlier 09:30:49                  11 to, the one in the Clark matter, do you recall us                  12 discussing that?                  13 A I do.                  14 Q And that person identifies as female; correct?                  15 A Yes. 09:31:00                  16 Q Do you view that person as a female?                  17 A I view that person as a trans woman.                  18 Q You have just testified that you've never                  19 recommended that a -- no treatment be offered to a                  20 prisoner for gender dysphoria; is that correct? 09:31:22                  21 A I'm hesitating because "no treatment"                  22 includes -- would include all of the above, of the                  23 array I previously listed, and at this moment, I don't                  24 recall ever saying no treatment should be given to this                  25 individual, no accommodation should be given to this 09:31:47                  Page 26</p>	<p>1 BY MS. HARTNETT:                  2 Q My question is whether you've ever recommended                  3 any gender confirming surgery as medically necessary                  4 for a prisoner.                  5 A Yes, I -- I have signed my name to such 09:33:47                  6 documents, such recommendations, because where I work,                  7 in Massachusetts, this is the way that the -- most of                  8 the staff and -- and -- that -- that is the common term                  9 used to -- to justify that kind of intervention.                  10 Q How many times have you signed your name to 09:34:10                  11 that kind of intervention for a prisoner?                  12 A Perhaps five times.                  13 Q And you referenced the Soneeya matter;                  14 correct?                  15 A Correct. 09:34:38                  16 Q And years earlier than the 2019 recommendation                  17 that you just described, you testified against surgery                  18 for that prisoner; correct?                  19 A That is not correct.                  20 Q What's not correct about that? 09:34:50                  21 A That I did not testify -- I did not testify                  22 against sex reassignment surgery.                  23 Q Did you testify against something earlier in                  24 that matter?                  25 A I testified the recommendation to -- to have 09:35:05                  Page 28</p>
<p>1 individual.                  2 Q Do you recall if you've ever recommended that                  3 no surgery be permitted for an individual in prison?                  4 A Oh, yes, I have. I have said that I didn't                  5 think sex reassignment surgery -- in those days, that's 09:32:06                  6 what we called it, but it's now called gender                  7 confirming surgery -- I have said I did not think                  8 sex -- that kind of surgery was indicated or                  9 necessary -- medically necessary.                  10 Q And so how many times did you say that surgery 09:32:26                  11 was medically necessary?                  12 A Would you repeat that, please.                  13 Q How many times did you say that surgery was                  14 medically necessary for a prisoner?                  15 MR. BROOKS: Objection; ambiguous. 09:32:45                  16 THE WITNESS: You may or may not know that I                  17 do not like the term "medically necessary." I prefer                  18 to use the term "would be psychologically beneficial to                  19 this person." So that's the reason I'm hesitating                  20 answering your question. 09:33:12                  21 I generally avoid using the term "medical                  22 necessity." Instead, I try to make a determination                  23 whether I think, in the -- in the long run, this                  24 particular intervention that we're talking about would                  25 be psychologically beneficial to the patient. 09:33:29                  Page 27</p>	<p>1 what the judge called a soft landing, like first                  2 transferring the person to a female facility, and then,                  3 based upon her adaptation there, to have sex                  4 reassignment surgery.                  5 In fact, that was really -- the issue was not 09:35:29                  6 whether the person should eventually have sex                  7 reassignment surgery, but -- but whether it should be                  8 done before transfer to the female facility or after                  9 transfer.                  10 Q Did that prisoner seek sex reassignment 09:35:46                  11 surgery before transfer?                  12 A Please repeat that.                  13 Q Did that prisoner seek sex reassignment                  14 surgery before transfer?                  15 A She did until we presented this idea to her, 09:36:04                  16 and she jumped at the idea. She thought it was a very                  17 good idea when we interviewed her. And by the time                  18 this case got to court, her attorneys were arguing for                  19 immediate sex reassignment surgery. But --                  20 Q So she -- by the time you were -- oh, pardon 09:36:27                  21 me. Please complete your answer.                  22 A So we were aware that, because we were in the                  23 room when we -- I discussed this with her, she was very                  24 happy with the idea of transfer with the -- because she                  25 was very positive that she would have a fine adaptation 09:36:41                  Page 29</p>

<p>1 among women prisoners, and she was delighted.                  2 And then months later, when this came to                  3 trial, the -- her attorney arg- -- was arguing against                  4 that.                  5 Q So you testified against her wishes as 09:37:05                  6 expressed by her attorney at trial; correct?                  7 A I never conceived that I was testifying                  8 against Soneeya. You may do that, but I -- that's not                  9 my concept.                  10 Q In the cases where you've given testimony 09:37:24                  11 about employee healthcare coverage, you were testifying                  12 against the employee healthcare coverage for gender                  13 dysphoria; correct?                  14 A Incorrect.                  15 Q What's incorrect about that? 09:37:38                  16 A What I was testifying to is my understanding                  17 of the state of science. I was not taking a stand that                  18 people should not have healthcare coverage. I was                  19 trying to inform the Court about what we knew about                  20 this subject and what we don't know about this subject. 09:37:58                  21 I didn't take a position that -- that I knew                  22 what should be done. I was just here as a -- to offer                  23 what I understood about the state of science, about                  24 various aspects of surgical and medical and                  25 psychological care for the trans population. 09:38:18                  Page 30</p>	<p>1 decision. I'm not an expert in the insurance industry                  2 at all. I -- I am certainly not an expert in the                  3 political processes in any particular state. The                  4 only -- the only knowledge base that I feel I have                  5 comes from the study of the literature and the 09:40:05                  6 participation in trans care, both in the community and                  7 in prison systems.                  8 And so the fact that the State used my                  9 testimony does not really equate, in my mind, with my                  10 position on whether or not people should have 09:40:31                  11 healthcare insurance.                  12 I -- again, to repeat, my understanding is I                  13 am somewhat knowledgeable about the state of science in                  14 this area and that the various people on law -- on the                  15 side of -- in -- in -- in -- in -- in -- in -- in -- in -- 09:40:48                  16 matter want somebody who can articulate the state of --                  17 of knowledge. And that's what I do.                  18 The state of knowledge should be applied, in                  19 my view, to both sides of the issue, not just, you                  20 know, the State or the Board of Education. It should 09:41:09                  21 be -- it should be established -- it should be relevant                  22 to the plaintiff's side.                  23 Q Were you paid by the State in the                  24 North Carolina and the Florida matters for your                  25 testimony? 09:41:27                  Page 32</p>
<p>1 Q Are you aware in the Kadel and the Claire                  2 matters -- those are the North Carolina and Florida                  3 employee healthcare coverage matters -- your testimony                  4 was submitted by the defendants in that case against                  5 the relief being sought? Are you aware of that? 09:38:37                  6 A I was aware that -- who employed me and what                  7 their purposes were, but -- but I was not enjoining                  8 psychologically with the idea that I was doing anything                  9 but offering the Court what I hope to be an objective                  10 appraisal of the state of knowledge based upon 09:39:01                  11 literature and, you know, participation in trans care                  12 over the years.                  13 Q So were you, in those two matters, agnostic as                  14 to whether the employees received the healthcare                  15 coverage or not? 09:39:21                  16 A Agnostic?                  17 Q That you didn't have a view.                  18 A Would you -- would you mind explaining that                  19 term? I'm -- I usually understand that in terms of                  20 religious notions. 09:39:34                  21 Q That you did not have a view -- in those                  22 cases, Kadel and Claire, is it fair to say you did not                  23 have a view as to whether the healthcare coverage                  24 should be extended or not?                  25 A I felt insufficient to make a societal 09:39:47                  Page 31</p>	<p>1 A Ultimately, I think I was paid by the State,                  2 but the check did not come from the State. The check                  3 came from the lawyer who employed me.                  4 Q Understood. Have you ever provided testimony                  5 with your -- what you've described as your expertise in 09:41:46                  6 favor of -- on the side of extending the healthcare                  7 coverage to tran- -- to people seeking care for gender                  8 dysphoria?                  9 A No attorney representing that side of the                  10 issue has ever hired me, but if they would, I would be 09:42:03                  11 happy to present my knowledge or -- to, and they can do                  12 what they want with that testimony.                  13 Q You were deposed in at least one child custody                  14 matter in Texas where a child wanted to transition; is                  15 that correct? 09:42:26                  16 A I was.                  17 Q And you testified in trial at that matter,                  18 too?                  19 A I did.                  20 Q And was your testimony in that case in 09:42:37                  21 opposition to the desired transition?                  22 A The testimony in that case was to present the                  23 state of knowledge about this matter. I did not take a                  24 position that a child should or should not have a                  25 particular treatment. I was just informing the Court, 09:42:56                  Page 33</p>

<p>1 as I previously described to you. I thought I was a                  2 witness about the nature of knowledge about trans                  3 children.                  4 THE WITNESS: Could you get me some water,                  5 please. 09:43:16                  6 BY MS. HARTNETT:                  7 Q Sorry, is your testimony that you, in that                  8 case, in the -- this is the Younger matter; is that                  9 correct?                  10 A Yes. That's what I understand you to be 09:43:23                  11 referring to.                  12 Q And your testi- -- your testimony today is                  13 that you were not testifying in opposition to the                  14 transition that the child -- of the child in the                  15 Younger matter? 09:43:36                  16 A I was hired by the lawyer who was representing                  17 the father who did not want his son to be transitioned                  18 to a little girl, socially. But I was not testifying                  19 that the child should not be transitioned. I was                  20 testifying -- I had no knowledge of that -- I wasn't 09:44:02                  21 asked for that question. That -- that was never asked                  22 of me, Ms. Hartnett. What was asked of me was what we                  23 knew about this subject. And, therefore, I felt                  24 comfortable sharing the state of knowledge and -- and                  25 what is missing from our knowledge. 09:44:23                  Page 34</p>	<p>1 testimony used by the party who was opposing the                  2 treatment for gender dysphoria for the child?                  3 A In that particular matter, it was the parents,                  4 who hired me, who objected to losing custody of their                  5 child when the child was hospitalized for a suicide 09:46:38                  6 gesture and told the people in the hospital that her                  7 evil parents were preventing her, at age 13, from                  8 transitioning to being a boy. And her parents --                  9 MR. BROOKS: I'm just going to interrupt and                  10 caution the witness. I'm not part of that case, but 09:47:03                  11 I -- nor do I want Dr. Levine to violate any                  12 confidentiality obligations.                  13 So as you answer, whatever level of generality                  14 you think is appropriate, just be very careful not to                  15 disclose information that you believe you received in 09:47:18                  16 confidence and that remains confidential given the                  17 conduct of that case.                  18 So I -- I don't want us in our proceedings to                  19 violate any obligations of that proceeding.                  20 THE WITNESS: Well, given that, I actually 09:47:35                  21 think anything I would say about this would violate the                  22 confidentiality rule here, and I think I've told you                  23 enough about the case.                  24 MS. HARTNETT: Well, I don't want to waste our                  25 time on the record discussing this, but we have a right 09:47:51                  Page 36</p>
<p>1 Again, it -- it has the appearance that I was                  2 testifying against the socialization of the child, but                  3 I think if you look closely at that, what I was doing                  4 was telling the Court what was known and what was not                  5 known and what the consequences were, the implications 09:44:45                  6 of treating the child one way versus another.                  7 Q So you did not testify in that matter that                  8 desistance was preferable to affirmation?                  9 A I actually don't recall if I made that                  10 statement. It's -- I just don't recall. 09:45:09                  11 Q Okay. Has your testimony -- oh, sorry.                  12 Have you testified in any other matters of --                  13 similar to the Younger matter, in which parents were                  14 disputing the proper care of their child who sought                  15 care for gender dysphoria? 09:45:37                  16 A Yes. There was a case that I believe is                  17 sealed in the Tucson court. I don't know if I'm                  18 allowed to give the name. I presume I can give the                  19 name. I don't know.                  20 MR. BROOKS: If -- if it's sealed, I would not 09:45:56                  21 give any identifying information.                  22 THE WITNESS: But the answer to your question                  23 is yes.                  24 BY MS. HARTNETT:                  25 Q And in that matter, did your -- was your 09:46:05                  Page 35</p>	<p>1 to discovery into your testimony, so we will follow up                  2 with counsel to figure how to get it.                  3 BY MS. HARTNETT:                  4 Q When was this testimony given?                  5 A In the spring of 2021. And if I'm wrong, it 09:48:13                  6 was in the spring of 2020.                  7 Q Thank you. And, sorry, what -- was the                  8 testimony given in deposition or trial or some other                  9 fashion?                  10 A In juvenile court. 09:48:32                  11 Q In what form did the testimony take?                  12 MR. BROOKS: Objection; vague.                  13 BY MS. HARTNETT:                  14 Q Just, sorry, meaning written or oral.                  15 A Oh, in person? I was in -- I was in person by 09:48:50                  16 video, and I was cross-examined, you know.                  17 I also submitted a report of the psychiatric                  18 evaluation.                  19 Q Any other testimony that you've given in a                  20 case involving parents and the potential care of a 09:49:13                  21 child with gender dysphoria?                  22 A I submitted a rebuttal to a report in a case                  23 in Cincinnati I think the first week of January of this                  24 year. The case is called Siefert, S-I-E-F-O-R-D (sic),                  25 or E-R-T, something like that. Siefert versus Hamilton 09:49:49                  Page 37</p>

<p>1 County, which is the Cincinnati county.                  2 So that would be the answer to your question.                  3 Q And what's the nature of that matter, the                  4 Siefert matter?                  5 A The -- the child, who was identifying as a 09:50:08                  6 trans male, were treated -- the parents were treated                  7 during the hospitalization as persona non grata and the                  8 hospital refused to discharge the patient even though                  9 the patient did not meet criteria for continued                  10 hospitalization and -- so the -- the parents were 09:50:46                  11 objecting to the loss of parental rights.                  12 Subsequently, the child reidentified as a                  13 female and -- so I don't know what the outcome has been                  14 legally. It's in process.                  15 And I just commented on the limitations of 09:51:07                  16 the -- another expert who felt that it was justified to                  17 keep the child in the hospital against the parents'                  18 wishes, for two and a half months.                  19 Q In the Tucson matter that you discussed,                  20 which, again, we will follow up on, but can you just 09:51:34                  21 tell me if that's been resolved? Do you know if that's                  22 reached a conclusion?                  23 A Yes, that -- the -- the particular judicial                  24 issue was -- was resolved. Whether or not the parents                  25 are going to continue to sue the -- the child welfare 09:51:56                  Page 38</p>	<p>1 wasn't lying about this case, he -- he dismissed my                  2 recommendation.                  3 So I'm aware that judges have their -- judges                  4 can make mistakes. Because I, in fact, have in my                  5 possession the case history, I saved the case history 09:54:01                  6 that was presented to me by the California Department                  7 of Corrections, and that -- no one seems to know that.                  8 Or at least the judge did not inquire about that. I                  9 never had a chance to defend myself and -- so that's --                  10 that's when my testimony was dismissed. 09:54:24                  11 Q Thank you. Is there any other time where your                  12 testimony has been excluded by a court?                  13 MR. BROOKS: Objection; vague.                  14 THE WITNESS: Well, I believe that the impact                  15 of that judge in the Noseworthy -- Norsworthy case has 09:54:48                  16 influenced two other cases to discredit my position, at                  17 least whatever I said on those other cases -- on one                  18 other case.                  19 One of the cases that -- that my name gets                  20 brought up about, I actually never submitted any 09:55:10                  21 testimony to, but someone quoted what I had taught in a                  22 workshop; and, therefore, the judge dismissed that                  23 testimony.                  24 You should understand that since that time and                  25 even before that time, my testimonies have been 09:55:29                  Page 40</p>
<p>1 organization, I -- I don't know. I haven't heard -- I                  2 haven't had any follow-up on the case since it was                  3 adjudi- -- since it was resolved.                  4 Q Thank you. Has your testimony ever been                  5 excluded by a court? 09:52:18                  6 A Yes.                  7 Q When?                  8 A 2015.                  9 Q What matter was that?                  10 A It was in the matter of a prisoner named 09:52:33                  11 Noseworthy (sic) in California.                  12 Q And what is your understanding of how your                  13 testimony was excluded?                  14 A Well, I didn't actually have testimony. I                  15 submitted a psychiatric evaluation and a 09:52:50                  16 recommendation, and I was never invited to a -- a                  17 courtroom for that.                  18 The judge -- I presented, in my written                  19 deposition, an account of a female prisoner who had a                  20 very extremely negative outcome from genital surgery, 09:53:12                  21 and the judge -- the judge thought I was lying about                  22 this case, and he also did not think that -- that I                  23 followed the Harry -- the WPATH standards of care, and                  24 he dismissed my -- without asking me one question,                  25 without asking me do I have any evidence to show that I 09:53:39                  Page 39</p>	<p>1 accepted by various courts, and -- for example, in the                  2 district court of Arizona, in a case involving                  3 insurance coverage, the judge quoted my testimony.                  4 That -- that was appealed to the Ninth Circuit Court,                  5 and the Ninth Circuit Court made -- made a reference 09:55:49                  6 to, but did not name my testimony.                  7 And so it seems to me that since -- before                  8 2015, in that particular case, and subsequent to 2015,                  9 my testimony has been accepted by various courts, in                  10 various matters involving, you know, trans issues that 09:56:10                  11 I am asked to opine about.                  12 Q Thank you. Is there any other example you can                  13 think of where your testimony has been excluded by a                  14 court?                  15 MR. BROOKS: Objection, vague. 09:56:37                  16 THE WITNESS: Well, I'm aware of the                  17 Noseworthy case, the -- the Edmo case, and there's a                  18 Hecox case.                  19 But again, all these exclusions were                  20 objections to my expertise derived from the judge in 09:56:58                  21 the Norsworthy case.                  22 And the answer to your specific question, I am                  23 not aware of any other situation where my testimony was                  24 excluded.                  25 Q Thank you. For the Noseworthy case, you did 09:57:13                  Page 41</p>

<p>1 submit an expert report; correct?                  2 A I -- I -- yes.                  3 Q So you understand this case involves sports;                  4 correct?                  5 A Yes. 09:57:42                  6 Q What, if any, prior testimony have you given,                  7 whether by declaration or report or oral testimony,                  8 about transgender participation in sports?                  9 A I believe that both in the Connecticut case                  10 and in the Hecox case the expert opinion report that I 09:58:09                  11 gave about the state of knowledge in this field has                  12 been submitted for the Court's consideration.                  13 I am not an expert, as you probably know, in                  14 matters of athletics and physiology. I am only                  15 providing information that I feel I know about, which 09:58:41                  16 is the knowledge and the lack thereof about certain                  17 issues related to trans care.                  18 So I -- I've never really, as far as I know,                  19 as far as I remember, made an opinion about this should                  20 happen or this should not happen. I'm just providing 09:59:06                  21 information to the courts about what I know and what is                  22 not known by society or by science.                  23 Q Thank you. So in this case, for example,                  24 B.P.J., is it fair to say you do not have an opinion as                  25 to whether she should be permitted to play sports? 09:59:25                  Page 42</p>	<p>1 So I would imagine the answer to your question                  2 must be yes.                  3 And the Arizona case that is sealed is not                  4 about a preber -- prepubertal child. But, of course,                  5 in taking a history of any child in adolescence, we 10:01:55                  6 certainly take histories of their prepubertal period                  7 and the behaviors evidenced during that time.                  8 So I just find the answer to your -- I'm not                  9 actually sure what the answer to your question should                  10 be. 10:02:13                  11 Q Did the Younger case involve a prepubertal                  12 child?                  13 A It did.                  14 Q And the Arizona case did not involve a                  15 preber -- prepubertal child; is that correct? 10:02:26                  16 A That's -- that's correct.                  17 Q And how about the Cincinnati case you                  18 mentioned, was that a prepubertal child?                  19 A No.                  20 Q Can you think of any other -- and I'm setting 10:02:34                  21 aside your nonjudicial work, but any -- any                  22 testimony -- and I -- that was my question. Thank you                  23 for focusing on that -- but any testimony you've given                  24 other than these examples that you consider to be                  25 related to prepubertal transgender children? 10:02:57                  Page 44</p>
<p>1 A I do not have an opinion.                  2 Q Have you -- setting aside the context of                  3 transgender participation in sports, have you ever                  4 given any testimony of any kind in a matter related to                  5 sports? 09:59:51                  6 A I can't think of any.                  7 Q Have you given any prior testimony, whether by                  8 declaration, report or oral testimony, about                  9 prepubertal trans- -- transgender children?                  10 MR. BROOKS: Let -- let me ask you to restate 10:00:16                  11 that question. Not to rephrase it, necessarily. I                  12 just want to hear it back.                  13 MS. HARTNETT: Sure.                  14 BY MS. HARTNETT:                  15 Q Have you given any prior testimony by 10:00:22                  16 declaration, report or oral testimony involving                  17 prepubertal transgender children?                  18 A I'm hesitating because I have written about                  19 informed consent and -- and that my writings about                  20 informed consent have covered all trans, beginning with 10:01:02                  21 prebu -- prepubertal children. But your question is                  22 about giving testimony about that. I would imagine                  23 that in the Younger I may have raised the issue of --                  24 of what we know -- I mean, I did raise tissue of what                  25 was known and what is not known. 10:01:38                  Page 43</p>	<p>1 A The key word to your question is "testimony."                  2 And so I have played -- I have -- I have offered                  3 opinions to lawyers that never rose to the point of                  4 testimony. So the --                  5 Q And let me be clear. 10:03:25                  6 A The answer to your question must be no.                  7 Q And for this question, I was just trying to be                  8 clear when I said "testimony," whether by written                  9 declaration, written report or oral testimony.                  10 And so I want to -- just using that 10:03:41                  11 understanding of "testimony" for this question, other                  12 than the Younger case, have you given any prior                  13 testimony regarding a prepubertal -- in a case                  14 involving a prepubertal transgender child?                  15 A I'm trying to be helpful and -- and 10:03:55                  16 informative to your question.                  17 I think the -- I think the -- the -- to the                  18 best of my knowledge, the answer is no, but people use                  19 my knowledge, in my previous publications, and call me                  20 sometimes and ask me opinions about matters -- the 10:04:24                  21 lawyers, I mean, or guardian ad litem persons -- and --                  22 but it's not testimony per se. I guess it would be                  23 consultation.                  24 Q Thank you. And then just again sticking with                  25 testimony, which for this question I'm meaning to be 10:04:52                  Page 45</p>

<p>1 written or oral testimony in a judicial proceeding,                  2 have you given any testimony about a case involving a                  3 transgender adolescent, other than the Arizona case and                  4 the Cincinnati case?                  5 A At the moment, I can't think of any. 10:05:21                  6 Q And have you -- and this is, again, for the                  7 purposes of this questions meaning -- "testimony" to                  8 mean written or oral testimony in a judicial                  9 proceeding. Have you ever given testimony in support                  10 of a transgender party? 10:05:40                  11 A In support of a transgender what?                  12 Q Party.                  13 A Party. Please repeat that question.                  14 MS. HARTNETT: Could the reporter read that                  15 back. I'm not sure I could do it. 10:05:50                  16 (Record read.)                  17 THE WITNESS: I guess the key word in your                  18 question is "support." And I want you to know that                  19 when I testify about the state of knowledge, I actually                  20 think that because my perspective is a long-term life 10:06:48                  21 cycle perspective, I think of that my knowledge base                  22 sometimes suggests that I'm actually being quite                  23 supportive in -- in trying to have people understand                  24 what the consequences of -- of, quote, affirmative or                  25 supportive care actually may mean, what the risks are. 10:07:11                  Page 46</p>	<p>1 A Yes. But that has to do with legal processes.                  2 What -- what I am supporting is to inform the court of                  3 what is known and what is not known. If you were to                  4 hire me to tell what -- the Court what is known and not                  5 known, I think I would be giving the same testimony. 10:08:58                  6 Q Let me ask you again, then. Which of -- have                  7 you ever previously given written or oral testimony                  8 that was submitted in support of the transgender party                  9 in a judicial proceeding?                  10 MR. BROOKS: Objection. 10:09:16                  11 THE WITNESS: You asked that question before,                  12 so I'm going to answer it in the same way I answered it                  13 before. It depends on your notion or my notion of                  14 "support."                  15 BY MS. HARTNETT: 10:09:36                  16 Q I'm using the notion of "support" that we just                  17 discussed, which is -- like, for example, your                  18 testimony in this matter is being submitted in support                  19 of the defendants. You understand that?                  20 A I do. 10:09:44                  21 MS. DENIKER: This is Susan Deniker. I just                  22 want to place on the record an objection to the form.                  23 BY MS. HARTNETT:                  24 Q And using that understanding of "support," do                  25 you agree with me that you have not previously had your 10:10:00                  Page 48</p>
<p>1 So I believe your understanding of the word                  2 "support" is different than my understanding of the                  3 word "support."                  4 But once again, I want to repeat, I                  5 conceptualize what I'm doing is accurately stating the 10:07:32                  6 state of science, of what is known, what is not known                  7 and what we need to do in order to get the answers to                  8 the unknown questions. That's what I'm doing.                  9 I'm not supporting this or supporting that.                  10 I'm not against this. I'm not against that. I'm 10:07:52                  11 trying to give an appraisal of what we know, in a                  12 scientific sense. Because of the one principles of                  13 medical ethics is that science should lead our                  14 therapeutics.                  15 BY MS. HARTNETT: 10:08:07                  16 Q Dr. Levine, you understand that your testimony                  17 in this matter has been provided by the State, the                  18 defendants, in support of their position; is that                  19 correct?                  20 A Yes. 10:08:15                  21 Q And so when I use the word "in support of," in                  22 the context of a judicial proceeding, you understand                  23 that your testimony, what has been submitted in these                  24 proceedings, is submitted in support of one party or in                  25 support of another party; correct? 10:08:36                  Page 47</p>	<p>1 testimony submitted in a judicial proceeding in support                  2 of the transgender party; correct?                  3 MR. BROOKS: Objection.                  4 THE WITNESS: Incorrect. I already told you                  5 that I have recommended transfer to a female prison and 10:10:10                  6 ultimate sex reassignment surgery and that -- for --                  7 for the Soneeya case, and there were -- there was                  8 another case -- another prisoner at the same time that                  9 we made the same recommendation for.                  10 And I've already told you that I have -- I -- 10:10:33                  11 I -- I have participated in the support of -- of                  12 bilateral mastectomies for female prisoners, but                  13 that -- none of those cases have gone to court. So                  14 I -- I guess that's not relevant to your question.                  15 BY MS. HARTNETT: 10:10:51                  16 Q Right. I was asking about whether you've                  17 submitted, in a judicial proceeding, an opinion on the                  18 side of the transgender party. Have you?                  19 MR. BROOKS: Objection.                  20 THE WITNESS: I already answered that question 10:11:10                  21 three times about Soneeya.                  22 BY MS. HARTNETT:                  23 Q Can you please answer my question?                  24 Have you ever submitted an expert opinion on                  25 the side of the transgender party? 10:11:20                  Page 49</p>

1 MR. BROOKS: Objection.  
 2 THE WITNESS: In your narrative --  
 3 BY MS. HARTNETT:  
 4 Q In a --  
 5 A In your -- 10:11:32  
 6 Q Sorry, I'm just trying to be really clear  
 7 since I understand you're disputing the term "support,"  
 8 which I thought was clear, but I -- I -- I'm listening  
 9 to you, and now I'm asking you whether, in a judicial  
 10 proceeding, you've ever submitted testimony on the side 10:11:43  
 11 of the transgender person, the formal side of the case.  
 12 MR. BROOKS: Objection. Experts don't  
 13 themselves submit anything in court.  
 14 You may answer, if you recall.  
 15 THE WITNESS: I may answer? 10:12:09  
 16 MR. BROOKS: If you recall.  
 17 THE WITNESS: I -- I find myself unable to  
 18 answer that question.  
 19 MS. HARTNETT: Okay. I'm going to introduce  
 20 an exhibit now, so we'll see how this Exhibit Share 10:12:22  
 21 works for you. Just a moment here.  
 22 MR. BROOKS: Tell me when you've placed it in  
 23 the folder, and I will then refresh the folder --  
 24 MS. HARTNETT: Will do.  
 25 We're starting with 86. Okay. Just one 10:12:49  
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1 moment, please.  
 2 (Exhibit 86 was marked for identification  
 3 by the court reporter and is attached hereto.)  
 4 MR. BROOKS: Are you doing all right, or do  
 5 you want to take a break? 10:13:02  
 6 THE WITNESS: Well, she said we would have a  
 7 break in an hour. It's a little over an hour.  
 8 MR. BROOKS: If you're -- you're about to  
 9 introduce a document and you're taking a little time to  
 10 get that straight, let's take a short break. 10:13:07  
 11 MS. HARTNETT: That works for me. Thank you.  
 12 MR. BROOKS: All right.  
 13 THE VIDEOGRAPHER: We're off the record at  
 14 10:13 a.m.  
 15 (Recess.) 10:22:57  
 16 THE VIDEOGRAPHER: We are on the record at  
 17 10:23 a.m.  
 18 BY MS. HARTNETT:  
 19 Q Now, Dr. Levine, you've been retained as an  
 20 expert witness in this case, B.P.J.; correct? 10:23:20  
 21 A Correct.  
 22 Q Who retained you?  
 23 A Initially, David Tryon.  
 24 Q And was there someone who retained you after  
 25 that? 10:23:37  
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1 A I -- I think David Tryon, in the matter and  
 2 means that I don't understand, created a liaison with  
 3 Alliance for Defending Freedom, Mr. Brooks, and then  
 4 they became -- so then I am -- I've been recruited by  
 5 both Mr. Tryon and Mr. Brooks, their -- their 10:24:10  
 6 particular institutions.  
 7 Q And with respect to Mr. Brooks, he's  
 8 affiliated with the Alliance for Defending Freedom, is  
 9 that your understanding?  
 10 A Yes. 10:24:29  
 11 Q Have you previously worked with the Alliance  
 12 for Defending Freedom on any matter?  
 13 A Yes. I -- I think of it as working with  
 14 Mr. Brooks.  
 15 Q And I don't want to -- 10:24:45  
 16 A Mr. Brooks is associated with the Alliance for  
 17 Defending Freedom, so I guess the answer to your  
 18 question is yes.  
 19 Q When did you first work with Mr. Brooks?  
 20 A In the Young -- Young -- in the Younger case. 10:24:57  
 21 Q And that was the Texas matter we discussed?  
 22 A Yes.  
 23 Q And I think you testified in your deposition  
 24 in the Claire matter, that's the Florida case, that you  
 25 worked with a lawyer from the Alliance Defending 10:25:17  
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1 Freedom to write your report in Younger; is that right?  
 2 A In -- the question is a little confusing to me  
 3 because you brought up the Florida case, and I don't --  
 4 could you repeat the question and ask me just one  
 5 question? 10:25:36  
 6 Q Sure. I was trying to orient you that I  
 7 understand that you gave a deposition in that Florida  
 8 matter of Claire; correct?  
 9 A I did.  
 10 Q And in that case, you were asked some 10:25:44  
 11 questions about your report. Do you remember that?  
 12 A You mean my report in the Younger case?  
 13 Q Correct.  
 14 A I don't remember that. I'm not denying it,  
 15 but I just don't remember that. 10:26:00  
 16 Q Yeah, was just curious about the kind of  
 17 genesis of your report in this case, and so what -- I  
 18 guess what I'll ask you is, is it -- is it fair to say  
 19 that you worked with a lawyer from the Alliance for  
 20 Defending Freedom to prepare your report in the Younger 10:26:14  
 21 matter? Correct?  
 22 A Yes.  
 23 Q And then your report in the Claire matter in  
 24 Florida was derivative of the Younger report; correct?  
 25 A I don't think that's correct. 10:26:27  
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<p>1 Q What's not correct about it?</p> <p>2 A I think the Florida case was about three --</p> <p>3 the plaintiffs, I think, were three adults. The</p> <p>4 Younger case was about, as we established before, a</p> <p>5 very young child. 10:26:53</p> <p>6 Q Okay. So your testimony is that the report</p> <p>7 you submitted in the Claire case was not a derivative</p> <p>8 of the report that was submitted in Younger; is that</p> <p>9 right?</p> <p>10 MR. BROOKS: Object to the form. 10:27:06</p> <p>11 THE WITNESS: It's -- it's very difficult for</p> <p>12 a person like me to know how my clinical activities and</p> <p>13 my consulting activities interplay and influence one</p> <p>14 another.</p> <p>15 I am a very busy person, doing a lot of 10:27:28</p> <p>16 different things, and I often think about, in a very</p> <p>17 pleasing way, how my various activities cross-fertilize</p> <p>18 my -- and stimulate my views, and what I read in one</p> <p>19 case for one particular matter may stay with me and</p> <p>20 help me understand yet another matter. 10:27:48</p> <p>21 So this cross-fertilization is a very</p> <p>22 intellectually stimulating process, but it makes me</p> <p>23 very unable to answer the question about what</p> <p>24 influenced what. You know, sometimes I read a novel</p> <p>25 and it influences, I think. 10:28:08</p> <p style="text-align: right;">Page 54</p>	<p>1 But at this moment, I cannot tell you</p> <p>2 definitively this influenced me or this did not</p> <p>3 influence me.</p> <p>4 Number one, that was a couple of years ago.</p> <p>5 Lots of things have happened in my brain in the last 10:29:51</p> <p>6 couple of years.</p> <p>7 Q Did any novels affect your expert opinion in</p> <p>8 this case?</p> <p>9 A Not that I can think of.</p> <p>10 Q You mentioned that you first encountered 10:30:03</p> <p>11 Mr. Brooks on behalf of ADF in the Younger case.</p> <p>12 Can you tell me how you got connected with him</p> <p>13 in that matter?</p> <p>14 A He called me. He had read two papers, I</p> <p>15 believe, that I had published, and he wanted to talk to 10:30:22</p> <p>16 me.</p> <p>17 Q So for this case, B.P.J., what were you asked</p> <p>18 to do in terms of presenting an expert opinion?</p> <p>19 A He wanted me to present the state of</p> <p>20 knowledge, what is known and what is not known, about 10:30:47</p> <p>21 trans care as a background for this particular case.</p> <p>22 But he was aware, and -- and I told him very clearly --</p> <p>23 that he was quite aware. I didn't have to tell him. I</p> <p>24 just reminded him that I am not an expert in the</p> <p>25 physiology of estrogen and testosterone blockages for 10:31:11</p> <p style="text-align: right;">Page 56</p>
<p>1 But it's hard -- I -- I can't really track,</p> <p>2 with any degree of certainty, what influences what.</p> <p>3 Perhaps if you had specific -- more specific</p> <p>4 questions, I may be able to give you an opinion. But</p> <p>5 based on what you just said, I -- I -- I'm at a loss to 10:28:29</p> <p>6 answer it definitively.</p> <p>7 BY MS. HARTNETT:</p> <p>8 Q So I think my -- just to be clear for the</p> <p>9 record, then, you cannot answer definitively whether</p> <p>10 the report you submitted in the Claire case was a 10:28:44</p> <p>11 derivative of the report that was done in the Younger</p> <p>12 case; is that fair?</p> <p>13 MR. BROOKS: Objection; vague.</p> <p>14 THE WITNESS: Based on how I currently think</p> <p>15 at the moment, I think it's correct. 10:28:59</p> <p>16 BY MS. HARTNETT:</p> <p>17 Q Sorry, correct that you -- you can't take a</p> <p>18 view on that?</p> <p>19 A It is correct that I don't know whether the</p> <p>20 Younger case influenced my -- a specific -- I mean, 10:29:18</p> <p>21 I -- I probably wrote many, many pages for the Florida</p> <p>22 case, and so, you know, maybe there's a sentence or a</p> <p>23 paragraph or two that, in my mind, was conceptualized</p> <p>24 in part because of -- of my experience in the Younger</p> <p>25 case. 10:29:38</p> <p style="text-align: right;">Page 55</p>	<p>1 athletic capacities, I'm not an expert in lung volumes</p> <p>2 and cardiac capacities. And -- and I asked him why --</p> <p>3 why he would --</p> <p>4 MR. BROOKS: I'm going to instruct you not to</p> <p>5 disclose the substance of conversations with your 10:31:28</p> <p>6 attorneys.</p> <p>7 THE WITNESS: All right. Thank you.</p> <p>8 BY MS. HARTNETT:</p> <p>9 Q Was that a conversation you had before you</p> <p>10 were retained in this matter, Dr. Levine? 10:31:36</p> <p>11 A Was that a conversation?</p> <p>12 MR. BROOKS: Counsel, the -- the witness can</p> <p>13 answer that question, but any conversations surrounding</p> <p>14 the retention, I will instruct the witness not to</p> <p>15 answer. 10:31:53</p> <p>16 THE WITNESS: I wondered why he needed my</p> <p>17 testimony in this case. He provided an answer for me.</p> <p>18 BY MS. HARTNETT:</p> <p>19 Q Do you view your testimony as relevant to this</p> <p>20 case? 10:32:07</p> <p>21 MR. BROOKS: Objection.</p> <p>22 THE WITNESS: Insofar as you make claims --</p> <p>23 you -- that your side may make claims that is not --</p> <p>24 that are not scientifically correct or established, it</p> <p>25 may very well be relevant. 10:32:29</p> <p style="text-align: right;">Page 57</p>



1 But that is not a question for me to decide.  
 2 That's a question for lawyers on both sides and for the  
 3 judge.  
 4 Again, I'm just -- I'm just -- I just have a  
 5 certain limited understanding and knowledge which I 10:32:44  
 6 believe the Court might benefit from having.  
 7 BY MS. HARTNETT:  
 8 Q Did you prepare for the deposition today?  
 9 A Yes.  
 10 Q What did you do to prepare? 10:33:03  
 11 And please don't disclose your  
 12 communications that you had -- the substance of the  
 13 communications that you had with counsel.  
 14 A I reread my report Sunday evening. I met with  
 15 counsel yesterday afternoon. 10:33:17  
 16 Q How long did you meet for yesterday afternoon?  
 17 A I'm sorry, how long, did you say?  
 18 Q Yes, how long did you meet with counsel  
 19 yesterday afternoon?  
 20 A Between 1:30 and quarter to 7:00. 10:33:30  
 21 Q Did you review any documents to prepare for  
 22 this deposition other than your expert report?  
 23 MR. BROOKS: And you -- you can answer that  
 24 question yes or no without identifying specific  
 25 documents. 10:33:44  
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1 THE WITNESS: Yes.  
 2 BY MS. HARTNETT:  
 3 Q Did you review the rebuttal report of  
 4 Dr. Safer?  
 5 MR. BROOKS: I'm going to instruct the witness 10:33:52  
 6 not to answer questions about what specifically he  
 7 reviewed with counsel yesterday.  
 8 MS. HARTNETT: I believe I have a right to  
 9 know what, if any, additional documents he's reviewed  
 10 before the deposition other than his report. 10:34:08  
 11 MR. BROOKS: On the contrary. I believe that  
 12 selection is my work product. And I stand by my  
 13 instruction.  
 14 BY MS. HARTNETT:  
 15 Q Outside the presence of your counsel, is there 10:34:15  
 16 anything other than the expert report that you reviewed  
 17 to -- before your deposition?  
 18 MR. BROOKS: On your own, outside our session  
 19 yesterday, did you review anything else in preparation  
 20 for your deposition? 10:34:32  
 21 THE WITNESS: No.  
 22 BY MS. HARTNETT:  
 23 Q Do any materials other than those cited in  
 24 your expert report inform your opinion in this matter?  
 25 MR. BROOKS: Objection. 10:34:49  
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1 THE WITNESS: As was -- if you have read my  
 2 curriculum vitae, I have recently published two papers  
 3 about issues. One is titled the Reflections of a  
 4 Clinician about the trans -- the care of trans youth  
 5 that was published in November, in the Archives of 10:35:19  
 6 Sexual Behavior. And about 16 days ago, a new article  
 7 appeared online about informed consent, Reconsidering  
 8 Informed Consent in the Treatment of Trans Children,  
 9 Adolescents, and Young Adults.  
 10 And so I can't really separate the processes 10:35:46  
 11 of writing these papers from, you know, the submission  
 12 of documents in this particular case.  
 13 But in a literal answer to your question, did  
 14 I -- did I review any particular documents in -- in --  
 15 in preparation for this testimony today, this 10:36:07  
 16 deposition today? The answer is no. But the process  
 17 of writing articles is a deep, you know, dive into all  
 18 kinds of issues and -- so I'm busy with this -- these  
 19 sub- -- these topic areas.  
 20 But I guess the answer to your question is no. 10:36:31  
 21 BY MS. HARTNETT:  
 22 Q Thank you. And what I need to understand  
 23 and -- and find a way to get that information from you,  
 24 notwithstanding your counsel's objection, but he should  
 25 make any direction he sees fit to make, in -- in your 10:36:46  
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1 expert report, you refer to certain materials in this  
 2 case that you had reviewed as a basis for your opinion.  
 3 Do you recall that?  
 4 MR. BROOKS: Do you want to direct the  
 5 witness's attention to what you're referring to? 10:37:03  
 6 MS. HARTNETT: Yeah, I can do that, I guess.  
 7 BY MS. HARTNETT:  
 8 Q You reviewed Dr. Adkins' and Dr. Safer's  
 9 declarations before you -- as part of your materials  
 10 that you rely on in your expert report; correct? 10:37:13  
 11 A Yes.  
 12 Q And what I'm trying to understand is whether  
 13 or not you are going to rely on Dr. Adkins' or  
 14 Dr. Safer's supplemental declarations as part of your  
 15 expert opinion in this matter. 10:37:29  
 16 MR. BROOKS: Counsel, let me -- I'll object  
 17 and, I think, make a suggestion.  
 18 The -- is your question whether he has  
 19 considered those rebuttal reports submitted by  
 20 Dr. Adkins and Safer? Or did you mean something else? 10:37:47  
 21 MS. HARTNETT: I would like to know if he has  
 22 reviewed the expert -- supplemental expert report of  
 23 Dr. Adkins.  
 24 Will you allow him to answer that question?  
 25 MR. BROOKS: I will. 10:38:02  
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<p>1 THE WITNESS: I think at one point I did.                  2 BY MS. HARTNETT:                  3 Q Do you understand that Dr. Adkins wrote an                  4 initial report and then a rebuttal, including to your                  5 report? 10:38:13                  6 A Yes.                  7 Q Have you reviewed Dr. Adkins' rebuttal,                  8 including to your report?                  9 A Not -- not in preparation for this deposition,                  10 no. 10:38:23                  11 Q And did you review Dr. Safer's rebuttal                  12 declaration in this case, ever?                  13 A I think I have. Yes, I --                  14 Q And have you --                  15 A I -- 10:38:36                  16 Q Okay.                  17 A I have, yeah.                  18 Q And have you reviewed the declaration of                  19 Aron Janssen in this matter?                  20 A Of Aron who? 10:38:43                  21 Q Janssen.                  22 A I can't recall that. I may have.                  23 Q He's a physician at Chicago Children's                  24 Hospital. Is that ringing a bell?                  25 A No. 10:39:02                  Page 62</p>	<p>1 do you see it says -- are -- are you on page 2 of the                  2 PDF?                  3 A Let's see. How do I know that?                  4 Q The page after the page that says "Exhibit A."                  5 A I -- I'm on the page that is the title page 10:40:54                  6 that says, Expert Declaration of Dr. Stephen Levine.                  7 Q And, Dr. Levine, the caption of this page says                  8 "Expert Declaration of Dr. Stephen B. Levine in Support                  9 of Plaintiff's Motion for Preliminary Injunction";                  10 correct? 10:41:14                  11 A Correct.                  12 Q And I know we had some discussion before the                  13 break about what the word "support" means. In this                  14 case, did you understand that your declaration was                  15 being submitted in support of the plaintiff challenging 10:41:25                  16 the practice that you were referring to?                  17 A I guess I now understand that, yes.                  18 Q Okay. And just flashing back to the end of --                  19 this is a declaration that was submitted in a matter in                  20 court in Washington State. 10:41:46                  21 Do you see that?                  22 A Yes.                  23 Q And then at the -- it's -- you can page                  24 through, but it appears that you signed this                  25 declaration on May 10th, 2021; is that correct? 10:41:57                  Page 64</p>
<p>1 Q Okay.                  2 A It's ringing a faint bell.                  3 Q All right. If you could go into your "Marked                  4 Exhibits," there should now be a marked Exhibit 86.                  5 MR. BROOKS: I have that on the screen. 10:39:23                  6 MS. HARTNETT: Thank you, Roger.                  7 And this is a document that starts with the                  8 page that says "Exhibit A," and then it goes on to --                  9 it's an attached expert declaration.                  10 BY MS. HARTNETT: 10:39:38                  11 Q Do you see this document, Dr. Levine?                  12 A We're scrolling through it here.                  13 Expert declaration of Dr. Levine. Robert                  14 Ferguson -- Tingley, yeah, okay.                  15 Q And so what -- what is this document, if you 10:39:54                  16 know?                  17 A This is something I submitted several years                  18 ago of -- I think it was about an attempt to censor a                  19 psychologist who wanted to provide a certain                  20 exploration with a patient, and -- and so I was 10:40:19                  21 offering an opinion about, I guess, the                  22 psychotherapeutic evalua- -- the evaluation of                  23 psycho- -- the psychotherapeutic processes involving                  24 patients.                  25 Q And just turning to page 2 of this document, 10:40:38                  Page 63</p>	<p>1 MR. BROOKS: Well, we'll go to the end and see                  2 what we see.                  3 THE WITNESS: Let's see. May 2021.                  4 BY MS. HARTNETT:                  5 Q Okay. And what -- what, if any, additional 10:42:17                  6 involvement have you had with the Tingley matter other                  7 than submitting this declaration?                  8 A I think none.                  9 Q Okay. Now, just turning back to the first                  10 page or any page, frankly, in this document, you can 10:42:41                  11 see there's a caption on the top of the page there.                  12 Do you see "Case 2:21-cv-00316"? Do you see                  13 that?                  14 A Yes.                  15 Q And that, I would represent, is the caption 10:42:51                  16 for the current case, B.P.J.                  17 And this was Exhi- -- this -- this                  18 declaration, the version that I put before you, is                  19 actually the version that was attached in opposition to                  20 plaintiff's motion for preliminary injunction in this 10:43:11                  21 case.                  22 Did you have an understanding that your                  23 declaration from the Washington case was going to be                  24 submitted as an attachment in support of the defendants                  25 in this matter at the preliminary injunction stage? 10:43:25                  Page 65</p>

<p>1 MR. BROOKS: Objection.                  2 THE WITNESS: No.                  3 BY MS. HARTNETT:                  4 Q Were you asked to -- for permission before the                  5 defendants in this case attached your Washington 10:43:44                  6 declaration to the opposition to the preliminary                  7 injunction motion in this case?                  8 A No.                  9 Q Do you recall whether you were asked to submit                  10 an expert declaration at the preliminary injunction 10:43:58                  11 phase of this case?                  12 A Would you clarify that question? I'm not                  13 exactly sure what you're asking.                  14 MS. HARTNETT: Could the reporter read back my                  15 question. 10:44:29                  16 (Record read.)                  17 MR. BROOKS: Objection.                  18 THE WITNESS: I don't know what the                  19 preliminary injunction phase was. I don't know the --                  20 who the implied person who might have asked me. I -- 10:44:38                  21 I -- I'm -- I'm a psychiatrist. I am not a -- I'm not                  22 very knowledgeable about your -- about the law and the                  23 legal processes.                  24 So I -- I just can't answer the question                  25 because I don't I understand the terms. 10:44:56                  Page 66</p>	<p>1 I simply don't know the answer to your                  2 question.                  3 BY MS. HARTNETT:                  4 Q Thank you. When were you retained in this                  5 case, B.P.J.? 10:46:15                  6 MR. BROOKS: Objection.                  7 If you recall.                  8 THE WITNESS: I presume it was sometime in                  9 2021, but I don't recall the specific date. I -- you                  10 know, I could find out, but right now, I -- I -- I 10:46:33                  11 can't tell you a specific date. I would presume in the                  12 last half of 2021.                  13 BY MS. HARTNETT:                  14 Q Do you have any objection to your declaration                  15 from one case being submitted in another case without 10:46:51                  16 your approval?                  17 MR. BROOKS: Objection.                  18 THE WITNESS: Personally do I have an                  19 objection for people using my previous testimony? Yes.                  20 I don't -- I don't think that's fair to me because 10:47:06                  21 every case is somewhat different. And it feels like                  22 it's my work product and that -- but the truth is that                  23 I'm naive about the -- about the legal processes, and I                  24 think when -- the first time I submitted an expert                  25 opinion report, I was shocked that people had read it 10:47:30                  Page 68</p>
<p>1 Perhaps you can simplify the question for me.                  2 BY MS. HARTNETT:                  3 Q What I'm trying to understand -- and thank you                  4 for -- for that.                  5 I'm trying to understand whether you are aware 10:45:09                  6 that your declaration from the Tingley matter was                  7 submitted in opposition to the plaintiff's motion for                  8 preliminary injunction in this case.                  9 MR. BROOKS: Objection; asked and answered.                  10 THE WITNESS: I thought I already answered 10:45:23                  11 that question.                  12 By MS. HARTNETT:                  13 Q Okay. Right. And you said, I think, that you                  14 were not aware. And then what I'm asking you is, were                  15 you asked to prepare a declaration specifically for 10:45:30                  16 this case at the preliminary injunction phase?                  17 MR. BROOKS: Objection; asked and answered.                  18 THE WITNESS: Again, I don't know the phases                  19 of this case. And the preliminary injunction phase                  20 is -- I don't understand specifically what that means 10:45:49                  21 in terms of the long process of adjudication in this                  22 case.                  23 I was asked to submit a report for this case,                  24 but I was not told it was for a preliminary injunction                  25 or what- -- an injunction that's not preliminary. 10:46:05                  Page 67</p>	<p>1 who weren't involved in the case.                  2 So there was this problem with Dr. Levine not                  3 being a forensic psychiatrist, just did not understand                  4 about what is public and what is not public when it                  5 comes to legal documentations. 10:47:51                  6 I think I subsequently learned that -- that                  7 lots of people read my reports who have nothing to do                  8 with the matter at hand because lawyers are looking for                  9 experts and precedents and so -- and arguments and so                  10 forth. 10:48:12                  11 So in a -- in a personal sense, I have some                  12 kind of objection to that. It doesn't feel fair to me,                  13 but it's also a reflection of my naivety about this --                  14 my past naivety about this matter -- about legal                  15 matters. 10:48:28                  16 BY MS. HARTNETT:                  17 Q Thank you. I have added a different --                  18 another exhibit that I would like to introduce into the                  19 folder, if you could refresh.                  20 MR. BROOKS: 87? 10:48:44                  21 MS. HARTNETT: That's correct.                  22 MR. BROOKS: Shall I open that now?                  23 MS. HARTNETT: Yes, if you would.                  24 (Exhibit 87 was marked for identification                  25 by the court reporter and is attached hereto.) 10:48:48                  Page 69</p>

<p>1 BY MS. HARTNETT:                  2 Q And, Dr. Levine, I've marked as Exhibit 87                  3 your expert report and declaration in this matter dated                  4 February 23rd, '22.                  5 Could you please just take a moment to look 10:49:04                  6 through the document.                  7 MR. BROOKS: Well, Counsel, the document, I                  8 think we'll all agree, is perhaps, what, 70-some pages                  9 long, plus bibliography.                  10 Would you -- what do you mean by asking the 10:49:17                  11 witness to look through the document?                  12 MS. HARTNETT: I was just giving him the                  13 courtesy of making sure he agrees it's his expert                  14 report.                  15 THE WITNESS: Well, my -- my signature is on 10:49:28                  16 the first page.                  17 BY MS. HARTNETT:                  18 Q Excellent. So what is this document,                  19 Dr. Levine?                  20 A Well, I believe it is the report that I 10:49:34                  21 submitted at the end of February about -- in this                  22 matter.                  23 Q Okay. And did you prepare this report?                  24 A Yes.                  25 Q And do you notice that this one has the 10:49:50                  Page 70</p>	<p>1 I submit a report for a case.                  2 I hope that's an answer to your question.                  3 Q Thank you, yes. I guess what I'm trying to                  4 get at is was there a particular past report that you                  5 used as a template to work from as you made your 10:52:03                  6 refinements and edits for this report?                  7 A No. That's -- that's -- I think the answer is                  8 my -- my -- my knowledge -- my -- I think the answer is                  9 to all, all my reports. I guess the answer to your                  10 question is no, there's not a particular one, but there 10:52:38                  11 are a series of reports, and I sometimes will select                  12 from various reports.                  13 Well, for example, this -- the -- the simplest                  14 thing is if -- in the beginning of the report, when I                  15 provide my credentials, for much of that, there is a 10:52:58                  16 cut and paste phenomenon and -- and it doesn't much                  17 matter which report I cut and paste from, but I only                  18 added to it or subtract to it depending on, I think,                  19 the relevance.                  20 So, for example, if you looked at my report on 10:53:20                  21 the North Carolina matter, probably there's much                  22 similarity in the beginning of the report.                  23 Q Thank you. So this document indicates that                  24 the -- at least by my reading of it -- the only                  25 documents specific to this case, B.P.J., that you 10:53:39                  Page 72</p>
<p>1 caption for this case on it, on the first page;                  2 correct?                  3 A It does, yeah.                  4 Q How much time did you spend preparing this                  5 report? 10:50:06                  6 A I could -- I would say approximately 20 to                  7 25 hours. I would say closer to 25 hours.                  8 Q And were you -- as a basis for this report,                  9 did you use a kind of prior report that you had                  10 submitted in a different case? 10:50:35                  11 A Yes.                  12 Q What was the basis -- like, the prior report                  13 that you used as a basis for this report?                  14 A Well, as I've told you already, I have                  15 provided reports about the nature of what is known and 10:50:51                  16 what is not known in a scientific sense about this                  17 whole matter and -- so that's just part of my thinking.                  18 And one report is a sort of modern refinement of a                  19 previous report that -- that is selected, added to or                  20 deleted from based upon the relevance to the case in 10:51:22                  21 point.                  22 So every -- every submission that I have made,                  23 in a sense, has contributed to the -- to this current                  24 report with the understanding that things have been                  25 added and things have been deleted every time that I -- 10:51:44                  Page 71</p>	<p>1 reviewed in preparing your report were the Adkins                  2 declaration and the Safer declaration; is that correct?                  3 A I think so.                  4 Q Are you familiar with the concept of a                  5 reasonable degree of scientific certainty? 10:53:57                  6 A I hear it as "medical certainty." Is this a                  7 reasonable degree -- can you offer this with a                  8 reasonable degree of medical certainty, Doctor? And                  9 when I've asked what that -- what that meant, I've been                  10 told 51 percent certainty. 10:54:17                  11 Q Okay. What is your understanding of -- so                  12 your understanding of a reasonable degree of medical                  13 certainty means 51 percent certainty?                  14 A No. I think that's my understanding of the                  15 legal definition of medical certainty. My clinical 10:54:35                  16 idea and my scientific idea would be very different.                  17 I -- I often smile when I think that -- if I'm                  18 correct -- that in the legal world, medical certainty                  19 refers to 51 percent.                  20 Q And what is, in contrast, your clinical 10:54:58                  21 standard that you were referring to?                  22 A Repeat that, please. What is what?                  23 Q The -- I think you were contrasting it with a                  24 clinical standard; is that correct?                  25 A Right. Oh, clinical or scientific. 10:55:14                  Page 73</p>

<p>1 You know, in -- in science, we have -- in                  2 clinician, we have the idea of what is the risk of a                  3 false positive and what is the risk of a false                  4 negative, and it's a complicated statistical balance                  5 between the ability to get it right or to get it wrong. 10:55:31                  6 And I am -- I am one who is very humbly                  7 impressed by the inability to be certain about things,                  8 and I distrust certainty because facts change in                  9 medicine.                  10 And -- and if I could just tell you a -- an 10:55:52                  11 experience that I've had. As a young person, I was                  12 interested in becoming a physician, and I went to a                  13 premed program at the University of Pittsburgh, and                  14 somebody in that program held up Harrison's textbook of                  15 medicine, which requires considerable arm strength to 10:56:13                  16 lift over your head because it's probably, you know,                  17 900 to a thousand pages. And he said, This is what you                  18 have to learn when you're in medical school, by the                  19 time you graduate medical school. I want to tell you,                  20 ladies and gentlemen, that 90 percent of the things in 10:56:33                  21 this book are probably not true. They probably will                  22 not prove to be true in time. The trouble is I and                  23 other people in medicine can't tell which of the                  24 10 percent -- which of the facts are correct and which                  25 of the facts are not. This is the nature of medical 10:56:48                  Page 74</p>	<p>1 that needs to be updated or corrected?                  2 A Probably if you scroll to the end of the                  3 articles, article 151 -- publication 151.                  4 MR. BROOKS: We're scrolling. We're                  5 scrolling. 10:58:51                  6 MS. HARTNETT: I think it might be 147.                  7 MR. BROOKS: There's a lot. Pardon me. 86.                  8 Here we are at -- just before --                  9 THE WITNESS: Oh --                  10 MR. BROOKS: -- where it says "Book Chapters." 10:59:00                  11 THE WITNESS: I'm sorry, 147. 147 is -- I                  12 can -- you know, today -- if I were to give you my CV                  13 today, I would give you the exact citation of that                  14 article.                  15 And if we scroll down to the end of the CV, I 10:59:34                  16 will show you something else.                  17 MR. BROOKS: I'm not sure there's a further                  18 question --                  19 THE WITNESS: Oh.                  20 MR. BROOKS: -- pending. 10:59:46                  21 Or is there a question pending?                  22 MS. HARTNETT: Well, yeah, I can -- I can ask                  23 one.                  24 BY MS. HARTNETT:                  25 Q So I take it that 147 has now been published. 10:59:51                  Page 76</p>
<p>1 science as it -- and clinical science as it moves                  2 forward. We have, at any given time, a set of facts, a                  3 set of principles and -- and controversy occurs, people                  4 disagree and studies are done, and the facts disappear                  5 and new facts take their place. 10:57:12                  6 That was my introduction to medical science.                  7 And as I've spent most of my -- the majority                  8 of my years in this field, I still believe that that                  9 little example remains to be -- remains salient and                  10 something that all of us need to remember. 10:57:32                  11 And so I say to you, 51 percent medical                  12 certainty is a joke to me. It -- it -- I always smile.                  13 Q Thank you. That -- that's helpful.                  14 If we could just go through your CV attached                  15 to your report, we can -- I have a few questions on 10:57:52                  16 that, and then I'll turn to your report.                  17 You'll have to page down a bit. It starts                  18 repaginating about page -- after page 81.                  19 MR. BROOKS: We are at the beginning of where                  20 it says "Brief Introduction," "Curriculum Vita." 10:58:20                  21 MS. HARTNETT: Okay. Thank you.                  22 BY MS. HARTNETT:                  23 Q Dr. Levine, is this your CV?                  24 A It is.                  25 Q Are you aware of anything, sitting here today, 10:58:27                  Page 75</p>	<p>1 Is that the difference?                  2 A Yes.                  3 Q Did you -- is there a -- a more updated                  4 version of your CV that goes up to 151?                  5 A I think last week, I -- I rearranged the 11:00:03                  6 numbers and somehow -- I may be -- I may -- I may not                  7 be accurate at 151.                  8 Q Okay. And then 146 there is what you were                  9 talking about earlier, the November piece about the                  10 reflections on a clinician's role? 11:00:26                  11 A Yes.                  12 Q Thank you. And is there anything further on                  13 here you'd like to draw my attention to is in need of                  14 updating?                  15 A I don't know if -- if this -- this thing has 11:00:40                  16 a -- this CV has a -- my -- a podcast I participated                  17 in. I never -- unlike many of my colleagues, I never                  18 put in my CV the talks I give and the -- you know, and                  19 now there's this whole thing about podcasts. I -- I                  20 gave a -- I didn't -- I was invited to give a podcast 11:01:04                  21 recently and -- so I think it's on my CV, but I'm not                  22 sure.                  23 Q That was in January of this year?                  24 A Was it in January? It was -- it was within                  25 several months ago, yeah. 11:01:20                  Page 77</p>

<p>1 Q Have you given any podcasts other than the one 2 you gave in January of this year?</p> <p>3 A The -- the answer to that question is I don't 4 know. I mean, sometimes people come and talk to me 5 and -- and film me on camera and I never know what 11:01:46 6 happens to -- what hap- -- what -- what -- that 7 happens. I never know what happens to it.</p> <p>8 Q Are you aware of any other -- sorry.</p> <p>9 A The answer to your question is I'm not aware 10 that I have been in any other podcast, but, you know, 11:02:04 11 you may dig up some other conversation that is -- that 12 I've had somewhere along the line.</p> <p>13 Q Thank you. If we could just turn back to the 14 first page of your CV, I would appreciate it.</p> <p>15 Let me know when you're there. 11:02:26</p> <p>16 MR. BROOKS: Yeah. We're there.</p> <p>17 MS. HARTNETT: Okay.</p> <p>18 BY MS. HARTNETT:</p> <p>19 Q So on page 1, it notes that you are -- board 20 certified in -- in June of 1976; correct? 11:02:39</p> <p>21 A Yes.</p> <p>22 Q In neurology and psychiatry; is that correct?</p> <p>23 A That's the name of the board that 24 psychiatrists get certified in. It's a little bit of a 25 joke that I'm -- that any psychiatrist is certified as 11:02:59 Page 78</p>	<p>1 any -- any psychiatrist is not knowledgeable about the 2 processes of growing from birth to death. And I, in 3 particular, am interested in that process. I often say 4 to my -- to other people that I -- development is my 5 field. In fact, when -- when people talk about 11:04:40 6 psychoanalysis and psychodynamic psychiatry, I like to 7 rephrase those terms as developmental psychology.</p> <p>8 Q Thank you. I just -- my -- my question, 9 though, was whether you have any specialized training 10 in child development. 11:04:57</p> <p>11 Do you have any specialized training?</p> <p>12 A Well, of course, I rotated through child 13 psychology when I was a resident. For the purpose- --</p> <p>14 Q Anything else?</p> <p>15 A For the purposes of questioning my expertise, 11:05:12 16 I have no specialized credentialed, certificated 17 training in child psychi- -- in -- in child 18 development.</p> <p>19 However, what I'm saying to you is that my 20 understanding of being a psychiatrist and listening to 11:05:27 21 people's stories about their development all day long, 22 I don't need a special certificate to testify that I am 23 trained in -- in -- in child, adolescent, young adult, 24 middle-aged and older-aged development.</p> <p>25 Q And would the answer be the same if I asked 11:05:49 Page 80</p>
<p>1 a neurologist.</p> <p>2 Q Have you been recertified with that 3 certification?</p> <p>4 A No. I don't need to be. I'm grandfathered 5 in, as they say. 11:03:13</p> <p>6 Q Thank you. Do you have any other board 7 certifications?</p> <p>8 A No.</p> <p>9 Q So you are not board certified in child and 10 adolescent psychiatry; correct? 11:03:27</p> <p>11 A No, I'm not board certified.</p> <p>12 Q Do you have any specialized training in child 13 development?</p> <p>14 A Yes.</p> <p>15 Q Can you describe that? 11:03:36</p> <p>16 A I'm a psychiatrist. All psychiatrists are 17 trained in child development. I, in particular, have 18 been interested in the whole process of adult -- of -- 19 of development throughout the life cycle and have -- I 20 think I quoted in my expert opinion report that 11:03:57 21 Tom Insel, who was the head of the NIH, NIMH, said that 22 75 percent of adult psychopathology, that is, suffering 23 as a result of mental disorders, have their origins in 24 childhood.</p> <p>25 So it's hard for me to conceive that any -- 11:04:16 Page 79</p>	<p>1 you whether you had any specialized training in -- in 2 children or adolescents with gender dysphoria?</p> <p>3 A Specialized training? I was in on the ground 4 floor of these things when there was no specialized 5 training. I was part of the -- I was part of the 11:06:12 6 process that was trying to figure out what this all was 7 about, you see. And --</p> <p>8 THE WITNESS: Sorry.</p> <p>9 -- I very much object to that term 10 "specialized training" because I have an understanding 11:06:30 11 of what that really -- the connotation of that term is, 12 and I don't accept that -- the legitimacy of 13 specialized training.</p> <p>14 I feel what you may mean is indoctrination 15 training. I'm -- I like to distinguish between 11:06:50 16 indoctrination and education.</p> <p>17 BY MS. HARTNETT:</p> <p>18 Q Are you an endocrinologist?</p> <p>19 Are you an endocrinologist?</p> <p>20 A No. 11:07:17</p> <p>21 Q And you would not hold yourself out as an 22 expert in endocrinology; correct?</p> <p>23 A I'm not an expert in endocrinology.</p> <p>24 Q And are you an expert in sports medicine?</p> <p>25 A No, I'm not an expert in sports medicine. 11:07:33 Page 81</p>

<p>1 Q Are you an expert in athletic performances?                  2 A I've already testified to that. The answer is                  3 no.                  4 Q Yeah, I'm asking because I think your attorney                  5 at some point indicated that might be part of your 11:07:44                  6 privileged conversation. That's why I'm asking you                  7 again.                  8 Do you have any -- have you ever had any                  9 complaints made against you related to your medical                  10 practice? 11:07:56                  11 A Yes.                  12 Q Could you tell me about those?                  13 A Yes. We had a trans adult who wanted                  14 hormones, and I was supervising a psychology intern,                  15 and the -- we decided the person was mentally unstable 11:08:17                  16 and was not in a position to be given hormones just                  17 yet, and the patient threatened to murder the                  18 psychology intern who told her that -- who told the                  19 patient that answer.                  20 And I -- when she told me that, I went in and 11:08:36                  21 I saw the patient, and I told the -- and I discharged                  22 the patient. And I said that patients have obligations                  23 and doctors have obligations and you have justified the                  24 rule, you have crossed over the line, and I cannot                  25 allow you to continue to get care here. 11:08:59                  Page 82</p>	<p>1 THE WITNESS: It's not formally. I -- I don't                  2 define myself as a board-certified child and adolescent                  3 psychiatrist, but I do define myself as a psychiatrist.                  4 And as -- as I've already stated, I believe                  5 that psychiatrists, over the -- during the course of 11:10:51                  6 their training and -- that is, their initial education                  7 and their subsequent life education, practicing                  8 psychiatry, comes to understand or should come to                  9 understand the influence of childhood positive and                  10 negative experiences on their subsequent mental life 11:11:09                  11 and behavioral life.                  12 BY MS. HARTNETT:                  13 Q In your mind, are the concepts of having an                  14 understanding of child psychology and actually working                  15 with child patients distinct notions? 11:11:25                  16 A Well, I think they're -- they are to be                  17 separated. One's -- one's theoretical understanding of                  18 the processes of development, the stages of development                  19 and understanding childhood adversities that -- that we                  20 hear about all the time from adolescents and from 11:11:49                  21 adults, that's different than actually, you know,                  22 seeing five-year-old children or six-year-old children.                  23 So I make a distinction between that, sure.                  24 Q And how much of your practice throughout your                  25 career has involved actually seeing children or 11:12:12                  Page 84</p>
<p>1 The patient then left and then reported me to                  2 the State Medical Board, and the State Medical Board                  3 investigated and -- and found -- and found that I was                  4 perfectly justified in what I did.                  5 That is the only awareness that I have of -- 11:09:21                  6 of complaints to the State Medical Board about my work.                  7 Q Thank you. Just back to the point, we -- we                  8 were discussing the notion of specialized training a                  9 minute ago.                  10 Do you recall that? 11:09:40                  11 A I recall.                  12 Q So do you -- do you accept the legitimacy of                  13 the notion of specialized training in child and                  14 adolescent psychiatry?                  15 A For people who are interested in having a more 11:09:58                  16 extensive experience and plan to spend their lives with                  17 young -- young people only or primarily, I think it's a                  18 fine thing to -- to -- to -- it's just one of the many                  19 houses in the big -- in the mansion of medicine and one                  20 of the -- one of the subspecialties in psychiatry. I 11:10:20                  21 have no objection to people becoming child and                  22 adolescent psychiatrists.                  23 Q And just to be clear, that's not a specialty                  24 of yours; correct?                  25 MR. BROOKS: Objection. 11:10:40                  Page 83</p>	<p>1 adolescent patients?                  2 A Well, I -- I spend a lot of time with                  3 adolescent patients, and I spend much less time with --                  4 with children per se. I spend an enormous amount of                  5 time talking about children to their parents. I mean, 11:12:30                  6 conversations about childhood are about the -- my -- my                  7 older patients, about their childhood, and the parents                  8 that I see about their children's processes, that's                  9 a -- I would say a daily occurrence in my practice.                  10 Q How many child patients have you had in your 11:12:56                  11 career?                  12 MR. BROOKS: Objection; vague.                  13 THE WITNESS: I -- I would have a very hard                  14 time answering that question. I've had -- you know,                  15 when -- when parents talk to me about their children, 11:13:26                  16 for insurance purposes, the patient is the mother or                  17 father or both; right? But the subject of our                  18 conversation is the child.                  19 So I don't know -- you see, and one of the                  20 therapeutic activities that I do, I call "parent 11:13:47                  21 guidance." And so parent guidance involves the focus                  22 on the child's environment and how to improve the                  23 child's anxiety problems or whatever, you see.                  24 So I don't know if I -- if that constitutes                  25 how many children. Can I answer that question in terms 11:14:08                  Page 85</p>

1 of parent guidance?  
 2 I have a pediatrician, for example, as an  
 3 adult patient now, and he and I have spent a lot of  
 4 time talking about his daughter and -- and some of the  
 5 things I've said to him have really helped his daughter 11:14:25  
 6 overcome a problem. But he's my patient, you see.  
 7 I don't -- so I can't answer your question  
 8 with numerical terms and --  
 9 BY MS. HARTNETT:  
 10 Q Children can be patients; correct? 11:14:39  
 11 A Children can be patients, certainly.  
 12 Q And so I'm just asking you how many actual  
 13 children patients you've had over your career, if you  
 14 could estimate that.  
 15 MR. BROOKS: Objection; vague as to the term 11:14:51  
 16 "children."  
 17 THE WITNESS: Can you clarify whether -- what  
 18 a child is versus what a teenager is?  
 19 BY MS. HARTNETT:  
 20 Q Yeah, I'll ask you for two categories. 11:15:04  
 21 I'll ask you for prepubertal children.  
 22 How many prepubertal children have you had as  
 23 a patient in your career, approximately?  
 24 A And if I saw that prepubertal child one time,  
 25 would that -- would that constitute a patient? 11:15:20  
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1 Q Why don't you give me your estimate of how  
 2 many prepubertal children you've ever seen as patients,  
 3 and then we can ask more questions.  
 4 A I would say a handful. Six.  
 5 Q And how many of those -- of those 11:15:35  
 6 approximately six did you see more than one time?  
 7 A I can't recall one.  
 8 Q And then I'll ask the same question about  
 9 adolescents, which I'll mean minors from puberty  
 10 through being a minor. 11:16:00  
 11 How many adolescent patients have you had in  
 12 your career, approximately?  
 13 A 50.  
 14 Q And how many of those have you seen more than  
 15 once? 11:16:14  
 16 A Most.  
 17 Q And were most of those, of the adolescent  
 18 patients you've seen, late adolescence?  
 19 A No.  
 20 Q Turning back to your CV, you list yourself -- 11:16:27  
 21 you're listed as a clinical professor at Case Western  
 22 Reserve University School of Medicine; correct?  
 23 A Yes.  
 24 Q Do you work at Case Western Reserve University  
 25 School of Medicine full-time? 11:16:51  
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1 A No. No.  
 2 Q When did you stop working full-time?  
 3 A In 19- -- November 1992.  
 4 Q Are you currently teaching any classes at  
 5 Case Western? 11:17:09  
 6 A I've never taught classes per se. That's not  
 7 how my teaching has ever been. If you think about a  
 8 college course, I have never -- I don't teach college  
 9 courses or graduate school courses. I provide seminars  
 10 sometimes. I've written articles about the sex 11:17:32  
 11 education of doctors and -- so over the years, I've  
 12 taught a number of seminars to our residents in  
 13 psychiatry. I teach -- I give workshops.  
 14 I recently, for example, gave a  
 15 four-hour work- -- a four-hour workshop at the Harvard 11:17:59  
 16 student health service for their mental health  
 17 professionals where I presented, you know, ideas to  
 18 them, and we had discussions.  
 19 So I teach -- I teach sometimes by giving  
 20 grand rounds. I -- there -- there is a named 11:18:20  
 21 lectureship in my honor at Case Western Reserve, and  
 22 once a year, I invite someone to give a talk from  
 23 another university about some sexual topic.  
 24 So I have residents who come to spend --  
 25 for -- I can't -- for probably -- probably -- since 11:18:44  
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1 1992, 1993, I've always had a resident with me who  
 2 comes and sees my patients with me, and they usually  
 3 spend six months with me, sitting in and seeing my  
 4 patients together.  
 5 So my teaching is not in the classic sense 11:19:03  
 6 that -- that the average layperson would think of  
 7 teaching classes. It's -- it's much more -- you know,  
 8 coming in and seeing how an older doctor does work,  
 9 has, quote, therapy.  
 10 I also, since 1977, have led two clinical case 11:19:26  
 11 conferences a week, and residents and medical students,  
 12 depending on the year, medical students, residents and  
 13 members of the community come in to those conferences  
 14 and we discuss cases.  
 15 So I have multiple avenues, multiple ways of 11:19:45  
 16 being a teacher, but none of them are through  
 17 coursework per se.  
 18 Q Thank you.  
 19 A I forgot to tell you. I also sometimes am  
 20 invited to give continuing education lectures. And, 11:20:02  
 21 for example, at the -- I've given courses, for seven  
 22 years in a row, at the American Psychiatric Association  
 23 on sex and love, mostly love I use as -- as the title,  
 24 and we talk about sexual problems and the barriers to  
 25 loving. 11:20:25  
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<p>1 And this year's APA meeting, I -- I am                  2 presenting a symposium with three colleagues on whether                  3 or not this is time to reexamine the best practices for                  4 transgender youth.                  5 So all those things are -- in my review, are 11:20:39                  6 -- are my teaching.                  7 Q I was going to ask you about the May                  8 presentation.                  9 Who are your copresenters for that?                  10 A Sasha Ayad, Lisa Marciano and Ken Zucker. 11:20:55                  11 Q Thank you. When is that expected to be                  12 presented?                  13 A May 24th.                  14 Q And do you know if there are other panels or                  15 presentations regarding the care of transgender 11:21:15                  16 patients at that conference?                  17 A There probably are, but I'm -- I haven't seen                  18 the entire program. But -- but there are usually --                  19 there usually are one or two presentations.                  20 Q And you said it was Sasha Ayad, Ken Zucker. 11:21:29                  21 And who was the third person?                  22 A Lisa Marciano.                  23 Q Right. So I just had one -- a couple of                  24 follow-up questions about the discussion we were having                  25 about seeing prepubertal and adolescent patients. 11:21:46                  Page 90</p>	<p>1 at -- under "Professional Societies."                  2 MR. BROOKS: All right. I have it up.                  3 BY MS. HARTNETT:                  4 Q Dr. Levine, on page 2 of your CV, you list                  5 professional societies; correct? 11:23:28                  6 A Yes.                  7 Q Is the Cochrane Collaborative a professional                  8 society?                  9 A Is the what?                  10 Q The Cochrane Collaborative. 11:23:40                  11 A I don't know the answer to that question. The                  12 Cochrane Library, you're talking about?                  13 Q The Cochrane Collaborative.                  14 A Cochrane Collaborative.                  15 Well, I -- the word "Cochrane" is -- is what 11:23:54                  16 comes to mind. It -- the second word changes from                  17 whomever is using it.                  18 I don't think it's a society. It's an                  19 organization that does objective appraisal of -- of                  20 scientific questions or controversies. And I -- I 11:24:13                  21 don't -- I never thought about that as a society;                  22 therefore, it's not listed there.                  23 Q Okay. And I apologize. I believe I misstated                  24 the name of it. It's on paragraph 4 of your report,                  25 which you can look back to, but it then will require 11:24:31                  Page 92</p>
<p>1 When is the last time you saw a prepubertal                  2 child patient?                  3 A Physically saw?                  4 Q Or -- or virtually. I mean, as your patient.                  5 A Maybe two years ago. 11:22:20                  6 Q And how about an adolescent, meaning puberty                  7 while -- through being a minor?                  8 A Three weeks ago.                  9 Q And what was the age of that patient?                  10 A 17. 11:22:44                  11 Q Okay. Let's just turn to page 2 of your CV.                  12 I had a couple of questions there.                  13 MR. BROOKS: Just checking --                  14 MS. HARTNETT: I'm just --                  15 MR. BROOKS: Since it's been an hour, I was 11:23:00                  16 just checking. The witness says he's fine and doesn't                  17 need a break yet.                  18 MS. HARTNETT: Okay. Please let me know.                  19 This is --                  20 MR. BROOKS: We're on -- 11:23:08                  21 MS. HARTNETT: So --                  22 MR. BROOKS: -- the next page. If you'll                  23 direct -- I can't fit the whole page on the screen at a                  24 time, so you have to direct me to portions of it.                  25 MS. HARTNETT: Okay. It's -- I'm looking 11:23:16                  Page 91</p>	<p>1 flipping forward again.                  2 You discussed being an invited member of the                  3 Cochrane Collaboration subcommittee, and so I was just                  4 trying to understand whether the Cochrane Collaboration                  5 is a professional society. 11:24:42                  6 A Well, it's an organization, and it's an                  7 organization devoted to the objective appraisal of                  8 issues that are controversial in medicine, throughout                  9 medicine, every branch of medicine, every specialty of                  10 medicine. It's an older institution, and it's among 11:25:02                  11 the most highly respected institutions about objective                  12 scientific appraisal of clinical work, and I -- I am on                  13 the -- one of their committee- -- I'm on two of their                  14 committees, actually.                  15 Q Which committees are you on? 11:25:20                  16 A It's the evaluation of puberty blockers and                  17 the evaluation of cross-sex hormones for transgender                  18 teens.                  19 Q Do you know how many committees the                  20 Cochrane Collaboration has? 11:25:35                  21 A No. I think it's many decades old, and it --                  22 that's -- but the answer to your question is I don't                  23 know.                  24 Q Are you a member of the Cochrane                  25 Collaboration? 11:25:53                  Page 93</p>

<p>1 A I'm a member of those subcommittees.                  2 Q And can you describe your work on those                  3 subcommittees? What does that entail?                  4 A I'm hesitating to answer that question because                  5 you're going to ask a follow-up question, and it is my 11:26:12                  6 understanding that until the publication of our work is                  7 finished -- is published, our work is published, that                  8 we are not to discuss the processes and the content                  9 of -- of that.                  10 So I -- I feel constrained to, you know, ask 11:26:35                  11 you not to ask me more questions about that.                  12 MR. BROOKS: Well, I -- I'm -- I'm not going                  13 to instruct the witness either way. I will advise the                  14 witness that we can, I'm sure with counsel's agreement,                  15 designate a portion of the transcript as confidential 11:26:50                  16 and kind of proceed question by question as you are                  17 comfort- -- as you are -- as you feel able, given --                  18 I -- I don't know the nature of your commitments to the                  19 organization.                  20 But we can designate a portion of the 11:27:04                  21 transcript as confidential, which will make it                  22 available to attorneys representing parties in this                  23 case but would prevent it from being published                  24 generally.                  25 So I -- I -- I offer that. I don't -- I don't 11:27:18</p> <p style="text-align: right;">Page 94</p>	<p>1 A There's nothing that I have -- there's nothing                  2 that I have seen in my work with Cochrane that has led                  3 me to modify what is in that report.                  4 Q Can you please generally describe what the                  5 nature of your work is with Cochrane? 11:29:20                  6 A It is to read and respond to summaries of the                  7 data, various studies. It has been to help                  8 conceptualize what the issue is and what measurements                  9 we need -- are needed in order to answer the question                  10 in the future about a more -- to provide data in the 11:29:43                  11 future if -- based on studies. It's been about trying                  12 to limit the number of issues that need to be measured                  13 to -- in outcome studies in order to be practical                  14 versus comprehensive.                  15 So my work has been to participate with other 11:30:06                  16 people in Zoom discussions after we read documents and                  17 to given our opinions about draft documents.                  18 And you may or may not know how Cochrane                  19 works, but it's a series of -- like, our subcommittee                  20 goes through a number of other committees above them to 11:30:31                  21 be consistent and -- with the traditions of Cochrane.                  22 And so I'm not, you know, privy to the                  23 committees above the subcommittee. I just sometimes                  24 hear about, learn about, their -- their responses to                  25 druff -- draft reports. 11:30:54</p> <p style="text-align: right;">Page 96</p>
<p>1 represent Dr. Levine, and I don't know that in                  2 connection with that -- that professional activity, and                  3 I don't know the nature of the obligations, but I'd                  4 just advise the client of that pos- -- of that --                  5 Dr. Levine of that possibility. 11:27:37                  6 If you want --                  7 BY MS. HARTNETT:                  8 Q Does your work with the Cochrane -- does your                  9 work with the Cochrane Collabor- -- Collaboration                  10 affect you -- sorry. 11:27:46                  11 Has your work on the Cochrane Collaboration                  12 informed your opinions in this matter?                  13 A My work with the Cochrane group, in reading                  14 about the evidence on those two -- on that subject of                  15 puberty blockers adds to my -- I should say there's -- 11:28:17                  16 I'm hesitating because I really don't know whether I                  17 should be saying anything about this, even answering                  18 your reasonable question.                  19 Q I appreciate that, but --                  20 A Pardon me? 11:28:51                  21 Q -- we do need to know this for you views, and                  22 so I would ask if we -- could you -- could -- are you                  23 able to answer my questions and we can designate this                  24 portion of the transcript as confidential, meaning it                  25 would not be publicly disclosed? 11:29:03</p> <p style="text-align: right;">Page 95</p>	<p>1 So I think that's my answer to your question.                  2 Q Okay. Are you a member of the Society for the                  3 Scientific Study of Sexuality?                  4 A The -- oh, no longer.                  5 Q What is the Society for Scientific Study of 11:31:19                  6 Sexuality?                  7 A It's a bunch of clinicians who are                  8 interested in -- it's a bunch of clinicians who are                  9 interested in providing services for people's sexual                  10 problems. 11:31:36                  11 Q And you ended your membership there in 1999?                  12 A Yes, apparently so.                  13 Q Why?                  14 A Apparently so. I -- I -- if I hadn't looked                  15 at my CV, I wouldn't have been able to answer your 11:31:56                  16 question.                  17 Q Okay. I'm sorry, I was asking why you stopped                  18 being a member in 1999.                  19 A Oh. Because I felt that the majority of the                  20 membership thought very differently than me. They 11:32:15                  21 weren't -- they were mostly Master's prepared people.                  22 They included people who were sexual surrogates. It                  23 was a potpourri of people interested in human sexuality                  24 that did not have my academic interest in sexuality.                  25 I was interested, I guess -- back then, in the 11:32:39</p> <p style="text-align: right;">Page 97</p>

<p>1 '90s, there was the -- there was the Society for Sex                  2 Therapy and Research, and there was this society.                  3 Quadruple S, it's called. And this was -- and there                  4 was another society called AASEC- -- AASECT. And                  5 the -- the range of professional degrees, the people 11:32:59                  6 who had -- the people in those societies had different                  7 ranges of professional degrees, and they had different                  8 interest in -- sort of an understanding of sexual                  9 disorders and in research, and I thought that the                  10 society for scientific study of sex really -- I thought 11:33:23                  11 that the activities of the organization did not rise to                  12 the level of -- of the title of their organization,                  13 that it really wasn't scientific.                  14 And, you know, it is amazing to me what --                  15 what people call -- who wrap themselves in the mantle 11:33:49                  16 of science that really don't have a concept of science.                  17 So I -- you know, when I was younger, I wanted                  18 to be part of the scene and -- and when I got into part                  19 of the scene, I didn't want to be part of the scene.                  20 Q Are you aware of the Society for Evidence 11:34:06                  21 Based Gender Medicine?                  22 A Yes.                  23 Q And does that go by an acronym?                  24 A Is what?                  25 Q Does that go by an acronym? 11:34:15                  Page 98</p>	<p>1 about how to develop case histories that would teach                  2 mental health professionals, in general, on how to                  3 approach a -- an -- an approach to transgender children                  4 and adolescents.                  5 As you probably know, there has been, in the 11:36:33                  6 last ten years, a dramatic increase in the number of                  7 teenage children who are declaring themselves to be                  8 trans people. And so the number of, quote, experts --                  9 the epidemiology is such that there is enormous                  10 pressure on a -- on the few people who say they're 11:36:53                  11 interested in gender, taking care of gender cases.                  12 So SEGM was trying to develop concepts that                  13 could be taught to people in the community who are not                  14 experts. We are trying to interest them in providing                  15 psychiatric services, psychological services to 11:37:14                  16 families and to the -- the patients themselves.                  17 And so we were talking about how to -- how to                  18 achieve that, whether we should publish -- whether we                  19 should give a conference, whether we should -- they                  20 just -- they talked about various ways of -- of 11:37:32                  21 informing -- of getting more mental health                  22 professionals to -- to stop ignoring this problem and                  23 to be interested in -- in how to help these kids and                  24 their families.                  25 Q Okay. Thank you. 11:37:56                  Page 100</p>
<p>1 A Yes. SEGM.                  2 Q SEGM. Are you a member of SEGM?                  3 A I contributed -- when I -- when I learned                  4 about SEGM probably a year and a half ago, two years                  5 ago, I -- I felt that I -- I wanted to support that 11:34:35                  6 because they were interested in evidence, in scientific                  7 evidence, so I sent them a check for \$200.                  8 So I don't know if I'm a supporter of it or --                  9 but I -- they consider me to be an integral and                  10 important member of their society. So I guess, based 11:35:02                  11 on the fact that I gave them a one-time check of \$200                  12 and they hired me to write a -- to -- to develop a                  13 paper and they put me on a subcommittee to talk about                  14 psychotherapy of adolescents, so I guess I am a member                  15 of SEGM. 11:35:21                  16 I think I'm a valued member of SEGM.                  17 Q Understood. Sorry, you said you were on the                  18 psychotherapy -- child psychotherapy subcommittee?                  19 A I think we should call it an adolescent -- it                  20 doesn't exist anymore. We met -- we met every two 11:35:45                  21 weeks for almost a year, but I certainly was an active                  22 participant of that.                  23 Q And what -- what was the work of that                  24 subcommittee?                  25 A It was talking about what -- it was talking 11:36:01                  Page 99</p>	<p>1 So you said that that subcommittee is no                  2 longer meeting?                  3 A That particular committee is no longer                  4 meeting, as far as I know. But that -- but SEGM                  5 sponsors many things that I'm totally unaware of. 11:38:07                  6 Q Was there a work product that came out of that                  7 committee?                  8 A Well, in some sense, my paper, my most recent                  9 paper, didn't come out of that committee, but it came                  10 out of the deliberations of that committee because one 11:38:24                  11 of the strategies that SEGM had is that they wanted                  12 to -- they wanted to put things in the literature                  13 that -- that were based on evidence rather than based                  14 on precedent.                  15 And so I think that led to the publication of 11:38:45                  16 my -- of 147.                  17 Q What do you mean, precedent?                  18 A Well, as you may or may not know, there's a                  19 60-year history of -- of trying to find treatments for                  20 transgendered individuals and -- so there has been a 11:39:08                  21 precedent of treatment over the years that has preceded                  22 the -- the -- the scientific demonstration of the                  23 efficacy and the long-term outcomes of that treatment.                  24 So I would say that precedent is a -- is a                  25 very important influence in how transgender people are 11:39:30                  Page 101</p>

1 being treated today and -- so that's how I use the term  
 2 "precedent." That is, we have patterns or fashions of  
 3 treatment that have gone in -- far in advance of the  
 4 scientific demonstration of the efficacy and were  
 5 the -- and the long-term outcomes of those treatments. 11:39:55  
 6 So that's the term precedent, as I -- as -- as  
 7 how I use it or how I think about it.  
 8 Q And was your -- I think your testimony was  
 9 that you were in the kind of ground floor of starting  
 10 that precedent; is that correct? 11:40:10  
 11 A I -- well, if -- well, the ground floor really  
 12 began in the '70s, and I was --  
 13 Q I'm sorry, did your counsel say something?  
 14 MR. BROOKS: No. I looked at him. He looked  
 15 at me. I didn't say anything. 11:40:28  
 16 THE WITNESS: Yeah.  
 17 MS. HARTNETT: Just for the record, the  
 18 counsel and the witness appeared to be exchanging some  
 19 sort of a glance, but please continue.  
 20 THE WITNESS: So the ground floor has to do 11:40:37  
 21 with the Harry Benjamin International Dysphoria  
 22 Association, which I think I joined in 1974 or  
 23 something like that, and I was in that program or in  
 24 that -- that associ- -- whatever you call that, a  
 25 society or something. I was in that professional 11:41:02  
 Page 102

1 organization for many, many years. And in 19-- when  
 2 the fifth standard of care was being thought about, I  
 3 was named to be the chairman of the writing group that  
 4 made what was called the Fifth Edition.  
 5 So -- 11:41:25  
 6 BY MS. HARTNETT:  
 7 Q So you were part of creating the precedent;  
 8 correct?  
 9 A Yes. The only objection I had, what is ground  
 10 floor. That's the only word I was responding to. I 11:41:34  
 11 didn't know what ground floor meant.  
 12 Q Fair enough. So back to SEGM. Were you part  
 13 of helping to develop treatment guidelines for the  
 14 treatment of gender dysphoria with SEGM?  
 15 A I don't know that SEGM has ever issued 11:41:52  
 16 treatment guidelines. In a sense, my latest  
 17 publication is -- is probably in that ballpark.  
 18 What we're trying to do is to -- I think what  
 19 we are trying to do is -- is create treatment  
 20 guidelines. 11:42:19  
 21 You know, Sweden, Finland, the UK and France  
 22 have all come out and said that -- let's slow this  
 23 down, let's be very careful. Even -- even in the  
 24 United States, there are people who used to be on  
 25 this -- sort of on a different -- they had a -- they 11:42:46  
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1 had a different treatment guidelines.  
 2 There's been a wave of objectivity --  
 3 Q I'm sorry to interrupt. I'm sorry to  
 4 interrupt you, but I -- I really need to ask you to  
 5 answer my question. And I -- I think we're -- my -- my 11:42:57  
 6 question was just whether SEGM is developing treatment  
 7 guidelines.  
 8 A I think it's the aspiration of SEGM to develop  
 9 development treatment guidelines in keeping with what  
 10 is happening scientifically and -- in terms of 11:43:13  
 11 objective reviews.  
 12 So I'm not so sure that SEGM has published  
 13 treatment guidelines yet, but I do think they're  
 14 interested in -- in providing a different set of  
 15 guidelines that may have dominating the United States 11:43:34  
 16 and European countries in the past. And Australian and  
 17 compani- -- countries in the past --  
 18 Q Are you part -- are you part of any effort at  
 19 SEGM to develop treatment guidelines on a going-forward  
 20 basis? 11:43:55  
 21 A No, not directly, but I do --  
 22 Q Are you involved --  
 23 A I do believe that my recent article will be  
 24 read by people and considered by people who are  
 25 going -- if -- if they do develop treatment guidelines. 11:44:12  
 Page 104

1 Q Is -- is -- am I understanding correctly that  
 2 your article was an effort, in conjunction with SEGM,  
 3 to affect the practitioner community about how you view  
 4 treatment should be provided?  
 5 A To the extent that treatment should be 11:44:35  
 6 provided based upon a thorough informed consent  
 7 process, that my article describing informed consent  
 8 would be affirmative answer to your question that I --  
 9 I'm hoping that the influence of my article will  
 10 influence all treatment guidelines in the future, 11:45:01  
 11 regardless of who issues those guidelines.  
 12 MR. BROOKS: Counsel, when --  
 13 BY MS. HARTNETT:  
 14 Q Are you --  
 15 MR. BROOKS: When you come to a convenient 11:45:10  
 16 point, let's take one more break and have one more  
 17 stint before lunch. I don't mean to disrupt the line  
 18 of questioning, but when you come to a point, it would  
 19 be good.  
 20 MS. HARTNETT: I appreciate that. I have a 11:45:20  
 21 couple more questions on this, and then we can take a  
 22 break.  
 23 BY MS. HARTNETT:  
 24 Q Are you actively involved in any SEGM work  
 25 currently? 11:45:29  
 Page 105

<p>1 A No.</p> <p>2 Q Do you know where SEGM receives its funding 3 from?</p> <p>4 A I believe that -- that the hundred or so 5 people that are, quote, members contribute something, 11:45:55 6 but it's something as modest, perhaps, as I gave, \$200. 7 There must be a large donor or set of donors. 8 And the answer to your question is I don't 9 know the answer.</p> <p>10 Q Is there someone at SEGM that you think would 11:46:15 11 know that answer?</p> <p>12 A Yes.</p> <p>13 Q Who is that?</p> <p>14 MR. BROOKS: Objection.</p> <p>15 THE WITNESS: There are several people. 11:46:26 16 May I answer that question?</p> <p>17 MR. BROOKS: You may answer.</p> <p>18 THE WITNESS: Stephen Beck, Dr. Stephen Beck, 19 and Ema Zane, E-M-A Z-A-N-E.</p> <p>20 MR. BROOKS: And, Counsel, we will designate 11:46:47 21 the testimony about finances of SEGM as confidential.</p> <p>22 MS. HARTNETT: We can -- oh, we can 23 provisionally do that. That's fine.</p> <p>24 BY MS. HARTNETT:</p> <p>25 Q You mentioned -- I have just one more. 11:46:59 Page 106</p>	<p>1 time for a break.</p> <p>2 MR. BROOKS: All right.</p> <p>3 THE VIDEOGRAPHER: Off the record at 4 11:49 a.m.</p> <p>5 (Recess.) 12:00:19</p> <p>6 THE VIDEOGRAPHER: We are on the record at 7 12:01 p.m.</p> <p>8 MS. HARTNETT: Thank you.</p> <p>9 BY MS. HARTNETT:</p> <p>10 Q Welcome back, Dr. Levine. 12:00:40</p> <p>11 A Thank you.</p> <p>12 Q I think I want to turn from your -- we were 13 talking through your CV a bit and now just go to your 14 report. So if you could -- I'm going to be asking a 15 question about paragraph 5, if you want to pull up that 12:00:53 16 page?</p> <p>17 MR. BROOKS: We now have paragraph 5 on the 18 screen.</p> <p>19 MS. HARTNETT: Great.</p> <p>20 BY MS. HARTNETT: 12:01:14</p> <p>21 Q So you, in the first sentence of paragraph 5, 22 say you first encountered a patient suffering with 23 what -- sorry -- "what we would now call gender 24 dysphoria in July 1973." 25 Do you see that? 12:01:30 Page 108</p>
<p>1 You -- you mentioned you were a valued member 2 of SEGM. Is that just your -- is there a special group 3 of people that are valued, or do you just kind of view 4 yourself as having a valued role in the organization?</p> <p>5 A Well, I was asked to develop this paper or a 11:47:12 6 series of papers on informed consent, and to me, I 7 considered that a compliment, and it was based upon my 8 previous publications about this matter. 9 And in the concept -- and in the discussions 10 of the committee on psychotherapy, I just got the sense 11:47:41 11 that -- I offered an opinion and people really -- they 12 often said that was helpful or clarifying or, you know, 13 really good or "Can I use that term?" or whatever. 14 So whatever the subjective appraisal I was 15 making of my role, my status, among these very 11:48:04 16 respected people, I believed that I was a valued 17 member. You know, I could be --</p> <p>18 Q Do you think you're the most --</p> <p>19 A -- delusional about that.</p> <p>20 Q Do you think you're the most -- are you the 11:48:18 21 most highly credentialed professional in SEGM?</p> <p>22 A No.</p> <p>23 Q Huh?</p> <p>24 A No.</p> <p>25 MS. HARTNETT: Okay. I think this is a good 11:48:34 Page 107</p>	<p>1 A Yes, I do.</p> <p>2 Q Who was that patient?</p> <p>3 MR. BROOKS: I will, of course, object to the 4 extent you're asking the doctor to disclose 5 confidential -- 12:01:43</p> <p>6 THE WITNESS: Actually --</p> <p>7 MR. BROOKS: -- identifying information.</p> <p>8 THE WITNESS: Actually, the patient and I 9 wrote a paper together and -- and so the patient has 10 used the name, so I feel like I can tell you the name. 12:01:52</p> <p>11 BY MS. HARTNETT:</p> <p>12 Q That's why I was asking.</p> <p>13 A Yeah. So the name was Rutherford Shumaker.</p> <p>14 Q And did you refer to the patient as 15 "Rutherford" or some other name? 12:02:07</p> <p>16 A Well, the name of the -- the name of the 17 article was Increasingly Ruth: Towards an understanding 18 of sex reassignment surgery. 19 And so Rutherford, in, I think -- became Ruth. 20 So Ruth and I published that paper, and then I wrote a 12:02:32 21 follow-up to that paper after Ruth committed suicide in 22 her family's home. But that was 1983. I'd have to 23 check the CV. 24 So that was my -- the man coming to me as 25 Rutherford, who eventually became Ruth, came to me in 12:02:56 Page 109</p>

<p>1 July of 1973.</p> <p>2 Q And do you recall how long after you first</p> <p>3 encountered that patient you encountered your next</p> <p>4 patient that was suffering from what we would now call</p> <p>5 gender dysphoria? 12:03:11</p> <p>6 A Oh, it probably -- it was probably a couple of</p> <p>7 months.</p> <p>8 The answer to your question, I don't</p> <p>9 specifically recall, but --</p> <p>10 Q Okay. 12:03:26</p> <p>11 A -- I -- I -- there was enough pressure by</p> <p>12 patient request for care that we started this -- this</p> <p>13 clinic.</p> <p>14 Q Understood. And you note here, on your</p> <p>15 paragraph 5, you also founded the Case Western Reserve 12:03:37</p> <p>16 University Gender Identity Clinic; correct?</p> <p>17 A Correct.</p> <p>18 Q And you note, later in that paragraph, that in</p> <p>19 1993, the Gender Identity Clinic was renamed.</p> <p>20 A In 1993, I left full-time employment at 12:03:52</p> <p>21 Case Western Reserve, and I continued the program, but</p> <p>22 we changed the name of the program, but our work</p> <p>23 evaluating and providing services for trans individuals</p> <p>24 continued.</p> <p>25 Q And what did you change the name of the 12:04:15</p> <p style="text-align: right;">Page 110</p>	<p>1 prejudicial view, the dark day came when a new chairman</p> <p>2 was selected, who came aboard, who then basically ran</p> <p>3 the department into a great debt, and then I and</p> <p>4 several other program- -- my program and several other</p> <p>5 programs needed to be cut from the department in order 12:06:07</p> <p>6 to get the department back into solvency.</p> <p>7 So the fact that one day I left was the</p> <p>8 by-product of things that had happened over a</p> <p>9 three-year period.</p> <p>10 So the dark days began, I think, on day one 12:06:25</p> <p>11 when the chairman came.</p> <p>12 Q Thank you. Are you familiar with the</p> <p>13 University Hospitals?</p> <p>14 A The department of psychiatry was part of the</p> <p>15 University Hospitals of Cleveland. 12:06:41</p> <p>16 Q And you did your psychiatric residency at the</p> <p>17 University Hospitals of Cleveland?</p> <p>18 A Yes.</p> <p>19 Q Do you have an affiliation there now?</p> <p>20 A I do. I'm a clinical professor. 12:06:52</p> <p>21 Q And how often do you -- if at all -- do you go</p> <p>22 to the University Hospitals?</p> <p>23 A Not very frequently. The -- the resident</p> <p>24 comes to me, and I -- but I am probably going to be</p> <p>25 teaching a seminar at University Hospitals in the next 12:07:13</p> <p style="text-align: right;">Page 112</p>
<p>1 program to?</p> <p>2 A Well, I think we just called it the Gender</p> <p>3 Identity Clinic of Levine, Risen -- Althof, Levine and</p> <p>4 Risen, which was the name of our clinical practice,</p> <p>5 Althof, Levine and Risen. So it -- 12:04:34</p> <p>6 Q Okay.</p> <p>7 A Gender Identity Clinic at ALR.</p> <p>8 Q And when you -- when the university kind of</p> <p>9 discontinued -- or you discontinued the affiliation</p> <p>10 with the university in 1993, did you consider that to 12:04:50</p> <p>11 be a dark day in the department, in the politics of the</p> <p>12 department?</p> <p>13 MR. BROOKS: Objection; compound question.</p> <p>14 THE WITNESS: Number one, I did not</p> <p>15 discontinue my affiliation. I changed my affiliation. 12:05:06</p> <p>16 That is, I was salaried until 1993, and then I left the</p> <p>17 university and personally, for a while, I did consider</p> <p>18 it a -- a great disappointment that I left the</p> <p>19 university.</p> <p>20 BY MS. HARTNETT: 12:05:30</p> <p>21 Q Did you consider it a dark day in the</p> <p>22 department, in the politics of the department, at the</p> <p>23 university?</p> <p>24 A That per se wasn't the source of the darkness.</p> <p>25 That day wasn't it. In my view, it's a very 12:05:43</p> <p style="text-align: right;">Page 111</p>	<p>1 three months because I'm part of a committee to plan</p> <p>2 the curriculum on sexuality and gender.</p> <p>3 Speaking of education, the university --</p> <p>4 other -- other institutions also asked me to teach</p> <p>5 about this subject. And on August -- on April 7th, I'm 12:07:39</p> <p>6 going to Akron to teach -- or virtually I'm going to</p> <p>7 teach a three -- a two-and-a-half-hour seminar.</p> <p>8 And I forgot to mention to you before, and I'd</p> <p>9 like you to hear this, that when you were questioning</p> <p>10 me about my credentials or not having a certificate 12:07:57</p> <p>11 about -- in child psychiatry, you should know, I forgot</p> <p>12 to tell you that Cleveland Clinic, department of child</p> <p>13 psychiatry, and the University Hospitals, the</p> <p>14 department of child psychiatry, sends residents to be</p> <p>15 with me as part of their training in child development 12:08:18</p> <p>16 and child clinical issues, child and adolescent</p> <p>17 clinical issues.</p> <p>18 So I think -- I just forgot to mention that.</p> <p>19 Q Are you familiar with the University</p> <p>20 Hospitals' LGBTQ and gender care program? 12:08:48</p> <p>21 A I'm aware that it exists, yes.</p> <p>22 Q Have you ever talked to any clinicians in that</p> <p>23 practice?</p> <p>24 A No one has ever talked to me in that practice.</p> <p>25 The only time I have interaction with them is when -- 12:09:00</p> <p style="text-align: right;">Page 113</p>

<p>1 if I present grand rounds, some of those people ask me                  2 a question. But they've never consulted me whatsoever                  3 in the formation of their clinic and in the ongoing                  4 work of their clinic.                  5 Although, Cleveland Clinic has a very similar 12:09:20                  6 program, and they have called me up and -- for some                  7 advice sometimes.                  8 But my -- my, quote, own University Hospitals'                  9 place I don't really think has any people from child                  10 psychiatry in it, but I'm not sure because they have 12:09:38                  11 kept me away.                  12 Q What do you mean they have kept you away?                  13 A Just what I explained. They have never                  14 communicated with me. It is -- you know, other people                  15 know me as being published in this area. You know, I 12:09:54                  16 think I've written 20 articles on this -- you know, I                  17 have 20 or so publications in this area. You would                  18 think that they would invite me or consult with me or                  19 ask me questions, but I think they recognized that they                  20 are part of what is called affirmative care and what I 12:10:18                  21 would say, rapidly affirmative care, and -- and they                  22 sense that I'm not so interested in rapid, that -- that                  23 I believe that -- that I have long believed that people                  24 who have this kind of dilemma need some patient time in                  25 talking about this matter. 12:10:45</p> <p style="text-align: right;">Page 114</p>	<p>1 Q Is that your definition of rapid affirmative                  2 care?                  3 A That would be one definition, yes.                  4 Q Can you give me a more general definition of                  5 what rapid affirmative care is? 12:12:17                  6 A It would be -- it would be a commitment to be                  7 affirmative in -- in being a cheerleader for social                  8 transition or taking hormones or having one's breasts                  9 removed after what I would consider to be an inadequate                  10 evaluation. 12:12:34                  11 So it begins with an adequate evaluation.                  12 It -- it requires having an understanding of the                  13 elements of informed consent. And in dealing with                  14 minors, it has to do with working with not only with                  15 the patient but with the parents. 12:12:51                  16 So rapid affirmative care would be care that                  17 does not meet my criteria for thorough evaluation,                  18 including a developmental history, a process of                  19 informed consent and involvement, over time, with the                  20 parents so they consider the weighty -- the weighty 12:13:10                  21 implications of -- of what affirmative care represents.                  22 So anything short of deliberation in this and                  23 careful consideration I would kind of dismiss as rapid.                  24 Q If affirmative care is given with deliberation                  25 and informed consideration, do you disagree with that? 12:13:33</p> <p style="text-align: right;">Page 116</p>
<p>1 And while I can't tell you how they feel about                  2 me, I can only deduce that they're not interested in my                  3 concepts because --                  4 Q Have you --                  5 A -- they must be different than their concepts. 12:10:57                  6 Q Have you offered your -- your services to                  7 them?                  8 A No.                  9 Q You said your understanding is that they                  10 provide rapid affirmative care; is that correct? 12:11:10                  11 A I presume so. I -- you know, I can't                  12 understand why -- why the organizers and the leaders of                  13 those -- that team are not interested in anything I                  14 have to say because they've never asked me.                  15 Q So just because someone hasn't asked you for 12:11:29                  16 your view, do you assume that they're not interested in                  17 what you have to say?                  18 A This -- I wouldn't say as a general principle,                  19 but I would say in this case, I have long assumed that,                  20 correctly or incorrectly. 12:11:44                  21 Q It sounds like you don't agree with rapid                  22 affirmative care; is that fair?                  23 A Yes. I don't believe that people, after                  24 meeting someone for an hour, for example, ought to be                  25 given a firm diagnosis and a prescription for hormones. 12:12:00</p> <p style="text-align: right;">Page 115</p>	<p>1 A No. No. I think parents -- parents have a                  2 weighty decision to make, but they ought to be informed                  3 about the state of science. The -- the health tour                  4 benefits have to be understood in terms of the                  5 scientific likelihood of achieving those benefits. And 12:13:51                  6 they have to understand the short-term medical but more                  7 important the long-term psychosocial risk of what                  8 they're doing.                  9 And if those competent parents, knowing the                  10 child as they know them, decide, after they're 12:14:09                  11 informed, they -- they have my blessing to socialize                  12 their child in the opposite gender.                  13 Whether I think in that particular case it's a                  14 wise thing or not, it's not my decision to make. I                  15 don't actually believe that people like me ought to be 12:14:29                  16 recommending. I think we ought to be educating,                  17 evaluating and informing and the parents and the child                  18 make the decision with my supportive help, both on the                  19 positive side and the negative side.                  20 I am to be the trustee, informer of what 12:14:45                  21 science knows, and I believe that clinicians who don't                  22 know science, who actually think they can evaluate this                  23 in a -- in -- in a -- in an hour, I just think that's                  24 not good care.                  25 Q Is your view that the clinicians at the 12:15:06</p> <p style="text-align: right;">Page 117</p>

<p>1 University Hospitals LGBTQ and gender program don't 2 know science? 3 A I don't know what they know. I don't know 4 what they know. I have no views about that because I 5 have no means of knowing, only that I get to see people 12:15:22 6 brought to me after they've gone to various affirmative 7 care programs and the parents are horrified at the 8 recommendations that are being made. So -- 9 Q How many -- sorry. Go ahead. 10 A But in answer to your specific question, since 12:15:44 11 I don't even know the people there and I don't know 12 what they're doing, I'm not -- I would just -- I would 13 just -- I pose these standards, and I don't know 14 whether they meet them or not. 15 I have not been impressed in general that 12:16:04 16 affirmative care programs in various cities that I get 17 to hear about meet those criteria. 18 I'm just trying to help people, you know, 19 realize the importance of trans care and -- and trans 20 care, to me, includes careful evaluation and -- and 12:16:19 21 addressing the comorbidities that are frequently 22 present in these kids. 23 And by "kids," I mean even teenagers. 24 Q Have you had -- sorry, so you -- but your 25 understanding is that the University Hospitals LGBTQ 12:16:39 Page 118</p>	<p>1 A Well -- 2 MR. BROOKS: I was objecting to the outlier as 3 vague. I'm not sure what you -- are you referring to 4 the clinic you've been discussing or something else? 5 BY MS. HARTNETT: 12:17:52 6 Q What is your basis for your view that there 7 are clinicians in the United States performing rapid 8 affirmation care? 9 A Thank you for asking that question. 10 I have been in contact with -- that is, 12:18:03 11 parents -- there -- there are parent groups who cannot 12 find -- there -- there are groups of parents who 13 brought -- were brought together, who came together, 14 bounded -- bound together in organizations who are 15 objecting to what they call rapid affirmation and the 12:18:27 16 inability to find a therapist in their community who is 17 willing to just do psychiatric care like they would do 18 psychiatric care if a child presented simply with 19 anxiety or depression or substance abuse or some other 20 behavioral problem. 12:18:48 21 The -- the basis for -- for my -- the answer 22 to your question is parents, both Cleveland parents, 23 national -- parents from all over the country and 24 parents from the UK. I am aware that parents are 25 particularly perturbed by rapid affirmation and its 12:19:07 Page 120</p>
<p>1 and gender care program does provide the rapid type of 2 affirmative care; is that right? 3 MR. BROOKS: Objection. 4 THE WITNESS: I already -- 5 MR. BROOKS: Asked and answered. 12:16:48 6 THE WITNESS: -- answered that question. I'm 7 not -- I'm not aware of what they do. I -- I am -- 8 BY MS. HARTNETT: 9 Q Okay. Sorry, I thought you had said you 10 thought that they provided rapid affirmative care, 12:17:01 11 which is why I was asking. 12 A I wouldn't be surprised if their definition of 13 inadequate evaluation is different than my evalua- -- 14 my -- my definition of an adequate evaluation. 15 Q Do you know what their definition is of an 12:17:20 16 adequate evaluation? 17 A No. And because I don't know, I don't want to 18 endorse them, nor do I want to condemn them. 19 Q What is the basis for your understanding that 20 there is kind of rapid transition care being provided 12:17:32 21 out there? 22 MR. BROOKS: Objection; vague. 23 BY MS. HARTNETT: 24 Q Sorry, let me just use your term. 25 You said rapid affirmation. 12:17:42 Page 119</p>	<p>1 treatment, and they -- they have complaints that their 2 child is not understood; that is, their problems have 3 not been understood. 4 Q How many parents have you talked -- how many 5 parents have you talked to about their concern with 12:19:26 6 what you call the rapid affirmation model? 7 A Well, I gave a talk to 35 parents probably a 8 year ago. In 2017, I think I wrote about it in the 9 article that -- the last four or five cases that I was 10 involved with, the parents all said the same thing; 12:19:53 11 that is, they were horrified that after one hour, 12 their -- their child was diagnosed and -- and had 13 recommend- -- and had recommendations that horrified 14 them. 15 Q Sorry, how -- where was the talk that you gave 12:20:10 16 to the 35 parents? What -- what was that? 17 A It was in -- it was in my easy chair in my 18 bedroom. 19 Q What was the convening? What was the venue 20 for that? 12:20:23 21 A It was a group of parents who invited me to 22 give a talk, and what I gave a talk on was -- the 23 aspects of what -- what I knew about human identity, 24 not just -- 25 Q What was -- 12:20:38 Page 121</p>



<p>1 A -- not just gender identity.</p> <p>2 Q Was this group of parents affiliated with an</p> <p>3 organization, or how did they -- how did they present</p> <p>4 themselves? As some sort of an organization?</p> <p>5 A A woman contacted me and said that she belongs 12:20:50</p> <p>6 to an organization of -- of concerned parents of trans</p> <p>7 teenagers or children. I'm not sure which. Mostly</p> <p>8 teenagers. She actually sent me an analysis of --</p> <p>9 of -- of -- that she made, a little research that she</p> <p>10 had done that demonstrated a very high intelligence 12:21:10</p> <p>11 in -- of their -- all the children in this group and</p> <p>12 very high incidents of autism and other developmental</p> <p>13 problems and -- so she sent me that data, and she</p> <p>14 wanted some advice to -- from me about how to get that</p> <p>15 published. 12:21:37</p> <p>16 And -- and then she invited me to give a talk.</p> <p>17 When we talked, she then said she would get back to me,</p> <p>18 and she got back to me and invited me to give a talk to</p> <p>19 the parent group. And so that's what happened.</p> <p>20 Q Is the parent group called Genspect? 12:21:51</p> <p>21 A No. I think -- it -- it might -- it -- this</p> <p>22 was an American group of people and --</p> <p>23 Q What was the parent's name that did the</p> <p>24 research?</p> <p>25 A You know, I -- I would have to look that up. 12:22:15</p> <p style="text-align: right;">Page 122</p>	<p>1 point of view to influence their ther- -- the -- the</p> <p>2 person -- their gender expert that they took their kid</p> <p>3 to and -- and that they can't find anyone else who</p> <p>4 has -- who has the courage, they say, to just talk to</p> <p>5 their kid without saying they believe in affirmation 12:23:55</p> <p>6 because that's the right thing to do.</p> <p>7 Q Thank you. I -- I just -- you've talked about</p> <p>8 the importance of scientific data; correct?</p> <p>9 A Correct.</p> <p>10 Q And you've made the representation that there 12:24:09</p> <p>11 is a practice of rapid affirmation happening in the</p> <p>12 United States; correct?</p> <p>13 A As -- as far as I know, yes.</p> <p>14 Q And what I'm trying to understand is the basis</p> <p>15 for your understanding that there is a phenomenon of 12:24:22</p> <p>16 rapid affirmation happening in the United States.</p> <p>17 And so --</p> <p>18 A Well --</p> <p>19 Q -- I guess my question is -- sorry.</p> <p>20 A -- the basis. And I've tried to answer the 12:24:33</p> <p>21 basis is -- is that the parents who consult me all</p> <p>22 tell -- pretty much all tell me the same story. It is</p> <p>23 multiple patient reports.</p> <p>24 And when I -- when I was on that committee</p> <p>25 that we talked about before, of psychotherapy, people 12:24:52</p> <p style="text-align: right;">Page 124</p>
<p>1 I don't remember.</p> <p>2 Q I'm just going to try to -- so I appreciate</p> <p>3 what you've explained.</p> <p>4 Could you tell me how many actual parents have</p> <p>5 described to you, personally, an experience where their 12:22:29</p> <p>6 child was diagnosed and prescribed treatment in an</p> <p>7 hour?</p> <p>8 A Well, if -- some people, it would be two</p> <p>9 hours, okay?</p> <p>10 Q Let me just start with one hour. 12:22:46</p> <p>11 How many parents have told you directly that</p> <p>12 their child had been prescribed -- diagnosed and</p> <p>13 prescribed treatment in an hour?</p> <p>14 A I would say perhaps 50 percent of the people</p> <p>15 who -- who have consulted me. 12:22:59</p> <p>16 Q And how many people have consulted you?</p> <p>17 A I really can't answer. You know, if I told</p> <p>18 you 11, if I told you 16, if I told you four, I</p> <p>19 would -- I would have no conviction that I -- that --</p> <p>20 that that answer is correct. 12:23:19</p> <p>21 I'm telling you I had the impression that over</p> <p>22 and over again parents complain about this. They</p> <p>23 complain about affirmation. They're afraid of</p> <p>24 affirmation, what that will mean to their child's</p> <p>25 future. And they complain that they can't get their 12:23:35</p> <p style="text-align: right;">Page 123</p>	<p>1 in Australia, people in Ireland, people in London, in</p> <p>2 various parts of the UK and -- let me think where this</p> <p>3 is a source of -- and the United States have all</p> <p>4 reported to me the same thing. Everyone says the same</p> <p>5 thing, that the parents complained to them about going 12:25:18</p> <p>6 to specialty care which rapidly confirms the diagnosis</p> <p>7 and recommends affirmation and tends to make the</p> <p>8 parents feel like they're -- they're doing a terrible</p> <p>9 thing by resisting transition.</p> <p>10 Q You mentioned -- 12:25:39</p> <p>11 A So the answer to your question is multiple</p> <p>12 sources, both directly in my clinical practice, both --</p> <p>13 what I read about sometimes in these legal proceedings,</p> <p>14 legal documents and in -- and -- and from my</p> <p>15 colleagues. 12:26:01</p> <p>16 I -- I just want you to know that if -- that</p> <p>17 professionals all claim to do thorough evaluations, but</p> <p>18 I -- I'm not sure that our definition of thorough</p> <p>19 evaluation is -- is correct.</p> <p>20 Q Have you talked to any gender-affirming 12:26:18</p> <p>21 professional to learn what their practice actually is?</p> <p>22 A Well, I've read Dr. Adkins, for example,</p> <p>23 reassurance about the thorough evaluations done in her</p> <p>24 clinic.</p> <p>25 And -- have I talked to any affirmation -- 12:26:40</p> <p style="text-align: right;">Page 125</p>

<p>1 well, I did talk to the Cleveland Clinic people and --                  2 who are -- were sharing with me their angst about what                  3 they should do with these borderline personality kids,                  4 kids who aren't doing well, who don't want to focus on                  5 anything but their transgender state. So they consult 12:26:57                  6 me about these -- these case- -- you know, they                  7 consulted me about this.                  8 So I guess the answer is yes.                  9 And if you ask me the number, I would say it's                  10 not a large number. I don't -- and I don't -- 12:27:14                  11 Q Sorry, other than Dr. -- other than Dr. Adkins                  12 and whoever you talked to at the Cleveland Clinic, have                  13 you -- are you -- sorry.                  14 You've never talked to Dr. Adkins; correct?                  15 A I've never personally spoken to her, no. 12:27:25                  16 Q So other than the people at the Cleveland                  17 Clinic that you referred to, have you spoken to any                  18 other gender-affirming professionals about their                  19 practices?                  20 A Well, in these various legal matters, 12:27:37                  21 oftentimes I'm asked to review case material, and I --                  22 and I -- I haven't visibly, virtually, talked to -- the                  23 answer to your question is no, but I -- I certainly                  24 have seen materials that indicate the -- the quality of                  25 the interactions that have been between the affirming 12:28:09                  Page 126</p>	<p>1 two-hour or less diagnosis and treatment. How many                  2 parents have you heard that from directly?                  3 MR. BROOKS: Objection; asked and answered.                  4 THE WITNESS: I would say 15 sets of parents.                  5 And if you allow me to accept the reports of the people 12:29:31                  6 on the committee, probably it's over a hundred. But,                  7 you know, as I already answered, I can't really -- I'm                  8 just giving you numbers because you're asking for                  9 numbers.                  10 BY MS. HARTNETT: 12:29:54                  11 Q Well, isn't it important to have good data?                  12 A You're right, it is important to have good                  13 information. And data varies in its nature. And                  14 parental reports that are consistent over time, to me,                  15 is good data. That represents good data. That are 12:30:10                  16 good data, rather.                  17 Q Have you ever had a parent report to you a                  18 positive experience from an affirming practitioner, as                  19 you describe them?                  20 A Ever had a positive experience. 12:30:35                  21 Well, last Sunday morning, I gave a talk at a                  22 church, and a grandmother told me that her very                  23 disturbed granddaughter has transitioned to a -- living                  24 as a boy and she's far less disturbed and much happier                  25 and she's beginning to restart her life as a student 12:30:50                  Page 128</p>
<p>1 and the professional and the patient and sometimes the                  2 parents.                  3 Q And you mentioned -- you mentioned multiple                  4 patient reports, I think, when you were saying what the                  5 basis was for your review. 12:28:24                  6 Do you recall that?                  7 A Yes.                  8 Q Are you -- and there, you're talking about the                  9 patient would be the -- the parent of the child that's                  10 being cared for; right? 12:28:30                  11 A Yes. I think if --                  12 Q In other words, you were -- you were not                  13 getting complaints from the -- the child or adolescent                  14 that was being discussed; you were getting the                  15 complaint from the patient parent; is that right? 12:28:45                  16 A Oh, I've heard -- I -- I've heard patients say                  17 that they were a little surprised by the rapidity of                  18 things, yes.                  19 Q Sorry, one of your child or adolescent --                  20 A So it's -- 12:28:58                  21 Q -- patients --                  22 A It's not entirely parents, but it's largely                  23 parents.                  24 Q And then I've asked you how many parents                  25 you've directly heard reports of -- let's just say 12:29:10                  Page 127</p>	<p>1 now, when she couldn't function as a student before.                  2 So if a grandparent -- I mean, it's -- it's --                  3 today's Wednesday. So that was Sunday morning.                  4 So I think -- that is not the first time I've                  5 ever heard from somebody. I've also heard from 12:31:05                  6 grandmothers who were deeply concerned about their                  7 grandchild.                  8 And, actually, come to think of it, I had an                  9 interview -- yes, I -- I have heard about a -- another                  10 trans male teenager who is doing very well now as -- 12:31:23                  11 and much better than they were doing living as a -- as                  12 a distressed female.                  13 So I do have positive reports of people doing                  14 well.                  15 And in -- in my years of taking care of -- of 12:31:39                  16 adults, I've seen some people, at least who have come                  17 back in follow-up after transition, who seem to be                  18 doing very well in life.                  19 I'm not saying that -- so I -- you know, I get                  20 both sides of the coin here. 12:32:01                  21 Q You haven't undertaken a scientific sampling,                  22 though, to figure out what parents' experiences are                  23 with affirming practitioners; correct?                  24 A I -- no, I have no follow-up study on this. I                  25 am like other people who don't have follow-up studies. 12:32:18                  Page 129</p>

<p>1 Q And it could be that parents that are having                  2 negative experiences are the ones that are seeking you                  3 out; correct?                  4 A Yes. There's always a selection by a -- in --                  5 in clinics. When -- when you have data coming from any 12:32:35                  6 clinic, one of the methodologic questions is, What is                  7 the selection bias?                  8 And so I -- I represent a person who has some                  9 kind of unknown or known reputation in the community,                  10 and so people come to see me because they think I have 12:32:54                  11 knowledge or attitude that is consistent with their                  12 position.                  13 But, you see, in the -- in the fundamentals                  14 of -- of the use of statistics and creating scientific                  15 methodology, selection bias is a well-known problem, 12:33:12                  16 and that's one of the reasons why some studies need                  17 to -- that's one of the advantages of having multisite                  18 studies and multicultural -- studies from multiple                  19 countries, is -- is what we're going to do about                  20 selection bias. 12:33:31                  21 Q I believe earlier you said that your view is                  22 that the doctor's role isn't to recommend the treatment                  23 for the minors who may be experiencing gender dysphoria                  24 but, rather, to provide information to the parents and                  25 the children and the parents and the children should 12:33:47                  Page 130</p>	<p>1 recommendation to transition a seven-year-old or                  2 transition a 14-year-old or remove the breasts of a                  3 14-year-old, and I would say that what is the                  4 scientific basis of your recommendation to tell                  5 parents, who are often trusting of your knowledge base, 12:35:36                  6 what is the scientific basis of your recommendation?                  7 And I say, given what we know about science,                  8 I'm not opposed to transitioning a child or                  9 transitioning a teenager or an adult. What I'm saying,                  10 that we should be able to educate, objectively, the 12:35:54                  11 parents and the child themselves, you see, so that they                  12 know the issues here.                  13 And it's their child. They are legally                  14 responsible and they're morally and ethically                  15 responsible for the welfare of their child. And so I 12:36:11                  16 think they need to be informed.                  17 And -- and what I'm saying is, in the past,                  18 doctors have recommended things, and I'm -- so I'm                  19 questioning the wisdom of making a strong                  20 recommendation because it's based on the allusion that 12:36:25                  21 we know what is best for this kid or this adult. And                  22 I'm saying, please, doctors, please be humble about                  23 what your knowledge is here. Please respect the                  24 limitations of your knowledge. That's all I'm saying.                  25 So I -- I am objecting. I'm trying to teach 12:36:47                  Page 132</p>
<p>1 make the decision; is that fair?                  2 A Yes. This is the idea that I am trying to                  3 educate the world about, that, actually, doctors don't                  4 know what the best treatment is for a particular child                  5 and that they shouldn't pretend to know because there's 12:34:06                  6 no follow-up data that are -- there's no compelling                  7 follow-up data. There's just anecdotal reports like                  8 you and I were just discussing. Or anecdotal reports.                  9 And so given the fact that -- that people                  10 believe doctors and they believe that doctors know 12:34:24                  11 things and that I know doctors don't know things, you                  12 see, what I'm saying, what I'm trying to influence the                  13 world to think about is that we should make a -- we --                  14 we recommend that you go to surgery for appendicitis                  15 because we know the consequences of not having surgery. 12:34:44                  16 You're going to die from this condition if you don't                  17 have surgery, you see.                  18 So we -- based on the consequences, we know                  19 what is indicated medically to save life or preserve                  20 function. 12:34:59                  21 But in this particular area, the long-term                  22 follow-up of children or adolescents or even adults who                  23 undergo transition are not known. And I -- they're                  24 not -- they're simply not known.                  25 And because we are -- some doctors make 12:35:15                  Page 131</p>	<p>1 the world. If -- I know that sounds rather grandiose,                  2 but I'm trying to teach the world that based on our                  3 lack of information about the long-term follow-up, we                  4 can give options for the treatment of this condition                  5 and that option includes what you would call 12:37:03                  6 affirmative care.                  7 But we should understand the scientific basis                  8 of affirmative care, you see, and we should understand                  9 the limitations, and we should understand that even the                  10 advocates of -- of gender-conforming surgery have 12:37:17                  11 published two papers recently saying that the -- the                  12 long-term psychosocial outcomes are not clear, that the                  13 benefit of -- of -- of genital surgery or breast                  14 surgery, in the long run, is not -- they're not clear.                  15 And so people have undergone -- undertaken two 12:37:38                  16 studies in the last year or two years to prove that                  17 there are benefits. So why are we, in 2020 (sic),                  18 doing studies to prove there are benefits if -- if we                  19 already know the answer.                  20 We don't know the answer. And I say because 12:37:56                  21 we don't know the answer, there's an ethical                  22 responsibility, a professional responsibility, to teach                  23 the parents, teach the adult what is known and what is                  24 not known.                  25 What they decide is their business. It's 12:38:12                  Page 133</p>

<p>1 their prerog- -- it's their prerogative. It's their                  2 child. It's their seven-year-old. It's not my                  3 seven-year-old. See? It's not your seven-year-old.                  4 It's not your 14-year-old. It's theirs. And it's a                  5 weighted decision. And the idea that it's not a 12:38:25                  6 weighted decision requires you to be an ostrich and                  7 bury your head in the sand.                  8 Q Do you think that politicians should be making                  9 that decision?                  10 MR. BROOKS: Objection. 12:38:36                  11 THE WITNESS: Well, I -- I do ask myself the                  12 question who should be making decisions about the                  13 delivery of medical care, you see. And I do realize                  14 that in some circumstances, politicians make decisions                  15 that influence medical care and medical treatment. 12:38:55                  16 I don't know the answer to that question, but                  17 I don't know that doctors per se who are not informed                  18 about the -- about the state of science really should                  19 be making these decisions with the illusion that they                  20 know best. I am not sure politicians know what's best. 12:39:16                  21 I mean, when it comes to politicians, you know, we --                  22 we all have skepticism.                  23 But nowadays, what -- who is making decisions                  24 are -- are judges, you see. I don't think juries as                  25 much as judges and -- and state legislature and 12:39:35                  Page 134</p>	<p>1 the small numbers of patients that they operated on                  2 versus the people who weren't operated on, that there                  3 seemed to be -- they seemed to be happier in the short                  4 term after surgery than the people who didn't have                  5 surgery. 12:41:49                  6 But you know what I've been saying to you                  7 in -- well, maybe I haven't quite said it yet. What                  8 I'm saying is, when we come to evaluate the impact of                  9 these treatments, we need to agree upon -- we have to                  10 have a consensus, and it should be an international 12:42:07                  11 consensus, about what is the ideal way to evaluate the                  12 effects of these treatments.                  13 Should it be, like, at six months, at                  14 twelve months, should it be at six -- two years,                  15 five years, ten years. And we should agree upon the 12:42:28                  16 mecha- -- the measurements that we're going to use                  17 prior to actually doing the study so that we all agree                  18 upon both -- both the strengths and the limitations of                  19 the methods.                  20 So what I'm -- 12:42:42                  21 Q Yeah, maybe my question --                  22 A What I'm trying to do is to refine the                  23 requirements to answer your question.                  24 Q Thank you. And I think maybe my question may                  25 have been unclear. 12:42:55                  Page 136</p>
<p>1 governors are making decisions. I don't like that                  2 either.                  3 I would prefer that an informed medical                  4 professional -- I would -- I would prefer that doctors                  5 make these decisions based upon accurate scientific 12:39:54                  6 information and not political ideology and not mixing                  7 up civil rights concerns with medical decision-making.                  8 So I realize we're in a -- this is a morass,                  9 and I -- all I -- all -- my point to you today is let's                  10 look at the science and let -- let the doctors decide 12:40:21                  11 or let the politicians decide, let the governors                  12 decide, let the judges decide, but on the basis of                  13 science.                  14 Q And are you aware of any scientific study                  15 showing that affirmative care practitioners in the 12:40:40                  16 United States are providing rapid affirmation, a                  17 scientific study, not just anecdotal reports?                  18 A There was a study out of the UK about 20 years                  19 ago. I kind of think the author of the study was                  20 M-O-L-E. I'm not certain. And they did a follow-up 12:41:10                  21 study of people who were given sex reassignment surgery                  22 immediately because they asked for it, with -- with                  23 very little screening, versus people who were treated                  24 as usual, because in that days, people had psychiatric                  25 evaluation and psychotherapy, and I think they found in 12:41:33                  Page 135</p>	<p>1 What I'm trying to figure out is that you've                  2 testified about a perception that there's this                  3 widespread practice of providing rapid affirmation                  4 service in the U.S.; is that fair?                  5 A Yes, I do have that perception. 12:43:05                  6 Q And what I'm trying to figure out, is there                  7 any kind of scientific or other -- otherwise kind of an                  8 analysis of a -- of that healthcare market to determine                  9 whether in fact that is actually happening or in fact                  10 whether these are just anecdotal occurrences that 12:43:22                  11 you've learned of?                  12 A There -- your question is one of a series of                  13 questions that I would have to answer as far as I know,                  14 there are not -- there are not respected scientific                  15 methods demonstrating my -- my impression. 12:43:44                  16 Q Thank you. If you could turn to page --                  17 paragraph 6 of your -- or it's probably on the same                  18 page you have there, but I'm going to just ask a                  19 question about paragraph 6 of your declaration -- or                  20 your report. 12:44:02                  21 And you talk about -- you can read the whole                  22 thing. I'm not trying to misread it into the record,                  23 but I wanted to focus on the sentence that says (as                  24 read):                  25 I have at one time or another 12:44:13                  Page 137</p>

<p>1 recommended or prescribed or supported                  2 social transition, cross-sex hormones,                  3 and surgery for particular patients,                  4 but only after extensive diagnostic                  5 and psychotherapeutic work." 12:44:26                  6 Do you see that?                  7 A I do.                  8 Q Have you ever recommended cross-sex hormones                  9 for a minor patient?                  10 A No. 12:44:37                  11 Q Have you ever prescribed cross-sex hormones                  12 for a minor patient?                  13 A Is that a different question than you just                  14 asked me?                  15 Q Well, you have recommended or prescribed or 12:44:53                  16 supported, and so I could go into asking you what the                  17 difference is, but I just figured I'd ask you -- is                  18 there a differences between recommended, prescribed and                  19 supported?                  20 A Oh, yes. I feel like my view of my role is to 12:45:08                  21 write a letter of recommendation describing the patient                  22 in detail, the -- the diagnosis, the patient's                  23 sensibilities, whether I think this would be beneficial                  24 to the patient at this time in his life.                  25 The last person that I wrote, I was doing 12:45:26                  Page 138</p>	<p>1 but they also agreed with the decision. And now                  2 they're, of course, in perpetual mourning for their                  3 deceased 18-year-old child.                  4 So, yes, listen, I also have given hormones to                  5 someone else who is living okay, who is not made any 12:47:20                  6 suicide attempts. But it is, as I described in that                  7 paragraph, after I get to know these people. And to                  8 tell you, I -- as best as I can tell, they appreciate                  9 that.                  10 Q Thank you. I'm just -- sorry for the -- for 12:47:35                  11 the person that you -- your -- your patient that you                  12 mentioned, the -- the 18-year-old, I'm -- I'm sorry to                  13 hear about that.                  14 Sorry, when was that? What -- what time                  15 period? 12:47:47                  16 A That was --                  17 Q Datewise.                  18 A -- March 17th, 2021.                  19 Q And did you prescribe the -- or, sorry, write                  20 a letter for the hormones before the person was 18 or 12:47:58                  21 only once they were 18?                  22 A I think the person turned 18 in August or                  23 September, and I think I wrote the letter right near                  24 the person's birthday. Whether it was before or after,                  25 I'm not sure. 12:48:19                  Page 140</p>
<p>1 psychotherapy with a young person, starting at age 16,                  2 and saw this person over the course of a year and a                  3 half. I promised that if they continued talking to me,                  4 at the end of the time, I -- if patient still wanted                  5 hormones, I would give hormone- -- I -- I wrote a 12:45:47                  6 letter of recommendation.                  7 And I did write a letter of recommendation,                  8 and the patient did take hormones. He went off to                  9 college, failed miserably at college, transferred                  10 college, and I sadly I tell you, and I -- I sadly tell 12:46:01                  11 you, this person died of a heroin overdose in his dorm                  12 room at Ohio State University.                  13 And I know from the parents, postmortem, that                  14 he acquired a girlfriend, and he then said that it's                  15 not so bad -- he's rethinking this matter. It's not so 12:46:23                  16 bad being -- being a male and having sex with someone.                  17 But I don't know whether -- I -- his heroin                  18 overdose, which was his third heroin overdose, was                  19 accidental death or suicide.                  20 So I have provided hormones. I do have that 12:46:40                  21 really negative taste in my mouth from that experience.                  22 I don't -- I don't -- I don't have remorse about giving                  23 hormones to this person because I promised that if --                  24 that it is his decision.                  25 His parents weren't happy with that decision, 12:47:02                  Page 139</p>	<p>1 Q How about social transition, have you ever                  2 recommended or prescribed or supported social                  3 transition for a minor?                  4 A A minor being someone less than 18?                  5 Q Correct. 12:48:34                  6 A Have I ever recommended, prescribed -- I have                  7 never prescribed. I have met people who already had                  8 social transition, and I had supported them even in the                  9 face of their parents' objection. But I don't think I                  10 have ever prescribed social transition to a person. I 12:49:00                  11 cooperate with it. I recognize that -- I recognize                  12 that it is the patient's decision. And while I may not                  13 have thought it was a wise decision to transition or to                  14 surreptitiously take hormones, you know, from China or                  15 something, I -- I don't interfere with it. I just talk 12:49:30                  16 about it.                  17 So -- but if you're really asking have I said,                  18 oh, Parents, you should transition your child, I think                  19 the answer is no.                  20 Q Yeah. So I'm trying to -- that's -- thank you 12:49:43                  21 for clarifying that. I -- I'm trying to figure out if                  22 you've supported the transition of a -- the social                  23 transition of any minor patients.                  24 A Yes.                  25 MR. BROOKS: Objection; vague. 12:49:53                  Page 141</p>

<p>1 BY MS. HARTNETT:                  2 Q When was the last time you supported the                  3 social transition of a minor patient?                  4 A Two years ago, I'm guessing.                  5 Q Okay. Let me -- do you know who B.P.J. -- 12:50:08                  6 B.P.J. is the plaintiff in this case.                  7 Do you know if B.P.J. is a girl or a boy?                  8 A I know nothing about B.P.J.                  9 Q So you've reviewed none of her medical records                  10 or anything like that? 12:50:32                  11 A Yeah, I would presume that this is a trans                  12 boy -- a trans girl who was born a -- a boy, but I                  13 wouldn't -- I have no certainty.                  14 Q What makes you presume that?                  15 A Well, because trans -- trans girls 12:50:47                  16 generally -- I mean -- how should I say it? Trans                  17 girls -- trans adolescent girls generally don't -- wait                  18 a -- I'm getting confused here. Excuse me.                  19 I presume that B.P.J. is an -- was born and                  20 assigned and is a natal -- was a natal male. 12:51:17                  21 But if it's a natal female, I -- I've not                  22 heard anything where a natal female becomes a trans boy                  23 and wants to compete against boys. If there is a                  24 lawsuit like that, that has been raised, I am unaware                  25 of it. 12:51:43</p> <p style="text-align: right;">Page 142</p>	<p>1 MS. HARTNETT: There is a way to, I believe,                  2 make that -- I don't know if he needs that to be that                  3 large to read it, but there is -- if you hover over the                  4 document, you can zoom in or out.                  5 MR. BROOKS: Perhaps. But this is, I think, 12:53:31                  6 much smaller, and it would be hard to read.                  7 THE WITNESS: I have the entire paragraph 50                  8 in front of me.                  9 BY MS. HARTNETT:                  10 Q Okay. Thank you. 12:53:41                  11 So I was looking through your report, trying                  12 to see if there was a connection to the context here,                  13 which is this sport -- whether the plaintiff can play                  14 sports, and I'm just looking -- you can look at all of                  15 paragraph 50, if you need to, but I'm going to be 12:53:51                  16 focused on -- well, feel free to take a look.                  17 But you're -- under this part called "the                  18 affirmation therapy model." That's the heading that's                  19 above paragraph 50.                  20 Do you see that? 12:54:04                  21 A Yes.                  22 Q And you're referring to -- what -- you say                  23 that -- you're referring to some advocates and                  24 practitioners that go much further. That's in your                  25 second line there. And then I'm going to just read one 12:54:14</p> <p style="text-align: right;">Page 144</p>
<p>1 When I read these things in the newspaper,                  2 it's -- it's -- they're -- they're always about natal                  3 boys who live as trans women or girls and want to                  4 compete against women. So that's why I presume that                  5 B.P.J. must be a natal male. 12:52:04                  6 But because my role in this case had nothing                  7 to do with the athletic side, it's just to -- to                  8 provide some basis of -- some background basis on the                  9 science of transgender knowledge and the lack of                  10 knowledge, I didn't spend time investigating that. 12:52:23                  11 Q Okay. And are you familiar with the law                  12 that's being challenged in this case that's called                  13 H.B. 3293?                  14 A No.                  15 Q Could we just turn to page 20 of your 12:52:42                  16 declaration, paragraph 50 -- or your -- sorry, I'm                  17 saying declaration. I mean report.                  18 MR. BROOKS: We're getting there.                  19 MS. HARTNETT: No, take your time. Page 20,                  20 paragraph 50. 12:53:00                  21 MR. BROOKS: Let's see. This is under -- just                  22 simply -- since I can't fit it all on the screen at                  23 once, it's under the heading that says, "The                  24 affirmation therapy model (model #4)." And now, under                  25 that, I have paragraph 50 showing on the screen. 12:53:14</p> <p style="text-align: right;">Page 143</p>	<p>1 sentence in the middle of the paragraph. (As read):                  2 "They argue that the child should be                  3 comprehensively resocialized in grade                  4 school to (sic) their aspired-to                  5 gender. As I understand it, this is 12:54:27                  6 asserted as a reason why male students                  7 who assert a female gender identity                  8 must be permitted to compete in girls'                  9 or women's athletic events."                  10 Did I read that correctly? 12:54:37                  11 A Yes, you did.                  12 MR. BROOKS: And I will -- well, you can ask a                  13 question. I'm going to ask the witness to read the                  14 entire paragraph so we don't lose the --                  15 MS. HARTNETT: He should feel free. I'm 12:54:50                  16 not -- this is not a trick.                  17 MR. BROOKS: Nope.                  18 BY MS. HARTNETT:                  19 Q Let me know when you're ready.                  20 A I've read the paragraph. 12:55:22                  21 Q Do you know whether the law being challenged                  22 in this case applies to grade school?                  23 A I don't -- I don't know the law being                  24 challenged here.                  25 Q So you don't know whether the law at issue 12:55:35</p> <p style="text-align: right;">Page 145</p>

<p>1 requires that transgender youth be comprehensively                  2 resocialized; is that fair?                  3 MR. BROOKS: Objection.                  4 THE WITNESS: When I talk about                  5 comprehensively resocialized, it was not in 12:55:51                  6 relationship to this law; it was in relationship to the                  7 American Academy of Pediatrics' recent study, I think                  8 in 2018, by Rafferty, et al., where it was asserting --                  9 they were asserting such things that I'm summarizing                  10 here. 12:56:18                  11 And, see, for them, participation in athletics                  12 just follows their fundamental assumption that they                  13 know what's best for these children even though they                  14 have no long-term -- they don't even have adolescent                  15 follow-up, let alone adult follow-up. 12:56:35                  16 And so I just think that the case of                  17 athletics -- the issue of athletics is a secondary                  18 derivative issue about the more fundamental matter of                  19 when and how, to what extent, and before -- what                  20 requirements are necessary before we socialize a child, 12:56:55                  21 you see.                  22 So if you think about the -- your issue today                  23 about athletics, it's what I would call a downstream                  24 issue, downstream from the fundamental thing that we                  25 were talking about before the last break about what are 12:57:15                  Page 146</p>	<p>1 information that they've gotten from various, quote,                  2 expert groups, and -- and there is this -- in education                  3 services today, there is this enormous emphasis on                  4 diversity and support for all forms of diversity, and                  5 so I -- I think the answer is not it's just from the 12:59:12                  6 American Academy of Pediatrics. I think the American                  7 Academy of Pediatrics is influenced by these larger                  8 social trends that have recognized how much harm we've                  9 done to various -- to women, for example, or to African                  10 Americans or to Asians, and we are trying, as a 12:59:34                  11 society, to make things more open and to -- to                  12 represent more people in the public discourse in arts,                  13 in music, in the theater and so forth.                  14 So there's just a broad, broad cultural trend                  15 towards being much more inclusive, you see, and -- and 12:59:52                  16 I just thing the trends -- athletic issue must be                  17 viewed in terms of the larger social questions that are                  18 being answered in a political sense in our culture.                  19 MR. BROOKS: Counsel, when you get to a                  20 breaking point, I think it is one o'clock, and it would 01:00:10                  21 be a good time to take a lunch break.                  22 MS. HARTNETT: We can break now. I have a                  23 couple more questions on this paragraph, but we can                  24 pick it up after lunch. What would you prefer?                  25 MR. BROOKS: You can finish up the paragraph. 01:00:27                  Page 148</p>
<p>1 the requirements to ethically enable parents to make                  2 this decision without doctors pretending like they know                  3 what's best for a seven-year-old or an eight-year-old                  4 or a 12-year-old or a 15-year-old, you see.                  5 So this is a downstream question about which I 12:57:34                  6 feel I have no legitimacy to pretend expertise.                  7 So I think every question you ask me about                  8 this, I'm going to have to say, listen, this is not                  9 my -- this is not my wheelhouse. This is not my                  10 knowledge base. My knowledge base is about what we 12:57:54                  11 were talking about, you know, about the evaluation of                  12 children and teens.                  13 BY MS. HARTNETT:                  14 Q So here, where you say, "this is asserted as a                  15 reason why male students who assert a female gender 12:58:07                  16 identity must be permitted to compete in girls' or                  17 women's athletic events," when you say -- asserted by                  18 whom? Is it the American Academy of Pediatrics? Is                  19 that who you're referring to there?                  20 A No, I don't think it's entirely that. I think 12:58:23                  21 it has to -- you know, this is a -- this is a big                  22 cultural issue in many, many states. They made -- the                  23 NCAA, you know, the high school athletic associations,                  24 whatever the names, the acronyms of those                  25 organizations, they have made policies based upon 12:58:48                  Page 147</p>	<p>1 MS. HARTNETT: Sure.                  2 BY MS. HARTNETT:                  3 Q So -- so is it your view that allowing a                  4 transgender youth to participate on the team of                  5 their -- the sex that they present as, is that a 01:00:39                  6 psychotherapeutic intervention that would dramatically                  7 change the outcome for that child?                  8 A I'm not certain.                  9 Q What is your concern -- I'm sorry, please.                  10 A I think if -- I think if a child, let's say a 01:01:02                  11 14-year-old, wants to run track or play a sport as a                  12 member of a female -- the female side of the sport and                  13 if the school or the -- the State or the -- the                  14 organization that -- that organizes high school                  15 athletics or junior high school athletics says, no, you 01:01:31                  16 can't because you were a natal male and you -- trans is                  17 not accepted as -- for athletic purposes, I think that                  18 person would be disappointed. I think that would be                  19 disappointed. And disappointment may look like                  20 depression. It may increase the person's anxiety for a 01:01:52                  21 while. But like many, all of us get disappointed in                  22 life, and, you know, we deal with it. And sometimes we                  23 grow from our disappointment.                  24 So I would think they would be disappointed.                  25 Whether that is to be considered harm, you see, I don't 01:02:12                  Page 149</p>

<p>1 think we would -- we should, just on the basis of                  2 disappointment, refer to that as harm. Harm is a                  3 different concept, you see.                  4 And -- so I guess the answer to your question                  5 is I'm not sure. 01:02:32                  6 Q But do you think that permitting them to play                  7 with -- in that example, allowing the 14-year-old                  8 person that identifies and is a girl to play with the                  9 girl team, do you believe that that would make them                  10 more likely to continue to identify as transgender when 01:02:50                  11 they otherwise would not?                  12 MR. BROOKS: Objection; ambiguous.                  13 THE WITNESS: They would otherwise continue --                  14 you -- you mean -- if I understand --                  15 BY MS. HARTNETT: 01:03:05                  16 Q I'm sorry, I'll ask a better questions.                  17 I'm just trying to figure out if your opinion                  18 is that allowing transgender, let's just say,                  19 adolescents to play on sports teams that match their                  20 gender identity will cause them to continue to identify 01:03:15                  21 as transgender when they otherwise would not.                  22 A I have no idea the answer to that question. I                  23 would imagine that they would continue to identify as a                  24 trans female, but I don't know what would happen to                  25 their identity if they didn't. That was the other side 01:03:40                  Page 150</p>	<p>1 participating, we get another perspective.                  2 If we look at the parents' perspective of the                  3 very talented athletes who are natal girls who may be                  4 defeated by these trans girls, we get yet a third or                  5 fourth perspective. 01:05:31                  6 BY MS. HARTNETT:                  7 Q Well, that's not your area of expertise;                  8 correct?                  9 A But you -- you just anticipated what I was                  10 going to say. I mean, you're asking me opinions that I 01:05:39                  11 have no legitimate expertise to answer. I -- I'm                  12 just -- I'm separating the perspectives for you. And I                  13 say your -- your question is not as simple as it                  14 sounded because there are these other perspectives to                  15 be considered which people other than me are going to 01:05:57                  16 consider.                  17 There is -- shall I repeat?                  18 There is the child --                  19 Q No, I don't think so. I don't think you                  20 should repeat. But what I do -- would like would be 01:06:08                  21 before we have lunch, just an answer, which is do you                  22 object --                  23 MS. HARTNETT: Can you -- can the reporter                  24 read back my last question, please.                  25 THE REPORTER: Yes. 01:06:15                  Page 152</p>
<p>1 of your question, the last part of your questions.                  2 So I guess I can answer part of the question.                  3 It would be my opinion, if we allowed a child                  4 who currently identifies as a trans girl to participate                  5 in a girl's athletic -- organized athletics, that that 01:03:57                  6 would do nothing -- that would -- that would reinforce                  7 the idea that she continues -- that she is a trans                  8 girl. Not that she is a girl, but that she's a trans                  9 girl. That's -- I think that would be my opinion.                  10 About the other aspect to your question, I 01:04:20                  11 don't know the answer.                  12 Q But is your opinion that there's a -- is that                  13 a -- in your opinion, is there something wrong with                  14 reinforcing the girl being on -- sorry -- the girl's                  15 gender identity of being on the team? 01:04:33                  16 Like, do you have a problem with that, or are                  17 you okay with the 14-year-old girl playing on the --                  18 transgender girl playing on the girls' team if the                  19 rules allow it?                  20 MR. BROOKS: Objection; vague, compound. 01:04:42                  21 THE WITNESS: If you -- if you look narrowly                  22 at the individual girl, we get one set of                  23 considerations.                  24 If we look at fairness, if we look at the                  25 perspective of the other girls, the natal girls who are 01:05:07                  Page 151</p>	<p>1 (Record read.)                  2 MR. BROOKS: Objection; compound, form of the                  3 question, vague.                  4 You can answer, if you are able and know what                  5 the question is. 01:07:02                  6 MS. HARTNETT: That's -- enough coaching.                  7 THE WITNESS: Pardon me? I didn't hear what                  8 you just said.                  9 BY MS. HARTNETT:                  10 Q I was telling your counsel to please stop 01:07:07                  11 coaching you. And I can ask a better question.                  12 A Oh.                  13 Q Is it your perspective that allowing a                  14 transgender girl to participate on a girl team,                  15 consistent with her gender identity, is harmful to the 01:07:18                  16 transgender girl?                  17 A No, I don't think it's harmful in the short                  18 run to the transgender girl. In the long run, if the                  19 transgender girl detransitions, say, in five years, I                  20 wonder what he will now think about what happened five 01:07:36                  21 years before when she was competing against girls as a                  22 girl.                  23 But in the -- I presume your question is in                  24 the short term, you see? And I guess in the short                  25 term, I don't think it would harm the child to the 01:07:58                  Page 153</p>



<p>1 extent that it reinforces their current identity.                  2 But as you may or may not know, gender                  3 identity can evolve over time. And so when people                  4 detransition and return to presenting themselves as a                  5 boy and thinking of themselves as a boy, they then have 01:08:20                  6 to -- they then have to consider what happened when                  7 they were -- when they were presenting themselves as a                  8 girl and believing that they were a girl. They no                  9 longer believe that they're a girl, but they did back                  10 then, you see? 01:08:39                  11 So I don't know, I don't think anybody knows,                  12 what implications, what harm, might come from their --                  13 what retrospective view of the harm that -- that they                  14 cause themselves by presenting -- by competing against                  15 girls. So -- 01:08:58                  16 Q Does anybody know the implications of the                  17 disappointment that the transgender girl might                  18 experience from exclusion, or is it similarly                  19 indeterminant?                  20 MR. BROOKS: Objection. 01:09:09                  21 THE WITNESS: Well, I -- I think I've already                  22 answered the question, that disappointment -- I would                  23 expect it if a -- if the girl -- the trans girl wanted                  24 to participate and was prohibited by some larger force                  25 from participating, they would be disappointed, and it 01:09:24                  Page 154</p>	<p>1 BY MS. HARTNETT:                  2 Q Welcome back, Dr. Levine.                  3 I think before the break, we had -- I'm not                  4 sure what page you have up, but I -- I'm at                  5 paragraph 50 of the declaration. 02:11:31                  6 A So are -- so am I.                  7 Q Okay. Let's -- I was trying to -- and the                  8 reason why we were talking about that is there was a                  9 mention of athletic events there, and the other mention                  10 of athletic events in your declaration is at 02:11:43                  11 paragraph 130. So if you could go to 130, I'll have a                  12 question about that.                  13 Let me know went you get to 130, please.                  14 MR BROOKS: We are at 130, which fits on the                  15 screen. 02:12:14                  16 BY MS. HARTNETT:                  17 Q Great. So here in this paragraph, you say, in                  18 the third sentence, the following (as read):                  19 "It is evident from the scientific                  20 literature that engaging in therapy 02:12:26                  21 that encourages social transition                  22 before or during puberty—which would                  23 include participation on athletic                  24 teams designated for the opposite                  25 sex—is a psychotherapeutic 02:12:37                  Page 156</p>
<p>1 may have -- it may have -- it -- and I couldn't predict                  2 the outcome of the disappointment, whether it would                  3 precipitate depression or whether it would precipitate                  4 giving up their trans identity, as being unrealistic,                  5 that other people are saying I am very unrealistic 01:09:47                  6 and -- and this is unfair and I'm asking for an unfair                  7 advantage.                  8 So, you know, I can't -- I don't -- these are                  9 not areas that I -- that anyone has had any experience                  10 with, you see. And -- and I -- it's hard for me to 01:10:01                  11 give you a simple answer.                  12 It feels to me, Ms. Hartnett, that you are                  13 trying to get me to answer a question in a certain way,                  14 and I'm just trying to say I think it's more                  15 complicated. And I think you're asking me to give an 01:10:16                  16 opinion about which I don't have adequate knowledge,                  17 and I don't -- that's all. Period.                  18 Lunch.                  19 MS. HARTNETT: Let's go to lunch.                  20 THE VIDEOGRAPHER: We are off the record at 01:10:35                  21 1:11 p.m.                  22 (Lunch recess.)                  23 THE VIDEOGRAPHER: We are on the record at                  24 2:11 p.m.                  25 MS. HARTNETT: Thank you. 02:11:22                  Page 155</p>	<p>1 intervention that dramatically changes                  2 outcomes."                  3 Do you see that?                  4 A I do.                  5 Q And you don't know if H.B. 3293 applies to 02:12:46                  6 prepubertal kids; right?                  7 A I'm sorry, would you repeat that question.                  8 Q You don't know if H.B. 3293 applies to                  9 prepubertal kids?                  10 A I already testified that I don't know the 02:13:03                  11 content of the deal.                  12 Q So is it your opinion that allowing                  13 transgender children and adolescents to play on sports                  14 teams will continue -- will cause them to continue to                  15 identify as transgender? 02:13:21                  16 A I think it -- well -- well, you know, my                  17 hesitance is because you used the word "cause."                  18 Q I'm just trying to --                  19 A A child --                  20 (Simultaneous speaking.) 02:14:10                  21 BY MS. HARTNETT:                  22 Q Oh, sorry, go ahead.                  23 A That's why I have taken so long. I'm -- I'm                  24 thinking about the word "cause" and its implications in                  25 my mind. I -- I do think that various aspects of 02:14:20                  Page 157</p>

<p>1 social transition tend to continue the child on a life                  2 course consistent with trans life, whether or not                  3 they're aware of the risk that they're entailing or                  4 not.                  5 I think that's as close to an answer I can 02:14:45                  6 give you.                  7 Q Are you aware of any research indicating that                  8 by preventing children from playing on sports teams                  9 consistent with their gender identity that will prevent                  10 them from continuing to identify as transgender going 02:14:59                  11 forward?                  12 A I'm not aware of research literature about                  13 athletic teams and its impact, positive or negative, at                  14 all. I'm totally unaware.                  15 Q Okay. Do you think that by excluding 02:15:14                  16 transgender girls from playing on the girls' team the                  17 law that's being challenged in this case stigmatizes                  18 transgender girls?                  19 MR. BROOKS: Objection.                  20 THE WITNESS: I think it may disappoint 02:15:48                  21 transgender girls. Stigma has another concept. You                  22 know, it has to do with social things.                  23 I -- I think a reasonable mental health                  24 professional could assume that if a child wanted                  25 something and was prohibited from it, they would be 02:16:03                  Page 158</p>	<p>1 experience a wide range of other concerns and -- and                  2 issues; correct?                  3 A Yes, I think -- yes.                  4 Q That they're subject to serious mental health                  5 issues, that's your point of view; correct? 02:17:47                  6 A I think they're apt to encounter a number of                  7 frustrations in their future lives that could add to                  8 their social anxiety, their sense of pervasive sadness                  9 and it lead to solving the problem in ineffective ways,                  10 like substance abuse. 02:18:13                  11 So, yes, I do think that being transgender,                  12 for -- for many, many people, poses adaptive challenges                  13 in the present and in the future.                  14 Q How do you know that that's based on being                  15 transgender as opposed to how the transgender people 02:18:34                  16 are being treated, or do you not distinguish between                  17 the two?                  18 A Because -- because some of the -- in children,                  19 some of the psychiatric problems that they have are --                  20 occur well before there's any awareness of the society. 02:18:54                  21 And in every cross-sectional study of adults                  22 in the transgender community have shown that the --                  23 that they're a vulnerable population and they're                  24 vulnerable to many psychiatric difficulties, and the                  25 common explanation for that, among trans advocates, is 02:19:19                  Page 160</p>
<p>1 disappointed, at least initially.                  2 Other than that, I -- I don't care to comment.                  3 BY MS. HARTNETT:                  4 Q Well, say a child wants a cookie and they                  5 aren't allowed to have it. That's disappointing; 02:16:23                  6 right?                  7 A Yes.                  8 Q Is the disappointment that a transgender child                  9 would have from being excluded from a sports team                  10 consistent with their gender identity essentially that, 02:16:31                  11 equivalent of the cookie denial?                  12 MR. BROOKS: Objection; calls for speculation.                  13 THE WITNESS: I don't know if you even put my                  14 smile into the text.                  15 Obviously, you know, there -- there are 02:16:57                  16 degrees of disappointment in the universe. And to                  17 equate that with a cookie, I don't know. I prefer not                  18 to even answer that question.                  19 BY MS. HARTNETT:                  20 Q Well, your -- your point of view is that 02:17:10                  21 people that experience being transgender also generally                  22 experience a wide range of other distressing feelings                  23 and conditions; correct?                  24 A My point of view is what?                  25 Q That people who are transgender also 02:17:27                  Page 159</p>	<p>1 that it's entirely due to social discrimination whereas                  2 I think if you look at the premonitory and the                  3 accompanying psychiatric difficulties of many trans                  4 people, these -- these -- the social discrimination has                  5 only added to the -- the internalized conflicts about 02:19:37                  6 what they're doing.                  7 So I think it's far more complicated than it's                  8 merely a result of stigma, so to speak.                  9 "Discrimination" would be a better word, I guess.                  10 Q Yeah, I'm -- thank you. And I'm trying to 02:19:54                  11 reconcile that view with the notion that excluding a                  12 transgender youth who, in your view, might be subject                  13 to these various preexisting psychological problems,                  14 why -- where you're having -- where -- what is the                  15 basis for you believing it would just be a simple 02:20:09                  16 source of disappointment for the trans youth to be                  17 excluded from a team, consistent with their gender                  18 identity, as opposed to a more severe harm?                  19 MR. BROOKS: Objection.                  20 THE WITNESS: Number one, I don't think 02:20:22                  21 there's any research in this area. So whatever --                  22 whatever you would like to conclude, I think there's no                  23 basis for it.                  24 I'm just trying to understand, based on my                  25 knowledge of human beings, that for one person, it 02:20:37                  Page 161</p>

<p>1 would be a major disappointment and it might lead to                  2 harm for that person, and for another person, it might                  3 be a major disappointment that leads to no harm, and                  4 for another person, it might be, oh, well, so what, and                  5 it's not a big -- not a big deal. 02:20:52                  6 Every study of human beings shows the variety                  7 of human beings. And we can't predict that if you                  8 exclude a child from anything on the basis of their                  9 gender identity, that it's going to cause --                  10 automatically, you can guarantee it will cause harm. 02:21:12                  11 There's just no reason to think that.                  12 It doesn't mean there isn't a child who might                  13 not be harmed, but it doesn't mean that all the                  14 children will be harmed, and it doesn't mean that the                  15 harm will follow in the same manifestation. 02:21:27                  16 Human beings have a variety of responses to                  17 everything.                  18 BY MS. HARTNETT:                  19 Q So is your view for the trans girls that would                  20 be excluded under a policy of not allowing them to play 02:21:43                  21 on the team consistent with their gender identity, that                  22 they should just toughen up and stomach the                  23 disappointment?                  24 MR. BROOKS: Objection.                  25 THE WITNESS: You're putting words in my 02:21:55                  Page 162</p>	<p>1 don't have an expert opinion on that.                  2 Q Thank you. I have a few questions about your                  3 expert report. I'm just going to go back to the                  4 beginning and go through sequentially, and I'll --                  5 please feel free to read the paragraphs I cite to you 02:23:16                  6 while I'm asking you questions.                  7 My first one is going to be back on                  8 paragraph 5, page 2.                  9 MR. BROOKS: Getting there.                  10 Paragraph 5 is on the screen. 02:23:36                  11 MS. HARTNETT: Yeah, we were there before.                  12 BY MS. HARTNETT:                  13 Q I just had a question about -- so I was                  14 comparing this report to the declaration that was                  15 submitted at the beginning of the case. That was the 02:23:47                  16 one from the Washington State declaration that had been                  17 attached to an earlier motion in the case. And that's                  18 something I introduced as Exhibit 86. So if you need                  19 to refer to it, feel free.                  20 But I will just represent to you that in the 02:24:02                  21 version of paragraph 5 that was in your earlier                  22 declaration, you had certain language that's no longer                  23 in this report. I'll read it to you and then -- just                  24 curious as to why you removed it.                  25 You -- this is the declaration that you signed 02:24:15                  Page 164</p>
<p>1 mouth. That's not my view. That's not how I was --                  2 that's not how I have spoken about it. You're                  3 summarizing it in a very negative way for me. I don't                  4 accept your language. It's not me.                  5 BY MS. HARTNETT: 02:22:09                  6 Q Okay. You don't have to.                  7 How would you put it?                  8 A I already put it.                  9 MR. BROOKS: Objection.                  10 BY MS. HARTNETT: 02:22:15                  11 Q You mentioned before the break that you also,                  12 in your view, had to look at the potential harms or the                  13 effects on the other people at issue, and I think you                  14 mentioned the other girls on the team; is -- did I hear                  15 you right? 02:22:26                  16 A I think I did mention that.                  17 Q Are you giving an expert opinion in this case                  18 about the harm to girls on a team where they would have                  19 to include a transgender girl?                  20 A I don't know how many times, Ms. Hartnett, I 02:22:41                  21 have to tell you that I don't consider myself having an                  22 expert opinion on this subject. I have stated what I                  23 stated, but I don't -- I don't -- I don't feel like I                  24 represent an expert.                  25 And so the answer to your question is, no, I 02:22:59                  Page 163</p>	<p>1 in May of 2021. (As read):                  2 "As the incidence of gender dysphoria                  3 has increased among children and youth                  4 in recent years, larger numbers of                  5 minors presenting with actual or 02:24:29                  6 potential gender dysphoria have                  7 presented to our clinic.                  8 I currently am providing psychotherapy                  9 for several minors in this area. I                  10 also counsel distressed parents of 02:24:41                  11 these teens."                  12 Do you know why you removed that language from                  13 your -- this report?                  14 MR. BROOKS: And, counsel, are -- asking that                  15 question, are you representing that that or similar 02:24:54                  16 language doesn't appear somewhere else in the report?                  17 MS. HARTNETT: I was unable to find that                  18 language in this report. It was in paragraph 4 of the                  19 PI declaration, which is now paragraph 5 of this                  20 report, and I was not able to find that language. 02:25:09                  21 THE WITNESS: I would imagine the answer to                  22 the question is I didn't think it was relevant to this                  23 particular document.                  24 Please understand, in preparing this document,                  25 I did not read the -- Exhibit 86. 02:25:29                  Page 165</p>

<p>1 BY MS. HARTNETT:                  2 Q Is it true that larger numbers of minors have                  3 been presenting with actual or potential gender                  4 dysphoria to your clinic?                  5 A No. It's true that across the world larger 02:25:46                  6 numbers of minors are requesting services for gender.                  7 That's an epidemiologic phenomenon that exists on four                  8 continents.                  9 Q Is it true that you are currently providing                  10 psychotherapy for several minors in this area? 02:26:07                  11 A Yes.                  12 Q How many?                  13 A It depends on what era you're -- what month,                  14 what week, what -- what year you're talking about. If                  15 you're talking about within the last year, I would say 02:26:22                  16 probably four or five kids.                  17 Q Can you give me the ages of those kids?                  18 A Probably from 14 to 17.                  19 Q And how many of those have you seen more than                  20 one time? 02:26:41                  21 A Each of them.                  22 You should -- well, okay.                  23 Oh, one of them I've seen once, I'm sorry.                  24 I -- let me correct that.                  25 Q For the other four, do you see them on a 02:27:01                  Page 166</p>	<p>1 Do you see that?                  2 A Yes.                  3 Q And then there's the Younger litigation in                  4 paragraph 8.                  5 Do you see that? 02:28:37                  6 A Yes.                  7 Q And you do cross-reference your CV list and                  8 then the Tavistock case.                  9 Do you see that?                  10 A Yes. 02:28:47                  11 Q Why did you choose to highlight the                  12 Massachusetts and the Younger case here?                  13 A Well, the Massachusetts case, under                  14 Judge Wolf, Judge Wolf asked me to be a judge's                  15 witness. That was the beginning of my legal 02:29:10                  16 involvement in that whole area of transgenderism. So I                  17 think that that's noteworthy. It's also noteworthy                  18 because that became -- among the DOC attorneys across                  19 the nation, that's a very landmark case, and it's often                  20 quoted in various other legal matters. 02:29:29                  21 So it seemed to me that you ought to know that                  22 I began in that area in 2006 with Dr. -- with                  23 Judge Avery.                  24 And what was the second part of your question?                  25 Q Oh, the Younger case and why you included that 02:29:49                  Page 168</p>
<p>1 monthly basis?                  2 A No. I -- I tend to see them more often.                  3 Q Are there any of those patients that you have                  4 seen on a monthly or less basis, other than the one you                  5 only saw once? 02:27:21                  6 A Well, I hear from patients I see in the past                  7 periodically, sometimes. I hear from their parents. I                  8 sometimes hear from them. But it's -- it's not                  9 anything regular.                  10 Q Yeah, I'm -- thank you. I'm just trying to 02:27:45                  11 understand. There was a statement made in your                  12 May 2021 declaration that you were currently providing                  13 psychotherapy for several minors in this area, and I'm                  14 just trying to figure out, is that actually true today?                  15 A No, it's not true today to the same extent 02:27:59                  16 that it was when I wrote the original -- the Tingley                  17 declaration.                  18 Q Thank you. Moving down in here, you have on                  19 page -- paragraph 7 and paragraph 8, you identify a                  20 couple of cases where you previously provided 02:28:15                  21 testimony.                  22 A Yes.                  23 Q There's the -- the case in the Eastern                  24 District of Massachusetts, in the First Circuit, that                  25 you refer to in paragraph 7. 02:28:29                  Page 167</p>	<p>1 here.                  2 A I included that because that was my entry case                  3 into transgender children and the -- when parents don't                  4 agree on the treatment of their trans child and -- and                  5 courts are involved and -- I mean, that is not just 02:30:10                  6 happening in the Younger case. That's happening in                  7 other jurisdictions as well. And so I --                  8 Q In the Younger -- oh, sorry.                  9 A That that's the kind of thing you wanted to                  10 know. That is a credential, in a sense. Or I thought 02:30:26                  11 that you would like to read that case, if you could.                  12 Q Are you aware the jury rejected the father's                  13 claim in the Younger case and awarded the                  14 decision-making to the mother?                  15 MR. BROOKS: Objection; mischaracterizes the 02:30:43                  16 record.                  17 THE WITNESS: One of my complaints about my                  18 participation is I -- I often am not informed about the                  19 outcome and the progress of the cases that I've                  20 testified in. 02:30:55                  21 I did -- I did hear something like you --                  22 what -- what you said, but it seems to me that it was a                  23 more complicated decision than you summarized.                  24 BY MS. HARTNETT:                  25 Q Are you aware that -- of the more recent 02:31:14                  Page 169</p>

<p>1 litigation in Texas regarding a directive from the                  2 attorney general about the investigation of the --                  3 sorry -- by the directive of state officials to                  4 investigate those providing transgender care for child                  5 abuse? Does that ring a bell? 02:31:30                  6 MR. TRYON: Objection.                  7 THE WITNESS: I only know about that because I                  8 read it in the papers. I have not --                  9 BY MS. HARTNETT:                  10 Q Okay. That's what I was going to ask you. 02:31:40                  11 Were you involved in that? Were you asked to                  12 provide an expert opinion in that case?                  13 A Never.                  14 Q Is there a reason why you didn't include the                  15 Nosewor- -- Norsworthy case when you were summarizing 02:31:50                  16 your background here in paragraph 7 and 8?                  17 A The Noseworthy case is one of, I don't know,                  18 seven or eight cases. I -- if you look at my CV, I'm                  19 sure it's listed in my CV.                  20 This is a prisoner case. I didn't think it 02:32:22                  21 had to do with -- it just didn't seem it had to do with                  22 athletics and -- and teenagers.                  23 Q Are you aware that your testimony was                  24 partially excluded in a case called Claire in Florida                  25 that was about the -- it was precluded with respect to 02:32:40</p> <p style="text-align: right;">Page 170</p>	<p>1 just wondering if it's something that you refer to your                  2 method as the life course perspective or if that's a                  3 method I could look to in the literature somewhere.                  4 A I think it's in quotes -- I think it's in                  5 quotes because I wanted to emphasize the perspective 02:34:25                  6 that this whole question about how to take care of                  7 trans youth needs to be understood, not does it make                  8 them happy in the current life, but what will it do to                  9 the whole course of their life.                  10 And so by putting it into italics (sic), I -- 02:34:46                  11 I -- perhaps -- perhaps I shouldn't have done that, but                  12 I was just trying to bring the reader's attention to                  13 the perspective here that the decisions that are made                  14 in teenage years, for example, or in their 20s or in                  15 their 30s have implications, serious implications, for 02:35:08                  16 10 years, 20 years, 30 years down the pike.                  17 And as an adult psychiatrist who deals with                  18 people, you know, from 96 down, I certainly see the                  19 impact of previous life decisions on their current                  20 suffering. 02:35:32                  21 And so that's all it refers to, that -- and I                  22 do believe that if you spend your time in pediatrics,                  23 you probably don't have as -- as sharp a focus on the                  24 life perspective that an adult person -- adult -- a                  25 per- -- specializes in adults or who has a lot of 02:35:50</p> <p style="text-align: right;">Page 172</p>
<p>1 the testimony about the motivations that plaintiffs had                  2 for seeking gender confirmation surgery.                  3 A I was not --                  4 MR. BROOKS: Objection.                  5 THE WITNESS: I was not aware. 02:32:51                  6 BY MS. HARTNETT:                  7 Q Just flashing forward to paragraph 13 here.                  8 This is a paragraph where you're discussing, in part,                  9 Dr. Adkins' declaration. And my first question is, at                  10 the end of this paragraph, you talk about a life course 02:33:15                  11 perspective?                  12 A Yes.                  13 Q I'm just curious if that's a term that you                  14 coined or that's from somewhere else in the literature.                  15 A If I took credit for coining that term, I 02:33:36                  16 think it would be -- I didn't -- I didn't coin the term                  17 "life perspective."                  18 I'm a -- I'm a psychiatrist, and I see people                  19 throughout the life cycle, and so I am constantly                  20 confronted with the consequences of early life 02:33:54                  21 decisions and of behavioral patterns.                  22 I have a natural life perspective on matters.                  23 I certainly didn't -- I don't believe I coined the                  24 term.                  25 Q Well, I ask because it's in quotes, and so I'm 02:34:10</p> <p style="text-align: right;">Page 171</p>	<p>1 experience with adults have. That's all I'm trying to                  2 say.                  3 Q Is it your view that Dr. Adkins' approach is                  4 to make the young person happy as opposed to creating a                  5 happy, high-functional, mentally healthy person for the 02:36:06                  6 next 50 to 70 years of life?                  7 A I believe that Dr. Adkins has hope that she is                  8 going to create a happy, functional human being for the                  9 next 70 years of life, but I do believe she's                  10 influenced, primarily, on making her child -- her 02:36:20                  11 current patients happy.                  12 The question is does Dr. Adkins have any                  13 evidence whatsoever that the decisions that she has                  14 been making with teenagers and younger children,                  15 does -- does she know that creates happiness in ten 02:36:38                  16 years or in five years. And certainly, I don't think                  17 she knows what happens in 30 years.                  18 But I think as a society, you and I as                  19 representatives of society, can recog- -- recognize the                  20 relevance of the question. 02:36:56                  21 We want to separate, at all times, physicians'                  22 beliefs from the evidence that supports those beliefs.                  23 Q What's the basis for your notion that                  24 Dr. Adkins lacks an understanding of how to create a                  25 happy, highly functional, mentally healthy person for 02:37:15</p> <p style="text-align: right;">Page 173</p>

<p>1 the next 50 to 70 years of life?                  2 A Because she's a pediatric endocrinologist.                  3 Because she's a busy person dealing with young people.                  4 Because she doesn't follow-up her patients, I'm sure,                  5 for 30 years. 02:37:31                  6 Q Do you follow-up your patients for 30 years?                  7 A Some of them, yes. You know I published a                  8 paper about a 30-year follow-up of a trans person.                  9 Maybe you don't know. I published a paper about                  10 returning to the male gender role after 30 years. 02:37:48                  11 Now, I can't say that I have, you know, 20                  12 patients I've followed for 30 years, but I -- I have                  13 certainly written about that case, and in -- in writing                  14 about that case, I have raised certain issues that are                  15 germane to your questioning right now. That is, a life 02:38:05                  16 perspective, a life course perspective is something                  17 that's reasonable and that an educa- -- a physician                  18 needs to be thinking about the long-term outcome of                  19 what is being done today.                  20 Q What is the basis for you -- but you're -- 02:38:24                  21 sorry, I think you've already stated it, but I -- is                  22 there any other reason you have to believe that                  23 Dr. Adkins is not informing herself about the                  24 consequences of her actions on her patients 30 --                  25 30 years from today? 02:38:39</p> <p style="text-align: right;">Page 174</p>	<p>1 A No. I am sure Dr. Adkins follows her                  2 patients, but she's a pediatrician, basically, and                  3 usually, and I can't be certain about this, that at 18,                  4 pediatrics people turn the kids over to adult                  5 endocrinologists. 02:40:23                  6 And so I think just in the nature of being a                  7 pediatric endocrinologist, although she may see some                  8 kids into their 20s, I would imagine that the usual                  9 trend in pediatrics is to hand kids off, when they're                  10 18, to other practitioners; and, therefore, she 02:40:37                  11 probably has limited systematic follow-up after 18.                  12 And if you extend that by years, like five                  13 years and ten years and so forth, I would imagine that                  14 she may have a case or two that she follows or knows                  15 about, but it would not be anything like systematic. 02:40:55                  16 So the answer to your question is the basis --                  17 did she not publish, and that's the basis. I'm giving                  18 you an additional basis.                  19 Q Thank you. You mentioned one patient you had                  20 followed up over the course of 30 years, and I think 02:41:10                  21 said something like maybe 20 or -- how many patients,                  22 overall, do you feel like -- do -- do you believe that                  23 you followed up with over a period of decades in your                  24 practice?                  25 A Very -- very few. Because I exist in America, 02:41:26</p> <p style="text-align: right;">Page 176</p>
<p>1 A Only that she could not know what happens.                  2 She hasn't been practicing 30 years, I don't believe.                  3 And I don't believe she is in a position, considering                  4 the work that she does, to have systematic follow-up,                  5 even for shorter periods of times, on her patients. 02:38:54                  6 If, for example, she has systematic follow-up                  7 on 80 percent of the patients she's ever given a                  8 hormone treatment for, that should be in the                  9 literature. And she knows, she should know, given                  10 the -- the -- what's absent from the literature, how 02:39:15                  11 welcome such a study would be, such a report would be.                  12 But as far as I know, she hasn't published that                  13 information.                  14 Q So your testimony is that you're basing your                  15 assumption that Dr. Adkins doesn't conduct systematic 02:39:28                  16 follow-up on her failure to publish a study showing her                  17 systematic follow-up?                  18 A I'm sorry, you'll have to repeat that. Too                  19 many similar phrases.                  20 MS. HARTNETT: Can the -- well, I'll try. 02:39:42                  21 BY MS. HARTNETT:                  22 Q Is the basis for your assumption that                  23 Dr. Adkins doesn't engage in systematic follow-up of                  24 her patients her failure to publish research indicating                  25 her systematic follow-up? 02:39:52</p> <p style="text-align: right;">Page 175</p>	<p>1 and in America, we have no means of guaran- -- of -- of                  2 insisting on follow-up.                  3 And on -- in -- another reason why is that                  4 when people transition, they -- they want to get rid of                  5 their professionals who dealt with them, and they don't 02:41:47                  6 naturally come back.                  7 In fact, all attempts at follow-up, not just                  8 in my clinic, but elsewhere, we -- we reach -- we reach                  9 very few people.                  10 For example, in a 2002 study of everyone who 02:42:02                  11 had sex reassignment surgery by one surgeon, only                  12 30 percent of the people who ever had surgery by this                  13 one surgeon actually were available for follow-up.                  14 And all follow-up studies -- very few                  15 follow-up studies can have a hundred percent of the 02:42:22                  16 data of all the patients.                  17 Follow-up is a problem. It's a much better                  18 problem -- it's solved much better in Scandinavia than                  19 it is in the United States. The United States have 50                  20 states. They have different rules. Nobody -- I don't 02:42:39                  21 think we -- we don't publish follow-up studies in the                  22 United States very often.                  23 Q What do you do to try to follow up with your                  24 patients?                  25 MR. TRYON: I think we have a connection 02:43:08</p> <p style="text-align: right;">Page 177</p>

1 problem.  
 2 MS. HARTNETT: Is that me? It could be me.  
 3 THE VIDEOGRAPHER: We're just going to pause  
 4 and see if he -- there he is. He's back.  
 5 MR. TRYON: There -- he came back. 02:43:15  
 6 BY MS. HARTNETT:  
 7 Q Sorry, I think you froze.  
 8 Did you hear my question?  
 9 MR. BROOKS: No, I think we don't -- we did  
 10 not hear a pending question in this room. 02:43:32  
 11 Can you hear us now?  
 12 MS. HARTNETT: Okay. Sorry. The video froze  
 13 from your end.  
 14 MR. BROOKS: We -- we see --  
 15 BY MS. HARTNETT: 02:43:40  
 16 Q My question was, what do you do to follow up  
 17 with your patients?  
 18 A I ask them to follow up with me after their  
 19 surgery, for example, or after their consultation with  
 20 another person, another professional, and they actually 02:43:54  
 21 rarely do.  
 22 Q Do you try to find them if they don't come  
 23 back to you --  
 24 A Yes.  
 25 Q -- afterwards? 02:44:07  
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1 A Yes.  
 2 Q How?  
 3 A I write them notes. I write them a letter.  
 4 Sometimes I write them a cute little postcard reminding  
 5 them of who I am. But they know what I mean. 02:44:15  
 6 Q If you have such limited follow-up with your  
 7 own patients, how do you know your method has -- what  
 8 the effect of your method is on people 30 years later?  
 9 A I don't know. And I -- I am like other people  
 10 in this field. I don't know the 30-year implication of 02:44:47  
 11 what we're doing. I don't know the 20-year implication  
 12 of what we're doing. I'm just raising the question,  
 13 shouldn't we be concerned about a life course  
 14 perspective.  
 15 I don't know and the people who are advocates 02:45:05  
 16 don't know, you see. I don't know how they can be so  
 17 sure that they're going to create a happy life.  
 18 Q So for all you know, your method could  
 19 actually be harming your patients more than the other  
 20 methods; is that fair? 02:45:24  
 21 A You mean in the long run I may be harming them  
 22 by talking with them, say, for six months about their  
 23 decision, what -- what they should go -- what -- what  
 24 they want to do?  
 25 I can't imagine that -- that my 02:45:48  
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1 psychotherapeutic -- my relationship with them that is  
 2 helping them to consider their thoughts, their feelings  
 3 and their futures is -- is harming them and in 30 years  
 4 they're going to have some terrible result of my  
 5 intervention, you see. 02:46:07  
 6 What you're trying to contrast is talking to a  
 7 person, say, for six months, every -- twice, three  
 8 times a month for six months with socializing them in a  
 9 new gender or supporting, giving them hormones and --  
 10 and saying yes to genital surgery or mastectomy or 02:46:24  
 11 sterilizing procedures, you see.  
 12 You're comparing Dr. Levine or  
 13 psychotherapeutic talking, conversation, extended  
 14 evaluation, with major biologically sterilizing,  
 15 sexually dysfunction in causing interventions. 02:46:44  
 16 I really think -- we're not talking about  
 17 apples and oranges here. I think we're talking about  
 18 apples and zebras.  
 19 Q Your report discusses four competing models of  
 20 therapy; correct? 02:47:13  
 21 A Correct.  
 22 Q So you have the apple, the zebra and two other  
 23 things in that; correct?  
 24 MR. BROOKS: Objection.  
 25 THE WITNESS: No. 02:47:20  
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1 BY MS. HARTNETT:  
 2 Q The four competing models are watchful  
 3 waiting, sub 1; sub 2, psychotherapy; and the  
 4 affirmation model.  
 5 That's what you've set forth; correct? 02:47:30  
 6 A That's right.  
 7 Q And I'm asking you whether, for all you know,  
 8 the psychotherapy model may be creating more harm for  
 9 people than the affirmation theory model. You just  
 10 don't know? 02:47:46  
 11 A I think I've already testified that it's hard  
 12 for me to even conceptualize that I'm causing harm.  
 13 Sometimes I'm causing frustration because "I want  
 14 hormones now" and you're 14, and I'm sorry, we have --  
 15 I want to talk about this. 02:48:14  
 16 But I don't really think that's harm in the  
 17 way that when I look at the cross-sectional data on  
 18 adults who have transitioned and -- and the  
 19 comorbidities that they have, I consider those to be  
 20 manifestations of harm, you see. 02:48:32  
 21 I don't really think that talking briefly  
 22 and -- and honestly and examining things is -- is a  
 23 source of harm.  
 24 It is --  
 25 Q But your -- your practice isn't to talk 02:48:46  
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1 briefly to someone. You're talking -- right?  
2 The -- the -- the model that you're setting  
3 forth is to talk with them at length and get to know  
4 them; correct?  
5 A Yes, this used to be the model -- before 2011, 02:48:55  
6 this was the endorsed model by the World -- by WPATH,  
7 you see. I'm not talking -- I'm not inventing a new  
8 model here. This was the model we had in the '60s, the  
9 '70s, the '80s and the '90s and in the 2010s and --  
10 Q And it's your view that the psychotherapy -- 02:49:14  
11 A The view model changed.  
12 Q It's your view that the psychotherapy model  
13 cannot, by its nature, harm anyone?  
14 A I know some people think that it harms people.  
15 I don't believe that, actually. 02:49:28  
16 Q Well, let me give you an example.  
17 Say you're meeting with a patient and they  
18 want to talk you about their need or their perceived  
19 need for cross-sex hormones and you don't agree or  
20 choose not to support them with a letter. 02:49:45  
21 Do you -- is that a fair -- just assume that,  
22 okay?  
23 And that person then goes on to stop seeing  
24 you, has been taken off course from getting the  
25 cross-sex hormones, ends up becoming distraught at 02:49:55  
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1 their condition and commits suicide.  
2 Is that a situation where the psychotherapy  
3 model might be responsible for causing harm?  
4 MR. BROOKS: Objection; calls for speculation.  
5 MR. TRYON: Objection. 02:50:08  
6 THE WITNESS: If that -- such a patient goes  
7 to me -- comes to me and after -- in the first session  
8 wants a letter and I refuse to provide it, I will help  
9 that person -- if the person doesn't know, I will refer  
10 them to clinics -- to other resources. 02:50:26  
11 The idea that my refusal would cause them to  
12 suicide is enormous and deep that leaves out so many  
13 intervening factors as to make me say I can't possibly  
14 agree with what you said.  
15 BY MS. HARTNETT: 02:50:43  
16 Q But it's possible that your patients, for  
17 example, have higher rates of suicide than other  
18 patients that have gone through a different model;  
19 correct? You just don't know?  
20 MR. TRYON: Objection. 02:50:52  
21 THE WITNESS: It's equally possible that the  
22 patients have a lower rate of suicide that have gone  
23 through Dr. Levine's care.  
24 BY MS. HARTNETT:  
25 Q But it's also possible that they have had a 02:51:04  
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1 higher rate of suicide going through Dr. Levine's care;  
2 correct?  
3 MR. BROOKS: Objection --  
4 MR. TRYON: Objection.  
5 MR. BROOKS: -- calls for speculation. 02:51:13  
6 BY MS. HARTNETT:  
7 Q You said it's possible that they have a lower  
8 rate. It seems that the flip side of that is it's  
9 possible that they had a higher rate; is that correct?  
10 A You're -- 02:51:23  
11 MR. BROOKS: Same -- same objection.  
12 THE WITNESS: You're asking me to speculate  
13 about something you know I don't have the answer to, so  
14 why should I give you an answer that I don't have? Why  
15 are you asking -- 02:51:32  
16 BY MS. HARTNETT:  
17 Q You testified that it's possible that --  
18 MS. HARTNETT: I'm going to ask for an answer  
19 to my question without coaching, please.  
20 BY MS. HARTNETT: 02:51:37  
21 Q My -- I asked if it's possible that the  
22 patients of Dr. Levine have a higher rate of suicide  
23 than patients going through another method, and then  
24 you responded it's possible that they have a lower --  
25 lower rate. That's an answer. 02:51:49  
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1 I'm asking you, is it possible that they also  
2 have a higher rate?  
3 MR. BROOKS: And I have objected to the  
4 question as calling for speculation.  
5 BY MS. HARTNETT: 02:52:01  
6 Q Please answer.  
7 A In order to -- in order to have an answer to a  
8 rate question, one has to have a denominator and  
9 numerator. I have neither a denominator or numerator;  
10 and, therefore, I can't really ask -- in any expert 02:52:23  
11 way, I cannot answer a question about the rate.  
12 You're asking me theoretical possibilities,  
13 and there probably are at least three theoretical  
14 possibilities, and I could probably think of more,  
15 but -- 02:52:40  
16 Q What are the three?  
17 A There would be no difference in the rates,  
18 right? The rates could not be ascertained because the  
19 denominator -- the numerator and the denominator  
20 couldn't be determined. And then the fifth one would 02:52:52  
21 be because the numerator can't be determined.  
22 So if you ask me a question about rate, it's a  
23 mathematical question. It's a scientific question.  
24 But you're not asking it in a scientific way at all.  
25 And I can't answer it. 02:53:07  
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<p>1 To the extent that I have any expertise, it's                  2 on the science. It's not on the speculation side of                  3 things.                  4 Q Your expert opinion is that the affirmative                  5 model is more harmful than the psychotherapy model; 02:53:18                  6 correct?                  7 A My -- my expert opinion is that the                  8 affirmative model does not have the scientific                  9 justification to declaim -- to -- to declare it to be                  10 the best practice. That's my expert opinion that -- 02:53:35                  11 Q Does the psychotherapy model have any more                  12 justification than the affirmative model?                  13 A Only the tradition that if any other                  14 psychiatric problem presented in a 14- or 15-year-old,                  15 no one, no one would object to an extended evaluation, 02:53:53                  16 a psychotherapeutic exploration and the use of a                  17 medication to a drug -- to address some comorbidity.                  18 It's just that when a -- when the child                  19 declares themselves trans, we want to create a whole                  20 different approach to this situation. That's my point. 02:54:12                  21 Q And just to make sure that we close the loop                  22 on the other point, because I'm not quite sure what the                  23 answer was there, is it your testimony that it's                  24 possible that your -- that Dr. Levine's patients could                  25 have lower rates of suicide than other methods? 02:54:29                  Page 186</p>	<p>1 report, do you have any other familiarity with                  2 Dr. Safer's practices?                  3 A I believe he's the head of a New York gender                  4 team, clinic.                  5 Q Have you ever met him before? 02:55:58                  6 A Not that I am aware of.                  7 Q Have you ever been to his clinic?                  8 A No.                  9 Q Have you ever spoken to any of his patients?                  10 A Not that I'm aware of. 02:56:11                  11 Q How about Dr. Adkins, have you been to her                  12 clinic?                  13 A No.                  14 Q Have you spoken to any of her patients?                  15 A Not that I'm aware of. 02:56:23                  16 Q So do you know whether or not Dr. Safer's                  17 approach is focused on creating a happy, healthy --                  18 sorry -- happy, highly functional, mentally healthy                  19 person for the next 50 to 70 years?                  20 A Ms. Hartnett, I think everyone in this field 02:56:42                  21 is hoping that what they're doing is creating that                  22 outcome. I would presume that Dr. Safer believes that                  23 and Dr. Adkins believes that. I just go back to the                  24 fact that we don't know the answer in what they're                  25 doing and what they're doing is a rather dramatic 02:57:04                  Page 188</p>
<p>1 MR. BROOKS: Objection; calls for speculation.                  2 THE WITNESS: I'm afraid -- although you don't                  3 understand my answer to the question, I feel like I've                  4 answered the question repeatedly already.                  5 BY MS. HARTNETT: 02:54:46                  6 Q Well, you've said that it could be -- I                  7 thought you -- I thought I understood you to say you                  8 could have lower rates, you could have a missing                  9 numerator or denominator or equivalent, but I didn't                  10 hear whether or not you think another possibility is in 02:54:54                  11 fact that the rates of suicide could be higher from                  12 your patients.                  13 A Well, perhaps you missed the implication of                  14 what I said, that it could be higher, it could be                  15 lower, it could be the same, it could be indeterminant 02:55:06                  16 because of the denominator issues, and it could be                  17 indeterminant because of the numerator issues.                  18 Q I appreciate that. Thank you.                  19 We've talked about Dr. Adkins a bit here. I                  20 just wanted to ask you -- this is flashing back to -- I 02:55:22                  21 think we're in paragraph 13.                  22 You then go on, in paragraph 16, to talk about                  23 Dr. Safer. Let me know when you're there.                  24 A Got it.                  25 Q Other than reviewing Dr. Safer's expert 02:55:43                  Page 187</p>	<p>1 interventions in a person's biology, their physiology,                  2 their anatomy and their social roles, and it seems to                  3 me that if we're making such a very, very                  4 life-changing -- or cooperating with such a life                  5 change, a profound life change, that's going to effect 02:57:21                  6 every aspect of their lives, or most aspect of their                  7 lives, we ought to at least acknowledge that we don't                  8 have the follow-up data to match our belief systems.                  9 And as I wrote about in the most recent                  10 publication, I do think that ethically we have a 02:57:40                  11 responsibility to inform people of what science knows                  12 and what we as professionals believe, but it's not                  13 supported by science.                  14 So in answer -- to summarize my answer, I                  15 believe that your experts believe that they are 02:57:58                  16 creating a happy, healthy, functional life, even in the                  17 face of the fact that they -- cross-sectional studies                  18 of adults who are transgender and those who have had                  19 complete medical surgeries have significant problems.                  20 And so what I have been saying, in summary, is 02:58:18                  21 that we -- we should separate our beliefs from what                  22 science knows.                  23 Q You said "cross-sectional studies." You're                  24 just saying that those are lacking to -- to -- to -- to                  25 substantiate their approach. Is that what you're 02:58:37                  Page 189</p>

<p>1 saying?</p> <p>2 A Please repeat that. You sort of -- I couldn't</p> <p>3 understand.</p> <p>4 Q Sorry. You had -- yeah, fair -- fair enough.</p> <p>5 I think you said something about 02:58:44</p> <p>6 cross-sectional studies being lacking to support their</p> <p>7 approach. Is that what you were saying?</p> <p>8 A Yes. Not only cross-sectional studies failed</p> <p>9 to support the idea that everyone is living happily</p> <p>10 ever after or the majority are living happily ever 02:59:04</p> <p>11 after, the -- the Swedish study that was published in</p> <p>12 2011 that had outcome data on everyone who had sex</p> <p>13 reassignment surgery over a 30-year period. You may</p> <p>14 know that as the D-H-E-N-J-A (sic) study, et al. They</p> <p>15 demonstrated -- the -- the recommendation of that study 02:59:26</p> <p>16 is that everyone after sex reassignment surgery should</p> <p>17 have lifelong psychiatric care because the suicide rate</p> <p>18 was 19 times higher after this than the general</p> <p>19 population. The death rates were higher of cancer and</p> <p>20 of heart disease, the criminal rates were higher, and 02:59:45</p> <p>21 the admission rates to psychiatric hospitals were</p> <p>22 higher, after, then general population.</p> <p>23 So that group in Sweden, in 2011, said, wow,</p> <p>24 these people are not necessarily doing so well as a</p> <p>25 group; that is, everyone that was -- everyone who had 03:00:01</p> <p style="text-align: right;">Page 190</p>	<p>1 are accounting for the difference in suicide from</p> <p>2 the -- is that what you were saying?</p> <p>3 MR. BROOKS: Objection; vague.</p> <p>4 THE WITNESS: I'm saying that it would have</p> <p>5 been nice to have four control groups. And they only 03:01:35</p> <p>6 had three control groups. And I don't --</p> <p>7 BY MS. HARTNETT:</p> <p>8 Q Right.</p> <p>9 A I don't understand why there wasn't the fourth</p> <p>10 control group that you are raising because it does -- 03:01:43</p> <p>11 you know, I already testified that nothing is certain,</p> <p>12 but this would have increased our conviction about</p> <p>13 whether or not people are dying of cancer and heart</p> <p>14 disease and HIV and suicide and so forth at a higher</p> <p>15 rate compared to those who are transgender but who 03:02:08</p> <p>16 weren't getting the surgery.</p> <p>17 So I don't know the answer.</p> <p>18 Q Could I go to -- paragraph 18 has several</p> <p>19 subparagraphs. I just have a couple of questions on</p> <p>20 this. The first is on paragraph 18A. 03:02:28</p> <p>21 I just had a -- it was a minor reference, but</p> <p>22 I'm just curious about your own use of terminology.</p> <p>23 You had, here in the second sentence of 18A (as read):</p> <p>24 "While hormonal and surgical</p> <p>25 procedures may enable some individuals 03:02:45</p> <p style="text-align: right;">Page 192</p>
<p>1 sex reassignment surgery was in that. So</p> <p>2 we wouldn't -- we wouldn't call that a cross-sectional</p> <p>3 study. We would have a life perspective study, you</p> <p>4 see. You are aware --</p> <p>5 Q Was that -- was that comparing it to the 03:00:14</p> <p>6 general population, though? Not transgender people</p> <p>7 that had gone untreated, right?</p> <p>8 A That study did not include people who were not</p> <p>9 treated with surgery, that's right.</p> <p>10 Q Right. So to figure out if surgery makes a 03:00:26</p> <p>11 difference, wouldn't you study a population that had</p> <p>12 had surgery versus the population that had not had</p> <p>13 surgery, all of transgender people?</p> <p>14 A Yes, I often wondered why the authors of that</p> <p>15 study did not study those people that they had records 03:00:39</p> <p>16 on who didn't have surgery. It's one of the missing</p> <p>17 issues about that. It doesn't take away from the fact</p> <p>18 that relative to non-transgender people of either sex,</p> <p>19 these people don't do nearly as well in life. But it</p> <p>20 doesn't answer the question that you're raising, and 03:00:59</p> <p>21 that's been amazing -- that's an amazing absence. One</p> <p>22 wonders why that is absent. I don't know why.</p> <p>23 Q So just to be clear, the -- the thing that's</p> <p>24 absent is testing whether or not it's actually the</p> <p>25 medical interventions with the transgender people that 03:01:16</p> <p style="text-align: right;">Page 191</p>	<p>1 to 'pass' as the opposite gender</p> <p>2 during some or all of their lives..."</p> <p>3 And the sentence continues.</p> <p>4 In the declaration you had -- that had been</p> <p>5 filed, your declaration that was filed at the PI stage, 03:02:55</p> <p>6 the words "female identifying male" were used instead</p> <p>7 of "some individuals."</p> <p>8 Is -- is there a reason why that would have</p> <p>9 been changed?</p> <p>10 A In the original -- what was in the original 03:03:15</p> <p>11 draft that you looked at?</p> <p>12 Q It said "a female identifying male" as opposed</p> <p>13 to "some individuals."</p> <p>14 MR. BROOKS: I'll object to the question as</p> <p>15 characterizing that as original. 03:03:24</p> <p>16 BY MS. HARTNETT:</p> <p>17 Q Well, it was the declaration -- I compared the</p> <p>18 declaration that was apparently submitted without your</p> <p>19 knowledge on your -- in -- in the PI stage of this case</p> <p>20 with the report, thinking that you had done both of 03:03:36</p> <p>21 them, and I'm -- what I'm just observing was that the</p> <p>22 words "female identifying male" had been used in this</p> <p>23 paragraph and then now has been replaced by "some</p> <p>24 individuals," and I'm just curious as to why that</p> <p>25 change was made, if you know. 03:03:47</p> <p style="text-align: right;">Page 193</p>

<p>1 A I don't know. I don't remember that phrase.                  2 That seems like -- that seems like a rather awkward                  3 phrase, you know, that you quoted.                  4 Q Yeah, why -- is that a phrase you use --                  5 "female identifying male," is that a phrase that you 03:04:00                  6 use?                  7 A I -- I may have at one time or another used                  8 that phrase.                  9 Obviously, for everyone concerned, the                  10 language -- the vocabulary -- the -- the -- the 03:04:12                  11 socially acceptable vocabulary in this field changes so                  12 often.                  13 So, you know, as I told you, I spent probably                  14 25 hours developing this, and there are numerous                  15 changes here and there which I could not possibly 03:04:33                  16 recall.                  17 And I can't answer your question. I really                  18 don't know the answer.                  19 Q Okay. Well, I'll ask one more in that vein,                  20 and then we'll move on. 03:04:42                  21 For paragraph 18L, which is at the top of                  22 page 8 -- and this a paragraph where you're                  23 describing -- you say that (as read):                  24 "Hormonal interventions to treat                  25 gender dysphoria are experimental in 03:05:01                  Page 194</p>	<p>1 times. So that may have been an example of that.                  2 As a writer, I'm very sensitive to redundancy,                  3 and I prefer to have things done short -- in shorter                  4 versions than in longer versions, but that is not                  5 always in keeping with legal requirements. 03:06:46                  6 Q Turning to paragraph 19, this is -- I'm not                  7 going to -- there's a couple of questions I had                  8 about -- or, sorry, not -- 20. You're talking about                  9 biological sex.                  10 Do you see that? 03:07:01                  11 A Yes.                  12 MR. BROOKS: Sorry, you want 19 or 20?                  13 MS. HARTNETT: I'll move to 20.                  14 BY MS. HARTNETT:                  15 Q You say that (as read): 03:07:08                  16 "Sex is not 'assigned at birth' by                  17 humans visualizing the genitals of a                  18 newborn; it is not imprecise.                  19 Do you see that?                  20 A Yes. 03:07:17                  21 Q Do you have any experience with the process of                  22 assigning sex to newborns at birth?                  23 MR. BROOKS: Objection.                  24 THE WITNESS: You know, I -- probably for a                  25 week in my medical school pediatrics rotation I was 03:07:32                  Page 196</p>
<p>1 nature and have not been shown to be                  2 safe, but rather put an individual at                  3 risk of a wide range of long-term and                  4 even life-long harms..."                  5 And then you go on to list all that. 03:05:10                  6 A Yes.                  7 Q The prior version of this -- in the same place                  8 had -- had language that said -- I'm going to just read                  9 it to you. (As read):                  10 "Putting a child or adolescent on a 03:05:21                  11 pathway towards life as a transgender                  12 person."                  13 And that has been removed. I'm just curious                  14 as to why that was removed.                  15 MR. BROOKS: Late objection. 03:05:28                  16 THE WITNESS: I actually -- I can't give you a                  17 specific answer to the question. I have no memory                  18 of -- of -- of making that editorial change.                  19 I -- I -- I am sensitive to and actually have                  20 a preference to not using the same phrase endlessly in 03:06:01                  21 any document. And one of my concerns about previous                  22 documents has been the redundancy of phrases, and so                  23 I -- I try not to repeat certain powerful phrases.                  24 I -- I think they actually have more impact on the                  25 reader if they read them once or twice and not 15 03:06:26                  Page 195</p>	<p>1 part of the newborn nursery and delivery -- and in                  2 obstetrics. The newborn delivery room phenomenon of                  3 saying, Mother, your -- you have a daughter. Or,                  4 Mother, you have a son. So I guess that's part of my                  5 experience. I'm a parent, so I've had that experience. 03:07:52                  6 What I -- period. I think that's an answer.                  7 BY MS. HARTNETT:                  8 Q Thank you. You also say in this paragraph,                  9 among other things, that sex is determined at                  10 conception; correct? 03:08:06                  11 A Yes, when -- yes, I do -- that's when sex is                  12 determined, yes.                  13 Q You say that at the end of the first                  14 sentence of -- sorry -- the second sentence of                  15 paragraph 20. And the source that you cite in this 03:08:22                  16 paragraph for everything in this paragraph is a                  17 document that says "NIH 2022."                  18 Do you see that?                  19 That's at the top of page 9.                  20 A Yes. 03:08:34                  21 Q What is NIH 2022?                  22 A I think the first author's name is Aditi                  23 B-H-R-A-R- -- Bhar- -- Bhargara or something like that,                  24 but it has probably 15 authors, the paper.                  25 Q So that's a paper that you were citing? 03:08:55                  Page 197</p>

<p>1 A Yes.</p> <p>2 Q Okay. Let me move down to section D. So that 3 starts on page 14 of your report.</p> <p>4 MR. BROOKS: We have it.</p> <p>5 BY MS. HARTNETT: 03:09:26</p> <p>6 Q And you -- this is your section about "Three 7 competing conceptual models of gender dysphoria and 8 transgender identity."</p> <p>9 Do you see that?</p> <p>10 A Yes. 03:09:35</p> <p>11 Q Is this your construct, these three models?</p> <p>12 A Yes.</p> <p>13 Q Paragraph 37, you describe the developmental 14 paradigm, I guess; is that fair?</p> <p>15 A Yes. 03:09:50</p> <p>16 Q I was comparing the declaration submitted at 17 the earlier stage of the case with the report here, and 18 I noticed that some language was deleted, and I will 19 double-check to represent to you that it is not still 20 here. 03:10:09</p> <p>21 But the language that was deleted from 22 paragraph 37 is as follows (as read):</p> <p>23 The developmental paradigm does not 24 preclude a biological temperamental 25 contribution to some patients' 03:10:22 Page 198</p>	<p>1 Q No. Thank you. I appreciate it.</p> <p>2 But you agree, sitting here today, that all 3 sexual behaviors and experiences involve the brain and 4 the body?</p> <p>5 A I agree that all behaviors involve -- well, 03:11:38 6 the brain and the body is really one thing, you know. 7 They're just part of the biology of a -- of the 8 human -- of human beings, and that -- those biology -- 9 multiple biologic factors interact with other 10 psychosocial factors throughout life to shape our 03:12:03 11 feelings and our behaviors and so forth.</p> <p>12 Q In paragraph 38, you refer to a Littman 2018 13 study.</p> <p>14 Do you see that?</p> <p>15 A Paragraph 38, yeah. 03:12:17</p> <p>16 Yeah.</p> <p>17 Q Are you aware that that article was -- had to 18 be withdrawn and corrected and republished?</p> <p>19 MR. BROOKS: Objection.</p> <p>20 THE WITNESS: I am aware that there was a lot 03:12:32 21 of political brouhaha about that and that various trans 22 advocates accused that author of bad things or whatever 23 but that the restatement of the study really did not -- 24 did not amount to a great change.</p> <p>25 But -- but, in fact, there was a brouhaha by 03:13:01 Page 200</p>
<p>1 life (sic); it merely objects to 2 assuming these problems are biological 3 in origin. All sexual behaviors and 4 experiences involve the brain and the 5 body." 03:10:31</p> <p>6 Is there some reason that you removed this 7 language from this report?</p> <p>8 A Well, I think I said it in a different way. I 9 said (as read):</p> <p>10 "The developmental paradigm is mindful 03:10:42 11 of temperamental, parental bonding, 12 psychological, sexual, and physical 13 trauma influence (sic), and the fact 14 that young children work out their 15 psychological issues through fantasy 03:10:53 16 and play and adolescents work out 17 their issues by adapting various 18 interests and identity labels." 19 This is -- this is the material that I 20 prepared as the expert witness report for this 03:11:07 21 particular case.</p> <p>22 Over time, you see, I have a different -- I -- 23 I say things more efficiently, I believe.</p> <p>24 I could elaborate that, but I don't think it's 25 relevant. 03:11:27 Page 199</p>	<p>1 the publication objecting to her methods so to speak, 2 but really were -- they were objecting to her 3 conclusions.</p> <p>4 BY MS. HARTNETT:</p> <p>5 Q Was her method an anonymous survey of parents? 03:13:16</p> <p>6 A Her -- it was a survey of parents, right.</p> <p>7 Q Do you know if they were anonymous or not?</p> <p>8 A At this moment, I don't know.</p> <p>9 Q You go on in section E here, starting on 10 page 16, to talk about four competing models of care. 03:13:32</p> <p>11 MR. BROOKS: Sorry.</p> <p>12 BY MS. HARTNETT:</p> <p>13 Q I also was wondering --</p> <p>14 MS. HARTNETT: Oh, sorry.</p> <p>15 MR. BROOKS: I hit the wrong thing, and the 03:13:38 16 document disappeared off the screen. Let me -- I'm not 17 sure what's going on here.</p> <p>18 Okay. Sorry, I -- it accidentally closed as I 19 tried to get rid of some pop-up on the screen, and we 20 will get us back. 03:14:04</p> <p>21 And, I'm sorry, what paragraph were you at?</p> <p>22 MS. HARTNETT: It's section header E, page 16.</p> <p>23 MR. BROOKS: Page 16.</p> <p>24 BY MS. HARTNETT:</p> <p>25 Q I'm just asking whether the four competing 03:14:25 Page 201</p>

<p>1 models of care is your schema.                  2 A I think it borrows from other things in the                  3 literature. I wouldn't want to claim, you know,                  4 authorship for that per se. It's really hard for me to                  5 know where all my ideas come from because I read so 03:14:54                  6 much and go to meetings and so forth, and I hear                  7 things, and it influences me.                  8 I -- I -- it's my summary of -- when we think                  9 about what are the options that we can offer to people,                  10 this is all I think of. Maybe tomorrow -- 03:15:11                  11 Q Okay.                  12 A -- I'll think of a fifth option.                  13 Q Can you go down to paragraph 53?                  14 And this is after you walk through the                  15 watchful waiting model, A and B, a psychotherapy model 03:15:25                  16 and then the affirmation model and then coming to                  17 paragraph 53.                  18 MR. BROOKS: Let me just find the heading                  19 above it.                  20 So we're under the affirmation therapy model 03:15:38                  21 number 4, if I'm scanning the --                  22 MS. HARTNETT: Yeah.                  23 MR. BROOKS: Okay.                  24 MS. HARTNETT: That's correct.                  25 And then paragraph 53. 03:15:46                  Page 202</p>	<p>1 But it begins with trying to figure out what's                  2 going on here and going on here with the child and the                  3 child's history and the parents and their history and                  4 the interactions between the -- the parents and the                  5 child. 03:17:25                  6 So it's not my model for all therapy. As I've                  7 said, I think earlier, that I have supported trans care                  8 for individuals, affirmative care for individuals. But                  9 if you ask me how I begin, I don't not -- I do not                  10 begin with the affirmative model. I begin with let's 03:17:44                  11 investigate this situation thoroughly so we can                  12 eventually make a prudent decision.                  13 Q You say in paragraph 49 (as read):                  14 "To my knowledge, there is no evidence                  15 beyond anecdotal reports that 03:18:01                  16 psychotherapy can enable a return to                  17 male identification for genetically                  18 male boys, adolescents, and men, or                  19 return to female identification for                  20 genetically female girls, adolescents, 03:18:13                  21 and women."                  22 Do you see that?                  23 A I do.                  24 Q And you stand by that statement?                  25 A Yes. 03:18:24                  Page 204</p>
<p>1 MR. BROOKS: Okay.                  2 BY MS. HARTNETT:                  3 Q Out of these four models, you do not know what                  4 proportion of practitioners are using which model; is                  5 that correct? 03:15:57                  6 A Yes.                  7 Q Okay. Oh, sorry, I had one question about 49,                  8 which was within the psychotherapy model area, if you                  9 could flip up to there.                  10 MR. BROOKS: Yes, let me just find the heading 03:16:11                  11 again so we understand how much material --the                  12 psychotherapy model begins at the top of page 18, and                  13 you now want to direct us to paragraph 49? Was that                  14 the paragraph you mentioned?                  15 MS. HARTNETT: Correct. 03:16:29                  16 MR. BROOKS: All right.                  17 BY MS. HARTNETT:                  18 Q And is the psychotherapy model the model you                  19 follow, Dr. Levine?                  20 A It's the model that I approach new patients 03:16:43                  21 with, and depending on the situation of the patient in                  22 the family's life, I then go from there. So individual                  23 patients, I may counsel the support of the -- I may                  24 counsel parents to support the transgender                  25 identifications of their child. 03:17:09                  Page 203</p>	<p>1 Q Paragraph 50, this is at the beginning of the                  2 affirmative therapy model, on the next page. I think                  3 we've already covered this, so we don't need to belabor                  4 it, but here, you -- among other things, you say that,                  5 under the affirmation therapy model, practitioners -- 03:18:44                  6 and I'm going to read from the first sentence. And I'm                  7 not reading the whole sentence, but you can obviously                  8 read whatever you want. I'm reading from the middle of                  9 it. (As read):                  10 "...promote and recommend that any 03:18:58                  11 expression of transgender identity                  12 should be immediately accepted as                  13 decisive..."                  14 I'm just going to stick on that part, the                  15 "immediately accepted as decisive." 03:19:08                  16 What is your basis for believing that the                  17 affirmation model proceeds with an immediate acceptance                  18 as decisive?                  19 A Because --                  20 MR. TRYON: Objection. 03:19:19                  21 Go ahead.                  22 MR. BROOKS: Mr. Tryon is objecting.                  23 You have to give him time.                  24 THE WITNESS: In a previous -- in a -- in a                  25 previous portion of this informed consent, I said that 03:19:29                  Page 205</p>

<p>1 it is my impression that many people in the affirmative                  2 model have a number of beliefs that I don't think are                  3 scientifically accepted or acceptable or correct and                  4 including the fact that this is biologically dictated,                  5 that anytime a person, any stage in life, declares a 03:19:52                  6 transgender identity, it's because prenatally that was                  7 determined and it merely unfolded at a different rate                  8 at different times.                  9 So the -- the justification for immediate                  10 affirmation is based upon this idea, one, that it's 03:20:13                  11 biologically dictated; and, two, that it's                  12 unchangeable.                  13 BY MS. HARTNETT:                  14 Q Yeah, I'm sorry, I think -- just given that                  15 we're -- have only so much time and I -- I think my 03:20:25                  16 question, though, was what was your basis for                  17 understanding that the practitioners engage in this                  18 practice.                  19 MR. BROOKS: Objection; vague as to "this                  20 practice. 03:20:36                  21 BY MS. HARTNETT:                  22 Q Well, the practice of immediate acceptance as                  23 decisive.                  24 A I think I've already testified how many                  25 parents have told me these things and how many patients 03:20:43                  Page 206</p>	<p>1 BY MS. HARTNETT:                  2 Q Before the break, we were talking, at least a                  3 bit, about the four models that you had in the                  4 psychotherapy model, and I was asking you if you follow                  5 that, and we were having a discussion. And I want to 03:35:54                  6 make sure I don't misconstrue your approach.                  7 Is it fair to say that you kind of follow the                  8 psychotherapy model, but also not to the exclusion of                  9 providing medical care or recommending medical care, if                  10 it's appropriate, after some course of psychotherapy? 03:36:07                  11 A Yes, I -- to summarize, the initial approach                  12 to a patient, I believe my model, what I endorse, is an                  13 extended evaluation, an opportunity to talk over time                  14 in what I call psychotherapy. Other people may call it                  15 extended evaluation. And then depending on what I 03:36:34                  16 understand about the patient and his or her life and                  17 their aspirations and their capacities to understand                  18 the present and the future and the past, then I may in                  19 fact say, you know, Fine. You know, do what you -- do                  20 what you -- use your best judgment. And I will write a 03:36:55                  21 letter for you, you know, telling your -- the surgeon                  22 or telling the endocrinologist about you.                  23 And I do that.                  24 Q And was that general approach extended to                  25 minors as well? 03:37:17                  Page 208</p>
<p>1 have told me these things and -- and -- well, I won't                  2 repeat what I began to tell you about.                  3 Q No. Thank you. That -- that just helps me                  4 connect that that -- that basis of evidence is the same                  5 that's at issue here. 03:20:59                  6 Paragraph 56, I had a question there.                  7 MR. BROOKS: And, Counsel, we should take an                  8 hourly break soon.                  9 MS. HARTNETT: Now is fine.                  10 MR. BROOKS: All right. Now is it -- now it 03:21:14                  11 is.                  12 THE VIDEOGRAPHER: We are off the --                  13 MS. HARTNETT: Come back at --                  14 THE VIDEOGRAPHER: Off the record at 3:21 p.m.                  15 (Recess.) 03:35:28                  16 THE VIDEOGRAPHER: We are on the record at                  17 3:36 p.m.                  18 MR. BROOKS: And -- and --                  19 MS. HARTNETT: Thank you.                  20 MR. BROOKS: -- Josh, if you would turn off 03:35:34                  21 your camera, you will -- will be able to see the                  22 questioner better.                  23 There we go. Thank you.                  24 MS. HARTNETT: Okay. Great.                  25 ///                  Page 207</p>	<p>1 A Well, if -- if minors are children, I actually                  2 have never recommended socialization of a child in                  3 that -- that is, in a new gender. I have seen -- I                  4 have never recommended that.                  5 When it comes to teenagers, the closer they 03:37:36                  6 get to 18, the more I'm willing to talk to them about                  7 the possibility of hormones and being supportive of it                  8 after a certain period of time.                  9 When it comes to older people, it's -- it's                  10 not as broad a question. 03:37:57                  11 Q And how long is your -- when you discuss an                  12 extended evaluation, how -- how long is that?                  13 A It doesn't have a definable length.                  14 Q Is there -- and I'm just trying to really                  15 understand. Is it a matter of hours, days or longer? 03:38:13                  16 A It's certainly -- a -- a psychotherapeutic                  17 hour is typically one; right? But when people come to                  18 Cleveland for an evaluation, I often spend two days.                  19 And so I may spend, you know, four hours over two days                  20 or maybe even more with a patient and then separately 03:38:37                  21 with their parents and sometimes together with their                  22 parents.                  23 But when I'm talking about an extended                  24 evaluation, I mean that in two terms. One is for                  25 people who want to come for an intense evaluation that 03:38:53                  Page 209</p>

<p>1 at the end of two days will give some -- give some                  2 feedback to them and -- but the usual sense for people                  3 who live in Cleveland, where I reside, that is over                  4 weeks and months of talking over time, considering                  5 various -- the things I've already articulated. 03:39:14                  6 Q Have there been situations where after the                  7 sort of intense extended evaluation, the two days                  8 and -- four hours over two days period, where you've                  9 supported or recommended any medical treatment after                  10 that period? 03:39:33                  11 A Well, about -- about a year ago, a -- a --                  12 a -- a college student who wasn't doing very well, who                  13 got actually hormones on a one-hour visit, to the                  14 student health service, the -- we recommended that the                  15 patient could decide whether to continue hormones or 03:39:53                  16 not. The parents did not want the person to continue                  17 hormones, and the patient continued hormones. And we                  18 just made a recommendation. We thought there was an                  19 advantage to stopping and reconsidering life, but it                  20 was the patient's choice, you see. It wasn't the 03:40:12                  21 parents' choice. It wasn't my choice, you see. But                  22 it's the respect for the patient's autonomy.                  23 Q Did you write a letter there or some sort of                  24 authorization for him to get the hormones?                  25 A No. He already had the hormones. As I said, 03:40:29                  Page 210</p>	<p>1 alternative approaches, such as psychotherapy or                  2 watchful waiting, shares the scientific limitations of                  3 the research of more invasive interventions; there are                  4 no control groups, nor is there systematic follow-up at                  5 predetermined intervals with predetermined means of 03:42:03                  6 measurement."                  7 Does that --                  8 A Yes.                  9 Q Is that something you have in the article?                  10 A I think I made the same point in -- in this 03:42:10                  11 document that I gave to you.                  12 Q Right. I was just trying to connect the two.                  13 So that's basically the same point you've been                  14 making, that -- the kind of lack of evidence, from your                  15 perspective, as to which approach is kind of 03:42:26                  16 scientifically based; is that right?                  17 A Yes.                  18 Q Okay. If we could flip forward, I -- sorry,                  19 going backward for a minute and then we'll go forward                  20 again, in your declaration, but I had a question about 03:42:36                  21 paragraph 18, little L. Sorry, that's not right. It                  22 is 18, little -- sorry, one second.                  23 I'll try again.                  24 Can I direct your attention to paragraph 18H,                  25 on page 7? 03:43:03                  Page 212</p>
<p>1 he got the hormones after one hour with a person who                  2 knew nothing about his background, really, that -- what                  3 I would say, relatively nothing.                  4 Q Where was that treatment?                  5 A That was at the University of Rochester. 03:40:40                  6 Q Okay. So -- and then my question is just for                  7 kind of -- I guess, what's the shortest period of                  8 extended evaluation that you've performed after which                  9 you've written a letter for someone to get transgender                  10 medical care? 03:41:00                  11 A I'm going to elaborate your question into me                  12 or my staff because in some --                  13 Q Thank you.                  14 A It's a whole -- it's a committee of work, a                  15 group of people. 03:41:13                  16 I would say four hours.                  17 Q Thank you. You had mentioned your -- the                  18 recently published article about the -- the                  19 reconsidering informed consent piece; correct?                  20 A Yes. 03:41:32                  21 Q And in there, you note that -- kind of --                  22 you're talking about the affirmation -- what you                  23 characterize as the affirmation approach; right?                  24 A Correct. There's a section on that, yeah.                  25 Q And then you note that the "research about 03:41:46                  Page 211</p>	<p>1 MR. BROOKS: And let me just first start on                  2 the top of 18 so we know what the major proposition                  3 here -- a summary of key points. All right.                  4 And, I'm sorry, you said H?                  5 MS. HARTNETT: Correct. 03:43:18                  6 BY MS. HARTNETT:                  7 Q So I'm going to direct your attention to                  8 paragraph H, on page 7, which you talk about                  9 administration of puberty blockers not being a benign,                  10 quote, pause of puberty. 03:43:31                  11 Do you see that?                  12 A I do.                  13 Q And this, I noticed, was something newly added                  14 to this declarations from the one that you had                  15 submitted at the preliminary injunction stage. 03:43:42                  16 My question for you is what the basis is for                  17 your qualification, in your perspective, to talk about                  18 the effects of puberty blockers.                  19 MR. BROOKS: Object to the form of the                  20 question. 03:43:57                  21 THE WITNESS: What is the basis of my                  22 objection to the use of puberty blockers?                  23 BY MS. HARTNETT:                  24 Q Sorry, the basis for your understanding of                  25 whether -- how they function on the body and whether 03:44:04                  Page 213</p>

<p>1 they're a benign pause of puberty or not.                  2 A The initial justification for puberty blockers                  3 being a benign thing is that it merely was a pause and                  4 that if it was fully reversible, puberty would -- would                  5 return when puberty blockers were removed, if they were 03:44:32                  6 chosen to be removed.                  7 I often reacted to that word "pause" because I                  8 was aware that I was unaware of the rich biological                  9 details that puberty changes every organ in the body.                  10 Puberty not only causes growth of bones, but puberty 03:44:53                  11 causes growth of the liver, of the lungs, of the heart,                  12 of the brain. You name the organ, and the pubertal                  13 changes are occurring, and they occur in a sequence.                  14 And one of the developmental aspects of development is                  15 that there are windows of opportunity for development, 03:45:15                  16 and when the window closes, we're not sure whether                  17 things can be totally reversed.                  18 And I noticed that there was a benign                  19 connotation to the word "pause" which did not strike me                  20 as true or possibly true or certifiably true. 03:45:35                  21 And so I began looking at various statements                  22 from various authors about saying this.                  23 And in the early years, people talked about                  24 complete reversibility and it's only a pause, but I                  25 realized, in reading their subsequent sentences, that 03:45:56                  Page 214</p>	<p>1 rhetoric that -- that justified doing something that                  2 was much more complicated and had not been articulated                  3 well by the people who began using it.                  4 I'm not sure that today's people are talking                  5 in the same way that they did when -- 20 -- ten years 03:47:41                  6 ago.                  7 Q When did you come to --                  8 A I think they're more sophisticated today.                  9 Q When did you come to this understanding or                  10 view about the -- your kind of concern with using the 03:47:53                  11 term "pause"?                  12 A I think it's been evolving in my mind over the                  13 last two or three years.                  14 Q Do you know whether the pubertal response                  15 would be the same -- basically, if the puberty blockers 03:48:06                  16 were used and then a child were to go off the puberty                  17 blockers, do you know whether it would be the same                  18 pubertal response that would have been had without the                  19 blockers?                  20 A Well, I think endocrinologists have said that 03:48:21                  21 it's same, but I don't know if they have even the -- I                  22 don't know that -- I don't know that I trust that                  23 they're right about that. I don't know that they're                  24 wrong. I just don't know that they're right. Because                  25 in concepts of development -- for example, if you 03:48:43                  Page 216</p>
<p>1 they didn't consider -- they were talking about bone.                  2 They were talking about the onset of puberty. They                  3 weren't talking about the subtle changes of -- of, say,                  4 for two or three years of interfering with the                  5 processes that were naturally happening in your and my 03:46:11                  6 children and the children of society.                  7 So -- and then I looked closer at it, and I                  8 said, what about the impact, the psychological, social,                  9 sexual impact of having one's peers have these major                  10 changes in every aspect of their body while the person 03:46:31                  11 was paused in a puerile state, has anyone considered                  12 that when they said it's completely reversible.                  13 Nowadays, I think people are not certain it's                  14 completely reversible, and they're beginning to                  15 articulate the possibility that I just articulated. 03:46:53                  16 They're beginning to say we don't know what                  17 the psychosocial impact of being puerile while your                  18 peers are pubertal.                  19 And while your peers are pubertal, you're                  20 getting -- you're starting to deal with your sexual 03:47:10                  21 feelings and your sexual conflicts, and you're getting                  22 to operationalize your -- what the early orientation                  23 aspects of early puberty are, you see. And the puerile                  24 child is not.                  25 And so I thought the word pause was a kind of 03:47:23                  Page 215</p>	<p>1 don't -- if you don't hear at a certain stage in life,                  2 say the first two years of life, and even if we do a                  3 cochlear implant, and we put -- we -- you can hear                  4 starting at age three or age four or age five, you                  5 can't speak as clearly as you and I can speak. 03:49:01                  6 So, you see, there's a window of opportunity                  7 when the brain is changing and we -- it's -- that --                  8 that other -- other aspects of life develop. And I                  9 think this is probably true throughout life as a                  10 principle. 03:49:18                  11 So the idea that, oh, we can give a kid for                  12 three years or four years and keep them paused while                  13 they decide what they want to do, whether they want to                  14 go cross-sex hormones or not, and then if they decide                  15 not to go the cross-sex hormone route, that they will 03:49:33                  16 just go into puberty and everything be normal, I just                  17 think that's a naive idea. But I was proposing that,                  18 you see. I can't prove it and either can -- either can                  19 the endocrinologist prove it. That's my point.                  20 Q Thank you. 03:49:47                  21 MS. HARTNETT: I've put in the "Marked                  22 Exhibits" folder Exhibit 88. If you -- your counsel                  23 could look at that.                  24 Let me know if you see that.                  25 (Exhibit 88 was marked for identification 03:50:05                  Page 217</p>



<p>1 by the court reporter and is attached hereto.)                  2 MR. BROOKS: I do see it now.                  3 BY MS. HARTNETT:                  4 Q This is -- Dr. Levine, do you see -- this is                  5 testimony that you gave to the Pennsylvania legislature 03:50:11                  6 in March of 2020.                  7 A Okay.                  8 Q Do you recall giving this testimony?                  9 A I recall testifying, yes.                  10 Q Okay. I'm -- I have a question that -- you 03:50:19                  11 had your kind of prepared remarks, and then you got                  12 some questions from the legislators, and what I would                  13 like to do is ask you about something on page 61, which                  14 was your response to a question about puberty blockers,                  15 if you could page forward to 61. 03:50:33                  16 MR. BROOKS: Will you direct us to the                  17 question?                  18 Let me see here. I -- I --                  19 MS. HARTNETT: Okay. If -- yeah. It's a                  20 question from Representative Zimmerman, and it's asking 03:50:47                  21 about the reversibility of puberty blockers, on                  22 page 61.                  23 MR. BROOKS: Oh, the question on 61 is                  24 fragmentary; right?                  25 "If puberty blockers are started," is that the 03:51:06                  Page 218</p>	<p>1 these two paragraphs?                  2 A I don't see a -- a major difference between                  3 what I just said to you except -- than what I said                  4 here. Here, I was talking about one year. And -- and                  5 it depends on -- you know, if you give a puber- -- an 03:52:51                  6 eight-year-old child a puberty blocker versus a                  7 nine-year-old child versus a 14-year-old child. I                  8 think we're talking about different phenomenon, you                  9 see. The -- not only biologic phenomenon, but                  10 psychosocial phenomenon. Because if you give it to an 03:53:09                  11 eight-year-old, their peers are still puerile, you see.                  12 And -- and when -- if you give it to 14-year-old or a                  13 12-year-old, their peers are rapidly growing and                  14 changing and being involved in all kinds of                  15 psychosocial and -- processes that -- that a 03:53:23                  16 nine-year-old is not, the eight-year-old is not.                  17 So I think today's testimony elaborates upon                  18 what I was saying in a less sophisticated way to                  19 Mr. Zimmerman.                  20 Q Thank you. You talk about desistance at 03:53:37                  21 length in your report; correct?                  22 A I hope so, yes.                  23 MR. BROOKS: Counsel, do you want me to take                  24 down 88 or leave it up?                  25 MS. HARTNETT: You can take down 88. 03:53:50                  Page 220</p>
<p>1 question you're referring to?                  2 MS. HARTNETT: You can feel free to look                  3 above, but I'd like to ask about the passage on 61.                  4 He asked a two-part question, and he had then                  5 asked to be reminded about the second part of the 03:51:21                  6 question.                  7 And Representative Zimmerman said, "Yes. If                  8 puberty blockers are started."                  9 And then Dr. Levine said, "Oh, reversible,                  10 yes, sorry." 03:51:30                  11 And what I'd like to ask him is to read this                  12 passage -- hear his testimony and just whether he                  13 continues to believe what he's testified to.                  14 THE WITNESS: I've read the paragraph.                  15 MR. BROOKS: The -- 03:52:06                  16 BY MS. HARTNETT:                  17 Q I guess, just --                  18 MR. BROOKS: Just continue --                  19 THE WITNESS: Oh, you want me to continue?                  20 MR. BROOKS: I want you to read to the end of 03:52:11                  21 that answer.                  22 MS. HARTNETT: Correct. Thank you.                  23 THE WITNESS: Okay.                  24 BY MS. HARTNETT:                  25 Q Do you stand by the testimony that you gave in 03:52:32                  Page 219</p>	<p>1 BY MS. HARTNETT:                  2 Q Do you believe that desistance should be the                  3 goal of treating patients with gender dysphoria?                  4 A I think I previously stated that the goal of                  5 treating gender dysphoria is to have an informed 03:54:05                  6 consent process in a brain -- for a person whose brain                  7 is old enough to consider the possibilities about the                  8 risks, and the goal of -- of their gender expression                  9 has to rely primarily on them and their process of                  10 coming to grips with what it needs, not just in 03:54:24                  11 fantasy, but in reality, for them to portray themselves                  12 as a trans person.                  13 So I don't -- your question has previously                  14 been answered by me. Parents would very much like me                  15 to be able to return their child efficiently and 03:54:44                  16 quickly to a tran- -- to a cis state, but I can't                  17 promise that as a goal. I can't even hold that out as                  18 a goal. What I hold out is what I just said to you.                  19 Q If you could -- you -- so you don't believe                  20 it's possible to talk somebody out of being 03:55:08                  21 transgender; is that fair?                  22 MR. BROOKS: Objection.                  23 THE WITNESS: It's not the language that I                  24 would ever use. I don't talk people out of things. I                  25 don't talk people out of getting married to a person. 03:55:22                  Page 221</p>

1 I don't talk people out of going to this college versus  
 2 that college.  
 3 I -- I -- I sort of elicit their feelings. I  
 4 help them see where there is conflict. I help them  
 5 articulate the pluses and minuses, as we can predict 03:55:38  
 6 the future. I look at trends.  
 7 I don't talk people out. It's not what a --  
 8 what Dr. Levine, the psychiatrist, does, talk people  
 9 out of X, Y or Z. And Z may be transgender identity.  
 10 Q If you could treat everyone to have them cease 03:55:58  
 11 being transgender who -- sorry.  
 12 For the transgender patients you have, if you  
 13 were able to treat them such that they would no longer  
 14 be transgender, would that be your preferred outcome?  
 15 MR. TRYON: Objection. 03:56:19  
 16 THE WITNESS: It depends what cost it would  
 17 have to be -- to return to living as a cisgender  
 18 person. It would not be my goal if it would cost them  
 19 their sanity, for example, if it would cost them  
 20 continued anguish. My goal is -- is stated to -- I've 03:56:38  
 21 already stated my goal.  
 22 The -- there is a belief that life is hard  
 23 enough as a cisgender person, you see. But these  
 24 things -- you see, I -- I -- I'm interested in what it  
 25 is about being a cisgender person that is so hard for 03:57:08  
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1 you, you see. Why is it that this is so difficult for  
 2 you. What is it about femaleness or maleness or  
 3 your -- your -- your sex, your original sex, you know,  
 4 your sex, what it is about it that is so offensive and  
 5 offending to you. Why is there such incompatibility. 03:57:30  
 6 Tell me. Teach me.  
 7 Q But using the language from your -- at least  
 8 your declaration earlier in the case where you had  
 9 described, you know, the -- the risks and harms that  
 10 would come from, quote, putting a child or adolescent 03:57:44  
 11 on the pathway towards life as a transgender person --  
 12 I'm just trying to understand if -- if you, Dr. Levine,  
 13 could put all the young people that were experiencing  
 14 gender dysphoria on a pathway toward being  
 15 non-transgender, would you do that? 03:57:59  
 16 A What I would say about that, if I could put  
 17 them on a pathway of being non-transgender, I would  
 18 expect that the vast majority of them would end up to  
 19 be homosexual in their orientation. And the  
 20 cisgender with -- you know, if they were males, they 03:58:16  
 21 would probably be cisgender with a little feminine  
 22 aspects to them, but they would be homosexual. And if  
 23 they were biologic females, they would be cisgender  
 24 lesbians with a little touch of masculine patterns and  
 25 so forth. 03:58:35  
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1 So that would be cisgender to me, but I  
 2 wouldn't be cisgender heterosexual. I think we already  
 3 know scientifically the outcome of gender atypicality.  
 4 Cross-gender atypicality in boys and girls is  
 5 homosexual orientation. 03:58:52  
 6 Q Is it your opinion that it's better to be a  
 7 cisgender homosexual than a transgender heterosexual?  
 8 MR. BROOKS: Objection to the form of the  
 9 question.  
 10 THE WITNESS: Well, you do no harm to your 03:59:09  
 11 stability. You do no harm to your anatomy. You do no  
 12 harm to your physiology. In that sense, I think -- you  
 13 don't -- you don't risk any of the complications of  
 14 cross-sex hormones, and you don't risk any of the  
 15 complications of surgery. And I think it's probably -- 03:59:24  
 16 although I can't tell you the facts, but I do believe  
 17 it's probably easier to be a gay person in society than  
 18 to be a trans person. And I don't mean it's easy to be  
 19 any sexual minority in our society.  
 20 BY MS. HARTNETT: 03:59:43  
 21 Q Do you know what autogynephilia is?  
 22 A I -- I didn't understand what you just said.  
 23 Q Apologies. Do you know what autogynephilia  
 24 is?  
 25 A Yes. 03:59:56  
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1 Q What is autogynephilia?  
 2 A Well, "autogynephilia" is a word that means  
 3 love of the self as a woman. It's a characteristic of  
 4 internal life that was popular in the trans literature,  
 5 beginning in about 1988. It was a concept suggested by 04:00:11  
 6 Ray Blanchard of Toronto. It was a supposition that --  
 7 that autogynephilic trans people had a form of  
 8 paraphilia and that it -- I think it was a concept that  
 9 replaced pretty much the concept of fetishistic  
 10 transvestism that had existed since the 1900s, early 04:00:44  
 11 1900s.  
 12 So at about -- the trans community objected to  
 13 the idea of autogynephilia, very profoundly objected to  
 14 the idea.  
 15 Anne Lawrence, who is a transsexual 04:01:06  
 16 researcher, wrote a book on men who are trapped in  
 17 men's bodies, and it was all about gyne- --  
 18 autogynephilia, men who -- who recognized that they  
 19 were autogynephilic.  
 20 I recently had a patient who came to see me 04:01:15  
 21 because he couldn't find anyone who knew anything about  
 22 autogynephilia.  
 23 But I think you don't find that word used in  
 24 the literature -- in the modern literature anymore.  
 25 Because I think with 2011 standards of care, there was 04:01:29  
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<p>1 much less interest in the pathways to transgenderism                  2 and more interest in the treatment of transgenderism,                  3 and so it became too many advocates, politically                  4 irrelevant and obnoxious to -- to even use the term                  5 "autogynephilia." 04:01:55                  6 Q Do you find autogynephilia to be a helpful                  7 concept?                  8 A For some people.                  9 Q Have you ever heard it said that transgender                  10 people are either gay, mistaken or have autogynephilia? 04:02:06                  11 MR. BROOKS: Objection.                  12 THE WITNESS: I don't recall hearing that                  13 sentence before.                  14 BY MS. HARTNETT:                  15 Q Do you think that that -- is that something 04:02:19                  16 that you would agree with, that being transgender --                  17 people think that transgender are either gay, mistaken                  18 or have another malady, like autogynephilia?                  19 MR. BROOKS: Objection.                  20 THE WITNESS: It's not something that I would 04:02:32                  21 summarize by saying. Those three options seem                  22 pejorative and unscientific.                  23 BY MS. HARTNETT:                  24 Q Do you think the term --                  25 A I'm sorry, I -- I object to the idea of 04:02:50                  Page 226</p>	<p>1 A A mistake is something that a patient decides                  2 after they've trans- -- detransitioned and they say it                  3 was a mistake to do that.                  4 It's not something I would say. I would say                  5 that they -- they have a current gender identity, and 04:04:21                  6 I'm not sure they're -- I'm not sure anyone's gender                  7 identity is not going to evolve in some way in the                  8 future. Especially I would like to say that about                  9 young adolescents.                  10 But please don't -- please don't quote me 04:04:38                  11 because I have never authored that sentence.                  12 Q Thank you. Do you think that transgender                  13 identity is something that can be cured?                  14 A Can be cured?                  15 Q Yeah. 04:04:54                  16 A Is that what you said?                  17 MR. BROOKS: Objection.                  18 BY MS. HARTNETT:                  19 Q Cured.                  20 A If you read the end of my paper on the patient 04:05:02                  21 who trans- -- detransitioned 30 years ago, I think I                  22 said something like even though medical psychiatric                  23 knowledge does not know how to transform a person from                  24 a trans state to a cis state or a previous state, it                  25 doesn't mean that life doesn't transform people into 04:05:25                  Page 228</p>
<p>1 mistaken.                  2 Q Do you think the term or that use of                  3 autogynephilia is obnoxious?                  4 A No.                  5 Q Do you think that being transgender is a 04:03:07                  6 paraphilia?                  7 MR. BROOKS: Objection.                  8 THE WITNESS: To the extent that -- to the                  9 extent that autogynephilia is a paraphilia and that                  10 some men develop a transgender identity as a 04:03:18                  11 consequence of autogynephilic behaviors, that was --                  12 that may be one pathway towards transgender identity.                  13 But I wouldn't certainly -- I -- I certainly                  14 would not say that at all transgenders or most                  15 transgendered people are autogynephilic. 04:03:38                  16 BY MS. HARTNETT:                  17 Q I mentioned the -- one possible formulation                  18 that people that are identifying as trans are just gay,                  19 mistaken or have a malady like autogynephilia, and I                  20 think you said that you took issue with the notion of, 04:03:55                  21 among other things, the idea of it being a mistake; is                  22 that fair?                  23 A I -- yeah, I take -- I take issue with that,                  24 yeah.                  25 Q Why? 04:04:05                  Page 227</p>	<p>1 detransitioned people.                  2 We need to understand the modesty and the                  3 differences between what we know how to do to create                  4 behavioral change, which is quite modest throughout                  5 psychiatry and what happens to people over time if we 04:05:44                  6 take a life course perspective.                  7 So my case illustration in that case was                  8 Dr. Levine did not change his -- did not cause his                  9 detransition at all; right? Life processes, which he                  10 described in great detail in the that paper, changed, 04:06:02                  11 and it took him years to make that change, years of                  12 anguish, years of the sense of inauthenticity as a                  13 woman, which at first he tried to deny.                  14 So I would -- I would refer you to the last                  15 paragraph in that paper if you wanted to find out how I 04:06:22                  16 said it. I can't -- I can't quote it. I'm just                  17 paraphrasing it if for you.                  18 Q But is that an example of someone that you                  19 think was cured?                  20 MR. BROOKS: Objection. 04:06:41                  21 THE WITNESS: It was an example of a person                  22 who changed their presentation and now is terribly                  23 embarrassed about what he had -- I can call him "he"                  24 now -- what he had done, or what she had done; right?                  25 And now -- and it is now a person who -- I think I'm 04:06:57                  Page 229</p>

<p>1 quoting -- hates all the advocates of the -- in the                  2 trans world for, he believes, misleading people that                  3 they can have a happy life.                  4 But that's just one person's opinion, you                  5 know. 04:07:13                  6 But if you read the paper, I think, you know,                  7 there's lots to think about in the paper.                  8 Q Is it embarrassing to be transgender?                  9 A In -- in some settings, it probably is, yes.                  10 Q Do you think that transitioning, for a 04:07:28                  11 transgender person, is something that you find to be an                  12 embarrassing concept?                  13 A No.                  14 Q Well, you said that your -- I'm just -- I'm                  15 not putting your patient's words in your mouth, but you 04:07:38                  16 were describing him as having been embarrassed by the                  17 whole thing. I -- I took that to mean he was                  18 embarrassed by having transitioned; is that right?                  19 A Yes, he's now angry at himself and angry at                  20 those who facilitated his original transition. 04:07:52                  21 But that's one person, you know.                  22 Q But do you feel embarrassment for your                  23 patients that have to go through transition?                  24 MR. BROOKS: Objection.                  25 THE WITNESS: Do I feel embarrassment? No. I 04:08:09                  Page 230</p>	<p>1 this witness's testimony.                  2 THE WITNESS: I think the work of Lisa Diamond                  3 has demonstrated that among women who are -- who assert                  4 a lesbian identity, that that lesbi- -- there is a lot                  5 of two-way traffic between a heterosexual identity and 04:09:43                  6 a homosexual identity, or orientation, we would say,                  7 and -- so I don't know how to change a person's sexual                  8 orientation, but I do think, especially among natal                  9 women, sexual orientation is -- people experiment with                  10 different ways of life and that there are -- there's 04:10:06                  11 more two-way traffic between lesbian and a heterosexual                  12 life among women. There's much more bisexual behavior                  13 and bisexual eroticism among natal born females than                  14 there is among natal born males.                  15 So that would be my answer to your question, 04:10:29                  16 without a yes-or-no answer.                  17 Q Do you agree that gay people, on average, have                  18 a harder time than straight people, on average, just                  19 navigating life?                  20 A Yes. 04:10:40                  21 MR. BROOKS: Objection.                  22 BY MS. HARTNETT:                  23 Q Do you have similar views to those you've                  24 expressed about caution before encouraging youth to be                  25 transgender -- or to inhabit their transgender gender 04:10:51                  Page 232</p>
<p>1 feel --                  2 BY MS. HARTNETT:                  3 Q I'm just --                  4 A No. That's -- that would not describe a                  5 dominant feeling I have. I have concern for my 04:08:20                  6 patient. I have worry about this, but I'm not                  7 embarrassed by it.                  8 Q Is shame one of the feelings?                  9 MR. BROOKS: Objection.                  10 Of whom? 04:08:35                  11 BY MS. HARTNETT:                  12 Q Do you (technical difficulty) shame for them?                  13 MR. BROOKS: Objection.                  14 THE WITNESS: I'm a little hard of hearing,                  15 and I actually could not discern what you said. 04:08:43                  16 BY MS. HARTNETT:                  17 Q Sorry, I'll speak up.                  18 I was asking if you felt shame for your                  19 patients experiencing transition.                  20 A No, I'm not -- am I ashamed? 04:08:52                  21 Q Yes.                  22 A No.                  23 Q Do you think that people can change their                  24 sexual orientation?                  25 MR. BROOKS: Objection; outside the scope of 04:09:10                  Page 231</p>	<p>1 identity? Do you have similar views about youth                  2 expressing homosexuality?                  3 A No.                  4 Q Why not?                  5 A Well, again, I think I'm going to make a 04:11:03                  6 distinction between homosexuality as it occurs in men,                  7 as it occurs in women, and the eroticism of a person is                  8 a bunch of fantasies and thoughts and attractions that                  9 makes sex comfortable or anxious and makes romance easy                  10 or hard to -- to participate in, and given the power of 04:11:37                  11 orientation, I believe that people have to come to                  12 grips with -- with who they are attracted to and -- and                  13 what is easy for them and what is difficult for them.                  14 And so I just think that that's part of the                  15 human landscape and that people can -- can -- they 04:12:03                  16 know -- they know their orientation, and then they have                  17 to choose how -- how to act or not act on their                  18 orientation, and it's a very personal, private and                  19 often difficult decision, and I respect that, and I'm                  20 happy to hear about it when it comes up in my gay 04:12:23                  21 patients.                  22 And, you know, I see a lot of people who have                  23 orientations that are not heterosexual.                  24 Q I'm just curious why the same principle                  25 doesn't hold for people that have a gender identity of 04:12:37                  Page 233</p>

<p>1 transgender, if they have an innate sense that that's 2 their identity, why would you not approach that the 3 same way you approach homosexuality. 4 MR. BROOKS: Objection. 5 THE WITNESS: Because homosexuality does not 04:12:51 6 involve the -- it's not against the first principle of 7 medical ethics; above all, do no harm. 8 It doesn't involve changing the body's 9 reproductive capacity. It doesn't change the body's 10 sexual physiology, you see. It doesn't change the 04:13:08 11 ability to find a love partner, a stable mate. It -- 12 it -- it doesn't -- trans- -- we're talking about here 13 changing the anatomy, changing the physiology, creating 14 the inability to have a child, interfering with the 15 ability to have sexual pleasure as we understand it in 04:13:32 16 the general population as, you know, orgasm. 17 So -- so we understand -- transsexuality is 18 exposing yourself to surgical complications. And 19 surgical transformation of a teenager, before a child 20 has lived long enough to -- to come to grips with the 04:13:51 21 multiple dimensions of being an older person, that is, 22 a 20-year-old or a 19-year-old, and romance and so 23 forth, that's why it's different. It's not the same. 24 You're trying to take a principle and -- and 25 apply it to a group of people that -- that you're 04:14:10 Page 234</p>	<p>1 Q And my question is, the harms you set forth in 2 these paragraphs -- first of all, you cite your -- only 3 your own publications for these two paragraphs; is that 4 correct? 5 A Yes, it's my only citation. 04:15:49 6 Q Is there any other basis for these assertions? 7 A Well, there's an article in the Archives of 8 Sexual Behavior about being the fetish object, when -- 9 a transsexual adult talking about -- a survey of 10 transsexual adults, that they get really upset that 04:16:10 11 people want to have sex with them because they're what 12 they call a fetish object, that they're -- they -- they 13 have attractions to transsexuals and they want to have 14 an experience. 15 And so it's really about the frustration of 04:16:25 16 adult tran- -- sexually active transsexual, I think -- 17 transsexuals who are complaining about difficulties in 18 romantic relationships because they feel they're being 19 used by people with perverse adventures, some 20 curiosities, as opposed to genuine romantic 04:16:47 21 relationships. 22 So I was happy to read that article because it 23 had confirmed one of the stories that I had been 24 hearing from many patients over the years by -- 25 Q Can you direct me -- 04:17:00 Page 236</p>
<p>1 talking about the possibility of harming them. Not 2 just their -- their -- their reproductive capacity, but 3 harming them in numerous ways. And they have to take 4 responsibility for that choice, and they -- I just have 5 been saying all morning and all afternoon, I just want 04:14:29 6 them to be informed. 7 And, you know, 13-year-old passionate kids 8 cannot be informed easily. 9 Q I'm glad you brought that up. 10 Could you turn to paragraph 202 of your 04:14:49 11 declaration, page 69. 12 MR. BROOKS: Yeah. And it was long. I didn't 13 think it was that long. 14 Page 69. Let's see here. 15 You said 202. Yes, we have that on the 04:15:13 16 screen. 17 BY MS. HARTNETT: 18 Q Yeah, I wanted to ask you, these are within a 19 larger section, well, about various harms that come 20 from, I guess, treating or -- or validating a 04:15:26 21 transgender person's identity. But this paragraph 202 22 talks about harm to family and friendships, and then 23 203 talks about sexual-romantic harms. 24 Do you see that? 25 A Yes. 04:15:41 Page 235</p>	<p>1 A Sorry. 2 Q What article is that? Can you direct me -- 3 A I -- I certainly can get you the reference. 4 It's in the Archives of Sexual Behavior. It's probably 5 within the last two years. And I think the first 04:17:13 6 author's name is either -- starts with an A, B or C. 7 Anyway, I -- you -- it's about tran- -- in the 8 title, there's something like "transgender and fetish 9 objects." So I -- 10 Q Okay. 04:17:38 11 A I can -- if you want, I will eventually give 12 you the exact reference, yeah, but -- 13 Q That's -- 14 A -- you're -- you're not interested in wasting 15 time, I'm sure. 04:17:48 16 Q No, no, I -- I -- I just want to know the 17 basis for these -- these paragraphs, so I appreciate 18 you telling me that. 19 My question is -- you know, I read 202 and 20 203, and you say -- you list various perceived harms 04:17:58 21 and challenges from being transgender; is that fair? 22 A Yes. 23 Q What I'm confused about is, is this premised 24 on the notion that there's a way to dissuade someone 25 from being transgender so that they don't have these 04:18:14 Page 237</p>

<p>1 outcomes?                  2 A Exactly. I -- this is what I'm trying to do.                  3 This is why I say to parents, you know, we have to                  4 support and love this child regardless of what --                  5 what -- what they pass through because mental health is 04:18:35                  6 determined, in part, by the ability to -- to be valued                  7 by your family before you can be valued by other                  8 people.                  9 And I think the outcomes -- I mean, so many of                  10 my patients have in fact been alienated from their 04:18:53                  11 families. And -- sorry -- you've heard about runaway                  12 kids and throwaway kids and -- and I --                  13 Q Well, why isn't -- sorry, why isn't that                  14 the family's --                  15 MR. BROOKS: Counsel -- Counsel, the witness 04:19:08                  16 is busy talking, in the middle of his --                  17 MS. HARTNETT: Yeah, I'm aware of that, but                  18 he's also taking a long time to respond to                  19 straightforward question.                  20 BY MS. HARTNETT: 04:19:18                  21 Q My question is whether or not --                  22 MR. BROOKS: Counsel, the witness is entitled                  23 to finish his answer.                  24 MS. HARTNETT: He's not entitled to                  25 filibuster. 04:19:23</p> <p style="text-align: right;">Page 238</p>	<p>1 child who's -- or the adolescent who's experiencing                  2 gender dysphoria and would like to be affirmed and the                  3 parents that are horrified, why isn't the answer to try                  4 to work with the parents to be more tolerant and                  5 understanding rather than to try to change the child? 04:20:48                  6 A I think I do work with the parents. I do.                  7 But it's not an either-or thing. It's not an either-or                  8 phenomenon.                  9 And just because --                  10 Q Is your -- 04:21:07                  11 A Just because we work with a parent doesn't                  12 mean I'm capable of changing the parent's behavior,                  13 changing the parent's values, changing the parent's                  14 knowledge of the child and changing the parent's fear                  15 for their future. 04:21:22                  16 Q I'm just puzzled by these paragraphs because                  17 it strikes me that the person is going to be                  18 transgender regardless if they get transgender                  19 healthcare and, therefore -- I don't understand the                  20 point that giving them healthcare is going to harm them 04:21:37                  21 more than they would have otherwise been harmed if they                  22 were transgender, but just without healthcare.                  23 MR. BROOKS: Objection; assumes facts not in                  24 evidence, argumentative.                  25 THE WITNESS: I accept the fact that you don't 04:21:47</p> <p style="text-align: right;">Page 240</p>
<p>1 MR. BROOKS: He's not filibustering; he's                  2 answering your question.                  3 MS. HARTNETT: I've been very permissible all                  4 day with his answers, but I'm happy to have him finish                  5 his answer. 04:19:35                  6 MR. BROOKS: Thank you.                  7 If you have -- if you feel that you haven't                  8 finished, you may finish.                  9 THE WITNESS: I have heard considerable                  10 stories over the years about family relationships, 04:19:43                  11 about alienations, about isolation. And in answer to                  12 your question, in -- in hearing those stories, it has                  13 led me to counsel both the patient and the parents to                  14 do whatever they can to maintain their relationships,                  15 despite what the child or the grownup, the adult, has 04:20:02                  16 decided because I know the suffering of mothers and                  17 fathers and grandmothers and grandfathers and of                  18 patients.                  19 And so it's an adverse outcome to have family                  20 alienation. And from the very beginning, I say the 04:20:19                  21 first principle evaluation is to preserve family                  22 relationships, and I think you can read that in my 2021                  23 paper.                  24 BY MS. HARTNETT:                  25 Q My question is -- so in the example of the 04:20:31</p> <p style="text-align: right;">Page 239</p>	<p>1 understand.                  2 BY MS. HARTNETT:                  3 Q Can you explain to me why -- so, I guess --                  4 let me ask you this: Do you disagree that these people                  5 are transgender even if they don't get the healthcare? 04:21:56                  6 MR. BROOKS: Objection.                  7 THE WITNESS: I agree that the patient who                  8 says that "I'm transgender" is currently transgender.                  9 That's what I believe. They're currently transgender.                  10 Do I believe they will always be transgender? 04:22:14                  11 No.                  12 Can I predict which ones will be transitioned                  13 and not? Not -- not with any certainty, no.                  14 But, you see, I believe that many of the                  15 assumptions behind your questions is that 04:22:28                  16 transgenderism is a fixed phenomenon, it never changes,                  17 and I -- if I am correct that that is your assumption,                  18 then you and I disagree.                  19 BY MS. HARTNETT:                  20 Q And do you agree that there's no evidence 04:22:44                  21 to -- assuming those are different assumptions, that                  22 there's not evidence out there that would prove either                  23 of us correct on that one?                  24 MR. BROOKS: Objection.                  25 THE WITNESS: No, I don't agree with that at 04:22:53</p> <p style="text-align: right;">Page 241</p>

<p>1 all. Not at all.                  2 BY MS. HARTNETT:                  3 Q Do you believe that --                  4 A I -- and -- and I give you evidence of                  5 detransition. 04:22:59                  6 Q Is there anything other than anecdotal                  7 evidence to say whether or not gender identity is fixed                  8 versus not labeled?                  9 MR. TRYON: Objection.                  10 THE WITNESS: You know, you and I have 04:23:13                  11 different ideas of what is anecdotal.                  12 Is Lisa Diamond's work anecdotal, about                  13 homosexuality? Is that anecdotal?                  14 And -- and, you know, there is something                  15 called a proof of concept study that if you can 04:23:29                  16 demonstrate that it is possible, for example, to cure a                  17 particular cancer with a new drug that has never been                  18 tried before, that proof of concept then leads to more                  19 definitive studies.                  20 And we're in -- we're -- we already have proof 04:23:47                  21 of concept that -- that there are many people who                  22 detransition.                  23 In fact, if you look at the UK studies, the                  24 two UK studies that have been done in the last, I                  25 think, six months, we all now have a rate of 04:24:07                  Page 242</p>	<p>1 cis people, there are -- there are far less marriages,                  2 and there are far less stable relationships.                  3 If you look at a series of psychosocial                  4 histories of -- of patients, many of them do not come                  5 to us with stable functional relationships. I don't -- 04:25:31                  6 Q You --                  7 A I actually -- I actually don't think this                  8 is -- this is anecdotal, but it is perhaps                  9 impressionistic based upon 50 years of taking care of                  10 these people. 04:25:50                  11 Q Is it possibly also dated?                  12 MR. BROOKS: I'm -- I'm sorry, I couldn't hear                  13 the question.                  14 BY MS. HARTNETT:                  15 Q Is the notion also possibly dated? 04:25:57                  16 A Well, the big hope in the trans advocate                  17 community has been as society improves, the lives --                  18 society recognizes and accepts transgender people,                  19 there will be less suffering and less isolation in                  20 trans people. That -- that is -- you can find that in 04:26:15                  21 many, many studies that -- that articulate the -- the                  22 frequency of psychiatric problems. And there's the                  23 hope that as -- the whole idea of the minority stress                  24 theory is that if we improve society, fewer people will                  25 suffer. 04:26:40                  Page 244</p>
<p>1 detransition. We now, for the first time, have a rate                  2 of detransition data.                  3 And so I would say it's not anecdotal.                  4 It's -- it's an emerging new branch of transgender                  5 science, so to speak, or knowledge that the error rate 04:24:24                  6 in trans -- in -- in -- in affirmative care is now                  7 becoming more clear than it ever was.                  8 Q You are aware that some transgender -- many                  9 transgender people have fulfilling romantic                  10 relationships and family relationships; correct? 04:24:37                  11 MR. BROOKS: Objection.                  12 THE WITNESS: I am aware.                  13 BY MS. HARTNETT:                  14 Q In paragraph 203, you say (as read):                  15 After adolescence, transgender 04:24:47                  16 individuals find the pool of                  17 individuals willing to develop a                  18 romantic and intimate relationship                  19 with them to be greatly diminished."                  20 A Yes. 04:24:57                  21 Q Do you have any basis for making that                  22 statement other than your own anecdotal experience?                  23 A Well, if you look at -- if you look at                  24 cross-sectional data about the percentage of people who                  25 are married and cohabitating among trans people versus 04:25:09                  Page 243</p>	<p>1 I don't know whether that -- I hope it's true                  2 that as society has improved its defense of -- of                  3 gender diverse people, that more gender diverse people                  4 will be able to have satisfying, intimate, stable                  5 relationships. I hope that is true. And I hope it 04:26:56                  6 will be worked through in ten years.                  7 Q Thank you. In the paragraph 202, you say, in                  8 the middle of that paragraph (as read):                  9 "By adulthood, the friendships of                  10 transgender individuals tend to be 04:27:11                  11 confined to other transgender                  12 individuals (often 'virtual' friends                  13 known only online) and the generally                  14 limited set of others who are                  15 comfortable interacting with 04:27:24                  16 transgender individuals."                  17 Do you see that?                  18 A Yes.                  19 Q Is there a basis for that beyond your own --                  20 you cite yourself for that, but are you aware of 04:27:39                  21 whether or not that actually represents the lived                  22 experience of transgender individuals in 2022?                  23 A Well, I think in that sentence, if I could                  24 edit it, I would emphasize rather than "by adulthood,"                  25 I would say "during adolescence." And the basis is not 04:28:00                  Page 245</p>

1 just my clinical experience. The basis is the clinical  
 2 experience of the people in the psychosocial therapy  
 3 group that I mentioned earlier this morning. That  
 4 seems to be a broad consensus, that many of their trans  
 5 people are -- have social isolation problems in their 04:28:19  
 6 friendships and their romances, and I've seen this in  
 7 my practice. They really are occurring through --  
 8 through the Internet.  
 9 And when they're not occurring through the  
 10 Internet, they're occurring with people in the sexual 04:28:34  
 11 minority community, other people who may not be trans  
 12 themselves, but who are excited by their trans and  
 13 supportive of their trans status.  
 14 So that's the basis of it.  
 15 Q You've referred to the trans community, at 04:28:53  
 16 times, in our conversation today; correct?  
 17 A I'm sure I've said that, yes.  
 18 Q Are you aware that the trans community, as a  
 19 general matter, takes issue with your viewpoint?  
 20 MR. BROOKS: Objection. 04:29:08  
 21 THE WITNESS: Yeah, I am aware that there are  
 22 members in the trans community who find me a hateful  
 23 person and who believe that I'm against medical,  
 24 surgical and social care and against the civil rights  
 25 of transgender people. 04:29:28  
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1 I can't control what they believe about me,  
 2 you see. But I am aware that some people are very  
 3 appreciative of me and other people think I'm an enemy.  
 4 BY MS. HARTNETT:  
 5 Q If 95 percent of trans people opposed your 04:29:47  
 6 methods, do you think that they would make sense to  
 7 continue suggesting them for trans people?  
 8 MR. BROOKS: Objection --  
 9 THE WITNESS: What was the --  
 10 MR. BROOKS: -- lack of foundation, calls for 04:29:56  
 11 speculation.  
 12 THE WITNESS: What was the last part of your  
 13 sentence?  
 14 BY MS. HARTNETT:  
 15 Q I'm just trying to ask you if -- like, say, 04:30:04  
 16 assuming 95 percent of trans people opposed your  
 17 methods, would you have concern for continuing to  
 18 promote them?  
 19 MR. BROOKS: Objection.  
 20 THE WITNESS: To promote my methods? 04:30:13  
 21 BY MS. HARTNETT:  
 22 Q Towards --  
 23 MR. BROOKS: Objection.  
 24 BY MS. HARTNETT:  
 25 Q -- trans people. 04:30:17  
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1 A My method of -- of informed consent and my  
 2 method of -- of being thoughtful and considerate  
 3 about -- about -- about the sources and the  
 4 consequences?  
 5 I don't believe that -- that a person 04:30:32  
 6 thinks -- misunderstands my position would make me give  
 7 up my position. If you show me that -- that my  
 8 position is not tenable in a -- in a -- in a -- in a  
 9 strong scientific basis, I'm certainly able to change.  
 10 The fact that public opinion, in some 04:30:53  
 11 commun- -- some sectors of the community, you know,  
 12 think -- misunderstand me and -- and don't really know  
 13 what I'm saying, you see, that -- that wouldn't make me  
 14 give it up.  
 15 And I don't know how you could assume that 04:31:09  
 16 95 percent of people, you see. I don't know -- you're  
 17 just presuming things.  
 18 Q Are you opposed to civil rights for  
 19 transgender people?  
 20 A Absolutely not. I am not -- 04:31:20  
 21 Q Do you understand --  
 22 A I am not --  
 23 Q Sorry?  
 24 A -- opposed to civil rights for transsexual  
 25 people. 04:31:26  
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1 Q Do you know that your opinion in this case is  
 2 being used to support excluding an 11-year-old  
 3 transgender girl from a middle school track team that  
 4 wants her to play on it?  
 5 MR. BROOKS: Objection. 04:31:36  
 6 MR. TRYON: Objection.  
 7 MR. BROOKS: Foundation.  
 8 THE WITNESS: I already told you I don't know  
 9 the details of this particular case, the B.P.J.  
 10 BY MS. HARTNETT: 04:31:50  
 11 Q I know. And I'm going to tell you that your  
 12 opinion is being used by some of the defendants in this  
 13 case to seek to deny an 11-year-old transgender girl  
 14 from playing on a girls' cross-country and track team  
 15 where her school otherwise would be willing to have her 04:31:57  
 16 play, with the support of her parents and family.  
 17 MR. BROOKS: Objection.  
 18 There's no question pending, so far as I  
 19 understand.  
 20 BY MS. HARTNETT: 04:32:12  
 21 Q Do you know that that's what your opinion is  
 22 being used for in this case?  
 23 MR. BROOKS: Objection.  
 24 THE WITNESS: I am not aware.  
 25 ///  
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1 BY MS. HARTNETT:  
 2 Q Do you object to your opinion being used to  
 3 deny an 11-year-old girl the ability to run on a track  
 4 team at her middle school in West Virginia when she's  
 5 already otherwise socially transitioning and is 04:32:26  
 6 supported by her family and her school?  
 7 MR. BROOKS: Objection; mischaracterizes the  
 8 witness's opinions.  
 9 THE WITNESS: I've heard the objection that  
 10 you're -- you're mischaracterizing my opinion. 04:32:41  
 11 I -- I don't understand.  
 12 My opinion has to do with the things I've  
 13 testified to. I did not testify to anything about an  
 14 11-year-old girl.  
 15 And what you are telling me about, I trust 04:32:54  
 16 you're telling me the truth.  
 17 I actually don't think about -- when I think  
 18 about civil rights, I am thinking much more about, I  
 19 think, older people, you know, housing, educational  
 20 discrimination in colleges and things like that, 04:33:18  
 21 vocation, right to vote.  
 22 You will have to -- it's a -- it's a new thing  
 23 for me to even think about the civil rights of a  
 24 six-year-old or a seven-year-old or an eight-year-old.  
 25 ///

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1 BY MS. HARTNETT:  
 2 Q Well, your -- I'll help you.  
 3 Your opinion was also submitted in the case of  
 4 Lindsay Hecox, a college student who was seeking to run  
 5 consistent with her identity, gender identity, on her 04:33:39  
 6 college cross-country and track team.  
 7 A Yes.  
 8 Q You're aware that your -- your testimony was  
 9 submitted in support of prohibiting her from running on  
 10 the team? 04:33:51  
 11 MR. BROOKS: Objection; mischaracterizes that  
 12 case.  
 13 THE WITNESS: Again, my testimony --  
 14 MS. HARTNETT: I'm counsel of record in that  
 15 case, and I can tell you that I'm accurately 04:34:03  
 16 characterizing the case, which is that Dr. Levine's  
 17 declaration was submitted in support of a motion to  
 18 ban -- to -- to uphold a statute that would not permit  
 19 Lindsay Hecox to run, consistent with her gender  
 20 identity, on a college sports team. 04:34:15  
 21 And I'm asking him, in light of his statement  
 22 that he does not oppose transgender civil rights, how  
 23 he can reconcile that with having his testimony used in  
 24 this manner.  
 25 MR. BROOKS: Objection; argumentative. 04:34:26  
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1 The witness has explained that his opinions  
 2 are about science.  
 3 MS. HARTNETT: Please stop testifying.  
 4 MR. BROOKS: Please stop arguing.  
 5 BY MS. HARTNETT: 04:34:35  
 6 Q Dr. Levine, how can you reconcile --  
 7 (Simultaneous speaking.)  
 8 MR. BROOKS: This is not a debate. This is a  
 9 deposition.  
 10 MS. HARTNETT: And this -- you're not the 04:34:45  
 11 witness, either. I'd like to ask Dr. Levine and get an  
 12 answer as to how he can reconcile having his testimony  
 13 be filed to oppose the participation of a college  
 14 student on her college team consistent with her gender  
 15 identity. 04:34:59  
 16 THE WITNESS: I don't find it easy to  
 17 reconcile -- this is just part of some of the great  
 18 conflict embedded in -- in -- my -- my knowledge is  
 19 about science. And I do recognize that people  
 20 interpret what I say in various ways and -- but I don't 04:35:25  
 21 think I'm responsible for how that is interpreted. I'm  
 22 just making statements based on my knowledge, based on  
 23 my clinical experience. And I am uncomfortable, at  
 24 times, with various aspects of what people make of --  
 25 of what I have said. 04:35:46  
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1 I -- I am uncomfortable, to some extent, by  
 2 how the lawyers have used some of my -- you know, at  
 3 times. And I am certainly uncomfortable at how the  
 4 trans community has used some of what they think I  
 5 stand for. 04:36:04  
 6 I'm trying to be clear what I -- what I think  
 7 and what I stand for. And I am somewhat uncomfortable,  
 8 at times, about many things, including this, but --  
 9 BY MS. HARTNETT:  
 10 Q Do you understand that you're being paid as an 04:36:16  
 11 expert witness in both the Hecox case and in this case  
 12 by the defendants in order to submit testimony that  
 13 will be used against the participation of the  
 14 transgender students?  
 15 MR. TRYON: Objection. 04:36:31  
 16 THE WITNESS: I don't think I fully understand  
 17 that. I don't think -- I don't think that's -- I -- I  
 18 guess the answer to the question is I don't fully  
 19 understand it.  
 20 BY MS. HARTNETT: 04:36:48  
 21 Q Okay. Because I -- I'm -- I'm genuinely  
 22 perplexed because you've said that you're supporting  
 23 transgender civil rights and you wish for a time where  
 24 there's less discrimination and that -- yet your  
 25 submission is not being submitted in a neutral manner 04:36:59  
 Page 253

<p>1 in this case; it's being submitted in support of the                  2 side of the case that's seeking to defend the exclusion                  3 of the transgender student.                  4 And so we don't need to belabor the point, but                  5 I'm just trying to -- I'm happy to tell you that. And 04:37:11                  6 if you have something you would like to say on the                  7 record as to how you can reconcile the use of your                  8 testimony for that, with the views you've expressed in                  9 this deposition about seeking to make the world better                  10 for transgender people, I would appreciate your chance 04:37:24                  11 to respond to that.                  12 MR. BROOKS: Objection; mischaracterizes --                  13 MR. TRYON: Objection.                  14 MR. BROOKS: -- testimony and is outside the                  15 scope of this witness's expert opinions. 04:37:30                  16 THE WITNESS: Well, I thank you for pointing                  17 that out. I will think about it more.                  18 MS. HARTNETT: Thank you.                  19 I think we can take a break now.                  20 THE VIDEOGRAPHER: We are off the record at 04:37:46                  21 4:38 p.m.                  22 (Recess.)                  23 THE VIDEOGRAPHER: We are on the record at                  24 4:55 p.m.                  25 MS. HARTNETT: Thank you. 04:55:19                  Page 254</p>	<p>1 O'Malley; is that right?                  2 A Yes.                  3 Q Were the thoughts that you shared with them                  4 during that podcast all truthful?                  5 A I hope so. 04:56:32                  6 Q Okay. I'm just going to -- and I referenced,                  7 before we went on the record, uploading a few audio                  8 files. I've excerpted some excerpts from the talk you                  9 gave, which was, for the record, available at                  10 https://gender-a-wider-lens.captivate.fm/episode/60- 04:56:53                  11 pioneers-series-we-contain-multitudes-with-Stephen --                  12 S-T-E-P-H-E-N -- Levine, dated January 28th, 2022.                  13 Dr. Levine, do you recall whether the podcast                  14 was -- the conversation you had with Ms. O'Malley and                  15 Ms. Ayad actually took place on January 28th? 04:57:38                  16 A I think it did, yes.                  17 Q Okay. So I'm going to just play for you an                  18 excerpt, and I'll ask you a question about it.                  19 MS. HARTNETT: Could you please play                  20 Exhibit 89. 04:57:56                  21 (Exhibit 89 was marked for identification                  22 by the court reporter and is attached hereto.)                  23 THE WITNESS: I'm not hearing anything.                  24 THE VIDEOGRAPHER: Just -- just a moment. I                  25 believe he's working on it. 04:58:22                  Page 256</p>
<p>1 BY MS. HARTNETT:                  2 Q Hi, Dr. Levine. We discussed the SEGM                  3 organization earlier.                  4 Do you recall that?                  5 A I do. 04:55:25                  6 Q And you described it as an evidence-based                  7 organization; correct?                  8 A Yes. That's the title, yes.                  9 Q And you view them as an organization that                  10 strictly adheres to the facts; correct? 04:55:35                  11 A Well, facts are interpreted, but, yes, they                  12 have a basis in facts.                  13 Q In January, you earlier, in the deposition,                  14 mentioned that you did a podcast; correct?                  15 A I did. 04:55:53                  16 Q And that podcast was with two of the lead                  17 advisors of SEGM; is that right?                  18 A I don't think they're the lead advisors.                  19 They're -- they were members of the psychotherapy                  20 group. I don't -- I don't -- I wouldn't describe them 04:56:10                  21 as lead advisors to SEGM, no.                  22 Q Okay. They're -- are they affiliated with                  23 SEGM in some way?                  24 A They're members of SEGM, yeah.                  25 Q And that would be Sasha Ayad and Stella 04:56:21                  Page 255</p>	<p>1 MR. REISBORD: Were you unable to hear that?                  2 THE VIDEOGRAPHER: Correct.                  3 MS. HARTNETT: We did not hear that.                  4 MR. REISBORD: Let my try one more time.                  5 (Video Clip Played.) 04:58:40                  6 "In 1973" --                  7 MR. REISBORD: Are you able to hear that?                  8 MS. HARTNETT: Yes.                  9 THE WITNESS: Yes.                  10 MR. REISBORD: Okay. 04:58:45                  11 (Video Clip Played.)                  12 "In 1973, after 30 days in -- in practice, I                  13 was at a department of psychiatry and had a halftime                  14 private practice. I got a man who told me he was                  15 sitting in the backyard with a gun in his mouth, under 04:59:00                  16 his oak tree, and he decided either to kill himself" --                  17 MS. HARTNETT: We can't hear it anymore.                  18 (Video Clip Played.)                  19 -- "see a psychiatrist who used to be my                  20 supervisor a month ago, and my supervisor said, Well, 04:59:17                  21 there was an expert in human sexuality down at the                  22 university. Why don't you go see him?                  23 "And that was the beginning of my career                  24 working with people who wanted to change their sex.                  25 "You know, he almost killed himself at that 04:59:33                  Page 257</p>

<p>1 point in 1973."                  2 BY MS. HARTNETT:                  3 Q Dr. Levine, was that the patient that you were                  4 referring earlier to in the deposition?                  5 A Yes. 04:59:48                  6 Q Rutherford or Ruth; correct?                  7 A Yes.                  8 MS. HARTNETT: Could you play tab 40, please.                  9 MR. REISBORD: Tab 40 would be Exhibit 90.                  10 MS. HARTNETT: Oh, sorry, thanks. 05:00:07                  11 (Exhibit 90 was marked for identification                  12 by the court reporter and is attached hereto.)                  13 (Video Clip Played.)                  14 "And -- and nine years later, he in fact did                  15 kill himself after he changed his gender and left his 05:00:11                  16 family and left his country and then returned back to                  17 live in America and just decided to end his life. So                  18 that was my introduction, my nine-year introduction, to                  19 adults who wanted to change their sex.                  20 "This was a highly accomplished man. He was 05:00:30                  21 the head of our county library system. He had a degree                  22 in divinity. And he was a joy to talk to. And he --                  23 one day, about four years before he actually killed                  24 himself, he slashed his -- at his neck, and when he was                  25 admitted to the hospital, he -- he told me that I was 05:00:55                  Page 258</p>	<p>1 Q And they were truthful; correct?                  2 A Was I telling the truth? Yes --                  3 Q Yes.                  4 A -- I was -- I tell --                  5 Q Okay. 05:02:06                  6 A -- the truth.                  7 Q Sorry, it's partially a formality of -- I'm                  8 just trying to confirm that what you were saying to                  9 them is also true today, and so that's why I'm asking                  10 you the question, but I won't refer to it as "the SEGM 05:02:17                  11 podcast."                  12 MS. HARTNETT: Could you please play tab 41,                  13 Exhibit 91.                  14 (Exhibit 91 was marked for identification                  15 by the court reporter and is attached hereto.) 05:02:24                  16 (Video Clip Played.)                  17 "It was quite an educational experience for                  18 me, both as a he and as a she, and -- and she and I                  19 wrote a paper in the Archives of Sexual Behavior in                  20 19-, I think, -83 called Increasingly Ruth: Towards an 05:02:37                  21 understanding of sex reassignment surgery.                  22 And then in 1984, when he died, I wrote a                  23 letter to the editor about Ruth's suicide.                  24 Q Dr. Levine, was that a recording of you                  25 speaking to the podcast earlier this year? 05:03:03                  Page 260</p>
<p>1 deficient as a therapist because I failed to                  2 investigate how angry he has been all of his life at                  3 his parents."                  4 BY MS. HARTNETT:                  5 Q Dr. Levine, is what was just played an 05:01:10                  6 accurate account of -- I'm sorry, is -- is what -- do                  7 you stand by the account that you provided to SEGM, as                  8 just played in that sequence?                  9 MR. BROOKS: Objection to the description.                  10 THE WITNESS: Are you asking if -- if -- if I 05:01:28                  11 said these things that you're recording --                  12 BY MS. HARTNETT:                  13 Q Yeah, thank you, I'll ask a better question.                  14 Is that what you said on the SEGM podcast                  15 earlier this year? 05:01:40                  16 A I don't call this "the SEGM podcast." This is                  17 a --                  18 Q I'm sorry.                  19 A -- podcast of these two women who have a                  20 business in providing information to others who are 05:01:47                  21 interested.                  22 So I --                  23 Q Okay.                  24 A -- did say these things, as you -- as is                  25 obvious, I said these things. 05:01:56                  Page 259</p>	<p>1 A Yes.                  2 Q You mentioned that you wrote a letter to the                  3 editor after Ruth's death, and in that letter, you said                  4 that Ruth's unfortunate legacy to those who invested in                  5 her is psychologic injury due to her abandonment of 05:03:18                  6 them; is that correct?                  7 A Would you repeat that? I don't recognize                  8 those words.                  9 Would you repeat them slowly?                  10 Q I'm sorry. Ruth's unfortunate legacy to those 05:03:30                  11 who invested in her is psychologic injury due to her                  12 abandonment of them.                  13 A Yes, that was --                  14 Q Did you write that?                  15 A Yes. I don't want to give you more 05:03:39                  16 information than you're asking for, but -- the answer                  17 to your question is yes.                  18 Q Thank you.                  19 MS. HARTNETT: Could you play tab --                  20 Exhibit 92, please. 05:04:01                  21 (Exhibit 92 was marked for identification                  22 by the court reporter and is attached hereto.)                  23 (Video Clip Played.)                  24 "So I've been accused of being very                  25 conservative on this issue and biased by -- by that 05:04:06                  Page 261</p>

1 experience, and, in fact, I plead guilty. I am -- I --  
 2 I -- that was my introduction."  
 3 Female: "Yeah."  
 4 "And it -- and, unfortunately, it's not the  
 5 only case of -- of people who have aspirations who 05:04:21  
 6 think that their troubles as a person will disappear  
 7 if -- if they change their gender presentation and  
 8 change their bodies and -- and only to discover that  
 9 life is not as easy as they imagined, and they didn't  
 10 escape much. 05:04:44  
 11 "So I plead guilty to being biased, and I  
 12 think all of us have a kind of bias, and we ought to  
 13 own it."  
 14 BY MS. HARTNETT:  
 15 Q Dr. Levine, were those your statements on the 05:04:55  
 16 podcast earlier this year?  
 17 A Yes.  
 18 Q And were they your truthful statements?  
 19 A Yes.  
 20 MS. HARTNETT: Could you please play 05:05:10  
 21 Exhibit 93.  
 22 MR. TRYON: This is Dave Tryon. I'm going to  
 23 object to --  
 24 (Video Clip Played.)  
 25 "I have a Mas-" -- 05:05:16  
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1 MR. TRYON: I'm going to object to to playing  
 2 these excerpts without the full context.  
 3 MS. HARTNETT: And I will just say for the  
 4 record that there is -- I think the -- the person that  
 5 gave the podcast knows the context, and I've given the 05:05:26  
 6 web URL for anyone to look at the full context.  
 7 There's not a written transcript online.  
 8 MR. TRYON: My objection stands.  
 9 MS. HARTNETT: Of course. Thank you.  
 10 Could you play Exhibit 93, please. 05:05:43  
 11 (Exhibit 93 was marked for identification  
 12 by the court reporter and is attached hereto.)  
 13 (Video Clip Played.)  
 14 "I have a Master's prepared person, just got  
 15 out of her -- her internship, who told me how you're 05:05:48  
 16 supposed to treat transgender people, and I was just  
 17 astounded.  
 18 "I gave a seminar two years ago to residents  
 19 who told me -- residents in psychiatry -- who told me  
 20 how trans people ought to be treated. 05:06:05  
 21 "See, they had a chain in trust. Somebody  
 22 taught them, and they believe it, the passion, they  
 23 believe it. They have the zeal of the new -- of the  
 24 convert to being a psychiatrist or being a counselor,  
 25 whatever it is. And -- and -- and when I give them 05:06:21  
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1 facts, they think I'm an outlier or they think I'm an  
 2 old fuddy-duddy, there's something wrong with me. They  
 3 don't believe me.  
 4 "Because the truth is that trans is normal,  
 5 you see, and -- and that they can have highly 05:06:33  
 6 successful lives, just like anybody else.  
 7 "And it's not based on experience. It's  
 8 certainly not based on any scientific scrutiny, you  
 9 see.  
 10 "And so what I'm really saying is that so many 05:06:46  
 11 of the doctors just practice how they've been taught to  
 12 practice. They -- they -- we -- we -- none of us have  
 13 the brain power -- we take care of so many different  
 14 things, we can't be experts in -- in -- in the original  
 15 train of -- that chain of trust at all, you see. 05:07:05  
 16 "So of course we oversimplify everything.  
 17 "And, you know, there -- we rely on -- on a  
 18 few skeptics like -- like the three of us."  
 19 BY MS. HARTNETT:  
 20 Q Dr. Levine, was that clip of you speaking on 05:07:22  
 21 the podcast earlier this year?  
 22 A It is.  
 23 Q Was that your truthful statements?  
 24 MR. TRYON: Objection.  
 25 ///  
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1 BY MS. HARTNETT:  
 2 Q Sorry?  
 3 A I said --  
 4 Q I --  
 5 A -- those things that you heard on the podcast, 05:07:44  
 6 yes.  
 7 Q And were they your truthful statements?  
 8 A Yes.  
 9 MS. HARTNETT: Okay. Could you play  
 10 Exhibit 94, please. 05:07:53  
 11 (Exhibit 94 was marked for identification  
 12 by the court reporter and is attached hereto.)  
 13 (Video Clip Played.)  
 14 "And then three years later, there was the six  
 15 standards of care that was almost word for word for 05:07:59  
 16 what our group did except for one letter was necessary.  
 17 That is, he wanted to make it easier to get  
 18 transgender."  
 19 BY MS. HARTNETT:  
 20 Q Dr. Levine, was that you speaking on the 05:08:15  
 21 podcast earlier this year?  
 22 A Yes. And it's my truthful statement.  
 23 Q Thank you. You used the term "get  
 24 transgender" on that clip. I was just wondering what  
 25 you mean by that. 05:08:27  
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<p>1 A I think that was referring to hormones, access 2 to hormones.</p> <p>3 We used to have a standard that two 4 independent individuals or one group committee were 5 required to write a recommendation for hormones, and 05:08:44 6 Dr. Richard Green, who was the head of the organization 7 at the time, didn't like that at all. He was a strong 8 advocate of immediate care. And he told me so, he 9 didn't like it. And -- and he reconstituted -- 10 accepted the fifth standards of care, and he formed a 05:09:05 11 new committee with the -- you know, with the charge to 12 get rid of that criteria for hormones.</p> <p>13 Q Do you typically use the term "get 14 transgender"?</p> <p>15 A No. This was a spontaneous conversation. I 05:09:24 16 don't -- it's a funny phrase. I don't know. It came 17 out of my mouth. I don't know why. That's --</p> <p>18 Q Okay.</p> <p>19 A -- not my usual language.</p> <p>20 But again, this was not a paper I was 05:09:33 21 delivering that I, you know, worked on. This is 22 something that happened rather spontaneously.</p> <p>23 Q I understand.</p> <p>24 MS. HARTNETT: Could you please play 25 Exhibit 95. 05:09:49</p> <p style="text-align: right;">Page 266</p>	<p>1 follow-up studies of people who made the transition." 2 BY MS. HARTNETT:</p> <p>3 Q Dr. Levine, is that your truthful statement 4 made earlier this year?</p> <p>5 MR. TRYON: Objection. 05:11:00</p> <p>6 THE WITNESS: Yes.</p> <p>7 MR. TRYON: I just want to place on the record 8 evidence rule 106. Thank you.</p> <p>9 Go ahead and answer.</p> <p>10 BY MS. HARTNETT: 05:11:05</p> <p>11 Q Dr. Levine, do you agree that there is not 12 rigorous follow-up studies of people who have made the 13 transition?</p> <p>14 A Yes. I believe I testimony -- I testified to 15 that earlier today. 05:11:24</p> <p>16 Q And for all of these statements that I've 17 asked you about, do you stand by those statements, 18 sitting here today?</p> <p>19 A Number one, I have said those things, and I 20 believe them to be essentially correct today, yes. 05:11:36</p> <p>21 Q And, thank you, I'm asking only to -- in light 22 of the objection, not to repeat my questions to you.</p> <p>23 MS. HARTNETT: Could you please play 24 Exhibit 97.</p> <p>25 (Exhibit 97 was marked for identification 05:11:48 Page 268</p>
<p>1 (Exhibit 95 was marked for identification 2 by the court reporter and is attached hereto.) 3 (Video Clip Played.) 4 "I think it's time for a re-examination of the 5 wisdom of affirmative care. I'm not saying affirmative 05:09:55 6 care doesn't help some people, but I'm not so sure how 7 many people it harms." 8 BY MS. HARTNETT:</p> <p>9 Q Dr. Levine, was that your truthful statement 10 on the podcast earlier this year? 05:10:09</p> <p>11 A It --</p> <p>12 MR. TRYON: Same objection as before. 13 Thank you. 14 You may answer.</p> <p>15 THE WITNESS: I -- it is my true statement. 05:10:18 16 I'm still not sure what percentage of people 17 are ultimately harmed and how to measure those harms 18 and when to measure those harms.</p> <p>19 MS. HARTNETT: Thank you.</p> <p>20 Could you play tab -- sorry -- Exhibit 96, 05:10:33 21 please. 22 (Exhibit 96 was marked for identification 23 by the court reporter and is attached hereto.) 24 (Video Clip Played.) 25 "The problem is that we do not have rigorous 05:10:38 Page 267</p>	<p>1 by the court reporter and is attached hereto.) 2 (Video Clip Played.) 3 "The people who come to me who are depressed, 4 you know, those -- those -- after transition, those are 5 just anecdotal reports. I have no idea what the -- 05:12:00 6 what the denominator is, you see." 7 BY MS. HARTNETT:</p> <p>8 Q Dr. Levine, do you agree with the statement 9 that was just played?</p> <p>10 A Yes. 05:12:10</p> <p>11 MS. HARTNETT: Could you please play 12 Exhibit 98. 13 (Exhibit 98 was marked for identification 14 by the court reporter and is attached hereto.) 15 MR. TRYON: Counsel, before you play it -- 05:12:19 16 MS. HARTNETT: Yes. 17 MR. TRYON: Counsel, will you just agree to 18 give me a standing objection to these excerpts? 19 MS. HARTNETT: Yes. 20 MR. TRYON: Thank you. 05:12:28 21 (Video Clip Played.) 22 "And -- and because we don't know, because we 23 don't know, I think we have to say why do we have all 24 this enthusiasm, why do we have all this chain of trust 25 passion that this is the best treatment. We don't know 05:12:46 Page 269</p>

<p>1 is the best treatment, you see."                  2 BY MS. HARTNETT:                  3 Q Dr. Levine, do you agree with that statement                  4 that you made earlier this year?                  5 A I do. 05:12:58                  6 MS. HARTNETT: Could you please play                  7 Exhibit 99.                  8 (Exhibit 99 was marked for identification                  9 by the court reporter and is attached hereto.)                  10 (Video Clip Played.) 05:13:05                  11 "Now, I want to quickly say that while I'm an                  12 advocate of someone who thinks or wants to be or                  13 considers themselves a transgendered person, I think                  14 they ought to have a psychotherapeutic approach before                  15 they make any -- any life-changing decisions, but I 05:13:22                  16 admit that I have no follow-up. This is not on the                  17 basis of randomized control study. I am in the same                  18 difficult position that the affirmative care doctors                  19 are in, only I have more faith based upon a hundred                  20 years of doing psychotherapy as a tradition, you see, 05:13:42                  21 and they only have a few years, with no follow-up."                  22 BY MS. HARTNETT:                  23 Q Dr. Levine, is that your truthful statement?                  24 A Yes.                  25 MS. HARTNETT: Could you please play 05:14:02                  Page 270</p>	<p>1 BY MS. HARTNETT:                  2 Q Dr. Levine, is that your truthful statement?                  3 A Yes.                  4 Q Is it your contention that Jazz Jennings is                  5 grossly obese because she had gender confirmation 05:15:29                  6 surgery?                  7 A No. She became grossly obese after gender                  8 confirmation surgery. In addition, she had -- she had                  9 other problems as well, I think.                  10 I only know that because Jazz Jennings is a 05:15:50                  11 public, you know, celebrity, so to speak, and people                  12 talk about her and people showed me pictures of her.                  13 So I've never -- that's -- that's what I know.                  14 Q But you've never met Jazz Jennings; correct?                  15 A I have never met Jazz Jennings. 05:16:09                  16 MS. HARTNETT: Could you play Exhibit 101,                  17 please.                  18 (Exhibit 101 was marked for identification                  19 by the court reporter and is attached hereto.)                  20 (Video Clip Played.) 05:16:19                  21 "And the -- the affirmative care doctors like                  22 to blame all these comorbidities and the shortened                  23 lifespan on minority stress, and you would -- I                  24 think -- I think we recognize that it is stressful to                  25 be -- to belong to a sexual minority, but -- but 05:16:32                  Page 272</p>
<p>1 Exhibit 100.                  2 (Exhibit 100 was marked for identification                  3 by the court reporter and is attached hereto.)                  4 (Video Clip Played.)                  5 "So -- so what I'm saying is that in the early 05:14:05                  6 studies, the death rates from cancer and cardiovascular                  7 disease and -- and accidents were -- were elevated and                  8 what -- and what that really means is that the                  9 lifestyle things predispose them to physical diseases.                  10 "So, you know, if you're a parent, you -- 05:14:27                  11 you -- you want to die -- you want to die before your                  12 children, you see.                  13 "So for many -- for many of these kids,                  14 they're going to be sick.                  15 "And I just saw a slide of the famous -- 05:14:41                  16 Jazz Jennings. Do you know that name?                  17 Female: Yeah.                  18 "Apparently Jazz Jennings was a very thin,                  19 very attractive person when she had surgery, and in the                  20 postoperative time, she's now grossly obese. She is -- 05:14:58                  21 I saw a picture of her. She is grossly obese.                  22 "So, you know, this is one of the -- this is                  23 one of the things that never gets talked about, what                  24 are the physical manifestations, what are the                  25 psychological manifestations, what are the outcomes." 05:15:13                  Page 271</p>	<p>1 children who are cross-gender identified, who have                  2 separation anxiety and depression and so forth, they're                  3 not -- they're not having minority stress.                  4 "And -- and the kids who -- you know, if                  5 you -- if you walk in -- if you walk in and see your 05:16:50                  6 postpartum depressed mom hanging from the rafters and                  7 then you decide three weeks later that you're going to                  8 change your gender, this is not minority stress."                  9 BY MS. HARTNETT:                  10 Q Dr. Levine, is that your truthful statement? 05:17:07                  11 A Yes.                  12 Q Are you aware of any example of an actual kid                  13 who walked in and saw their postpartum depressed mom                  14 hanging from the rafters and three weeks later decided                  15 to change gender? 05:17:22                  16 A Absolutely.                  17 Q Can you tell me what -- where is that example?                  18 A I think that case was presented to me.                  19 Q By whom?                  20 A One of my staff. Or it was presented to me, 05:17:33                  21 you know, by somebody else.                  22 Occasionally, I supervise other people.                  23 But that came -- that -- that came from a                  24 recent -- a recent January 20th case history that I                  25 heard. 05:17:53                  Page 273</p>

<p>1 It -- it has to do, you see, with not taking a                  2 history, giving people, very quickly, affirmative care                  3 and not appreciating the forces that might have shaped                  4 this -- that -- that may be very -- that may play out                  5 and may -- very difficult to have a happy, successful 05:18:15                  6 life as a trans person.</p> <p>7 So I -- I can't give you the -- I can't tell                  8 you at the moment who told me that, but I can tell you                  9 I am not telling -- I am telling the truth. This is                  10 what I recently heard prior -- 05:18:34</p> <p>11 Q Was that as a -- sorry.                  12 A Pardon me.                  13 Q Was that -- was that an anecdote that came to                  14 you from somebody in your clinic?                  15 A As I said before, it might have been someone 05:18:43                  16 in my clinic; it might have been some other                  17 professional who talked to me about that.                  18 Q Do you know if the person at issue, the --                  19 the -- that was seeking a transition, whether they had                  20 any signs of gender dysphoria prior to the mom hanging 05:18:58                  21 from the rafters?                  22 A I think the implication was that they hadn't,                  23 but I don't remember enough details to -- I couldn't                  24 tell you the case history. That's the aspect of the                  25 case history that I recall. 05:19:18</p> <p style="text-align: right;">Page 274</p>	<p>1 psycho- -- the -- if we can agree that an eating                  2 disorder is a true problem and not just a dietary of                  3 something or other, the -- this evidence of the                  4 psychopathology that precedes transgender                  5 identification, the crystallization of a trans 05:20:59                  6 identification, eating disorder is just another way of                  7 self-harm where -- where one cannot live comfortably in                  8 the self as it is developing.                  9 So that's probably what I was making reference                  10 to, the pre-crystallization of a transgender, the 05:21:18                  11 problems that are some- -- that are often seen in girls                  12 prior to their coming out as a trans boy.                  13 Q Is it your view that you could correct the                  14 eating disorder and the person may stop identifying as                  15 transgender? 05:21:38                  16 A Well, I think most eating dis- -- what I was                  17 saying -- I think you misunderstood -- is the -- the                  18 prelude to the eating disorder was transgender. I will                  19 say if you could help the person understand the                  20 motivation for the eating disorder and help her to come 05:22:00                  21 to grips with what she's doing is harmful to herself in                  22 the short and in the long run, then it wouldn't -- it                  23 may prevent -- it may help her to find another                  24 solution, for example, becoming a vegan or -- that                  25 would be a benign -- a less -- less problematic 05:22:25</p> <p style="text-align: right;">Page 276</p>
<p>1 Q Thank you.                  2 MS. HARTNETT: Can you play Exhibit 102,                  3 please.                  4 (Exhibit 102 was marked for identification                  5 by the court reporter and is attached hereto.) 05:19:26                  6 (Video Clip Played.)                  7 "Lots of girls have temporary eating                  8 disorders, and some of them end up overcoming it, but                  9 they overcome it sometimes by becoming vegetarians or                  10 vegans. So it's okay, and it's much better. It's much 05:19:42                  11 better than having an eating disorder."                  12 BY MS. HARTNETT:                  13 Q Dr. Levine, was that your truthful statement?                  14 A Yes.                  15 Q What point were you trying to make by drawing 05:19:59                  16 an analogy to eating disorders and vegetarians and                  17 vegans?                  18 A I think you would have to play for me what                  19 preceded that, but off the top of my head today, two                  20 months after I made that statement, more than two 05:20:14                  21 months after I made that statement, I was probably                  22 making reference to the fact that among adolescent                  23 girls who declare themselves to be trans boys, a large                  24 percentage of them have a pre- -- a predeclaration                  25 eating disorder, that this is part of the -- the 05:20:35</p> <p style="text-align: right;">Page 275</p>	<p>1 solution than having to become transgender, forget her                  2 eating disorder and focus on something else in a way                  3 that dominates her life.                  4 So you -- you dominate your life by thinking                  5 that you're too fat when you're 93 pounds, and now 05:22:43                  6 you're domi- -- you give that up, and then you dominate                  7 your life because you're really a boy trapped in a                  8 girl's body and --                  9 So I'm telling you, as a psychiatrist, life is                  10 complicated and histories are complicated and our 05:22:57                  11 ability to predict things is not very good, and I just                  12 want us to rely on science, as -- whatever the                  13 limitations of sciences are, I want to rely on science                  14 and not something shorter than science, you know,                  15 fervent, passionate beliefs, whatever. 05:23:19                  16 Q So in that instance -- I'm just trying to make                  17 sure I understand -- your -- the idea would be that                  18 it's better to end up being vegan than transgender?                  19 A If -- if you put it in that way, if you reduce                  20 everything to that simplicity, I guess the answer is it 05:23:35                  21 would be better to have a -- that would be a better                  22 supplementation of your original concerns about                  23 yourself and your body and the sexual meaning of your                  24 body than it is to repudiate your femininity entirely                  25 and try to remove your breasts surgically and take 05:23:56</p> <p style="text-align: right;">Page 277</p>

1 hormones and so forth, yes.  
 2 MS. HARTNETT: Could you play Exhibit 103,  
 3 please.  
 4 (Exhibit 103 was marked for identification  
 5 by the court reporter and is attached hereto.) 05:24:04  
 6 (Video Clip Played.)  
 7 "It's your current sexual identity --  
 8 Female: Yeah.  
 9 -- "you see. I mean, I'm sure I've had  
 10 identities -- I used to be a stamp collector, you know. 05:24:15  
 11 I had an identity as a stamp collector. And I don't  
 12 collect stamps anymore."  
 13 BY MS. HARTNETT:  
 14 Q Dr. Levine, are those your truthful  
 15 statements? 05:24:28  
 16 A I was a stamp collector.  
 17 Q I was a baseball card collector.  
 18 Is being transgender like being a stamp  
 19 collector?  
 20 A No. 05:24:38  
 21 MS. HARTNETT: Could you play tab --  
 22 Exhibit 104, please.  
 23 (Exhibit 104 was marked for identification  
 24 by the court reporter and is attached hereto.)  
 25 (Video Clip Played.) 05:24:55

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1 "I think the doctor's responsibility is to  
 2 diagnose this, understand the factors that is pushing  
 3 the child in that direction and the family in that  
 4 direction and to inform what -- the parents and the  
 5 child of what is known and what is not known and what 05:25:10  
 6 the alternative treatments are, and the parents and the  
 7 child make the decision, not the doctor. The doctor  
 8 does not have the data to make the decision."  
 9 BY MS. HARTNETT:  
 10 Q Dr. Levine, is that your truthful statements? 05:25:28  
 11 A That is, although I'm embarrassed, but I used  
 12 the wrong -- I should have said "are" and not "is" in  
 13 the first sentence.  
 14 Q I think I just did the same thing.  
 15 I have one more excerpt to play. 05:25:42  
 16 MS. HARTNETT: Could you play Exhibit 105,  
 17 please.  
 18 (Exhibit 105 was marked for identification  
 19 by the court reporter and is attached hereto.)  
 20 (Video Clip Played.) 05:25:48  
 21 "So if I'm an expert in something, it's a very  
 22 narrow topic I'm an expert in. Even though I'm a  
 23 doctor and you -- somebody may think, well, he's a  
 24 doctor; right? But the doctor doesn't know much about  
 25 most things. 05:26:01

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1 "And -- and there is the wisdom, I think, is  
 2 the difference between demagoguery, which I think many  
 3 affirmative care doctors are demagogues, and experts,  
 4 many of whom are just uneasy about what is not known."  
 5 BY MS. HARTNETT: 05:26:23  
 6 Q Dr. Levine, were these your truthful  
 7 statements from earlier this year?  
 8 A Yes.  
 9 Q Do you consider yourself to be a demagogue or  
 10 an expert? 05:26:36  
 11 A I consider myself, on this issue of the  
 12 scientific basis of -- of trans delivery -- care  
 13 delivery, to be an expert in this very narrow field  
 14 because my definition of an expert, knows the  
 15 difference between what is known and what is not known, 05:26:53  
 16 you see.  
 17 On many subjects that I have to work on every  
 18 day as a psychiatrist, I -- I have -- I -- I'm not sure  
 19 what -- the difference between what I know and what is  
 20 known by more expert people in the field. 05:27:10  
 21 I seem to have enough to have credentials as a  
 22 practicing doctor, but I'm not an expert in most things  
 23 I take care of.  
 24 When it comes to the data about this matter of  
 25 trans care, I feel I'm a relative expert, and I think I 05:27:28

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1 have more perspective and more basis for that  
 2 perspective than many people who have been taught how  
 3 to take care of transgender people.  
 4 Q Do you believe Dr. Adkins is a demagogue?  
 5 A I don't know Dr. Adkins well enough to -- to 05:27:49  
 6 make that decision. I don't want to be insulting at  
 7 all to my colleagues, but if -- if Dr. Adkins believes  
 8 this is genetically determined and if she believes that  
 9 it's fixed and if she believes she's helping and she  
 10 has evidence that she's helping people live happy lives 05:28:11  
 11 for the next 40 years, I believe she is much more  
 12 closer to my definition of a demagogue than, say, a  
 13 person who can't distinguish between what she knows and  
 14 what is known versus an expert.  
 15 But I don't want to pass judgment on her 05:28:27  
 16 because, you know, I've just read her report, that's  
 17 all.  
 18 Q How about Dr. Safer, would you have the same  
 19 view there, that -- do you believe he's a demagogue, or  
 20 you wouldn't want to pass judgment? 05:28:39  
 21 A You know, one of the ethical principles of  
 22 being a doctor is to speak respectfully of one's  
 23 colleagues.  
 24 I -- I would say, I just want to repeat, that  
 25 most practicing doctors have a belief system that 05:28:58

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<p>1 they're working on the side of angels, and that's a                  2 different set of ideas than what science has already                  3 demonstrated.                  4 So to the extent that people believe,                  5 passionately believe, that what they are doing is 05:29:10                  6 ensuring a -- a -- a productive, successful,                  7 asymptomatic, fulfilling life and there's no evidence                  8 for it, well, I think they're not -- they shouldn't be                  9 certain about that.                  10 And they're closer to an ordinary physician or 05:29:30                  11 a demagogue than they are to an expert.                  12 Q Thank you. Could you just -- I have a --                  13 hopefully, a couple of final questions about your                  14 expert report.                  15 Could you pull that back up? That was 05:29:44                  16 Exhibit 87.                  17 MR. BROOKS: Coming, coming.                  18 BY MS. HARTNETT:                  19 Q And I'm going to be just going to                  20 paragraph 81. 05:29:54                  21 MR. BROOKS: Which is on.                  22 MS. HARTNETT: It's on -- take your time, but                  23 page 31, paragraph 81.                  24 MR. BROOKS: What heading are we under here?                  25 MS. HARTNETT: You are under -- 05:30:10                  Page 282</p>	<p>1 prominent clinic, quote, is quite openly admitting                  2 patients for even surgical transition who are not                  3 eligible under the criteria set out in WPATH's                  4 Standards of Care.                  5 Do you see that? 05:31:36                  6 A Yes. The last sentence, right.                  7 Q Is it your understanding that patients were                  8 receiving care there without meeting the WPATH                  9 standards?                  10 A WPATH standards are just one set of standards, 05:31:53                  11 and I guess Dr. Safer has a different set of standards.                  12 I don't think that WPATH needs to be followed,                  13 you know. I don't think they're -- they are in fact                  14 the standards of care. They are just an organization                  15 that is providing some guidelines, which they call 05:32:19                  16 standards of care, but aren't true standards of care.                  17 They're just guidelines from a professional                  18 organization that is -- that is an advocacy                  19 organization for -- for the treatment -- for                  20 affirmative treatment. 05:32:36                  21 Q But are you aware that Mount Sinai went                  22 through the process of having those people satisfy the                  23 WPATH standards before they had surgery notwithstanding                  24 that they would have also met the other standards set                  25 forth by Sinai? 05:32:47                  Page 284</p>
<p>1 MR. BROOKS: I see it. I see the heading at                  2 the top of page 30.                  3 Is that the right heading? Am I missing                  4 anything --                  5 MS. HARTNETT: Correct. 05:30:23                  6 MR. BROOKS: -- or is that --                  7 Under "Opinions and practices vary widely..."                  8 Okay.                  9 And then you said paragraph 81?                  10 MS. HARTNETT: Right. And this is a paragraph 05:30:29                  11 about -- Dr. Levine is describing a Lichenstein                  12 article; is that correct?                  13 MR. BROOKS: Let me just say, Dr. Levine, if                  14 you want to look at any paragraphs between the heading                  15 and this one, for context, you should feel free to, or 05:30:46                  16 if not -- if you don't feel the need, then you don't                  17 need to.                  18 THE WITNESS: Okay.                  19 BY MS. HARTNETT:                  20 Q So this paragraph is talking about, in your 05:31:09                  21 words, the "loose standards" at Dr. Safer's clinics at                  22 Mount Sinai in Columbia; correct?                  23 A Yes.                  24 Q And do you say that he's -- I'm just reading                  25 from the first sentence, but you a say at least one 05:31:22                  Page 283</p>	<p>1 MR. BROOKS: Objection.                  2 THE WITNESS: I'm -- I'm not deeply involved                  3 in the process of how Dr. Safer has done his work.                  4 This would be not an area of my expertise about --                  5 about his criteria. 05:33:04                  6 BY MS. HARTNETT:                  7 Q I guess my question for you is whether you                  8 know, sitting here today, whether in fact Dr. Safer's                  9 center allowed patients to have surgery under what you                  10 call the "loose standards" without satisfying WPATH. 05:33:17                  11 A Well, it was my understanding from the quoted                  12 study that -- that he was providing -- or giving                  13 permission for surgical care for people who may not                  14 have met the few criteria that -- that we have -- had                  15 organized in 2000- -- in, you know, the seventh 05:33:44                  16 edition.                  17 Q Did you read the Lichtenstein article before                  18 citing it here?                  19 A I must have read it, but it's probably one of                  20 hundreds of articles, and right now, I can't recall the 05:33:54                  21 details.                  22 Q Thank you.                  23 MS. HARTNETT: Could I take a -- go off -- I                  24 think I'm almost -- or -- done, if not done.                  25 But could we go off the record briefly for me 05:34:06                  Page 285</p>

1 to collect my nets and then hopefully we'll be done?  
 2 THE VIDEOGRAPHER: We are off the record at  
 3 5:34 p.m.  
 4 (Recess.)  
 5 THE VIDEOGRAPHER: We are on the record at 05:44:53  
 6 5:45 p.m.  
 7 MS. HARTNETT: Thank you, Dr. Levine. I have  
 8 no further questions, but reserve the right to any  
 9 recross if there's further questioning of you.  
 10 THE WITNESS: You're welcome. 05:45:12  
 11 MS. HARTNETT: Thank you.  
 12 MR. BROOKS: Speaking for the -- Roger Brooks,  
 13 speaking for the intervenor, I have no questions for  
 14 the witness.  
 15 MR. TRYON: This is Dave Tryon on behalf of 05:45:20  
 16 the State of West Virginia.  
 17 Dr. Levine, thank you for your time.  
 18 I have no questions.  
 19 MS. MORGAN: This is Kelly Morgan on behalf of  
 20 the West Virginia Board of Education and Superintendent 05:45:29  
 21 Burch. I have no questions. Thank you.  
 22 MS. DENIKER: Dr. Levine, this is Susan  
 23 Deniker, counsel for defendants Harrison County Board  
 24 of Education and Superintendent Stutler, and I have no  
 25 questions for you.

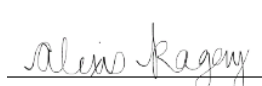
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1 Thank you for your time.  
 2 THE WITNESS: You're welcome.  
 3 MS. ROGERS: Dr. Levine, this is Shannon  
 4 Rogers on behalf of the West Virginia Secondary School  
 5 Activities Commission. I have no questions either. 05:45:53  
 6 Thank you.  
 7 THE WITNESS: You're welcome.  
 8 MS. HARTNETT: Dr. Levine, thank you for your  
 9 time.  
 10 THE VIDEOGRAPHER: Thank you. 05:46:00  
 11 We are off the record at 5:46 p.m., and this  
 12 concludes today's testimony given by Stephen Levine,  
 13 Dr. -- Dr. Stephen Levine.  
 14 The total number of media units was seven and  
 15 will be retained by Veritext Legal Solutions. 05:46:16  
 16 Thank you.  
 17 (TIME NOTED: 5:46 p.m.)  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25

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1  
 2  
 3  
 4 I, STEPHEN LEVINE, do hereby declare under  
 5 penalty of perjury that I have read the foregoing  
 6 transcript; that I have made any corrections as appear  
 7 noted, in ink, initialed by me, or attached hereto;  
 8 that my testimony as contained herein, as corrected, is  
 9 true and correct.  
 10 EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
 11 20\_\_\_\_, at \_\_\_\_\_,  
 (City) (State)  
 12  
 13  
 14  
 15 \_\_\_\_\_  
 STEPHEN LEVINE  
 VOLUME I  
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1 I, the undersigned, a Certified Shorthand  
 2 Reporter of the State of California, do hereby certify:  
 3 That the foregoing proceedings were taken  
 4 before me at the time and place herein set forth; that  
 5 any witnesses in the foregoing proceedings, prior to  
 6 testifying, were placed under oath; that a record of  
 7 the proceedings was made by me using machine shorthand  
 8 which was thereafter transcribed under my direction;  
 9 further, that the foregoing is an accurate  
 10 transcription thereof.  
 11 I further certify that I am neither financially  
 12 interested in the action nor a relative or employee of  
 13 any attorney of any of the parties.  
 14 IN WITNESS WHEREOF, I have this date subscribed  
 15 my name.  
 16  
 17 Dated: April 15, 2022  
 18  
 19  
 20   
 ALEXIS KAGAY  
 CSR NO. 13795  
 21  
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**[athletics - basis]**

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**[change - clinical]**

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**[clinical - compliment]**

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**[development - doctor's]**

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**[evidence - extremely]**

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**[lunch - medical]**

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**[please - prejudicial]**

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**[process - public]**

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**[understood - virginia]**

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**[virtual - witness]**

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days

after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1,

2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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

\_\_\_\_\_  
B.P.J. by her next friend and) )  
mother, HEATHER JACKSON, ) )  
Plaintiff, ) )  
vs. ) Case No.  
WEST VIRGINIA STATE BOARD OF ) 2:21-cv-00316  
EDUCATION, HARRISON COUNTY ) )  
BOARD OF EDUCATION, WEST ) )  
VIRGINIA SECONDARY SCHOOL ) )  
ACTIVITIES COMMISSION, W. ) )  
CLAYTON BURCH in his official) )  
capacity as State ) )  
Superintendent, DORA STUTLER,) )  
in her official capacity as ) )  
Harrison County ) )  
Superintendent, and THE STATE) )  
OF WEST VIRGINIA, ) )  
Defendants. ) )  
And ) )  
LAINIEY ARMISTEAD, ) )  
Defendant-Intervenor.) )  
\_\_\_\_\_)

REMOTE VIDEOTAPED DEPOSITION OF  
DORA STUTLER  
AND  
DAVE MAZZA  
Tuesday, March 8, 2022  
Volume I

Reported by:  
ALEXIS KAGAY, CSR No. 13795  
Job No. 5079542  
PAGES 1 - 240

<p>1 IN THE UNITED STATES DISTRICT COURT                  2 FOR THE SOUTHERN DISTRICT OF WEST VIRGINIA                  3 CHARLESTON DIVISION</p> <hr/> <p>4 B.P.J. by her next friend and                  5 mother, HEATHER JACKSON, )                  6 Plaintiff, )                  vs. ) Case No.                  7 WEST VIRGINIA STATE BOARD OF ) 2:21-cv-00316                  8 EDUCATION, HARRISON COUNTY )                  9 BOARD OF EDUCATION, WEST )                  VIRGINIA SECONDARY SCHOOL )                  10 ACTIVITIES COMMISSION, W. )                  11 CLAYTON BURCH in his official                  12 capacity as State )                  Superintendent, DORA STUTLER,                  13 in her official capacity as )                  14 Harrison County )                  Superintendent, and THE STATE)                  15 OF WEST VIRGINIA, )                  16 Defendants. )                  And )                  17 LAINEY ARMISTEAD, )                  18 Defendant-Intervenor. )</p> <hr/> <p>19                  20 Videotaped deposition of DORA STUTLER and DAVE                  21 MAZZA, Volume I, taken on behalf of the Plaintiff,                  22 B.P.J., with all participants appearing remotely                  23 beginning at 12:32 p.m. and ending at 7:18 p.m. on                  24 Tuesday, March 8, 2022, before ALEXIS KAGAY, Certified                  25 Shorthand Reporter No. 13795.</p> <p style="text-align: right;">Page 2</p>	<p>1 APPEARANCES (Continued):                  2                  3 For The Plaintiff, B.P.J.:                  4 COOLEY                  5 BY: ELIZABETH REINHARDT                  6 BY: VALERIA M. PELET DEL TORO                  7 BY: KATHLEEN HARTNETT                  8 BY: ZOE HELSTROM                  9 BY: ANDREW BARR                  10 Attorneys at Law                  11 500 Boylston Street                  12 14th Floor                  13 Boston, Massachusetts 02116-3740                  14 617.937.2305                  15 EReinhardt@cooley.com                  16 VPeletdeltoro@cooley.com                  17 Khartnett@cooley.com                  18 ZHelstrom@cooley.com                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 4</p>
<p>1 APPEARANCES (via Zoom Videoconference):                  2                  3 For West Virginia Secondary School Activities                  4 Commission:                  5 SHUMAN MCCUSKEY &amp; SLICER                  6 BY: ROBERTA GREEN                  7 Attorney at Law                  8 1411 Virginia Street E                  9 Suite 200                  10 Charleston, West Virginia 25301-3088                  11 RGreen@Shumanlaw.com                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 3</p>	<p>1 APPEARANCES (Continued):                  2                  3 For West Virginia Board of Education and Superintendent                  4 Burch, Heather Hutchens as general counsel for the                  5 State Department of Education:                  6 BAILEY &amp; WYANT, PLLC                  7 BY: KRISTEN HAMMOND                  8 BY: KELLY MORGAN                  9 Attorneys at Law                  10 500 Virginia Street                  11 Suite 600                  12 Charleston, West Virginia 25301                  13 KHammon@Baileywyant.com                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 5</p>

<p>1 APPEARANCES (Continued):                  2                  3 For the Intervenor:                  4 ALLIANCE DEFENDING FREEDOM                  5 BY: HAL FRAMPTON                  6 BY: RACHEL CSUTOROS                  7 BY: TIMOTHY DUCAR                  8 BY: CHRISTIANA HOLCOMB                  9 Attorneys at Law                  10 20116 Ashbrook Place                  11 Suite 250                  12 Ashburn, Virginia 20147                  13 HFrampton@adflegal.org                  14 RCsutoros@adflegal.org                  15 TDucar@adflegal.org                  16                  17                  18 For the State of West Virginia:                  19 WEST VIRGINIA ATTORNEY GENERAL                  20 BY: DAVID TRYON                  21 Attorney at Law                  22 112 California Avenue                  23 Charleston West Virginia 25305-0220                  24 681.313.4570                  25 David.C.Tryon@wvago.gov</p> <p style="text-align: right;">Page 6</p>	<p>1 APPEARANCES (Continued):                  2 Videographer:                  3 DAVE HALVORSON                  4                  5                  6                  7                  8                  9                  10                  11                  12                  13                  14                  15                  16                  17                  18                  19                  20                  21                  22                  23                  24                  25</p> <p style="text-align: right;">Page 8</p>
<p>1 APPEARANCES (Continued):                  2                  3 For defendants Harrison County Board of Education and                  4 Superintendent Dora Stutler:                  5 STEPTOE &amp; JOHNSON PLLC                  6 BY: SUSAN L. DENIKER                  7 BY: JEFFREY CROPP                  8 Attorney at Law                  9 400 White Oaks Boulevard                  10 Bridgeport, West Virginia 26330                  11 304.933.8154                  12 Susan.Deniker@Steptoe-Johnson.com                  13                  14 For Plaintiff:                  15 LAMBDA LEGAL                  16 BY: SRUTI SWAMINATHAN                  17 Attorney at Law                  18 120 Wall Street                  19 Floor 19                  20 New York, New York 10005-3919                  21 SSwaminathan@lambdalegal.org                  22                  23 Also Present:                  24 MITCH REISBORD - CONCIERGE                  25 HEATHER HUTCHENS</p> <p style="text-align: right;">Page 7</p>	<p>1 INDEX                  2 WITNESS EXAMINATION                  3 DORA STUTLER 15                  4 DAVE MAZZA 197                  5 Volume I                  6                  7 BY MS. REINHARDT 15                  8 BY MS. GREEN 150                  9 BY MS. MORGAN 153                  10 BY MR. TRYON 155                  11 BY MR. FRAMPTON 166                  12 BY MS. REINHARDT 187                  13 BY MS. DENIKER 189                  14 BY MR. FRAMPTON 193                  15 BY MS. REINHARDT 197                  16 BY MS. GREEN 223                  17 BY MR. TRYON 225                  18 BY MS. DENIKER 235                  19                  20                  21 EXHIBITS                  22 NUMBER DESCRIPTION PAGE                  23 Exhibit 24 Plaintiff's Amended Notice of 21                  24 30(b)(6) Deposition                  25</p> <p style="text-align: right;">Page 9</p>



1 MS. PELET DEL TORO: Hi. This is Valeria  
 2 Pelet del Toro, also on behalf of Plaintiff, for  
 3 Cooley, LLP.  
 4 MS. HELSTROM: Hi. This is Zoe Helstrom from  
 5 Cooley, LLP, on behalf of Plaintiff. 12:34:11  
 6 MR. TRYON: This is David Tryon. I'm -- I'm  
 7 with the Attorney General's Office of West Virginia  
 8 on behalf of the State of West Virginia.  
 9 MS. MORGAN: This is Kelly Morgan on behalf  
 10 of the West Virginia Board of Education and 12:34:39  
 11 Superintendent Burch, along with Heather Hutchens as  
 12 general counsel for the State Department of  
 13 Education.  
 14 MS. DENIKER: Good afternoon. This is Susan  
 15 Deniker, and with me is Jeff Cropp. We are counsel 12:34:51  
 16 for defendants Harrison County Board of Education  
 17 and Superintendent Dora Stutler.  
 18 MS. GREEN: This is Roberta Green, Shuman,  
 19 McCuskey Slicer, here on behalf of West Virginia  
 20 Secondary School Activities Commission. 12:34:57  
 21 MS. MORGAN: This is Kelly Morgan again. I  
 22 also have Kristen Hammond from my office as well.  
 23 MR. FRAMPTON: This is Hal Frampton at  
 24 Alliance Defending Freedom on behalf of the  
 25 Intervenor. And we also have on the call, for the 12:35:19  
 Page 14

1 Intervenor, Timothy Ducar, Christiana Holcomb and  
 2 Rachel Csutoros.  
 3 THE VIDEOGRAPHER: And I believe somebody  
 4 just logged in.  
 5 MS. SWAMINATHAN: Hi there. This is 12:35:35  
 6 Sruti Swaminathan from Lambda Legal on behalf of  
 7 Plaintiff.  
 8 THE VIDEOGRAPHER: Okay. I believe that's  
 9 everyone, so can we please swear in the witness.  
 10 (Witness sworn.) 12:35:50  
 11 THE VIDEOGRAPHER: Please begin.  
 12 MS. REINHARDT: For the sake of the record,  
 13 we were just off record, and we agreed that  
 14 objections to form would -- would reserve all  
 15 rights, except as to privilege. 12:36:22  
 16  
 17 DORA STUTLER,  
 18 having been administered an oath, was examined and  
 19 testified as follows:  
 20  
 21 EXAMINATION  
 22 BY MS. REINHARDT:  
 23 Q How are you this afternoon, Mrs. Stutler?  
 24 A I'm just fine. How are you?  
 25 Q I'm doing well. 12:36:32  
 Page 15

1 And can you please let me know your current  
 2 title?  
 3 A I'm currently the superintendent of Harrison  
 4 County schools.  
 5 Q Great. Is it okay if I refer to you as 12:36:42  
 6 Superintendent Stutler for the remaining of the  
 7 deposition?  
 8 A Sure.  
 9 Q Wonderful. And have you ever been deposed  
 10 before? 12:36:51  
 11 A I have not.  
 12 Q Have you ever testified in a court before?  
 13 A I have not.  
 14 Q And I just want to go over a couple of ground  
 15 rules so that you aren't surprised by anything today 12:37:05  
 16 and to establish a clean record for the court  
 17 reporter.  
 18 I'll be asking you questions, and you must  
 19 answer, unless your attorney tells you otherwise.  
 20 Do you understand? 12:37:19  
 21 A Yes.  
 22 Q So even if your attorney objects, if they do  
 23 not tell you not to answer, you should still answer  
 24 my question.  
 25 Understood? 12:37:30  
 Page 16

1 A Yes.  
 2 Q And, unfortunately, the court reporter will  
 3 not be able to transcribe any gestures, such as  
 4 nodding, so we'll need to speak verbally.  
 5 Is that okay with you? 12:37:41  
 6 A Yes.  
 7 Q Wonderful. Thank you.  
 8 And I will try to take a break every hour,  
 9 and we'll take a somewhat longer break, around  
 10 12:00, Mountain Time, or -- but if I'm in the middle 12:37:52  
 11 of a question and you need to take a break, please  
 12 let me finish my question or a series of questions  
 13 in order to get your answer before we take the  
 14 break, if that's okay with you.  
 15 A Sure. 12:38:06  
 16 Q Wonderful. And do you understand that you're  
 17 testifying under oath today just as if you were  
 18 testifying in a court of law?  
 19 A I do.  
 20 Q And without disclosing any communications you 12:38:18  
 21 had with your counsel, what did you do to prepare  
 22 for today's deposition?  
 23 A Met with counsel.  
 24 Q How long ago did you meet with your counsel?  
 25 A Yesterday. We spent a day. 12:38:34  
 Page 17

<p>1 MS. DENIKER: You don't need to -- I'm just                  2 going to -- just to clarify for the witness, the                  3 substance of our communications is protected here,                  4 so you don't need to talk about what we talked                  5 about. 12:38:48                  6 To the extent that you talked to other people                  7 to prepare for your deposition today, you can also                  8 disclose that.                  9 THE WITNESS: When we spoke -- we spoke with                  10 witnesses yesterday. 12:39:02                  11 BY MS. REINHARDT:                  12 Q Which witnesses did you speak with?                  13 A We spoke with -- I spoke with Tarra Shields,                  14 principal at Norwood Elementary; Jasmine Lowther.                  15 She's a fourth grade teacher at Norwood Elementary. 12:39:12                  16 Dave Mazza was in the room during the preparation.                  17 He's a principal at Bridgeport Middle School. And                  18 spoke with Natalie McBrayer, an assistant -- she's a                  19 volunteer coach for the cross-country team at                  20 Bridgeport Middle School. 12:39:37                  21 Q Did you review any documents during that                  22 meeting?                  23 A I did.                  24 I also am remembering Amber Davis. She's the                  25 current counselor at Norwood Elementary School. I 12:39:52                  Page 18</p>	<p>1 and your attorneys?                  2 A No.                  3 Q Were you asked to provide any documents to                  4 anyone in preparation for this deposition?                  5 A No. 12:41:29                  6 Q B.P.J. filed a lawsuit against the County                  7 Board of Education; correct?                  8 A Yes.                  9 Q You're here today in connection to that                  10 lawsuit; correct? 12:41:42                  11 A Yes.                  12 Q Wonderful. And now I'm just going to ask a                  13 few foundational questions, just in order to get my                  14 bearings and so that you can see kind of where I'm                  15 planning on going today. 12:41:54                  16 So do you understand that you're here in                  17 response to a 30(b)(6) Deposition Notice?                  18 A Yes.                  19 Q Do you know what a 30(b)(6) Deposition Notice                  20 is? 12:42:06                  21 A Yes.                  22 Q Did you review the 30(b)(6) Deposition                  23 Notice?                  24 A I did.                  25 Q If you could go into the "Marked Exhibits" 12:42:16                  Page 20</p>
<p>1 had a conversation with her as well.                  2 Q And which documents did you review?                  3 A We looked at the transgender support plans                  4 that were created at Norwood and at Bridgeport                  5 Middle. We looked at rostering information from 12:40:10                  6 cross-country that was submitted to the SSAC. We                  7 looked at the statute in question. We looked at                  8 some articles that were on West Virginia News and                  9 other news organizations.                  10 It was a lot of material. 12:40:36                  11 Q I understand. I understand. I appreciate                  12 you listing those.                  13 Were all of those documents provided to you                  14 by your attorney?                  15 A Yes. 12:40:47                  16 Q And did you bring any document to that                  17 meeting that were not provided by your attorney?                  18 A I did not.                  19 Q And do you have any documents with you today?                  20 A I do not. 12:41:03                  21 Q Is there anything that would prevent you from                  22 answering my questions truthfully today?                  23 A No.                  24 Q Did you discuss the case with anyone other                  25 than the folks you listed at the meeting yesterday 12:41:14                  Page 19</p>	<p>1 folder, I'm going to introduce to you a document                  2 that's been marked as Exhibit 24. Please let me                  3 know when you have it.                  4 (Exhibit 24 was marked for identification                  5 by the court reporter and is attached hereto.) 12:42:27                  6 THE WITNESS: It's there. I have that.                  7 BY MS. REINHARDT:                  8 Q Is this -- I'll let you flip through it for a                  9 moment, if you would like to, but my question is, is                  10 this the document that you reviewed yesterday? 12:42:43                  11 A Yes.                  12 Q Have you prepared to testify regarding the                  13 topics listed on the 30(b)(6) notice?                  14 A Yes.                  15 Q Do you understand -- 12:42:59                  16 MS. DENIKER: Excuse me, Ms. Reinhardt, just                  17 to -- just to clarify, we had a discussion off the                  18 record, Ms. Stutler will be testifying with regard                  19 to topics except those topics the plaintiff has                  20 agreed to withdraw, which were topics 3, 6, 9, 12 12:43:16                  21 and 15. And she also will not be testifying with                  22 regard to topics 10 and 11, as another witness will                  23 be testifying on those topics.                  24 MS. REINHARDT: Understood. Thank you for                  25 putting that on the record. 12:43:36                  Page 21</p>

<p>1 BY MS. REINHARDT:                  2 Q I'll only be asking you about the topics your                  3 attorney has just confirmed, but I'd like to go                  4 through them now to make sure that you understand                  5 each of these topics, if that's okay with you, Mrs. 12:43:46                  6 Stutler.                  7 A Yes.                  8 Q Wonderful. So let's look at topic 1.                  9 Do you understand this topic?                  10 A I do. 12:44:03                  11 Q Did you review any documents related to this                  12 topic?                  13 A We had a discussion about --                  14 MS. DENIKER: I'm going to -- so, again, I'm                  15 going to instruct you not to answer and provide any 12:44:11                  16 information about communications you had with                  17 counsel about --                  18 THE WITNESS: Okay.                  19 MS. DENIKER: -- this matter.                  20 BY MS. REINHARDT: 12:44:24                  21 Q As I understand it, you reviewed several                  22 documents yesterday with your counsel, as well as a                  23 few other folks related to this case.                  24 Were there any documents or conversations not                  25 with your counsel that helped you prepare for this 12:44:34                  Page 22</p>	<p>1 A Yes.                  2 Q Do you understand them?                  3 A I do.                  4 Q And did you review any documents you have not                  5 already listed relating to those topics? 12:46:27                  6 A We have no documents specific to that topic.                  7 Q Both topic 7 and topic 8; is that correct?                  8 A Yeah, at Harrison County schools, we have no                  9 documents specific to that topic.                  10 Q Thank you. And we're almost done. I'm going 12:46:56                  11 to ask you about topics 13 and 14.                  12 Do you understand what those topics say?                  13 A Yes.                  14 Q And did you review any documents pertaining                  15 to those topics? 12:47:11                  16 A The statute, the House Bill 3293.                  17 Q Did you review your discovery responses                  18 listed under topic 14?                  19 A I did.                  20 Q Thank you. Throughout the deposition, if I 12:47:34                  21 use a term that you're unfamiliar with, please let                  22 me know. Just so you're aware, there may be a few                  23 terms that I'd like to define now, and there may                  24 also be a few terms as we go that I will ask if it's                  25 okay if I use the abbreviated version. 12:47:50                  Page 24</p>
<p>1 topic?                  2 A No.                  3 Q And do you understand topic 2?                  4 A I do.                  5 Q Without disclosing any conversations you had 12:44:49                  6 with your attorney, did you review any documents                  7 pertaining to topic 2?                  8 A I did.                  9 Q And do -- which documents were those?                  10 A It was any policies that we would have had 12:45:03                  11 regarding the authority of school-sponsored                  12 athletics. We looked at that. We also looked at                  13 SSAC rules.                  14 Q How about topic 4, do you understand that                  15 topic? 12:45:26                  16 A Yes.                  17 Q And did you review any documents pertaining                  18 to that topic?                  19 A I did. I reviewed documents pertaining to                  20 gender support plans dating back to 2019. 12:45:46                  21 Q And topic 5, do you understand that topic?                  22 A I do. It was the same -- the same documents                  23 for the gender support plans.                  24 Q And for topics 7 and 8, did you review those                  25 topics? 12:46:11                  Page 23</p>	<p>1 If it's okay with you, do you mind if I go                  2 over two terms now?                  3 A No, please do. Thank you.                  4 Q No, thank you.                  5 So I'm going to use the word "transgender." 12:48:00                  6 When I use the term "transgender," I'm referring to                  7 someone whose gender identity does not match the sex                  8 they were assigned at birth.                  9 So, for example, if someone was assigned male                  10 at birth, but they identify as female, that person 12:48:14                  11 would be a transgender girl or woman.                  12 Do you understand my reference of                  13 transgender?                  14 MR. TRYON: Objection to form.                  15 David Tryon. 12:48:28                  16 THE WITNESS: Yes.                  17 BY MS. REINHARDT:                  18 Q I'll also be using the word "cisgender."                  19 When I use the word "cisgender," I am referring to                  20 someone whose gender identity matches the sex they 12:48:44                  21 were assigned at birth.                  22 So as an example, if someone was assigned                  23 male at birth and they also identify as male, that                  24 person is a cisgender boy or male.                  25 Do you understand my reference to cisgender? 12:48:54                  Page 25</p>

<p>1 MR. TRYON: Same objection.                  2 This is David Tryon.                  3 THE WITNESS: Yes.                  4 BY MS. REINHARDT:                  5 Q Thank you. And when I refer to the County 12:49:06                  6 Board of Education, is it okay with you if I just                  7 say "county board"?                  8 A Yeah, that's fine.                  9 Q Wonderful. And unless I state otherwise,                  10 when I use the word "you," I'm referring to the 12:49:21                  11 county board, not you as an individual.                  12 Understood?                  13 A Yes.                  14 Q Are you aware of any issues under the -- are                  15 you aware of any issues underlining this lawsuit? 12:49:31                  16 MS. DENIKER: Objection to the form.                  17 If you do not understand, you can -- you can                  18 advise her that you do not understand.                  19 THE WITNESS: I am -- I do not understand                  20 that, those terms. 12:49:50                  21 BY MS. REINHARDT:                  22 Q Thank you. And as I said, as I continue to                  23 go along, if there's something that you don't                  24 understand, please let me know. Otherwise, if you                  25 answer, I'll assume that you do understand. 12:49:58                  Page 26</p>	<p>1 Q Was that a four-year program?                  2 A It was.                  3 Q And how long was your Master's program?                  4 A I did it quickly. It was a                  5 two-and-a-half-year program. 12:51:19                  6 I also have a Master's in special education.                  7 Q And how long did it take for you to obtain                  8 your Master's in special education?                  9 A I worked on them concurrently, so -- it's                  10 been a long time ago. Two and a half -- two and a 12:51:38                  11 half years.                  12 Q Understood. And did you obtain those                  13 Master's degree immediately after obtaining your                  14 Bachelor's?                  15 A I did not. 12:51:50                  16 Q What did you do in between your Bachelor's                  17 and your Master's?                  18 A Substitute taught. And then I actually                  19 stayed home with my children for six years, worked                  20 on my Master's at that time and then immediately 12:52:06                  21 went back into the field.                  22 Q When you were teaching during this time, was                  23 it in Harrison County?                  24 A I was a substitute in Harrison and Taylor                  25 County, which is an adjoining county. 12:52:23                  Page 28</p>
<p>1 So I'll put it slightly differently.                  2 Does the county board have a position                  3 regarding the validity of the underlying lawsuit?                  4 MS. DENIKER: Objection to the form of the                  5 question. 12:50:13                  6 It also calls for a legal conclusion.                  7 THE WITNESS: I can't comment. I have no                  8 comment on that.                  9 BY MS. REINHARDT:                  10 Q No problem. I am now going to ask you a 12:50:28                  11 series of questions as you, Superintendent Dora                  12 Stutler. So for the purpose of the next following                  13 questions, when I use the term "you," I do mean you,                  14 Superintendent Stutler, and this is just for                  15 background purposes. 12:50:43                  16 Do you understand?                  17 A Yes.                  18 Q Can you please let me know what your                  19 education level is?                  20 A I have a Master's in educational leadership. 12:50:50                  21 Q And did you receive that Master's after                  22 obtaining your Bachelor's degree?                  23 A I did.                  24 Q And what was your Bachelor's degree in?                  25 A Elementary education. 12:51:02                  Page 27</p>	<p>1 Q Thank you. Where do you currently work?                  2 A Harrison County schools.                  3 Q How long have you worked for the Harrison                  4 County schools?                  5 A 24 years as a regular employee. I had seven 12:52:36                  6 years as a substitute employee.                  7 Q And when you say "regular employee," what do                  8 you mean by that?                  9 A It means regular employee with full benefits,                  10 hired, not in a substitute capacity, regular 12:52:52                  11 schedule.                  12 Q Understood. And when you say "Harrison                  13 County schools," is that the County Board of                  14 Education, or are you referring to a broader                  15 umbrella term? 12:53:06                  16 A No. It's Harrison county schools.                  17 Q Wonderful. And what's your current role?                  18 A Superintendent.                  19 Q Do you report to anyone?                  20 A I do. I have four -- five elected board 12:53:18                  21 members.                  22 Q Who are those elected board members?                  23 A Frank Devono, Junior. He's my -- he's a                  24 vice president. Gary Hamrick is the president of                  25 the board. Michael Daugherty, member. 12:53:38                  Page 29</p>



1 Kristin Messenger, member. And Doug Hogue, member.  
 2 Q How are these members selected?  
 3 A They are elected for four-year terms.  
 4 Q What do the county board members do?  
 5 A They oversee the -- I oversee day-to-day 12:54:00  
 6 operations. They're there overseeing what I do and  
 7 the County.  
 8 Q And what are your day-to-day  
 9 responsibilities?  
 10 A Operations of the schools every day, my 12:54:17  
 11 county office, everything from personnel -- I have  
 12 several divisions that report to me. We're a large  
 13 organization. We have 1500 employees, close to  
 14 10,000 students. And ultimately, they report to me.  
 15 Q And the -- Bridgeport Middle School falls 12:54:49  
 16 under your jurisdiction?  
 17 A Yes.  
 18 Q What is your role as it relates to Bridgeport  
 19 Middle School?  
 20 A I'm their supervisor. I have 26 12:54:58  
 21 administrators, full-time administrators, that  
 22 report to an administrative assistant over the  
 23 schools, and that administrative assistant reports  
 24 to me. But ultimately, the schools are my  
 25 responsibility. 12:55:19

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1 Q How often does the administrative assistant  
 2 report to you?  
 3 A Daily.  
 4 Q And how is it reported to you?  
 5 A We do an official Monday meeting. We meet as 12:55:30  
 6 a group every -- at least once a week. And  
 7 throughout the day, my supervisors are reporting to  
 8 me or contacting me.  
 9 Q You said you meet as a group on Mondays.  
 10 Who attends that meeting? Who is this group? 12:55:52  
 11 A My department heads.  
 12 Q How many department heads are there?  
 13 A I have ten.  
 14 Q And if you wouldn't mind, can you please list  
 15 those departments. 12:56:05  
 16 A Sure. I have an administrative assistant  
 17 over secondary education. I have an administrative  
 18 assistant over elementary education. I have a -- an  
 19 assistant superintendent over facilities and  
 20 transportation. I have a supervisor over special 12:56:21  
 21 education, a supervisor over federal programs, a  
 22 chief financial officer, a supervisor over  
 23 technology.  
 24 And then we kind of drop down. They still  
 25 come to these meetings. They -- I go down to a 12:56:42

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1 director of student support and safety and a  
 2 director of school attendance.  
 3 Q Is your role similar as it pertains to  
 4 Norwood Elementary School?  
 5 A I -- yes. I mean, I would oversee 12:56:57  
 6 Norwood Elementary School.  
 7 Q And those --  
 8 A I was -- I was the principal there for a lot  
 9 of years, so...  
 10 Q Understood. And do those same ten department 12:57:20  
 11 heads also report to you as it pertains to  
 12 Norwood Elementary School?  
 13 A Yes.  
 14 Q And you mentioned you were the principal of  
 15 Norwood Elementary School. 12:57:32  
 16 When were you principal?  
 17 A 2009 till 2018.  
 18 Q And what did you do starting in 2018?  
 19 MS. MORGAN: Can I stop you guys for a  
 20 second? 12:57:55  
 21 I just got a message from Dave Tryon that his  
 22 computer crashed.  
 23 Can you hold a moment so he can get back on?  
 24 MS. REINHARDT: No problem. Let's go off the  
 25 record while we wait. 12:58:01

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1 THE VIDEOGRAPHER: All right.  
 2 MR. TRYON: Yeah, I -- I just got back.  
 3 THE VIDEOGRAPHER: Oh.  
 4 MR. TRYON: It crashed right as you were  
 5 talking about education and the Master's degree and 12:58:07  
 6 Bachelor's degrees (sic), so that's -- just for the  
 7 record, that's when my computer crashed, and I got  
 8 back on as fast as I could.  
 9 So we can go on. Thank you.  
 10 This is David Tryon speaking, by the way. 12:58:23  
 11 MS. REINHARDT: Thank you.  
 12 BY MS. REINHARDT:  
 13 Q Superintendent Stutler, what did you do  
 14 starting in 2018?  
 15 A I moved to the central office as the 12:58:33  
 16 personnel director.  
 17 Q And what does that role -- what -- what do  
 18 you do in that role?  
 19 A Well, it was technically supervisor, but --  
 20 you just oversee all personnel in the county, as far 12:58:44  
 21 as hiring, processing information for the  
 22 superintendent to make recommendations to the board,  
 23 dealing with employee attendance. Any matter as it  
 24 related to school personnel.  
 25 Q And did you do that role until you became 12:59:01

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<p>1 superintendent in 2020?                  2 A Yes.                  3 Q Thank you. Do you understand what                  4 interscholastic sports are?                  5 A No. 12:59:19                  6 Q So it refers to sports where students compete                  7 against students at other schools.                  8 Does that make sense?                  9 A Yes.                  10 Q So for the purposes of today, I might refer 12:59:29                  11 to it as sports or athletics, but I'm really only                  12 referring to interscholastic sports and athletics                  13 when I say that.                  14 A Okay. Thank you.                  15 Q Do you know if there are any sports in 12:59:46                  16 Harrison County?                  17 A Yes. Many.                  18 Q What is your role as it relates to sports in                  19 Harrison County?                  20 A It would fall under the same role as any 12:59:58                  21 of -- any of my other responsibilities. I do have                  22 supervisors that are the immediate contact for that.                  23 But if this is an issue or problem, generally it                  24 gets to me.                  25 Q And -- 01:00:19                  Page 34</p>	<p>1 policy. It could be put out on a 30-day comment,                  2 for public comment and policy.                  3 And then it would come back to the board and                  4 that does not become policy unless the board acts on                  5 that, takes action, and then it becomes a policy. 01:02:03                  6 Q So am I understanding correctly that you                  7 would present a policy to the board?                  8 A Sometimes it would occur that way.                  9 Q In cases where it does not occur that way,                  10 how are policies presented to the board? 01:02:28                  11 A Generally, it's a policy that -- it's already                  12 in state statute, and we've just added some local                  13 language that would be specific to Harrison County,                  14 adopting what's already in state language. That's a                  15 lot of times how policies get there. 01:02:49                  16 We're just either -- we're adapting our local                  17 policy to match state policy. And that has to be                  18 board acted on as well because sometimes there's                  19 something, maybe, in our county that might be                  20 county-specific or, you know, we need to address. 01:03:04                  21 Q And does the board vote on those -- in order                  22 to implement those policies?                  23 A All policies are voted and acted on by the                  24 five board members.                  25 Q Does it take a majority vote consensus, do 01:03:22                  Page 36</p>
<p>1 A And it would be handled as any other -- yeah.                  2 Q I apologize for interrupting you. Please go                  3 ahead.                  4 A I said it would be handled as any other piece                  5 of my role. 01:00:30                  6 Q So these supervisors would report to you if                  7 there was anything they felt you needed to know?                  8 A Yes.                  9 Q And what is your role as it relates to                  10 policies in Bridgeport Middle School? 01:00:45                  11 A Policies in our county are -- really come                  12 from our board, and we only have a policy if the                  13 board agrees and enacts that policy.                  14 Q What does it take for the board to agree to a                  15 policy? 01:01:11                  16 A I would never know what it would take. I                  17 offer a policy or we -- if a policy is generated --                  18 and I will tell you, generally our policies are                  19 generated from things coming from state statute or                  20 things that we need to cover, and the stakeholders 01:01:32                  21 in my organization would get -- would get together                  22 and we create a policy, work, generally, with                  23 counsel on a policy. That goes to a -- goes to the                  24 board, and the five board members will look at that                  25 policy, make changes to that policy, discuss that 01:01:47                  Page 35</p>	<p>1 you know?                  2 A It's a majority vote, yes. We have a                  3 five-member board.                  4 Q You mentioned that -- and please correct me                  5 if I'm misrepresenting your statement. 01:03:43                  6 As I understand it, you would revise policies                  7 from the State in order to make them applicable to                  8 the County; is that correct?                  9 MS. DENIKER: Objection to the form.                  10 THE WITNESS: I can't state what's in state 01:04:02                  11 policy. I can only -- I can do what's in state                  12 policy, and I -- I'm trying to think of a good                  13 example.                  14 But I can't change what's in state policy.                  15 I -- and a lot of times we just adopt its straight 01:04:16                  16 language. We use the language directly from the                  17 state policy.                  18 And occasionally there's something at the                  19 State that we find out that we do not have a local                  20 policy on, and we will adopt the State language and 01:04:30                  21 create a policy that mirrors the State.                  22 BY MS. REINHARDT:                  23 Q I can give you a real example.                  24 Is this what happened for H.B. 3293?                  25 A No. 01:04:47                  Page 37</p>

<p>1 Q Did you or anyone at the county board present 2 the county board members with the -- with the bill 3 H.B. 3293? 4 A No. 5 Q Has the board voted in any way relating to 01:05:04 6 policies around H.B. 3293? 7 A No. 8 Q What is the county board's relationship with 9 the Department of Education? 10 A I believe, as the superintendent, I am the 01:05:21 11 conduit from the County Board of Education to my 12 board. So information that comes from the state 13 board is usually a conduit through me to the board, 14 although my board has -- our state boards have their 15 own association that also has a relationship with 01:05:50 16 the state board, and they do have a fall meeting and 17 a winter meeting to update board members. So 18 they -- they have a relationship outside of my 19 relationship with the state board through that 20 organization. 01:06:08 21 Q When you say "they," who are you referring 22 to? 23 A My board members. My five board members are 24 part of a state -- it's just an association. Like I 25 have an association for superintendents, there's an 01:06:23 Page 38</p>	<p>1 Q Just so I understand, you've said "adopt a 2 policy." What I'm asking is, are there instances 3 where the policy comes directly from the county 4 board? 5 A No. As far as creating the policy, like 01:08:07 6 writing it, the actual making of the policy, I 7 don't -- 8 Q No problem. Thank you. 9 If the county board disagrees with a policy 10 that's been presented by the state board, will it 01:08:40 11 still adopt that policy? 12 A We have no choice but to follow state board 13 policy. 14 Q So what is the purpose of having votes as it 15 relates to policies? 01:08:56 16 A They're -- I guess it's -- we adopt state 17 policy. We use the language for state policy. And 18 that is our guidance. 19 If we have a local policy, and it would be 20 something like our local discipline policy, we have 01:09:08 21 an overarching state policy for safe and supportive 22 schools, policy 4373, and it gives you examples of 23 how you would discipline, if this occurs. 24 A local policy would take that policy, adopt 25 all the same language as the state policy, but we 01:09:31 Page 40</p>
<p>1 association for state board members, and they meet a 2 couple of times of the -- a year, and they are given 3 information that's coming down from our State Board 4 of Education and the Department of Ed. 5 Q And does the county superintendent attend 01:06:41 6 those meetings? 7 A I am allowed to attend those meetings with my 8 board members. 9 Q Do you regularly attend those meetings as 10 they're held? 01:06:57 11 A I attend if my board members are attending. 12 They're optional meetings. If -- a board member in 13 our county or in our state has to have so many hours 14 to remain on a board. It's kind of like a 15 professional development-type thing, they have to 01:07:13 16 have so many hours. And so I'm not going to say 17 that my board attends every meeting. If they have 18 their hours, they don't always attend. 19 Q Does the county board have any rulemaking 20 power? 01:07:27 21 A We can adopt a policy, and then it becomes a 22 rule for our county. 23 Q Do you -- do you make those policies? Does 24 the county board make those policies? 25 A We can adopt the policy. 01:07:53 Page 39</p>	<p>1 may add in a third progressive discipline. 2 Like, if -- we may not want to go strictly 3 to -- now, there are things in that behavior policy 4 that we have to do, if there's a weapon, if 5 there's -- there are things that you have to do, but 01:09:50 6 when it is a -- something where two children are 7 arguing and we want to say, you know what, we want 8 to do ISS, put them in an in-school suspension, 9 instead of an out-of-school suspension. 10 That's what I mean by adding things that are 01:10:05 11 specific to a county that we feel that would be good 12 for our students, and I think that's -- anytime we 13 make a policy change, it's based on, you know, our 14 students and what our administrators are seeing in 15 the schools. 01:10:18 16 Q I really -- 17 A The overarching policy would be state policy. 18 We would just add things like that. That's just an 19 example. 20 Q I really appreciate that example, as I 01:10:31 21 haven't had the privilege of being a part of this 22 process. So thank you. 23 I'll move on and ask you, how many schools 24 are in the county board's jurisdiction? 25 A We have five high schools, five middle 01:10:43 Page 41</p>

<p>1 schools and 13 elementary schools and one                  2 alternative education high school/middle school.                  3 It's a combination. It's one building.                  4 Q And of those schools, is Bridgeport Middle                  5 School part of the County Board of Education's 01:11:05                  6 jurisdiction?                  7 A Yes.                  8 Q Norwood Elementary School as well?                  9 A Yes.                  10 Q Do rules and regulations between schools ever 01:11:18                  11 vary?                  12 A Schools follow our policies, our county                  13 policies. It's their guidance.                  14 Q And schools are allowed to implement their                  15 own policies on top of those; is that correct? 01:11:34                  16 A Not -- not a policy. But a school could                  17 have -- if you wanted to have different rules for                  18 the kids, like, you know, raise your hand and -- I                  19 mean, they do things like that.                  20 You know, as a school administrator, we give 01:11:51                  21 them some autonomy to run their schools with                  22 scheduling. You know, how they're going to run                  23 their lunches, we don't have that in policy. But                  24 our policy is what -- that governs all of our                  25 schools. 01:12:10</p> <p style="text-align: right;">Page 42</p>	<p>1 A That's been approved by my board, by my                  2 five-member board.                  3 Q Understood. Is the county board                  4 superintendent responsible for monitoring H.B. 3293?                  5 MS. DENIKER: Objection to the form. 01:14:04                  6 THE WITNESS: That -- there is a current                  7 injunction with that rule, so we're...                  8 BY MS. REINHARDT:                  9 Q Is the county board superintendent                  10 responsible for monitoring state policies that are 01:14:30                  11 adopted by the county board?                  12 MS. DENIKER: Objection to form.                  13 THE WITNESS: Would you repeat that question.                  14 BY MS. REINHARDT:                  15 Q Is the county board superintendent 01:14:41                  16 responsible for monitoring policies, let's say state                  17 policies, that are adopted by the county board?                  18 MS. DENIKER: Same objection.                  19 THE WITNESS: Our -- our county board                  20 policies are following state board policy. 01:15:01                  21 BY MS. REINHARDT:                  22 Q And is the county board superintendent                  23 responsible for monitoring those?                  24 MS. DENIKER: Same objection.                  25 THE WITNESS: We enforce the policy as it 01:15:13</p> <p style="text-align: right;">Page 44</p>
<p>1 Q So these rules that a school may choose to                  2 implement, does the county board review them?                  3 A Not always. If there -- if it's a rule --                  4 if -- if a -- a principal has had something                  5 happening in their building and they want to change 01:12:34                  6 a lunch schedule or a master schedule or -- we would                  7 not review that. But our policy would say, you need                  8 to have 350 minutes of instruction. That's what our                  9 policy would say.                  10 Now, within that school, they could have the 01:12:50                  11 autonomy to -- to make that 350-minute schedule,                  12 what works for their building and their staffing.                  13 Q Understood. I'm going to ask you a few                  14 questions about superintendents.                  15 I first want to know, who employs the county 01:13:08                  16 board superintendent?                  17 A I am hired by the five elected board members.                  18 Q And are you a state official?                  19 MS. DENIKER: Objection to the form.                  20 THE WITNESS: I believe I'm considered a 01:13:26                  21 state employee. I have all the rights and benefits                  22 of a state employee.                  23 BY MS. REINHARDT:                  24 Q Are you responsible for executing educational                  25 policies? 01:13:38</p> <p style="text-align: right;">Page 43</p>	<p>1 comes down from the State and our local board                  2 because we're required to enforce state policy.                  3 BY MS. REINHARDT:                  4 Q And how do you enforce it, state policy?                  5 A We follow what the rule says. 01:15:40                  6 Q Does the rule describe how it should be                  7 enforced?                  8 MS. DENIKER: Objection to the form.                  9 THE WITNESS: Generally, we know how to                  10 enforce the rule. And if we had questions about a 01:16:02                  11 state board policy, we would contact the state board                  12 to make clarification.                  13 BY MS. REINHARDT:                  14 Q Understood. And what is your relationship                  15 with the county board superintendent -- I'm sorry, 01:16:14                  16 let -- let me rephrase that.                  17 What is your relationship with the state                  18 board superintendent?                  19 A I contact him when I need to. He's -- he is                  20 available, and our state board is available, our 01:16:32                  21 state department.                  22 Q In what instances would you need to -- in                  23 what instances would you need to discuss things with                  24 the state board superintendent?                  25 A I've had contact with our state board 01:16:49</p> <p style="text-align: right;">Page 45</p>

1 superintendent when I wanted to have something  
 2 clarified that was said, possibly, at a meeting with  
 3 us. They do meet with us regularly. They are great  
 4 to give us -- great to keep us informed in  
 5 information. So we -- we see them often. 01:17:19  
 6 So it's -- it's not like I call him every day  
 7 , but if I needed something, I -- I have called to  
 8 verify something that one of his departments maybe  
 9 have said to us and I wanted to talk with him. It's  
 10 not often, but he is available and there when we 01:17:42  
 11 have questions.  
 12 Q Who is the state board superintendent?  
 13 A Clayton Burch.  
 14 Q And did you discuss H.B. 3293 with  
 15 Clayton Burch? 01:18:00  
 16 A No.  
 17 Q Does the county board superintendent defer to  
 18 the state board superintendent?  
 19 MS. DENIKER: Objection to the form.  
 20 THE WITNESS: No. 01:18:14  
 21 BY MS. REINHARDT:  
 22 Q Have you heard of the West Virginia Education  
 23 Information System?  
 24 A I believe we call that WVEIS, West Virginia  
 25 EIS. We -- we refer to it as WVEIS, so I'm sure 01:18:32  
 Page 46

1 that -- I haven't heard it called that for a long  
 2 time.  
 3 Q Wonderful. So it's an acronym --  
 4 A Thanks for the memory.  
 5 Q Is it okay with you if I also call it WVEIS? 01:18:40  
 6 A Yes. You can also call it an antiquated  
 7 system, but that's okay.  
 8 Q And why do you call it an antiquated system?  
 9 A It's been around as long as I have, so...  
 10 Q What is WVEIS, if you could please explain it 01:18:57  
 11 to me?  
 12 A WVEIS is just the state database that we use.  
 13 All counties are connected to WVEIS. And it's a --  
 14 just a student information database. It also holds  
 15 financial -- our county financial menus as well. 01:19:12  
 16 It's a large -- it's a large database.  
 17 Q So the county board superintendent has access  
 18 to WVEIS?  
 19 A I do.  
 20 Q Do the county board members have access to 01:19:30  
 21 WVEIS?  
 22 A No.  
 23 Q Who controls WVEIS?  
 24 MS. DENIKER: Objection to the form.  
 25 THE WITNESS: I believe it would be the state 01:19:47  
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1 department. It's just a database. So there's a lot  
 2 of people involved with WVEIS in different  
 3 departments. There's a lot of sides to it. There's  
 4 a student information side. There's, like I said,  
 5 the finance side. That's where we keep our student 01:19:59  
 6 attendance. It's just a recordkeeping large  
 7 database.  
 8 BY MS. REINHARDT:  
 9 Q Does the county board -- I'll rephrase.  
 10 Is the county board able to enter information 01:20:12  
 11 into WVEIS?  
 12 A Are you referring to county board members, in  
 13 that sense, or are you speaking about just --  
 14 Q I'll take it from a high level first.  
 15 So can you, as county superintendent, enter 01:20:30  
 16 information into WVEIS?  
 17 A I can.  
 18 Q And are the various departments -- and when I  
 19 say "departments," I'm referring to the ten  
 20 departments that report to you. Are they able to 01:20:47  
 21 enter information into WVEIS?  
 22 A For their specific department. My attendance  
 23 director has access to attendance menus. My school  
 24 supervisors have access to menus that involve their  
 25 schools. 01:21:04  
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1 So it depends on what their need is. We  
 2 don't just allow anybody WVEIS access.  
 3 Q Understood. And I am -- I have just a few  
 4 more questions for you, and then we can take a  
 5 break, if you would like. 01:21:19  
 6 My first question is if you've ever heard of  
 7 the county board superintendent's advisory council?  
 8 A Repeat that.  
 9 Q The county board superintendent's advisory  
 10 council. 01:21:43  
 11 A I am not familiar with that. And I could  
 12 be -- I just maybe have not -- maybe it's like the  
 13 WVEIS thing. I'm just not --  
 14 Q As I --  
 15 A Is it -- 01:22:07  
 16 Q Sorry, I did not mean to interrupt you.  
 17 Go ahead.  
 18 A I was going to ask, as it relates to just our  
 19 county superintendents?  
 20 Q As I understand it -- and again, I don't know 01:22:17  
 21 if it exists, but as I understand it, it's a council  
 22 to promote collaboration among the county districts  
 23 and to provide input to the State Board of  
 24 Education.  
 25 Is there a council similar to that that 01:22:35  
 Page 49

<p>1 you're aware of?                  2 A I am not a member of that council.                  3 Q Do you know if there's an annual report that                  4 goes to the state superintendents regarding concerns                  5 the county board may have? 01:22:56                  6 A I am not aware.                  7 Q Thank you. And similarly, have you heard of                  8 the West Virginia education advisory team?                  9 A I'm not sure that's what it's titled. I know                  10 we have some superintendents that are involved in 01:23:27                  11 different things from the state superintendent. I                  12 am not on that team.                  13 Q Understood. And those are all the questions                  14 I have pertaining to this topic, if you would like                  15 to take a break at this time. 01:23:44                  16 MS. DENIKER: Is that topic 1 that we have                  17 concluded, Ms. Reinhardt?                  18 MS. REINHARDT: It is the conclusion of                  19 topic 1. I may have some questions later that kind                  20 of inter- -- that cross with topic 1, but for now, 01:23:58                  21 that's the conclusion of topic 1.                  22 THE WITNESS: Do we need a break?                  23 MS. DENIKER: We do not need a break, if you                  24 want to continue, but if you would like to take a                  25 break, that is fine. 01:24:15</p> <p style="text-align: right;">Page 50</p>	<p>1 day-to-day operations. They are not, until we have                  2 a board meeting and they're in as a group. They --                  3 they take no action. They -- they really have no                  4 authority as single board members.                  5 So I guess my -- my thing is, is they -- 01:37:17                  6 they've got me for day-to-day operations, and I --                  7 they adopt policy to support that as a group.                  8 But as far -- are you speaking of day-to-day                  9 operations of athletics in the county?                  10 Q I am not. But let me ask you another 01:37:38                  11 question first.                  12 Is the county -- when I'm referring to the                  13 county board, are you answering only as it relates                  14 to the county board members?                  15 A Well, I believe my role here is in the -- I 01:37:52                  16 am in that capacity as representing the -- the                  17 board, but they -- they are my supervisors or they                  18 are over my --                  19 MS. DENIKER: Ms. Reinhardt, this is Susan                  20 Deniker. Could we go off the record for a minute 01:38:21                  21 and I think that we can maybe make some                  22 clarifications that would be helpful moving forward?                  23 MS. REINHARDT: Thank you. Yes, let's go off                  24 the record, please.                  25 THE VIDEOGRAPHER: All right. We're going 01:38:31</p> <p style="text-align: right;">Page 52</p>
<p>1 MS. REINHARDT: One second.                  2 Let's take a five-minute break for now. If                  3 folks are able to return at 11:30, we'll go off the                  4 record.                  5 THE VIDEOGRAPHER: We are going off the 01:24:33                  6 record at 1:24 p.m., and this is the end of Media                  7 Unit No. 1.                  8 (Recess.)                  9 THE VIDEOGRAPHER: All right. We are back on                  10 the record at 1:36 p.m., and this is the beginning 01:35:51                  11 of Media Unit No. 2.                  12 Go ahead.                  13 BY MS. REINHARDT:                  14 Q Does the county board have a role as it                  15 relates to sports in Harrison County? 01:35:59                  16 A The same as they would with any policy, as it                  17 relates to sports or any other topic.                  18 Q Can you speak a little bit more to that?                  19 What role would they have?                  20 A Are you asking specific to sports? 01:36:36                  21 Q I am.                  22 A The understanding is, is that our board, when                  23 they have policies in place -- like I said, I am                  24 there for the day-to-day operations. So I think the                  25 questions are, is the board, everyday, in the 01:36:59</p> <p style="text-align: right;">Page 51</p>	<p>1 off the record. The time is 1:38 p.m.                  2 (Recess.)                  3 THE VIDEOGRAPHER: All right. We are back on                  4 the record at 1:41 p.m.                  5 Go ahead. 01:40:46                  6 MS. REINHARDT: While off the record, we                  7 discussed the definition of county board, as I refer                  8 to it here.                  9 BY MS. REINHARDT:                  10 Q So Superintendent Stutler, when I refer to 01:40:54                  11 "county board," I'm talking about the entire County                  12 Board of Education, not just the elected members.                  13 I'll clarify, going forward, when I'm talking about                  14 the county board's elected members. Is that clear?                  15 A Yes. Thank you. 01:41:14                  16 Q Wonderful. And as I go through this line of                  17 questioning, if there's anything that you don't                  18 believe you reviewed while reviewing the topics in                  19 the 30(b)(6) notice, just let me know, but I will                  20 try to stick to only topics that you've noted as 01:41:30                  21 reviewed.                  22 A Thank you.                  23 Q I'm going to ask my previous question again.                  24 Does the county board have a role as it                  25 relates to athletics or sports? 01:41:44</p> <p style="text-align: right;">Page 53</p>

<p>1 A Yes.</p> <p>2 Q And what is that role?</p> <p>3 A We -- well, it's under my jurisdiction.</p> <p>4 Each -- each school has an athletic director that</p> <p>5 would be under the administrator in that building. 01:42:01</p> <p>6 So each athletic program has its own athletic</p> <p>7 director that oversees the programs in that</p> <p>8 building. And that athletic director reports to the</p> <p>9 school principal, and, of course, the school</p> <p>10 principal reports to the county board. 01:42:19</p> <p>11 Q Are the coaches at Bridgeport Middle School</p> <p>12 employees of the county board?</p> <p>13 A Not all. We have volunteer coaches that are</p> <p>14 vetted by the school board, but they are not</p> <p>15 employees; they are unpaid volunteer coaches. 01:42:51</p> <p>16 Q Are they required to sign a contract as</p> <p>17 volunteer coaches?</p> <p>18 A No. We are -- we do vet them. They have</p> <p>19 background checks, and we vet them, but they're not</p> <p>20 under contract. 01:43:06</p> <p>21 Q And when you say "we," do you mean the county</p> <p>22 board?</p> <p>23 A Yes.</p> <p>24 Q Thank you.</p> <p>25 A Thank you. 01:43:13</p> <p style="text-align: right;">Page 54</p>	<p>1 Q Understood. Does the county board have any</p> <p>2 policies pertaining to sports?</p> <p>3 A We have minimal. We have two.</p> <p>4 Q And what are those two policies?</p> <p>5 A We have a policy on extracurricular 01:44:45</p> <p>6 activities for 6 to 12, just defining what</p> <p>7 extracurricular would be for 6 to 12th grade. And</p> <p>8 the other policy that we have is on how you obtain a</p> <p>9 letter, how are you a lettermen, as far as sports is</p> <p>10 concerned. 01:45:07</p> <p>11 Q When were those policies developed?</p> <p>12 A I believe 2008 was one. I don't remember the</p> <p>13 date on the other. They were early. They're --</p> <p>14 they're older policies.</p> <p>15 Q So as it relates to the lettermen policy, 01:45:20</p> <p>16 I'll use that as an example, who is responsible for</p> <p>17 enforcing it?</p> <p>18 A That would be the school AD and the athletic</p> <p>19 program at the school. That would be really</p> <p>20 pertaining to the high school athletic directors. 01:45:40</p> <p>21 Q And does the county board ever need to step</p> <p>22 in, as far as enforcing those policies?</p> <p>23 A Only if there would be a disagreement. I</p> <p>24 would assume that if a child thought they were</p> <p>25 supposed to get a letter, and they didn't, then I 01:46:00</p> <p style="text-align: right;">Page 56</p>
<p>1 Q Does the county board have a role -- and I</p> <p>2 know we discussed this briefly -- as it pertains to</p> <p>3 policies regarding sports in Harrison County?</p> <p>4 A Yes.</p> <p>5 Q What is that role? 01:43:32</p> <p>6 A It would be the same role as other policies</p> <p>7 that we would have -- that we -- that my board would</p> <p>8 adopt.</p> <p>9 Q Does the county --</p> <p>10 A It would follow -- 01:43:47</p> <p>11 Q Oh, I -- I apologize. Go ahead.</p> <p>12 A It would follow that same process.</p> <p>13 Q Would you bother reminding me what the</p> <p>14 process is?</p> <p>15 A If -- if there's a state policy and we want 01:43:59</p> <p>16 to adopt the processes for our county, we would</p> <p>17 adopt the local policy, with those processes, and it</p> <p>18 would go to the board, and they would adopt an</p> <p>19 official policy, and it would be enacted.</p> <p>20 Q And when you say it would go to the board, do 01:44:18</p> <p>21 you mean the elected board members?</p> <p>22 A The elected board. I'm sorry, I will say</p> <p>23 elected board as well.</p> <p>24 Q No problem. I know --</p> <p>25 A They're such a big part of our world. 01:44:28</p> <p style="text-align: right;">Page 55</p>	<p>1 would probably be -- it would be brought to my</p> <p>2 attention.</p> <p>3 Q Understood. And just for clarity, does the</p> <p>4 county board have any policies related to sex</p> <p>5 separation in sports? 01:46:12</p> <p>6 A No, we do not have an adopted policy for</p> <p>7 that. We follow SSAC guidelines on what teams are</p> <p>8 coed.</p> <p>9 Q Does the County have any policies pertaining</p> <p>10 to transgender students? 01:46:40</p> <p>11 A No.</p> <p>12 Q What do you know about H.B. 3293?</p> <p>13 MS. DENIKER: Objection to the form.</p> <p>14 THE WITNESS: It -- it was a state law passed</p> <p>15 in July of '21. 01:47:05</p> <p>16 BY MS. REINHARDT:</p> <p>17 Q What does H.B. 3293 do?</p> <p>18 MS. DENIKER: Objection to the form.</p> <p>19 THE WITNESS: I can really only tell you what</p> <p>20 I know when I read the statute. It's a -- it makes 01:47:24</p> <p>21 a distinction between -- it begins by saying that</p> <p>22 there is an inherent difference between a male and a</p> <p>23 female. It talks about safety during sporting</p> <p>24 activities or doing -- during athletics. And it</p> <p>25 also addresses the equity or displacement of female 01:47:46</p> <p style="text-align: right;">Page 57</p>

<p>1 athletes.                  2 I can only speak to the statute and what it                  3 says.                  4 BY MS. REINHARDT:                  5 Q How did you come to know about H.B. 3293? 01:48:03                  6 MS. DENIKER: I'm going to object to the form                  7 and ask if you're asking her -- are you asking her                  8 this as the superintendent?                  9 I mean, this is a little bit of a                  10 complicating factor as it relates to a 30(b)(6) 01:48:19                  11 deposition.                  12 Are you asking Superintendent Stutler how she                  13 became aware of that as the superintendent?                  14 MS. REINHARDT: I'm asking                  15 Superintendent Stutler to speak to it as the county 01:48:30                  16 board designee.                  17 When I'm referring to Superintendent Stutler,                  18 I'll be sure to reference you and make it clear when                  19 I'm asking. I apologize if that wasn't clear.                  20 MS. DENIKER: Well, I'm not sure how she can 01:48:47                  21 answer how an entity became aware of something.                  22 MS. REINHARDT: Can we go off the record for                  23 just one moment, please?                  24 MS. DENIKER: Sure.                  25 THE VIDEOGRAPHER: Okay. We are going off 01:48:55                  Page 58</p>	<p>1 school board, I'm talking about the elected members,                  2 and their association will send out legislative                  3 updates on everything coming out of the legislation                  4 for the legislative body in -- in our Charleston                  5 legislature. 01:56:42                  6 So I can't give you a specific time, but I                  7 did receive updates in general from -- from those                  8 sources.                  9 Q And how often are those updates provided?                  10 A It depends on how busy Charleston is. If 01:56:56                  11 there's a lot going on, we get them frequently. No                  12 more than once a week during the session.                  13 Q And if the superintendent of the county board                  14 has questions related to legislation, who does the                  15 county superintendent go to? 01:57:15                  16 MS. DENIKER: Objection to the form.                  17 Are you speaking about Dora Stutler as county                  18 superintendent?                  19 MS. REINHARDT: I'm generally speaking to a                  20 superintendent in this role. 01:57:29                  21 BY MS. REINHARDT:                  22 Q Is there a specific person who has been                  23 designated or is in a position to answer questions                  24 about legislation?                  25 A When there is a legislative update, I -- I 01:57:42                  Page 60</p>
<p>1 the record. The time is 1:49 p.m.                  2 (Recess.)                  3 THE VIDEOGRAPHER: All right. We are back on                  4 the record at 1:55 p.m.                  5 Go ahead. 01:55:19                  6 BY MS. REINHARDT:                  7 Q Superintendent Stutler, when did you, in your                  8 individual capacity, become aware of H.B. 3293?                  9 A I cannot give a specific date or time. I can                  10 tell you the process with any legislative updates 01:55:36                  11 that I received, and it involves all of them.                  12 Generally, when our legislative group in                  13 Charleston convene, they are always, you know,                  14 putting forth new bills. You never know where                  15 they're at and what process. 01:55:54                  16 And we have multiple organizations, one being                  17 my superintendent's organization, that gives us                  18 usually a weekly update on where the bills are.                  19 There's not commentary on those. It's just a                  20 snippet of what the bill is and kind of an overview 01:56:07                  21 of what the bill is, and I get those -- a list of                  22 all of them that's been introduced, and then they'll                  23 update us occasionally. And those come from                  24 different directions.                  25 We have a superintendent's organization. Our 01:56:25                  Page 59</p>	<p>1 guess I'm in a different role. In my role as                  2 superintendent here, I -- I am not one that's making                  3 decisions on legislation. I'm watching it. I'm                  4 being updated on it. I am not in that role.                  5 Now, whether other superintendents are, I am 01:58:00                  6 unaware. But I am not in that role. But I am                  7 paying attention and reading the updates that are                  8 coming to me.                  9 Q Do you recall who updated you about H.B.                  10 3293? 01:58:13                  11 A It came specifically from our superintendent                  12 organization. They do -- like I said, it's that                  13 same -- it's the same group. We -- we have an                  14 association of all the superintendents, 55 counties.                  15 Q Who is the superintendent -- and I 01:58:35                  16 apologize -- superintendent of organizations, is                  17 that what you've said?                  18 A Yeah, it's an association of superintendents.                  19 It's just our -- all -- all 55 counties. There's an                  20 executive director of that group, and they inform us 01:58:51                  21 of anything that's -- of anything that's going to                  22 affect school systems or legislation or rules,                  23 anything.                  24 Q Are you a member of this association?                  25 A I am. 01:59:09                  Page 61</p>



<p>1 Q And once the association made you aware of                  2 H.B. 3293, did you report -- did you report anything                  3 related to H.B. 3293 to someone you report to?                  4 And I can rephrase that if that was not                  5 clear. 01:59:29                  6 A No.                  7 Q Did you discuss H.B. 3293 with anyone who                  8 reports to you?                  9 A No.                  10 Q Was the County Board of Education -- did the 01:59:45                  11 County Board of Education have a role in drafting                  12 H.B. 3293?                  13 A No.                  14 Q Did the county board provide any comments or                  15 thoughts to the legislature regarding H.B. 3293 that 02:00:01                  16 you are aware of as Superintendent Stutler?                  17 A Are you speaking about my county-elected                  18 board or --                  19 Q The County Board of Education, generally.                  20 A No. 02:00:22                  21 Q How was H.B. 3293 described to you as                  22 Superintendent Stutler?                  23 MS. DENIKER: Objection to the form.                  24 THE WITNESS: I truly just read the                  25 administrative updates, and I will tell you that we 02:00:42                  Page 62</p>	<p>1 A He's our safety and support director.                  2 Q And, finally, who is Donna Hage, if I'm                  3 pronouncing that correctly?                  4 A Donna Hage, at that time, in 2021, the date                  5 of that, she was an assistant superintendent for 02:02:56                  6 Harrison County schools.                  7 Q Thank you. Now, attached to this e-mail is a                  8 Title IX presentation.                  9 Have you seen this before?                  10 A I -- yesterday, I saw that. I don't recall 02:03:10                  11 seeing that previous, prior to yesterday, when I                  12 did -- met with counsel.                  13 Q Understood. I will give you an opportunity,                  14 if you would like it, to flip through the PowerPoint                  15 presentation, or I can just direct you to the pages 02:03:41                  16 that I'll be asking about. What do you prefer?                  17 A Just direct me to the pages.                  18 Q Wonderful. I'm going to direct you to the                  19 page that's Bate-numbered HCBOE 00343.                  20 Are you there? Let me -- please let me know 02:04:20                  21 when you're there.                  22 A Yes.                  23 Q So on this page, at the top, it says,                  24 "Title IX and Current Issues." And on the following                  25 page, it says, "Recent Cases of Note." 02:04:38                  Page 64</p>
<p>1 had someone that presented to my board, but he did                  2 all the legislative updates, like we would with any                  3 legislative session, to inform my board.                  4 (Exhibit 25 was marked for identification                  5 by the court reporter and is attached hereto.) 02:01:04                  6 BY MS. REINHARDT:                  7 Q Understood. If you could go into the "Marked                  8 Exhibits" folder, I'm going to introduce a document                  9 that's been marked as Exhibit 25.                  10 Please let me know when you have that up. 02:01:18                  11 A I see that.                  12 Q And for now, we're just going to be looking                  13 at that first page.                  14 Have you seen this e-mail before?                  15 A I had not seen that e-mail until counsel 02:01:58                  16 shared that.                  17 Q What is WVASA?                  18 A That is the West Virginia association of                  19 superintendents.                  20 Q And are you a member of that Listserv? 02:02:12                  21 A I am.                  22 Q Thank you. Now, if you wouldn't mind, I                  23 would also like to ask you who Sarah Starkey is.                  24 A She's our county Title IX investigator.                  25 Q And who is Kenneth Winkie? 02:02:36                  Page 63</p>	<p>1 Do you see that?                  2 A Yes.                  3 Q Then on the following page, which is                  4 HCBOE 00345, it says, "WV House Bill 3293."                  5 Do you see that? 02:04:54                  6 A Yes.                  7 Q And is it correct that you, as Dora Stutler,                  8 were not present for this presentation?                  9 A I do not attend all of those association                  10 meetings. So I do not recall that particular 02:05:12                  11 presentation. These attorneys do present often at                  12 these organization meetings.                  13 Q After this presentation, did any of the --                  14 other superintendents that are members of this                  15 associations speak with you about a presentation? 02:05:33                  16 A No.                  17 Q Has the county board had any conversations                  18 with the State Board of Education, prior to the                  19 enactment of H.B. 3293, about students who are                  20 transgender participating in sports? 02:05:54                  21 A No.                  22 Q Now, looking at this page, which I believe is                  23 345, is that the same page you're currently on?                  24 A Yes.                  25 Q Can you just review it and let me know if 02:06:07                  Page 65</p>

<p>1 this is how you recall H.B. 3293 being summarized to                  2 you?                  3 MS. DENIKER: Objection to the form of the                  4 question.                  5 I'm unclear about -- summarized by who? 02:06:24                  6 BY MS. REINHARDT:                  7 Q As I understand it, Superintendent Stutler,                  8 you received various e-mails about upcoming                  9 legislation.                  10 Did any of those e-mails categorize H.B. 3293 02:06:32                  11 similarly to the page before you Bates-Stamped                  12 numbered HCBOE 00345?                  13 A I could not speak to that.                  14 MS. DENIKER: Objection to the form.                  15 BY MS. REINHARDT: 02:06:52                  16 Q Can you please go to the page Bates-Stamped                  17 HCBOE 00347?                  18 A Yes, I see that.                  19 Q And it says (as read):                  20 "Cause of Action. Any student 02:07:18                  21 aggrieved by a violation of this                  22 section may bring an action against                  23 a county board of education or state                  24 institution of higher education                  25 alleged to be responsible for the 02:07:29</p> <p style="text-align: right;">Page 66</p>	<p>1 preparation for actions brought under this section?                  2 A We have retained counsel for the current                  3 lawsuit that we've been named in.                  4 Q Other than this action, has there been any                  5 other preparation as to this Cause of Action section 02:09:30                  6 from House Bill 3293?                  7 A No.                  8 Q Did the county board have any conversations                  9 with employees at Bridgeport Middle School prior to                  10 the enactment of H.B. 3293? 02:09:47                  11 MS. DENIKER: Objection to the form.                  12 Are you asking about --                  13 MR. TRYON: Objection.                  14 MS. DENIKER: -- 3293?                  15 MS. REINHARDT: Can you please repeat that, 02:10:01                  16 Ms. Deniker?                  17 MS. DENIKER: Yes, I'm sorry, I objected to                  18 the form. And then I was asking for clarification.                  19 Why don't I just let you re-ask the question.                  20 I apologize. 02:10:11                  21 MS. REINHARDT: No problem.                  22 BY MS. REINHARDT:                  23 Q Did the county board have any conversations                  24 with employees at Bridgeport Middle School prior to                  25 the enactment of H.B. 3293 related to transgender 02:10:18</p> <p style="text-align: right;">Page 68</p>
<p>1 alleged violation."                  2 Have you seen this cause of action prior to                  3 now?                  4 MS. DENIKER: Objection to the form.                  5 THE WITNESS: This document, during prep, was 02:07:41                  6 shown to me.                  7 BY MS. REINHARDT:                  8 Q Okay. And has any student brought an action                  9 against the county board under H.B. 3293?                  10 MR. TRYON: Objection. 02:08:03                  11 THE WITNESS: We have been named, with                  12 several other entities.                  13 BY MS. REINHARDT:                  14 Q In what action?                  15 A It's a lawsuit against multiple entities, and 02:08:14                  16 we are included in that for B.P.J.                  17 Q Have there been any actions related to                  18 H.B. 3293 other than this case?                  19 A No.                  20 Q Has the county board taken any steps in 02:08:41                  21 addressing this Cause of Action section?                  22 MS. DENIKER: Objection to the form.                  23 THE WITNESS: No. I mean...                  24 BY MS. REINHARDT:                  25 Q Has the county board taken any steps in 02:09:04</p> <p style="text-align: right;">Page 67</p>	<p>1 students participating in sports?                  2 A There was a gender support plan being created                  3 at Norwood Elementary for B.P.J. She was going to                  4 attend Bridgeport Middle School.                  5 Q So -- 02:10:49                  6 A And there's a section -- there's a section on                  7 that plan, Are you an athlete?                  8 Q Other than the gender support plan that                  9 you're speaking of, were there any other                  10 conversations with Bridgeport Middle School 02:11:04                  11 employees about transgender students                  12 participations -- participation in sports?                  13 A No.                  14 Q Did the county board have any conversations                  15 with employees at Norwood Elementary School prior to 02:11:18                  16 the enactment of H.B. 3293 about students who are                  17 transgender participating in sports?                  18 A No.                  19 Q What is the county board's rule as it relates                  20 to H.B. 3293? 02:11:45                  21 MS. DENIKER: Objection to the form.                  22 THE WITNESS: It's like any other state law.                  23 But there's an injunction, so that was never                  24 enacted.                  25 BY MS. REINHARDT: 02:11:58</p> <p style="text-align: right;">Page 69</p>

<p>1 2 Q Has H.B. 3293 been enforced against any other 3 student other than B.P.J.? I apologize. 4 A There's an injunction against it. We take -- 5 we've taken no action. 02:12:17 6 MS. REINHARDT: Susan, I believe the rest of 7 my questions relate to topic 10, so if it suits the 8 parties, we'll take a break now for about 9 20 minutes, and then I would ask the county board to 10 have David Mazza present. 02:12:39 11 MS. DENIKER: And then are done with all 12 other topics upon which Ms. Stutler will be 13 testifying on? 14 MS. REINHARDT: I am not. 15 MS. DENIKER: Okay. 02:12:51 16 THE VIDEOGRAPHER: So -- okay. 17 MS. REINHARDT: We can also go off the 18 record. 19 THE VIDEOGRAPHER: Yeah, let's discuss -- 20 okay. We're -- we're going off the record. The 02:13:00 21 time is 2:13 p.m., and this is the end of Media Unit 22 No. 2. 23 One moment. 24 (Recess.) 25 THE VIDEOGRAPHER: All right. We are back on 02:53:32 Page 70</p>	<p>1 Has the county board delegated any of its 2 powers, as it relates to sports, to WVSSAC? 3 MS. DENIKER: Object to the form. 4 MS. GREEN: Also object to the form. 5 THE WITNESS: No. 02:55:13 6 BY MS. REINHARDT: 7 Q Has the county board delegated any of its 8 powers, as it relates to sports, to any other entity 9 other than the County itself? 10 MS. DENIKER: Objection to the form. 02:55:31 11 MS. GREEN: Object to the form. 12 THE WITNESS: Can we talk about what the 13 SSAC -- I mean, how it -- the oversight of the SSAC 14 for counties in general? Because the confusion is, 15 is we don't -- my board, delegating authority -- I 02:55:53 16 mean, my board, we're following state policy and 17 guideline. That's what we do. 18 The West Virginia SSAC is an oversight board 19 and provides guidance for our schools and our 20 athletic programs. It's a guiding body. 02:56:11 21 So I don't know that my board, if you're -- 22 well, see, I'm thinking elected members. You're -- 23 you're thinking of the board in general. 24 I'm trying to just explain the relationship. 25 I mean, we -- we have members of the SSAC. 02:56:28 Page 72</p>
<p>1 the record at 2:54 p.m., and this is the beginning 2 of Media Unit No. 3. 3 Go ahead. 4 BY MS. REINHARDT: 5 Q Have you heard -- I'll rephrase. 02:53:57 6 Have you, as Dora Stutler, heard of 7 West Virginia Secondary School Activities 8 Commission? 9 A Yes. 10 Q Can you tell me what it is? 02:54:06 11 MS. GREEN: Object to the form. 12 This is Roberta Green on behalf of WVSSAC. 13 THE WITNESS: It's -- it's a governing body, 14 but it's made up of member -- members of the -- of 15 the schools. It's a principals organization with 02:54:26 16 the governing body of the SSAC. 17 BY MS. REINHARDT: 18 Q Is it okay if I refer to it as "WVSSAC" going 19 forward? 20 A Yes. 02:54:42 21 Q Is the county board able to delegate powers 22 to another body? 23 A Can you rephrase that or ask that in another 24 way? 25 Q Of course. I can ask a more direct question. 02:54:55 Page 71</p>	<p>1 They're -- it's a member body. It's our principals. 2 MS. DENIKER: This is Susan Deniker. I just 3 want to also state that to the extent we're talking 4 about the relationship between the Harrison County 5 board and the WVSSAC, I believe that that is topic 02:56:43 6 10, and we've designated a different witness for 7 that. 8 MS. REINHARDT: Understood. I am asking 9 Superintendent Stutler questions as it relates to 10 topic 8 at this moment. 02:56:54 11 BY MS. REINHARDT: 12 Q Does WVSSAC have any powers as it relates to 13 sports? 14 MS. GREEN: Object to the form. 15 MS. DENIKER: Same objection. 02:57:09 16 THE WITNESS: Yes. They set guidelines for 17 us to follow. 18 BY MS. REINHARDT: 19 Q When you say "us," they set guidelines for 20 the County Board of Education to follow? 02:57:18 21 MS. GREEN: Object to the form. 22 THE WITNESS: There are athletic -- yes, for 23 our athletics, in each -- our programs need to 24 follow. There's certain examples. Transfer of a -- 25 of a student from one school to another. There's 02:57:34 Page 73</p>

<p>1 guidelines. They have to follow that. There's                  2 eligibility requirements. Those are all -- but                  3 those are all rules that were voted on as the -- the                  4 principals vote on that as members of the West                  5 Virginia SSAC. But there is a governing body that 02:57:53                  6 govern all of our sport programs.                  7 BY MS. REINHARDT:                  8 Q I apologize if I'm not quite understanding.                  9 So if I can just have a little bit of clarity, I'm                  10 wondering -- so I'll ask several questions and maybe 02:58:06                  11 that will help get me to the point of understanding.                  12 WVSSAC provides guidelines, and those are                  13 presented to the county board, and the county board                  14 must follow those guidelines.                  15 Is that a correct summary of what you've 02:58:26                  16 said?                  17 MS. DENIKER: Object to the form.                  18 MS. GREEN: Objection to the form.                  19 THE WITNESS: I guess my frustration is I'm                  20 not sure what you're asking me. I know how the 02:58:40                  21 West Virginia SSAC works. I know how it governs our                  22 sporting events. And they work with our                  23 administrators and our ADs to put programs together                  24 for our kids and their athletics. It's -- it's a --                  25 it's a guide. They provide guidelines for them. 02:58:59                  Page 74</p>	<p>1 BY MS. REINHARDT:                  2 Q And what happens if there's a dispute about                  3 implementing a certain rule?                  4 MS. GREEN: Object to the form.                  5 MS. DENIKER: Objection to the form. 03:00:25                  6 I also believe that this is a topic 10 issue.                  7 MS. REINHARDT: I'm going to ask the witness                  8 to continue to answer, as I believe this falls under                  9 topic 8.                  10 MS. DENIKER: And I will permit her to answer 03:00:37                  11 with the understanding that I will not permit                  12 multiple witnesses to be asked the same questions                  13 with regards to the same issues.                  14 MS. REINHARDT: Understood. Thank you.                  15 BY MS. REINHARDT: 03:00:53                  16 Q Would you like me to repeat my question?                  17 A Yes, please.                  18 MS. REINHARDT: Could the court reporter                  19 please read back my last question?                  20 THE REPORTER: Yes. 03:01:11                  21 (Record read.)                  22 MS. GREEN: Object to the form.                  23 MS. DENIKER: Same objections I've already                  24 raised.                  25 THE WITNESS: I can tell you, in Harrison 03:01:23                  Page 76</p>
<p>1 And there are -- if we do not follow certain                  2 things, and there is a -- someone says, hey, I don't                  3 agree with that, yes, there are ways to appeal that,                  4 and there could be hearings for athletes.                  5 BY MS. REINHARDT: 02:59:17                  6 Q So --                  7 A But there are rules that we have to follow                  8 for our athletic programs.                  9 Q And those rules are provided by WVSSAC?                  10 MS. GREEN: Object to the form. 02:59:31                  11 MS. DENIKER: Objection to the form.                  12 THE WITNESS: Yes.                  13 BY MS. REINHARDT:                  14 Q And can you please describe the process to me                  15 if the county board doesn't agree with a guideline 02:59:40                  16 or a rule set by WVSSAC?                  17 MS. GREEN: Object to the form.                  18 THE WITNESS: Well, I -- I think you have to                  19 go back to what the -- how their -- their rules come                  20 to us. You have your administrators all as a 02:59:56                  21 part -- they're members of this. So they're the                  22 ones creating these rules, voting on these rules.                  23 So we -- once those rules are passed by a                  24 majority of those members, we follow the rules.                  25 ///</p> <p style="text-align: right;">Page 75</p>	<p>1 County, our ADs and our administrators are following                  2 those rules.                  3 BY MS. REINHARDT:                  4 Q So all of the rules set by WVSSAC are                  5 currently being followed by the County Board of 03:01:38                  6 Education?                  7 MS. GREEN: Object to the form.                  8 MS. REINHARDT: I can also --                  9 THE WITNESS: That I'm aware of.                  10 MS. REINHARDT: Oh, I apologize. 03:01:51                  11 Would Mrs. Deniker and Mrs. Green make a                  12 standing objection to these topics?                  13 MS. GREEN: I'm perfectly fine to keep                  14 objecting. It's possible some of them would be,                  15 yeah. But my -- my objections go to foundation and 03:02:05                  16 scope, and I'm not sure what else, so...                  17 MS. DENIKER: At this point, I don't see a                  18 need for a continuing objection, but if we get to a                  19 place where I think that that is appropriate, I will                  20 -- we can discuss that. Thank you for that offer. 03:02:25                  21 MS. REINHARDT: No problem.                  22 BY MS. REINHARDT:                  23 Q You may answer, Superintendent Stutler.                  24 A Are you asking if a -- an administrator has                  25 an objection to the rule or the athlete has an 03:02:36                  Page 77</p>

<p>1 objection to the rule?                  2 Q I'm asking about the County Board of                  3 Education. So if -- if it makes more sense, an                  4 administrator.                  5 MS. DENIKER: Objection to the form. 03:02:54                  6 THE WITNESS: I am unaware of any objections                  7 to the SSAC rules in Harrison County from our                  8 administrators.                  9 BY MS. REINHARDT:                  10 Q Thank you. Does the County determine player 03:03:05                  11 eligibility?                  12 MS. GREEN: Object to the form.                  13 MS. DENIKER: Also object to the form.                  14 And again, I'm going to object that this is                  15 beyond the scope of topic 9, and I believe that it 03:03:27                  16 clearly falls within -- within topic 10.                  17 BY MS. REINHARDT:                  18 Q I'm going to ask you to go into the "Marked                  19 Exhibit" folder and please pull up Exhibit 24.                  20 Please let me know once you have it up. 03:03:56                  21 A Yes, it's there.                  22 Q So if you look at topic 8, which I believe,                  23 at the bottom, is page 7, it states (as read):                  24 "The Harrison County Board and the                  25 County Superintendent's current 03:04:15                  Page 78</p>	<p>1 this has been asked and answered.                  2 MR. TRYON: Objection.                  3 David Tryon.                  4 BY MS. REINHARDT:                  5 Q Were there any additional documents that you 03:05:25                  6 reviewed?                  7 MS. DENIKER: Same objection.                  8 THE WITNESS: Information on the secondary                  9 school activities commission.                  10 BY MS. REINHARDT: 03:05:37                  11 Q What information on the West Virginia                  12 Secondary School Activities Commission?                  13 A When they're governing body and how they                  14 interact with counsels in their role.                  15 MS. REINHARDT: So, Susan, I believe these 03:05:54                  16 fall directly under the questions that I'm asking,                  17 and it sounds like Superintendent Stutler is                  18 prepared to answer these questions.                  19 MS. DENIKER: Well, I object to that because                  20 I believe that topic 8 is in the context of House 03:06:06                  21 Bill 3293. You're asking general questions with                  22 regard to the relationship between Harrison County                  23 Board of Education and the WVSSAC, which I believe                  24 are within the scope of topic 10. I -- I understand                  25 topic 8 to be in the context solely of House Bill 03:06:23                  Page 80</p>
<p>1 and/or expected role in                  2 implementing, monitoring,                  3 supervising, regulating, and                  4 enforcing H.B. 3293, including any                  5 delegation of authority to or 03:04:24                  6 supervision over the West Virginia                  7 Secondary School Activities                  8 Commission."                  9 Did you prepare for this topic?                  10 A I did. 03:04:34                  11 Q And can you please remind us what you did in                  12 preparation of topic 8?                  13 MS. DENIKER: And again, I will instruct you                  14 not to answer about any communications you had with                  15 counsel. 03:04:49                  16 THE WITNESS: Reading over documents in -- in                  17 prep for this meeting today.                  18 BY MS. REINHARDT:                  19 Q And --                  20 A And House Bill 3293. 03:05:00                  21 Q And which documents were those?                  22 A I read the house bill, 3293.                  23 Q That was the only document you read related                  24 to this topic?                  25 MS. DENIKER: Objection to the extent that 03:05:16                  Page 79</p>	<p>1 3293.                  2 MS. REINHARDT: I will continue to set a                  3 foundation, and I will allow you to have a standing                  4 objection, if you would like, or you can continue to                  5 object. 03:06:36                  6 BY MS. REINHARDT:                  7 Q But I would ask you, Superintendent Stutler,                  8 if the county board determines player eligibility.                  9 MS. GREEN: Object to the form.                  10 MS. DENIKER: I object to the form, too. 03:06:48                  11 And I just want to say one more time that I                  12 will object to you asking these general questions of                  13 a different witness if you get -- if you have these                  14 questions asked and answered of this witness.                  15 MS. REINHARDT: Understood. 03:07:01                  16 MS. DENIKER: And to the extent you do not                  17 know the answers to the question --                  18 THE WITNESS: Just say "I don't know"?                  19 MS. DENIKER: -- you may answer accordingly.                  20 THE WITNESS: Eligibility is -- there's a 03:07:13                  21 guideline for what eligibility -- the requirements                  22 for eligibility for a student athlete.                  23 BY MS. REINHARDT:                  24 Q And is that guideline through the County                  25 Board of Education? 03:07:23                  Page 81</p>

1 MS. DENIKER: Objection to form.  
 2 THE WITNESS: No. It's SSAC rules.  
 3 BY MS. REINHARDT:  
 4 Q What happens if there's a dispute between the  
 5 county board and WVSSAC as it pertains to player 03:07:32  
 6 eligibility?  
 7 MS. GREEN: Object to the form.  
 8 MS. DENIKER: Objection to the form.  
 9 THE WITNESS: I am unaware of any objections  
 10 with my ADs, my school administrators, with SSAC 03:07:49  
 11 rules.  
 12 BY MS. REINHARDT:  
 13 Q Is there a process in place for a dispute  
 14 between the county board and WVSSAC regarding their  
 15 guidelines? 03:08:06  
 16 MS. GREEN: Object to the form.  
 17 A There is a process for a student  
 18 athlete or -- yeah, an athlete. If they disagree  
 19 with something that the AD or the coach or the  
 20 administrator has said, they can ask for a hearing. 03:08:28  
 21 BY MS. REINHARDT:  
 22 Q And would this also be true for H.B. 3293?  
 23 MS. GREEN: Object to the form.  
 24 MS. DENIKER: Objection to the form.  
 25 MR. TRYON: I'm going to join the objection. 03:08:48  
 Page 82

1 THE WITNESS: No. Because we are not  
 2 operating under House B. -- House Bill 3293.  
 3 BY MS. REINHARDT:  
 4 Q Despite the injunction, if one was not put in  
 5 place, would the process that you've described be 03:09:05  
 6 the same for H.B. 3293?  
 7 MS. DENIKER: Object to the form.  
 8 THE WITNESS: If a student -- if a student  
 9 athlete is objecting to something, according to SSAC  
 10 rules, they could follow that process. 03:09:20  
 11 BY MS. REINHARDT:  
 12 Q Thank you. Did the county board have any  
 13 conversations with WVSSAC prior to the enactment of  
 14 H.B. 3293 about students who are transgender  
 15 participating in sports? 03:09:40  
 16 A No.  
 17 Q Do you know who Bernie Dolan is?  
 18 A Yes.  
 19 Q Who is Bernie Dolan?  
 20 A He's the executive director of the SSAC. 03:09:52  
 21 Q Did the county board have any conversations  
 22 with Mr. Dolan, prior to the enactment of H.B. 3293,  
 23 about students who are transgender participating in  
 24 sports?  
 25 A No. 03:10:11  
 Page 83

1 Q Did you, Superintendent Stutler, have any  
 2 conversations with Mr. Dolan regarding transgender  
 3 students participation in sports?  
 4 A No.  
 5 MS. REINHARDT: I am now going to move tab 7 03:10:27  
 6 into the exhibit folder, if you could please just  
 7 give me one second. That will be marked as  
 8 Exhibit 26.  
 9 I'll let you know once I've placed it in the  
 10 folder. 03:10:47  
 11 Okay. You may refresh. And please let me  
 12 know once you see Exhibit 26.  
 13 (Exhibit 26 was marked for identification  
 14 by the court reporter and is attached hereto.)  
 15 THE WITNESS: I see that. 03:11:16  
 16 BY MS. REINHARDT:  
 17 Q Have you, Superintendent Stutler, seen this  
 18 document before?  
 19 A I don't recall seeing that.  
 20 Q Now, I know there are quite a few people 03:11:23  
 21 listed on this e-mail. I'm wondering if these are  
 22 all employees of the county board?  
 23 MS. DENIKER: Objection to the form.  
 24 And, also, I don't believe that there's a  
 25 question. 03:11:41  
 Page 84

1 BY MS. REINHARDT:  
 2 Q Are any of these e-mails in the "To" column  
 3 employees of the county board?  
 4 A I'm looking at the names. I do not --  
 5 there's a -- it looks like David that's under the 03:12:11  
 6 exhibit, Exhibit 26. What's that? I don't know  
 7 that name.  
 8 There is one AD on there for Harrison County,  
 9 high school principal, high school assistant. It  
 10 looks like this may have went to high school 03:12:21  
 11 principals, ADs.  
 12 Q So there are -- great.  
 13 A Okay.  
 14 Q You're seeing several employees of the County  
 15 Board of Education in the "To" column; correct? 03:12:39  
 16 A Yes.  
 17 Q And so in this e-mail, it reads "Dear  
 18 Principals and ADs."  
 19 Does ADs stand for administrators?  
 20 A No. That's athletic director. 03:12:51  
 21 Q Thank you for clarifying.  
 22 It goes on to say (as read):  
 23 "Below are a couple of bills that  
 24 will impact your school."  
 25 Am I reading that correctly? 03:13:09  
 Page 85

1 A Yes.  
 2 Q On the next page, it says (as read):  
 3 "HB 3293 - Transgender bill. Please  
 4 read."  
 5 Am I reading that correctly? 03:13:16  
 6 A Yes.  
 7 Q Do you, Superintendent Stutler, agree that  
 8 H.B. 3293 is properly characterized as a transgender  
 9 bill?  
 10 MS. DENIKER: Objection -- 03:13:34  
 11 MS. GREEN: Object to the --  
 12 MS. DENIKER: -- to the form.  
 13 MS. GREEN: Object to the form.  
 14 MR. TRYON: Objection.  
 15 THE WITNESS: I'm reading that. I think that 03:13:53  
 16 was sent as just a small piece of information. I --  
 17 I take nothing from that, really.  
 18 BY MS. REINHARDT:  
 19 Q Do you know --  
 20 A I think that was sent to AEs (sic) -- ADs and 03:14:03  
 21 the -- and the administrators.  
 22 Q I apologize. Can you please just repeat the  
 23 last portion?  
 24 A I said that was sent to some ADs and  
 25 administrators. I don't know what the intent of 03:14:16  
 Page 86

1 that was.  
 2 Q Do you know why Mr. Dolan would characterize  
 3 H.B. 3293 as a transgender bill?  
 4 MS. GREEN: Object to the form.  
 5 MS. DENIKER: Objection to the form. 03:14:28  
 6 MR. TRYON: Speculation.  
 7 THE WITNESS: No.  
 8 BY MS. REINHARDT:  
 9 Q Do you agree with the characterization that  
 10 H.B. 3293 is a transgender bill? 03:14:37  
 11 MS. DENIKER: Objection to the form.  
 12 MS. GREEN: And I'll object to the form.  
 13 MR. TRYON: Objection. Asked and answered.  
 14 (Simultaneous speaking.)  
 15 THE REPORTER: I can't get all of your  
 16 objections at the same time. I know it's hard being  
 17 on Zoom. If you don't mind going off the record --  
 18 it's hard, with the cameras off, to see who is  
 19 speaking and objecting, so maybe to make it easier,  
 20 we either turn them on or try and take our time and  
 21 answer one at a time. Thank you.  
 22 MR. TRYON: This is Dave Tryon. My objection  
 23 is asked and answered.  
 24 THE REPORTER: Thank you.  
 25 MS. DENIKER: This is Susan Deniker. I 03:15:13  
 Page 87

1 objected to form and then also objected that it had  
 2 been asked and answered.  
 3 MS. GREEN: This is Roberta Green on behalf  
 4 of SSAC. I objected to the form.  
 5 BY MS. REINHARDT: 03:15:33  
 6 Q Unless your counsel directs you otherwise,  
 7 you may answer.  
 8 A I don't know what the intent is with that.  
 9 Q I'm asking if you agree with the  
 10 characterization. 03:15:47  
 11 MS. GREEN: Same objection.  
 12 MS. DENIKER: Same objection.  
 13 MR. TRYON: Objection.  
 14 THE WITNESS: I would not be able to speak  
 15 whether I agree or disagree for the board. 03:15:59  
 16 BY MS. REINHARDT:  
 17 Q Do you know why Mr. Dolan would send this  
 18 e-mail to the principals and -- and athletic  
 19 directors?  
 20 MS. GREEN: I'm going to object to the form, 03:16:13  
 21 foundation, scope and speculative.  
 22 MS. DENIKER: Object to form.  
 23 THE WITNESS: I would have no idea.  
 24 BY MS. REINHARDT:  
 25 Q Thank you. And just to expedite my next few 03:16:23  
 Page 88

1 questions, I want to see if I can confirm what you  
 2 previously stated.  
 3 Can you confirm whether or not the county  
 4 board had any conversations with anyone outside of  
 5 the County Board of Education about H.B. 3293 as it 03:16:44  
 6 relates to students who are transgender  
 7 participating in school sports?  
 8 MS. DENIKER: Objection on the basis it's  
 9 been asked and answered.  
 10 You can answer. 03:16:59  
 11 THE WITNESS: I am unaware of any  
 12 conversations.  
 13 BY MS. REINHARDT:  
 14 Q If the preliminary injunction was not in  
 15 place, what would be required of the county board as 03:17:07  
 16 it relates to H.B. 3293?  
 17 MS. DENIKER: Objection to the form.  
 18 THE WITNESS: We -- we have not acted or  
 19 changed the way that we would continue with sports  
 20 in our athletic programs and -- 03:17:39  
 21 BY MS. REINHARDT:  
 22 Q And that -- and that's true even if the  
 23 injunction was not in place?  
 24 MS. DENIKER: Objection to the form.  
 25 THE WITNESS: The board has taken no action 03:17:52  
 Page 89

1 as it relates to this house bill.  
 2 BY MS. REINHARDT:  
 3 Q I'm asking what that'd be required to do.  
 4 MS. DENIKER: Objection to the form.  
 5 THE WITNESS: We receive the house bill. 03:18:14  
 6 It's not enacted. We've made no action on that.  
 7 And I could not speak on what actions would be  
 8 taken. We have not had to address that.  
 9 BY MS. REINHARDT:  
 10 Q Who will be responsible for promulgating 03:18:36  
 11 rules to implement H.B. 3293?  
 12 MS. GREEN: Object to the form.  
 13 MS. DENIKER: Objection to the form.  
 14 THE WITNESS: It would be the same process we  
 15 would with any new house bill or rule that we have. 03:18:49  
 16 BY MS. REINHARDT:  
 17 Q And that's in line with how you characterized  
 18 the process earlier in this deposition; is that  
 19 correct?  
 20 MS. DENIKER: Objection to the form. 03:19:04  
 21 THE WITNESS: I believe so.  
 22 BY MS. REINHARDT:  
 23 Q I am just trying to not make you reiterate  
 24 the -- your process for implementing policies, but  
 25 if you prefer, I am happy to hear that. 03:19:20  
 Page 90

1 A I think I have been asked that. It's a --  
 2 it's a complicated question. When you're talking  
 3 about board policies, our board can only enact  
 4 policies that they vote on and it becomes the  
 5 policy. We have adopted state board policy, and we 03:19:43  
 6 will mirror the language of the state board policy.  
 7 Can the County adopt their own policy? We  
 8 can. If it's presented to the board, it's acted on,  
 9 they vote on it.  
 10 I don't -- I guess I'm not sure what you're 03:20:03  
 11 asking me.  
 12 Q That answers my question. Thank you.  
 13 Could the county board issue any rules in  
 14 conflict with H.B. 3293?  
 15 A No. 03:20:26  
 16 Q To your knowledge, has the county board ever  
 17 violated any rules promulgated by the State Board of  
 18 Education?  
 19 MS. DENIKER: Objection to the form.  
 20 THE WITNESS: Not that I'm aware of. 03:20:43  
 21 BY MS. REINHARDT:  
 22 Q Thank you. I'm going to move on to topics as  
 23 they relate to topic 4.  
 24 I want to talk a little bit about  
 25 Plaintiff B.P.J. in this case and her experience in 03:20:59  
 Page 91

1 Harrison County schools. Is that okay?  
 2 A Yes.  
 3 Q Do you, Superintendent Stutler, know who  
 4 B.P.J. is?  
 5 A Yes. 03:21:11  
 6 Q Have you ever met B.P.J.?  
 7 A I have.  
 8 Q How would you describe her?  
 9 A Energetic, pleasant, athletic.  
 10 Q Have you ever seen her be distressed? 03:21:37  
 11 MS. DENIKER: Objection to the form.  
 12 THE WITNESS: I believe the questions were  
 13 prior to 2019, so are you speaking about --  
 14 I think she's going back into possibly  
 15 when -- I can't speak to that. 03:22:07  
 16 BY MS. REINHARDT:  
 17 Q I can clarify.  
 18 A In this case -- in this case.  
 19 Q I can clarify.  
 20 A I was a -- I was a principal in the building 03:22:16  
 21 with her when she was younger.  
 22 Q I can clarify. I'm only asking about your  
 23 interactions since January 1st, 2019, to present.  
 24 So in that time, have you ever seen B.P.J. be  
 25 stressed -- distressed? 03:22:31  
 Page 92

1 A No.  
 2 MS. DENIKER: Objection.  
 3 THE WITNESS: No.  
 4 BY MS. REINHARDT:  
 5 Q Have you -- have you, Superintendent Stutler, 03:22:38  
 6 interacted with any of B.P.J.'s family members?  
 7 A I have not.  
 8 Q When was the county board informed that  
 9 B.P.J. is a girl who is transgender?  
 10 MR. TRYON: Objection. 03:22:58  
 11 David Tryon.  
 12 THE WITNESS: Our county board gets  
 13 involved -- or my Title IX investigator gets  
 14 involved when a school reaches out to her to provide  
 15 assistance for a gender support plan. 03:23:12  
 16 BY MS. REINHARDT:  
 17 Q Great. And I'll have some questions about  
 18 the gender support plan in a moment.  
 19 I'm wondering, was the county board informed  
 20 that B.P.J. is a girl who is transgender only at the 03:23:24  
 21 time of the gender support plan?  
 22 MR. TRYON: Objection.  
 23 THE WITNESS: I am unaware of any time prior  
 24 to that.  
 25 ///



<p>1 BY MS. REINHARDT:                  2 Q Thank you. Was Norwood Elementary School                  3 informed that B.P.J. is a girl?                  4 MS. DENIKER: Objection to the form.                  5 MR. TRYON: Objection. 03:23:52                  6 THE WITNESS: Speaking with Tarra Shields,                  7 the administrator of Norwood Elementary, she was                  8 informed by her mother prior to going into her                  9 fourth-grade year.                  10 BY MS. REINHARDT: 03:24:13                  11 Q Was anyone else informed that B.P.J. is a                  12 girl, at Norwood Elementary School?                  13 MR. TRYON: Objection.                  14 THE WITNESS: I believe when the mother                  15 reached out to the administrator, that is what set 03:24:25                  16 in motion the gender support plan, and that's when                  17 our Title IX director was brought into the process.                  18 BY MS. REINHARDT:                  19 Q Are you familiar with the counselors at                  20 Norwood Elementary School during B.P.J.'s time there 03:24:44                  21 as a student?                  22 A Yes. Amber Davis.                  23 Q Do you know who James Thorton is?                  24 A No. There was a previous counselor there,                  25 Josh Thorton. 03:25:07</p> <p style="text-align: right;">Page 94</p>	<p>1 Principal Mazza and Heather Jackson regarding                  2 B.P.J. playing on girls' sports teams?                  3 A I am only aware of the gender support plan                  4 that took place between Heather Jackson, the mother;                  5 and Mr. Mazza, and there were a few in that meeting, 03:26:39                  6 at that gender support plan meeting.                  7 Q Were you in attendance at that meeting?                  8 A I was not.                  9 Q So how did you become aware that                  10 Principal Mazza and Heather Jackson had a meeting 03:26:58                  11 regarding the gender support plan?                  12 And please do not inform us of -- of any                  13 conversations you may have had with counsel.                  14 A I reviewed the gender support plan as it                  15 related to this case. 03:27:10                  16 Q And in preparation for this case, did you                  17 speak with Principal Mazza?                  18 A I did.                  19 Q And did you -- did he inform you of any                  20 conversation between him and Heather Jackson 03:27:26                  21 regarding B.P.J.'s ability to play on girls' sports                  22 teams?                  23 MS. DENIKER: I'm going to object to the                  24 extent that it -- that the question calls for                  25 information that she learned as part of 03:27:38</p> <p style="text-align: right;">Page 96</p>
<p>1 Q Thank you. And Josh Thorton, you said, was a                  2 counselor.                  3 Are the counselors at Norwood Elementary                  4 School employed by the county board?                  5 A Yes. 03:25:20                  6 Q What qualifications are required to become a                  7 counselor in the county board -- in the county?                  8 A They -- they have to be certified counselors                  9 through the national school counseling association                  10 and through our state. 03:25:39                  11 Q Was Mr. Thorton made aware of B.P.J.'s status                  12 as a girl who is transgender?                  13 MS. DENIKER: Objection to form.                  14 MR. TRYON: Objection.                  15 THE WITNESS: I am unaware of that. 03:25:49                  16 BY MS. REINHARDT:                  17 Q Was Principal Mazza informed that B.P.J. is a                  18 girl?                  19 MS. DENIKER: Objection to the form.                  20 THE WITNESS: I believe he was contacted when 03:26:05                  21 she was going to go there as a sixth grader and                  22 there was an update to the gender support plan.                  23 That would be when Mr. Mazza was informed.                  24 BY MS. REINHARDT:                  25 Q Are you aware of any conversation between 03:26:19</p> <p style="text-align: right;">Page 95</p>	<p>1 attorney-client privileged communications.                  2 To the extent that you have had                  3 communications with Mr. Mazza that were not part of                  4 the attorney-client privilege, you may answer, but                  5 I'm going to instruct you not to answer with regard 03:27:51                  6 to any attorney-client privileged communications.                  7 THE WITNESS: The gender support plan                  8 involved multiple people, and all the items on that                  9 gender support plan were discussed, and she checked                  10 that she would be an athlete at Bridgeport Middle. 03:28:05                  11 (Exhibit 27 was marked for identification                  12 by the court reporter and is attached hereto.)                  13 BY MS. REINHARDT:                  14 Q Thank you. I am now going to move tab 9 into                  15 the "Marked Exhibits" folder. I'll let you know 03:28:20                  16 once it's there. It will be marked as Exhibit 27.                  17 You may refresh. And please let me know once                  18 you see Exhibit 27.                  19 A I see that.                  20 Q Are you familiar with this e-mail? 03:29:05                  21 And please take your time to review it, if                  22 necessary.                  23 A I am.                  24 Q And are how are you familiar with this                  25 e-mail? 03:29:16</p> <p style="text-align: right;">Page 97</p>

1 A It was between the -- my board president and  
 2 myself.  
 3 Q Is Gary Hamrick the board president you're  
 4 referring to?  
 5 A Yes. 03:29:26  
 6 Q And what is his role?  
 7 A He's the -- I guess you want to say the  
 8 president of my board. He leads the meetings and...  
 9 Q Thank you. And if you look at the e-mail, he  
 10 writes (as read): 03:29:49  
 11 "Even though it is a new state law,  
 12 Mazza should have informed you that  
 13 he denied a transgender student."  
 14 Am I reading that correctly?  
 15 A You are. 03:30:01  
 16 Q And you respond (as read):  
 17 "Agree. First I heard."  
 18 Am I reading that correctly?  
 19 A I was agreeing that it was a new state law.  
 20 Q And were you saying -- and what did you mean 03:30:12  
 21 by "first I heard"?  
 22 A It's the first I heard that we had a -- a  
 23 lawsuit. I believe he's referring to the MetroNews  
 24 article. And I think that's where he got his  
 25 information, possibly. 03:30:36  
 Page 98

1 Q Did you speak with Principal Mazza upon  
 2 learning about the incidents alleged in the  
 3 complaint, which I believe was attached to this  
 4 e-mail?  
 5 MS. DENIKER: And again, I will just instruct 03:30:47  
 6 you that to the extent that -- you're not to answer  
 7 with regard to any attorney-client privileged  
 8 communications, but if you had other communications,  
 9 you can answer with regard to those.  
 10 THE WITNESS: Would you ask me that again. 03:31:06  
 11 BY MS. REINHARDT:  
 12 Q Did you speak with --  
 13 MS. DENIKER: If you just give me a  
 14 continuing -- I'll just continue that same  
 15 instruction, but I won't interrupt you, if that's 03:31:16  
 16 okay, so the witness can hear the question.  
 17 MS. REINHARDT: Thank you, Mrs. Deniker.  
 18 BY MS. REINHARDT:  
 19 Q I'm wondering if you spoke with Mr. Mazza  
 20 upon learning about the allegations in the 03:31:28  
 21 complaint.  
 22 A I did not.  
 23 Q Did any employees of the county board raise  
 24 concerns about B.P.J. being a girl who is  
 25 transgender? 03:31:48  
 Page 99

1 A No.  
 2 Q Under H.B. 3293, can cisgender girls play on  
 3 girls' sports teams?  
 4 MS. DENIKER: Objection to the form.  
 5 MR. TRYON: Objection. 03:32:07  
 6 THE WITNESS: Yes.  
 7 BY MS. REINHARDT:  
 8 Q Under H.B. 3293, can girls who are  
 9 transgender play on the girls' sports teams?  
 10 MS. DENIKER: Object to the form. 03:32:20  
 11 MR. TRYON: Same objection.  
 12 (Simultaneous speaking.)  
 13 MS. DENIKER: And I'm so sorry to interrupt  
 14 here, but I heard the same question you just asked,  
 15 which makes me believe that I didn't hear it 03:32:31  
 16 correctly.  
 17 So if you would preserve all of our  
 18 objections, could you ask that again, please?  
 19 MS. REINHARDT: Yes.  
 20 BY MS. REINHARDT: 03:32:41  
 21 Q Under H.B. 3293, can girls who are  
 22 transgender play on girls' sports teams?  
 23 A If it's a -- no, but they can on coed teams.  
 24 Q And what -- what's your --  
 25 (Simultaneous speaking.) 03:33:00  
 Page 100

1 BY MS. REINHARDT:  
 2 Q Oh, I apologize. Please go ahead.  
 3 A I -- I was going to say, it says no. That's  
 4 what -- that's what the house bill is.  
 5 Q And you mentioned coed. Are you referring to 03:33:12  
 6 coed sports?  
 7 A Yes.  
 8 MS. GREEN: Object to the form.  
 9 BY MS. REINHARDT:  
 10 Q Can you please tell me what your 03:33:25  
 11 understanding of -- what your understanding is of  
 12 coed sports?  
 13 MS. GREEN: Object to the form.  
 14 THE WITNESS: That the team is available to  
 15 either male or female athletes. 03:33:37  
 16 (Exhibit 28 was marked for identification  
 17 by the court reporter and is attached hereto.)  
 18 BY MS. REINHARDT:  
 19 Q I'm going to move tab 20 into the "Marked  
 20 Exhibits" folder. It will be Exhibit 28. I'll let 03:33:55  
 21 you know when you can refresh.  
 22 You may refresh. Please let me know once you  
 23 have reviewed Exhibit 28.  
 24 A I see it.  
 25 Q It says on page 2, under "Bridgeport High 03:34:34  
 Page 101

<p>1 School," where it lists "Football," it says,                  2 "Co-Ed."                  3 Can you explain to me why football is -- why                  4 it says football is coed?                  5 MS. GREEN: Object to the form. 03:34:53                  6 THE WITNESS: I believe there's not a -- a                  7 football -- female football team, so they created a                  8 coed team because there's not a counterpart for a                  9 female athlete to participate.                  10 BY MS. REINHARDT: 03:35:10                  11 Q Can you please explain that to me a little                  12 bit further?                  13 So it's marked as coed because there's not a                  14 girls team; is that correct?                  15 A Correct. 03:35:19                  16 MS. DENIKER: Object to the form.                  17 BY MS. REINHARDT:                  18 Q So why would it be marked co- -- I'll                  19 rephrase.                  20 Generally, if I'm understanding correctly, 03:35:29                  21 the football team would be a boys' team, and it is                  22 marked "Co-Ed" because there is no girls' team; is                  23 that correct?                  24 MS. GREEN: Object to the form.                  25 A I have no idea. We've -- we've had girls 03:35:55                  Page 102</p>	<p>1 A I -- they -- they run together. They                  2 practice together. They run together. They go to                  3 meets together. It's treated more as a coed sport.                  4 Q So do girls run during the boys' meets?                  5 A Can I just say I'm not familiar with 03:37:38                  6 cross-country, other than I know how it works there,                  7 because I've never coached that, I've never been                  8 responsible for that in my current -- or in my                  9 previous duties.                  10 Q Understood. And to the extent that you -- to 03:38:02                  11 the extent that you do know, are there -- one                  12 second.                  13 Do the girls' team have different winners                  14 than the boys' team?                  15 MS. GREEN: Object to the form. 03:38:27                  16 MS. DENIKER: Object to the form.                  17 THE WITNESS: I will say that middle school                  18 sports is a competitive sport, so there are winners                  19 and losers.                  20 BY MS. REINHARDT: 03:38:35                  21 Q As it's listed here in Exhibit 20 (sic), it                  22 says, girls' sport -- or "Girls Cross-Country" and                  23 then "Girls" in the next column -- oh, I'm sorry.                  24 Exhibit 28. I apologize.                  25 It says, "Girls Cross-Country" in the first 03:38:51                  Page 104</p>
<p>1 play on football teams for a long time. They could                  2 be kickers. They've -- they've been on football                  3 teams for quite a while.                  4 BY MS. REINHARDT:                  5 Q And is that true of the wrestling team as 03:36:06                  6 well?                  7 MS. GREEN: Object to the form.                  8 A Yes, we do have -- yes, we have female                  9 wrestlers.                  10 BY MS. REINHARDT: 03:36:19                  11 Q Okay. Great. You can take down that exhibit                  12 for now.                  13 Prior to H.B. 3293, what team would B.P.J. be                  14 required to play on?                  15 MS. DENIKER: Objection to the form. 03:36:32                  16 THE WITNESS: She chose to run cross-country.                  17 It's a coed sport.                  18 BY MS. REINHARDT:                  19 Q Sorry, I'm going to ask you to please re-pull                  20 up Exhibit 28. 03:36:50                  21 And if you look at page 4, under "Bridgeport                  22 Middle School," it says (as read):                  23 "Boys Cross-Country, Boys.                  24 "Girls Cross-Country, Girls."                  25 So what do you mean by it is a coed sport? 03:37:13                  Page 103</p>	<p>1 column and "Girls" in the second column.                  2 So would that mean that girls would be the                  3 winners on the girls' cross-country team?                  4 A I would assume so.                  5 Q Prior to H.B. 3293, what team would 03:39:11                  6 B.P.J. play on?                  7 MS. DENIKER: Objection to the form.                  8 MS. GREEN: Object to the form.                  9 THE WITNESS: Prior to that rule, she would                  10 have been rostered as what her birth certificate 03:39:34                  11 said.                  12 BY MS. REINHARDT:                  13 Q Are you aware of what her birth certificate                  14 says?                  15 A It's whatever is in WVEIS. 03:39:48                  16 Q Are you aware of what is in WVEIS?                  17 A I'm not aware of that. I'm not sure what --                  18 where she's at.                  19 Q Prior to H.B. 3293, what team would                  20 transgender boys play on? 03:40:09                  21 MS. DENIKER: Objection to the form.                  22 MR. TRYON: Objection.                  23 MS. GREEN: Objection.                  24 THE WITNESS: You said transgender boys prior                  25 to? 03:40:31                  Page 105</p>

<p>1 BY MS. REINHARDT:                  2 Q Correct.                  3 A They would be rostered the same as their --                  4 whatever they are on WVEIS. We would be required to                  5 roster them male or female. 03:40:49                  6 Q Why are you required?                  7 MS. GREEN: Object to the form.                  8 THE WITNESS: That's the rules we have from                  9 the WVSSAC say.                  10 BY MS. REINHARDT: 03:41:15                  11 Q You said the rules from WSSAC (sic)? Did I                  12 hear that properly?                  13 MS. GREEN: Object to the form.                  14 A Yes. And we do go by what is in WVEIS.                  15 BY MS. REINHARDT: 03:41:33                  16 Q Is there a benefit to playing on sports                  17 teams?                  18 MS. DENIKER: Objection to the form.                  19 THE WITNESS: Absolutely.                  20 BY MS. REINHARDT: 03:41:45                  21 Q What are those benefits?                  22 A Cooperation, teamwork, watching out for your                  23 fellow players. There's a lot of benefit to having                  24 a team sport.                  25 Q Would you say B.P.J. benefited from 03:41:59                  Page 106</p>	<p>1 Q For sports specifically, what rule requires                  2 you to follow the gender/sex listed in WVEIS?                  3 MS. GREEN: Object to the form.                  4 MS. DENIKER: Same objection.                  5 THE WITNESS: It's the -- it's the same. 03:43:45                  6 It's -- it's a guideline for us. We -- we do not                  7 have -- I do not have the legal authority and I sure                  8 wouldn't want my AD or my administrator to have that                  9 legal authority to make that change. We ask for                  10 either a judge or someone above us to tell us that. 03:44:03                  11 BY MS. REINHARDT:                  12 Q Do you know where this rule comes from?                  13 MS. DENIKER: Object to the form.                  14 THE WITNESS: I do not.                  15 BY MS. REINHARDT: 03:44:30                  16 Q Are you aware of whether the County has                  17 followed this rule across the board for all                  18 students?                  19 A I can speak to cases. We've -- we have                  20 previous cases. When we get a court order or a 03:44:46                  21 document with a new birth certificate and a name                  22 change, we take care of that at the county level in                  23 WVEIS, and we change that.                  24 Q Thank you. Do you know where we might be                  25 able to find the rule you are referring to? 03:45:08                  Page 108</p>
<p>1 participating in sports?                  2 MS. DENIKER: Objection to the form.                  3 MR. TRYON: Objection.                  4 THE WITNESS: I can't speak for her, but I                  5 hope she did. I hope she had a great experience. 03:42:09                  6 BY MS. REINHARDT:                  7 Q And I'm just trying to further understand how                  8 WVEIS works.                  9 What rule requires you to follow the gender                  10 listed in WVEIS? 03:42:24                  11 MS. GREEN: Objection to the form.                  12 THE WITNESS: WVEIS allows us to put -- when                  13 we have -- when we have a student ask for a certain                  14 name, we're allowed to put that in there so that                  15 during the course of the day, they can use their 03:42:42                  16 name that they choose to be called by, but because                  17 WVEIS is a database that generates legal documents,                  18 graduation transcripts, is -- is the big thing. I                  19 mean, it is -- it's a legal -- it's what generates                  20 the legal documents later. It's a record of their 03:43:09                  21 school. It's a -- it's a legal record.                  22 So we only make changes in WVEIS if we have a                  23 court order or a birth certificate that tells us                  24 gender, their sex, male or female.                  25 BY MS. REINHARDT: 03:43:29                  Page 107</p>	<p>1 MS. GREEN: Object to the form.                  2 MS. DENIKER: Object to the form.                  3 THE WITNESS: We -- we clarified that, there                  4 was a call to our West Virginia Department of Ed --                  5 I can't even recall when it was. It was under -- 03:45:22                  6 when I was working for the previous                  7 superintendent -- that we cannot change the legal                  8 record in WVEIS without a court order or a new birth                  9 certificate.                  10 MS. REINHARDT: Court reporter, would you 03:45:46                  11 please mind rereading my last question.                  12 (Record read.)                  13 BY MS. REINHARDT:                  14 Q I just want clarity. If you could please                  15 answer that question directly. 03:46:06                  16 A I would direct you to the State Department of                  17 Education.                  18 Q Thank you. Did you ever receive any                  19 complaints about any transgender students                  20 participating in sports at Bridgeport Middle School? 03:46:25                  21 A I did not.                  22 Q Are you aware of any complaints about a                  23 transgender student participating in sports at                  24 Bridgeport Middle School?                  25 A I am unaware of any complaints. 03:46:47                  Page 109</p>

1 Q Are you aware if any transgender students,  
 2 other than B.P.J., have played sports in West  
 3 Virginia?  
 4 MR. TRYON: Objection.  
 5 THE WITNESS: I would -- I would not have 03:47:02  
 6 that knowledge.  
 7 MS. REINHARDT: So before I move on to the  
 8 next set of topics, we've been going for about an  
 9 hour, I'm happy to continue, but I wanted to see if  
 10 anyone needed a break. 03:47:18  
 11 THE WITNESS: I'm fine.  
 12 MS. REINHARDT: Great.  
 13 BY MS. REINHARDT:  
 14 Q So my next line of questioning pertains to  
 15 topics 4 and 5. I'm going to move tab 12 into the 03:47:27  
 16 "Marked Exhibits" folder. It's been previously  
 17 marked as Exhibit WV-17.  
 18 You may refresh. It should be there.  
 19 A We have it.  
 20 Q Have you seen this document before? 03:48:31  
 21 A I have.  
 22 Q And without disclosing any information you  
 23 may have had with counsel, when did you see this  
 24 document?  
 25 A In prep for this deposition. 03:48:45  
 Page 110

1 Q And on the first page, do you see where it  
 2 says "Today's Date"?  
 3 A Yes.  
 4 Q And it says "8-23-19"; is that correct.  
 5 A Yes. 03:49:06  
 6 Q Do you know what the purpose of the gender  
 7 support plan is?  
 8 A Yes. It's the -- to bring everybody together  
 9 that's working with the -- the student and come up  
 10 with a plan. 03:49:21  
 11 Q Has the gender support plan ever been  
 12 requested other than for B.P.J.?  
 13 A Yes.  
 14 Q When was it requested?  
 15 MS. DENIKER: Objection to the form. 03:49:38  
 16 THE WITNESS: I could not give you specifics  
 17 on that. I know it has been requested throughout  
 18 Harrison County.  
 19 BY MS. REINHARDT:  
 20 Q Who created this document? 03:49:48  
 21 A This document was initially created with  
 22 support from Dr. Cris Mayo at WVU and with our  
 23 Title IX investigator. She was kind of given the  
 24 role to develop a plan. And we have an adolescent  
 25 coordinator that works for seven counties that had 03:50:15  
 Page 111

1 been involved in some of this.  
 2 But it was with -- with Dr. Cris Mayo and my  
 3 Title IX director and just -- information, and they  
 4 put this together.  
 5 Q Do you recall when that was? 03:50:33  
 6 And I apologize if you said it and I did not  
 7 hear you.  
 8 A I'm trying to think of the year. '18 -- I'm  
 9 trying to think of the year. It would have been --  
 10 we had -- we had an issue a -- a few years ago, and 03:50:55  
 11 it generated this -- a need for it. As we  
 12 discovered, we had a need for this. So that's where  
 13 it came from.  
 14 I'm thinking 2018, the prior year. Might  
 15 have been '19. 03:51:13  
 16 Q And when you say there was a need for this,  
 17 can you -- can you explain what you mean by there  
 18 was a need for this?  
 19 MS. DENIKER: I'm going to object to the  
 20 form. I'm also going to object to any discussion 03:51:27  
 21 that is student-specific so we can avoid any HIPAA  
 22 issues.  
 23 THE WITNESS: Well, we have -- when our  
 24 administrators reach out and ask questions and we  
 25 had more students requesting to be called by other 03:51:46  
 Page 112

1 names and -- you know, of course, it was new for us.  
 2 We're trying to understand it. So it generated a  
 3 need to have a -- a protocol in place or guidelines  
 4 for our schools to follows so we're all working in  
 5 the same direction and focused. 03:52:03  
 6 BY MS. REINHARDT:  
 7 Q Does the county board -- and again, when I  
 8 refer to the county board, I mean the entire County  
 9 Board of Education.  
 10 Does the county board provide the gender 03:52:15  
 11 support plan to the schools?  
 12 A The gender support plan was generated in our  
 13 county office and provided to the schools, yes.  
 14 Q Thank you. And does the county board receive  
 15 a copy of completed gender support plans? 03:52:37  
 16 A We do not. They're kept at the school level,  
 17 in the student file.  
 18 Q Are they kept in WVEIS at all?  
 19 A No. The only thing in WVEIS is a name that  
 20 the student uses, in parentheses, that they would 03:52:55  
 21 prefer to be called.  
 22 Q Do you know why it isn't stored in WVEIS?  
 23 A That's not the role of WVEIS. We have other  
 24 documents that we prepare at the school level that  
 25 take care of our kids. We have multiple plans that 03:53:11  
 Page 113

1 we use, and -- and they're kept in the school file.  
 2 You have to understand that the kids that are  
 3 interacting -- or the people and -- and faculty that  
 4 are interacting with those children at the school  
 5 are the frontline people that need to know and -- so 03:53:30  
 6 it's kept there so the school has access to it and  
 7 input into it. They know the people involved.  
 8 Q Does sex change in WVEIS as a result of the  
 9 gender support plan?  
 10 A No. 03:53:55  
 11 Q I want to look at this first page where it  
 12 says "Meeting Participants."  
 13 Who is Sarah -- oh, I apologize, you've  
 14 already explained.  
 15 Sarah Starkey is the Title IX director; is 03:54:09  
 16 that correct?  
 17 A Yes, she is.  
 18 Q And why was she in attendance?  
 19 A When we began doing the gender support plans,  
 20 we put that under her purview, in her department. 03:54:24  
 21 So she is the one that's been with this from the  
 22 ground up. She's a great support for our -- our  
 23 administrators and our families. She also is a  
 24 social worker. She has an excellent background, a  
 25 Title IX investigator. She's the right person to be 03:54:40  
 Page 114

1 involved in this.  
 2 Q Does she attend all gender support plan  
 3 meetings?  
 4 A She is invited to all of them, and she tries  
 5 to. But we're a large county. Sometimes she is 03:54:53  
 6 not.  
 7 Q And again, I apologize if you've already  
 8 said, but who is Tarra Shields?  
 9 A Tarra Shields is the principal at  
 10 Norwood Elementary. 03:55:08  
 11 Q And who is Jasmine Lowther?  
 12 A Jasmine Lowther is the fourth-grade teacher  
 13 at Norwood Elementary.  
 14 Q And why was she at the gender support plan  
 15 meeting? 03:55:24  
 16 A Jasmine Lowther was the fourth-grade teacher.  
 17 This would have been done in August when school was  
 18 starting, and Becky would have been going into the  
 19 fourth grade. So that would have been her classroom  
 20 teacher. 03:55:36  
 21 Q And, finally, why was Nurse Tina at the  
 22 gender support plan meeting?  
 23 A When we do a comprehensive plan at the  
 24 school, we generally bring in any health support  
 25 people. They're just usually part of the school 03:55:54  
 Page 115

1 planning team. We have, you know, of course,  
 2 anybody related to counseling, and nursing is a big  
 3 part of that school, and so she was part of the  
 4 plan.  
 5 Q Thank you. I'm going to ask you to turn to 03:56:06  
 6 the next page. It's Bates-Stamped number, at the  
 7 bottom, BPJ 008.  
 8 And at the top, it states (as read):  
 9 How will teach --  
 10 "How will a teacher/staff member 03:56:21  
 11 respond to any questions about the  
 12 student's gender from:"  
 13 And then it lists three different incidents.  
 14 Do you see that?  
 15 A Yes, I see that. 03:56:39  
 16 Q And it lists "Other students? Staff members?  
 17 Parents/community?"  
 18 Is that correct?  
 19 A Yes.  
 20 Q For each group, it states (as read): 03:56:46  
 21 "Be open and honest — she is Becky."  
 22 Do you see that?  
 23 A Yes.  
 24 Q What does it mean by "be open and honest"?  
 25 MS. DENIKER: Objection to the form. 03:57:00  
 Page 116

1 THE WITNESS: I think with any student, we --  
 2 we want to be open and honest and just -- we want  
 3 them to be -- be in a happy place.  
 4 BY MS. REINHARDT:  
 5 Q So is your understanding that when it states 03:57:18  
 6 "be open and honest," that they're directing the --  
 7 they're directing the teachers or staff members to  
 8 be open and honest?  
 9 MR. TRYON: Objection.  
 10 MS. DENIKER: Objection to form. 03:57:29  
 11 THE WITNESS: Well, it's talking about other  
 12 students, staff members. You've got to look at this  
 13 plan in -- in its entirety. You're looking at a  
 14 school and a group of individuals that's dealing  
 15 with Becky every day, and they're trying to make 03:57:44  
 16 this plan, and I want to say as open and honest and  
 17 as real as possible for her so that when she comes  
 18 to school every day, she feels safe and secure and  
 19 she belongs there.  
 20 So if you go back to the front page, every 03:58:00  
 21 person that's involved with Becky at that school is  
 22 listed. And including Becky. Becky was there.  
 23 So the language on here was developed as a  
 24 group so they could make it a great environment for  
 25 her. They wanted her to be successful. 03:58:12  
 Page 117

<p>1 BY MS. REINHARDT:                  2 Q I'm simply trying to understand what "open                  3 and honest" means.                  4 MS. DENIKER: Same objection.                  5 BY MS. REINHARDT: 03:58:27                  6 Q So in this context, what does "open and                  7 honest" mean?                  8 A I --                  9 MR. TRYON: Objection.                  10 THE WITNESS: I was not in that meeting. 03:58:32                  11 I was not in that meeting. It means what it                  12 means, that you're open and honest. I -- I don't                  13 know. I would not be able to speak to what that                  14 meaning is --                  15 BY MS. REINHARDT: 03:58:42                  16 Q I'm going to --                  17 A -- other than they -- they wanted her to be                  18 in a safe, secure environment.                  19 Q I'm going to move tab 13 into the "Marked                  20 Exhibits" folder. And it was previously marked as 03:58:53                  21 Exhibit WV-19.                  22 Do you see that?                  23 A I do.                  24 Q And were you in attendance for this gender                  25 support plan meeting? 03:59:15</p> <p style="text-align: right;">Page 118</p>	<p>1 Q What does the -- what does the double                  2 parentheses mean?                  3 A That means in WVEIS, in the -- in the WVEIS                  4 system, outside of her official given name, it will                  5 be in parentheses what her preferred name is. 04:01:05                  6 Q So this -- what's written here is pertaining                  7 to B.P.J.'s name; correct?                  8 A Yes.                  9 Q So the --                  10 A How she would have identified in WVEIS. 04:01:23                  11 Q So are the double brackets in WVEIS empty, or                  12 is there somebody in -- I'll just ask that first.                  13 Is the -- are the double brackets in WVEIS empty?                  14 A No. It has "Becky."                  15 Q So if I'm understanding correctly, it says 04:01:38                  16 gender will be male, but in WVEIS, next to "male,"                  17 it will say "Becky"; is that correct?                  18 MS. DENIKER: Objection to the form.                  19 THE WITNESS: It's by her name. It's her --                  20 her -- her official name is there, and "Becky" is in 04:02:00                  21 parentheses on that line.                  22 BY MS. REINHARDT:                  23 Q Thank you for clarifying.                  24 I'm going to ask you to turn to what's page 4                  25 that says BPJ 010, and near the bottom, it says (as 04:02:09</p> <p style="text-align: right;">Page 120</p>
<p>1 A I was not. The participants are listed.                  2 Q And if you go to that second page, where it                  3 says "BPJ 003," similarly, under "How will a                  4 teacher/staff member respond to any questions about                  5 a student's gender from:" and lists those three 03:59:34                  6 categories, it says (as read):                  7 "Be open and honest — she is Becky,                  8 and that makes her happy."                  9 Did you speak to anyone about either of these                  10 gender support plans? 03:59:49                  11 A When we were preparing for today's                  12 deposition.                  13 Q And not including your attorney, did anyone                  14 provide clarity on what it means to be "open and                  15 honest — she is Becky"?. 04:00:09                  16 A No, not specifically.                  17 Q Thank you. If you could please go back to                  18 that previously marked exhibit, WV-17.                  19 A Yes.                  20 Q And on that second page, BPJ 008, closer to 04:00:33                  21 the bottom of the page, it says (as read):                  22 "Gender will be male, but Becky will                  23 be in ( ) next to birth name."                  24 Do you see that?                  25 A I do. 04:00:50</p> <p style="text-align: right;">Page 119</p>	<p>1 read):                  2 "What training(s) will the school                  3 engage in to build capacity for                  4 working with gender-expansive                  5 students? How will the school work 04:02:26                  6 to create more gender inclusive                  7 conditions for all students?"                  8 Did I read that correct?                  9 A Yes.                  10 Q And the answer says (as read): 04:02:34                  11 Norwood staff receives (sic)                  12 training on tolerance and cultural                  13 diversity and LGBTQ + AI (sic) on                  14 8/23 -- sorry -- 8/21 and -- and                  15 provided protocol and multiple 04:02:52                  16 resource -- resources (sic) sources.                  17 Did I read that correctly?                  18 A Yes.                  19 Q The date of the gender support plan, as we                  20 noted earlier, is 8/23/19. 04:03:07                  21 Are you aware if the training did in fact                  22 occur two days prior to the gender support plan?                  23 A I would not be able to speak specifically. I                  24 know countywide we did multiple trainings. I do not                  25 have those dates. 04:03:30</p> <p style="text-align: right;">Page 121</p>

1 Q Did you, Superintendent Stutler, attend any  
 2 of these trainings?  
 3 A I did.  
 4 Q And what did the trainings entail?  
 5 A The trainings were provided by Dr. Cris Mayo. 04:03:41  
 6 We originally brought her in to meet with several  
 7 school staff, and then she did a training with all  
 8 of our school administrators and county office  
 9 administrators, and it was about how to make our  
 10 school environments inviting for -- and it really 04:04:03  
 11 was all-encompassing. The children -- children are  
 12 children. Students are students. Athletes are  
 13 athletes.  
 14 It really was -- it was a great training  
 15 because it made you focus on, you know, you're there 04:04:22  
 16 for kids and we need to make them comfortable and  
 17 out of the line of fooling or intimidation in any  
 18 manner. She -- she framed it in the sense this is  
 19 for all of our kids.  
 20 Q And did Dr. Cris Mayo provide any guidance on 04:04:37  
 21 how to make students more comfortable?  
 22 A She gave specifics, and I cannot recall  
 23 those. She gave us a lot of information.  
 24 Q Did staff receive resources?  
 25 A They did, provided by her and the department 04:04:58  
 Page 122

1 at WVU, the diversity department.  
 2 Q Do you have a copy of those resources?  
 3 A I do in my office.  
 4 Q And did these trainings occur prior to 2019?  
 5 A We've had diversity trainings prior, not -- 04:05:21  
 6 not involving Cris Mayo. But that's been part of  
 7 the county for quite a while.  
 8 Q And did those trainings always include LGBTQ  
 9 plus IA?  
 10 A All -- 04:05:42  
 11 MS. DENIKER: Objection to the form.  
 12 THE WITNESS: Specifically, I don't know that  
 13 it said that, but we did provide diversity training.  
 14 That's all-encompassing. So I would say yes, it  
 15 addressed that. 04:06:06  
 16 We tried to identify -- everybody -- our  
 17 children aren't all the same. It's difficult to put  
 18 them in categories. Their needs are different, and  
 19 we meet those needs as they come to us.  
 20 BY MS. REINHARDT: 04:06:16  
 21 Q On the same page, it says (as read):  
 22 "Plan will be reviewed at least  
 23 yearly."  
 24 Do you see that?  
 25 A Yes. 04:06:25  
 Page 123

1 Q What does it mean by "plan"?  
 2 A This plan, this written plan that's developed  
 3 by -- in this case, Becky was there. Her mother was  
 4 there. School staff was there. So we look at it  
 5 annually and sooner, if it needs to be. 04:06:44  
 6 Q Do you know if the plan was reviewed the  
 7 following year?  
 8 A Are you speaking about the plan I'm looking  
 9 at now?  
 10 What's the date on this one? 04:07:00  
 11 It will be on the second -- wait. I'm moving  
 12 it.  
 13 She -- this was from fourth grade -- when she  
 14 was going into fourth grade.  
 15 They could have reviewed it and not made 04:07:18  
 16 changes to it. I don't know that.  
 17 Q Thank you.  
 18 A I don't know that.  
 19 Q And on the last page, page 5, where it says  
 20 "BPJ 001 (sic) at the bottom, it says (as read): 04:07:34  
 21 "Will schedule at end of school year  
 22 for next school year."  
 23 And I reading that correctly?  
 24 A Yes.  
 25 Q Was that stating the plan would be reviewed 04:07:41  
 Page 124

1 for the fifth-grade year?  
 2 A Tarra Shields -- in conversation with  
 3 Tarra Shields, they put this plan into place, her  
 4 going into fourth grade. And, now, this is from  
 5 Tarra Shields. There were -- they -- she had a -- 04:08:05  
 6 I'm talking from Tarra, that she had a good  
 7 fourth-grade year. They were going -- she was going  
 8 into the fifth grade, and they felt there was really  
 9 no need to change anything.  
 10 At any time, a parent can request that the 04:08:20  
 11 plan be reviewed. So I would take that if there's  
 12 not another plan dated, that they felt that, you  
 13 know, she was having a good two years.  
 14 Q And who are you referring to when you say  
 15 "they"? 04:08:35  
 16 A I -- I would say Tarra Shields, this team  
 17 that was with her at Norwood. And you've also got  
 18 to understand the parent is involved in this.  
 19 And -- and Becky.  
 20 Q Did the county board implement any policies 04:08:46  
 21 related to transgender students after implementing  
 22 Becky's gender support plan?  
 23 A No.  
 24 Q Now I'm going to ask you to go back to what  
 25 was previously marked as WV-19. 04:09:05  
 Page 125



<p>1 A Okay.</p> <p>2 Q Did you see -- have you seen this document 3 before?</p> <p>4 A In preparing for this deposition.</p> <p>5 Q In looking at this first page, we've already 04:09:27 6 been over a few of these meeting participants, but 7 I'm hoping you can tell me who Amber Davis is.</p> <p>8 A Amber Davis is the counselor at Norwood.</p> <p>9 Q And who is David Mazza?</p> <p>10 A The principal at Bridgeport Middle School. 04:09:46</p> <p>11 Q And who is Lauren Muro, if I'm pronouncing 12 her name right?</p> <p>13 A Laura -- Lauren is the counselor at 14 Bridgeport Middle.</p> <p>15 Q Thank you. And on the same first page, it 04:09:59 16 says (as read): 17 "How public or private will 18 information about this student's 19 gender be?" 20 And there's an X next to "Teachers and/or 04:10:16 21 other school staff will know." 22 And then it says "Specify the adult staff 23 members," and it states "All teachers." 24 Am I reading that correctly?</p> <p>25 A Yes. 04:10:29</p> <p style="text-align: right;">Page 126</p>	<p>1 BY MS. REINHARDT:</p> <p>2 Q Do you know if the teachers were informed 3 about B.P.J.'s transition?</p> <p>4 MS. DENIKER: Objection to the form.</p> <p>5 And are you asking about coaches -- 04:12:00</p> <p>6 MS. REINHARDT: Yes.</p> <p>7 MS. DENIKER: -- or teachers?</p> <p>8 MS. REINHARDT: I'm asking about coaches, as 9 it states on that second question on page BPJ 005.</p> <p>10 MS. DENIKER: Thank you. Same objection. 04:12:13</p> <p>11 THE WITNESS: I'm not aware of that.</p> <p>12 BY MS. REINHARDT:</p> <p>13 Q And near the bottom, it says (as read): 14 "What training(s) will the school 15 engage in to build capacity for 04:12:29 16 working with gender-expansive 17 students? How will the school work 18 to create more gender inclusive 19 conditions for all students?" 20 Did I read that correctly? 04:12:36</p> <p>21 A Yes.</p> <p>22 Q It states further (as read): 23 "BMS will receive training on 24 tolerance and culture diversity and 25 LGBTQ as arranged by Mr. Mazza 04:12:51</p> <p style="text-align: right;">Page 128</p>
<p>1 Q Who did -- were all teachers, in fact, 2 informed about Becky's gender?</p> <p>3 A Mr. Mazza informed her teachers, yes.</p> <p>4 Q Are you aware of what the teachers were 5 informed? 04:10:50</p> <p>6 A No, I do not know exactly what they were 7 told.</p> <p>8 Q Thank you. And now I'd like to turn to 9 page 4, which is listed as BPJ 005. And at the top, 10 it indicates that B.P.J. would be participating in 04:11:11 11 cross-country and track. 12 Do you see that?</p> <p>13 A I do.</p> <p>14 Q And underneath, it says (as read): 15 "Coaches would need to be aware of 04:11:22 16 Becky's transition. If teammates 17 have questions, they could approach 18 the coaches or administration." 19 Do you see that?</p> <p>20 A Yes. 04:11:31</p> <p>21 Q Were the coaches informed of B.P.J.'s gender?</p> <p>22 MS. DENIKER: Objection to the form.</p> <p>23 THE WITNESS: I don't know. I really -- 24 that, I don't know.</p> <p>25 ///</p> <p style="text-align: right;">Page 127</p>	<p>1 during upcoming school year." 2 Is that -- am I reading that correctly?</p> <p>3 A Yes.</p> <p>4 Q What is BMS?</p> <p>5 A Bridgeport Middle School. 04:13:01</p> <p>6 Q So who would that training be for?</p> <p>7 A His staff, his teachers.</p> <p>8 Q Are you aware if that training occurred?</p> <p>9 A It did. I don't know the date. I spoke with 10 him, and he did do that training. 04:13:22</p> <p>11 Q Did you attend that training?</p> <p>12 A I did not.</p> <p>13 Q Are -- are sports team coaches in attendance 14 for those trainings?</p> <p>15 A When it talks about being -- you have to 04:13:36 16 understand, our sports coaches are not always 17 employees in the buildings where they are coaching. 18 So they could have been in training maybe in the 19 building where they were at. It would not have been 20 specific to any -- it would have just been general 04:13:54 21 diversity training.</p> <p>22 Our coaches come from all over. We have -- a 23 coach might live on one side of the county and work 24 in one side of the county but coach at another high 25 school. So they would not always be there during 04:14:11</p> <p style="text-align: right;">Page 129</p>

1 that school day when that training would be taking  
 2 place.  
 3 MS. REINHARDT: Thank you. I'm now going to  
 4 put tab 14 into the "Marked Exhibits" folder. I  
 5 believe we are at Exhibit 28. Oh, sorry, let me 04:14:26  
 6 see. 29. It will be marked as Exhibit 29. I'll  
 7 let you know once the page is refreshed.  
 8 And it should be in the folder now.  
 9 (Exhibit 29 was marked for identification  
 10 by the court reporter and is attached hereto.) 04:14:58  
 11 BY MS. REINHARDT:  
 12 Q Do you see it?  
 13 A I do.  
 14 Q And Amber Davis attended the gender support  
 15 plan meeting at Bridgeport Middle School; correct? 04:15:15  
 16 A Yes.  
 17 Q Are you aware if Davis and B.P.J. interacted  
 18 often?  
 19 MS. DENIKER: Objection to the form.  
 20 THE WITNESS: I don't know how often. She's 04:15:36  
 21 a school counselor there. I know that that  
 22 counselor goes into every classroom at least once a  
 23 week for 40 minutes, so I know they interact in that  
 24 general sense, and then as individual counseling is  
 25 required. 04:15:52  
 Page 130

1 BY MS. REINHARDT:  
 2 Q Did Davis ever report any problems regarding  
 3 B.P.J. to the county board?  
 4 A No.  
 5 Q Are you aware of any problems Davis may have 04:16:06  
 6 reported to Bridgeport Middle School?  
 7 MS. DENIKER: Objection to the form.  
 8 THE WITNESS: No.  
 9 BY MS. REINHARDT:  
 10 Q Have you seen this exhibit before? 04:16:26  
 11 A When I was preparing for the deposition.  
 12 Q Let's review the top portion of this  
 13 document, which appears to not be dated.  
 14 Do you know if these are Amber Davis's  
 15 personal opinions of B.P.J.? 04:16:39  
 16 MS. DENIKER: Objection to the form.  
 17 THE WITNESS: I spoke with Amber about these  
 18 notes.  
 19 BY MS. REINHARDT:  
 20 Q Did Amber indicate whether these were her 04:16:53  
 21 personal opinions?  
 22 A They were not her personal opinions.  
 23 Q Did Amber state to you whose opinions they  
 24 were?  
 25 A She could not recall. She had had a 04:17:08  
 Page 131

1 conversation with someone she could not recall. I  
 2 asked her that specifically. She said she was an --  
 3 you have to understand, she was a brand-new  
 4 counselor in that school, had only just been there,  
 5 and she was trying to learn names of people. And 04:17:24  
 6 she said, I just do not recall.  
 7 Q Let's look at the notes that appear to be  
 8 dated 3/22.  
 9 Did Davis state whether these were her  
 10 personal opinions? 04:17:43  
 11 A They are not her personal opinions.  
 12 Q Whose opinions are they?  
 13 A These were --  
 14 MS. DENIKER: Objection to form.  
 15 THE WITNESS: It was just a note that she 04:17:53  
 16 made. She described that as a -- it was in a gym  
 17 class. Becky and another -- another girl were  
 18 talking about things that were not appropriate, and  
 19 she made a note, that she had brought -- I think she  
 20 talked with Becky and this other girl about not 04:18:14  
 21 disclosing sexuality-type things, that that was not  
 22 the place, in gym class.  
 23 BY MS. REINHARDT:  
 24 Q And now let's look at the note that appears  
 25 to be dated 3/23. 04:18:26  
 Page 132

1 Whose opinion is this note from?  
 2 MS. DENIKER: Objection to the form.  
 3 THE WITNESS: Amber described this to me as a  
 4 conversation with Becky, that she was having a hard  
 5 time because she was not as close to her brother, 04:18:46  
 6 her mother or her dad any longer, so they were  
 7 brainstorming ideas on how Becky could reestablish  
 8 those relationships and get that closer bond with  
 9 her family, and they were writing down ideas.  
 10 The brother liked Hershey bars and hot potato 04:19:04  
 11 chips. So they thought maybe that's a way they  
 12 could bond.  
 13 Mom likes Laffy Taffy.  
 14 And, apparently, the question -- and she was  
 15 going to ask Dad because she didn't -- she didn't 04:19:15  
 16 say anything for Dad.  
 17 That's the way Amber described those notes.  
 18 BY MS. REINHARDT:  
 19 Q Do you know if there was any follow-up after  
 20 3/23? 04:19:24  
 21 A I do not know.  
 22 Q Thank you. I'm now going to put tab 15 in  
 23 the "Marked Exhibits" folder. It will be marked as  
 24 Exhibit 30 (sic).  
 25 ///

<p>1 You should be able to refresh.                  2 I apologize. This was previously marked as                  3 WV-18.                  4 A I have that.                  5 Q Have you seen this form before? 04:20:26                  6 A I have.                  7 Q And when did you see it?                  8 A It was developed in -- with our protocol.                  9 Q Which protocol are you referring to?                  10 A When we did the gender support plan, this was 04:20:39                  11 part of that process.                  12 Q How long has the county board been using the                  13 gender support -- I apologize -- the preferred name                  14 request form?                  15 A I believe when we started using the protocol. 04:20:54                  16 Q To your knowledge, when would students fill                  17 this form out?                  18 A If a -- if a child in -- in any school                  19 chooses to have a different preferred name, they                  20 would -- most of the time, kids go to the teacher. 04:21:25                  21 They go to their teacher. If that's not a safe                  22 place for them to go, they would hopefully go to the                  23 counselor, and they are provided this form, and then                  24 the process begins.                  25 Q How are students made aware of the preferred 04:21:41                  Page 134</p>	<p>1 once it's been reviewed, if you could please let me                  2 know if you've seen it before.                  3 A Yes.                  4 Q Who is Barbara Tucker?                  5 A Barbara Tucker is a region 7 athletic health 04:24:01                  6 initiative coordinator. She works under grant                  7 funding and provides services to seven counties.                  8 Q And at the bottom of the first page, it says                  9 (as read):                  10 "After reviewing your in-house 04:24:19                  11 training options for our staff, I                  12 think that Mr. Mazza would like to                  13 do your half day (preferably 2 hours                  14 if possible) session on strategies                  15 and resources for diversity and 04:24:30                  16 inclusion (sic) classrooms with you                  17 and Selina Vickers on the morning of                  18 October 29th."                  19 Do you see that?                  20 A Yes. 04:24:43                  21 Q Do you know why Laura (sic) Merrill and                  22 Barbara Tucker would be e-mailing?                  23 A Lauren Merrill was the counselor at                  24 Bridgeport Middle, and they were looking for                  25 additional training and resources for their staff. 04:24:58                  Page 136</p>
<p>1 name request form?                  2 A That's done within the schools.                  3 Q Do you know how the schools introduce                  4 students to the preferred name request form?                  5 A It would be available through the school 04:22:02                  6 counselors. And, fortunately, in Harrison County,                  7 we do have a counselor in every building.                  8 Q Do you know if any students other than Becky                  9 have used the preferred name request form?                  10 A We -- we have others. 04:22:21                  11 Q Did you discuss this form with anyone at                  12 Bridgeport Middle School?                  13 A No.                  14 Q Have you, Superintendent Stutler, spoken with                  15 B.P.J. about her name? 04:22:42                  16 A No.                  17 (Exhibit 30 was marked for identification                  18 by the court reporter and is attached hereto.)                  19 BY MS. REINHARDT:                  20 Q Thank you. I'm now going to move tab 16 into 04:22:52                  21 the "Marked Exhibits" folder. And now I will                  22 correct that this will be Exhibit 30?                  23 Feel free to refresh.                  24 A Okay.                  25 Q If you could please review this e-mail, and, 04:23:32                  Page 135</p>	<p>1 This would not be unusual --                  2 Q Do you know --                  3 A -- for any topic.                  4 Q Do you know if this training occurred?                  5 A I do not. I could not tell you for sure. 04:25:09                  6 MS. REINHARDT: I'm going to now put in tab                  7 17 into the exhibit folder. It will be marked as                  8 Exhibit 31.                  9 (Exhibit 31 was marked for identification                  10 by the court reporter and is attached hereto.) 04:25:27                  11 BY MS. REINHARDT:                  12 Q It should be in the folder now.                  13 A I see that.                  14 Q At the top, it says (as read):                  15 "I have linked a few resources that 04:26:01                  16 could be helpful for our session                  17 tomorrow."                  18 Do you see that?                  19 A Yes.                  20 Q I'm going to ask you to now turn to the page 04:26:09                  21 with HCB0E 01178 Bates-Stamped on the bottom.                  22 A I have that up.                  23 Q If you could just take a look at these                  24 materials.                  25 A Okay. 04:26:54                  Page 137</p>

<p>1 Q Do you recognize these materials?</p> <p>2 A Not these specifically. She provides us with</p> <p>3 a lot of different resources, but not -- I can't say</p> <p>4 that I've looked at these specifically.</p> <p>5 "Welcoming Schools," I have. 04:27:16</p> <p>6 Q In what context does Barbara Tucker provide</p> <p>7 resources?</p> <p>8 A Like I said, she is -- works with -- with</p> <p>9 seven counties. She provides resources on all types</p> <p>10 of adolescent health, any kind of health 04:27:39</p> <p>11 initiatives. She does smoking cessation, not -- not</p> <p>12 just this. I mean, diversity training. And she</p> <p>13 provides that to seven counties. And we</p> <p>14 occasionally reach out to her for resources.</p> <p>15 Q And when you say "we," who are you referring 04:27:58</p> <p>16 to?</p> <p>17 A The County, our county administrators, if</p> <p>18 they find something that they need specifically for</p> <p>19 their building. It's not unusual for them to look</p> <p>20 for resources for their staff, and she is one 04:28:10</p> <p>21 resource.</p> <p>22 Q Are you aware if Barbara Tucker provides</p> <p>23 resources to students?</p> <p>24 A I'm sure she has student handouts, but I -- I</p> <p>25 don't have them specifically. 04:28:30</p> <p style="text-align: right;">Page 138</p>	<p>1 bottom, it says "Teacher/Staff Protocol for</p> <p>2 Transgender and Gender Non-conforming Students."</p> <p>3 Do you see that?</p> <p>4 A Yes.</p> <p>5 Q Was this form approved by the county board? 04:30:27</p> <p>6 A No. This was a -- just a protocol developed</p> <p>7 from our office to support our administrators and</p> <p>8 our teachers.</p> <p>9 Q So the county board has documents that are</p> <p>10 not officially approved; is that correct? 04:30:50</p> <p>11 MS. DENIKER: Object to the form.</p> <p>12 THE WITNESS: The county board generates a</p> <p>13 lot of documents that do not go to a board meeting</p> <p>14 for action.</p> <p>15 BY MS. REINHARDT: 04:31:09</p> <p>16 Q So when you referred to "our office," who</p> <p>17 were you referring to?</p> <p>18 A That would be myself and my department heads.</p> <p>19 Q Before the teacher/staff protocol for</p> <p>20 transgender and gender non-conforming students is 04:31:22</p> <p>21 provided, does the county board review it?</p> <p>22 A That would have -- that would fall under the</p> <p>23 purview of day-to-day operations for my building,</p> <p>24 and they would allow me to make that decision.</p> <p>25 Q And on the page marked HCBOE 01133, it lists 04:31:43</p> <p style="text-align: right;">Page 140</p>
<p>1 MS. REINHARDT: Okay. No problem.</p> <p>2 If you could go into the "Marked Exhibits"</p> <p>3 folder, I'm going to introduce you to a document</p> <p>4 that's been marked as Exhibit 31 -- no -- 32.</p> <p>5 If you could please review this document. 04:29:09</p> <p>6 (Exhibit 32 was marked for identification</p> <p>7 by the court reporter and is attached hereto.)</p> <p>8 THE WITNESS: I have that.</p> <p>9 BY MS. REINHARDT:</p> <p>10 Q Have you seen this e-mail before? 04:29:18</p> <p>11 A I have.</p> <p>12 Q And are you familiar with this e-mail because</p> <p>13 you are cc'd on it?</p> <p>14 A Yes.</p> <p>15 Q And it says (as read): 04:29:37</p> <p>16 "Please see attached forms for the</p> <p>17 2020-2021 school year."</p> <p>18 Do you see that?</p> <p>19 A Yes.</p> <p>20 Q Did Sarah Starkey provide new forms for every 04:29:50</p> <p>21 school year?</p> <p>22 A She generally -- that's like an August thing.</p> <p>23 She will update forms and send them out.</p> <p>24 Q Wonderful. And if you turn to the first</p> <p>25 attachment, which is marked HCBOE 01132 at the 04:30:11</p> <p style="text-align: right;">Page 139</p>	<p>1 Sarah Starkey, Cris Mayo, Barbara Tucker,</p> <p>2 Trans Lifeline.</p> <p>3 Does Cris Mayo work for the county board?</p> <p>4 A No.</p> <p>5 Q Who created this document? 04:32:11</p> <p>6 A Sarah Starkey.</p> <p>7 Q Why was the document created?</p> <p>8 A It was part of our gender support plan and</p> <p>9 the processes we would use when we had a child that</p> <p>10 wanted to identify as transgender. 04:32:29</p> <p>11 Q Thank you.</p> <p>12 MS. REINHARDT: Before I move on to the next</p> <p>13 topic, I just want to see if anybody needs a break.</p> <p>14 THE WITNESS: I'm good.</p> <p>15 THE VIDEOGRAPHER: This is -- 04:32:46</p> <p>16 MS. REINHARDT: I believe our --</p> <p>17 THE VIDEOGRAPHER: Sorry, this --</p> <p>18 MS. REINHARDT: -- co-counsel --</p> <p>19 THE VIDEOGRAPHER: This is the videographer.</p> <p>20 I would like to switch the tape, the volume, so -- 04:32:51</p> <p>21 we've been going about an hour and 40, so if we</p> <p>22 could do five minutes, that would be great.</p> <p>23 MS. REINHARDT: No problem. Let's actually</p> <p>24 just take a ten-minute break so folks can get some</p> <p>25 water. 04:33:02</p> <p style="text-align: right;">Page 141</p>

1 If we can go off the record for a ten-minute  
 2 break.  
 3 THE VIDEOGRAPHER: Sure. We're going off the  
 4 record. The time is 1:39 p.m., and this is the end  
 5 of Media Unit No. 2 (sic). 04:33:10  
 6 (Recess.)  
 7 THE VIDEOGRAPHER: All right. We are back on  
 8 the record at 4:46 p.m., and this is the beginning  
 9 of Media Unit No. 4.  
 10 Go ahead. 04:46:38  
 11 BY MS. REINHARDT:  
 12 Q I just wanted to circle back and get a little  
 13 bit of clarity on WVEIS. As you can understand, I'm  
 14 still trying to wrap my head around it.  
 15 Earlier, it seemed like you stated that there 04:46:47  
 16 might be a rule that requires a person to check  
 17 WVEIS in order to see what sports team a student  
 18 should be on; is that correct?  
 19 MS. DENIKER: Object to the form.  
 20 THE WITNESS: I don't -- I ask for guidance 04:47:13  
 21 from our state department. I don't know that that's  
 22 an official rule, so I probably misspoke.  
 23 BY MS. REINHARDT:  
 24 Q When did you ask for guidance?  
 25 A I said that earlier in testimony, when we 04:47:24  
 Page 142

1 were asking when can we change a permanent record in  
 2 WVEIS, and we reached out to our state department.  
 3 Q And can you remind me what the state  
 4 department's answer was, if you recall?  
 5 A That we -- that we could not make an official 04:47:39  
 6 name change or change in WVEIS unless we had  
 7 something from a court or we had a -- a new birth  
 8 certificate.  
 9 Q And when did you speak to the State  
 10 Department of Education? 04:47:57  
 11 A It would have been when I was a personnel  
 12 director, reaching out on behalf of the  
 13 superintendent at that time. It would have been a  
 14 few years ago.  
 15 Q And why do you think WVEIS's gender controls 04:48:07  
 16 which sports students can play on?  
 17 MS. DENIKER: Object to the form.  
 18 THE WITNESS: My -- my understanding is, is  
 19 that there -- there's an automatic pull from WVEIS  
 20 into a roster, and I am not as familiar with it as 04:48:26  
 21 another witness may be on that, as far as rostering  
 22 for sports in SSAC. And I have my understanding  
 23 that there's an automatic pull and all of that goes  
 24 over into that roster.  
 25 Q And does the roster, if you know, go to the 04:48:43  
 Page 143

1 coaches?  
 2 MS. DENIKER: Object to the form.  
 3 THE WITNESS: I believe the ADs help roster  
 4 those students.  
 5 BY MS. REINHARDT: 04:48:58  
 6 Q And are you aware of any instance where the  
 7 roster has been reviewed in order to determine which  
 8 sports team a student is required to play on?  
 9 MS. DENIKER: Object to the form.  
 10 THE WITNESS: I -- I'm not aware, until this 04:49:13  
 11 deposition, of a case. It's the first time I've  
 12 seen, actually, rosters.  
 13 BY MS. REINHARDT:  
 14 Q Understood. Did the county board support  
 15 H.B. 3293 when it was being considered? 04:49:26  
 16 MS. DENIKER: Objection to the form.  
 17 THE WITNESS: I really could not comment on  
 18 that. I would have no way of knowing that.  
 19 MS. DENIKER: I'm going to -- can you reread  
 20 that -- can you repeat the question or have it read 04:49:46  
 21 back, please?  
 22 MS. REINHARDT: Yes.  
 23 If the court reporter could please read back  
 24 my question.  
 25 (Record read.) 04:50:10  
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1 THE WITNESS: I think I've said this. When  
 2 the county board gets a new law, we -- we have to  
 3 abide by that rule. It was not our rule. And the  
 4 county board is given those rules; we have to abide  
 5 by those, period. 04:50:27  
 6 BY MS. REINHARDT:  
 7 Q I'm wondering if the county board supported  
 8 H.B. 3293 when it was being considered by the  
 9 legislation.  
 10 MS. DENIKER: Same objection to the form. 04:50:43  
 11 THE WITNESS: I'm not going to -- I don't  
 12 know how to really answer that other than we support  
 13 all of our students in the sense that we need to  
 14 make them comfortable and aware and -- and support  
 15 them in their surroundings. 04:50:58  
 16 BY MS. REINHARDT:  
 17 Q So you are not aware of any rule prior to  
 18 H.B. 3293 in West -- where a school in West Virginia  
 19 had to follow the gender in WVEIS in order for a  
 20 student to participate on a sports team? 04:51:14  
 21 MR. TRYON: Objection.  
 22 MS. GREEN: Object to the form.  
 23 THE WITNESS: I'm not aware of any other  
 24 school in West Virginia.  
 25 ///  
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<p>1 BY MS. REINHARDT:                  2 Q Is there a school in West Virginia that you                  3 know had to review WVEIS in order to determine which                  4 sports team a student would play on?                  5 MS. DENIKER: Objection to form. 04:51:39                  6 THE WITNESS: I -- I believe you're asking                  7 if -- and I'm -- tell me if I'm wrong -- if all                  8 schools follow the same rules when they're                  9 rostering. I'm -- I'm unaware of anything that                  10 would be different. We're -- we're given guidelines 04:51:55                  11 when we roster students.                  12 BY MS. REINHARDT:                  13 Q And --                  14 A And I would believe that ADs and                  15 administrators would be following those rules. 04:52:05                  16 Q And so in accordance with those rules,                  17 rosters are reviewed before students are designated                  18 to a specific sports team?                  19 MS. GREEN: Object to the form.                  20 THE WITNESS: I -- I just -- I -- I think I 04:52:19                  21 just want to say, I -- the only thing I know about                  22 rostering is that there's a bulk of information                  23 that's pulled over to that roster from that student,                  24 for student information. I am not an expert on                  25 rostering and sports by no means. 04:52:32                  Page 146</p>	<p>1 THE WITNESS: Yes.                  2 BY MS. REINHARDT:                  3 Q Does -- did any of those complaints relate to                  4 student sports?                  5 MS. DENIKER: Same objection. I'll -- 04:54:20                  6 (Simultaneous speaking.)                  7 MS. GREEN: Object to the form.                  8 THE WITNESS: No.                  9 BY MS. REINHARDT:                  10 Q Has the county board ever been investigated 04:54:29                  11 by the Department of Education for Title IX                  12 violations?                  13 MS. DENIKER: Objection to the form. And I                  14 do believe that you are now well beyond the scope of                  15 the topic. So if you can show me where this would 04:54:37                  16 fall under a topic, I will reconsider my objection.                  17 MS. REINHARDT: Yes, I believe it falls under                  18 two topics. One second.                  19 So I'm asking in connection, for background                  20 information, as we discussed under topic I, 04:55:04                  21 Sarah Starkey was discussed, and I'm trying to get                  22 more background information on the Title IX office,                  23 their role and her role and what would be involved                  24 of Sarah Starkey and her roles.                  25 I'm also asking as it relates to topic 7, 04:55:23                  Page 148</p>
<p>1 MS. DENIKER: I'll object to the form                  2 belatedly because I didn't get it in in time and                  3 also state that to the extent that this relates to a                  4 topic to be covered by another witness, that it's                  5 more appropriate to be asked of that witness. 04:52:51                  6 MS. REINHARDT: Understood. I'll save that                  7 line of questioning for another witness. Thank you.                  8 MS. DENIKER: Thank you.                  9 BY MS. REINHARDT:                  10 Q Are you familiar with Title IX? 04:53:02                  11 A I am.                  12 Q Does the county board have a Title IX policy?                  13 A It's included in our -- we have a -- a policy                  14 that's a safe and supportive schools policy, and                  15 it's all included in there. 04:53:22                  16 Q And without disclosing any identities of any                  17 students, has the county board received any Title IX                  18 complaints from a transgender student?                  19 MS. DENIKER: I'm going to object to the                  20 extent that I believe that this is beyond the scope 04:53:43                  21 of the topics set forth for the 30(b)(6) deposition.                  22 If you know, I'm going to allow you to answer                  23 this question, but I may object to any further                  24 questioning on those.                  25 MS. REINHARDT: Understood. 04:53:58                  Page 147</p>	<p>1 "participation of transgender students in                  2 school-sponsored sports in Harrison County."                  3 MS. DENIKER: Well, I believe that that                  4 question is beyond the scope of both of those                  5 topics; and, therefore, I object to the line of 04:55:35                  6 questioning about other Title IX complaints that may                  7 have been received.                  8 MS. REINHARDT: I'm going to --                  9 MS. DENIKER: For this witness to answer a                  10 question related to Title IX complaints about -- 04:55:48                  11 from transgender students involving school sports,                  12 the witness has answered that there are not any.                  13 I do not believe that further questioning on                  14 other Title IX complaints is appropriate or within                  15 the topics presented. 04:56:01                  16 MS. REINHARDT: That is my final question, if                  17 the witness could please answer.                  18 MS. DENIKER: Is the question just that has                  19 the County ever --                  20 Please read the back the question. I need to 04:56:17                  21 hear what it is again.                  22 MS. REINHARDT: If the court reporter                  23 wouldn't mind, please.                  24 THE REPORTER: Yes. Give me one second.                  25 (Record read.) 04:56:55                  Page 149</p>

1 MS. DENIKER: And I'm going to ask for --  
 2 this is Susan Deniker again.  
 3 What is the scope of timing on your question,  
 4 Ms. Reinhardt?  
 5 MS. REINHARDT: It will be from January 1st, 04:57:03  
 6 2019, to present.  
 7 THE WITNESS: No.  
 8 BY MS. REINHARDT:  
 9 Q Thank you. And just as one last final  
 10 follow-up question, has the county board implemented 04:57:12  
 11 any Title IX policies pertaining to transgender  
 12 students' participation in sports?  
 13 A No.  
 14 MS. REINHARDT: Thank you very much,  
 15 Superintendent Stutler. I believe that opposing 04:57:26  
 16 counsel may have a few questions for you.  
 17 THE WITNESS: Thank you.  
 18  
 19 EXAMINATION  
 20 BY MS. GREEN: 04:57:34  
 21 Q Hello, Superintendent Stutler. This is  
 22 Roberta Green with WVSSAC --  
 23 MS. GREEN: Kelly, did -- were you guys  
 24 hopping on to go first? Okay. I'll just leap to  
 25 the front of the line, then. 04:58:02

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1 BY MS. GREEN:  
 2 Q -- and I'm here on behalf of WVSSAC, and I  
 3 recollect that you had testified to some issues  
 4 relative to their eligibility rules, their processes  
 5 and any processes they have in place relative to 04:58:15  
 6 3293.  
 7 Do you recollect that testimony?  
 8 A Yes.  
 9 Q And as you sit here, do you actually defer to  
 10 WVSSAC as probably more informed and knowledgeable 04:58:31  
 11 as to their processes?  
 12 A Repeat that question.  
 13 Q Would you defer to WVSSAC as being more  
 14 knowledgeable about WVSSAC policies --  
 15 MS. REINHARDT: Objection. 04:58:48  
 16 MS. DENIKER: Objection to the form.  
 17 BY MS. GREEN:  
 18 Q -- than you would be?  
 19 A Yes.  
 20 Q Okay. I -- I was like uh-oh. Okay. 04:58:56  
 21 In terms of eligibility rules and the scope  
 22 of those rules, if there are some -- or even one  
 23 state rule embedded in WVSSAC's policies -- it's a  
 24 state rule, not an SSAC or other policy -- is that  
 25 information that you know as you sit here today? 04:59:17

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1 MS. REINHARDT: Objection to form.  
 2 MR. TRYON: Roberta, I'm going to object  
 3 because I didn't understand it, to be honest.  
 4 THE WITNESS: Yeah.  
 5 BY MS. GREEN: 04:59:38  
 6 Q All right. Well, you know, would you  
 7 defer -- Superintendent, would you defer to WVSSAC  
 8 as being potentially more knowledgeable about their  
 9 rules, how their rules work and --  
 10 MS. REINHARDT: Same objection. 04:59:48  
 11 BY MS. GREEN:  
 12 Q -- the preparations are pursuant to 3293, if  
 13 any?  
 14 MS. REINHARDT: Same objection.  
 15 MS. DENIKER: Objection to the form. 05:00:00  
 16 THE WITNESS: If you're saying they're more  
 17 knowledgeable, yes.  
 18 BY MS. GREEN:  
 19 Q Well --  
 20 A If you're -- 05:00:04  
 21 Q -- I don't know if I am, but hopefully --  
 22 A Yes.  
 23 Q -- WVSSAC is.  
 24 A Well, and they're in the room, yes.  
 25 Q There -- 05:00:08

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1 A Yes.  
 2 Q All right. And -- and in -- in preparing for  
 3 your testimony today, you did not speak to Bernie  
 4 Dolan relative to WVSSAC's policies or its  
 5 preparations, did you? 05:00:31  
 6 MS. REINHARDT: Objection to form.  
 7 THE WITNESS: I did not.  
 8 MS. GREEN: Okay. I don't think I have any  
 9 other questions. Thank you very much,  
 10 Superintendent. I appreciate it. 05:00:44  
 11 THE WITNESS: Thank you.  
 12  
 13  
 14  
 15 EXAMINATION  
 16 BY MS. MORGAN:  
 17 Q Hi, Superintendent Stutler. My name is  
 18 Kelly Morgan, and I represent the West Virginia  
 19 Board of Education and superintendent Burch.  
 20 Can you hear me okay? 05:00:50  
 21 A I can.  
 22 Q I just want to ask you a couple of clarifying  
 23 questions about some testimony earlier about, as I  
 24 understand it, someone called the West Virginia  
 25 Board of Education for some guidance as to a -- a 05:01:11

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1 request to change a student's name.  
 2 Did I understand that correctly?  
 3 A Yes. And I can't tell you -- it was a few  
 4 years ago. We reached out on what we could do in  
 5 WVEIS when it came to name changes. 05:01:30  
 6 Q You said "we." Was it -- did you make the  
 7 phone call?  
 8 A It was actually -- I was in the room with  
 9 the -- with Dr. Hage. She was the assistant  
 10 superintendent at the time. And the superintendent 05:01:41  
 11 at that time had requested that we find that  
 12 information, so we reached out to the Department of  
 13 Ed.  
 14 Q Do you remember who it was you spoke to?  
 15 A I do not. I -- I do not. 05:01:55  
 16 Q And then you were asked whether that was  
 17 based on some sort of policy.  
 18 Are you aware of any specific policy by those  
 19 State Department of Education or Board of Education  
 20 as to when a student can change their name? 05:02:09  
 21 A We --  
 22 (Simultaneous speaking.)  
 23 A We were not -- we were not aware of any  
 24 policy. We needed guidance, so we -- we reached  
 25 out. 05:02:21

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1 Q Okay. So then would you also defer to the  
 2 West Virginia Department of Education and/or the  
 3 West Virginia Board of Education as to their  
 4 specific policies that would be applicable?  
 5 MS. REINHARDT: Objection. 05:02:35  
 6 THE WITNESS: Yes.  
 7 MS. MORGAN: Very good. Thank you. I don't  
 8 have any other questions.  
 9 THE WITNESS: Thank you.  
 10 05:02:45  
 11  
 12 EXAMINATION  
 13 BY MR. TRYON:  
 14 Q Hello, Superintendent. It's been a --  
 15 A Hi. 05:02:53  
 16 Q -- a long day. I'm David Tryon. I represent  
 17 the State of West Virginia, and I'm an attorney with  
 18 the attorney -- in the attorney's general office.  
 19 So I have a few questions, and hopefully I  
 20 won't be duplicative of what has already been 05:03:05  
 21 discussed, but I would like to follow up on the  
 22 gender support plan, which I believe is Exhibit 17.  
 23 So if you could pull that up, that would be helpful.  
 24 I'm going to try and do the same here.  
 25 A I see that. 05:03:39

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1 Q Okay. So as I understand it, Sarah Starkey  
 2 and Cris Mayo were the primary drafters or preparers  
 3 of this document; is that right?  
 4 MS. REINHARDT: Objection to form.  
 5 THE WITNESS: Well, with help from the 05:03:52  
 6 adolescent coordinator, Barbara Tucker.  
 7 BY MR. TRYON:  
 8 Q Was this form created from scratch, or do you  
 9 know if it was taken from a form that someone else  
 10 had already come up with and just adopted by the 05:04:26  
 11 Harrison County Board of Education?  
 12 A I believe that Barbara Tucker and  
 13 Sarah Starkey were working -- I believe Barbara had  
 14 a form, and then it was created for Harrison County  
 15 schools and -- and what we felt we needed, and then 05:04:45  
 16 it was sent to Cris Mayo for review and changes were  
 17 made. And it went through that process several  
 18 times before we had the final document.  
 19 Q So this just wasn't a form taken from  
 20 someplace else, it may have started that way, but it 05:05:02  
 21 was customized; is that --  
 22 A I would not know the original -- yeah, I do  
 23 not know the original origins. I'm sure they looked  
 24 at something, and I believe that it was Barbara  
 25 Tucker that had some background, and that's where it 05:05:14

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1 originated or the -- the beginnings of it.  
 2 Q And who made the final approval of this form?  
 3 A This form was actually brought back to the --  
 4 kind of the heads of the departments, and at the  
 5 time, it was Dr. Manchin, and we reviewed that 05:05:32  
 6 collectively together with Sarah before it was  
 7 rolled out to the principals and the schools.  
 8 Q So this was before you were the  
 9 superintendent?  
 10 A The initial gender support plan, yes. 05:05:46  
 11 Q Just to be clear, as I understand it, the  
 12 Board of Education never approved this; is that  
 13 right?  
 14 A No. It is just an internal, like, protocol.  
 15 It's guidelines for our schools. 05:06:03  
 16 Q And it applies to all schools within  
 17 Harrison County?  
 18 A Yes, we use this document in all of our  
 19 schools.  
 20 Q Was there a formal approval process? 05:06:14  
 21 A No.  
 22 Q Is -- at that time, was the Board of  
 23 Education made aware of this form?  
 24 MS. DENIKER: Objection to the form.  
 25 Are you speaking as to the elected board, 05:06:36

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<p>1 Mr. Tryon?                  2 BY MR. TRYON:                  3 Q Yeah, let me go back to that. Tell me -- I                  4 guess I missed that. Maybe when I was cut off on                  5 the phone call -- what's the difference between the 05:06:48                  6 elected board and the nonelected board?                  7 A Well, I think we made the distinction that                  8 when we were talking about the elected board, it                  9 would be, like, my five people, my -- my actual                  10 board members, and then the board in general would 05:06:59                  11 just be myself and my office.                  12 Q Ah.                  13 A So you're --                  14 Q Yes.                  15 A -- speaking of five elected board members. 05:07:10                  16 Q Yes. Did the five elected board members ever                  17 become aware of this form?                  18 A It was never brought to a meeting for                  19 official action, no.                  20 Q Do you know if they are aware of it as of 05:07:26                  21 today?                  22 A I really could not say.                  23 Q Fair enough. Do you know if this form has                  24 been adopted with any other -- by any other counties                  25 or by the state school board? 05:07:47</p> <p style="text-align: right;">Page 158</p>	<p>1 extent it calls for any attorney-client                  2 communications.                  3 I'm instructing you to not testify about the                  4 substance of any communications you had with counsel                  5 about this form. 05:09:40                  6 THE WITNESS: I am not aware of that.                  7 BY MR. TRYON:                  8 Q If you go to page 4.                  9 A Okay.                  10 Q And the first part of that is "Extra 05:10:13                  11 Curricular Activities," and specifically it's asking                  12 about, among other things, sports.                  13 Do you see that?                  14 A Yes.                  15 Q So you -- or whoever prepared this, at the 05:10:24                  16 time, understood that sports would be an issue that                  17 would be impacted by biological males who wanted to                  18 participate in -- in -- on girls' teams; right?                  19 MS. REINHARDT: Objection.                  20 MS. DENIKER: Objection to the form. 05:10:44                  21 THE WITNESS: I -- I feel that this is just a                  22 reflection of where the student is and what their                  23 interests are. If you look, it's asking them lots                  24 of other questions as well, just finding out what                  25 they are interested in so that they could feel like 05:11:01</p> <p style="text-align: right;">Page 160</p>
<p>1 A I am not aware of that. I do know that                  2 Sarah Starkey has had another county reach out for                  3 examples. We tend to do that in education.                  4 Q Have you looked through this form, and do you                  5 feel like you understand it? 05:08:26                  6 A I do.                  7 Q Okay. When it -- in the very first part,                  8 where it talks about the purpose of this document,                  9 it says (as read):                  10 "...is to create shared 05:08:38                  11 understandings about the ways in                  12 which the student's authentic gender                  13 will be accounted for..."                  14 What's your understanding of what that means,                  15 specifically to student's authentic gender? 05:08:47                  16 A Just an understanding of what the -- the                  17 child's desire and the parents' desire is. It's                  18 really a document to, I believe, collectively get                  19 people all on the same page with where a child is                  20 at, regardless of where they're at in the process 05:09:08                  21 or -- I -- I -- I believe it is just a focus. It's                  22 just a focus, the building and to provide support                  23 for the child.                  24 Q Did any lawyers take a look at this form?                  25 MS. DENIKER: I'm going to object to the 05:09:30</p> <p style="text-align: right;">Page 159</p>	<p>1 they are part of a school.                  2 BY MR. TRYON:                  3 Q And part of it was to find out about                  4 children's interest in sports and what sports they                  5 would participate in; right? 05:11:16                  6 MS. REINHARDT: Objection to form.                  7 MS. DENIKER: Objection to form.                  8 THE WITNESS: Yes, I think that's all part of                  9 knowing the child.                  10 BY MR. TRYON: 05:11:32                  11 Q And once you know the child, then you would                  12 need to address issues that are -- that arise;                  13 right?                  14 MS. REINHARDT: Objection to form.                  15 THE WITNESS: We -- we would do that with any 05:11:42                  16 child.                  17 BY MR. TRYON:                  18 Q Correct.                  19 A At least I would hope we would do that.                  20 Q When you learned that B.P.J. was going to 05:11:58                  21 participate in -- well, strike that.                  22 We've talked a little bit about who sets                  23 policies for sports, and as I understand it, the                  24 County -- the County's policies for sports follow                  25 what the state policies are, the state board's 05:13:19</p> <p style="text-align: right;">Page 161</p>

<p>1 policies; is that right?                  2 MS. DENIKER: Objection to the form.                  3 BY MR. TRYON:                  4 Q Yeah, I -- I didn't really say that right.                  5 Let me just ask you an open-ended question. 05:13:29                  6 What policies -- where -- who sets the                  7 policies for sports for the County?                  8 A I testified earlier, we just have two,                  9 really, policies that are written or acted and board                  10 acted on, and it deals with extracurriculars. 05:13:43                  11 As far as the sports programs in our middle                  12 and high schools, which that's really what we're                  13 talking about, competitive sports, there is                  14 oversight by the West Virginia SSAC, which are                  15 board -- the members are our principals, so there 05:13:58                  16 are a set of guidelines that they follow for the                  17 sports programs in those buildings.                  18 Q You were asked about -- if there are benefits                  19 to sports, and I might -- I'd like to follow up on                  20 that just a little bit, but if you believe that Mr. 05:14:19                  21 Mazza would be better suited to answer these                  22 questions, just tell me, as long as your counsel is                  23 okay with that.                  24 A I'm okay talking about the general --                  25 MS. DENIKER: Let him ask a -- let him ask a 05:14:36                  Page 162</p>	<p>1 thing for consideration for kids in sports?                  2 A Safety is important in sports.                  3 Q Are you of any rules -- aware of any rules                  4 that are set up for safety to prevent injuries in                  5 sports? 05:15:27                  6 MS. REINHARDT: Objection to form.                  7 THE WITNESS: There's a lot of rules,                  8 probably rules that I don't know since I'm not                  9 involved in that on a daily basis, but a lot of                  10 training for our coaches, proper equipment for the 05:15:42                  11 children or the students and the athletes, from --                  12 really everything, having an athletic trainer at the                  13 games and available for the students, if there is an                  14 injury, that would properly handle that.                  15 BY MR. TRYON: 05:16:01                  16 Q Do you know if that's one of the reasons                  17 that -- that sports are separated by sex?                  18 MS. REINHARDT: Objection.                  19 MS. DENIKER: Objection to the form.                  20 THE WITNESS: Going back to the house bill 05:16:13                  21 that was passed, that is stated in there, that it is                  22 a safety concern.                  23 BY MR. TRYON:                  24 Q Aside from the house bill, would you agree                  25 that, from your perspective, that we separate sports 05:16:21                  Page 164</p>
<p>1 question.                  2 BY MR. TRYON:                  3 Q Yeah, let me ask you a question first.                  4 THE WITNESS: I thought he was asking if I                  5 was okay with the question. 05:14:40                  6 That was you?                  7 BY MR. TRYON:                  8 Q Would you agree -- sorry.                  9 Would you agree that the most important thing                  10 for kids in your school system is their safety -- 05:14:47                  11 MS. REINHARDT: Objection --                  12 BY MR. TRYON:                  13 Q -- as far --                  14 MS. REINHARDT: -- to the form.                  15 BY MR. TRYON: 05:14:54                  16 Q -- as far as sports is concerned?                  17 MS. REINHARDT: Objection to form.                  18 MS. DENIKER: Susan Deniker. I also object                  19 to form.                  20 THE WITNESS: Safety in all areas is 05:15:03                  21 important in our school system, and it is at the top                  22 of the list.                  23 BY MR. TRYON:                  24 Q Yeah, and I'm asking in particular with                  25 respect to athletics. Is safety the most important 05:15:10                  Page 163</p>	<p>1 in schools by sex in order -- for -- for safety                  2 purposes, especially with respect to contact sports?                  3 MS. REINHARDT: Objection to form.                  4 And I would also remind Mr. Tryon that                  5 Superintendent Stutler is a 30(b)(6) witness. 05:16:42                  6 MR. TRYON: Thank you for the reminder.                  7 BY MR. TRYON:                  8 Q Can you answer the question, please?                  9 MS. DENIKER: I'm also going to put an                  10 objection on the record as to form. 05:16:52                  11 And to the extent that you can answer as a                  12 representative of the Harrison County Board of                  13 Education, you may do so.                  14 THE WITNESS: I would agree that there are --                  15 that there could be physical differences that could 05:17:03                  16 produce a safety risk in a contact sport.                  17 BY MR. TRYON:                  18 Q Let me look at one other exhibit I may want                  19 to ask you a question about. Yeah, let me ask                  20 you on Exhibit 19. Let me know when you have that. 05:18:37                  21 A Okay. I see that.                  22 Q At the top of page 4, on that one, can you                  23 turn there?                  24 A Okay. I am there.                  25 Q Sure. The -- so the very first thing says 05:18:57                  Page 165</p>

<p>1 (as read):                  2 "In what extra-curricular programs                  3 or activities" -- excuse me -- "will                  4 the student be -- student be                  5 participating (sports, theater, 05:19:04                  6 clubs, etc)?"                  7 A Yes.                  8 Q And then it's filled in "cross country and                  9 track." And this was filled in on May 18, 2021.                  10 At that time, was there any concern about 05:19:19                  11 whether B.P.J. would be permitted to participate on                  12 the girls' cross -- cross-country team or the boys'                  13 cross-country team?                  14 MS. REINHARDT: Objection to form.                  15 MS. DENIKER: Objection to the form. 05:19:36                  16 THE WITNESS: I was not aware of any concern.                  17 BY MR. TRYON:                  18 Q Do you know if anybody -- okay. Fine.                  19 MR. TRYON: That's all -- that's all the                  20 questions I have. Thank you. 05:19:47                  21                  22 EXAMINATION                  23 BY MR. FRAMPTON:                  24 Q And, Superintendent Stutler, this is                  25 Hal Frampton for the intervenor. I've got just a 05:20:00                  Page 166</p>	<p>1 competing at the varsity level or junior varsity                  2 level?                  3 A I believe that would be the coach.                  4 Q Okay. The -- the coach at the individual                  5 middle school? 05:21:25                  6 A Yes.                  7 Q Do you know how that decision is made?                  8 A No. I would assume it would be by their                  9 time.                  10 Q A competitive decision? 05:21:38                  11 A Yeah, their -- yes.                  12 Q Are there limits as to how many people can be                  13 designated varsity or junior varsity?                  14 A I would not know that.                  15 Q Who -- who would make the decision as to 05:21:52                  16 whether there are limits on that?                  17 A That would be the AD at that school and the                  18 coach. And I would say that -- how many would be                  19 out for the team. There's a lot of factors in that.                  20 Q Okay. Would those same people decide the -- 05:22:11                  21 the number of students who can be on the team,                  22 period?                  23 A I believe so, with the administrator, the                  24 school administrator. It would become a staffing --                  25 just staffing and what they can do. 05:22:36                  Page 168</p>
<p>1 few questions for you. I know it's been a -- a long                  2 afternoon so far.                  3 A Thank you.                  4 Q If you would -- no worries.                  5 If you would, please, pull up Exhibit 28, and 05:20:11                  6 when you've got it up, go ahead and scroll down to                  7 page 4, the listings for Bridgeport Middle School.                  8 A I have that.                  9 Q Thank you, Superintendent. And I just want                  10 to make sure -- I know you testified a little bit 05:20:33                  11 about this earlier, but I -- I wasn't totally clear                  12 on what you were saying.                  13 So it is your understanding that there is a                  14 separate boys' cross-country team and girls'                  15 cross-country team at Bridgeport Middle School; 05:20:46                  16 correct?                  17 A Yes.                  18 Q And so the winners of their meets, there                  19 would be a boys' winner and a girls' winner; is that                  20 correct? 05:20:58                  21 A Yes.                  22 Q Okay. And they're further separated into                  23 varsity and junior varsity; is that right?                  24 A Correct.                  25 Q And who decides whether a student is 05:21:07                  Page 167</p>	<p>1 Q Right. And are there in fact limits on the                  2 number of students who can be on a given athletic                  3 team?                  4 MS. REINHARDT: Objection to form.                  5 THE WITNESS: I do not know that. That is 05:22:46                  6 not my wheelhouse.                  7 BY MR. FRAMPTON:                  8 Q And -- and who would know that?                  9 A The AD at the school, the coach and the                  10 school administrator. 05:23:01                  11 MR. FRAMPTON: All right. Give me one second                  12 while I mark an exhibit.                  13 (Exhibit 33 was marked for identification                  14 by the court reporter and is attached hereto.)                  15 BY MR. FRAMPTON: 05:23:12                  16 Q All right. Superintendent, what I've marked                  17 as Exhibit 33 ought to be available to you now.                  18 Could you check?                  19 A I have that.                  20 Q Have you seen this e-mail before? 05:23:49                  21 A During prep for this deposition.                  22 Q Yes, ma'am. Can you tell me who                  23 Danyelle Schoonmaker is?                  24 A She is the cross-country coach at                  25 Bridgeport Middle School. 05:24:07                  Page 169</p>

1 Q Is she the head coach?  
 2 A Yes.  
 3 Q And who is Meghan Flesher?  
 4 A She is a volunteer assistant.  
 5 Q For the cross-country team? 05:24:22  
 6 A Yes.  
 7 Q And did you say earlier Natalie McBrayer is  
 8 also a volunteer assistant?  
 9 A Natalie McBrayer is an assistant coach that  
 10 is -- yes, she is also a volunteer assistant coach, 05:24:41  
 11 sorry.  
 12 Q Does she have any other role with the -- with  
 13 the Board of Education, the county board?  
 14 A Natalie does not.  
 15 Q Okay. She's not a teacher as well? 05:24:55  
 16 A No, she's not.  
 17 Q And of these, the three people on these  
 18 messages, is Natalie the only one that you spoke to  
 19 in preparation for this deposition?  
 20 A Yes. 05:25:10  
 21 Q Do you agree this e-mail says "Attached is  
 22 the excel spreadsheet with our athletes' times and  
 23 attendance (could be off a bit-I haven't updated  
 24 from our sheet yet)"? Did I read that correctly?  
 25 A Yes. 05:25:32

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1 MR. FRAMPTON: All right. And hang on. I'm  
 2 going to try to mark separately, unfortunately,  
 3 because they're different file types, the  
 4 spreadsheet that was attached to this. Give me one  
 5 second. 05:25:46  
 6 All right. What I've marked as Exhibit 34  
 7 ought to be available to you now.  
 8 (Exhibit 34 was marked for identification  
 9 by the court reporter and is attached hereto.)  
 10 THE WITNESS: I have that. 05:26:21  
 11 BY MR. FRAMPTON:  
 12 Q Okay. Do you agree this is a spreadsheet  
 13 with three tabs at the bottom?  
 14 A Yes.  
 15 Q And was this also something you reviewed in 05:26:38  
 16 preparation for this deposition?  
 17 A Yes.  
 18 Q And tell me what you understand this document  
 19 to be.  
 20 A This was the Excel sheet on -- it had the 05:26:48  
 21 attendance on the -- I think the first two  
 22 practices. It had the -- the student names and  
 23 their grade levels.  
 24 Q Got it. And --  
 25 A And then their lap times, yeah. 05:27:02

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1 Q Thank you. The -- on the Athlete Info tab,  
 2 are -- are all of the -- obviously, everyone is  
 3 blacked out except for B.P.J., which I -- I  
 4 certainly understand.  
 5 My question is, are all of the blacked-out 05:27:16  
 6 folks Bridgeport Middle School students?  
 7 A Yes, they would be.  
 8 Q Okay. And these are all students who are  
 9 interested in running cross-country in the fall of  
 10 2021? 05:27:32  
 11 A Yes.  
 12 Q And there are 41 students on this list; is  
 13 that right?  
 14 A Yes.  
 15 Q What do you understand the purpose of this 05:27:52  
 16 document being, tracking their attendance and lap  
 17 times?  
 18 MS. REINHARDT: Objection to form.  
 19 THE WITNESS: I believe that that would be  
 20 for the coach's information. 05:28:12  
 21 (Exhibit 35 was marked for identification  
 22 by the court reporter and is attached hereto.)  
 23 BY MR. FRAMPTON:  
 24 Q Thank you. All right. Hang on. I'll mark  
 25 another one. 05:28:22

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1 All right. You should have available now  
 2 what I've marked as Exhibit 35.  
 3 A I have that.  
 4 Q And is this also a document you reviewed in  
 5 your preparation? 05:29:15  
 6 A Yes.  
 7 Q And tell me what you understand this document  
 8 to be.  
 9 A These were the students that were -- that  
 10 participated, I believe, in a week -- that early 05:29:25  
 11 summer conditioning week with the coaches.  
 12 Q In -- in preparation for running  
 13 cross-country in the fall?  
 14 A For the season, yes.  
 15 Q If you could go to that second page, do you 05:29:42  
 16 agree that it's got 18 people listed under the  
 17 cross-country girls' team?  
 18 A Yes, I see that.  
 19 Q And then 18 listed under the boys' team?  
 20 A Yes. 05:30:08  
 21 Q And 18 plus 18 is 36, would you agree?  
 22 A Yes, uh-huh.  
 23 Q How did we get from 41 people on that last  
 24 spreadsheet to 36 on this spreadsheet?  
 25 A It could be that -- 05:30:21

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1 MS. DENIKER: Object to the form.  
 2 THE WITNESS: Was that a question?  
 3 MS. DENIKER: He's asking that question, and  
 4 I'm objecting to the --  
 5 THE WITNESS: Okay. 05:30:42  
 6 MS. DENIKER: -- form of the question.  
 7 THE WITNESS: It could be that less students  
 8 came out. It could be. I don't know. I don't  
 9 know.  
 10 BY MR. FRAMPTON: 05:30:59  
 11 Q Okay. You're not -- it sounds like you're  
 12 not sure how those, essentially, fiveish people  
 13 were -- were on one spreadsheet and not on the next  
 14 one; is that right?  
 15 A I would not -- yeah, I would not know that. 05:31:13  
 16 MR. FRAMPTON: All right. Give me one second  
 17 to get my next one.  
 18 (Exhibit 36 was marked for identification  
 19 by the court reporter and is attached hereto.)  
 20 BY MR. FRAMPTON: 05:31:54  
 21 Q All right. You should now have available to  
 22 you what I have marked as Exhibit 36.  
 23 A I have that.  
 24 Q Okay. And was this also a document you  
 25 reviewed in your preparation? 05:32:14  
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1 A Yes.  
 2 Q And it is an e-mail from Natalie McBrayer to  
 3 Danyelle Schoonmaker and Meghan Flesher dated  
 4 August 9th, 2021; is that correct?  
 5 A Yes. 05:32:39  
 6 Q Do you see in that first sentence the -- a  
 7 reference to lap counts?  
 8 A I do.  
 9 Q What's your understanding of what lap counts  
 10 are? 05:32:48  
 11 A How many -- I'm assuming it's how many laps  
 12 they went.  
 13 Q Okay. So the next sentence says (as read):  
 14 "I highlighted the ones Meghan and I  
 15 talked about taking for at least 1 05:33:04  
 16 loop to see how they do."  
 17 Did I read that correctly?  
 18 A Yes.  
 19 Q Can you tell me what that means, "taking for  
 20 at least 1 loop to see how they do"? 05:33:15  
 21 A My thoughts are they're going to run them one  
 22 lap and check their time.  
 23 Q And then it says (as read):  
 24 "We might want to drop some after  
 25 the first loop." 05:33:32  
 Page 175

1 Did I read that correctly?  
 2 A I see that.  
 3 Q What does it mean -- what do they mean by  
 4 "drop some"? Do you know what that means?  
 5 MS. DENIKER: Objection to the form. 05:33:44  
 6 And I would just like to have an objection as  
 7 to form on all of these, about what it means.  
 8 But you can answer, to the extent that you  
 9 can.  
 10 THE WITNESS: I'm guessing -- I -- I don't 05:33:55  
 11 want to guess. I'm not allowed to guess.  
 12 It's -- it's hard to know what the coach was  
 13 thinking. They're trying to use times to accurately  
 14 judge who would make the varsity team compared to  
 15 the junior varsity. 05:34:12  
 16 BY MR. FRAMPTON:  
 17 Q Okay. So there's some -- your understanding  
 18 is that "drop some" would have some competitive  
 19 meaning; correct?  
 20 MS. DENIKER: Objection to the form. 05:34:24  
 21 THE WITNESS: Based on times.  
 22 BY MR. FRAMPTON:  
 23 Q And then if you look at that next page in  
 24 this, you would agree that we've got B.P.J. listed  
 25 with a -- the number 5 beside the name; is that 05:34:46  
 Page 176

1 right?  
 2 A Yes.  
 3 Q But no yellow highlight; is that correct?  
 4 A Correct.  
 5 Q Any understanding of why B.P.J. did not 05:35:03  
 6 receive a yellow highlight?  
 7 MS. DENIKER: Objection to the form.  
 8 MS. REINHARDT: I'll join that objection.  
 9 THE WITNESS: I do not know.  
 10 BY MR. FRAMPTON: 05:35:20  
 11 Q You would agree that, at least the way that  
 12 this spreadsheet is presented, B.P.J. is the first  
 13 person not to receive a yellow highlight; is that  
 14 correct?  
 15 MS. REINHARDT: Objection. 05:35:29  
 16 THE WITNESS: Looking at the form, as it is,  
 17 she does not have a yellow highlight.  
 18 BY MR. FRAMPTON:  
 19 Q And in terms of the order in which the  
 20 students are presented, B.P.J. is the first person 05:35:44  
 21 presented without a yellow highlight; is that right?  
 22 MS. REINHARDT: Objection to form and also  
 23 outside the scope of the deposition.  
 24 THE WITNESS: Would you repeat that question?  
 25 (Exhibit 37 was marked for identification 05:36:01  
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<p>1 by the court reporter and is attached hereto.)</p> <p>2 BY MR. FRAMPTON:</p> <p>3 Q I'll just strike it.</p> <p>4 Let's see.</p> <p>5 All right. What I've marked as Exhibit 37 05:36:40</p> <p>6 should now be available to you.</p> <p>7 A I have that.</p> <p>8 Q All right. Was this also a document that you</p> <p>9 reviewed in preparation for your deposition?</p> <p>10 A Yes. 05:37:06</p> <p>11 Q Go to the Meet Info tab.</p> <p>12 A Okay.</p> <p>13 Q What's your understanding of this -- what</p> <p>14 this tab is presenting?</p> <p>15 MS. DENIKER: Objection to the form. 05:37:32</p> <p>16 THE WITNESS: This is a schedule of the</p> <p>17 upcoming meets and where they'll be held.</p> <p>18 BY MR. FRAMPTON:</p> <p>19 Q These are the meets that the cross-country</p> <p>20 teams at Bridgeport Middle School were going to 05:37:43</p> <p>21 participate in in the fall of 2021?</p> <p>22 MS. REINHARDT: Objection to form and also</p> <p>23 outside the scope of the deposition.</p> <p>24 MS. DENIKER: Objection to the form.</p> <p>25 THE WITNESS: Yes, I believe that's the 05:37:56</p> <p style="text-align: right;">Page 178</p>	<p>1 MS. DENIKER: Objection to form of the</p> <p>2 question.</p> <p>3 THE WITNESS: I really don't know that.</p> <p>4 And when I said with the AD, I'm sure the</p> <p>5 coach had something to do with this as well. 05:39:55</p> <p>6 (Exhibit 39 was marked for identification</p> <p>7 by the court reporter and is attached hereto.)</p> <p>8 BY MR. FRAMPTON:</p> <p>9 Q All right. What I've marked as Exhibit 39</p> <p>10 should be available to you. 05:40:24</p> <p>11 A I have that.</p> <p>12 Q All right. Is this also a document that you</p> <p>13 reviewed in preparation for your deposition today?</p> <p>14 A Yes.</p> <p>15 Q Is it a listing of how the Bridgeport Middle 05:40:51</p> <p>16 school's cross-country players did at the</p> <p>17 Doddridge Invitational?</p> <p>18 MS. REINHARDT: Objection.</p> <p>19 And I also want to note that this line of</p> <p>20 questioning pertains to a topic that's been removed 05:41:11</p> <p>21 from the Deposition Notice.</p> <p>22 MR. FRAMPTON: It pertains to topic 14, which</p> <p>23 has not been removed. It is a document produced by</p> <p>24 the deponent, and this particular witness has</p> <p>25 already testified that she reviewed it in 05:41:25</p> <p style="text-align: right;">Page 180</p>
<p>1 schedule of the dates and where Bridgeport Middle</p> <p>2 would be participating in events.</p> <p>3 MR. FRAMPTON: Hold on for a second. I've</p> <p>4 just got two or three more. I'll be very quick.</p> <p>5 (Exhibit 38 was marked for identification 05:38:26</p> <p>6 by the court reporter and is attached hereto.)</p> <p>7 BY MR. FRAMPTON:</p> <p>8 Q All right. What I've marked as Exhibit 38</p> <p>9 should now be available to you.</p> <p>10 A I have that. 05:38:58</p> <p>11 Q All right. Was this also a document that you</p> <p>12 reviewed in preparation for your deposition?</p> <p>13 A Yes.</p> <p>14 Q What do you understand it to be?</p> <p>15 MS. DENIKER: Objection to form. 05:39:12</p> <p>16 THE WITNESS: It's looking at the</p> <p>17 participants of the team and whether they meet</p> <p>18 eligibility requirements.</p> <p>19 BY MR. FRAMPTON:</p> <p>20 Q Who prepares this document? 05:39:22</p> <p>21 A The AD at the school.</p> <p>22 Q And is this a listing of everyone who is</p> <p>23 going to be on the team for that year?</p> <p>24 MS. REINHARDT: Objection. And outside the</p> <p>25 scope of the deposition. 05:39:44</p> <p style="text-align: right;">Page 179</p>	<p>1 preparation.</p> <p>2 MS. REINHARDT: It's -- I'm going to hold my</p> <p>3 objection that it's still outside the scope of the</p> <p>4 deposition.</p> <p>5 MR. FRAMPTON: Your objection is noted. 05:41:38</p> <p>6 If the witness would please answer the</p> <p>7 question.</p> <p>8 MS. DENIKER: Susan Deniker. Object to the</p> <p>9 form.</p> <p>10 THE WITNESS: Would you please repeat the 05:41:46</p> <p>11 question?</p> <p>12 MR. FRAMPTON: Absolutely.</p> <p>13 Madame Court Reporter, could you please</p> <p>14 repeat my question?</p> <p>15 MS. DENIKER: Mr. Frampton, if you're 05:41:54</p> <p>16 agreeable, I will not restate my objection if you'll</p> <p>17 agree to continue to note my objection.</p> <p>18 MR. FRAMPTON: Absolutely. That's -- that's</p> <p>19 totally fine with me.</p> <p>20 (Record read.) 05:42:03</p> <p>21 MS. REINHARDT: Same objections.</p> <p>22 THE WITNESS: Yes.</p> <p>23 BY MR. FRAMPTON:</p> <p>24 Q Okay. Looking at page 2 of the document,</p> <p>25 would all of the blacked-out students on this page 05:42:25</p> <p style="text-align: right;">Page 181</p>

<p>1 be Bridgeport Middle School students?                  2 A Yes.                  3 Q Okay. So this document is not telling us how                  4 the Bridgeport Middle School students did as against                  5 the -- the participants from other schools in that 05:42:41                  6 meet; is that correct?                  7 MS. REINHARDT: Objection to form.                  8 MS. DENIKER: Objection to the form.                  9 THE WITNESS: Yes.                  10 BY MR. FRAMPTON: 05:42:54                  11 Q Okay. And you would agree that B.P.J. had a                  12 time that was faster than three of the girls listed                  13 on the spreadsheet; is that right?                  14 MS. REINHARDT: Objection to form.                  15 MS. DENIKER: Objection to form. 05:43:09                  16 THE WITNESS: There were three names listed                  17 below her.                  18 BY MR. FRAMPTON:                  19 Q Okay. The two names at the bottom that, of                  20 course, I can't see, the N/As, would those have been 05:43:24                  21 people who were permitted to participate in the meet                  22 and just didn't?                  23 MS. REINHARDT: Objection to form.                  24 MS. DENIKER: Objection to form.                  25 THE WITNESS: I would not know that. 05:43:35                  Page 182</p>	<p>1 of the students on this page would be                  2 Bridgeport Middle School students; right?                  3 A Yes.                  4 Q And you would agree that B.P.J. has a time                  5 that is faster than three of the girls listed on 05:45:49                  6 this spreadsheet; correct?                  7 MS. REINHARDT: Objection to form.                  8 THE WITNESS: Yes, there are three names                  9 below hers.                  10 BY MR. FRAMPTON: 05:46:02                  11 Q Do you have any idea what the yellow                  12 highlighting means?                  13 A I do not.                  14 Q It was worth a try.                  15 A I do not. 05:46:18                  16 Q The next two pages, are these just a -- a --                  17 sort of compilation of how the Bridgeport Middle                  18 School cross-country athletes did across a number of                  19 meets in the fall 2021 season?                  20 MS. REINHARDT: Objection to form. 05:46:38                  21 MS. DENIKER: This is Susan Deniker.                  22 Objection to form.                  23 THE WITNESS: It looks like it is a                  24 compilation of meets and times.                  25 BY MR. FRAMPTON: 05:46:58                  Page 184</p>
<p>1 (Exhibit 40 was marked for identification                  2 by the court reporter and is attached hereto.)                  3 BY MR. FRAMPTON:                  4 Q All right. What I have listed as -- marked                  5 as Exhibit 40 should be -- should be available to 05:44:22                  6 you now.                  7 And this is my last exhibit, so you're almost                  8 done with me.                  9 A I have it.                  10 Q All right. Is this document also something 05:45:03                  11 that you reviewed in preparation for your                  12 deposition?                  13 A Yes.                  14 Q Okay. The first page, is this a listing of                  15 how the Bridgeport Middle School cross-country 05:45:16                  16 athletes did in the Ritchie County meet on Saturday,                  17 October 1st?                  18 MS. REINHARDT: Objection to form.                  19 And I'll put a standing objection that these                  20 questions are outside of the scope. 05:45:29                  21 MR. FRAMPTON: Yes, happy to grant you a                  22 standing objection.                  23 THE WITNESS: Yes.                  24 BY MR. FRAMPTON:                  25 Q And so as with the last one we looked at, all 05:45:35                  Page 183</p>	<p>1 Q Look at the third page.                  2 A Okay.                  3 Q You would agree that there are no names                  4 listed next to these various times; right?                  5 A Yes. 05:47:25                  6 Q Okay. Is this just a -- a sort of horizontal                  7 continuation of the previous page?                  8 MS. REINHARDT: Objection to form.                  9 MS. DENIKER: Objection to form.                  10 THE WITNESS: I do not know. 05:47:41                  11 BY MR. FRAMPTON:                  12 Q And then the last page of the exhibit, would                  13 you agree this is a compilation of how the various                  14 Bridgeport Middle School cross-country athletes did                  15 in two time trial competitions? 05:47:59                  16 MS. REINHARDT: Objection to form.                  17 MS. DENIKER: This is Susan Deniker.                  18 Objection to form.                  19 THE WITNESS: Yes, it says "Time                  20 Trial-Bridgeport City Park" and the time trial for 05:48:17                  21 the Bridgeport city park course on two different                  22 dates.                  23 Q And you would agree, with respect to the                  24 October 7, 2021, date, it's got B.P.J. listed in                  25 24th place; is that right? 05:48:33                  Page 185</p>

1 MS. REINHARDT: Objection to form.  
 2 MS. DENIKER: Objection to form.  
 3 THE WITNESS: She is by the number 24.  
 4 BY MR. FRAMPTON:  
 5 Q Okay. And the heading for that column is 05:48:46  
 6 TT Place; correct?  
 7 A Yes.  
 8 Q And it's got B.P.J. in 30th place in the  
 9 August 24th time trial; is that right?  
 10 MS. REINHARDT: Objection to form. 05:49:08  
 11 MS. DENIKER: Objection to form.  
 12 THE WITNESS: Yes, she is by number 30.  
 13 BY MR. FRAMPTON:  
 14 Q And the heading for that column is "Place"?  
 15 A The heading for that column is "Place," yes. 05:49:21  
 16 MR. FRAMPTON: All right. Those were my  
 17 questions for you, Superintendent Stutler. Thank  
 18 you so much.  
 19 MS. REINHARDT: Superintendent Stutler, I  
 20 apologize, I have a few redirect questions, but I'll 05:49:37  
 21 be very brief.  
 22 If you could please turn to Exhibit 28.  
 23 MS. DENIKER: Ms. Reinhardt, while we do  
 24 that, this is Susan Deniker, I will have a couple of  
 25 questions for this witness. It's fine with me if 05:49:59  
 Page 186

1 you want to proceed, but I did want to let you know  
 2 that.  
 3 MS. REINHARDT: Thank you.  
 4  
 5 FURTHER EXAMINATION 05:50:05  
 6 BY MS. REINHARDT:  
 7 Q Please let me know when you're at Exhibit 28.  
 8 A Okay.  
 9 Q If you could please turn to page 4, under  
 10 Bridgeport Middle School. 05:50:20  
 11 Do you, Superintendent Stutler, know if  
 12 football is a contact sport?  
 13 A Yes.  
 14 Q And on this sheet here, it says football is  
 15 coed; is that correct? 05:50:51  
 16 A Yes.  
 17 Q And do you understand that to mean that girls  
 18 can play on the football team?  
 19 A Yes.  
 20 Q And would you also say that wrestling is a 05:51:03  
 21 contact sport?  
 22 A Yes.  
 23 Q And is it also listed here as coed?  
 24 A Yes.  
 25 Q And does that mean that girls are able to 05:51:18  
 Page 187

1 participate?  
 2 A Yes, in wrestling.  
 3 MS. REINHARDT: Thank you. And I am going to  
 4 put what will be marked as Exhibit 41 into the  
 5 "Marked Exhibit" folder. I'll let you know once 05:51:28  
 6 it's -- once you can refresh.  
 7 MR. REISBORD: Counsel, what's -- what's the  
 8 exhibit number?  
 9 MS. REINHARDT: It will be Exhibit 41.  
 10 And you should be able to refresh now. 05:51:47  
 11 (Exhibit 41 was marked for identification  
 12 by the court reporter and is attached hereto.)  
 13 BY MS. REINHARDT:  
 14 Q Have you seen this form?  
 15 A I have. 05:52:00  
 16 Q Could you please read paragraph 6.  
 17 A (As read):  
 18 "No other Bridgeport Middle School  
 19 student was displaced by B.P.J.'s  
 20 participation on the girls' 05:52:13  
 21 cross-country team."  
 22 MS. REINHARDT: Thank you. I have no further  
 23 questions.  
 24 MS. DENIKER: This is Susan Deniker.  
 25 Superintendent Stutler, I have a few questions for 05:52:25  
 Page 188

1 you.  
 2  
 3 EXAMINATION  
 4 BY MS. DENIKER:  
 5 Q You testified earlier today about policies 05:52:29  
 6 that are passed by the Harrison County Board of  
 7 Education, which is made up of elected board  
 8 members.  
 9 Do you recall that testimony?  
 10 A I do. 05:52:44  
 11 Q And it's my recollection of your testimony  
 12 that you testified that some of the policies passed  
 13 by the Harrison County Board of Education are to  
 14 implement state board policies but on a local board  
 15 level, with local county board processes in place; 05:52:58  
 16 is that correct?  
 17 A Yes.  
 18 Q Does the Harrison County Board of Education  
 19 ever pass other policies that are not -- that do not  
 20 originate from state board policy? 05:53:10  
 21 A Yes.  
 22 Q And does the county board adopt and pass as a  
 23 policy every West Virginia State Board of Education  
 24 policy?  
 25 A No. 05:53:25  
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<p>1 Q Does it only pass policies for the County 2 where there's some type of local process or 3 implementation that is necessary for Harrison County 4 schools? 5 MS. REINHARDT: Objection to form. 05:53:36 6 THE WITNESS: That would be correct. 7 BY MS. DENIKER: 8 Q I'm sorry, I didn't hear your answer. 9 A That would be correct. 10 Q You were also asked some questions today 05:53:40 11 about rostering for school sports for Harrison 12 County schools; is that correct? 13 A Yes. 14 Q Have you ever held the position of being a 15 middle school or high school administrator? 05:53:54 16 A No. 17 Q Have you ever been an athletic director in 18 any -- in any school, in any county, in West 19 Virginia? 20 A No. 05:54:04 21 Q Have you ever personally been responsible for 22 either directly or overseeing the rostering that 23 goes on at either middle schools or high schools in 24 Harrison County? 25 A No. 05:54:14</p> <p style="text-align: right;">Page 190</p>	<p>1 THE WITNESS: No. 2 BY MS. DENIKER: 3 Q Did any employee or agent of Harrison County, 4 in their official capacities, take any action to 5 advocate for the passage of that bill? 05:55:25 6 MS. REINHARDT: Objection. 7 THE WITNESS: No. 8 BY MS. DENIKER: 9 Q Did any employee or agent of the 10 Harrison County Board of Education in any way 05:55:34 11 contribute to the passage of that bill by providing 12 testimony or information to support passage of 13 House Bill 3293? 14 MS. REINHARDT: Objection to form. 15 THE WITNESS: No. 05:55:48 16 BY MS. DENIKER: 17 Q Did the Harrison County Board of Education, 18 through the elected board, pass any policy 19 proclamation or other statement that related to 20 House Bill 3293 in any way? 05:56:00 21 A No. 22 Q Has the Harrison County Board of Education 23 taken any action to implement the provisions of 24 House Bill 3293 as you sit here today? 25 A No. 05:56:13</p> <p style="text-align: right;">Page 192</p>
<p>1 Q Do you know how that process is done? 2 A Not from beginning to end. I know parts. 3 Q Is it fair to say that you will defer 4 testimony on behalf of the Harrison County Board of 5 Education about rostering for school sports in 05:54:29 6 Harrison County to the other designee for today's 7 30(b)(6) deposition? 8 A Yes. 9 Q You were also asked questions today about 10 House Bill 3293. 05:54:44 11 Superintendent Stutler, are you familiar with 12 that house bill that was passed by the West Virginia 13 legislature? 14 A Yes. 15 Q And you would have reviewed that bill; is 05:54:55 16 that correct? 17 A Yes. 18 Q You were asked some questions about whether 19 the Harrison County Board of Education supported 20 that bill, and I want to ask you more specific 05:55:03 21 questions about that. 22 Did the Harrison County Board of Education as 23 an entity do anything officially to advocate or 24 support that bill? 25 MS. REINHARDT: Objection to form. 05:55:15</p> <p style="text-align: right;">Page 191</p>	<p>1 MS. DENIKER: Give me one minute and let me 2 just see if I have any other questions. 3 Superintendent Stutler, I have no further 4 questions. Thank you. 5 THE WITNESS: Thank you. 05:56:36 6 MR. FRAMPTON: I have some additional 7 questions based on plaintiff's redirect. 8 9 FURTHER EXAMINATION 10 BY MR. FRAMPTON: 05:56:42 11 Q All right. Superintendent Stutler, do you -- 12 do you still have Exhibit 41 up? 13 MS. DENIKER: We are pulling it up for the 14 witness. 15 MR. FRAMPTON: Thank you. 05:56:59 16 THE WITNESS: I have it. 17 BY MR. FRAMPTON: 18 Q All right. And scroll down to paragraph 6 19 which plaintiff's counsel had you read into the 20 record. 05:57:11 21 A Okay. 22 Q What does this statement mean by "displaced"? 23 MS. DENIKER: Objection to the form. 24 MS. REINHARDT: Join the objection. 25 THE WITNESS: That someone did not get to 05:57:31</p> <p style="text-align: right;">Page 193</p>

1 participate because of B.P.J.  
 2 BY MR. FRAMPTON:  
 3 Q Participate as in join the team?  
 4 A Yes, as part of the cross-country team.  
 5 Q Does "participate" have any -- any other 05:57:45  
 6 meaning other than just join the team?  
 7 MS. REINHARDT: Objection to form.  
 8 MS. DENIKER: This is Susan Deniker. I also  
 9 object to the form of the question.  
 10 THE WITNESS: Participation. If you're on 05:58:01  
 11 the team, you're participating.  
 12 BY MR. FRAMPTON:  
 13 Q Okay. You would agree B.P.J. did beat some  
 14 girls in cross-country meets; correct?  
 15 MS. REINHARDT: Objection to form. 05:58:11  
 16 MS. DENIKER: I also object to the form. And  
 17 I believe that that is also beyond the scope of the  
 18 notice.  
 19 MR. FRAMPTON: Well, so is the stipulation.  
 20 And -- and it -- and it actually does relate 05:58:26  
 21 to the documents we looked at earlier that are part  
 22 of the -- the -- the board's document production.  
 23 THE WITNESS: Looking at the documents that  
 24 were -- that I reviewed yesterday for -- in prep for  
 25 this, there were students below her on the time 05:58:39  
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1 trials.  
 2 BY MR. FRAMPTON:  
 3 Q And students below her at cross-country  
 4 meets; correct?  
 5 A Yes. 05:58:49  
 6 MS. REINHARDT: Objection.  
 7 BY MR. FRAMPTON:  
 8 Q And -- and not just students, but girls below  
 9 her at the cross-country meets; correct?  
 10 MS. REINHARDT: Objection to form. 05:58:59  
 11 THE WITNESS: Yes.  
 12 MS. REINHARDT: And also outside the scope.  
 13 MR. FRAMPTON: Just so we are clear, the  
 14 court reporter got it, you answered that question  
 15 "yes"; correct? 05:59:08  
 16 THE WITNESS: Yes.  
 17 MS. DENIKER: And I would also like to place  
 18 a belated objection to form on the record.  
 19 BY MR. FRAMPTON:  
 20 Q Do you know whether B.P.J.'s participation 05:59:14  
 21 prevented any girls at -- on the cross-country team  
 22 from going to any meets?  
 23 MS. REINHARDT: Outside the scope of the  
 24 redirect and objection to form.  
 25 MS. DENIKER: Objection to form. 05:59:32  
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1 THE WITNESS: I am not aware of any student  
 2 that was displaced due to her participating on the  
 3 team.  
 4 BY MR. FRAMPTON:  
 5 Q And again, by "displaced," you simply mean 05:59:43  
 6 allowed to participate on the team; correct?  
 7 A Yes, yes.  
 8 MR. FRAMPTON: Okay. That's all I've got.  
 9 MS. MORGAN: This is Kelly Morgan. So are we  
 10 concluded with Superintendent Stutler and moving 06:00:11  
 11 straight on to Mr. Mazza?  
 12 MS. REINHARDT: We can continue with Mr.  
 13 Mazza at this time, yes.  
 14 MS. MORGAN: Do we have any anticipation as  
 15 to how much longer this is going to go? We started 06:00:26  
 16 here at noon for us, and it's 6 o'clock. Some of us  
 17 have, you know, family obligations here.  
 18 Are we talking two, three, four more hours?  
 19 MS. REINHARDT: I --  
 20 THE VIDEOGRAPHER: Off the record? 06:00:38  
 21 MS. REINHARDT: I don't believe that -- oh,  
 22 yes, can we please go off the record.  
 23 THE VIDEOGRAPHER: Yeah. Okay. Thanks.  
 24 I -- we're going off the record. The time is  
 25 6:00 p.m., and this is the end of Media Unit No. 4. 06:00:44  
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1 (Recess.)  
 2 THE VIDEOGRAPHER: All right. We are back on  
 3 the record at 6:19 p.m., and this is the beginning  
 4 of Media Unit No. 5.  
 5 Can we please swear in the witness. 06:19:02  
 6 (Witness sworn.)  
 7 THE VIDEOGRAPHER: And I'll just mention,  
 8 this is the beginning of David Mazza's testimony.  
 9 Go ahead. Thank you.  
 10  
 11 DAVE MAZZA,  
 12 having been administered an oath, was examined and  
 13 testified as follows:  
 14 EXAMINATION  
 15 BY MS. REINHARDT:  
 16 Q Hi, Mr. Mazza. How are you doing today?  
 17 A Good. How are you doing?  
 18 Q I'm doing well.  
 19 Is it okay if I call you "Principal Mazza"  
 20 for the point of this deposition? 06:19:39  
 21 A Yes, you can call me "Principal Mazza," yes.  
 22 Q Great. And have you ever been deposed  
 23 before?  
 24 A I have not.  
 25 Q Have you ever testified in a court of law 06:19:46  
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<p>1 before?                  2 A I have.                  3 Q What is your current title?                  4 A I am principal at Bridgeport Middle School,                  5 Harrison County schools. 06:20:02                  6 Q And how long have you been the principal?                  7 A I'm in my fifth year.                  8 Q Wonderful. And what did you do before that?                  9 A I was the assistant at Bridgeport Middle for                  10 eight years. Prior to that, I was a teacher for 06:20:11                  11 20 years. I'm in my 33rd year in education.                  12 Q That's wonderful. And I'm sorry, I want to                  13 make sure that I didn't mishear you. Did you say                  14 you have or have not testified in court before?                  15 A I have testified in court before. 06:20:29                  16 Q Thank you for clarifying.                  17 And what was the nature of that case?                  18 A It's when I was -- I had just turned 18, and                  19 I witnessed a fight. One of the participants in the                  20 fight used brass knuckles. I'm going way back to 06:20:45                  21 the '70s here, so -- and I just had to be a witness                  22 of what I did see and how the fight went down.                  23 Q I appreciate that. So you have never                  24 testified in court as it relates to your current                  25 role; is that correct? 06:21:01</p> <p style="text-align: right;">Page 198</p>	<p>1 unless your attorney states otherwise. Is that                  2 understood?                  3 A That is understood.                  4 Q And so that the court reporter can get                  5 everything we're saying, please use only verbal 06:22:20                  6 responses. Unfortunately, we cannot transcribe                  7 nodding or hand gestures. Is that understood?                  8 A That is understood.                  9 Q And if I ask a question that you don't                  10 understand, please let me know. If you answer my 06:22:36                  11 question, I'll assume that you understand what I'm                  12 asking. Is that okay?                  13 A Yes. Thank you for that.                  14 Q No problem. And my last just housekeeping                  15 rule is if you'd like to take a break at any point, 06:22:48                  16 please let us know. I'll need to finish my line of                  17 questioning, but we'd be happy to accommodate any                  18 breaks.                  19 A Thank you very much.                  20 Q Did you review any documents in preparation 06:22:59                  21 of today's deposition?                  22 A Yes, I did.                  23 Q And without disclosing any communications you                  24 may have had with your attorney, can you please let                  25 me know which documents you reviewed. 06:23:13</p> <p style="text-align: right;">Page 200</p>
<p>1 A That is true.                  2 Q Thank you. So going back, you have been in                  3 this field for quite some time.                  4 Did you study education in college?                  5 A I did. I went to Fairmont State College from 06:21:13                  6 1985 to 1989. I went on to West Virginia University                  7 and received my Master's degree in special                  8 education. Then I went to Salem International                  9 University and -- and got my administration                  10 certificate. 06:21:31                  11 Q You're extremely credentialed. I appreciate                  12 you walking me through that.                  13 And is there a reason you're aware of today                  14 that you won't be able to answer my questions                  15 truthfully and accurately? 06:21:47                  16 A Can you repeat that? I'm sorry.                  17 Q Is there a reason that you're aware of that                  18 would prevent you from answering my questions                  19 truthfully and accurately today?                  20 A No. 06:21:59                  21 Q Thank you. And I would like to set a couple                  22 of ground rules so there aren't any surprises for                  23 you today.                  24 A Okay.                  25 Q If I ask you a question, please answer it 06:22:07</p> <p style="text-align: right;">Page 199</p>	<p>1 A We reviewed what the litigation is about                  2 today.                  3 Q And were there any other documents in                  4 connection to this litigation you reviewed?                  5 A Just what was over in the litigation. I 06:23:26                  6 mean, we looked at several different things. We did                  7 a review of the gender support plan that was -- that                  8 had taken place last May, just the basic documents                  9 that go on with this litigation.                  10 Q And if you know, were all of the documents 06:23:44                  11 provided by counsel?                  12 A Yes.                  13 Q And did you bring any documents with you                  14 today?                  15 A I did not. 06:24:01                  16 Q Great. And did you provide your counsel with                  17 any documentation?                  18 A I did.                  19 Q And what was it?                  20 MS. DENIKER: This is Susan Deniker. I would 06:24:12                  21 like to clarify something here. Are you asking in                  22 preparation for the deposition, or do you mean with                  23 regard to this litigation, generally, in terms of                  24 discovery?                  25 MS. REINHARDT: Thank you for that clarifying 06:24:26</p> <p style="text-align: right;">Page 201</p>

<p>1 question. I mean in preparation for today.                  2 THE WITNESS: No.                  3 BY MS. REINHARDT:                  4 Q Thank you. And did you speak with anyone in                  5 preparation for today's deposition? 06:24:38                  6 A Just counsel.                  7 Q Did you --                  8 MS. DENIKER: Let me -- Ms. Reinhardt, excuse                  9 me, this is Susan Deniker again.                  10 Mr. Mazza, to the extent that you had 06:24:49                  11 conversations with other Harrison County Board of                  12 Education employees --                  13 THE WITNESS: Right.                  14 MS. DENIKER: -- to prepare for your                  15 deposition, you may disclose the names of those 06:24:59                  16 persons that you spoke with.                  17 THE WITNESS: Okay. Other than counsel here,                  18 we did -- of course, Dora Stutler, superintendent;                  19 Amber Davis; Tarra Shields, principal of Norwood                  20 Elementary -- Amber Davis was -- is the counselor -- 06:25:17                  21 and fifth-grade teacher -- I can't remember her                  22 name, I'm sorry. I can cannot remember the                  23 fifth-grade teacher's name, I'm sorry. I apologize.                  24 BY MS. REINHARDT:                  25 Q By any chance, was it a fourth-grade teacher 06:25:30                  Page 202</p>	<p>1 Q And did you review any documentation related                  2 to topics 10 and 11 in preparation for today's                  3 deposition?                  4 A I did.                  5 Q And were those the same documents that you've 06:27:15                  6 already -- you've already disclosed?                  7 A I believe so, yes.                  8 Q Wonderful. And looking at this exhibit, can                  9 you please review topics 1 through 15 and let me                  10 know if you've already viewed these -- reviewed 06:27:35                  11 these topics with counsel.                  12 MS. DENIKER: I'm going to object to -- that                  13 question calls for attorney-client privileged                  14 communications. You can ask him if he -- if he's                  15 reviewed the Notice of Deposition, but I'm going to 06:28:00                  16 instruct him not to answer as to whether or not he                  17 reviewed topics with counsel.                  18 MS. REINHARDT: Understood.                  19 BY MS. REINHARDT:                  20 Q Did you review these topics in preparation 06:28:07                  21 for today's deposition?                  22 A I've looked them over.                  23 Q Thank you. And for purposes of the record,                  24 we have previously spoken with                  25 Superintendent Stutler and asked her a number of 06:28:22                  Page 204</p>
<p>1 by the first name of Jasmine?                  2 A Yes, it was a fourth-grade teacher. I                  3 apologize for that. I thought it was the                  4 fifth-grade teacher.                  5 Q No problem at all. 06:25:41                  6 And do you understand that B.P.J. filed a                  7 lawsuit against the County Board of Education?                  8 A Yes.                  9 Q And do you understand that that is why you're                  10 here testifying today? 06:25:56                  11 A Correct, yes.                  12 MS. REINHARDT: Wonderful. And I just want                  13 to review, briefly, with you Exhibit 24. It should                  14 be in the "Marked Exhibit" folder.                  15 (Exhibit 24 was marked for identification 06:26:09                  16 by the court reporter and is attached hereto.)                  17 BY MS. REINHARDT:                  18 Q Please let me know once you've reviewed it.                  19 A I have reviewed it.                  20 Q Have you seen this document before? 06:26:47                  21 A I have.                  22 Q And I'll ask you to turn to what's numbered                  23 page 8. Did you review topics 10 and 11 for today's                  24 deposition?                  25 A I did. 06:26:59                  Page 203</p>	<p>1 questions related to these topics. Today, we'll                  2 only be asking you about topics 10 and 11. Is that                  3 understood?                  4 A That is understood.                  5 Q And I'm just briefly going to go over two 06:28:34                  6 terms with you. So the first one is the word                  7 "transgender." When I use the word "transgender,"                  8 I'm referring to someone whose gender identity does                  9 not match the sex they were assigned at birth.                  10 So, for example, if someone was assigned male 06:28:51                  11 at birth, but they identify as female, that person                  12 would be a transgender girl or woman.                  13 Do you understand how I am referring to that                  14 term?                  15 MR. TRYON: Objection. 06:29:04                  16 THE WITNESS: I do.                  17 BY MS. REINHARDT:                  18 Q Thank you. And, likewise, I'll be asking the                  19 term "cisgender." When I use the term "cisgender,"                  20 I am referring to someone whose gender identity 06:29:14                  21 matches the sex they were assigned at birth.                  22 So as an example, if someone was assigned                  23 male at birth and they identify as male, that person                  24 would be a cisgender boy or man.                  25 Do you understand how I'm referring to that 06:29:28                  Page 205</p>

<p>1 term?                  2 MR. TRYON: Objection.                  3 THE WITNESS: I do -- I do understand.                  4 MR. TRYON: Elizabeth, can I just have a                  5 standing objection to terminology? 06:29:38                  6 MS. REINHARDT: Yes, I will see that standing                  7 objection. Thank you.                  8 MR. TRYON: Thank you.                  9 BY MS. REINHARDT:                  10 Q And when I say the word "you," unless I 06:29:43                  11 specifically say "Principal Mazza as an individual"                  12 or something similar, I'm asking for you to answer                  13 my question as a representative of the County Board                  14 of Education. Is that understood?                  15 A That is understood. 06:30:00                  16 Q And when I -- if it's okay with you, I'd like                  17 to use the term "county board" rather than "County                  18 Board of Education." Is that okay?                  19 A That is okay.                  20 Q Wonderful. And also, when I'm referring to 06:30:14                  21 the county board, I am talking about the entire                  22 entity of the county board, not just its elected                  23 members. Is that understood?                  24 A That is understood.                  25 Q Thank you. So I am going to -- I am going to 06:30:27                  Page 206</p>	<p>1 A I am.                  2 Q Can you please tell me what that is?                  3 MS. DENIKER: Object to the form.                  4 THE WITNESS: Yes. We attend -- member                  5 school principals attend a regional principals' 06:32:41                  6 meeting every fall before school starts. This                  7 year -- it typically takes place the first week in                  8 August. We meet at East Fairmont High School in                  9 Marion County. That's where the region is set up                  10 for Harrison, and surrounding counties. We meet 06:33:01                  11 from noon to 3:00. And they go over information of                  12 previous proposals that pass at the board of                  13 controls meeting in April.                  14 BY MS. REINHARDT:                  15 Q Thank you. It sounds like you are used to 06:33:20                  16 sitting in long meetings, so I appreciate you being                  17 here today.                  18 Did -- were you in attendance for the 2021 to                  19 2022 regional principals' meeting?                  20 A I was not. 06:33:32                  21 Q Have you seen this PowerPoint before?                  22 A I have.                  23 Q And when did you first see this PowerPoint?                  24 A I believe from my athletic director.                  25 Q And when did your athletic director show you 06:33:49                  Page 208</p>
<p>1 put tab 5 into the "Marked Exhibit" folder. I                  2 believe --                  3 MS. REINHARDT: And please correct me if I'm                  4 wrong, Mrs. Court Reporter. I believe we're at                  5 Exhibit 41 -- 42. Apologies. 06:30:50                  6 I'll let you know once you can refresh.                  7 You may refresh. And please let me know once                  8 you have that document open.                  9 (Exhibit 42 was marked for identification                  10 by the court reporter and is attached hereto.) 06:31:13                  11 BY MS. REINHARDT:                  12 Q Do you have that document open?                  13 A Yes.                  14 Q Great. Are you familiar with WVSSAC, or the                  15 West Virginia Secondary School Activities 06:31:58                  16 Commission?                  17 A I am familiar with the WVSSAC, correct.                  18 Q And are you okay with me using the acronym                  19 WVSSAC in reference to the West Virginia School --                  20 Secondary School Activities Commission? 06:32:16                  21 A Yes.                  22 Q Wonderful. And if you look at the front page                  23 here, it says "Regional Principals' Meeting."                  24 Are you familiar with the regional                  25 principals' meeting? 06:32:24                  Page 207</p>	<p>1 this document?                  2 A I would say shortly after. He is part of the                  3 SSAC. He's actually a director. And he gets this                  4 information sent to him via e-mail, I believe.                  5 Q And what is the name of this individual? 06:34:09                  6 A Mr. Arthur Petitto.                  7 Q Thank you. And do you know why WVSSAC holds                  8 the principals' meeting?                  9 MS. GREEN: Object to the form.                  10 MS. DENIKER: Objection to the form as well. 06:34:40                  11 You can answer.                  12 THE WITNESS: In the spring, we have controls                  13 where there are proposals that are passed by the                  14 member schools. Once these proposals pass, they go                  15 to the State Board of Education who then approve 06:34:49                  16 them. And this regional principals' meeting is an                  17 update, typically, of what passed and what has                  18 changed with anything athletic in the state of West                  19 Virginia.                  20 BY MS. REINHARDT: 06:35:03                  21 Q Thank you. And other than your conversation                  22 with Mr. Petitto -- is that correct? -- have you                  23 seen --                  24 A That is correct.                  25 Q Wonderful. 06:35:12                  Page 209</p>

1 -- have you seen this PowerPoint?  
 2 A Have I seen it, is that -- was that your  
 3 question?  
 4 Q Yes. Other than with Mr. Petitto -- or from  
 5 Mr. Petitto. 06:35:23  
 6 A I have not. I have not.  
 7 Q And you should feel free to review this  
 8 document in its entirety, but I'll only be asking  
 9 you questions as it relates to what is  
 10 Bates-numbered WVSSAC 000346. So you should feel 06:35:35  
 11 free to go to that page, if it's convenient for you,  
 12 or you may look through the entire PowerPoint.  
 13 Please let me know once you're at  
 14 WVSSAC 00346. It's slide 60.  
 15 A We are there. 06:36:29  
 16 Q Great. And did you -- do you know what this  
 17 slide is in reference to?  
 18 MS. GREEN: Object to the form.  
 19 MS. DENIKER: You can answer, if you know.  
 20 THE WITNESS: I believe it's for the current 06:36:47  
 21 law -- the bill and law that was passed in the state  
 22 of West Virginia that went into effect in July.  
 23 BY MS. REINHARDT:  
 24 Q And is what you're referring to H.B. 3293?  
 25 A Correct. 06:37:02

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1 Q Thank you. And did you discuss this slide in  
 2 particular with Mr. Petitto?  
 3 A I did not.  
 4 Q Have you reviewed this slide before today?  
 5 A I have not. 06:37:18  
 6 Q So on the slide, it says -- the heading is  
 7 "Transgender," and the first bullet point is  
 8 "Current law being challenged in court." The second  
 9 bullet says "WVSSAC's current position in that  
 10 gender is identified in WVEIS for athletic 06:37:33  
 11 participation purposes."  
 12 Did I read that correctly?  
 13 A You did.  
 14 Q So for WVEIS, is it okay if I refer to that  
 15 as "WVEIS"? 06:37:53  
 16 A Yes, you can.  
 17 Q And do you know what WVEIS is?  
 18 A Yes, I do.  
 19 Q What is it?  
 20 A It's our identification system for every 06:38:01  
 21 student that is in the state of West Virginia. That  
 22 number stays with them. They're assigned a number.  
 23 Each county is different, as far as assigning the  
 24 number. But if the student transfers to a different  
 25 county, that same number stays with them. 06:38:18

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1 Q Thank you. And do you have access to WVEIS  
 2 as the principal of Bridgeport Middle School?  
 3 A Yes, I do.  
 4 Q Does the athletic director have access to  
 5 WVEIS? 06:38:34  
 6 A No, he doesn't.  
 7 Q Does anyone at Bridgeport Middle School have  
 8 the ability to change information in WVEIS?  
 9 A The -- the people that can change information  
 10 are myself, my assistant and my counselor. 06:38:52  
 11 Q And do --  
 12 A Also, both of my secretaries.  
 13 Q And does anyone you've just listed need  
 14 permission to change information in WVEIS?  
 15 A No. 06:39:06  
 16 Q Thank you.  
 17 A Can I add something to that?  
 18 Q Of course.  
 19 A WVEIS, the way it's set up, only certain  
 20 things that are part of WVEIS, like, for example, 06:39:25  
 21 discipline, my secretaries do not access to that,  
 22 nor my counselor. Just the assistant principal and  
 23 myself. There's -- there's just certain items, like  
 24 health, if a student has a health issue, I would  
 25 have to put that in. There are -- there are certain 06:39:44

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1 items that only go to certain people.  
 2 The secretaries have, usually, residency  
 3 information, scheduling, the schedules, things like  
 4 that, but some of the stuff that is put in the  
 5 WVEIS, it's mostly my counselor, myself and my 06:40:03  
 6 assistant.  
 7 Q In WVEIS, are students' names listed and  
 8 other -- so I'm asking, are student names listed,  
 9 including their ID number?  
 10 A That is correct. 06:40:16  
 11 Q And are students' genders listed in WVEIS?  
 12 A Yes, they are.  
 13 Q And if a student were to participate in a  
 14 school athletic program, would the athletic director  
 15 need to check WVEIS to know which team the student 06:40:39  
 16 needed to be on?  
 17 A No.  
 18 Q How is it -- how are students designated  
 19 between teams?  
 20 A They are given an information sheet that is 06:40:48  
 21 filled out by them or the -- the student or the  
 22 parent. That information goes back to the athletic  
 23 director who then puts it in a portal that would be  
 24 seen by the WVSSAC.  
 25 Q Does that portal have a name? 06:41:03

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<p>1 A It's part of the WVSSAC website where you                  2 see -- I'm not sure if you've visited that website,                  3 but there's an admin login.                  4 Q And is -- is the information the athletic                  5 director provides not a part of WVEIS? 06:41:28                  6 A It is not part of WVEIS.                  7 Q And is that information used to create a                  8 roster?                  9 A That information is used to create a roster.                  10 Q So WVEIS is not used to create a roster; is 06:41:43                  11 that correct?                  12 MS. DENIKER: Object --                  13 THE WITNESS: That is correct.                  14 MS. DENIKER: -- to the form.                  15 BY MS. REINHARDT: 06:41:51                  16 Q And if I'm understanding correctly, the                  17 administrative director would list whichever gender                  18 is completed by a parent or the athlete in the form                  19 you noted earlier; is that correct?                  20 A That would be correct. 06:42:10                  21 Q And does Bridgeport Middle School have any                  22 policies as it relates to gender separation in                  23 sports?                  24 A We don't have any policies.                  25 Q Is Bridgeport Middle School required to 06:42:32                  Page 214</p>	<p>1 Thank you.                  2 MS. DENIKER: Do you need to have -- if                  3 you'll give me a standing objection on that. Maybe                  4 we should have the court reporter read back the                  5 question so that the witness could hear it, if 06:44:09                  6 that's okay, Ms. Reinhardt.                  7 MS. REINHARDT: That would be great. I'll                  8 give you a standing objection.                  9 If the court reporter could please read my                  10 question back. 06:44:18                  11 (Record read.)                  12 MS. DENIKER: If you need to hear it again,                  13 you can ask for it to be repeated.                  14 THE WITNESS: Repeat that again, please, I'm                  15 sorry. 06:44:46                  16 MS. REINHARDT: If the court reporter could                  17 please read that again.                  18 And I believe it should be "input." I                  19 apologize if I wasn't clear.                  20 (Record read.) 06:45:08                  21 THE WITNESS: The athletic director puts the                  22 information on the boy roster or the girl roster.                  23 BY MS. REINHARDT:                  24 Q And where -- okay. I think I understand.                  25 And are B and G the only options for the -- 06:45:33                  Page 216</p>
<p>1 follow any other policies related to gender                  2 separation in sports?                  3 MS. GREEN: Object to the form.                  4 MS. DENIKER: I also object to the form.                  5 THE WITNESS: Bridgeport Middle follows the 06:42:53                  6 guidelines set by the WVSSAC.                  7 BY MS. REINHARDT:                  8 Q And what are those guidelines as it relates                  9 to gender separation in sports?                  10 MS. GREEN: Object to the form. 06:43:06                  11 MS. DENIKER: Object to the form.                  12 THE WITNESS: Those guidelines come in the                  13 form of rostering, where -- for example, my athletic                  14 director receives from the track coach, who is the                  15 boys track coach, he would roster them on the WVEIS 06:43:23                  16 system as a B, goes into the B portal. And if my                  17 athletic director receives the information from the                  18 girls' coach, it would go on the G side, which is --                  19 would be the girl.                  20 BY MS. REINHARDT: 06:43:44                  21 Q So the athletic director implements a                  22 student's gender into WVEIS; is that correct?                  23 MS. DENIKER: Objection to the form and also                  24 asked and answered.                  25 MS. GREEN: I'll object to the form as well. 06:43:56                  Page 215</p>	<p>1 putting a student's gender on the roster?                  2 A I believe so.                  3 Q And does Bridgeport Middle School have any                  4 coed sports?                  5 A We do. 06:45:48                  6 Q And for those rosters, for the rosters for                  7 coed sports, do they still list B or G?                  8 A I believe so.                  9 Q Thank you. And are you familiar with the                  10 roster that's used for football? 06:46:13                  11 A I am.                  12 Q Can you please describe to me what that                  13 roster would include?                  14 MS. GREEN: Object to the form.                  15 THE WITNESS: It's -- the roster would 06:46:31                  16 include a student's name, the place of birth. I                  17 believe, residence.                  18 BY MS. REINHARDT:                  19 Q And does it say they're a B or a G as well?                  20 A I'm honestly not sure. 06:46:57                  21 Q Understood. And -- but it's your                  22 understanding that generally these rosters contain a                  23 B or a G?                  24 MS. GREEN: I'm going to object to the form.                  25 THE WITNESS: That is correct. 06:47:12                  Page 217</p>

<p>1 BY MS. REINHARDT:                  2 Q And if a -- if a student is gender                  3 nonconforming, does the school have a policy on what                  4 would be put as their gender for school sports?                  5 A Can you repeat that again, please? 06:47:27                  6 Q If a student is gender nonconforming -- and                  7 what I mean by that is they neither identify as just                  8 a boy or a girl -- does the school have a policy for                  9 how they're listed on a sports team's roster?                  10 A We do not. 06:47:43                  11 Q Does the school have a policy related to what                  12 transgender students are listed as for the purposes                  13 of sports teams' rosters?                  14 A We do not.                  15 Q I'm just going to make sure I have -- I've 06:47:59                  16 asked all my questions on this topic. One second.                  17 Other than school policies, does WVSSAC have                  18 any policies that you would follow related to                  19 students' genders listed on school sports?                  20 MS. GREEN: Object to the form. 06:48:33                  21 MS. DENIKER: Object to the form.                  22 THE WITNESS: I have never seen any                  23 information like that from the SSAC.                  24 BY MS. REINHARDT:                  25 Q Thank you. And I want to ask if you've ever 06:48:42                  Page 218</p>	<p>1 support meeting back in May of '21.                  2 Q And what was the conversation about?                  3 A As we were going through the gender support                  4 plan, and we were finishing up, she was -- Heather                  5 was asking specific questions about band. I said 06:50:15                  6 that would not be a problem. You know, we do offer                  7 related art classes other than our five core                  8 classes, which is reading, English, science, math,                  9 social studies. So we were pretty much asking Becky                  10 what other related art classes she would be 06:50:33                  11 interested in other than band. She -- Becky said,                  12 art. And we do offer STEAM, etcetera.                  13 And then Heather asked me, Becky wants to                  14 participate in cross-country. I said, No problem.                  15 And then Heather asked me, Becky wants to run with 06:50:48                  16 the girls. And I -- I know -- I've known Heather --                  17 I've had both of her -- I had her oldest son go                  18 through, and she has another son that is an                  19 eighth-grader in our building. And I looked at                  20 Heather, and I said, You did hear about the bill 06:51:07                  21 that was signed into law, that's going into effect                  22 in July.                  23 And she said, We know all about that.                  24 And that was the only discussion we had with                  25 this law that went into effect in the state of 06:51:17                  Page 220</p>
<p>1 discussed gender separation in school sports with                  2 Heather Jackson.                  3 MS. DENIKER: I'm going to ask you identify                  4 where -- which topic that falls under.                  5 MS. REINHARDT: I'm referring to topic 11 06:49:03                  6 where it says policies, documents, communications of                  7 the Harrison County board and the county board                  8 superintendent concerning the separation of boys and                  9 girls in school-sponsored sports.                  10 MS. DENIKER: Thank you. 06:49:19                  11 Do you need to have the question repeated                  12 Mr. Mazza?                  13 THE WITNESS: Just the name again.                  14 BY MS. REINHARDT:                  15 Q Are you familiar with B.P.J.'s mother? 06:49:28                  16 A Oh, I'm -- yes, absolutely.                  17 Q No problem. It's been a long day, I'm sure.                  18 Have you --                  19 A It has. And -- and I'm thinking "Pepper" --                  20 I'm sorry -- I'm thinking "P.J." instead of just 06:49:37                  21 "Jackson."                  22 Q Makes sense. Have you had any conversation                  23 with B.P.J.'s mother related to the separation of                  24 boys and girls in school-sponsored sports?                  25 A The only conversation was at the gender 06:49:53                  Page 219</p>	<p>1 West Virginia.                  2 Q And if you know, did Mrs. Jackson take that                  3 to mean that Becky would have to participate on the                  4 boys' sports team?                  5 MS. DENIKER: Objection to the form of the 06:51:30                  6 question, calls for speculation.                  7 THE WITNESS: I honestly don't know.                  8 BY MS. REINHARDT:                  9 Q And what was the purpose in raising H.B. 3293                  10 with Mrs. Jackson? 06:51:48                  11 A Her question was pretty forward, and I just                  12 wondered if she knew that that bill was going to                  13 turn into a law in July.                  14 Q Understood. I'm just checking my notes. One                  15 moment. 06:52:13                  16 And just for background information, do                  17 you -- have you ever coached any sports?                  18 A I have.                  19 Q Which sports have you coached?                  20 A I've coached football and track. 06:52:26                  21 Q And were those in Harrison County?                  22 A Football was in Monongalia County, 1989, and                  23 track was in Harrison County, 1991, Lincoln High                  24 School. Football was the -- what was then                  25 Westover Junior High, which is now Westwood Middle. 06:52:51                  Page 221</p>



1 Q Thank you. And do you see a benefit in  
 2 participating in school sports?  
 3 A Absolutely.  
 4 Q And what are those benefits as you know them  
 5 as Principal Mazza? 06:53:01  
 6 MR. TRYON: Objection.  
 7 THE WITNESS: I --  
 8 MS. DENIKER: Objection to the form.  
 9 THE WITNESS: My benefits of having two  
 10 children of my own, I believe it develops 06:53:11  
 11 discipline, teamwork. There's nothing better than  
 12 teamwork. I truly believe once you do graduate  
 13 college and go into the workforce, you will always  
 14 be working as a team with someone. Trust. I see a  
 15 lot of trust with sports. And it's just great 06:53:31  
 16 conditioning just to be part of something, just to  
 17 be part of a team.  
 18 BY MS. REINHARDT:  
 19 Q I understand that. I played basketball and  
 20 volleyball, so I can appreciate those. 06:53:42  
 21 Do you think B.P.J. gained any benefits from  
 22 participating on a sports team?  
 23 MS. DENIKER: Objection to the form.  
 24 MR. TRYON: Objection.  
 25 THE WITNESS: I believe so. I believe so. 06:54:03  
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1 MS. REINHARDT: Could we please go off the  
 2 record for one moment?  
 3 THE VIDEOGRAPHER: Sorry. Oop, I was on  
 4 mute.  
 5 Yep. We're going off the record. The time 06:54:23  
 6 is 6:54 p.m.  
 7 (Recess.)  
 8 THE VIDEOGRAPHER: All right. We are back on  
 9 the record. It's 7:00 p.m.  
 10 Go ahead. 07:00:30  
 11 MS. REINHARDT: Principal Mazza, we have no  
 12 further questions for you, unless there will be  
 13 questions on redirect.  
 14  
 15 07:00:36  
 16 EXAMINATION  
 17 BY MS. GREEN:  
 18 Q Principal Mazza, my name is Roberta Green,  
 19 and I'm an attorney here on behalf of WVSSAC. I  
 20 appreciate your patience today. I know it's been a 07:00:47  
 21 long day.  
 22 In terms of your knowledge of WVSSAC's rules  
 23 and policies, their rationale with the slideshow,  
 24 would you defer to WVSSAC as to the interpretation  
 25 of all of that? 07:01:08  
 Page 223

1 MS. REINHARDT: Objection.  
 2 MS. DENIKER: Objection to form.  
 3 THE WITNESS: Can you repeat that question,  
 4 please?  
 5 MS. GREEN: Sure. 07:01:17  
 6 MS. DENIKER: And, Ms. Green, if you'll just  
 7 give me a standing objection, I won't repeat my  
 8 objection to form.  
 9 MS. GREEN: Thank you. Absolutely.  
 10 BY MS. GREEN: 07:01:24  
 11 Q Mr. Mazza, in terms of WVSSAC's policies,  
 12 you've commented on a couple this evening, I  
 13 wondered if -- I'm asking you on behalf of WVSSAC --  
 14 would you defer to WVSSAC to speak to its own  
 15 policies? 07:01:40  
 16 MS. REINHARDT: Same objection.  
 17 THE WITNESS: Yes, I would.  
 18 BY MS. GREEN:  
 19 Q Okay. And in terms of WVSSAC's thinking in  
 20 assembling the principals' slideshow or whoever 07:01:49  
 21 assembled the slideshow, would you defer to WVSSAC  
 22 to explain the slides in that slideshow?  
 23 MS. REINHARDT: Object to form.  
 24 MS. DENIKER: This is Susan Deniker. I also  
 25 object to the form. 07:02:05  
 Page 224

1 THE WITNESS: Yes, I would.  
 2 BY MS. GREEN:  
 3 Q And in terms of the rules and regulations  
 4 that WVSSAC has in place, would you defer to WVSSAC  
 5 to take a position on their rules and how they're 07:02:18  
 6 interpreted and applied?  
 7 MS. REINHARDT: Objection to form.  
 8 MS. DENIKER: Same objection.  
 9 THE WITNESS: Yes, I would.  
 10 MS. GREEN: Thank you. No further questions, 07:02:33  
 11 Principal Mazza. Thank you very much.  
 12 THE WITNESS: Thank you.  
 13 MR. TRYON: Kelly, do you have any questions?  
 14 MS. MORGAN: This is Kelly Morgan. I don't  
 15 have any questions. Thank you. 07:02:51  
 16  
 17  
 18 EXAMINATION  
 19 BY MR. TRYON: 07:02:53  
 20 Q Mr. Mazza, I do have a few questions. My  
 21 name is David Tryon, and I'm an attorney  
 22 representing the State of West Virginia, and I'm  
 23 with the attorney general's office.  
 24 I would like to -- let me start off with 07:03:08  
 25  
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<p>1 Exhibit 28. Let me know when you see it, when you                  2 have that.                  3 A Yes.                  4 Q Have you seen this document before?                  5 A I've seen so many documents, sir, I'm not 07:04:00                  6 sure.                  7 Q Right. Well, take a look at page 4. I want                  8 to ask you some questions about information on                  9 page 4.                  10 A I am on page 4. 07:04:13                  11 Q Under "Bridgeport Middle School," do you see                  12 those various teams listed?                  13 A I do.                  14 Q And as far as the -- the -- the list of                  15 teams, just the list itself, does that seem to be 07:04:29                  16 accurate?                  17 A Let me look through that real quick, sir.                  18 It does look correct.                  19 Q On the football team, to your knowledge, are                  20 there any biological girls on the football team? 07:04:53                  21 MS. REINHARDT: Objection to terminology.                  22 BY MR. TRYON:                  23 Q Go ahead, you may answer.                  24 A We do not have any biological girls on our                  25 football team. 07:05:10                  Page 226</p>	<p>1 MS. REINHARDT: Objection to form.                  2 MS. DENIKER: Objection to form.                  3 THE WITNESS: I believe --                  4 MS. GREEN: And I'll object to form.                  5 THE WITNESS: I believe that if it leaves the 07:06:26                  6 door open, that a female can go out for                  7 Bridgeport Middle School football.                  8 BY MR. TRYON:                  9 Q Is it the same rationale for wrestling?                  10 MS. REINHARDT: Objection to form. 07:06:38                  11 THE WITNESS: Yes, sir, it is the same                  12 rationale.                  13 BY MR. TRYON:                  14 Q Are there any safety concerns involved for                  15 girls joining the football team? 07:06:47                  16 MS. GREEN: Object to the form.                  17 MS. REINHARDT: Same objection.                  18 MS. DENIKER: This is Susan Deniker.                  19 Objection to the form.                  20 THE WITNESS: We would all -- the female 07:06:55                  21 students would be suited up just as equally as the                  22 male student, helmet, shoulder pads, etcetera.                  23 BY MR. TRYON:                  24 Q So -- strike that.                  25 Is there a reason that girls' soccer and 07:07:23                  Page 228</p>
<p>1 Q So it's my understanding that football is                  2 generally considered to be a boy's sport, and so I'm                  3 interested to see that that is characterized as a                  4 coed sport.                  5 Can you explain why it's characterized as a 07:05:21                  6 coed sport?                  7 MS. REINHARDT: Objection to form and also                  8 outside the scope of the deposition.                  9 BY MR. TRYON:                  10 Q You may answer. 07:05:31                  11 A Sir, I'm assuming because girls can play                  12 football.                  13 Q Okay. And -- and why can girls play                  14 football?                  15 MS. GREEN: I'll object to the form. 07:05:42                  16 MS. REINHARDT: Same objection.                  17 THE WITNESS: I believe there's not an equal                  18 sport for females in the fall.                  19 BY MR. TRYON:                  20 Q And so is there some reason that you then 07:05:55                  21 have to characterize this as coed?                  22 A I believe if we had a female on the team, it                  23 would be coed.                  24 Q And if it -- it does not have a female on the                  25 team, is it still considered coed? 07:06:12                  Page 227</p>	<p>1 boys' soccer are separated by sex?                  2 MS. REINHARDT: Objection.                  3 MS. DENIKER: Objection to the form.                  4 MS. GREEN: I'll object to the form.                  5 THE WITNESS: We have -- we have enough 07:07:37                  6 students to support both boys and girls' soccer.                  7 BY MR. TRYON:                  8 Q Well, why not just have them both be coed?                  9 MS. REINHARDT: Objection --                  10 MS. DENIKER: Objection to the form. 07:07:51                  11 MS. REINHARDT: -- to the form.                  12 Oh, I apologize, also objection to the form.                  13 MS. GREEN: And I'll join.                  14 THE WITNESS: Once again -- once again, sir,                  15 we have a number of students that can do both, and 07:07:57                  16 our understanding is if we just did coed, it would                  17 be playing just boys' teams.                  18 BY MR. TRYON:                  19 Q Why is that?                  20 MS. DENIKER: Objection to the form. 07:08:09                  21 MS. REINHARDT: Same objection.                  22 THE WITNESS: My -- my belief is at -- at                  23 middle school or high school, if you support a coed                  24 team, that coed team must play a boys' team.                  25 BY MR. TRYON: 07:08:25                  Page 229</p>

<p>1 Q Okay. What's the problem with doing that?                  2 MS. REINHARDT: Object to --                  3 MS. GREEN: Object to the form.                  4 MS. REINHARDT: I'll join that objection.                  5 THE WITNESS: We have the -- we have the 07:08:33                  6 numbers for both a boys and a girls' soccer team.                  7 BY MR. TRYON:                  8 Q Well, why not just let the girls play against                  9 the boys, then?                  10 MS. REINHARDT: Objection to the form. 07:08:42                  11 MS. DENIKER: This is Susan Deniker.                  12 Objection to the form.                  13 THE WITNESS: Because we have a girls' team                  14 and we have a boys' team, sir.                  15 MR. TRYON: And I'll just stipulate to a 07:08:54                  16 standing objection on this.                  17 BY MR. TRYON:                  18 Q But I still don't understand why you separate                  19 the boys from the girls.                  20 MS. REINHARDT: Same objection. 07:09:02                  21 BY MR. TRYON:                  22 Q Can you please explain that? You haven't                  23 really explained that, I don't think.                  24 A The SSAC allows us to have a girls' team and                  25 a boys' team, if we can support both numbers for 07:09:11                  Page 230</p>	<p>1 issues. I think in this particular case, since it                  2 is allowed, I -- I don't think the safety factor is                  3 an issue.                  4 Q Wait, I'm sorry, since what is allowed?                  5 A To have a coed team. 07:10:29                  6 Q Having a coed -- I was talking about -- about                  7 soccer.                  8 A Yeah, if you said you mixed the -- didn't you                  9 say if you mix the boys and the girls together, does                  10 it create a safety issue? That was your question, 07:10:40                  11 sir?                  12 Q Yes. So if in soccer, if you mixed all the                  13 boys and girls together, does that create any safety                  14 issues for the girls, competing against -- against                  15 the boys? 07:10:51                  16 MS. REINHARDT: Objection to form.                  17 THE WITNESS: I believe there's always safety                  18 issues with any sport, sir.                  19 BY MR. TRYON:                  20 Q Are biological boys allowed on girls' teams, 07:11:32                  21 other than B.P.J.?                  22 MS. REINHARDT: Objection to form and also                  23 objection to terminology.                  24 THE WITNESS: Can you repeat the question,                  25 sir? 07:11:44                  Page 232</p>
<p>1 each.                  2 Q Does it require it?                  3 MS. GREEN: Object to the form.                  4 MS. REINHARDT: I'll join that objection.                  5 MS. DENIKER: And this is Susan Deniker. 07:09:25                  6 Mr. Tryon, if you'll give me a standing objection to                  7 this line of questioning, I will not continue to                  8 object to form.                  9 MR. TRYON: Right. And that's what I just                  10 said a minute ago, that I would give all three of 07:09:34                  11 you --                  12 MS. DENIKER: Yes.                  13 MR. TRYON: -- a standing objection on that.                  14 MS. GREEN: Okay.                  15 THE WITNESS: I'm not sure, sir, about that 07:09:42                  16 question, if it requires that.                  17 BY MR. TRYON:                  18 Q When you mix boys and girls on soccer teams,                  19 is that creating a safety issue, as far as you're                  20 concerned? 07:09:59                  21 MS. REINHARDT: Objection to form.                  22 BY MR. TRYON:                  23 Q As far as you're concerned as the                  24 representative of the -- of the -- of the board?                  25 A I believe in every sport there are safety 07:10:08                  Page 231</p>	<p>1 BY MR. TRYON:                  2 Q Other than B.P.J., are any biological boys                  3 allowed on the girls' teams?                  4 MS. REINHARDT: Same objections.                  5 MS. DENIKER: This is Susan Deniker. 07:11:56                  6 Objection to the form.                  7 THE WITNESS: The particular Becky situation,                  8 because we are in an injunction, Becky was allowed                  9 to run on the girls' cross-country team.                  10 BY MR. TRYON: 07:12:15                  11 Q Understood. Other than B.P.J., are any                  12 biological boys allowed on girls' team?                  13 MS. REINHARDT: Same objection.                  14 THE WITNESS: We have -- we have never came                  15 to that situation, sir, up until this year. 07:12:24                  16 BY MR. TRYON:                  17 Q Is fairness an important value in sports?                  18 MS. REINHARDT: Objection.                  19 MS. DENIKER: Objection to form.                  20 THE WITNESS: I have two children that played 07:13:17                  21 sports, and I always just believe that, you know,                  22 fairness is part of it. You know, you just go out                  23 and do your best.                  24 BY MR. TRYON:                  25 Q I understand that on a personal level. I was 07:13:28                  Page 233</p>

<p>1 asking, I guess, more on behalf of the board, does                  2 the board consider fairness to be important in                  3 sports?                  4 MS. REINHARDT: Objection to form.                  5 MS. DENIKER: I'm going to raise an objection 07:13:42                  6 to form here and also state that to the extent that                  7 you're seeking an opinion, that the -- the entity                  8 here cannot have an opinion about something that's                  9 not reflected in some official policy or other                  10 determination by the board. 07:14:00                  11 BY MR. TRYON:                  12 Q Well --                  13 A I will say this --                  14 Q -- can you answer --                  15 A The -- 07:14:16                  16 Q Can you answer the question?                  17 A I -- I would just say that, like you said,                  18 like I just believe as representing the board, that                  19 that question just cannot be answered.                  20 Q Okay. So the -- the board has no position on 07:14:26                  21 fairness?                  22 MS. DENIKER: Objection to the form of the                  23 question.                  24 To the extent that you can answer about                  25 fairness and sports, you can answer that. 07:14:37                  Page 234</p>	<p>1 sports team.                  2 Do you recall that testimony?                  3 A I do.                  4 Q Does the athletic director input any                  5 information into WVEIS relating to a student's 07:16:04                  6 athletic participation?                  7 A It does not. It goes into the WVSSAC portal                  8 to put that information in for eligibility.                  9 Q And I think you also testified about whether                  10 the athletic -- about the information the athletic 07:16:20                  11 director uses as a source of information to input                  12 information into the WVSSAC portal.                  13 Does the athletic director pull information                  14 from WVEIS to put into that WVSSAC portal?                  15 A It does not. It uses an informational sheet. 07:16:41                  16 I want to say I believe it's an WVSSAC sheet that's                  17 standard to all the schools. The information is                  18 filled out on that sheet. He uploads it into the                  19 portal. And if -- for example, if that child is a                  20 sixth-grader, that information will stay in there 07:16:59                  21 and each year it -- it transfers over.                  22 MS. DENIKER: Okay. Thank you, Mr. Mazza. I                  23 do not have any further questions.                  24 MS. REINHARDT: Mr. Mazza, we don't have any                  25 redirect questions. 07:17:10                  Page 236</p>
<p>1 THE WITNESS: I believe -- I believe any                  2 board would want fairness in sports, any Board of                  3 Education that has athletic programs would want                  4 fairness.                  5 MS. REINHARDT: And I wasn't able to 07:14:51                  6 interject with an objection. I'm going to say also                  7 outside the scope of the deposition.                  8 MR. TRYON: I don't have any other questions.                  9 Thank you.                  10 Hal -- 07:15:33                  11 MS. REINHARDT: Does anyone else --                  12 MR. TRYON: -- are you there?                  13 MS. REINHARDT: -- have any --                  14 MR. FRAMPTON: Yeah, I don't have any                  15 questions. 07:15:39                  16 MS. DENIKER: This is Susan Deniker.                  17 Mr. Mazza, I do have a couple of questions for you                  18 to clarify your earlier testimony.                  19                  20                  21                  22 EXAMINATION                  23 BY MS. DENIKER:                  24 Q You talked earlier about the athletic                  25 director putting information onto a roster for a 07:15:53                  Page 235</p>	<p>1 We would ask that this deposition stay open.                  2 We previously discussed offline that we're waiting                  3 for documents from another custodian. We don't                  4 anticipate having to reopen the deposition, but we'd                  5 like to hold that position. 07:17:24                  6 MS. DENIKER: Thank you, Ms. Reinhardt.                  7 On behalf of the Harrison County Board of                  8 Education and Superintendent Stutler, I am not                  9 agreeable to leaving the deposition open based upon                  10 the information that is -- is remaining out there, 07:17:36                  11 and so I'm placing an objection to that request on                  12 the record.                  13 THE VIDEOGRAPHER: Should we go off the                  14 record for the day? Are we done?                  15 MS. REINHARDT: We're finished. Thank you. 07:17:59                  16 THE VIDEOGRAPHER: Okay. All right. We are                  17 off the record at 7:18 p.m. This ends today's                  18 testimony given by Ms. Stutler and Mr. Mazza.                  19 The total number of media was used was five                  20 and will be retained by Veritext Legal Solutions. 07:18:12                  21 (TIME NOTED: 7:18 P.M.)                  22                  23                  24                  25                  Page 237</p>

1 I, DORA STUTLER, do hereby declare under  
 2 penalty of perjury that I have read the foregoing  
 3 transcript; that I have made any corrections as  
 4 appear noted, in ink, initialed by me, or attached  
 5 hereto; that my testimony as contained herein, as  
 6 corrected, is true and correct.  
 7 EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
 8 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
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 2  
 3 I, the undersigned, a Certified Shorthand  
 4 Reporter of the State of California, do hereby  
 5 certify:  
 6 That the foregoing proceedings were taken  
 7 before me at the time and place herein set forth;  
 8 that any witnesses in the foregoing proceedings,  
 9 prior to testifying, were placed under oath; that a  
 10 record of the proceedings was made by me using  
 11 machine shorthand which was thereafter transcribed  
 12 under my direction; further, that the foregoing is  
 13 an accurate transcription thereof.  
 14 I further certify that I am neither  
 15 financially interested in the action nor a relative  
 16 or employee of any attorney of any of the parties.  
 17 IN WITNESS WHEREOF, I have this date  
 18 subscribed my name.  
 19 Dated: March 22, 2022  
 20  
 21  
 22   
 23 \_\_\_\_\_  
 24 ALEXIS KAGAY  
 25 CSR NO. 13795

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1 I, DAVE MAZZA, do hereby declare under  
 2 penalty of perjury that I have read the foregoing  
 3 transcript; that I have made any corrections as  
 4 appear noted, in ink, initialed by me, or attached  
 5 hereto; that my testimony as contained herein, as  
 6 corrected, is true and correct.  
 7 EXECUTED this \_\_\_\_ day of \_\_\_\_\_,  
 8 20\_\_\_\_, at \_\_\_\_\_, \_\_\_\_\_.  
 9 (City) (State)  
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 15 DAVE MAZZA  
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**[earlier - exhibit]**

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Federal Rules of Civil Procedure

Rule 30

(e) Review By the Witness; Changes.

(1) Review; Statement of Changes. On request by the deponent or a party before the deposition is completed, the deponent must be allowed 30 days after being notified by the officer that the transcript or recording is available in which:

(A) to review the transcript or recording; and

(B) if there are changes in form or substance, to sign a statement listing the changes and the reasons for making them.

(2) Changes Indicated in the Officer's Certificate.

The officer must note in the certificate prescribed by Rule 30(f)(1) whether a review was requested and, if so, must attach any changes the deponent makes during the 30-day period.

DISCLAIMER: THE FOREGOING FEDERAL PROCEDURE RULES ARE PROVIDED FOR INFORMATIONAL PURPOSES ONLY.

THE ABOVE RULES ARE CURRENT AS OF APRIL 1, 2019. PLEASE REFER TO THE APPLICABLE FEDERAL RULES OF CIVIL PROCEDURE FOR UP-TO-DATE INFORMATION.

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COMPANY CERTIFICATE AND DISCLOSURE STATEMENT

Veritext Legal Solutions represents that the foregoing transcript is a true, correct and complete transcript of the colloquies, questions and answers as submitted by the court reporter. Veritext Legal Solutions further represents that the attached exhibits, if any, are true, correct and complete documents as submitted by the court reporter and/or attorneys in relation to this deposition and that the documents were processed in accordance with our litigation support and production standards.

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# **WEST VIRGINIA LEGISLATURE**

## **2021 REGULAR SESSION**

### **ENROLLED**

#### **Committee Substitute**

**for**

#### **House Bill 3293**

BY DELEGATES HANNA, BRIDGES, CLARK, ELLINGTON,  
HORST, JENNINGS, LONGANACRE, MAZZOCCHI, TULLY,  
PHILLIPS AND BURKHAMMER

[Passed April 9, 2021; in effect ninety days from  
passage.]

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[Passed April 9, 2021; in effect ninety days from  
passage.]

Enr CS for HB 3293

1 AN ACT to amend the Code of West Virginia, 1931, as amended, by adding thereto a new section,  
 2 designated §18-2-25d, relating to designation of athletic teams or sports sponsored by  
 3 any public secondary school or state institution of higher education according to biological  
 4 sex; providing legislative findings; defining “biological sex”, “female”, and “male”; providing  
 5 for designation of athletic teams as “males, men, or boys”, “females, women, or girls”, or  
 6 “coed or mixed”; prohibiting biological males from participating on athletic teams or sports  
 7 designated for biological females where competitive skill or contact is involved; clarifying  
 8 that eligibility of any student to participate on athletic teams or sports designated for  
 9 biological males is not restricted; providing cause of action for student aggrieved by  
 10 violation of this section; requiring identity of minor student related to such action to remain  
 11 anonymous; requiring promulgation of rules by the State Board of Education; and requiring  
 12 proposal of legislative rules by the Higher Education Policy Commission and Council for  
 13 Community and Technical College Education.

*Be it enacted by the Legislature of West Virginia:*

**ARTICLE 2. STATE BOARD OF EDUCATION.**

**§18-2-25d. Clarifying participation for sports events to be based on biological sex of the athlete at birth.**

1 (a) The Legislature hereby finds:

2 (1) There are inherent differences between biological males and biological females, and  
 3 that these differences are cause for celebration, as determined by the Supreme Court of the  
 4 United States in *United States v. Virginia* (1996);

5 (2) These inherent differences are not a valid justification for sex-based classifications that  
 6 make overbroad generalizations or perpetuate the legal, social, and economic inferiority of either  
 7 sex. Rather, these inherent differences are a valid justification for sex-based classifications when  
 8 they realistically reflect the fact that the sexes are not similarly situated in certain circumstances,  
 9 as recognized by the Supreme Court of the United States in *Michael M. v. Sonoma County*,

Enr CS for HB 3293

10 *Superior Court* (1981) and the Supreme Court of Appeals of West Virginia in *Israel v. Secondary*  
11 *Schools Act. Com'n* (1989);

12 (3) In the context of sports involving competitive skill or contact, biological males and  
13 biological females are not in fact similarly situated. Biological males would displace females to a  
14 substantial extent if permitted to compete on teams designated for biological females, as  
15 recognized in *Clark v. Ariz. Interscholastic Ass'n* (9th Cir. 1982);

16 (4) Although necessarily related, as concluded by the United States Supreme Court in  
17 *Bostock v. Clayton County* (2020), gender identity is separate and distinct from biological sex to  
18 the extent that an individual's biological sex is not determinative or indicative of the individual's  
19 gender identity. Classifications based on gender identity serve no legitimate relationship to the  
20 State of West Virginia's interest in promoting equal athletic opportunities for the female sex; and

21 (5) Classification of teams according to biological sex is necessary to promote equal  
22 athletic opportunities for the female sex.

23 (b) Definitions. - As used in this section, the following words have the meanings ascribed  
24 to them unless the context clearly implies a different meaning:

25 (1) "Biological sex" means an individual's physical form as a male or female based solely  
26 on the individual's reproductive biology and genetics at birth.

27 (2) "Female" means an individual whose biological sex determined at birth is female. As  
28 used in this section, "women" or "girls" refers to biological females.

29 (3) "Male" means an individual whose biological sex determined at birth is male. As used  
30 in this section, "men" or "boys" refers to biological males.

31 (c) Designation of Athletic Teams. —

32 (1) Interscholastic, intercollegiate, intramural, or club athletic teams or sports that are  
33 sponsored by any public secondary school or a state institution of higher education, including a  
34 state institution that is a member of the National Collegiate Athletic Association (NCAA), National

Enr CS for HB 3293

35 Association of Intercollegiate Athletics (NAIA), or National Junior College Athletic Association  
36 (NJCAA), shall be expressly designated as one of the following based on biological sex:

37 (A) Males, men, or boys;

38 (B) Females, women, or girls; or

39 (C) Coed or mixed.

40 (2) Athletic teams or sports designated for females, women, or girls shall not be open to  
41 students of the male sex where selection for such teams is based upon competitive skill or the  
42 activity involved is a contact sport.

43 (3) Nothing in this section shall be construed to restrict the eligibility of any student to  
44 participate in any interscholastic, intercollegiate, or intramural athletic teams or sports designated  
45 as "males," "men," or "boys" or designated as "coed" or "mixed": *Provided*, That selection for a  
46 team may still be based on those who try out and possess the requisite skill to make the team.

47 (d) Cause of Action. —

48 (1) Any student aggrieved by a violation of this section may bring an action against a  
49 county board of education or state institution of higher education alleged to be responsible for the  
50 alleged violation. The aggrieved student may seek injunctive relief and actual damages, as well  
51 as reasonable attorney's fee and court costs, if the student substantially prevails.

52 (2) In any private action brought pursuant to this section, the identity of a minor student  
53 shall remain private and anonymous.

54 (e) The State Board of Education shall promulgate rules, including emergency rules,  
55 pursuant to §29A-3B-1 *et. seq.* of this code to implement the provisions of this section. The Higher  
56 Education Policy Commission and the Council for Community and Technical College Education  
57 shall promulgate emergency rules and propose rules for legislative approval pursuant to §29A-  
58 3A-1 *et. seq.* of this code to implement the provisions of this section.

Enr CS for HB 3293

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

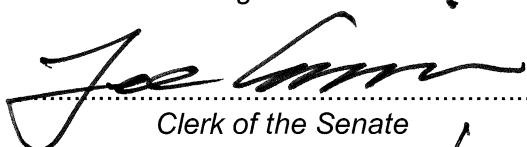
  
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Chairman, House Committee

  
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Chairman, Senate Committee

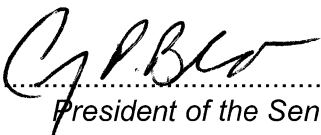
Originating in the House.

In effect ninety days from passage.

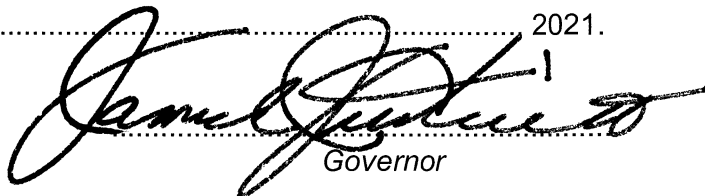
  
.....  
Clerk of the House of Delegates

  
.....  
Clerk of the Senate

  
.....  
Speaker of the House of Delegates

  
.....  
President of the Senate

The within is approved this the 28<sup>th</sup>  
day of April ..... 2021.

  
.....  
Governor

PRESENTED TO THE GOVERNOR

APR 22 2021

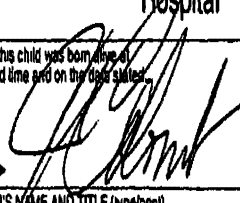
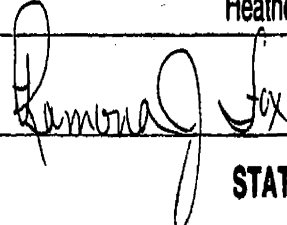
Time 1:53 pm

WEST VIRGINIA DIVISION OF HEALTH  
 VITAL REGISTRATION  
 CHARLESTON, WV 25339-1012  
 CERTIFICATE OF LIVE BIRTH

BIRTH NUMBER

2010

ID: CAJAC20100512135630

<b>CHILD</b>	1. CHILD'S NAME (First, Middle, Last) ██████████ ██████████ P██████████		2. DATE OF BIRTH (Month, Day, Year) ██████ / 2010	3. TIME OF BIRTH 10:10 Mil
	4. SEX Male	5. CITY, TOWN, OR LOCATION OF BIRTH Morgantown	6. COUNTY OF BIRTH Monongalia	
	7. PLACE OF BIRTH Hospital		8. FACILITY NAME (If not institution, give street and number) WVU Hospitals, Inc.	
<b>CERTIFIER/ ATTENDANT</b>	9. I certify that this child was born alive at the place and time and on the date stated.  Signature: 		10. DATE SIGNED (Month, Day, Year) ██████ / 2010	11. ATTENDANT'S NAME AND TITLE (If other than certifier) (If yes, print) Wanda Hembree, MD
	12. CERTIFIER'S NAME AND TITLE (type/print) Jean Colombo, BIRTH REGISTRAR		13. ATTENDANT'S MAILING ADDRESS (Street and Number or Rural Route No. City or Town, State, Zip Code) Wvu Hospitals, Inc. Morgantown, WV 26506	
<b>MOTHER</b>	14. MOTHER'S NAME (First, Middle, Last) Heather Denise Jackson		14b. MAIDEN SURNAME Jackson	15. DATE OF BIRTH (Month, Day, Year) ██████ / 1968
	16. BIRTH PLACE (State or Foreign Country) ██████	17a. RESIDENCE - STATE WV	17b. COUNTY Harrison	17c. CITY, TOWN OR LOCATION Lost Creek
	17d. STREET AND NUMBER ██████████	17e. INSIDE CITY LIMITS (Yes/No) No	18. MOTHER'S MAILING ADDRESS (If same as residence enter zip code only) ██████████	
<b>FATHER</b>	19. FATHER'S NAME (First, Middle, Last) Wesley Scott ██████████		20. DATE OF BIRTH (Month, Day, Year) ██████ / 1962	21. BIRTH PLACE (State or Foreign Country) ██████
<b>INFORMANT</b>	22. I certify that the personal information provided on this certificate is correct to the best of my knowledge and belief. Heather Jackson			
	23. REGISTRAR'S SIGNATURE 		24. DATE FILED BY REGISTRAR (Month, Day, Year) ██████ 2010	

STATE COPY



**ERRATA SHEET**

AFFIDAVIT

State of ~~Pennsylvania~~ Illinois  
 County of Cook

I, Aron C. Janssen, MD, certify under oath or affirmation that I have read the transcript of my testimony dated 4/4/2022 and that the transcript of my testimony is accurate with the following corrections:

Page	Line	Error	Correction	Reason
49	20	"identity"	"idea"	Incorrect word
109-10	24-1	"that is being positive"	Remove words	Incorrect insertion
153	6, 18	"team"	"teen"	Incorrect word
190	5	"cause"	"pause"	Incorrect word
280	21	"nine people"	"twenty-two people"	Incorrect number
33	14	"reported"	"report"	incorrect word
85	17	"Ulson"	"Olson"	incorrect word
147	20	"precise"	"imprecise"	incorrect word
149	5	"provision"	"revision"	incorrect word
166	8	"performance"	"informants"	incorrect word
310	19	"ceiling"	"floor"	incorrect word
324	20	"gender disorder"	"gender identity disorder"	missing word
333	19	"attestable"	"a testable"	misspelling

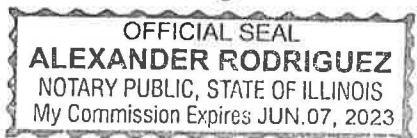
Are there additional corrections on a following page?  NO  YES

Signature of Deponent/Affiant

Sworn to and subscribed before me, a Notary Public, on this

9th day of May, 2022.

Notary Public



**ERRATA SHEET**

AFFIDAVIT

State of Pennsylvania

County of \_\_\_\_\_

I, Mary Fry, PhD , certify under oath or affirmation that I have read the transcript of my testimony dated 3/29/2022 and that the transcript of my testimony is accurate with the following corrections:

Page	Line	Error	Correction	Reason
18	15	transathlete	trans athlete	transcription error
21	9	that what was	that was	transcription error
31	15	considering them	considering that	transcription error
35	14	male and female	male or female	transcription error
36	13	I think term	I think the term	transcription error
36	24	there is people	there are people	transcription error
37	3	it is is not	it is not	transcription error
39	4	than	then	transcription error
42	20	by the fact	by in fact	transcription error
49	21	there was big	there were big	transcription error
51	22	there is huge	there are huge	transcription error
52	16	specifically	specific	transcription error
61	22	task in	task and	transcription error
63	20	youth support	youth sport	transcription error
64	23	score psychology	sports psychology	transcription error
69	22	I think there is	I think there are	transcription error

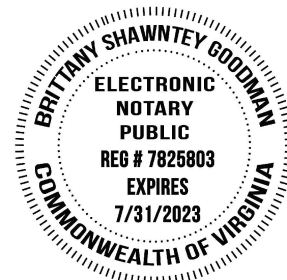
Are there additional corrections on a following page?  NO  YES

Signature of Deponent/Affiant Mary Fry

Sworn to and subscribed before me, a Notary Public, on this

28th day of April, 2022.

Brittany Shawntey Goodman  
Notary Public



**Additional Corrections to the Testimony of Mary Fry, PhD**

Page	Line	Error	Correction	Reason
72	23	there is isolated	there are isolated	transcription error
78	5	people come	people did not come	transcription error
81	13	chance to complete	chance to compete	transcription error
89	8	so what if is	so what if it's	transcription error
103	8	International View	International Review	transcription error
120	5	that that's what's	that's what's	transcription error
131	15	tells people	tells people to	transcription error
134	8	promote is the	promote as the	transcription error
154	6	care about performance	care about is performance	transcription error
174	22	transitioning to know transitioning	transitioning to not transitioning	transcription error
176	7	PBJ	BPJ	transcription error
181	13	why would you say	why wouldn't you say	transcription error
189	18	transcend gender	transgender	transcription error
198	7	educational education	educational institution	transcription error
217	17	going to be	going to beat	transcription error
222	4	emersed	immersed	transcription error
243	1	No people	Some people	transcription error
243	17	for the that	for that	transcription error
257	13	that that	that	transcription error

Are there additional corrections on a following page?  NO  YES

Deponent's / Affiant's Name: Mary Fry

Initials: MF

Page	Line	Error	Correction	Reason
40	6	there's two cross overs	that there are cross overs	transcription error
51	18	say	see	transcription error
57	2	about about	about	transcription error
57	3	say they're	say is they're	transcription error
57	15	I take	I attend	transcription error
58	24	in any female student	adding data with female athletes	transcription error
62	7	because research	because this research	transcription error
63	3	samples athletes	samples of athletes	transcription error
63	6	at least	it leads	transcription error
65	5	late	later	transcription error
66	5	Just someone	I'm just someone	transcription error
70	11	are	were	transcription error
70	14	either caring task involving	either a caring and task-involving	transcription error
71	18	six, seven and eight graders	sixth, seventh, and eight graders	transcription error
75	20	to say	I would say	transcription error
75	23	reap off	reap all	transcription error
76	2	mix of	mix within	transcription error
76	3,4	the team	athletic teams	transcription error
77	9	Medical	Mental	transcription error
78	4, 5	have, for example, people come and say	I have not, for example, had people come up and	transcription error
81	4	confidence	competence	transcription error
81	17	hard	hard,	transcription error
82	14	one one	thinking	transcription error
85	24	with the best individual	is an individual sport	transcription error
89	8	is	I'm	transcription error
89	17	lower	lower in ego orientation	transcription error
89	19	win	win,	transcription error
91	2	their	they have an	transcription error
97	6	60 61	6-0, 6-1	transcription error
97	22	your	her	transcription error
111	6	ranking	rankings	transcription error

Are there additional corrections on the following page: No \_\_\_ Yes  X

Deponent's / Affiant's Name: Mary Fry Initials: MF

Supp. App. 0844

116	24	stakes	stage	transcription error
117	24	think	know	transcription error
118	2	that NCAA	that the NCAA	transcription error
120	22	focused on just this	focused on, just that this	transcription error
122	2	sports team	being on a sports team	transcription error
123	13	sport exercise	sport and exercise	transcription error
125	13	there	their	transcription error
126	19	specific measurable	specific and measurable	transcription error
127	12	academia from, I'm	from academia, and I'm	transcription error
128	3, 4	work. Early	work early	transcription error
128	24	Somebody didn't	Somebody who didn't	transcription error
129	2	know, what do we think is happening here.	know, "What do we think is happening here?"	transcription error
131	4	there is a reason to try your hardest	now there is a reason to not try your hardest	transcription error
131	15	tells	helps	transcription error
133	7	on 1997	in 1997	transcription error
133	10	those are my my dissertation studies	that was my dissertation study	transcription error
136	8	caring task-involving	caring and task-involving	transcription error
137	12	are running	are not running	transcription error
138	18	terms	skills	transcription error
144	9	is task	is for task	transcription error
145	20	morbid	normative	transcription error
145	9	far things	far as	transcription error
145	20	in orientation	in ego orientation	transcription error
148	6	Small	Smoll	transcription error
148	12	Small	Smoll	transcription error
148	13	crosses documents	The proposition crosses documents	transcription error
148	15	150 references probably. Tried	150 references probably, but we tried	transcription error
154	3	perceptions on an	perceptions of an	transcription error
154	14	traits	trait	transcription error
156	15, 16	but what I'm feeling about it is	but the feeling I prioritize is that helping people	transcription error
175	10	to not hold a category	to hold a category	transcription error
178	22	than	and	transcription error

Are there additional corrections on the following page: No \_\_\_ Yes X

Deponent's / Affiant's Name: Mary Fry Initials: MF

182	6	an indifference	a difference	transcription error
189	18	transcend gender	is not just transgender	transcription error
192	15	They	I	transcription error
192	22	write	rate	transcription error
197	6	evaluate	value	transcription error
201	23	in use for a	every	transcription error
210	2	are the best postion	are in the best position	transcription error
220	23	be it	to both	transcription error
237	22	evaluate	demonstrate	transcription error

Are there additional corrections on the following page: No  Yes

Deponent's / Affiant's Name: Mary Fry Initials: MF

**ERRATA SHEET**

**AFFIDAVIT**

State of West Virginia

County of Harrison

I, BPJ, certify under oath or affirmation that I have read the transcript of my testimony dated 1/21/2022 and that the transcript of my testimony is accurate with the following corrections:

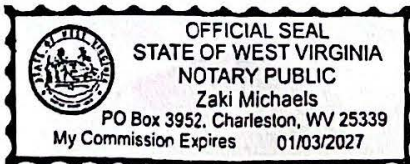
Page	Line	Error	Correction	Reason
25	8	I refer myself	I refer to myself	Typographical error
45	20	decisions what happens	decisions of what happens	Typographical error
51	4	mute to	mute too	Typographical error
72	8	B, C D?	B, C, D?	Typographical error
78	17	get metals in those?	get medals in those?	Typographical error
95	3	before that can became	before that can become	Typographical error
98	5	you half an	you have an	Typographical error
109	24	meaning about it.	mean about it	Typographical error
115	4	11-year0old	11-year-old	Typographical error
134	19	treated your	treated you	Typographical error

Are there additional corrections on a following page?  NO  YES

Signature of Deponent/Affiant B. P. J.

Sworn to and subscribed before me, a Notary Public, on this

24th day of February, 2022



[Signature]  
Notary Public - Zaki Michaels